

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES,

PASSED BY THE

TWENTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE,

JANUARY SESSION, 1841.

Published by the Secretary of State, agreeably to Resolves
of June 28, 1820, and February 26, 1840.

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1841.

RESOLVES
PASSED BY THE
LEGISLATURE OF MAINE.
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[supplied from page 467 of volume]

Resolved, That a bill providing for a just and equal distribution of the proceeds of the public lands among the several States commends itself to our consideration as an act of justice due alike to all, and ought to pass into a law.

Resolved, That the Hon. Reuel Williams, previous to his election to the Senate of the United States, having declared and published, that it is the duty of the elected to carry into effect the will of his constituents, if he is instructed what that will is, or resign his trust, we, therefore, hereby instruct him that the foregoing resolutions express the will of his constituents.

Resolved, That our Senators and Representatives in Congress be requested to vote for any bill or proposition now before Congress calculated to carry into effect the principles contained in the foregoing resolutions; and to introduce and support such measures as shall accomplish the same object, if not now before Congress.

Resolved, That the Governor be requested to transmit a copy of the foregoing resolutions to each of our Senators and Representatives in Congress from this State.

STATE OF MAINE.

SENATE, MARCH 30, 1841.

The Joint Select Committee upon the state of the north-eastern boundary, to whom were referred so much of the Governor's Address as relates to that subject, and also the message from the late Governor, communicating his correspondence with the Lieutenant Governor of New Brunswick and the President of the United States, together with certain resolutions of the General Assembly of the State of Indiana, transmitted by the late Governor to the Legislature, at the late adjourned session, and certain resolutions of the General Assembly of the State of Alabama, and certain resolutions of the Legislature of Maryland just transmitted by the Governor at the present session, and also certain resolves, originating in the

House of Representatives and in the Senate respectively, for repelling foreign invasion and providing for the protection of the State, and certain other resolves from the Senate, respecting purposes of defence—have had the same under consideration, and now ask leave to submit the following

REPORT :

When Maine assumed her place in the Union, and became an independent State, she adopted the polar star as her ensign. This well known point adorned her crest; and it appropriately surmounted her shield. It signified that she intended to be true to the Constitution and the country; and that she determined, more than all, to be true to herself. From that direction she has not consciously departed. To that determination she will always be faithful. She does not mean to swerve from her path. She has frequently had occasion to express her resolves; and circumstances have arisen to test the firmness of her principles and purposes. She is now called upon to do so again; and she is obliged to meet the emergency.

We have come this year to one of those larger cycles of time, at which the State is called, by the forms of the Constitution, to fulfil some of its most vital organic functions; and among them returns the more frequent concern of attending to the grave subject of its long unsettled boundary.

The line which divided the ancient Commonwealth of Massachusetts from what once belonged to her by her original charter, east of the St. Croix, was one drawn due north. That river had been considered as the eastern boundary, ever since the peace of Ryswick; and this line would have gone, as it was extended upon Mitchell's map, to the St. Lawrence, if it had not been for the terms of the treaty of 1783, which were the same, in that respect, as those of the proclamation of 1763. Those were "the highlands that divide the rivers that empty themselves into the St. Lawrence from those that fall into the Atlantic ocean," or sea. That highland descriptive boundary was, at that time, perfectly well known and established, geographically, historically, and politically. Geography, history, the public records of the Acts of the Crown and Parliament of Great Britain, still standing among her chronicles, all alike attest the truth and verity of the description; which, it may be observed, subsequent, and even recent, explorations of the face of nature, in that region, with the perhaps superfluous aids and lights of modern science, have only served to illustrate and confirm.

The cotemporaneous Acts of the British Crown, in 1763,

establishing the governments of Quebec and Nova Scotia, formed that *abutment*, then created for the first time, called the north-west angle of Nova Scotia, which was adopted and fixed by the treaty of 1783, as the first bound to begin at, of the United States. This point was considered so clear, in the words of the treaty, as to prevent all dispute.

The bay of Chaleurs and the river Restigouche, or one of its branches, (which are merely sources of that bay) has always been regarded as the practical line of demarcation and jurisdiction between the two contiguous provinces of New Brunswick and Lower Canada. The north-west angle of Nova Scotia had not been definitely ascertained. Wherever a point of highland could be found, upon the meridian north of the St. John, properly parting waters that went into the St. Lawrence and the Atlantic, there might be ground for tracing and applying that term. Some doubt was expressed, for the first time, on the part of the British commissioners, in the negotiations which took place previous to the treaty of Ghent, whether that small portion of unsettled country, which interrupted the communication between Quebec and Halifax, did not already belong to Great Britain. This doubt was only raised, at a late moment, for the purpose apparently of soliciting a cession (for which an equivalent had been previously tendered and declined) of at least that portion of unoccupied territory.

Long before this time, after the peace of 1783, there had been a settlement formed upon the banks of the river Madawaska, by some Acadian fugitives, who had been expelled from the Province of Nova Scotia, and again routed from their next place of refuge in New Brunswick, to this then sequestered spot, where they were joined by a few French Canadians—far, as they supposed, from further trouble and molestation. The point respecting the source of the St. Croix was determined under the treaty convention of 1794, which finally provided for the surrender of all posts held after the peace. Previous to this period, before that point was determined, the Commonwealth of Massachusetts caused the survey and running of a line of a large tract of its territory, commencing from the Schoodic lakes, and extending, upon the magnetic north across the St. John, above its junction with the Madawaska. This was an undertaking of great arduousness, and was attended with extreme suffering to the party employed, who came near perishing in the woods. The eastern line ran about 150 miles, and went as much as 15 miles over upon the north side of the St. John. The surveying party, there much exhausted, turned aside to the first highlands they found towards the west,

mistaking the tributary streams of the river Madawaska and its lakes for rivers emptying into the St. Lawrence. The proceeding was begun in 1792, and the plan on which this survey is exhibited, by Park Holland, was executed as early as 1793 or 1794. The right of crossing the St. John was recognized and confirmed, after completing the convention of 1794, respecting the St. Croix, by the British minister residing in the United States, to whose advice the operation of it was referred, and who regarded it as a theme of congratulation, that thereby, in consequence of the arrangement which he recommended, the line would cross the St. John above the Grand Falls, where it would be less prejudicial in any respect, and more beneficial, on the whole, to the interest of Great Britain, and the integrity of her dominions. Previous to this period the Provincial Government of New Brunswick had undertaken, probably without being aware of any wrong, to make grants or confirmations to French settlers at Madawaska. But it was also at the same time necessarily and indeed actually acknowledged by the official authorities of New Brunswick, that the north-western boundary of that Province extended across the St. John, and was claimed to the southern highland boundary of Quebec.

Massachusetts, it is well known, continued after this period, in the undoubted exercise of her eminent domain, to extend her grants and surveys into this region, on both sides of the Aroostook, and thus into the proper valley of the St. John. This went on until the work of settlement and improvement, impeded in some measure by disadvantages of distance, and want of convenient approach and communication, was interrupted and suspended, by the breaking out of the war in 1812. The delay to have the true line drawn between the two governments of the United States and Great Britain was one cause among those which operated materially to retard the growth of Maine, and the prosperity of Massachusetts, in that direction. Conventional agreements, for this purpose, were negotiated between the two national governments, by their public diplomatic agents, one in 1803, and the other in 1806. The first was rejected by the Senate, and the other by the President, on account of matters with which they were connected, having nothing to do with this subject.

From this period, and from this indefinite state of things upon that border, may be dated, with propriety, that usurpation which the British Provincial authorities began, progressively, to exercise in that quarter, rendered more easy and accessible to them by the avenue of the St. John, over the peaceful and

unresisting population of Madawaska. For these purposes the point was more approachable by the authorities upon the side of New Brunswick, although the absurdity of such a pretension was apparent, even as between that Province and Lower Canada ; and was manifested by a map of the territory published by authority of Parliament in 1827, as well as by other subsequent British maps. The privilege which was enjoyed, of a more direct communication than they were entitled to, by this route, across the corner of our territory, was one never denied, or even objected to, and drawn into controversy, until it was first challenged as a sort of acquired right, and arrogated as an absolute pretension. Its germ first developed itself in the ambiguous and circuitous forms of expression, by which the British negotiators went about to accomplish some point of this kind at Ghent.

Maine entered the Union in 1819, without any apprehension, or even suspicion, that her material rights, as an independent State, entitled to certain limits, and that her title especially to a large part of her territory, derived from the treaty of Independence, if of no prior origin, and as released and confirmed to her, upon her separation, by Massachusetts, were called into question, or were capable of being drawn into controversy. The first census of the United States taken after our admission into the Union, in 1820, embraced the settlement of Madawaska ; and one of the first Acts passed by the Legislature of this State, in the same year, was a resolve earnestly calling the attention of the National Government to this subject, not then brought to a close, as it was understood, by any definite proceeding of the commission established under the provision of the treaty of Ghent. It was sometime afterwards discovered that, by some singular oversight, or obliquity, or, if it may more properly be so deemed, mistake, on the part of those who were employed in this business on behalf of the United States, some change or transmutation of the subject was permitted to take place, and thenceforward fatally perplex all future proceedings under that commission. The agents, on both sides, were unquestionably most respectable and accomplished persons, who devoted themselves with eminent zeal to the interests of their respective Governments, as those interests presented themselves to their minds. But it may be deemed to have been among the misfortunes attending the devious course of proceeding adopted since the treaty of Ghent, that the agents on the part of the respective governments were composed on one side entirely, of natives of this country who had adhered to the cause of Great Britain at the

revolution, and that no citizen of the section principally concerned, namely, of Massachusetts, was employed by the United States. The consequence of this inadvertence was, that the agents of Great Britain were permitted to stop and assume a position at Mars Hill, a solitary and isolated projection, rising to a height uncalled for by the treaty, unaccompanied by any of the circumstances of the description, and destitute of a single feature of it—even to that solitary pre-eminence which is so entirely unlike a general highland conformation. Without enquiring how this happened, or undertaking to say what the American agents ought to have done under these circumstances, and whether they ought not to have refused to proceed, and to have protested at once against the total departure from the rule of proceeding required by the treaty, it is not too much to say, that all further labor after this was worse than lost, and thrown away. The whole of this proceeding was, thenceforward, conducted and carried on to its unfortunate termination, without any privity or knowledge on the part of Massachusetts or any of her authorities ; and by a sequel, which was hardly, perhaps, contemplated as a consequence of this solecism, (allowing the stoppage at Mars Hill) an enormous and sudden expansion afterwards took place of what assumed the specious form, and obtained the factitious denomination, of the *British claim* to about one third of the territory of Maine—a tract which thereby acquired the designation, too easily allowed to pass into use, of disputed territory ; and it is needless to say that this circumstance has since proved to be pregnant with the utmost mischief to the State, and to have been the prolific source of almost every variety of evil to its peace and prosperity. It turns out, by the recent brilliant scientific exploration of Major Graham, as was insisted at the time when the pretence was brought to light, that the true line from the Monument does not even touch Mars Hill, but leaves it quite to the west, upon our side, and within the limits of Maine. This false and preposterous position, indeed, has been recently treated by respectable British writers, who are still not willing to yield to the whole force of the American claim of right in all its extent, in publications of ability, as entirely untenable and destitute of pretext. Mars Hill remains, and will stand for ages, a monument of the gigantic and monstrous absurdity of this audacious assumption.

It is, no doubt, to be regretted that the Government of the United States should have found this subject in such a state, from the result of the commission under the 5th article of the treaty of Ghent, as to be obliged apparently to recognize and

to give color to this extravagant claim, by the perhaps unavoidable form of the convention negotiated at London, in 1827, for referring the question to an umpire.

It was at this moment, we may remark, that Maine suddenly saw the sword suspended, as it were, over her head; or perhaps we should more fitly say, when she beheld the scales about to be put into the hands of an arbiter, whose acknowledged bias would be, the same whether king or farmer, to split the difference. Another circumstance, not calculated to allay this concern, was the discovery of an accidental misapprehension, into which one of the most prominent negotiators of the treaty of Ghent had been led, in a private letter afterwards published, written immediately after the signature of the treaty of Ghent, which was to the effect that Massachusetts had not the shadow of claim to any territory north of 45°, eastward of Penobscot river. It cannot be necessary to say that this momentary error has since been most satisfactorily explained and rectified. It may not be wonderful, however, that Maine, at this moment, surprised by this sudden developement, of which she had been alarmed by rumors, destitute of the documentary evidence that had been made use of in relation to her title, and ignorant of the grounds upon which it had been impeached, or of the extent to which it might have been compromitted, without having been consulted, neither herself nor Massachusetts, in a single step or stage of this course of proceeding, in which her rights were so seriously involved,—it can hardly, therefore, we say, be wondered that Maine was induced to exclaim, through her executive organ, that she had not been treated as she had endeavored to deserve.

The assertion and announcement of this new and strange pretension was accompanied, as will be well remembered, also, by a sort of simultaneous charge from the Provincial powers of New Brunswick, along the whole line of the hitherto undisturbed American possession and population. The boundary, supposed to have been sufficiently established from the St. Croix as far as the St. John, was now broke into. This assault was made upon all persons, without discrimination, who might have thought themselves protected by the authority of Maine, or by the power of the United States, within the precincts of what now for the first time was practically marked out as disputed territory. Process of ejectment was served about the same time, in the fall of 1827, upon all the settlers on the Aroostook and the upper parts of the valley of the St. John, as intruders upon Crown lands; and much complaint was made at the time, not without foundation, of the terror

and severity with which this sudden exercise of foreign authority was employed. At this period, too, an American citizen, who had acquired the possession of an original American settler, seated upon a grant under the authority of the two States of Massachusetts and Maine, at the confluence of the small stream before mentioned with the St. John, having the protection of the Governor of Maine in his pocket, was seized by the sheriff of the adjacent county in New Brunswick, and conveyed, as a prisoner, to Fredericton.

It is due to observe, that upon inquiry into the facts, by the Government of the United States, as well as by that of this State, the liberation of this person was required, and an indemnity was demanded in a tone and spirit worthy of the occasion; and which afterwards served as a precedent on a similar one. But it was unavailing; nor did the interference operate any alleviation to the condition of the unfortunate prisoner, nor as an abatement to the rigor of Provincial authority. Notwithstanding this reclamation, and in defiance of this demand by the Government of the United States, the proceedings went on, and the individual was tried, convicted, sentenced, and punished for his alleged offences against the Crown and Government of Great Britain. Baker underwent his sentence, and returned to become again the subject of similar outrage and persecution. The record of his trial and conviction was put into the case, and became a part of the evidence furnished against the United States, in the submission to the King of the Netherlands.

After this monarch had in fact ceased to be that independent sovereign to whom the question was referred, and was obliged to rely upon the support of those powers, among them Great Britain, which had raised him to a kingdom now reduced to one half, and when, under these circumstances, in the room of undertaking to split the difference, he concluded to advise some agreement to that effect, and when that advice was declined to be accepted by the Government of the United States, then followed a period of some duration, over which we shall be willing to draw the mantle of oblivion. It was a period of obscurity and eclipse to the condition of this question, which may be denominated the dark day of its diplomatic management. For some considerable season the negotiations and transactions between the two governments were shrouded in impenetrable mystery; and the shade was in some degree cast over the proceedings of our own. A plan was on foot, in the first place, for adopting the proposal of the arbiter, and making it the basis of a further compromise. This project was defeated by the refusal of Maine to enter into it blindfold. Then followed the

singular suggestion of turning aside from the due north direction and sweeping the course towards the west, for some indefinite and uncertain object, that would best answer the description, until it was made almost a matter of indifference whether the highlands in question, if any such existed, should be sought to the north or the south of the St. John; and it was finally proposed, under color of seeking for highlands, to which both parties were agreed—that is to say, the only highlands upon which they could agree, to strike a line from the St. Croix to the western elevated region which divides the waters of the St. John, Penobscot, and Chaudiere.

During this season of darkness and diplomacy the rights and interests of this State were peculiarly compromised. The Government of Maine was called upon to disavow acts of its citizens performed under its authority. Citizens of the State, within its limits, for conformity to its laws, were again seized and imprisoned in New Brunswick; and their liberation was requested of the Lieutenant Governor as a matter of grace and favor. Our civil securities, designed by the Legislature for the temporary protection of the frontier, were dismantled, and left to desolation. Information was refused, and the inquiry into the state of the question stifled; and, to crown the apparent abandonment of our cause for a season, the care of the disputed territory was resigned to the charge of a Provincial Warden.

The constant cry to us during this period, was peace, when there was no peace. It is not too much to say that the powers of the Federal Government were then in abeyance to us; or only exerted to repress our vigor, and restrain our energies; and its influence was only exercised to depress and subdue the spirit and patriotism of the State, and to silence observation and complaint. This statement is not drawn forth without repugnance; but it is due to the demands of truth, and no less to those of justice to the better counsels, by which those pernicious and flagrant errors were afterwards, in a great measure, corrected and repaired. Suffice it to add, that under the influence of those counsels which prevailed in the cabinets of Great Britain and the United States, during that season, the subject slumbered, so far as the public were concerned, for several years. An unavailing attempt to break the spell was made in 1834, in the National House of Representatives. A call afterwards made in the Senate, was more successful. This was on motion of Mr. Webster, seconded by Mr. Clay, in 1836. The sensation produced by the unexpected disclosures of the state of negotiation, then laid open to the light, served to re-animate and arouse the dormant state of public

feeling and attention to the subject. Presently after the development, just mentioned, and after a variety of previous finessing and manœuvring to compass this object, the direct overture was at last made by Great Britain, through her charge d'affaires in this country, to finish the business, and to actually split the difference, without more formality, by a division of the disputed territory between the parties upon equal terms. After much fruitless discussion for a year or two longer, entirely irrelevant to the issue, but in which, however, the necessity or fitness of recurring to the State of Maine for her assent, and for making her a party, to any project for her own mutilation or dismemberment was recognized, the negotiation arrived at a point, in which, to cut the matter short, recourse was required to the expedient of consulting and ascertaining the sense of the State of Maine; that is to say, whether it would give its consent to a conventional line of boundary.

This leads to the view of the Resolves of the Legislature on this subject, at the session of 1838, upon the communication of the correspondence upon this subject, between the Governor and the Secretary of State of the United States; to which in the progress of these remarks, the committee look forward. As this forms an important epoch in the annals of the question, before entering upon that further field of observation, it may not be out of place for the committee to recur, for a moment, to another topic which may be fit for reflection.

The committee are well aware, that there were respectable opinions entertained in favor of accepting the advice, or award, such as it was, of the King of the Netherlands; and that there are still those, who continue to avow their regret that it was not done. It is remarkable, and at the same time gratifying to observe, that as this has arisen, and the more food has since been furnished for reflection, in the same proportion has the truth been gaining ground, of the right of Maine; and there has been a progressive strength of opinion in support of the justice and rightfulness of her cause; until the conviction has become so firmly established in the public mind, as to leave no alternative, but to adopt its defence. To this conviction we might appeal for an apology, if one was necessary. But it is not for Maine to offer any for the course that was taken. That decision was made by the Senate of the United States; and that body for itself rejected, and refused to advise the President to accept the result of the submission. And supposing this course was in consonance with the sentiment of Maine, either as anticipated, or expressed through her proper organs, was she to be the last to feel the force of the injustice

that would have been done her, or to protest against the violation of her sacred rights? A low idea may have prevailed, it is true, of the comparative value of the land in dispute, and a grave one, undoubtedly, entertained, of the consequences that might be involved in the refusal to resign it. But how is that value to be measured; and of what is a community to take counsel on a question of this kind? Its conscience of right, or its concern for the event? There is an importance in principles, as well as in consequences, not to be overlooked, and which ought not to be outweighed by ordinary, or excessive scruples. It is sufficient justification for us that the demand against us was totally unfounded; that the domain in dispute was entirely ours. The success of the adverse scheme would have been that of stratagem and circumvention; and it was not for Maine to have been foremost to contribute to its consummation. Leaving the due responsibility of that decision wherever it rests, the prudence of the determination of Maine, it may be observed, was a question, so far as she alone was concerned, for herself. The control was in the superior wisdom and discretion of the Union; whose councils can best appreciate the utility, or importance, of the retrospection.

We will not pause to say that the sacrifice required was uncompensated to Maine by any equivalent, in frontier or otherwise, such as was, in fact, offered at Ghent; or in any other respect, except by relinquishing to the United States the useless fortifications at Rowse's Point. Some compensation of another kind, in another quarter, it is true, was afterwards suggested to Maine, concerning which, we believe, there never has been but one opinion. Maine, we are sure, would never consent to barter her birth-right for any mere sordid consideration. As a question of right, moreover, we may be sensible that the subject had not the same interest to others, at that time, that it had to ourselves; nor had it been considered by Congress and the country in the light it has since been. The right we were solicited to surrender was, indeed, scarcely acknowledged to be ours. Less, as has been remarked, was thought then of the truth and justice of our cause, and of the injustice and indignity we had endured, the sense of which has since been spread, and the report thereof rung throughout the land. Whatever regret may still remain, that Maine had not submitted in silence, and without even that sympathy which might have soothed submission, there certainly has been less surprise at her course of conduct, since the character of her case and the history of her wrongs have come to be more perfectly understood; except, that is to say, at the extent of her patience and forbear-

ance under the most aggravating and humiliating circumstances. No reflection has long been cast upon her fidelity, either to herself or to the Union ; and every other unavailing expression of a doubtful kind has, we had trusted, long since died away.

It may here be added, that it yet remains to be seen whether the course pursued by Maine upon that, as well as on every occasion, will not prove at once more true to herself and to the Union, than has thus far been viewed as being perfectly ascertained, or she has had entire credit for.

The committee would here be permitted to observe that they have not thought it important, at this time, to go into any long and labored argument, or vindication, of the right of Maine to what is termed the territory in dispute. They hope they owe no apology for any such omission. The day for that has gone by. In their opinion, it has been argued quite too much and too long already. The matter, which was never doubtful to any unbiassed mind, demands no further exposition or elucidation in the view of the country ; and by the Government and people of Great Britain our voice is unheard, or unheeded. The subject has already been discussed, with sufficient clearness and cogency, in former reports of the committee to the Legislature, and in a variety of familiar public documents that have been widely circulated ; and a continuance of it, it is conceived, would take up all the time and room that can conveniently be assigned for the present report, without any otherwise useful and important purpose.

It is possible, however, that some apology might be due to the state of public intelligence or expectation, whether for omitting, or for taking notice of, the result of the recent exploration and survey of the British commissioners, and their Report, published and communicated by the authority of that Government. The committee can only say, that they should pass it by in silence, except from the general surprise and attention which it has excited ; and that they should otherwise leave it to the lot to which it had better be consigned. They are only restrained from speaking of it further according to its merits, by the respect that is due to the channel through which it comes, rather than to the source from which it proceeds ; from speaking, they mean to say, as it deserves, of what might otherwise be termed its impudence, its audacity, and its mendacity ; of its sophistries and evasions ; of its assumptions, as well as its suppressions ; of its profligate perversions, and its presumptuous and extravagant pretensions. It sets at naught and seeks to get rid, in the first place, of the settlement of the source of the St. Croix under the treaty of 1794, no less

than it does the description of the highlands in the treaty of 1783; and it proclaims a discovery for the final solution of the whole question, by the transposition of a point in the original Latin grant of Nova Scotia to Sir William Alexander. Its falsities, moreover, are obvious and palpable. In the room of the dividing highlands, described in the treaty of 1783, it substitutes a certain new-fangled phrase, or idea, of the maximum axis of elevation, which it pursues and carries through, over hill and vale, along and across various streams, and crossing several times the same stream, viz. the Aroostook, until it reaches some undiscovered bourne, thence to be termed the north-west angle of Nova Scotia. This newly invented principle, or rather name (the axis being mere matter of imagination) is understood to mean the greatest prevailing character of elevation, in the configuration of the country, upon some broad general parallel between the river St. Lawrence and the main Atlantic, extending from the head of Connecticut river, where it is made to begin, and merging in the lower valley of the St. John, where it loses itself; or if it ever rises again on the east bank, it is to approach the south, and not touch the north, side of the bay of Chaleurs. This scheme undertakes to show, upon the base of some modern geological theory, what were the true original highland formations intended by the proclamation of 1763 and the treaty of 1783, in the entire absence, at that time, it may be observed, of all such notions, and indeed of all those lights that have since been shed, by subsequent researches, upon the principles of a science then either unknown or not deemed of any practical importance. Indeed, it has been obliged to resort to the most fanciful and imaginary theory to account for the *absence* of facts in the face of the country, to sustain its pure and unsupported hypothesis.

It is needless to mention that its strength is employed and consumed upon entirely irrelevant and subordinate, if not trivial, topics, not touching at all the main criterion of the treaty highlands, as ranging along the heads of rivers emptying into the St. Lawrence. It gives up the only ground on which the British argument laid before the arbiter could possibly stand, to wit, that the highlands in the treaty of 1783 were not the same as those described in the proclamation of 1763; and it tramples down equally the positions assumed in the statements and supported by the evidence before the umpire, and almost every pretext upon which he could base his conclusion. Perhaps its most remarkable sleight is that, by which it achieves a direct line between the sources of the St. Croix and the Chau-

diere, by changing the due north direction to one nearly west ; and it betrays a singular and striking coincidence with the diplomatic scheme before mentioned for searching from the St. Croix for highlands in which both parties should agree !

The task of entirely exposing the disingenuousness and total unworthiness of the character of this report, in regard to all those points in which it ought chiefly to recommend itself to public confidence anywhere—one which your committee have been loth and reluctant to undertake—has not, however, been neglected by other and abler hands, by which it has been thoroughly performed, and in which they are quite willing to leave it. Besides the various publications of distinguished individuals upon this subject, the committee would allude, with pleasure and satisfaction, to the recent report in regard to it to the Legislature of Massachusetts—one uniting together names the most respectable and venerable also to Maine.

The committee feel it to be desirable, before dismissing these observations, to divest them, as far as possible, of all undue application ; and, most of all, where they would be the least applicable. They feel a difficulty, however, in forbearing to remark, and to express their regret, in respect to the unfortunate commentary, which is presented by the character of this commission and report, upon the highly liberal policy which has always prevailed in the United States, in regard to cherishing the merit of foreigners. And it is no less due to say, that the faithfulness, with which that favor has been rewarded, in one instance, is only set off in a stronger light, and more conspicuous relief, by the perfidious requital which has been made for undeserved patronage, and the illustration afforded, in an opposite and striking point of view, of mere mercenary service.

The committee are further desirous to distinguish, and to mark the difference in their opinion, between that portion of the report in question, which is hypothetical and argumentative, and that which relates to the particular execution of the duty assigned to the commissioners, in regard to survey ; in which respect, they are happy to say, it is presumed to be superior to any just exception.

It is no more than fit, in this respect, also, to say that the report in question distinctly acknowledges the existence of a range of highlands, extending along upon the right bank of the St. Lawrence, and fulfilling upon that side the features of the treaty of 1783 ; and that it perfectly shows that the treaty is capable of being literally executed (as it could not avoid doing) in that respect. Whether there was such a formation, along

upon some parallel with the St. Lawrence at the head of the rivers that emptied into it, known and understood to exist at the time of the Proclamation of 1763, as well as of the treaty of 1783, was not more a simple question for the eye, as viewed from the margin or from the bosom of that stream, than it was established in the geography and history of that section of country, and was exhibited in all the good maps of that age. The account of such highlands extends back to the earlier archives of Canada; and it appears in the authentic records of the seventeenth century. A graphic description of their appearance is given at that ancient day, under the reign of Louis XIV, as reaching from the vicinity of Quebec, at some distance from the shore, quite down towards the mouth of the river. Douglas' Political History of the British settlements in America, (of which different editions were published from 1746, about the date of the treaty of Aix la Chapelle, until 1760, on the conquest of Canada,) contains a like sketch of the long range of highlands lying on the south side of the St. Lawrence, at no great distance, for several hundred miles in extent. They are represented as elevated and lofty heights in that direction, with short and rapid rivers or runs of water on that side of the St. Lawrence, according with the old French accounts of the same section of country; and they are recommended to public attention, in that work, which was published near the eve of the Peace of 1763, in connexion with the subject of a convenient barrier or boundary for the British Provinces, in any future demarcations. The British Annual Register of that year, too, in its text, contained a contemporaneous exposition of the proclamation of 1763; and the highlands were there described, and their situation was laid down and illustrated on the accompanying map, in the same volume, as they were then and afterwards understood, and acknowledged, until a very recent period.

A remarkably clear light is likewise thrown upon the character of this well known highland boundary by a document that has been preserved among the provincial or State papers of Massachusetts respecting it, bearing date in the following year, 1764. A question having been started at that moment, when the Crown was looking up its lands in all directions, whether the lands lying east of the Penobscot, or between Nova Scotia and the Sagadahock, (formerly called the Sagadahock territory,) were not more properly Crown lands, and therefore not for the General Court to grant, although included within the Massachusetts charter, and therefore stretching to the St. Lawrence, it was brought before the Board of Trade, and became the

subject of discussion between the Provincial agent, and the British Minister for that department. The Lords, at least, thought that the Province could claim no right to the lands on the river St. Lawrence; and it was the opinion of the agent, though the original patent extended to the river of Canada northward, that it was not important to Massachusetts to preserve a portion of country which lay so remote, and "whose rivers run still further" from the old part of the Province "*into that of St. Lawrence;*" and it was proposed, that if the Province would cede all the claims they might have under their charter, "*to the lands on the river St. Lawrence,* destined by "the royal proclamation to form part of the Government of "Quebec," the Crown would waive all further dispute concerning the lands as far as St. Croix, and from the sea-coast of the bay of Fundy to the bounds of the Province of Quebec; and the General Court was thereupon advised to relinquish "*the narrow tract of land* which lay beyond the sources of all "their rivers, and which was *watered by those that run into the "river St. Lawrence,*" as being of little comparative consequence to the Province, but "absolutely necessary to the "Crown, to preserve the continuity of the Government of "Quebec." This historical document shews precisely how the narrow valley of the St. Lawrence was viewed at the time in England, and America, to be marked off by the recent proclamation of 1763, of which it is a cotemporaneous explanation; and exhibits therefore, in conspicuous relief, the situation of the naturally and necessarily separating, continuous elevation.

That such a range of highlands continued down the St. Lawrence, and branched off toward the north side of the bay of Chaleurs, was alike recognized and represented in the acts of the Crown and Parliament from 1763 to 1774. And the known configuration of the earth, in that quarter, necessarily establishes such a fact.

The committee need not say, that the existence of such an elevated rise of land, along that general direction, has never been drawn in question by any cotemporary authorities, or done away by any subsequent inquiries. A topographical description of Lower Canada, by the Surveyor General of the Province, published upon the conclusion of peace in 1815, and with full knowledge of the articles in the treaty of Ghent, delineates "the ridge rising at a certain distance, generally denominated the Land's Height, dividing the waters that fall "into the St. Lawrence from those taking a direction towards "the Atlantic ocean—along whose summit is supposed to run

“the boundary line between the territories of Great Britain and the United States. This chain commences upon the eastern branch of the Connecticut river, takes a northeasterly course, and terminates near Cape Rosier in the Gulf of St. Lawrence.” Now, it was upon this section of highlands trending toward the bay of Chaleurs, or rising along to the northward of it, as discernible by the eye, or determining the water courses described by the acts of the Crown and Parliament in 1763 and 1774, where the rivers should separate off in different directions into the St. Lawrence and into the Atlantic, wherever that should be intersected by the meridian, or due north line by celestial observation, from the St. Croix,—that the bounds of the United States, defined by the treaty of 1783, *abutted*.

The committee refer to this as the only real and proper question of a geographical kind, which can arise or exist in the case; and nothing was ever necessary, but to ascertain and define that true point by degrees of latitude and longitude, as was afterwards proposed to be done by the unratified conventions before mentioned of 1803 and 1806. They have adverted to this point, and allowed themselves to look back upon this ancient and well traced line of boundary, upon the horizon of former times, with more freedom than there might otherwise have been occasion, in consequence of an idea at first insinuated, and afterwards more gradually developed, and confidently insisted upon, in the diplomatic papers of Great Britain, since the period of 1832, that no such range or region of highlands in truth existed, and that the treaty of 1783 was therefore physically incapable of execution. Such a fallacious suggestion was, undoubtedly, entirely in the face of all former observation and political experience in regard to the question. If there was room for any thing to confirm this point, it might be found in the acknowledgment of the fact, in every form, in which it could be made at the time of the treaty of 1783. Authentic evidence exists that the British Minister at Paris was possessed of all the “books, maps, and papers, relative to the boundary,” which were wanted from the public offices in London; and without referring to the conclusive character and effect of Mitchell’s map, which was regularly prepared under the sanction of the Board of Trade and Plantations, and was the one immediately before the negotiators, all the maps known to have been published in England from 1763 to 1783, nearly twenty in number, carried the course of the boundary line from the source of the river St. Croix northward, across the river St. John, and terminated at the highlands in which the rivers

that fall into the St. Lawrence take their rise. In all those maps, the north west angle of Nova Scotia is laid down on those highlands, where that north line terminates. In all, the highlands from that point to the Connecticut river divide the waters that fall into the St. Lawrence from the tributaries of the St. John, and from the other rivers that fall into the Atlantic. Several different maps published in England also between the preliminary and definitive treaties, in November 1782 and September 1783, lay down the boundaries of the United States similar to those delineated in the previous maps as the boundaries of the Provinces of Quebec and Nova Scotia, and as they have ever since been claimed by the United States. All the world knows, that this was pointed out and demonstrated, without any denial, in the debates in Parliament immediately upon the treaty; that it was defended by the Ministry who had been put in to make peace upon terms which they were disposed to render favorable to us, and that the contest was determined against them upon that ground. If access could even now be had to the various depositories of the papers and correspondence passing between the British Ministry and its negotiators at the peace of 1783, your committee have the persuasion, that a still more conclusive light might be cast, if it were possible, upon the intentions, as well as the terms, of that treaty, so as to dispel all shadow of doubt, that might rest upon that question, even in England.

It is unnecessary to repeat the deep concern and mortification, with which Maine became acquainted with the State of negotiation on this subject, in 1836. It was shown to have been so strangely conducted, under the long course of diplomatic management, that almost every trait of the treaty of 1783 was effaced, and all the real and permanent features, or characteristics, of the question, were quite altered, or lost sight of. And it was finally insisted by the British Minister, forgetting the late height of Mars Hill, that a due north line from the St. Croix would strike no highlands described by the treaty. The topic, indeed, was taken up, as though it was fresh; and was treated as if there had been no previous treaty at all about it. Without making any other remark in regard to the mode in which the subject was thus managed, it is no more than proper to say, that it served as a prelude to the further project, afterwards disclosed, for unsettling the source of the St. Croix, and striking a line across the country, to the head of the Chaudiere. The same spirit had only to travel back, whether in the shape of critical acuteness, or geological research, and

remove the highlands described in the proclamation of 1763 from their heights where they sent their streams into the St. Lawrence, to that interior and formerly unknown region, where they might be conceived to constitute the *maximum axis of elevation*: or to go yet further to the suppression of that portion of the old charter of Massachusetts which contemplated its “extending from the river of Sagadahock to the gulf of St. Lawrence and Canada rivers,” &c. and also of the passage as quoted in the American statement before the King of Holland from the letter of the royal Governor of Massachusetts to the Board of Trade in 1700, that “as to the boundaries, we have always insisted, and shall insist, upon the English right, as far as the St. Croix;” or furthest and last of all, by vouching a stale philology, in aid of a new invented and apocryphal geology, so as to change the original direction of Sir William Alexander’s obsolete grant of Nova Scotia from the northward, in a straight line, toward the west, to the head of the remotest river, the Chaudiere, that falls into the St. Lawrence, opposite, or just above Quebec.

From publications like this last, again alluded to, not without repugnance, it is refreshing to the testimony of a moral sense in the human breast, to turn to opinions in relation to the general subject in recent and respectable English periodical works, delivered in a tone as well as, we doubt not, a spirit of equity, moderation, and candor. If the committee cannot emulate, as they would wish to, they can at least acknowledge, a tone and temper like this; and they can at least hail it as an auspicious harbinger, of a dawn, if not a day, that has not even yet fairly broken—oh, when will it ever burst again—from the oriental glory of old England, upon the broad, eternal ground of truth and justice!

It is trusted by the committee, that this retrospect will not be regarded as unimportant, nor the last portion of these remarks be deemed as a digression, in view of the period which they are approaching, of 1838. Previous to which, it may be mentioned, that a strong solicitude was awakened in the breasts of the people of this State by observing the advancing progress and extent of British usurpation, and encroachment upon the disputed territory. One of the most extraordinary, was the project for a rail-road, proposed by the Legislature of New Brunswick, called the St. Andrews and Quebec Rail-road Company, to which the Legislature of New Brunswick pledged its co-operation, and which was patronized by a royal grant of £10,000. A rail-road of this description, it was plain, must have intersected the State of Maine quite south of the St. John;

and the plan of it was to cross the line at Mars Hill. This enterprise did not escape the vigilance of the Legislature; and although it was relinquished, the demonstration was not lost upon the public mind. The subject was taken up at the ensuing session of the Legislature in 1837; and the joint committee on the North-eastern Boundary was instructed to inquire into the expediency of providing by law for the appointment of commissioners on the part of the State, by the consent of the Government of the United States to survey the line between this State and the Province of New Brunswick, according to the treaty of 1783, and to establish monuments at such places as should be fixed by such commissioners, and by commissioners to be appointed on the part of the Government of Great Britain. Upon the report of that committee a properly modified Resolve was adopted by the Legislature, that the Governor should be authorized and requested to call on the President of the United States to cause the North-eastern Boundary of the State to be explored and surveyed, and monuments erected, according to the treaty of 1783; that the co-operation of Massachusetts should be solicited; and our Senators instructed and Representatives requested accordingly. In consequence of this Resolve, it is well remembered, an appropriation was obtained in Congress, on the motion of Mr. Evans, of the sum of \$20,000, for the purpose of such survey, and to carry the object of it into effect; in regard to which it is needless to remark, that nothing was ever done; nor is it recollected that any other reason was ever given for the omission than the existence of some negotiation. The appropriation was limited to two years. In the interval, it will not be forgotten, another American citizen, and it is hoped, the last, was arrested, within the Madawaska precinct, in execution of a duty assigned to him by the laws of the United States, under the local authorities of Maine, and was imprisoned, once and again, until he was eventually liberated. This seizure was made the subject of complaint and reclamation in the same manner that had been adopted in the former case; and with similar success. These reclamations, it may be observed, have remained ever since suspended. The National Government have recognized their correctness on the part of Maine, and have acknowledged the title of the State to compensation. But the deepest impression was made upon the public mind, at this last period, by the open marching of British troops across the upper part of the territory in the latter part of 1837. Of the intention to do this, the committee would observe, that simple notice was given by the British Government; and it was accepted, and communicated

as an act of courtesy, to be duly appreciated by ours. The committee feel restrained by motives of a high, prudent, and moral nature, from commenting on this circumstance, in all the relations with which it is concerned, and in regard to all the reflections and emotions to which it gives rise. Candor requires the admission, that the national administration did not at that moment foresee the consequences of this inconsiderate facility, or probably anticipate that it would terminate, as it has done, in an actual and apparently absolute occupation of that part of the disputed territory by an established British military force.

The committee are willing to say, that they do not wonder at the difficulty which was found to understand the subject, or to perceive all its proper relations, in the state in which it was left previous to the period of the late administration; and they readily acknowledge that, making due allowance for the embarrassment in taking it up at first, there has been no want of an able and sincere attention to its interest; and that it has been passed from the hands of the late Secretary of State in a much better condition than he found it.

The committee have now come to the period when Maine had so long seen herself exposed, without having any adequate shield against the aggressions and encroachments of the Provincial Government of New Brunswick, upon her borders; and when, feeling the extreme inconvenience and danger resulting from not having any marked and established frontier, she was compelled by necessity to take the work of ascertaining it into her own hands, and of determining it, so far as she could, unless she should be relieved from the task by the superior prudence and power of the General Government. This State saw clearly the importance and propriety of causing this to be done, if it could be so, by the authority of the United States; and if that recourse failed, the State was no less clear in regard to the duty it was owing to itself. Indeed, it saw no other alternative. At the same time, therefore, that the Legislature refused to give its consent, beforehand, to a conventional line, it further resolved that unless the Government of the United States should, alone or in conjunction with that of Great Britain, run and mark the line, by a certain time, (which was fixed in September, to await the adjournment of Congress) the Governor of the State should enter upon the execution of that measure. No provision, however, was made for the necessary expense of that service, beyond what was contained in the ordinary contingent fund. That Resolve and this fund were all that the Executive of the State had to guide and to aid him.

The committee do not stop to state at length the views that

were taken of the subject by the Governor of the State, at that period, under the duties prescribed and enjoined upon him. They are exhibited in the communications made by him to the Government of the United States, and especially to the delegation of this State in Congress. Those views might be referred to still with interest and satisfaction; and it would give the committee pleasure to copy them into this report. In substance and amount they were:—that Maine was not desirous to assume the attitude required by her Resolves; that the people looked with intense interest to the expected action of Congress and of the Federal Executive upon the subject; and that their earnest wish was that the United States would go forward in the matter; that the State did not seek to act independently of the United States, but did feel that the subject belonged properly to the Government of the United States; that the question was a national one, and the action thereon should be national; that it was important that the Provincial and the British Governments should understand that what was to be done should be so under the authority of the General Government, and would be sustained by it; for so long as they supposed that Maine was not acting in accordance with the sentiments of the United States, but proceeded on her own responsibility, alone and unsupported—so long must we expect a repetition of outrages upon our rights and upon the persons of our citizens and agents. Maine was obliged to move upon her own responsibility; but no just inference was thence to be drawn that she intended to absolve the General Government from its constitutional obligation, as the principal, responsible, guardian power; and the course prescribed was evidently intended to be pursued only in the last resort, to assert our rights, all other measures failing. But in that respect the determination of Maine was announced to be fixed and settled; and, so far as rested on her Executive, her will, as expressed by the Legislature, should be faithfully obeyed and executed.

The committee do not deem it necessary to go into all the circumstances of that eventful Resolve, and to review the whole transactions of that period, in which our cause was raised from the character of a border quarrel—one in which it had too long been viewed in other parts of the Union—into its due relief and importance; when it was presented to public favor, and placed in the foreground of our public affairs, and lifted into the clearer light of day, as a matter about which there could be no doubt, and there ought to be no further dispute and delay. It was rescued, at the same time, from the deadly repose of diplomacy; and almost redeemed at once

from those enormous errors and obliquities, in which it had been involved by the predecessors of the now late Secretary of State. An arrangement was, at this point of time, without waiting any further, proposed by him to the British Government, under the direction of the President, to test the correctness of the opinion of the State of Maine, that the line described in the treaty of 1783 could be found and traced, whenever the Governments of the United States and Great Britain should proceed to make the requisite investigation, with a predisposition to effect the desired object. It might seem strange, to be sure, that the question should be supposed to have arrived at such a pass; and the mode in which the investigation was taken up, at that particular moment, was far from being satisfactory; but it undoubtedly appeared to the Executive of the United States to be best; and it was regarded, indeed, it is believed, as the only alternative that could be adopted, to the total rupture of negotiation. Whether that was of so much real importance as was then, perhaps, conceived, the result has hardly yet proved. The subject was, however, by this means, unavoidably taken out of the immediate hands of Congress, as a matter of practical consideration and proceeding, further than the occasion was thereby afforded to call for its definite opinion and decision thereupon. And it must be owned to have been a great and sensible relief to the State of Maine, and it awakened her warmest gratitude, that her call for the judgment of Congress was followed by the cordial and unanimous recognition of her rights by both its branches; and by the subsequent acknowledgment, so long suspended, of her title to recompense for essential and vital wrongs.

The cause of Maine was then adopted and made, not only the cause of Massachusetts and all New England, but the cause of New York and Virginia, of Pennsylvania, Ohio, and Kentucky, and, in fine, of the whole Union. While all might not have been done by the Federal Government that was desired by the Legislature, it is due to acknowledge that all was done by Congress, that was in their power, under the circumstances in which they were called to act, consistent with the previous course of the President, in re-opening negotiation. Whether there is any reason for regret, in respect to that course, as before intimated, it is not within the province, if it were in the power, of the committee to determine. They may, perhaps, be permitted to observe, that there was a full report made, at that period, of the agency instituted under the State Executive for the purpose of obtaining the constitutional sanction and co-operation of the Government of the United States. Full

justice was intended to be done, as the committee may believe, in that report, to the principal actors in that interesting and important matter; and a merited tribute was paid to those distinguished persons in the Senate of the United States, particularly, who took a leading part in the discussion and decision. The only difficulty was in assigning to individuals their proper share of that merit on our behalf, which, if so well deserved by them, was justly due to all. If there was an omission to be repaired, it might have been in respect to the names of the two representatives of Maine therein mentioned as having taken an effective part in the finally successful course of proceedings in the House of Representatives. There was no occasion to say that those two representatives were Mr. Evans and Mr. Fairfield; both of whom have since been remembered with the most respectful consideration by the State, and the memory of their arduous and faithful services on this subject is yet fresh in its mind. Without disparagement also to the constant and faithful services of a Senator from our own State, (Mr. Williams) which are also entitled to their due acknowledgment, the committee may be allowed the gratification of adding that the cause of Maine, in the true sense of the word, had no more decided and determined champion in the Senate, than the present worthy Governor of Massachusetts.

If the Resolves of 1838 did not entirely reach their object, they may be well regarded as having accomplished their end. This was done, we would remark, in the first place, by means of those joint unanimous Resolutions of Congress, which asserted the rightfulness of our claim, and the practicability of running and establishing the line of boundary agreeable to the treaty of 1783; and secondly, by engaging the co-operation and support of the Government of the United States, so much in accordance with the spirit, if somewhat short of the letter, of our Resolves; thirdly, the fulfilment of the course of action adopted by the General Government, so far as it proved defective upon a strict construction of those Resolves, was necessarily furnished by the conclusion of the Executive of the State to go on and execute the instructions of the Legislature, as he had unequivocally announced his intention to do, in that emergency. The absolute mandate of the Legislature left him no alternative; and although the path on which he was obliged to enter was one beset with difficulty and discouragement, he was equal to what the occasion required. The committee are proud to recal that he had the satisfaction of being seconded, also, in carrying the undertaking into effect, by that constant, ardent, and indefatigable advocate of the rights and interests of

Maine, the late John G. Deane, over whose recent and untimely grave we are called to pause, without turning aside, and to bestow the passing tribute due to his honest worth, and his persevering and devoted spirit.

And, finally, we may consider the end of those Resolves to have been accomplished, in a material respect; that is, in regard to ascertaining, what was the immediate object of that expedition, and which never fairly admitted of a question—the feasibility of the undertaking, if there was a disposition to go about it in good earnest. We may likewise be at liberty to look upon the late subsequent proceedings, instituted under the direction of the Government of the United States, for the exploration and survey of the treaty boundary upon the north-east angle of the United States, as the final, though tardy, result and confirmation of the previous consequence of the Resolves and proceedings of 1838 in this same respect. Without questioning whether the American Government ought to have allowed the British to have been in advance, upon an investigation of this kind, it may afford sufficient satisfaction that the main object has so far been answered, and that the Resolves of 1838 have been thus, in some important respects, although still imperfectly, performed.

In this respect the committee may allude, with gratification, to the so far satisfactory results to which the commissioners recently appointed by the Government of the United States have arrived, as already communicated. Without deeming them to have been of absolute and essential importance, we may regard them as auxiliary to what had been already accomplished, and as tending to carry out the purpose of the Resolves of 1838 to their final completion. The character of the recent exploration is one well calculated to gain respect and confidence; and we hope it may be speedily pursued to the final determination of the lines it will be the object to run and mark.

The committee have now come upon a period at which Maine was called upon to test the firmness of her principles, and the fortitude of her purposes, and they may further say, the strength of her Resolves, upon a sudden and somewhat unforeseen emergency. This was in consequence of information communicated to Governor Fairfield, on entering the duties of his office, as successor to Governor Kent, in 1839, and by him, confidentially, to the Legislature, that there was a large assembly of unknown individuals upon the border, many of whom were from the British Provinces, engaged in trespassing extensively upon the lands belonging to this State and Massachusetts, within the proper jurisdiction of Maine; and it was

further stated, that they not only refused to desist, but that they defied the power of this Government to prevent their committing depredations upon the timber within the territory, to any extent they pleased. In consequence of this communication, and the evidence in support of it, the Land Agent of the State was authorized, by a special Resolve of January 24, 1839, to employ forthwith sufficient force to arrest, detain, and imprison all persons found trespassing on the territory of this State, as bounded and established by the treaty of 1783. In proceeding upon the execution of this duty, upon the south side of the St. John, and west of the meridian dividing Maine from New Brunswick, the Land Agent was surprised and seized by an unauthorized force from the other side of the line, of the same character, if not in connexion, with the general trespassing parties, in the night, and was drawn, with circumstances of indignity and precipitation, to the seat of the Provincial Government, at Fredericton. There he was received, detained, and treated as an offender; and shortly paroled, as a prisoner of State; so that, in addition to the indignity, to which this State was thus subjected by the seizure and captivity of her official public agent, representing her supreme power, and acting under the direct authority and commission of the Legislature, it had to endure the further mortification of having the appropriate duties of that high officer discharged by a paroled prisoner of her Britannic Majesty's Lieutenant Governor of New Brunswick, liable to be called to answer at any moment for official acts by him performed upon the territory in question; while it had, at the same time, to digest the double disgrace of receiving this derogatory boon, under degrading circumstances, from a deputed power, which demanded the whole disputed territory to be under the immediate custody of a Provincial Warden.

To pass rapidly over events so recent, as not to require recital, and not to burden this report with details of which we may retain, perhaps, too deep and vivid a recollection, it may be observed, in passing, that the course thus adopted by this State, in resorting to its own power for protection, and moving upon the emergency to repel lawless aggression, was one, of which the legitimacy was recognized as well by British as by American jurisprudence, and it was allowed by Congress to have been exerted in strict conformity to the established principles of the fundamental law of both countries. The first appeal, moreover, to military force was made, and so declared by Congress, by the Lieutenant Governor of New Brunswick; and the consequent proceedings on the part of Maine were acknowledged to have been purely defensive. The pretension

assumed by the Lieutenant Governor of New Brunswick was considered as excluding the civil, as well as the military power of this State. It no less rejected the right of the United States, than that of Maine, to interpose any authority to preserve the peace and order of a portion of country, to which the British Government could extend nothing but a naked and destitute claim; and which portion was comprehended in the ancient recognized jurisdiction of Massachusetts. These facts and principles were embodied in an able and patriotic report from the committee of Foreign Affairs, presented in the House of Representatives, on the 28th of February, 1839.

Maine has not forgotten the generous and simultaneous sympathy which swelled throughout the land, nor will she cease to bear in mind the noble burst of indignation, which arose in the halls of Congress, above all other interests, on the occasion of this movement from New Brunswick, and the stand assumed by Maine. The demand upon this State to divest herself of a jurisdiction practically established, and perfectly defined, and to surrender it to a contiguous foreign province, was listened to with astonishment; and the idea was not tolerated for a moment. The objection to the military occupation of the disputed territory by Great Britain was pronounced to be insurmountable; and the execution of orders to that effect was proclaimed to be incompatible with the honor of the United States. The pretence, that there was any agreement or understanding, that Great Britain should occupy the territory as she claimed, pending the controversy, was instantly repudiated; and the right of the State to the control and protection of her own domain fully asserted. The appeal, that was made by Maine at that moment to the General Government, met with a prompt and immediate response. The reply was one that manifested a due sense of her rights, by spreading over them the ample folds of the federal union; and the sensibility of Congress to the claim of the State for protection expressed itself at once in the most effective and emphatic form. By an act of Congress upon the report of the committee of the House, the President was authorized to resist and repel any attempt on the part of Great Britain to enforce by arms her claim to exclusive jurisdiction. The whole military and naval forces of the United States were placed at his disposal, with such portions of the militia as he might see fit to call out for our protection. Ten millions of dollars were appropriated for the purpose; and a special provision was further made for the appointment of a Minister to Great Britain, if the President should consider it expedient. This act was to continue in

force until sixty days after the commencement of the then next session.

Maine, in return, was solicited and appealed to, to rest satisfied with this vindication of her sovereignty, and to rely on this full assurance of protection; and this act of Congress was presented to her, at once, as a pledge on the part of the Government, and as an inducement to prevail upon her to withdraw her military force, then rightfully in arms to sustain the civil authority and to repel invasion. The committee almost quote the public language employed by high authority on that occasion; and they may refer to the general character of the acts and declarations of the federal government in our favor. And they would take this further opportunity to say, with sincerity and pleasure, that if there has been any real want of vigor in the course of the late national administration upon this important subject, there has been scarcely any failure of the most uniform, conciliatory, and respectful treatment toward the State and its official authorities.

Upon view of these measures of the national Government for the protection of the State, and in particular, of the provision also for the appointment of a special Minister to the Court of St. James, the Legislature passed a Resolve on the 23d of March, 1839, which asserted the right of the State to exclusive jurisdiction over all the territory that lies west of a due north line from the monument to the northwest angle of Nova Scotia, to wit, all that had been called the disputed territory; and it denied the competency of any other authority to limit or impair the exercise of that inherent right, according to her own sole judgment; and expressing at the same time an earnest desire to come to an amicable adjustment of the whole controversy, (referring immediately to the provision for the appointment of a special Minister,) it did further resolve to forbear to enforce her jurisdiction in that part of the territory, of which the possession was then usurped by the Province of New Brunswick, so far as she could do so, consistently with the maintenance of the former Resolve of January 24th, which has been mentioned; and in relation to that late Resolve the Legislature still declared it to be no less the imperative duty, than the unalienable right of the State to protect her public domain from depredation and plunder, up to the extremest limits of her territory; and that moreover, no power on earth should drive her from an act of jurisdiction so proper in itself, and to which her honor was so irrevocably committed.

The Legislature also expressed its perfect approbation of the public measures pursued by Governor Fairfield in relation to

the disputed territory, and further declared its determination to stand to, and sustain the execution of, the aforesaid Resolve of January 24th. It, however, authorized the Governor, whenever he should be satisfied that the exigency had ceased, and that all intention of occupying the disputed territory with a military force, and of attempting the expulsion of our own party, had been abandoned, to withdraw the militia, leaving the Land Agent with a sufficient posse, armed or unarmed, as the case might require, to carry the said Resolve into effect.

The Legislature, at the same time, (having before them the recent demonstration made under the direction of the former Governor) deemed that the entire practicability of running and marking our North-eastern Boundary line, in strict conformity with the definitive treaty of peace of 1783, was placed *beyond a doubt*; and further declared that a crisis had arrived, when it became the duty of the Government of the United States forthwith to propose to that of Great Britain a joint commission for the purpose of running the line accordingly; and in case of refusal on the part of Great Britain, it was incumbent on the United States to run the line upon their own authority, and to take possession of the whole disputed territory without unnecessary delay.

In the mean time it may be remarked, that a preliminary arrangement had been entered into by a memorandum signed on the 27th of February, 1839, between the Secretary of State and the British Minister; which, after stating the different views entertained by the two parties on the point of jurisdiction, proposed, that while the Lieutenant Governor of New Brunswick should not without renewed instructions undertake to expel by force the armed party employed upon the Aroostook by Maine, it should on the other hand be withdrawn by Maine; and furthermore, that all future operations for protecting the territory against trespassers should be carried on, either jointly, or separately, by agreement between Maine and New Brunswick.

With the greatest deference to the high source from which this proposal proceeded, the committee cannot close their eyes to the singular and somewhat extraordinary nature and character of this recommendation. Maine had, to be sure, been compelled to act, upon a sudden occasion, in self defence; but she had not presumed to enter into any relation with New Brunswick, in face of the absolute clause of the Constitution which forbids any State, without the consent of Congress, to "enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded, or

“in such imminent danger, as will not admit of delay.” Certain stipulations are stated and understood to have been subscribed to and interchanged between the then Governor of Maine, and the Lieutenant Governor of New Brunswick, under the mediation of a distinguished military officer, sent hither by the General Government; but they have not been understood, on the part of this State, to have exceeded the limits prescribed by the cotemporaneous Resolves, of which alone they could have been in execution, or fulfilment, so far as this State is concerned; and as to any further virtue or efficacy, the subscription must, the committee conceive, derive its authority entirely from the commission given by the Government of the United States to Major General Scott.

Be that as it may, the request, recommendation, or agreement, (whatever it was) was immediately complied with and performed on the part of Maine, under the sanction of the National Government; and under a full reliance, also, upon its guarantee against any adverse military occupation of any part of the disputed territory by Great Britain. Upon the proposition made by General Scott to Sir John Harvey, it was signified by the latter not to be his intention, under the expected renewal of negotiations between the cabinets of London and Washington, on the subject of the disputed territory, without renewed instructions from his Government, to seek to take military possession of that territory, or to seek by military force to expel the armed civil posse or the troops of Maine.

This being, in the view entertained by Governor Fairfield, the exact contingency contemplated by the Legislature in the foregoing Resolves, he did not hesitate to conform to the stipulation, by recalling the troops of Maine at once, and dismissing them to their homes. It appeared to be the course prescribed to him by the Legislature; such an one as might be adopted without compromising the rights or dignity of the State, which had never, as he stated, proposed to take military possession of the territory. Our objects had been only, in the first place, to protect the territory from devastation by trespassers; and secondly, to resist the opposite threats of expulsion by military power. Our militia had maintained their ground, while the exigency that called them out remained. When that was removed, the withdrawal of the troops was no abandonment of any position taken by this State. An ordinary civil posse was thereupon substituted, and stationed at one or two points only upon the Aroostook and St. John, barely sufficient for the intended purpose of preventing trespass.

It is unnecessary to mention, that, under all these circum

stances, the presence of any actual or impending military force upon our frontier was presumed to have been entirely removed. Such appears to have been the persuasion of Governor Fairfield when he prepared to meet the Legislature at the opening of the session of 1840. But the communication he was about to make was obliged to be modified by the information which reached him, in reply to an inquiry he had addressed to Sir John Harvey, founded on previous rumor, that the British Government was about taking a military possession of the region of Madawaska. In this reply, it was acknowledged, that one or two companies had been stationed at Temiscouata Lake; that this was done, however, not by orders from him, the Lieutenant Governor of New Brunswick, but by virtue of authority superior to his, namely, that of the Government of Lower Canada. Through less official sources, accounts were received, about the same time, of the building of barracks by the British Government near the mouth of Madawaska river, on the St. John. These movements were naturally regarded by Governor Fairfield, under whatever branch of British authority, or upon whatever pretence, they might be made, not more clearly as a violation of the spirit of the arrangement that had been adopted in the March previous, than as an absolute invasion of our territory, and as such, demanding the immediate and vigorous interposition of the General Government enjoined by the Constitution and laws of the United States. In an ensuing correspondence, these measures on the part of the British were justified or defended by their Minister at Washington, on the grounds of a general report, of which that Government was said to be fully aware, charging the Legislature of Maine with the intention, during its then session, of revoking the provisional agreements then in force, and authorizing some new and extensive, nameless, act of aggression over the stipulated territory. From this offensive charge the State of Maine was justly vindicated by the Secretary of the United States; and the imputation was repelled with an equally measured force and propriety of expression; and this vindication was accompanied with a due demand for the removal of the invading force.

The Legislature at its next session, by its Resolves of March 18, 1840, gratefully acknowledged the patriotic enthusiasm with which several of our sister States had, during the preceding year, tendered their aid to repel threatened foreign invasion, and hailed the pervading spirit of self sacrifice and devotion to national honor throughout the Union, as auspicious to preserving the integrity of our territory. They recognized,

moreover, in like manner, the promptness and unanimity with which the last Congress, at the call of the State, had placed at the disposal of the President the arms and treasures of the nation, for our defence; and they regarded the firmness of its Executive in sustaining the course of the State, and in repelling the charge of any infraction of arrangement on the part of this State, and retorting a violation of agreement upon the British Government, and the decision manifested in demanding the removal of the British troops, then quartered on the disputed territory, as the only guarantee of a sincere desire for an amicable settlement of the boundary question,—all these acts of the Government, combined with the union of public sentiment, they looked upon and regarded as affording confident assurance that this State would not be compelled single-handed to take up arms in defence of its territory and of national honor; and they further avowed the conviction that the crisis was near, when this question would be settled by the *National Government*, either by *negotiation*, or by the *ultimate resort*.

It was, moreover, resolved, that unless the British Government should, during the then session of Congress, make or accept a distinct and satisfactory proposition for the immediate adjustment of the boundary question, it would be the duty of the General Government to take military possession of the disputed territory; and the Legislature did therein, in the name of a sovereign State, call upon the National Government to fulfil its constitutional obligation to establish the line, which they had acknowledged to be the true boundary, and to protect this State in extending her jurisdiction to the utmost limits of our territory.

And finally, these Resolves declared, that this State had a right to expect that the General Government would extend to this member of the Union, by negotiation or by arms, the protection of her territorial rights, guaranteed by the Federal compact; and thus to save her from the necessity of recurring to those ultimate rights of self defence and self protection, which do not depend upon constitutional forms; and they concluded that should this confidence be disappointed, in view of such a speedy crisis, it would become the imperative duty of Maine to assume the defence of the State and of National honor, and to expel from our limits the British troops then quartered upon our territory.

In proposing to take an observation of our exact position, and in regard to our situation, under the terms and import of our Legislative Resolves, and under all the circumstances in which we are necessarily placed, at the present period, the

committee would remark that they have been guided by the public documents, that have emanated from the Governments of the United States and of this State, so far as they have extended; it so happening that there has been no report, such as was formerly usual from the standing committee upon this subject, for the last two years. The active duties in which the State has been necessarily engaged during that interval, may naturally account for the omission; and the committee may be permitted to allude to it, as an apology, if one is to be offered, for the more extended range which the present report has taken, in regard more particularly to the transactions and events of the last three or four years, which have been so pregnant with momentous concerns and consequences.

The last Legislature, it has been noticed, invoked the General Government for protection and for the settlement of this question shortly by negotiation or by arms; and unless a distinct and satisfactory proposition for the immediate adjustment of the question should be made or accepted by the British Government, during the session of Congress which expired last year, it solicited the General Government to take military possession of the disputed territory.

In view of these Resolves, the committee would remark, first, that the appropriation made by Congress in 1839, making extraordinary provision for military force, and for a special embassy to England, had already expired, at the passage of the Resolves. Instead of adopting this last course, which appeared to be recommended by Congress, and which might have been the means of at least preventing the long delays required by interchanges across the Atlantic, (without making any remark, for which there might well be room, on the instructions to Mr. Stevenson, of March 6, 1839,) it seems that the ordinary sluggish course of negotiation was resumed, and it was to be carried on thenceforward at Washington.

Soon after the close of the session of the Legislature in 1839, and the termination of that matter, a proposition was made by the British Government to our own for establishing a commission of exploration and survey, but one so loaded with such limitations and qualifications, as to cause its rejection by the President at once. Subsequently, in the course of the next summer, a counter project was submitted to the British Government, which included a provision for the certain and final adjustment of the limits in dispute; and it was kept by that Government for some time under consideration. It seems no reply had been received by the President at the commencement of the session of Congress in December (1839.) In the

meantime the British Government instituted the special commission, which has been referred to, for the exploration of the territory. It appeared by a subsequent official communication from Lord Palmerston to Mr. Fox, laid before Parliament in June, 1840, "that the British Government then concurred with the United States in the opinion, that the next measure to be taken by the two Governments should contain, in its details, arrangements which should necessarily lead to some final settlement." At the same time the British Government signified its willingness to assent to the principle of arbitration.

The note from Mr. Fox to Mr. Forsyth, conveying this concurrence and assent, dated June 22d, 1840, according to his instructions, purported to state officially, "that her Majesty's Government consent to the two principles, which form the main foundation of the American counter draft, namely: first, that the commission to be appointed, shall be so constituted, as necessarily to lead to a final settlement of the question of boundary at issue between the two countries; and secondly, that in order to secure such a result, the convention, by which the commission is to be created, shall contain a provision for arbitration upon points, as to which the British and American commissioners may not be able to agree." But it was further added, that there were "many matters of detail in the American counter draft, which her Majesty's Government cannot adopt."

The last President's annual message, at the opening of the late session of Congress, announced the arrival of the answer from that Government, accompanied by additional propositions of its own, some of which were assented to, and others not. Such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, were concurred in; and the reasons for dissenting from the residue, together with an additional suggestion on our part, communicated by the Secretary of State to the British Minister at Washington, through whom the recent reply had been received. The matter was again referred by that Minister to his Government for its further decision, for want of instructions upon some of the points, and that Government having for some time had the subject under advisement, the President expressed his confident expectation of a speedy and satisfactory termination.

That the condition, or contingency, required by the Legislature of Maine, at the last session, to the execution of its Resolutions, has not taken place, in terms, is quite obvious. How far the State should rest satisfied with the reasons and

circumstances assigned for the delay, or is bound to resign itself to this interminable course of procrastination, is not perhaps quite so clear. The State cannot forget its proper position in the Union, nor fail of the obligations it is under to abide the high behests of our supreme national councils. At the same time it is absolutely impossible to reconcile itself to this system of endless delay, and this continual claim upon the inexhaustible confidence of our General Government in the equal disposition of both parties to bring the subject to a decisive conclusion. The original proposition of our own Government included "a provision looking in terms for a *certain and final* "adjustment of the *limits in dispute.*" And all that we are definitely led to understand, that the British Government gives its assent to, from the language of Lord Palmerston is, that the next measure to be adopted should *contain*—not in its absolute provisions—but *its details*, arrangements that should necessarily lead to *some final adjustment!* This prospect appears to the committee, from the very form of statement, to be far from promising; and what is more observable in regard to the plan, it seems to have a reference to some more or less direct principle of determination to which the State has already signified its entire aversion. What may be the effect of the additional stipulation sent out, we do not know; nor can the committee tell what is to be the alternative. But Maine can feel no assurance of safety or successful progress towards a conclusion in these vague, involved, and distant phrases. It is undoubtedly difficult to say that any course deliberately acceded to by our own Government would be likely to prove a delusion; but there is no certainty yet, nor any security when the subject will be redeemed from the arts and complications of diplomacy. The committee must say, they are not sanguine as to any prospect of a speedy or satisfactory conclusion to the present state of negotiation. All the propositions now pending, as presented to their minds, appear to them to be purely *dilatory.*

It is impossible, therefore, your committee confess, to consider the language of the last Resolves as perfectly satisfied; though, that the whole subject is not placed in such a condition as in some measure to elude the operation of those Resolutions, according to their literal force and meaning, is more than the committee can undertake to say; and no less so, perhaps, whether it is in the power of the National Government to bring the business to a point, otherwise than by a positive rupture. The fact may be, that it is not in our power to relieve ourselves; and that we must suffer the mortification of having

holden language, which we cannot carry out without compromising our constitutional relations. But it is needless to remark, that there is no end to this course of diplomacy, so long as it serves the purpose of delay, and to stave off a final determination. The postponement is indefinite; and we cannot but fear it will ever continue so, so long as Great Britain finds her advantage in keeping open a question, that can never be decided in her favor, and in the mean time enjoys the value of a possession which she must eventually yield, or employs herself to strengthen a position she is not disposed to surrender, nor entitled to hold. From whatever cause the difficulty arises most, whether from an aversion on her part to come to an issue, or a reluctance and unwillingness on that of our own Government to precipitate one, which can by any means be avoided, it is apparent that the adjournment of it is equally detrimental to the rights and interests of Maine. Your committee would be among the last to undervalue sincere and well directed efforts to bring about an adjustment, at once peaceful and rightful, of the controversy; but they have seen too much cause to be convinced, that such a disposition, however just and creditable, may be abused.

The committee may perhaps view themselves called upon to consider the effect of the stipulations adopted in 1839, under the authority of the Resolves of that year, or under the further advice and sanction of Major General Scott, acting under and in behalf of the Government of the United States.

They may observe, that nothing was considered to be done by Maine under the conventional agreement entered into and signed by Mr. Forsyth, the Secretary of State, and Mr. Fox, the British Minister, on the 27th of February, 1839. Without questioning the competency of the two parties to enter into such an arrangement between themselves, or the propriety of recommending it to the acceptance of the State of Maine, its obligatory force was not acknowledged by Governor Fairfield, who observed in his communication of it to the Legislature: "To such an arrangement I trust Maine will never consent. "She has been sufficiently trammelled hitherto in the exercise "of her rights, and will not voluntarily forge new shackles for "herself."

The authority of the Governor, as the committee view it, to bind the State by his signature to any public stipulation, was necessarily limited by the laws and Constitution of the State. His authority in this instance was entirely derived from the Resolves of 1839: and your committee not only do not understand that he did not intend to exceed it; but they do

understand, that what he did, he intended in strict and faithful execution of the immediate objects of those Resolves. Such was his language in reporting and communicating what he had done, in virtue of those Resolves, to the next Legislature ; and such is the understanding of the committee equally in regard to the import of the act on his part, and the character of the subject. The Resolves have been already recited. All the information the Legislature have of what was done by Governor Fairfield, under the Resolves, is contained in his subsequent communication to the Legislature the following year ; and it is subjoined to a simple statement of having received the written assent of the Lieutenant Governor of New Brunswick to the following proposition made to him by Major General Scott : to wit, “ that it is not the intention of the Lieutenant Governor of “ her Britannic Majesty’s Province of New Brunswick, under “ the expected renewal of negotiations between the cabinets of “ London and Washington, on the subject of the said disputed “ territory, without renewed instructions to that effect from his “ Government, to seek to take military possession of that ter- “ ritory, or to seek by military force to expel the armed civil “ posse or the troops of Maine.” The residue of the correspondence has not been, that your committee are aware, communicated to the Legislature.

The stipulation, therefore, entered into by Governor Fairfield, under the invitation and sanction of General Scott, is, as your committee understand, perfectly fulfilled ; and the Resolve of 1839 is therefore executed, and has been faithfully observed. The mission of General Scott to Maine was accomplished ; and Governor Fairfield, having recalled the military, professed his willingness not, without renewed instructions from the Legislature, to re-occupy the field of dispute in the like manner. Here the immediate controversy subsided. Governor Fairfield may be deemed to have endorsed the agreement made for him by General Scott ; who thereby undertook to guarantee, so far as he was capable, to the State of Maine, the counter security of the territory against the military operations of Sir John Harvey.

Such was the posture of Governor Fairfield, and the situation of Maine, in relation to the subject, touching the matter of arrangement. Soon afterwards, it would seem, that Sir John Harvey was divested of all further authority over the subject ; and any power of a military kind in that quarter appeared to be transferred from him to the Government of Lower Canada. It may be noticed as a circumstance, that this silent operation, or transmutation, took place about the same time

that the British commission of exploration was closing its business, and shifting the highland description, which formed the southern boundary of Quebec or Canada, to the hypothetical maximum axis of elevation south of the St. John. It is not understood, however, that any corresponding change took place in regard to the usurping civil authorities at Madawaska. This alteration first disclosed itself, in that quarter, by the movement of military force from the side of Lower Canada to certain stations within the disputed territory; and in reply to a letter of inquiry from Governor Fairfield into the meaning of so apparent and palpable an infringement of the arrangement entered into under the mediation of General Scott, Sir John Harvey could only answer, as before, that these movements were made under an authority superior to his own. It was added, that they were meant for the protection of certain buildings which had been constructed for the better accommodation of her Majesty's troops, on their march between the Lower and Upper Provinces, and of the provisions, stores, and other public property therein deposited; and it was further subjoined by Sir John Harvey, that he should communicate a copy of the letter to the authorities in Canada, who, he was assured, would be as scrupulously desirous that the spirit, as well as the letter, of the agreement entered into, should be observed on their part, as he himself was. The remonstrance, however, produced no further effect; and this last December, upon the occasion of a new detachment of troops having arrived at the Madawaska settlement, Sir John Harvey deemed it consistent with the sincerity which had always marked his intercourse with the authorities of Maine, to apprise Governor Fairfield of the fact, and that the movement was made by the orders of the Governor General of those Provinces. It was evident that this movement was unadvised by Sir John Harvey, who could only apologize or account for it by reference to the complaints of certain civil authorities at that settlement, (one of them a supposed magistrate, and the other the pretended "Warden of the Disputed Territory,") which it had no other object than to support. And Sir John Harvey did not hesitate to express to the Governor General his persuasion, that the movement for this purpose was needless, and that a corresponding armed civil posse to that of Maine would be quite adequate to prevent any unauthorized interference with the inhabitants or authorities of the Madawaska settlements.

The committee would take leave to observe, that they know of no settlements bearing that name but the original and proper settlement of Madawaska. That is a spot, or settlement, with

which the civil authorities of Maine have not interfered, since those who undertook to act under a law of the State, in organizing the place in 1832, were seized, imprisoned, and punished at Fredericton for the offence, excepting the like seizure and imprisonment of Greely for taking the census in 1837. As to what is supposed to have occurred at Fish river, it is stated as having been represented to Governor Fairfield, that it took place when certain of the citizens of this State were assembled at the Fish River settlement to give in their votes at the recent election for President and Vice President, under a late law of this State authorizing it. The territory contiguous to the mouth of Fish river, on both sides of the St. John, is not considered, in any proper sense, as included in the Madawaska settlement; which is confined to the immediate vicinity of that river, and does not extend up even to the mouth of the Merumpticook. To the original and proper limit of the old Madawaska settlement the adverse local possession ought, in the opinion of your committee, to be reduced; and it ought to be restored and confined strictly, to its former civil character.

To return, however; the committee would not fail to treat the species of arrangement in question, under whatever authority it was entered into, with all the respect to which it is entitled, and to render it all proper regard and observance. Having punctually complied with any obligation, that might be deemed to be entered into on the part of Maine, it is of no consequence as to the origin of the agency; which is of no further importance, than that the State should stand clear of any reproach upon her good faith and allegiance. It cannot be pretended, that there has been any failure upon her part to fulfil any duty that may have been imposed upon her, in whatever way or manner she may have been committed. The imputation cast upon her, at one time, to say the least, without sufficient cause and consideration, of any intention to break through the engagements she was placed under, has been repelled with no less force than truth. But it is obvious, that any obligation of this nature, to be effectual, must be mutual. It is plain, that it cannot be violated on one side at will, and preserve all its binding force upon the other. The committee are not called to make any complaint of any breach of agreement between the authorities of this State and of New Brunswick upon the subject. They much doubt, as they have already signified, the competency of any arrangement between the State and a foreign Province, without a constitutional sanction which has not yet been asked; and they should hesitate no less upon the propriety and expediency of any convention or co-operation

between two opposite governments, or communities, situated and related as these are, for purposes which this State, as they conceive, ought either to take upon herself, or to be entitled to call upon the General Government to perform, or to provide, for her. As to the policy, as well as the principle, of any different course that has been proposed to her, the committee can have no doubt at all. If any compact exists, or any is violated, in whatever form it has been made, it must be one between the Governments of Great Britain and the United States; and such, as it is the province of the latter, and not that of this State, to see to the effect of, and look after its observance. We do not hold ourselves entitled to call upon a foreign government for its performance. Our relations are properly with the Government of the United States, upon a subject of this kind, only. It is their agreements and stipulations in regard to our security, upon which we must be understood to rely; and we cannot be deemed to have given our consent to any provisional arrangement, except under the sanction of our *own* Government, and its guaranty of *our* own safety. In short, it must be the essence of any agreement entered into by us, that it should be with, and through, the Government of the United States; although we may well view and hold ourselves as bound to fulfil any proper stipulations, that the Government has actually made upon our behalf by its own officers, and with the consent of our Executive agents and Legislative authorities.

The committee consider it to have been well observed, by the Governor in his official communication to both branches of the Legislature, on commencing the duties of his office, that "whatever arrangements have been assented to, in regard to "the jurisdiction of different portions of the territory, pending "negotiations, must be regarded merely as *temporary* in their "nature;" as well as "under a protest always that we relinquish no claim, and no right, to the absolute and undisputed "ownership and jurisdiction of every inch of our State." It is a matter, which must force itself upon the mind of every reflecting friend of the peace of the two countries, as it has done, that these sub-arrangements, or understandings, are of too slight and precarious a texture to permit the tranquillity of these neighboring communities to rest upon them.

The arrangement understood to be assented to on the part of Maine in 1839, by which, on condition that Maine should remain in undisturbed possession of the rest of the territory, it was stipulated, that we should not attempt to disturb by arms the Province of New Brunswick in its proper Madawaska pos-

session, was only acquiesced in, as the Governor further remarks, in his communication, "by the people, on the ground and the belief that immediate and determined efforts were to be, in good faith, adopted by both General Governments, to bring the matter to a speedy, just, and final determination. Indulging such hopes," the Governor also adds, "Maine has certainly yielded much in the matter of temporary arrangements, influenced by the wish to preserve the peace of the country, and to remove all obstacles to the progress of negotiations. But she has a right to ask," (he subjoins, with no undue emphasis,) "when she yields so much, that her motives should be appreciated, and her cause become the cause of the whole country, and be pressed with vigor and energy to a final settlement."

Earnest and strong as is the desire of this discreet and determined community to remain at peace with her neighbors on this Continent, still she can no longer give any consent to the exercise of provincial authority out of the proper orbit of Madawaska. Neither can this State enter into any temporary partition of its own power with a foreign province, or agree to the exercise of any equal, divided, or concurrent authority, either with New Brunswick or Canada, over any other part of her own exclusive territory. Still less, if it be possible, can she endure to see the portion of which the Provincial Government, whether above or below, still claim to be in possession, (and the only portion to which it ever had any shadow of pretence,) converted into a military depot, as avowed by Sir John Harvey to Governor Fairfield, in the first place, by the erection of barracks, and the collection of stores, provisions, and other munitions of a hostile character, under the name of public property, for establishing a cordon of military communication between the upper and the lower British Provinces. This is bringing upon us in time of peace, (to us the most profound, unless we are aroused, or awaken,) all the forms of almost unmasked war. It realizes, in advance of the result of any arbitrary process for the division of our disputed territory with Great Britain, the dangerous character of this decided military demonstration within our limits. It advises and admonishes us, moreover, of the rather too obvious and undisguised meaning of a noticeable and striking passage in the letter of the British Minister, Mr. Fox, to Mr. Forsyth, dated Nov. 2, 1839, in which he remarks, that "whatever shall be the line of boundary between Her Majesty's possessions and the republic of the United States, definitely recognized and decided upon by the two governments, either through the attainment of the true

line of the treaty of 1783, or through the adoption of a conventional line, Her Majesty's Government will have to rely upon the Federal Government of the United States to assist and carry out the decision, whatever may be the views and pretensions of the *inhabitants* of the State of Maine notwithstanding."

Your committee may here remark, that when these facts, in regard to the stationing of regular military forces by the British provincial authorities upon lake Temiscouata, and of their building barracks, as represented, at the confluence of the Madawaska river with the St. John, were brought to the direct knowledge of the National Government, they were pronounced by the President to be a flagrant contravention of the existing understanding between the parties; and those authorities were distinctly and emphatically admonished, through their regular Minister, of the obvious inexpediency and imprudence of such proceedings, and of the effect likely to arise from persistence in them.

The only explanation produced by this expressive remonstrance was conveyed in the shape of a letter from Mr. Fox to Mr. Forsyth, of January 24th, 1840, to the effect that the movement complained of was nothing new, and that it was only a change of force to keep up the station at the Temiscouata post, as it always had been, "for the necessary purpose of "protecting the stores and accommodations provided for the "use of Her Majesty's troops, who may be required, as here- "tofore, to march by that route to and from the Provinces"of "Canada and New Brunswick." It was not admitted that any new barracks had been built, or were building by the British authorities on both sides of the St. John, or at the mouth of the Madawaska river, or in fact anywhere; and it was declared that no intention existed on the part of those authorities to infringe the terms of the provisional agreements, that had been entered into the year before, so long as there was reason to trust that the same would be faithfully adhered to by the opposite party. But it was at the same time plainly avowed, that Her Majesty's authorities in North America, observing the attitude assumed by the State of Maine with reference to the boundary question, would, as then advised, be governed entirely by circumstances, in adopting such measures of defence and protection, *whether along the confines of the disputed territory, or within that portion of it where the authority of Great Britain, according to its own explanation of the existing agreements, was not to be interfered with*, as might seem to them necessary for guarding against or for promptly repelling the

further acts of what was termed hostile aggression, which it appeared to be the avowed design of the State of Maine, sooner or later, to attempt. Her Majesty's authorities in North America, it was averred, had no intention on their part to interfere with the course of pending negotiation, by the exercise of military force; but that they should, as then at present advised, "consult their own discretion in adopting the measures of defence, that might be rendered necessary by the threats of a violent interruption to the negotiation, which had been used by all parties in Maine, confirmed, it was alleged, by the language employed by the highest official authority (alluding to the recent message and correspondence of the Governor) in that State."

The official reply to this plain note professed to express the satisfaction of the President, that no actual change was understood to have taken place in the attitude of Her Majesty's authorities in the territory, since the date of the arrangements entered into; and that there was no intention to infringe them on their part, so long as their terms were faithfully observed on the side of the United States. It signified, however, much regret, that the British colonial authorities should, without graver motives than a mere possibility of a departure from those arrangements by the State of Maine, thus take upon themselves the fearful responsibility of being guided by circumstances, susceptible as those were of misapprehension and misconception, in regard to measures of precaution and defence, under this exercise of discretion, against imagined acts of meditated aggression on the part of Maine. And the hope was further expressed, with how little effect we have witnessed, that when the British Government at home should be apprised of the position assumed in this respect by its colonial agents here, proper steps would be taken to place the performance of express and solemn agreements, in effect, upon a more secure and solid basis than such a precarious sort of contingent colonial discretion.

It could scarcely have escaped notice in regard to the character of this correspondence, that a change had occurred in the style, if not in the attitude, of the British Provincial authorities in America. Your committee, however, are not aware, whether the attention of the Federal Government was immediately drawn to the circumstance, that these forces seemed to have been detached and stationed there under the positive orders of the new Governor General of the British Provinces; nor are they apprised of the precise bearing which this circumstance might be considered to have, in the view of

the National Government, upon the character of the arrangements, deemed to have been subscribed to by the authorities of Maine and New Brunswick, under its own high auspices. It has become apparent, at least since then, that the authority of the Lieutenant Governor of New Brunswick is rendered subordinate in this respect to that of the Governor General of Her Britannic Majesty's dominions; that there has been some new partition, or subdivision, by which, while the civil authority to be exercised in that region still resides in the Government of New Brunswick, the military power by which this State was menaced is transferred into other and higher hands; and all that Sir John Harvey can say, when he is apprised of our remonstrances and complaints is, that we must appeal to his superiors.

It may be recollected, that inquiry was made soon afterward by the Senate of the United States, at its session a year ago, whether any measures had been taken under the act of Congress of March 3d, 1839, or otherwise, to cause the removal or expulsion, of the British troops which had taken possession of this portion of the territory of Maine, or whether any military posts had been established in Maine, or any other measures of a military nature adopted preparatory to a just vindication of the honor and the rights of the nation and of Maine. The reply to this inquiry from the Secretary of War, through the President was, that the circumstance of the occupation of the territory by British troops had been but recently communicated; and having been made a subject of remonstrance and so become a matter of discussion between the two governments, no measures had been taken of the character referred to under the act of Congress or otherwise. To the residue of the inquiry it was answered, that no contingency contemplated by the act of 1839 having occurred, no military measures had been thought necessary; repeating what had been previously stated by the President in his annual message to Congress. The Secretary further stated, that a military reconnoissance had been made in 1838 of the *undisputed* boundary of Maine, of which the result had been transmitted to the Senate the following session; but that there being no appropriation made, no fortifications were commenced. It will be understood, that the other appropriations have expired.

From the parting communication made by our late Chief Magistrate, at the commencement of the present session, the Legislature is informed, that Maine is again subject to the mortification of having fresh troops quartered upon her territory. The causes alleged for this renewed outrage, and the circum-

stances by which it is attempted to be palliated in the letter of Sir John Harvey, are so trivial, as justly observed by Governor Fairfield to hardly afford a decent pretext for thus adding another to the catalogue of wrongs and injuries which the people of this State have so long been compelled to endure at the hands of the British Government. So sensible was Sir John Harvey himself, we may remark, of the slenderness of this pretence, and of the superfluosness of this further force, that in conveying this information, as he claimed to do with his accustomed frankness, of the recent arrival of a new detachment of Her Majesty's troops at Madawaska, he avowed he had not hesitated to give his opinion at once to the Governor General that it was unnecessary, and that he had no doubt that the Governor General, on this suggestion, would forthwith give directions for withdrawing the troops. This communication came dated December 10th last ; and the same, together with the Governor's reply, requesting further information upon the subject, were transmitted to the President within a few days after ; and the former expressed his full reliance, that if the suggestion of Sir John Harvey to the Governor General should prove unavailing, the Executive Government of the United States would forthwith take measures for the withdrawal or expulsion of these troops from our territory. Since this last period the Legislature has received no official information from any source. Nothing has reached us but rumors from the adjacent provinces, that the military position in question was intended to be maintained ; and there has nothing yet come from any quarter to tranquilize and assure us further.

The committee have gone into these details more fully, in order to place the subject in all its extent before the Legislature, for their consideration at its present session. The Resolves passed the last day of the session, March 23d, 1839, pledged the power of the State to the protection of its territory up to its extremest limits, and asserted the right of exclusive jurisdiction over the whole extent of it. And they denied the efficacy of any agreement entered into by the Government of the Union to impair her prerogative to be the sole judge of the time and manner of enforcing that right. The State had, however, the guarantee of the General Government at that time, that if it would withdraw her military force from the frontier, the adverse military power, with which it was threatened, should immediately be caused to cease upon the other side. This guarantee the State afterwards accepted ; and in consequence of this and of the agreement to that effect entered into by the Lieutenant Governor of New Brunswick, Maine

did promptly and unhesitatingly withdraw her advanced military force. That pledge has not been performed; or if apparently so for a brief period, it has not been fulfilled; but it has been openly and deliberately violated. We may have been slow in coming to this conviction; but the fact cannot be concealed, and is hardly attempted to be disguised. As the matter now stands, the State is without any barrier, or boundary, against the Provinces of Great Britain, not even where the north line crosses the St. John. Barracks have been erected above that point; boats have been built upon the lake; troops stationed at different posts, stores, and munitions of war collected, constituting an actual military and naval armament; which is at this moment established upon the shores and waters of the Madawaska region, contrary to all the stipulations and mutual engagements of the two Governments. And Maine is compelled to forget, if she can, that all this is done within a precinct specially incorporated by an Act of her Legislature, the validity of which is also recognized and confirmed by an Act of Congress.

It may properly be avowed, that Maine may still consider herself to stand pledged for the present, by the course that has been pursued by her authorities under the sanction of the General Government, not to disturb by any active proceedings of hers the British Provincial, that is to say, local possession at Madawaska; while, at the same time, she must be allowed to extend her civil power, for the protection of her territory against devastation, without any limitation as to the sphere of its operation, within the bounds of the treaty of 1783; but that to suffer a military occupation of any portion of it is incompatible with her existence and character as an independent State. She may well submit to the moral and self-imposed restraint of forbearing to exercise her given faculties, and to exert her lawful rights up to their full extent; but she cannot, with the same comfort or consistency, yield a silent and unresisting submission to the operation, until it becomes overwhelming, of absolute superior force. She may accord a loyal and becoming obedience to the graver authority of the Union; but she cannot, without extreme, unmitigated pain, see any part of her soil subtracted and reduced to exterior colonial subjection; nor can she bear to have a foreign military force planted upon her with any more patience than our fathers could endure the same species of intolerable oppression. She acknowledges faithfully her obligations to the Union, and that she is bound to consult the feelings and opinions of the country, and to make no further movement, moreover, without invoking its aid, or asking its authority. But this is the point, at which

she unavoidably stands, and her fidelity entitles her to its confidence, and her necessity to its constitutional support.

Now all this, it may be admitted, might be tolerated, perhaps, by the Union, for the sake of tranquillity, if it was not pregnant with such real danger, and did not involve so much evil, in the way of injury and sacrifice, to the prospects and peace of Maine. Winter, which shuts up the St. Lawrence, and pours hosts of trespassers and marauders into our woods and forests, closes down upon us with an increased pressure from the military power of Great Britain. Between the Government of Canada above, and that of New Brunswick below, we are pressed, as between the upper and the nether millstone. We are thus obviously exposed to a doubly increased damage from our open and unguarded situation upon the borders of these different dependencies upon a distant foreign government; so far off, and thus situated in regard to us, that "oceans roll and seasons pass between the order and the execution"; or possibly the advice and recal. Our territory is now more than made a complete thoroughfare for the passage of British troops; while we have even no projects of national fortifications to protect us any further than Houlton, nearer than at the Forks of the Kennebec, or the mouth of the Mattawamkeag.

Even the Military Road, which was authorized by Congress, so long ago as 1828, to be laid out to the mouth of the Madawaska river, in virtue of what the succeeding President, Gen. Jackson, declared to be an unquestionable right, the exercise of which the American Government would not allow to be restrained by the protest of the Lieutenant Governor of New Brunswick, but only to be *postponed* for the time being—as expressed by the then Secretary of State, Mr. Van Buren, to the British Minister, as a proof of forbearance, intended in an amicable spirit of conciliation—has so continued ever since, and, it would almost seem to be, indefinitely. The appropriations of 1836 and 1839, by Congress, were suffered to expire; but this authority has only been suspended; and it is for the Executive Government to determine, whether the period has not arrived at which the execution of it ought to be resumed. The present condition of the State of Maine certainly demands it.

The committee are here induced to omit much they might otherwise be disposed to say on this subject, and in relation to all its immediate and future bearings upon the public peace and welfare; and which they are constrained to do, as well in consequence of the length to which their remarks have already been extended, as from considerations of a serious kind which

are not without due weight upon their minds. Perhaps they ought to say more in regard to the neglect of preparations for defence, in our exposed and unprotected position, the necessity of which has long been pointed out and felt, and the power to provide for them, even when put in force, suffered to stand a dead letter. The State of Maine has had its virtue put to the severest test, until even the very length of time that the Government has delayed its duty, and she has been obliged to endure its omission, is liable to be turned against her, and set up as on her part a prescriptive sufferance.

The principal view, which the committee have had in preparing this report, has been to present a further vindication of the rights and principles of the State in regard to this subject, and to the course which her people and authorities have hitherto pursued, and the position which they now maintain in respect thereto. They would wish, not to make a mere appeal to the sympathy and fellow feeling of her sister States, and to the patriotic sensibility of the people of the United States, upon points apart from public right and national honor; but they would be no less desirous to extend it to the justice of England, and the judgment of Europe, nay of the whole world, if so remote a portion of it as the inhabitants of Maine could hope to have their cause heard before so vast and elevated a tribunal. Nor would they shrink from submitting it to the future judgment of posterity and the final sentence of mankind, upon its real merits, (not as they may have presented them) when the present age shall have passed away, and the accounts of the present questions shall have all been closed. They would not refuse to commend it to the native "nobleness and manliness of Englishmen"—to the generosity which was manifested in the last painful effort of separation—to that magnanimity displayed by the monarch in proclaiming, as he did, with profound emotion, the great dismemberment of the empire—concerning, that is to say, this long pending question with Great Britain, in reference to the true right of a territory which is and was always ours, infinitely more than it was ever hers; ours, no less in the first place, by the strength of primeval right; ours, also, by the acts of Crown and Parliament, as well as by our own energies and achievements, when our sires were the loyal subjects of a common sovereign; ours, if she still chooses, by the terms of her own free and full assignment at the partition of that empire, originally divided by the ocean; ours, in fine, by the ancient honor of Great Britain, by all the faith of treaties, by the sacred principles of public laws, and eternal truth and justice. There is no wish in this part of the Union for extension of territory; we are content with our own limits.

If injustice has heretofore been done us, if justice has not been done us in that respect, or any misfortune has attended the decision of points that have already been determined unfavorably to us, we are disposed to abide by it, and do not now seek to remedy it. We are only solicitous to enjoy the rights and advantages which the laws of nature and nations have secured to us, and to realize the benefit of that condition which Providence seems to have designed for us upon the foundation of State and National Independence.

There is one circumstance also, in regard to which your committee believe that the people of Maine would be willing that their course and principles should not be misunderstood; although they would not be under any solicitude respecting it. It is now a well known fact, not only that Maine has not in any manner intermeddled, but that she has uniformly abstained from any intermixture of her own causes of complaint with those of an exciting nature that have prevailed along further portions of the frontier, and has faithfully kept aloof from mingling her concerns with other distant and disturbing questions with Great Britain. And this, although she has one interest of great importance, much involved in the present issue, which has not been distinctly developed in the immediate connexion with it. The circumstance above alluded to, not perfectly perceived and even at first distrusted, was afterwards freely confessed by that vigilant and virtuous observer of our course, Sir John Harvey, who will retire from his station, when he shall be called away by his sovereign, with the esteem of the people of Maine. Although inclined at first to credit opposite surmises, he soon became convinced of the truth, and, with his characteristic candor, communicated it to his own government. Nor is it at all unlikely, that a persuasion of this integrity of our purpose entered into the exercise of that high prudence and proper discretion, by which his judgment was determined, in a delicate and critical emergency. But while it may be well it should be understood, that Maine has not been disposed to compromise her cause with any foreign matter, your committee would be far from wishing to enter into any vindication upon this point, or be anxious that the State should set itself apart from the just and common feeling of kindred humanity, which pervades this vast hemisphere.

Resolutions of the Legislative assemblies of some of our sister States have reached us now, or lately, in response to our own former proceedings and Resolves; and have been referred to this committee. Those of the State of Indiana were transmitted at the late adjourned session—being a special one for

the general revision of the laws—and may be deemed to have been postponed to the present, not having been before printed; and, having been recalled from the files, they will, with your permission form part of this report. The committee accordingly refer to them with feelings of mingled gratitude and pride. These Resolves of Indiana are echoes of those of Ohio, formerly received, which they recite; and which likewise recited, in the spirit of that immortal ordinance upon which the original constitution of the whole North-west Territory (once a single government) was framed, the grounds of our just territorial right, and the indefeasible character of our title to the soil of the State and nation.

The Indiana Resolutions cherish the hope, that in the adjustment of this question of our national boundary, the integrity of our soil, and the national honor may be preserved inviolate, without an appeal to arms. They further express, that they highly approve the efforts made by the now late President of the United States to avert from the country the calamities of war. Yet ever preferring honorable war rather than dishonorable peace, in case of unavoidable collision in settling the pending dispute, they join with Ohio in the declaration she had made, and the generous oblation of her whole means and resources to the authorities of the Union, in sustaining our rights and honor.

The Resolutions of the General Assembly of Alabama, transmitted at the present session, in more guarded and measured terms, declare it to be the solemn and imperative duty of the Federal Government faithfully to maintain every obligation it is under toward the State of Maine, touching the establishment of our North-Eastern Boundary line; that the question is one not local in its character to this State, although this State is allowed to be more interested than any other in its adjustment, but that it concerns the whole Union; that the Government is bound in defence of its own honor not to concede to Great Britain any claim not strictly founded in right and justice; and that it is the duty of Maine to trust the decision of the matter to the counsels of the Union and to abide thereby, whatever it may finally be, and whether exactly consistent with her own wishes, or not. They further declare, that they should deprecate a resort to force, until every honorable peaceful expedient has been exhausted; and while they are ready to go to war, if Congress so says, they should deeply regret to see the State of Maine take any rash step, which might tend to plunge her sister States into a war, more through sympathy and feeling on their part, than from any deliberate choice and determination.

To the more advisory and admonitory tone of these Alabama Resolutions the committee do not except; though it is somewhat more collected and grave than we have been accustomed to, in our painful condition, from our sister States. We may assent to their fitness, and be content with the assurance they contain; and we may feel further all the force and propriety of the appeal. Yet, may we ask, what other State in the Union is there that could thus bear to see a district of its territory torn from its own possession, and held under the hostile flag of a foreign power—its citizens interrupted and harrassed in their peaceful pursuits—even those who bear the official signet of its authority, treated with violence and disgrace, and its dearest and most vital rights trampled upon, as those of Maine have been? These wrongs may well be imagined to require all her patience, and to admit of much alleviation. Alabama, we may be sure, does not mean to add to all this sense of what this State has experienced and yet endures, the most distant idea, in any contingency or event, of being laid under the ban of the Union.

To a people whose pursuits in life are moral and peaceful, and which cherishes a deep sensibility to all the guilt and wretchedness of war, it may be easy to see that a profound conviction must be required of the purity and righteousness of a cause which could, by any possibility, be exposed for its vindication to so great a calamity. Nor is there any occasion to color or pourtray the consequences of such an alternative. It may well be admitted, that something more than the ordinary apology for even defensive war may be demanded in this advanced and enlightened age of humanity and civilization, and we will not hesitate to say, of religion also: one to be looked for only in the nature and circumstances of the case, such as must shew themselves in unsullied purity, and unblenching strength, so as to constitute an absolute justification in the moral view and judgment of mankind. If such may ever be found, it might surely be in the character of a conflict, to which a community like ours might be subjected, in defence of what is nearest to our homes and hearths, of our dearest rights and native land—a strife to which we might be exposed to preserve the inheritance we received from our ancestors before the Revolution, and the patrimony bequeathed to us by the patriotism of our fathers in the war of Independence—a struggle to prevent the removal of our ancient land marks, and subverting the very soil of our free institutions—points that are vital, let us be allowed to say, to the very principles of our social existence and prosperity. Such a cause as this, if it cannot ensure protection, may at least escape reproach.

Resolutions have just been received from Maryland, accompanied by a report of much merit from the pen of one who has had official opportunity to become acquainted with the subject, declaring the perfect conviction which the Legislature of that State entertains of the justice and validity of the nation and of Maine to the full extent of all the territory in dispute ; and subjoining, that the Legislature of Maryland looks to the Federal Government with entire reliance upon its disposition to bring the controversy to an amicable and speedy settlement ; but that if these efforts should fail, the State of Maryland will cheerfully place herself in the support of the Federal Government, in what will then become its duty to itself and to the State of Maine. After the expression of such opinion and assurance, these Resolutions, say that the State of Maryland feels that it has a right to request this State to contribute, by all the means in its power, towards an amicable settlement of the dispute upon honorable terms ; and they volunteer a suggestion, respecting a reasonable mode of mutual accommodation and adjustment, to which it strikes the minds of your committee, that it will be time enough for Maine to attend, when it comes recommended to her consideration, as it would be, by the condition, with which it is connected, namely, that Great Britain should acknowledge the title of the State of Maine.

The committee were apprised, that Resolutions had been presented, together with the able and critical report that has been alluded to, to the Legislature of Massachusetts ; and those Resolutions, accompanied by the report, have been received and committed, in order to be acknowledged, while this report was passing through the press. The Commonwealth has never failed, on any and every occasion, to testify her faithful interest in favor of those just rights, which we have derived through her, and with which her own continue to be so closely associated. If we had not heard from her at this time, we should not have been left in any doubt of her disposition. But it is none the less satisfactory at this period, to be reassured, that in her opinion, our right to require of Great Britain the literal and immediate execution of the terms of the original treaty, relating to the boundary in question, remains, after more than half a century, unimpaired by the lapse of time or by the interposition of multiplied objections ; that although there may be no cause to apprehend any immediate collision upon this subject, it is extremely important that a *speedy and effectual termination* should be put to a difference which might, even by a remote possibility, produce consequences that hu-

manity would deplore ; that any thing is to be regretted coming from Great Britain, of the character of the late report made to that Government under its late commission of survey, (though not understood to have received its sanction) calculated to produce, wherever it is examined in the United States, a state of the public mind unfavorable to that conciliatory temper and confidence in mutual good faith, without which it is hopeless to expect a satisfactory result to controversies of this nature ; that the interest and honor of Massachusetts alike demand a perseverance, not the less determined, because it is temperate, in maintaining the rights of Maine ; that they now cheerfully repeat their often recorded response to her demand, that the justice so long withheld should be speedily done her ; and that while they extend to her their sympathy for her past wrongs, they again assure her of their unshaken resolution to sustain the territorial rights of the Union.

The committee may, perhaps, deem themselves in some measure called upon, under the existing posture of circumstances, not without some hesitation, to touch upon a point of some delicacy ; and which relates to the part this State may be in future required to perform in the further prosecution of this question, and in regard to bringing it to a determination. This point is presented, in the first place, by two distinct orders, one from the House of Representatives, and the other from the Senate, both referred to the immediate consideration of this committee. The one requires the Executive authority of this State to be employed to expel the British force now quartered upon our territory ; the other proposes to invoke the constitutional obligation of the Federal Government, and to call upon the National Executive for the prompt fulfilment of this duty. The alternative presented by the forms of these different Legislative orders, dictated alike, as your Committee entirely believe, by the spirit of what was due, and even demanded, to the occasion, brings directly into view the continuance—they would not say the competency or propriety—of that former course of action, which the State prescribed to itself, at those periods, which have been noticed, when the proper powers of the Federal Government appeared to be in abeyance as to us, if not abdicated here. And the committee do undoubtedly conceive that this State would be untrue to itself, insensible to its own character, interest, and honor, to renounce or repudiate the position in which it was involuntarily placed, or the principles which it pronounced, at any time, under the imperious necessity and duty imposed upon it of self protection. It would be forgetful of the illustrious ex-

amples of virtue and patriotism, which were ever before the eyes of our cherished and lamented Lincoln, to disclaim the ground, or abandon the stand, which he so firmly and intrepidly took upon this question, when its gulf was first opened before us, and he was called to contemplate and survey the sacrifice. Neither would we bury with him the principle, on which he acted. But we look upon it as having succeeded; and that we are now enjoying the value and benefit of it in the elevated position to which the progress of it has raised and carried us in the estimation of Congress, the respect of the Government, and the confidence of the country. Your committee conceive and trust, that that point is now passed; a point ever intended to be taken and sustained in entire submission to the sense of the nation, and to be carried out only in subordination to its supreme constitutional authority, whenever it did or should become necessary, that is to say, to resort to the original principle of self preservation, which is never to be resorted to only when all other resource fails, and which Maine alone means to reserve for extreme emergency, or the last extremity. The immediate legitimate objects of that just and necessary course of proceeding on her part adopted by her Executive and Legislative counsels Maine is now disposed, your committee apprehend, to regard and look upon as fulfilled. It has been fulfilled, so far certainly, at a great and enormous expense, and even sacrifice to her; for which, as in performance of an important duty devolved upon her, in discharge of the public service, she is entitled, in return, to cast herself upon the just consideration of the republic. Henceforth she conceives herself to have acquired a perfect right to rely on the strength as well as sympathy of the country, and upon the powerful arm of the National Government for vindication and support. That otherwise the object would not have been answered; but its real and proper purpose would have failed. The remainder might be more than she is equal to; but it would be ungrateful now that her cause has been so perfectly affiliated, and the country asks us to accept its solemn assurance, to pursue any other course at present; and, as we value and cherish the pledge it has given us, not to be anxious to avoid anything to forfeit our title to its protection.

In coming toward a conclusion of the subject of this report and to the final consideration of the best course to be pursued, under the existing and actual state of circumstances, the Committee can see no other than to adopt and stand upon the late Resolves of the preceding Legislatures; that is to say, so far as they are not varied and altered, and accordingly required to

be modified, by time and other circumstances, connected with the prolonged and pending state of negotiation. They can see no other course, they repeat, than to continue to call, still, upon the General Government to vindicate and maintain the rights of this State to its indisputable and indefeasible territory, by one of the two modes pointed out by the last Resolves. Gratitude towards that Government for what it has already done toward what it has solemnly promised, affection to our sister States who have come forward so freely and so cordially in our favor, the necessity, which disables us from coping single-handed with our real and formidable antagonist, and the Constitution which authorizes and requires us to cast the burden of our defence entirely upon the General Government—all these, combined with the consideration and remembrance of what is equally due to ourselves and mankind, under all these circumstances, direct, if they do not compel us to this course. We wish we could add that we had more confidence in the efficacy of the means that have so far been adopted—we will not say those likely to be employed—and used to vindicate and establish those rights. We wish we could see an end to the perpetual course of procrastination, or any immediate prospect of the present negotiation being brought to a decisive or satisfactory termination. The committee are constrained to say, that they cannot. On the contrary, they feel themselves obliged to agree in the opinion of his Excellency, the Governor of Massachusetts, in whom they know this State has always a fast friend upon this subject, that they do not see any disposition on the part of the British Government to determine it.

The committee are concerned to inquire, also, what is to be the state of the disputed territory in the mean time; and especially of that portion of it lying northward of the St. John? And what is to be done for its protection, and the intermediate preservation of all the rights of the State to its property and jurisdiction? They inquire in vain. It is clear, that the State can enter into no compact with New Brunswick on the subject, even if the authority there had not passed into other hands. Such a thing is impossible. It is forbidden by the Constitution, without the consent of Congress, which is not to be implied, nor even in the view of your committee to be desired. If it were proper to listen to any suggestion of that nature, or to any proposition from that quarter, there is no power that can apparently be depended upon (though far from questioning by any means the integrity of the disposition that exists) but there is none in New Brunswick that seems to be competent for the fulfilment of any such compact or assurance. Maine

could not come into any agreement, such as was recommended to her, on that point. The objections to it, in her view, are insuperable. Worse than the shackles, that might be thus imposed upon her, it might only prove a snare for her, and become an endless source of mischief and regret. She sees not, in any way, how she can go further on this subject, than she has already done by her Resolves of 1839; and that is, only, in the same earnest desire to come to an amicable adjustment of the whole controversy, to forbear to enforce her jurisdiction in that part of the territory which is now usurped by New Brunswick, so far as she can do so, consistently with the maintenance of her previous Resolves for the protection of the whole territory against trespass and devastation. So far as, under this limited restraint, she is obliged to yield to the continuance of the illegal usurpation at the proper original settlement of Madawaska, so far she supposes she must submit to see the sphere of her own sovereignty circumscribed. But she cannot consent to see the space widened. She cannot allow its being extended to the Fish river, or upon the south bank of the St. John, above the western bend, up to which Maine has at least regained, and made good her ground.

It is still less possible for this State to consent to any change in the character of that possession, from civil, as it was only pretended, to military; and further still, to be content to see that change assume a permanent form; in the first place, the whole district converted into a military depot, and then to take the more decided character of a military establishment. How long we are to remain in this condition, or how we are to be relieved from it, we cannot say, except by pointing to our past Resolves, and putting our trust in the Government of the Union. All that we can say further, perhaps, at this moment, with propriety, is, that it cannot be submitted to with passiveness, and that it cannot be submitted to, at any rate, much longer. The spirit, the patriotism, the self-respect, the native energy, the irrepressible and indomitable determination of the people of this State, will not endure it. They might sooner wish to see the territory sunk in the ocean, than to be made the scene of a bloody war, above all between the kindred and connected races; but they cannot, silently, see it surrendered to a foreign power in this manner. They are calumniated by the pretext, on which it is challenged. They demand, in advance, the protection of the Federal Constitution. They require that the invading force shall be removed; and if this can only be effected by counter force, they request the Government of the United States, with no more delay, to cause possession of the

disputed territory to be taken, by the suitable and necessary methods.

But while the State thus makes these strong and urgent demands, it may be justly expected, that it will not, in any respect, or in any event, be wanting to itself. While it earnestly seeks, and wishes, to put itself under the broad shield of the General Government, and pray for the protecting power of the whole country, and solicits to be released from the incumbent duty and present heavy burden of its own defence, and desires to do this without retreating from the ground or relinquishing the stand it has hitherto been obliged to take, and does not ask to be released from its position, it well offers to go as far as any of its sister States have done, and to place its whole powers and resources, without reserve, at the public disposal. We will consent to almost any sacrifice—we will pay any reasonable price for our own peace, and for that of the country; and we are willing to purchase it upon the same terms, as “the tranquillity and safety of a camp are secured by the sufferings and privations of its devoted exterior outguards.” Maine feels herself, unavoidably, to be the forlorn hope of the Union. As such she is ready to go forward, and to pursue the path that lies before her. As such she is prepared to occupy the pass to which she may be directed, to present her breast as a bulwark for the country—and of those of her brave and beloved sons, the self-devoted band that shall be sent upon this service, to leave the writing upon the soil, in the best blood of the State, to tell the country, and be carried back to the capital, that **THEY LIE THERE IN OBEDIENCE TO ITS LAWS.**

The committee would now, respectfully, bring the performance of this part of their service to a conclusion, by recommending the following Resolutions.

By order of the committee.

CHARLES S. DAVEIS.

Chapter 198.

RESOLVES relating to the North-eastern Boundary.

Resolved, That the Legislature sees no occasion to renew the declarations heretofore made of the right of this State to the whole of its territory, according to the treaty of 1783, unjustly drawn into question by Great Britain, (entirely recognized by the unanimous Resolutions of Congress in 1833) nor to repeat its own former Resolutions on the subject. And it regards

with grateful satisfaction the strong, increasing and uniform demonstrations, from all parts of the Union, of conviction thereof, and of determination to support the same.

Resolved, That this Legislature adopts and affirms the principles of former Resolves of preceding Legislatures in relation thereto, in all their force and extent; that it approves their spirit, insists on their virtue, adheres to their terms, and holds the National Government bound to fulfil their obligations; that it deprecates any further delay, and cherishes an earnest trust and expectation, that the National Government will not fail, speedily, to cause our just rights, too long neglected, to be vindicated and maintained, either by negotiation or by arms.

Resolved, That we truly appreciate the patriotic spirit with which the Federal Government espoused, and our sister States embraced our cause, and the country came to our side, in a most severe and critical emergency; and that, confiding in their continued sympathy and support, and confirmed in the strength of our cause, we feel warranted to rely for safety on the sovereign power of the Union, the people of this State maintaining all their constitutional rights.

Resolved, That in accordance with the generous examples of our sister States, and not to be behind their free-will offerings on our behalf, this State also voluntarily tenders its whole powers and resources, without reserve, to the supreme authorities of the Union, to sustain our national rights and honor; and it stands ready, furthermore, obeying the call, and abiding the will of the country, to go forward and occupy that position which belongs and shall be marked out to it; and engages, that it will not be wanting in any act, or duty, of devotion to the Union, of fidelity to itself, and, above all, to the common cause of our whole country.

Resolved, That this State is suffering the extreme unresisted wrong of British invasion, begun in 1839, repeated in 1840, and continued to this time, in viola-

tion of solemn and deliberate pledges from abroad, guaranteed by our own Executive Government; that the President of the United States, therefore, be requested and called upon to fulfil the obligation of the Federal Constitution, by causing the immediate removal, or expulsion, of the foreign invading force, now stationed within the bounds of Maine; and, other methods failing, to cause military possession to be taken of the disputed territory.

Resolved, That the Government of the United States be earnestly invoked to provide for our future protection against foreign aggression, by proper establishments of military force, upon the frontier, and by the due exertion of its constitutional powers, to liberate and relieve this State from the present heavy burden of its own needful, unavoidable defence.

Resolved, That the Government of the United States is bound to cause the commission appointed to explore and trace the North-eastern Boundary line from the north-west angle of Nova Scotia, along those highlands which divide the waters that empty into the river St. Lawrence from those that fall into the Atlantic Ocean, according to the treaty of 1783, to be prosecuted with the utmost speed, vigor, and certainty to its definite and absolute conclusion, and that the same should be completed, and the true line run, and marked, within the period of the present year.

Resolved, That the Governor be requested to transmit a copy of these Resolves, together with this Report, to the President of the United States; and that similar copies of the same be transmitted to the presiding officers of the two branches of Congress, and to the Executives of the several States and the presiding officers of the several Legislatures of said States, and to the Senators and Representatives in Congress of this State and of Massachusetts.