

---

Appendix.

---

Chapman



# 1

## Messages.

---

To the Senate  
and House of Representatives

In order to facilitate the business before the Legislature, and in pursuance of a "Resolve directing the printing of certain Documents", approved March 22<sup>d</sup> 1836, I have directed the Secretary of State, prior to the commencement of this Session of the Legislature, to cause to be printed the following number of the documents which I have laid before you, viz  
Land Agents Report, Twelve Hundred Copies,  
N.C. Boundary Documents, Three Thousand Copies,  
Bank Commissioners Report, One Thousand Copies,  
Documents in relation to the demand made by the Governor of Georgia, One Thousand Copies.

Eduard Kent

Council Chamber  
January 25 1839.

To the Senate  
and House of Representatives.

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

Edward Kent.

Council Chamber }  
January 2<sup>d</sup> 1839.

To the Senate  
and House of Representatives.

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

Edward Kent.

Council Chamber  
January 2<sup>d</sup> 1839.

To the Senate  
and House of Representatives.

3

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

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

The aspect of the general question, at the commencement of the year, in reference to the diplomatic

4. intercourse between Great Britain and the United States, and the apparent want of interest, in relation to its speedy and satisfactory termination, exhibited in the lingering correspondence which had then come to light, the apathy and indifference with which other States, except those directly interested, seemed to regard it, and the general ignorance which prevailed abroad, of the grounds of our claim and the justice of our cause, all conspired to throw a cloud over our rights, and uncertainty over our prospects. No communication of any progress in the negotiation had been made for several years, and no reply to the last American proposition, made in February 1836, had been made public. And when, after nearly two years delay, an answer to that proposition was received, the result of the discussion was such a complete failure, and the negotiation between the two Governments had come to such an absolute termination, that the President of the United States thought "it due to the State of Maine, and necessary to the intelligent action of the General Government to take the sense of this State, in regard to the expediency of opening a direct negotiation for the establishment of a concentinal line." This proposition was accordingly made through the Executive of this State, and resulted in a decided expression of the Legislature against the proposal, and a determination to abide by the treaty line. The only proceeding which had been had in Congress was the appropriation of \$30,000, in 1837, to enable the President to run and locate the treaty line, which he had declined to do, on the ground that the law was not imperative in its terms, and he did not deem it expedient, in the State of then pending negotiations. At the time of the deliberations of the last Legislature of this State upon this subject, another bill, providing directly for the survey and establishment of the treaty line, was pending before Congress. After declining to accede to the proposition in relation to a convention

at time, the Legislature, in a subsequent Resolue, request- 5.  
ed our Constitutional Agents at Washington to urge  
the passage of that Bill, as we demanded both of pol-  
icy and justice, and believing, doubtless, that if that  
Bill failed, and no decisive movement was made by the  
General Government, either alone or in conjunction with  
Great Britain, as therein expressed, that the time  
would then have arrived for Maine to assume an  
independent attitude, and to commence the work  
of ascertaining, running, and locating the North  
Eastern Boundary Line. And in that contingency,  
it was made the imperative duty of the Governor to  
appoint forthwith Commissioners for that purpose,  
and cause the same to be carried into operation.

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

It was evident from these various proceedings,  
that the will and wishes of Maine were clearly in  
favor of strong representations and active efforts  
to bring the controversy to a conclusion, and I felt  
bound to use every legitimate mode, within my  
power, to second and secure the desired objects.



Therefore, at the time when, in compliance with the requests of the Legislature, I forwarded to our delegation in Congress copies of the several Resolves and documents in relation to this subject, I addressed a letter to them collectively, urging upon them the necessity of active exertions in favor of the pending bill, and explaining what I conceived to be the true intentions and views of Maine, in assuming the attitude and directing the future course, specified in the Resolves. A copy of that letter is herewith communicated. dated April 18, 1838.

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

Considering the condition of the whole subject, and the attitude to be assumed by Maine, in the event of the failure of the specified action on the



part of the General Government, the advantage of obtaining prompt remuneration for the money paid Baker, Greeley, and others, (not so much on account of the amount, as the principle involved,) and the importance of awakening an interest in the question. By explanation and information given to those in authority at Washington, of the true merits of the controversy, and the fixed determination of Maine to insist upon some definite proceedings to bring the matter to a close, and the manifest wish of this State to induce, if possible, the authorities of the United States to relieve Maine from the necessity of independent action, it occurred to the Executive, that the crisis called for extraordinary exertions and the adoption of some more efficient measure, than the mere transmission of the documents to Washington. The time seemed propitious for an unusual effort, for the strong language and the expressed determination of this State had begun to awaken an interest abroad, and mens minds were turned to the subject, with a manifest desire to know the truth. By an order in Council, a copy of which is communicated, it was resolved to send a Special Agent to Washington, to co-operate with our Delegation in forwarding the views of the Legislature and the people, and in urging our claims and our determination upon the attention of the Government at that place. It was thought, that such a proceeding, in addition to the direct assistance which might be rendered to the delegation, who were pressed with other public duties towards the close of the Session, would evince the sense of Maine in relation to the importance of the crisis and the necessity of national interposition. It was my anxious wish, that, if the measure failed, it should not meet that fate by reason of any want of interest or effort on our part. By advice of the Council, Charles S. Davis, Esq. of Portland, was

appointed to perform the duties of Special Agent. A copy of his instructions, and also of a letter which he bore to the Delegation from this State, herewith communicated, will more fully explain the nature and objects of his appointment. Mr Davis immediately repaired to Washington and performed the duties required, with great zeal, discretion and ability, and to my entire satisfaction, with equal honor to himself, and benefit to the cause. His able Report, now transmitted to you, contains a full account of his proceedings, and success, with many important suggestions in reference to the subject matter in controversy, forming altogether a strong document in support of our important interests.

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

north, and a local trouble affecting only this Federal State, it was assumed and treated as a national matter, which involved the vital interests of one member of the Confederacy, and the pledged faith and Constitutional obligations of the Union to make the controversy its own. A feeling of sympathy was manifested in various parts of the country, and an expression of conviction, that Maine had a just cause, too long neglected, accompanied with the gratifying assurance that our rights must be vindicated and would be sustained by the Nation. The able and decided Report upon the question of right, made to the Senate of the United States by the Chairman of the Committee on Foreign Relations, (Mr. Buchanan,) and the discussions in the Senate and House, gave satisfactory evidence of increasing interest and the apprehension of the true grounds of our claim. The Senate, finally adopted in 41st March, without a dissenting vote, fully asserting the unquestionable justice of our cause and the validity of our title. The postponement of the bill, providing for a survey and marking and placing monuments on the line, was unsatisfactory, and in view of the whole matter, to my mind, inexpedient, and a denial of our manifest rights. But it would be unjust to deny that an important advance was made in the general condition of the question, by the progress of information and conviction at Washington, and in all parts of the Union. At home, as in this country, public opinion, in relation to political action, is so strong in its power, it is all important to the success of any cause, that it should be enlightened, and satisfied of the justice and equity of an asserted claim.

Mr Davis was also the bearer of a letter from the Governor of Maine to the President of the United States, dated April 28, 1858, asking remuneration

For the money paid, and urging the importance and expediency of definite and prompt proceedings, and explaining the position which Maine had assumed, and the anxious desire which was here felt to be relieved from the necessity of independent action. No reply to this communication has been received, but it was transmitted by the President to Congress, and has heretofore been published. A copy is now laid before you.

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

The contents of this note were deemed by me of the highest importance, and I considered it my duty, the Legislature having adjourned, to express fully and frankly to the Secretary of State, in reply, my views of the wishes and intentions of Maine, and to protest, in decided language, against what I understood to be the purport and meaning of the language used by him, and to assure him, that after a lapse of more than half a century of negotiation, Maine asked for something more than a mere commission of exploration, without power to settle anything, and most solemnly remonstrated against the vital modifications of Her Majesty's Govern-



ments. A copy of that reply dated June 9th, 1838, is submitted to you, that you may be enabled to express your own views and correct any misconception of the wishes and opinions of the people which you may discover therein.

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

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

A copy of the answer to this communication from the Secretary of State, dated June 28, 1838, enclosing a copy of his letter to the Hon. Mr. Williams, as explanatory of the nature of the proposition, is now submitted to you. It is for you to judge, whether any beneficial effects, equal to the inconvenience and injury by the great delay which must be occasioned, are likely to result, from a mere commission of exploration and survey only, of the whole extent of the line, from the head of the St. Lawrence to the northwesternmost head of Connecticut River, especially since the examination and survey, which have been made during the past season by Maine, of the most important part, which had not been sufficiently examined before. My own views

upon this point are fully expressed in the note which I had the honor to address to the Secretary of State, that, "after fifty five years of procrastination, it is reasonable to ask, that whatever movement is made should have a direct and unavoidable tendency towards a final settlement, and not, when ended, leave the parties upon the same spot from which they started." With these explanations and documents, the whole matter is submitted to your consideration, that you may give such an expression of opinion on the subject as to you may seem proper, and such as the Honor and Rights of Maine may, in your view, demand.

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



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

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

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

In that document will also be found an account of the active and efficient measures adopted by that vigilant officer to break up the parties who had made their preparations and commenced trespassing on the Arcostock lands belonging to this State. It is encouraging and satisfactory, that this first attempt to interfere directly with such unlawful acts, resulted in so great success; and there can be no doubt, that

Hereafter, as the means of communication are increased, by vigilance and determination on the part of the State authorities this system of unauthorized and lawless plundering can be prevented.

Although the Legislature, at its last Session, by the non concurrence of the Senate, declined making any appropriation for the continuation of the Moosehook Road, the Land Agents of the two States, under the authority vested in them, have caused the road to be perfectly made, to the 32 mile tree, and to be prepared for a winter road to the Moosehook River. I refer you to the Land Agents Report for the particulars.

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

During the progress of the survey, a person, assuming to be "Warden of the disputed territory," delivered to the Surveyor General of this State a written protest, a copy of which is herewith transmitted, together with a copy of the reply of the Surveyor

General, denying his right and asserting his own determination to fulfill his instructions. No other interference was attempted.

The contingencies named in the Resolve in relation to the Boundary not having occurred, and no action on the part of the General Government having been had, as therein contemplated, on or before the first day of September last, it became my duty to appoint with suitable Commissioners and Surveyors, for ascertaining, running, and locating the North Eastern Boundary Line of this State, and to cause the same to be carried into operation. Accordingly, on the third day of September last, appointed and commissioned John L. Peane, Milford P. Norton, and James Irish Esqrs. Commissioners, and William P. Parrott, Esq. Surveyor. In considering the proper instructions and deciding upon the most expedient course to be pursued in commencing the work required, and the most useful mode of operation during the short time remaining of the season, I was led into an investigation of the actual facts in relation to former survey and explorations. A condensed account of those survey, contained in the various documents to which access has been had, will probably be interesting, as bringing to light facts but little known, except to those who have deeply investigated the subject and bearing directly upon the question of the correctness of the course finally adopted by the Executive.

In 1817, when the Commissioners of the two Governments, appointed under the 5th article of the Treaty of Ghent, viz: Thomas Barclay on the part of Great Britain and G. P. Van Sips of Arment on the part of the United States, met to proceed upon the business before them, it was mutually agreed by the Agents of the two Governments, and ordered by the Commissioners, that an actual sur-

vey of the due north line from the source of the St. Lawrence, and an exploring survey of said line and of the Highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, should be commenced and completed. Accordingly instructions were given to the Surveyors of both Governments, to repair to the Monument, at the source of the St. Lawrence, and select one party from each company, to commence the actual survey of said boundary line from the Monument, and run the same due north, upon a meridional line to proceed until further orders, the survey to be made by them separately, and the line to be agreed upon by both. This survey was under the direction of Charles Turner Esq. on the part of the United States, and John Campbell on the part of the British Government.

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

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

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

Under these instructions the actual survey was commenced from the Monument in 1817 and proceeded about 20 miles. The surveyors, however, at times differing, and probably at last ascertaining that they had made some mistakes, abandoned the work.

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

After the reports were made to the Commissioners, of the actual survey, they did, on the 21<sup>th</sup> of May 1818, order, that the actual survey and marking of the due north line be suspended, "until the Astronomers can revise, and if necessary, correct the same." I have not been able to find that either Astronomers or Surveyors ever went on again to this line, designated as the actual line, or that any thing more has been done in relation to it.

Col. Bouchette and Mr Johnson proceeded with the exploring line in 1817 across the St John to 99 miles from the Monument, and made separate reports of their doings. At the meeting of the Commissioners in 1818, apparently for the first time, the British agent suggests doubts whether the due North



line of the Treaty will extend to the St Lawrence waters, and proposes to discontinue the further survey and exploration in that line, and return to the region of Mass Hill, and explore from thence westwardly, by the sources of the Moosehook and Des Chutes, and thence towards the sources of the Ottawa and the Kennebec, where, the Agent alleges, he has good cause to believe that the highlands contemplated in the Treaty will be found. This new proposition was resisted by the American Agent, he alleging that the highlands of the Treaty would be found at the extremity of the due north line, if run as first agreed upon, and that a survey from thence along the highlands would demonstrate it. Although the request of the British Agent was not in terms granted, yet the result was nearly the same, as the Surveyors were ordered to finish the exploring survey of the due north line, but not to proceed at all westwardly along the highlands, but to return immediately to the region of Mass Hill, and commence the exploration of the highlands at that point, according to the suggestion of the British Agent. Accordingly, in 1818, Mr Johnson and Mr Odell, (who had been substituted for Col. Bouchette) proceeded to run the exploring line from the point where it was left the former year, to Beaver or Metis River, which empties into Lake Metis and from thence into the St Lawrence, and having arrived at that stream, without exploring or running along the highlands from that point, according to the first instructions, and the terms of the Treaty, they returned to Mass Hill. And it is a singular fact, that after that time, no American Surveyor, or authorized Agent has ever examined or traced the height of land, or given any account of the character of the country about the north-west Angle of Nova Scotia. It seems as if both parties most studiously avoided that point, which was



the most important of all, and the subsequent surveys, continued through 1819 & 20, were almost entirely confined to the examination of isolated hills and imaginary ranges south of the St. John.

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

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

It is true, that near the close of the surveys, the American Agent obtained an order for some explorations north of the St. John, but they resulted in a rapid visit by Mr. Burnham and Dr. Fiercks to Beaver Stream and Lake Metis, and two or three other spots at the portages, where, of course, the land was the lowest. Mr. Burnham in his report says, that he adopted that course of visiting distinct and separate places, by going directly to them and returning, being under the impression that he could

not trace the division of waters from Beaver Stream to the Grand Portage, in season to report before the meeting of the Board." There were some other slight examinations of the Portages by Mr. Johnson and Capt. Partridge, but no exploration along the highlands from the N. W. Angle towards the head of Connecticut River.

Thus with imperfect and unfinished surveys on our part, the question was submitted to the Commissioners, who disagreed, and afterwards to the umpire, who was not satisfied with the evidence, and who, as Mr. Mc Lane says, is not understood to have found it impracticable, at least to his own satisfaction, to find highlands answering the description of the highlands of the treaty, but his embarrassment arose from not being able to find them in a direction due north from the Monument.

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

Although our claim does not depend upon the height of the hills or land, and an elevation sufficient to turn the waters flowing in different directions satisfies the terms of the treaty, yet it is not to be disguised, that from the want of actual information of the facts, the assertion has been made and repeated, that the treaty line is impracticable, and that the character of the land is such that no dividing range can be found. It is remarkable, in looking back upon the diplomatic correspondence, that we find so much evidence that the

objections to our claim rest so materially upon the obscu- 21  
rity and contradictions, and allegations without proof, rela-  
tive to the face of the country, at and near the northwest  
Angle.

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

Mr Vaughan in reply, again alludes to this point  
of the impracticability of the due north line, and he  
broadly asserts, that "every thing which is known of the  
geography of the country tends to show that no such  
highlands can be found in that particular meridian" and  
he says, "the American Government, almost admitting the  
fact, suggests that the required highlands should  
be sought for in a northwesterly direction from the  
ascertained spot." He also adds, that to carry the  
Treaty strictly and literally into execution, is physic-  
ally and geographically impossible.

Mr. Mc Lane again urges the idea of a departure from the true north, and says,

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

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

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

Finally, in the note from Mr Forsyth to Mr Williams, one of our Senators in Congress, before referred to, he, (Mr Forsyth) states, that the object of the President in offering to make the last proposition for an exploring survey, "is to test the correctness of the opinion of the State of Maine, that the line described in the treaty of 1783, can be found and traced, whenever the Governments of the United



States and Great Britain shall proceed to make the requisite investigations, with a predisposition to effect the desired object."

In deciding upon the course to be pursued, and the instructions to be given to the Commissioners, it seemed to the Executive, considering the shortness of the time remaining after the appointment of the Commissioners, and the preparations for the expedition, the want of suitable instruments for accurate and exact surveys and the small part of the actual line which could be run and located, during the past season, and more especially considering the mystery and uncertainty, which diplomacy and management had thrown over the character of the country about the oft named angle, and the importance which had been given to this want of information, both by our General Government and that of Great Britain, the anxiety manifested by the Legislature of Maine in 1837, and the high probability that an examination of that section would dissipate all doubts and remove all uncertainty, and would supersede the necessity of any further explorations by either Government, which would delay the settlement of the question, that it was advisable to act, in the first instance, upon that part of the Probe which requires the Commissioners "to ascertain" the true line, and to direct an examination of the country about the north west angle of Nova Scotia, particularly the height of land west therefrom. Instructions to the Commissioners were accordingly prepared to that effect, a copy of which is herewith submitted, and to which I refer for particulars in relation to the Act<sup>46</sup> performed, and the course of conduct to be pursued, in discharging their duties.

I was strengthened in my belief, that this course would meet the wishes of the Legislature and people, and be productive of the most benefit, by the decided expression of nearly similar views in the report accept-

ted by a former Legislature, in 1837. I would refer to the whole report, and will quote but a single paragraph. After saying that: "in all our inquiries and examinations of this subject, there has been great negligence in regard to this north west angle," the report continues: "It is indeed time for us to begin to march, and in the right place too, in order to put a stop to those perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia, which is the south boundary of the Province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work with the cooperation of Maine and Massachusetts. Notice should be given to the British authorities to unite in the undertaking, and if they refuse, our government ought to proceed of force. The act would be entirely pacific, as the object would be to ascertain facts, much more pacific than the survey, without notice, of the St Andrews and Quebec Rail Road through our territory - not for the purpose of ascertaining a boundary, but to assume jurisdiction."

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



and simple statement of what was intended to be done by the Commissioners, under the then "present instructions," was given. It seemed to me that such a course was equally consistent with the honor and the best interests of the State.

25

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

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

The answer of Sir John Harvey, although couched in courteous language, according with the well known high and honorable character of that officer, will yet doubtless command your attention and deliberate consideration, as expressing in

frank and decided language, the character and extent of his instructions relative to maintaining the jurisdiction of the disputed territory.

The Commissioners and Surveyor, having received their instructions, and made preparations for the expedition, immediately repaired to the point designated, and with zeal and fidelity continued in the performance of the duties assigned them, until the severity of the weather compelled them to return. Their Report, which I have the pleasure to transmit to you, will be read with interest and satisfaction. By that it appears, that the exploring line was found marked to near the north west angle; that the base of the country rises constantly and regularly from the Monument at the head of the St. Croix to the angle, which is from two to three thousand feet above the level of the sea, and more than 500 feet higher than the Ridgwick, one of the streams running into the Bay of Chaleur, near the said angle and the St. Lawrence waters; that the due north line, if continued to the valley below the N. W. angle, actually strikes the St. Lawrence waters, and that the country is high and even mountainous about this spot. And there is no difficulty in tracing a line westwardly along distinct and well defined highlands, dividing waters according to the words of the treaty. The extensive and correct map of the north part of our State, and the southern portion of Canada, and the vertical section, as prepared by Mr. Parrott, the Surveyor, with neatness and accuracy, which accompany the report, add much to its value and interest. Taken together, they exhibit the true character of the country, and leave little or nothing to be desired illustrative of it.

I had at one time intended to give further and final instructions to the Commissioners, in relation to their future operations. But as the Resolve is in full force, and will be, until repealed, and as no further operations could have been carried on the past year, I have not thought

it expedient, and it might have been deemed improper for me, to anticipate the action of the Legislature or Executive of the present year. The Commission is in existence, and the Commissioners subject to future direction.

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

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

I have thus finished the exposition which I intended.

25  
did, and performed what seemed to me a duty, but which  
may, by some, be regarded as uncalled for and unusu-  
al. In retiring from responsibilities, which I did not  
seek, and most cheerfully surrender, although I  
may not be at liberty to infer that my course and  
policy upon this subject have met the entire con-  
currence and approbation of the people of this State,  
yet I cannot but feel an assurance that something  
will be allowed to the difficulties of my position, and  
to the anxious desire which I have felt, to maintain  
and advance the rights of the State, involved in  
this great question. Whatever may be the final issue  
of events in relation to our claim, I trust I may be al-  
lowed to indulge the belief, that during the short  
time I have been connected with the Government, in  
this matter, at least, "the Republic has received no  
detriment."

Edward Kent.

Council Chamber  
January 22-1839.

To the Senate  
and House of Representatives.

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

Edward Kent.

Council Chamber }  
January 25-1839. }

To the Senate,

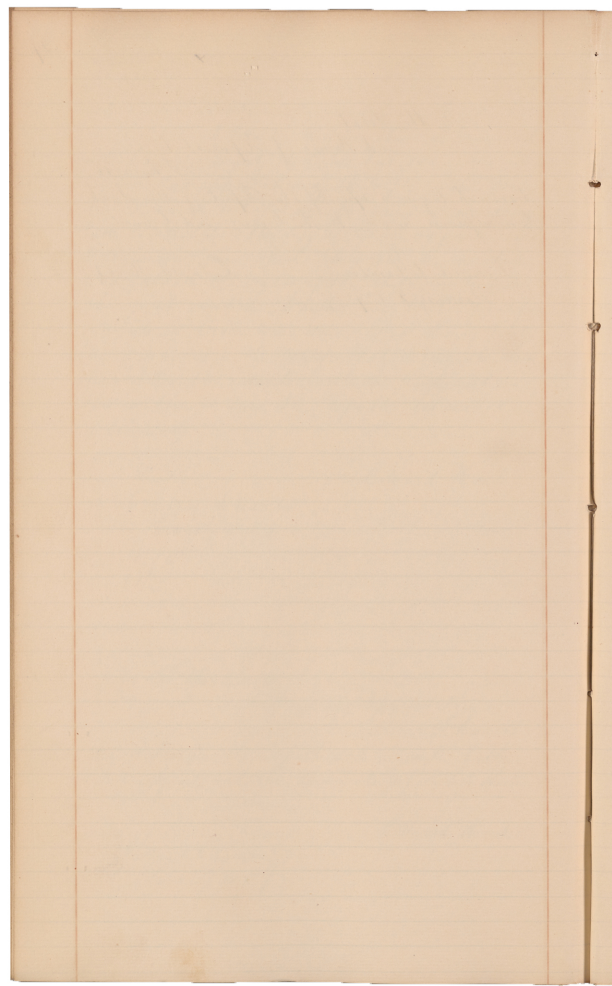
and House of Representatives.

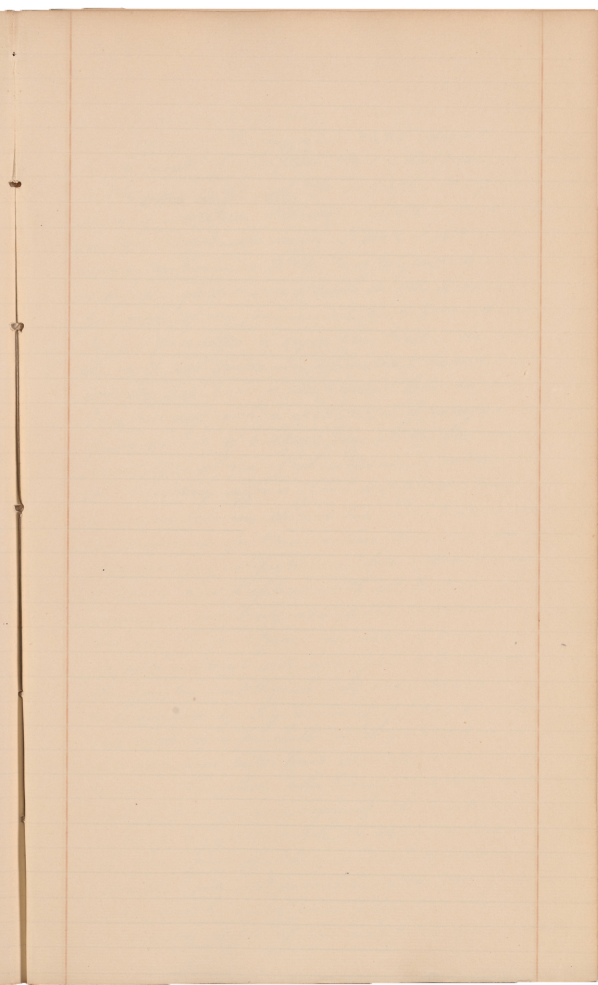
I have with  
transmit to you a copy of the Report of the Park  
Commissioners, made to the Governor and Council.

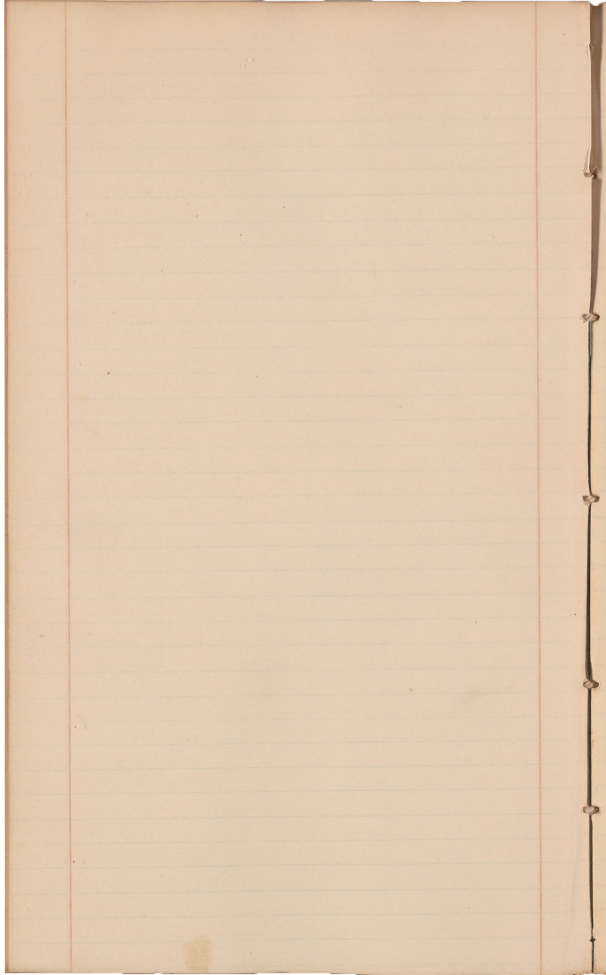
Council Chamber }  
January 2<sup>d</sup> 1839 }

Edward Hunt









Senators of the Senate,  
and House of Representatives.

50

In the highly favorable circumstances under which we enter upon the discharge of the respective duties assigned us by the people of this State, there is due from us to the giver of all good, the expression of a profound sense of gratitude. The voice of health is heard within our borders - the reign of peace is still undisturbed - submission to the laws is generally and cheerfully yielded - confidence in the form and principles of our government remains unshaken - labor is permitted to enjoy the bread it has earned - the earth has yielded an abundant harvest - and industry, in most of its various branches, has been crowned with a good degree of success; and if somewhat of embarrassment has been experienced by a portion of our citizens, in relation to the monetary affairs of the country, we may rejoice in believing, that it has arisen from causes, as temporary in their nature and operation, as they were unjustifiable in their origin. The day of "panics" and "crises," with all its train of individual suffering and public inconvenience, has gone by, and from the want of success in its authors, I trust not soon again to be renewed. True virtue, intelligence and patriotism, are not to be subdued by any amount of physical suffering. Property is perishable, while principle is eternal: and none better know and appreciate the distinction, than those, who, having their birth in a land of freedom, and enjoying the inestimable rights of self government, are deeply imbued with the true spirit of liberty and independence. No attempt, I am well persuaded, on the part of associated wealth, or any power, political or otherwise, to coerce the people of this country to yield their

apert to measures which they believe to be highly pernicious, and destructive of their dearest political rights and welfare, can ever prove successful. Upon this point our most sanguine hopes have been abundantly confirmed by the history of the last few years.

From a temporary depression, business has happily, revived; and is now pursued by our citizens with that enterprise and zeal so characteristic of them, and which seldom fails to secure a corresponding success. And may we not entertain the hope, too, that the lessons of the past, fraught as they have been, with severe instruction, will not be entirely unheeded by those who are starting anew upon the great theatre of business and enterprise.

In attempting, for the first time, to discharge the duty imposed by the Constitution, of giving the Legislature information of the condition of the State, and recommending to their consideration such measures as may be judged expedient, so full and perfect information probably will not be expected, as would be required of one hitherto connected in some way, with the government of the State.

In the condition of the finances, I refer you to the Report of the Treasurer. You will undoubtedly take early measures to provide for the demands upon the Treasury, including the amount to be paid for bounties upon the production of wheat and corn, as well as to provide for the ~~current~~ expenses of the government the current year. A loan, I think, can be effected upon easy terms; and, considering the amount to be raised, a resort to taxation, at this time, for the whole, probably will not be thought of.



Under a Resolue of the 23<sup>rd</sup> of March last, the Geological survey of the State has been continued under the direction of the distinguished gentleman heretofore having charge of that service. The duty imposed upon the Governor and Council, of laying before the Legislature a "detailed account of the progress of the survey, together with the expenditures in prosecuting the same," will be performed as soon as practicable. When the great benefits that may result from this survey, at so comparatively trifling an expense, are considered, I cannot fail to recommend its further continuance.

An appropriation will be needed to complete the Insane Hospital, and render it fit for the reception of those unfortunate persons for whose benefit it is designed. I trust, that so noble an undertaking - one so creditable to the munificence of individuals and the State, will not be permitted to languish, especially, in a stage of its progress so near completion.

The "Pier Delta law", as it is called, seems not in all cases to have answered the benign object of its authors. An ambiguous phraseology, has led to a variety of construction and practice, defeating its design, and involving consequences of no inconsiderable importance. It is neither in accordance with the spirit of the age, nor with the dictates of an enlightened philanthropy, that man should have the power of incarcerating his brother in a dungeon, like a felon, for mere inability to perform a civil contract. At the same time, justice requires, that the creditor should be furnished with every reasonable facility for obtaining satisfaction of his debt from the property of his debtor.

While the personal liberty of the poor but unfortunate debtor should be sacredly preserved, the fraudulent concealment of property should be regarded as criminal and punished accordingly. On a careful revision of the law, it is hoped you will be able to remedy its defects, and render it more promotive both of justice and humanity than it now seems to be.

The long standing question touching our North Eastern Boundary. I regret to be obliged to say, still remains open and unadjusted. How much longer the pacific temper of Maine is to be taxed, not only by the continued assertion of an unfounded and preposterous claim of title to her territory, but to exclusive possession until the question of title be settled, or how much longer her patience is to be tried by the tedious and unjustifiable procrastination heretofore indulged, remains to be seen. In myself, I am persuaded such a state of things cannot much longer continue. A struggle of arms it is true, is but a poor arbiter of right between contending parties, and is a calamity too dreadful to be lightly hazarded. But there is a point beyond which forbearance would be more than pusillanimity. It would be dishonouring our noble ancestry, and committing treason against those who are to succeed us. The general government must soon feel it to be its unavoidable duty, to insist upon a termination of this question—peaceably, if possible, but at all events and at all hazards, to see it terminated.

If however, the general government, under no circumstances, should be disposed to take the lead in measures less pacific than those hitherto pursued, yet, I trust, we are not remediless. If Maine should take possession of her territory, up to the line of the treaty of 1763, resolved to maintain it with all the force she is capable of exerting, any attempt, on

the part of the British government to wrest that possession from her, must bring the general government to her aid and defence, if the solemn obligation of the Constitution of the United States be regarded as of any validity.

This step, however, is only to be taken after the maturest deliberation. Once taken, it should never be abandoned.

The course pursued by both branches of Congress during its last session, (in addition to the strong views expressed by the President,) in the unanimous adoption of resolutions recognizing and asserting, in strong terms, the justice and validity of our title to the full extent of all the territory in dispute - and the determination, manifested by prominent members in both Houses, to stand by us in every event, is one among the few encouraging circumstances which surround the case, and which cannot I think, be without its effect upon the hitherto pertinacious injustice of the British government.

If you should not deem it necessary that there be immediate action upon this subject, circumstances may render it proper for me to make some further communication to you in regard to it, before the close of the present session. But whatever course you may think best to adopt, to secure to Maine her just rights, I can assure you of my hearty cooperation. And if rashness do not guide our counsels, but our positions be taken with wisdom and prudence, and then maintained with a firmness unflinching and inflexible, a successful result to this long pending controversy is beyond a reasonable doubt.

The Militia has long been a fruitful subject of discussion, if not of complaint. By some, it is regarded as unequal and oppressive in its operation - imposing an unnecessary tax upon the time of the people -

and as a means of defence, inefficient and useless. But making the most liberal admissions as to its defects, still I trust that the large body of the community have a more just estimate of its value and importance, and regard it with those feelings which would seek rather to reform than to abolish. It is a system, republican in its principles - wise and patriotic in its design - and eminently adapted to the feelings of those, who imbibed, with their earliest notions, a dread of standing armies. Far be the day, when any permanent and principal means of defence shall be preferred to a citizen soldiery.

That the present Militia laws are defective, and that the changes of the last ten years have brought little or no improvement with them, is clear. It is hoped, however, that some plan may be devised by which existing defects may be corrected, and a greater degree of military order excited.

A bill is now pending before the Congress of the United States, which, if enacted, may in some measure have this effect. It reduces the aggregate number of the militia by embracing citizens only between the ages of twenty-one and forty. These are divided into two classes - the first to be denominated the "active militia," and the other the "general militia." The first class comprises one tenth <sup>only</sup> of the whole number, and these, for their improvement in military science and discipline, are to be encamped and perform duty six successive days annually, according to the system prevailing for the time being, in the regular army. Tents, camp equipages, &c. to be furnished by the United States, and a compensation of one dollar and fifty cents a day to be paid from the national treasury.

This plan, it appears to me, has much to recommend it, and, if adopted, would give us a



militta, while not unweildy, yet sufficiently large for all practicable purposes, and capable of acting with all the efficiency of regular troops.

It is hoped that the bill alluded to, will pass into a law the present session of Congress. If it should not, perhaps a plan similar in principle, if not in detail, might, with great advantage, be adopted for this State. The existing state of affairs, particularly in reference to our boundary question, renders some action upon this subject extremely desirable.

The condition of our "Independent Companies," so far as my information extends, is truly gratifying. They seem to be animated by a right spirit and exhibit a degree of military skill and discipline, highly creditable to them and to the State.

Among the various subjects that will demand your attention at the present session, that of the judiciary is, perhaps, not the least important. The business of our Courts has accumulated to that degree, that it is physically impossible for the present number of judges, however able and industrious they may be, to dispose of it, without great delay, and serious inconvenience to the citizens. This is an evil that should be early remedied. Under a government of laws, and in a community enlightened as our own, not only the purity and ability of the judiciary, but its adequacy in all respects to the exigencies of society, must ever be regarded as indispensable. The slight enhancement of the expenses of the government, which an increase of the number of the judges would create, is a consideration which probably would not have much weight with your constituents in a case of this kind.

Permit me, therefore, to recommend that provision be made for appointing at least one additional judge for the Supreme judicial Court, and a like addi-



tion for the Court of Common Pleas, if you should deem it best to permit the present system to remain unchanged.

It must be a source of sincere gratification to every one feeling an interest in the cause of human improvement, as well as to every well wisher of this country and its institutions, that the subject of education, especially in connexion with our primary schools, is beginning to receive the attention it so richly deserves. Based, as our free institutions are, upon the virtue and intelligence of the people, the cause of common schools. Trust will ever receive the fostering care of the Legislature. And every friend of religion and morals - every one desirous of witnessing a ready obedience to the laws, the prevalence of temperance, virtue and good order in the community, may here find an ample field for his most strenuous and untiring efforts. Upon this subject, you, as Legislators, can hardly do too much. The most anxious solicitude - the most unvaried exertions - the amplest expenditure, will scarcely fail to secure a rich and enduring recompense.

While it is admitted that our system, as that prevailing in New England, combines advantages surpassing, perhaps, by few others, if any, in the world, still, that there is much, very much room for improvement, no one can doubt who has turned his attention at all to the subject. The best mode, however, of effecting this, is left for your united wisdom and experience to devise.

Without pretending to any superior knowledge in regard to this matter - and being much more willing to follow a well chosen track, than ambitious to originate new ones, I would suggest for your consideration, whether the establishment of a board of education, with an active, zealous and efficient Secretary, to collect information touching the exist-

ing state of our Schools - present modes of instruction 98  
qualifications of teachers - construction of school houses  
&c. and to disseminate information upon these  
and kindred subjects, by lectures and otherwise,  
similar to the course adopted in Massachusetts  
might not be found to be the most judicious mode  
of beginning the great work of reform and  
improvement.

And whether a Seminary might not be  
endowed, or a department in some existing in-  
stitution exclusively devoted to the education of  
teachers for our common schools, is well worthy  
of consideration. Our ideas however, must necessarily  
be somewhat indefinite, as to the precise means of  
improvement, until the statistics upon this sub-  
ject have been faithfully collected.

If the establishment of such a board as has been  
suggested should not yield all the benefits now an-  
ticipated from it, yet it is believed, that if it do nothing  
more than to awaken public attention, and induce  
more reflection and comparing of opinions upon the  
subject, that such an impetus will be thereby given  
to the cause of education, as will amply compensate  
for all the time and expense bestowed.

Several very valuable publications upon the sub-  
ject of education having lately been put forth. I  
would further suggest, whether extracts from them,  
under the supervision of a suitable committee,  
and a republication of them at the public expense,  
for liberal distribution among the people, would  
not be eminently useful in promoting juster  
views, and exciting a more ardent interest in  
the great cause of common school education.

A question of considerable importance is pre-  
sented to you, in relation to the repeal a contin-  
uance of the law bestowing a bounty upon the pro-

duction of wheat and corn. If it is to be regarded as the commencement of a system—a part of the permanent policy of the State, its continuance will be a matter of course. But if, on the contrary, it should be viewed as a temporary expedient—a mere experiment to test the capabilities of our soil and climate, and to ascertain to what extent we might render ourselves independent of other States, for one of the necessities of life, you may perhaps consider the end as having been accomplished.

Of this, however, you are the proper judges. Coming as you do from all parts of the State—representing the various interests of our constituency—and being well acquainted with the public sentiments upon this, as well as other subjects, you will undoubtedly pursue such a course as shall not only be the result of enlightened reflection on your part, but prove entirely satisfactory to those whom you represent. *He is*

The interest of Agriculture must ever command the favorable regard of the Legislature, constituting, as it does, a branch of industry which lies at the foundation of all others—and contributing, perhaps, more than all others, to the supply of our wants, as well as adding immensely to the real wealth of the State; and in reference to the whole country, furnishing at least nine tenths of the whole amount of our exports.

If you should conclude to repeal the law conferring bounties on the production of wheat and corn, it may fairly serve as an additional stimulus to your desire to do something, in promotion of the cause of agriculture in some other mode.

Perhaps the establishing a board of agriculture, or the appointment of an agent, one or both, similar to the plan suggested upon the subject of education, might exert a more general as well as

beneficial influence over the State, than any other course that could, at present be adopted. Much good, I think, could be effected by this means, in diffusing more generally a knowledge of agricultural chemistry, inducing the adoption of improvements in agricultural implements, and improved modes of culture - by exciting a spirit of emulation among our farmers, and causing a more just estimate among the young men of our State, of the honorable as well as useful character of the employment itself. There are various ways in which such a board or agency might prove highly useful, too obvious to require enumeration here.

For some reason, perhaps better known to you than to myself, our County Agricultural Societies have not excited so deep an interest in the farming community as was expected, nor have they consequently been so efficient agents in promoting the design of their establishment as was anticipated. The members of these societies, however, are highly deserving of our thanks for their efforts, and entitled to our more hearty co-operation with them hereafter. Trust, that if any thing can be done, by way of donation or otherwise, to add to their number and to increase their usefulness, that no formidable objection could be found in the way of your doing it.

The subject of internal improvements is one of great importance, and highly deserving of your most earnest and deliberate attention, especially as it is believed that a considerable contrariety of opinion prevails in regard to it among your constituents.

Strong, and to my mind, insuperable objections have heretofore been expressed by this State, to a system of Internal Improvements conducted by the General Government. That



government being one of limited powers, its authority to institute such a system has been constantly denied and resisted. But, aside from the constitutional objection, the adoption of such a system has been believed to be fraught with incalculable mischief. The general scramble which it creates for governmental favors - the bargaining it induces among members of Congress - exchanging votes and influence for the votes and influence of others - the grouping all the appropriations into one General Bill, thereby compelling members to vote for what they know to be wrong, or lose appropriations which they believe to be right; are a few among the many circumstances which are calculated to lower the tone of moral feeling among the members, if not to eventuate in a systematic course of gross corruption and fraud. Besides the injustice of collecting large sums of the whole people, through an exorbitant tariff, to distribute again to a small portion only, is strikingly apparent. No, if the thing was right in itself, could appropriations be expended by the General Government, under that vigilant supervision, and with that prudence and economy, which might reasonably be expected of the agents of the States.

Many of these objections, however, do not exist against the adoption of a system of internal improvements by the individual States. To their action no constitutional objection is interposed; the question, therefore, with them, is purely one of expediency.

But, is it necessary that we should adopt one or the other of the two extremes upon this subject? Must we follow the lead, of some of our sister States in the West, who are now involving themselves in a debt of millions piled upon millions, borrowed from abroad, the interest of which may hereafter



about much of the hard earnings of the people. Or must we, on the contrary, bury our resources; bury our wealth with the miser's grasp, and lag behind all other States in the great highway of improvement. I apprehend not. One would, for us, perhaps, be as unwise and impolitic as the other.

It appears to me that a just and happy medium between these ultra courses, is easily attainable - one that shall be adapted to the business and exigencies of the people, and corresponding in some measure, with the means at our command.

My information is not sufficient to enable me to go into detail upon this subject, if I was so inclined. I would however suggest, that there is one class of improvements, which, in my opinion, should continue to receive the favorable attention of the Legislature, viz: that of making roads through the public lands. The sale and settlement of these lands will be thereby promoted, and some of these convenience extended to the hardy and enterprising pioneer of the west, to which he is so preeminently entitled. Perhaps, also, certain streams might be cleared of their obstructions, and short canals cut, at a comparatively trifling expense, by which our east interior might be rendered accessible, and its immense and invaluable resources made available to the purposes of business.

These and similar improvements probably may be made from the avails of our public lands, and without loading the State with an enormous foreign debt. They are a benefit to the whole people, and may be done gradually, as our means may permit, and as the growing wants of our rapidly increasing population may require.

Our public lands will necessarily, for many years to come, constitute an important subject for

legislative attention. A constant and vigilant supervision over them is demanded, from the peculiar exposure of the growth upon them to the depredations of the lawless, their immense value as a source of revenue to the State, and their still higher value as a means of adding, by a hardy, enterprising, and virtuous population, to the growing prosperity and importance of our State.

In the management of these lands, the true policy, unquestionably, is, as recommended by several of my predecessors, to facilitate the sale and settlement of those fit for cultivation. Low prices, a reasonable credit, convenient roads built at the public expense, liberal reservations for schools and the support of the ministry, are among the most efficient means for accomplishing this object.

Those that are principally valuable for the timber growing upon them, may be sold more with a view to pecuniary considerations; especially, as to these we must probably look for the means to discharge the public debt, if not to defray, in part at least, the ordinary expenses of government.

At present I am not prepared to recommend <sup>improper</sup> any changes in the system now in operation. If any considerable defects exist, your own sagacity will undoubtedly detect them, and your care for the interests of your constituents supply the remedy.

I cannot close this communication without recommending, that, in regard to the public expending, you adopt a system of rigid economy. Not only does the state of our finances require such a course, peculiarly proper at this time, but a constituency, distinguished as well for their frugality as for their justice and liberality, expect it at your hands.

Sudden and important changes in laws with

which the people have been long familiar, and which have received a construction by the long practice of the community, if in no other way, should be made with great caution. Nor should our statute books be unnecessarily cumbered with new laws, called for by no peculiar exigencies of the people. More evil results from excess of legislation than from want of it. Besides, a good government interferes as little with the liberty of the citizen, as is compatible with the restraining of wrong, and the maintenance of safety and good order in society.

If you find yourselves occasionally differing upon questions that may come before you, particularly those involving your peculiar political opinions, I trust that that difference may be entertained without hostility. The human mind is not so constituted as to ensure unanimity of opinion upon any subject. It is no more to be expected that men should think alike, than that they should look or act alike. While therefore, each is tenacious of his own entire freedom of thought and opinion, let that freedom be enjoyed with all that charitableness towards those who differ from him, which a sense of justice and an enlightened toleration would seem to require. This spirit of charitableness and courtesy, it appears to me, is in no wise incompatible with the most ardent attachment to one's principles and party. Uniting, then, with such feelings, though on many points with antagonist principles, may we not often find a common ground upon which we can cheerfully and successfully co-operate in the promotion of the public good.

That our united labors may all tend to advance the true interests of the State, and secure the wel-

fare and happiness of this people, let us not fail  
to look for support and guidance to Him, whose good-  
ness never fails, and whose wisdom never errs.

Council Chamber,  
January 4. 1839.

John Fairfield.

To the Senate,  
and House of Representatives.

Agreeably to the  
request of the Legislature of Arkansas, I herewith lay  
before you Resolutions adopted by that body in relation  
to the Public Lands, lying within that State.

Council Chamber,  
Jan'y 16. 1839.

John Fairfield.

To the Senate,  
and House of Representatives.

I herewith lay before  
you for your consideration a communication from  
the Secretary of the American Antiquarian Society,  
requesting <sup>that</sup> the complete and perfect series of the Legisla-  
tive "Acts and Journals" of this State, together with  
all the "Reports and Statistical Papers," published un-  
der your sanction, may be transmitted to that  
Society for permanent deposit among its already  
extensive collections.

I trust that a request, a general compliance with which by the several States, would furnish so many valuable materials for the use of the Historian, will be cheerfully and promptly acceded to.

John Fairfield.

Council Chamber

Jan'y 22. 1839.

To the Senate,  
and House of Representatives,

I herewith lay before you a letter received from Foster Bryant agreeably to his request, in relation to a supposed controversy between himself and this State, growing out of certain transactions between Joel Miller, late Warden of the State Prison, and himself.

John Fairfield

Council Chamber

January 24. 1839

To the Senate,  
and House of Representatives.

I herewith communicate for your consideration the Report of The Inspectors of the State Prison at Thomaston.

Council Chamber.

January 19. 1839.

John Fairfield.



To the Senate,  
and House of Representatives.

I herewith lay to.

before you for your consideration a communication  
from "The Board of Administrators of the Charity Hos-  
pital," established at the City of New Orleans.

Council Chamber,  
January 29. 1839.

John Fairfute.

To the Senate  
and House of Representatives.

I herewith

lay before you a communication received from the  
Adjutant General of this State, containing various  
suggestions in relation to matters pertaining to his  
Department. Appearing to me to be reasonable I  
recommend their adoption by the Legislature and  
that suitable provision be made for carrying them  
into effect.

John Fairfield.

Council Chamber  
February 9. 1839.

To the House of Representatives.

In compliance  
with the request of the House of Representatives,  
I herewith communicate such information as I have  
in relation to "The reported abduction of the Land

Agent."

Under the Resolve of the 24th. of January last. entitled, "Resolve relating to trespassers upon the Public Lands," the Land Agent repaired with about Five Hundred chosen men, to the scene of operation on the Acosstock river. Prior to his reaching there, it is understood that the trespassers, amounting to about three Hundred in number, all well armed, had combined and were determined to resist every effort that should be made to break them up. Finding however that the Land Agent had prepared himself with a six pounder, they chose to retire from the ground, passing down the river.

The Land Agent with his company also passed down the Acosstock to near its mouth. Finding the several places of operation abandoned by the trespassers. On Monday last, they captured a gang of about twenty who had been operating further up the river, and sent several who were considered the ring leaders to Sango, where it is supposed they are now in jail. On Monday the Land Agent sent a letter to Mr. McLaughlin, the Land Agent of the Province of New Brunswick, inviting a meeting with him at the house of a Mr. Fitzherbert, about four miles from where the company were then stationed, and on the same evening, with four others, Mr. McIntire repaired to the house of Mr. Fitzherbert, intending to pass the night there. The trespassers however in some way became possessed of the facts, and detached a company of about fifty, who seized the Agent and those accompanying him, and transported them it is believed, beyond the bounds of the State.

Our company is now at No. 10, on the Acosstock, fortified and anticipating an attack in case any attempt should be made on our part to execute the Resolve of the 24th. of January by destroying the tim.

ber which has already been cut.

I have advised the sending of a reinforcement of three hundred men as it is probable the number of the trespassers will be constantly augmenting—and if a Resol<sup>n</sup> to that effect be passed, shall appoint an Agent to supply temporarily the place of Mr. Mc Intire, and lead on the expedition. I have also despatched a special messenger to Sir John Harvey, Lt. Governor of New Brunswick, for the purpose, among other things, of ascertaining these high handed proceedings of the trespassers are authorized or in any way countenanced by the Provincial Government; and to procure the release of the Agent and those taken with him. The Agent was also charged with other matters pertaining to this most extraordinary and outrageous proceeding.

The facts above related, except in relation to my own doings, have been communicated to me verbally by the sheriff of Penobscot who formed one of the Company of the Land Agent.

This is the only communication from the Land Agent or his company, which I have had, verbally or otherwise, that could be relied upon.

John Fairfield.

Council Chamber

February 15. 1837.

To the Senate and  
House of Representatives.

Since my last communication to you upon the subject of the trespassers upon the Public Lands, there has been forwarded to me a Proclamation purporting to have been issued by the Lieut. Governor of the Province of New Brunswick, which I deem it my duty to communicate to you, with a statement of my proceedings consequent thereon.

By this Proclamation, it seems, that while the Lieut. Governor disavows any authority from his Government for the seizure of the Land Agent, he yet speaks of the attempt of the civil authorities of this State to drive a band of armed trespassers from our public lands, as "an outrage," and an invasion of the territory of the Province of New Brunswick, and avows the fact of having ordered a sufficient military force "to repair to the place where the Land Agents party are endeavoring to execute your Resolve of the 24th. January, and to repel what he thus regards as an invasion of the Province of New Brunswick."

Immediately upon the receipt of this extraordinary document, I took measures to hasten the departure of the reinforcement of the Land Agents party, understood to have been assembled at Bangor, awaiting orders and numbering between four and five hundred men - and also issued an order to Maj. General Isaac Roddson, of the 3<sup>d</sup> Division, to detach one thousand men, by draft or otherwise, properly officered and equipped; who were to rendezvous at Bangor, and then proceed at the earliest possible moment, to the place occupied by the Land Agents party, or on near the Anostock river, there to render such aid as would enable the Land Agent to carry into effect the Resolue

of the 24<sup>th</sup> of January.

I also dispatched a special messenger, with a communication to Major Kirby of N. F. McHenry, commanding at Hancock Barracks, Houlton, informing him of the facts and asking his cooperation, with the troops under his command, with the forces of this State, in repelling an invasion of our territory, and sustaining our citizens in the lawful and authorized protection they are endeavoring to extend over a portion of the property of this State.

If these proceedings on my part meet the approbation of the Legislature, and an appropriation be made for the purpose, I shall feel it to be my duty to proceed forthwith to order a draft from the militia of at least ten thousand men, who will hold themselves in instant readiness to march to the frontier, should circumstances require it.

I have not yet called upon the President of the United States for aid in repelling the invasion of our territory by foreign troops, deeming it proper to postpone that step until the return of Gen. Rogers from his special mission to Fredericksen, or at least until some information should be received from him, which will probably be as early as the 20<sup>th</sup> or 21<sup>st</sup> instant. If, however, you should think otherwise, and that no delay should be allowed for this purpose, an intimation to that effect will be promptly obeyed.

If I have not entirely misconceived the circumstances of the case presented for your consideration, it is one calculated to excite the deepest feeling in the breasts of our citizens, and calls for the most prompt and determined action on the part of this Government. What is that case? You were informed that a large number of armed and desperate men



From a neighbouring Province, had forced them-  
 selves into the Territory of this State, with a fixed  
 purpose of cutting a vast amount of timber, and of  
 resisting, even unto blood, any attempts to arrest them  
 in the prosecution of their unhallowed object. Deeming  
 it your duty to make an effort to protect the interests of  
 those who had confided them to your care, you in-  
 structed the Land Agent to proceed to the scene  
 of devastation and plunder, with a sufficient  
 force to arrest those who were engaged in it, and  
 to break up their daring and wicked enterprise. While  
 in the act of executing this order, the Land Agent  
 was seized, transported beyond the bounds of the  
 State, and finally, carried upon a sled, like a felon  
 and under the guard of Provincial troops, to the  
 Capital of New Brunswick, for trial. Could a greater  
 indignity be offered to any people, having a particle  
 of sensibility to its rights and <sup>its</sup> honor, or to the sacred-  
 ness of the personal liberty of its citizens? It is  
 true that the St. Gueen denies the original seizure  
 was by authority. But at Woodstock, the Magistrates  
 took cognizance of the affair, sanctioned the proceed-  
 ings by issuing a warrant, (acting undoubtedly under  
 the authority of the proclamation,) and sending our  
 citizens under an ignominious escort to Fredericton.  
 Really, if there be any apology or justification for this  
 treatment of our citizens, it is not to be found in  
 any code of international bona a comity with  
 which I have been acquainted.

Not only this. But it seems that a military  
 force is sent into a part of the Territory of this  
 State, to expel from it a civil force, sent there  
 by this government for the protection of its property.  
 How long are we thus to be trampled upon - our  
 rights and claims decided - our power contemned -  
 and the State degraded? If there ever was a time

when the spirit of independence and self-suspense should assert itself, that, time is the present. We cannot tamely submit to be driven from our territory while engaged in the civil employment of looking after and protecting our property, without incurring a large measure of ignominy and disgrace.

No palliating circumstance for this outrage can be found, in even a pretence that the place where it was committed is within the concurrent jurisdiction of the two Governments, much less that the British Government have had exclusive jurisdiction. Lands even higher up and beyond this, were surveyed and granted by the State of Massachusetts, more than thirty years ago. And Massachusetts and Maine have long been in the habit of granting permits to cut timber upon these Abenaki lands, without being, to my knowledge, molested from any quarter. To say nothing of the sale and actual occupation of the land itself.

It must be gratifying to all who have a true sense of the honor and interests of the State, to perceive that upon this subject the din of party warfare is hushed, and that a unanimity has prevailed, alike honorable and patriotic. No interruption to this commendable spirit, I trust, will be suffered. Reason and good feeling, no less than prudence and energy, are absolutely necessary in this extraordinary emergency.

John Fairfield.

Council Chamber }  
February 18, 1839. }

Since writing the foregoing, I have received a communication from the Lieut. Governor of the Prov.

ince of New Brunswick, in which he sets up an alleged agreement that the British Government shall have exclusive jurisdiction and possession of the disputed territory, until the question be settled, and informs us that he is instructed not to suffer any interference with that possession and jurisdiction. He entreats us to withdraw the Land Agents party, and adds, that he has directed a strong force of Her Majestys troops to be in readiness to support her Majestys authority, and to protect her Majestys subjects in the disputed territory, in the event of this request not being immediately complied with.

In regard to all this I have only to say, that for me, I see no reason to doubt the entire correctness of the course we have thus far pursued, and that with the blessing of God, I trust we shall persevere.

No such agreement as that alluded to by the French Governor, can be recognized by us, - and it is an entire misapprehension, to say the least of it, that such an agreement has ever been made.

The letter having been written before Mr. Mc Intire reached Fredericton, no official communication is made as to the course intended to be pursued in regard to him, and those arrested with him. I learn, however, indirectly, that they are to be retained.

I am informed, that the Land Agents party have stationed themselves, for the present, at the termination of the Sweetbuck road. While there, Mr. Mc Laughlan, the Provincial Land Agent, presented himself, and in the name of Her Majesty, warned our party to disperse. Mr. Mc Laughlan and his two assistants were thereupon taken

into custody, and the Agent, with one assistant, immediately sent to Pangas, where they are now detained.

Copies of the Proclamation and Letter of the Lt. Governor of New Brunswick are herewith communicated.

John Fairfield.

To the House of Representatives.

Agreeably to your request of this day, I herewith lay before you my reply to the Letter of Sir John Haney, Lt. Governor of the Province of New Brunswick, under date of the 13th instant, his Letter having been heretofore communicated.

John Fairfield

Council Chamber }  
February 26, 1839 }

To the House of Representatives:

Under the order of the House of Representatives of the 19th instant, I herewith lay before you certain correspondence since had with the Lieut. Governor of New Brunswick and the correspondence between Geo. Frederick Stuart, Esq., Solicitor General for the Province of New Brunswick, and Charles Lewis, Esq., Provisional Land Agent of this State.

The reply of Mr Lewis to the inadmissible

and preposterous claims and pretensions of Her Majesty's Solicitor General for the Province of New Brunswick, must, I think, command the unqualified approbation of every one having a just regard for the honor of this State. It is in the true spirit. And I have every reason to believe that the same spirit animates the whole body of our citizens. While it prevails, though success will be deserved, defeat can bring no disgrace.

You will see by the accompanying papers, and I take great pleasure in communicating the fact, that Mr. Mc Intire, and his assistants have been released. It was, however, upon their parole of honor, to return when then so required by the Government of that Province. Immediately upon the receipt of this information, I advised the release of James Mc Laughlan, Esq. Provincial Land Agent, and his assistants, upon the same terms.

Since my last communication, the Land Agent's forces at the Acrostock have been reinforced by about six hundred good and effective men, making the whole force now about seven hundred and fifty.

I have a letter from Mr. Lewis, dated the 17<sup>th</sup>. before the reinforcement had arrived, and when his company consisted of only about one hundred men. He says he "found the men in good spirits, and that they had been active in making temporary, but most effectual defences, of logs, &c." After describing his defences he says, "by tomorrow noon, a force of one hundred men would make good our position against five hundred. Retreating therefore is out of the question. We shall make good our stand against any force that we can reasonably expect would be brought against us." He says further, "I take pleasure in saying to you that a finer looking set of men I never saw, than those now with



me, and that the Honor of our State, so far as they are concerned, is in safe keeping."

The draft of one thousand men from the third Division has been made with great dispatch. The troops, I understand, arrived promptly at the place of rendezvous, at the time appointed, in good spirits and anxious for the order to march to the frontier. The detachment from the Second Division will be ordered to march at the earliest convenient day, probably on Monday next. Other military movements will be made, which it is unnecessary to communicate to you at this time.

The mission of Col. Rogers to the St. Governor of New Brunswick, has resulted successfully, so far as relates to the release of the Land Agent and his assistants, and has been conducted in a manner highly satisfactory.

John Fairfield.

Council Chamber }  
February 26 1839. }

To the Senate  
and House of Representatives.

General Benjamin Burges having been discharged from the command of the 4th Division, Maine Militia, on his own request, there is a vacancy in the office of Major General of that Division.

John Fairfield.

Council Chamber }  
March 6, 1839. }

To the Senate

and House of Representatives;

I have with my Office  
you certain documents that have been transmitted to me  
by the Hon. John Forsyth, Secretary of State, to wit:  
Message of the President of the United States, transmitted  
to Congress on the 26th of February. - Letter from Mr Fox,  
the British Minister, to Mr Forsyth, under date of 23<sup>rd</sup>  
of the same month, - and the reply of the latter on the 25th -  
Letter of Mr Fox to Mr Forsyth, of the 25th ult. - Memo-  
randum of an agreement between Mr Fox and Mr Forsyth, of  
the same date - and two letters from Mr Forsyth to the Go-  
vernors of this State, under dates of the 26th and 27th  
ultimo.

By the agreement referred to, it will be perceived that  
Mr Fox and Mr Forsyth, without claiming to act with  
authority, have recommended that, "Her Majesty's forces  
will not seek to compel by military force the armed party  
which has been sent by Maine into the district bordering  
on the Ancoissee River, but that the Government of Maine  
will voluntarily, and without unnecessary delay, withdraw  
beyond the bounds of the disputed territory any armed force  
now within them: and that if future necessity should  
arise for dispersing notorious rascals, or protecting pub-  
lic property from depredation by armed force, the operation  
shall be conducted by concert, jointly or separately, accor-  
ding to agreement between the governments of Maine and  
New Brunswick." This, it is said, is recommended to the  
two governments of Maine and New Brunswick, to regu-  
late their future proceedings according to the terms herein.  
Before set forth, until the final settlement of the territori-  
al dispute, or until the Governments of the United States  
and Great Britain shall come to some definite conclu-  
sion on the subordinate points upon which they are now

at issue, to wit: the right of temporary jurisdiction and possession of the disputed territory.

The important question now presented is whether the State of Maine, will assent to this agreement or not. Deeming it a question beyond my legitimate province to decide, I communicate the papers relating to it, and ask for instructions, with a determination, so far as I may be able, to carry into effect your decision, whatever it may be.

As I do not wish, however, to shun any portion of the responsibility fairly dashing upon me, I will proceed, as briefly as I can, to give my opinion in the case presented, and the reasons upon which it is founded.

I shall we, then, in accordance with the agreement, withdraw our forces from the disputed territory, and leave all future operations against trespassers to be conducted by concert and agreement with the Provincial Government. In determining this question your attention will naturally be directed to the original design and object of the movement on your part, - the extent to which that object has been accomplished, - your constitutional power and right to adopt the course hitherto pursued - and the expediency of continuing to exercise that right.

The object in the first place, was to protect public property. The territory bordering upon the Aroostook River, in many respects the fairest portion of Maine, particularly in its noble forests of timber, and in the extraordinary fertility of its soil, has long been the scene of very extensive and wanton depredations, principally on the part of persons resident in, if not inhabitants of the Province of New Brunswick. The circumstances in regard to the extraordinary depredations committed this winter, by bands of armed and desperate men, - the course you took to arrest them, - the seizure and imprisonment of the

Land Agent and his assistants - I need not detail, as they are already familiar to you. This proceeding on our part was denounced by the Lt. Governor of New Brunswick as an invasion of that Province; and a military occupation of the territory threatened, as also a forcible expulsion of our agents, if they should not immediately retire. Instead however of permitting them to retire, you sent what was deemed a sufficient military force to sustain them, and also to resist any invasion of our soil that should be attempted. This I believe to be a succinct and unvarnished statement of your object, and the method pursued to effect it. Has that object been accomplished? If I have a right apprehension of the facts, I must say, in part only. It is true the trespassers are dispersed, but they have given out, that as soon as our force is removed, they will return, throw the timber already cut into the streams, and run it down to the St John. This can undoubtedly be accomplished by them, without the utmost vigilance and activity on our part. It is true also that the Lt. Governor of New Brunswick proposes to swing a boom across the mouth of the Ansebrook, to seize the timber there, sell it, and place the proceeds in the "disputed territory fund." But without intending disrespect to the Government of the Province, may it not well be doubted, whether Maine would ever realize any thing from such a procedure? Would not the debts on this disputed territory account always exceed the credits? Would not the track about this "fund," so far as we are concerned, be like those about the Lion's cave, be all one way? Be that as it may, Maine is capable of superintending her own affairs, and ought not to impose that duty on a neighbouring Province.

Before answering the main question, however, let us inquire still further, as to the legality and propriety of our proceeding thus far. My respect for you will not permit me to go into an elaborate argument, to show our clear and unquestionable right and title to the territory embraced within the line, running from the source of the St Louis

due north to the Highlands dividing the waters that flow into the Atlantic Ocean from those that fall into the river St. Lawrence, - thence along said highlands to the northwesternmost head of Connecticut river. At the last Session of Congress, the Senate of the United States adopted unanimously, the following Resolution, viz: -

"Resolved, That after a careful examination and deliberate consideration of the whole controversy between the United States and Great Britain, relative to the North Eastern Boundary of the former, the Senate does not entertain a doubt of the entire practicality of running and marking that boundary, in strict conformity with the stipulations of the definitive treaty of peace of seventeen hundred and eighty three; and it entertains a perfect conviction of the justice and validity of the title of the United States, to the full extent of all the territory in dispute between the two powers."

The same Resolue was, on a subsequent day, taken up in the House of Representatives, and unanimously adopted by that body. I need say no more upon the subject of title, especially to you, with whom the whole subject is perfectly familiar.

Then as to the right of jurisdiction and possession while this preposterous claim of Great Britain remains unsettled - is it in the British Government by virtue of an agreement, as has been alleged by the Lt. Governor of New Brunswick, and reiterated by Mr Fox at Washington, or is it not? The President, in his Message to Congress of the 26th of February, after alluding to the allegation of Mr Fox, says, "The important bearing which such an agreement, if it existed, would have upon the condition and interests of the parties, and the influ-



once it might have upon the adjustment of the dispute, are too obvious to allow the error upon which this assumption seems to rest, to pass for a moment without correction." In alluding to the correspondence between the Governments upon this subject, he says, further, — "Instead of sustaining the assumption of the British functionaries, that correspondence disproves the existence of any such agreements."

Mr. Forsyth, Secretary of State, in his reply to a letter of Mr. Fox, in which this alleged agreement was again put forth, under date of the 25<sup>th</sup> ultimo, says, "So far from any relinquishment of right of jurisdiction having been made, or any agreement, either express or implied, entered into on the part of the Government of the United States, of the nature alleged by the Lt. Governor of New Brunswick, and affirmed also in your note of the 23<sup>rd</sup> inst. it will appear from the whole course of the correspondence between the two governments, extending through a series of years, that that of the United States has throughout and on frequent occasions, solemnly protested as well against the existence of the right to the exclusive possession and jurisdiction, as to the exercise thereof; and has upon every public occasion asserted, that both belonged to Maine and the United States."

This would seem enough to settle this question, now and forever. No such agreement has ever been made. On the contrary, the right of possession and jurisdiction has always been, and is now, asserted by the General Government to be in Maine. But if it had been otherwise, and the Government of the United States had agreed that the British Government should have exclusive jurisdiction and possession of this territory, which it acknowledges to be ours, would it have been binding upon Maine? Clearly not. The respective States of

the Union are sovereign and independent, except so far as that sovereignty has been restrained or modified by the Constitution of the United States. The General Government is one of limited and defined powers. The power to alienate the territory of a State, or to transfer a portion of it, or the jurisdiction and possession of it, to a foreign power, for an indefinite period, or for ever, is nowhere granted. An assumption of such a power on the part of the General Government, it is believed, would always meet the stern and uncompromising opposition of this State. But without intending absolutely to assert any such power, it seems there has been an understanding between the General Government and that of Great Britain, amounting perhaps, on our side, to a recommendation to the State of Maine, rather than to a contract by which she would be conclusively bound. What are the terms of that understanding, which has been the prolific source of so much misunderstandings? Clearly these, and no more, that during the pendency of the question, the two parties should exercise jurisdiction as they had respectively been accustomed to exercise it. Now, over the territory south of the St. John, especially that part of it watered by the Anroostok and its tributary streams, Massachusetts and Maine have always had possession, and exercised exclusive jurisdiction. As early as 1793, a large tract, say two million acres, was surveyed and located by agents of Massachusetts, under a bargain and contemplated grant to Jackson and Flint. This tract embraced a large part of the Anroostok territory, and extended to the River St. John. For some reason or other, believed to be the inability of the purchasers to pay the consideration, no grant was ever actually made. In 1808 and 1807, grants of large tracts, lying upon both sides of the Anroostok, were made by Massachusetts to the town of Plymouth and General Eaton, which have ever since been held by them and their grantees. Soon after the separation of Maine and Massachusetts, these lands, extending nearly to the St. John, on the south, were

surveyed, and some of them divided and held in severally by the two States. For several years, commencing as early as 1821, agents were sent to the Acrostock by the Governor of Maine, for the purpose of arresting trespass upon the public lands. In 1821, Benjamin S. Porter Esq. was sent to that territory by Governor King for this purpose. Mr Porter took the cities of St John and Fredericton in his way, and consulted with Mr Attorney General Wetmore upon the subject of punishing British subjects, for their intrusion upon our territory. The Attorney General said, "the Government of New Brunswick would, unquestionably render every possible facility to punish the offenders, as they had suffered greatly in that Province (N. B.) by such lawless pil-  
 lagers." This is the language of Mr Porter, taken from his report, made July 1821, and now on file in the office of the Secretary of State.

Mr Porter proceeded to the scene of depredation upon the Acrostock, broke up the trespassing, and compelled those engaged in it to settle with him, giving their notes for the amount of damage done. These notes were left with an attorney at Woodstock, and were collected by suits prosecuted in the Provincial Courts.

Similar agencies, with similar results have, I understand, frequently been instituted by this Government. Massachusetts has long been in the habit of granting permits to cut timber upon her townships on this stream; and though with the knowledge of the Provincial Government, without any attempt on the part of the latter, to forbid or prevent it, so far as I am informed. Maine has for several years been expending large sums of money in making a road through the territory, and has sold and conveyed portions of this same territory to actual settlers, without anticipating or receiving any opposition on the part of the Provincial Government. I am also creditably informed, that claims in favor of the in-

habitants of the Province, against settlers on the Acos-  
 sock, are prosecuted by the credits in the courts of  
 Maine. These facts, with others that might be named,  
 go to show, that the jurisdiction and possession of this  
 territory are not, and never have been in New Brunswick,  
 but so far as the unsettled condition of a portion of the  
 country would permit, in Maine and Massachusetts.  
 Upon this point I am happy also to be able to add a  
 very apposite quotation from a letter from Mr. Von Bu-  
 ren, while Secretary of State in 1829, to Sir Charles  
 Vaughan. He says, "The undersigned cannot acquiesce in  
 the supposition, that, because the agent of His Brittan-  
 nic Majesty thought proper, in the proceeding before the  
 Commissioners, to lay claim to all that portion of the  
State of Maine which lies north of a line running wes-  
 terly from Mars Hill, and designated as the limit or  
 boundary of the British claim, thereby the United States  
in the State of Maine ceased to have jurisdiction in the ter-  
ritory thus claimed. In the view of this government, His  
 Britannic Majesty's agent might with equal justice, have  
 extended his claim to any other undisputed part of the  
State, as to claim the portion of it, which he has drawn in  
 question; and in such case, the Lt. Governor of New Brun-  
 swick could surely not have considered a continuance on  
 the part of the United States and of the State of  
 Maine, to exercise their accustomed jurisdiction and au-  
thority, to be an encroachment. If so, in what light are  
 we to regard the continued acts of jurisdiction now ex-  
 cised by him in the Madawaska settlement? More than  
 twenty years ago, large tracts of land lying westward of Mars  
 Hill, and northward on the river Passadumkeag, were granted by  
 the State of Massachusetts, which tracts are held and pos-  
 sessed under those grants, to this day; and the United  
 States and the States of Massachusetts and Maine, in  
 succession, have never ceased to exercise that jurisdiction  
which the unsettled condition of the country in that  
region, and other circumstances admitted and required."



Surely there can be no need of multiplying words upon this point. If the British Government have any jurisdiction over this portion of our territory, it may with "equal justice", claim to have it over the County of Kennebec. But why should we be compelled to resort to facts of this description to prove our jurisdiction? If the title be in Maine, the jurisdiction follows of course. No power can have a right of jurisdiction over territory belonging to the State of Maine, and nothing but that extreme spirit of peace and forbearance by which Maine has been so long actuated, could induce her to argue such a point for a moment.

If then, the title, possession and jurisdiction of Maine be clearly established, why is she not justified in her present attempts to protect the property in this territory from plunder, and the soil itself from invasion? It is hard to believe that any man can be found, any American, I should say, of uncorrupted patriotism and whose mind is not poisoned by prejudice, who will deny it.

On this point the President says, "The State of Maine had a right to arrest the depredations complained of; it belonged to her to judge of the exigency of the occasion calling for her interference."

The able Report of the Committee of Foreign Relations, in the House of Representatives, at Washington, says, "Every State Government in the Union has a right to regulate the landed interest, whether public or private, within its limits, and Maine stands upon the same footing unless as to such parts of it as are decided not to be under its jurisdiction, by the exercise of the constitutional power of the Federal Government. But as has been already observed, no proceeding or agreement of the Federal Government can be found, which did not recognize an actual jurisdiction, just such as that now claimed



and enforced by Maine." Again it says, "The Proclamation of the Lt Governor of New Brunswick was issued before any steps were taken by Maine to sustain the civil by the military power, and was directed against the interference of ministerial officers of the law, acting in strict conformity with what are believed to be fundamental principles of British as well as American law. The first appeal to military force was made by him, and the subsequent proceedings of Maine were defensive merely." But I need not quote particular expressions - the whole Report is a lucid and facile exposition of the injustice of the proceeding of the Government of New Brunswick, and a triumphant vindication of the course pursued by Maine. The almost unanimous vote of the House of Representatives upon the Bill reported by the same Committee, intending to carry out the views expressed in the Report - the unanimous vote of the Senate upon the same Bill also furnish to Maine the most conclusive and gratifying proof of the rectitude of her course. In accordance with all this, I take pleasure in saying, has been the general voice of the American people. Such unanimity of opinion and feeling among the masses of the people - such a spirit of enthusiasm pervading all classes of society, it is apprehended, has seldom been witnessed. Nothing could be more gratifying to Maine - and sure I am, that it will constitute a perpetual source of grateful recollection to her virtuous and intelligent sons.

Under these circumstances the question recurs, shall we withdraw our forces, agreeably to the recommendation contained in the memorandum signed by Mr Fox and the Secretary of State, and leave the future protection of the timber to the concurrent action and agreement of the Governments of Maine and New Brunswick? Under a full sense of the responsibility resting upon me, I have no hesitation in saying, that we ought not. I admit that the General Government has nobly responded to our call, and with

a promptness and efficiency beyond all praise, has made preparations to discharge its Constitutional obligations to the State. Much is due from us on this account to the Union. But the duty of Maine to herself remains unchanged. The property, for the protection of which we sent our armed ~~force~~ <sup>troop</sup> under <sup>the</sup> Land Agent and Sheriff, remains still exposed - and the threat of expulsion from the territory, and of invasion which we sent our military force to repel, still remains pending over us, while British troops, it is understood, are daily concentrating near the line, with the apparent purpose of carrying the avowed design of the St. Gaerna of New Brunswick, into effect.

But looking a little more minutely at the terms of this agreement, the objections to it are obvious. In the first place, it would make our movement in the question of boundary a retrograde movement. Instead of having made any advance toward the acquisition of our rights; or termination of the question in dispute, our position would not really be so favorable as it was before the occurrence of those events which have induced this "memorandum." Then, we had exclusive jurisdiction over this portion of the territory - under the agreement, we should only have a concurrent jurisdiction with the Province of New Brunswick - for we could not expel a single trespasser, without in the first place agreeing with the Provincial Government as to the manner of doing it. Its language is this; "And if future necessity should arise for dispersing notorious trespassers, or protecting public property from depredation by armed force, the operation shall be conducted by concert, jointly or separately, according to agreement between the Governments of Maine and New Brunswick."

Again, this agreement is inadmissible, because of the inequality of its terms. By it, Maine is absolutely to

withdraw her forces. But are the forces of the British Government also to be withdrawn? Not at all. That Government is simply to refrain from attempting to do what it never had the right or power of doing, that of expelling us from the territory. It is understood, that a regiment of British troops lately arrived from India, is now at Madawaska; and there they may remain, for aught to the contrary in the terms of the agreement - erect fortifications to their hearts content - and exercise any power they please, short of attempting to expel us from the territory.

Another objection to this agreement arises from its equivocal phraseology upon one point, which might prove to be, hereafter, the source of much misunderstanding and difficulty. That is, in regard to whether the armed posse under the Land Agent and Sheriff is included in the "armed force" required by the memorandum to be withdrawn from the territory. If the agreement should be construed against us, in this respect, we could not hereafter expel a single trespasser, unless the St. Governor of New Brunswick should kindly agree with us upon some mode in which it might be effected. To such an agreement, I trust Maine will never assent. She has been sufficiently hampered hitherto in the exercise of her rights, and will not now voluntarily forge new shackles for herself.

What then shall be done? The people of this State surely are not desirous of hurrying the two nations into a war. Such an event is anxiously to be avoided, if it can be, without dishonour. We are too much to the Union, to ourselves, and above all to the spirit and principles of Christianity, to bring about a conflict of arms with a nation having with us a common origin, speaking a common language, and bound to us by so many ties of common interest, without the

most inoperable necessity. Under these circumstances, I would recommend that, when we are fully satisfied, either by the declarations of the Lt. Governor of the Province of New Brunswick, or otherwise, that he has abandoned all idea of occupying the disputed territory with a military force, and of attempting an oppression of our party, that then, the Governor be authorized to withdraw our military force, leaving the Land Agent with a sufficient force, armed & unarmed, as the case may require, sufficient to carry into effect your original design, that of driving out, or arresting the trespassers, and preserving and protecting the timber from their depredations.

From such an act of jurisdiction— an attempt so right and proper, in itself as this, and so imperative—ly called for by the circumstances of the case, we should not be driven by any power on earth. We ought not, however, wantonly to do more than is necessary. We want no military force in the territory, if there be no military force against us. Brave men would not battle with the air. We do want, however, men enough, armed or unarmed, as the case may require, to resist the marauders, and protect the timber; and we want no more. In pursuing this course, while we maintain our just and honorable position, we do nothing which our sister States can regard as unnecessarily provoking hostilities, and nothing which our Provincial neighbours can view as indicating a hostile, or even illiberal feeling.

These are my views, briefly and imperfectly expressed. Whether they coincide with your own or not, I repeat my determination to obey, so far as I may be able, whatever instructions you may be

pleased to give.

John Fairfield.

Council Chamber }  
March 12, 1839. }

Note. Since the foregoing message was prepared, I have received a note from Sir John Har-  
vey, a copy of which is herewith communicated.  
From the spirit manifested, I shall entertain the  
hope that he will take such a course as will ena-  
ble Maine to pursue that indicated in the forego-  
ing.

To the Senate and  
House of Representatives.

Agreeably to  
the request of the Legislature of the State of Con-  
necticut, I herewith lay before you a copy of Resolutions  
adopted by that Body in relation to the future dispo-  
sal of the public lands.

John Fairfield.

Council Chamber }  
January 11, 1839. }

To the Senate and  
House of Representatives:

I have received  
from Gen. Edmund P. Gaines, of the U. S. Army,  
a diagram of the system of Rail Roads "designed



to read from the Central and Western States of the Union, to the six grand divisions of the national frontier," with his observations upon the same. Agreeably to his request, I herewith lay them before the Legislature.

John Fairfield

Council Chamber, }  
February 7, 1839. }

To the Senate and  
House of Representatives:

The resignation of Elephat G. Bray, as Major General in the 8th Division of the Militia, having been tendered and accepted, a vacancy exists in that office, to the filling of which your attention is respectfully requested.

John Fairfield.

Council Chamber, }  
February 12, 1839. }

To the Senate and  
House of Representatives:

"The Third Annual Report on the Geology of Maine," by Doct. Charles F. Jackson, having been laid before the Governor and Council, the same is herewith transmitted to the two Branches of the Legislature,

with the Letter of Doct. Jackson accompanying  
said Report.

John Fairfield

Council Chamber, }  
February 13, 1839.

To the Senate and  
House of Representatives;

I herewith  
lay before you Resolutions adopted by the General  
Assembly of the State of North Carolina, "relating  
to the General Government,"— Resolutions of the Coun-  
cil and General Assembly of the State of New Jer-  
sey relating to the public Lands; and Resolutions of  
the General Assembly of the State of Indiana, re-  
lating to the subject of Slavery.

John Fairfield.

Council Chamber, }  
March 13, 1839.

To the Senate and  
House of Representatives.

I herewith  
lay before you a Report and Resolutions, adopted  
by the Legislature of New Jersey, upon the subject  
of certain Resolutions of the State of Georgia,  
relating to the alleged refusal of the Governor  
of this State to surrender, upon the demand of  
the Governor of Georgia, certain citizens of this

State, charged with the commission of a crime  
against the laws of the latter State.

74

Council Chamber }  
March 18, 1839. }

John Fairfield.

To the House of Representatives.

In compliance  
with the request of the House of Representatives,  
of the 16<sup>th</sup> inst. I herewith transmit copies of  
"Claims," presented for allowance, for services rendered  
by special agents, appointed in pursuance of Re-  
solves, passed January 24, and February 26, 1839. Au-  
thor have, as yet, been passed upon and allowed by the  
Governor and Council.

Council Chamber }  
March 19, 1839. }

John Fairfield.

To the House of Representatives.

In answer  
to your request of this date, I have to say, that  
copies of all the communications from Sir John  
Rauy, Lt. Governor of the Province of New Brun-  
swick, to myself, in relation to the question of the  
North Eastern Boundary, have already been trans-  
mitted to the two branches of the Legislature.

Council Chamber }  
March 20, 1839. }

John Fairfield

To the House of Representatives.

In compliance with the request of the House of Representatives of the 19th inst. I herewith lay before you "all the vouchers mentioned by S. L. Child Esq. in his account now before the House," that have been presented to the Governor and Council.

John Fairfield.

Council Chamber,  
March 21, 1839. }

To the House of Representatives.

In compliance with the request of the House of Representatives of this date, I herewith lay before it "the Report of Doct. Holmes, upon an Agricultural Survey of the State for the year 1838."

John Fairfield.

Council Chamber,  
March 21, 1839. }

To the House of Representatives:

In answer to the request of the House of Representatives of this day, to return to the House (unless the same has received my signature) Resolved establishing the pay of the Militia when in actual service; I have to say, that said Resolved received

my signature on the 21st. instant.

76

John Fairfield.

Council & Chamber }  
March 22, 1839. }