

IN SENATE OF THE UNITED STATES.

AUGUST 11, 1842.

Read twice, by unanimous consent, and ordered the treaty, message, and the accompanying documents, be referred to the Committee on Foreign Relations, and printed, in confidence, for the use of the Senate.

A TREATY

*To settle and define the Boundaries between the Territories of the United States and the possessions of Her Britannic Majesty in North America, For the final suppression of the African Slave Trade: and for the giving up of criminals fugitive from justice, in certain cases.*

Whereas certain portions of the line of boundary between the United States of America and the British dominions in North America, described in the second article of the treaty of peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose, and whereas it is now thought to be for the interest of both Parties, that, avoiding further discussion of their respective rights, arising in this respect under the said Treaty, they should agree on a conventional line in said portions of the said boundary, such as may be convenient to both Parties, with such equivalents and compensations, as are deemed just and reasonable;—and whereas by the treaty concluded at Ghent on the 24th day of December, 1814, between the United States and His Britannic Majesty, an article was agreed to and inserted of the following tenor, viz: “Art. 10. Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice: and whereas, both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting Parties shall use their best endeavors to accomplish so desirable an object:” and whereas, notwithstanding the laws which have at various times been passed by the two Governments, and the efforts made to suppress it, that criminal traffic is still prosecuted and carried on: and whereas the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland are determined that, so far as may be in their power, it shall be effectually abolished:—and whereas it is found expedient for the better administration of justice and the prevention of crime within the territories and jurisdiction of the two Parties, respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up: The United States of America and Her Britannic Majesty, having resolved to treat on these several subjects, have for that purpose appointed their respective plenipotentiaries to negotiate and conclude a Treaty, that is to say, the President of the United States has, on his part, furnished with full powers, Daniel Webster, Secretary of State of the United States; and Her Majesty the Queen of the United Kingdom of  
Thomas Allen, print.

Great Britain and Ireland, has, on her part, appointed the Right honorable Alexander Lord Ashburton, a peer of the said United Kingdom, a member of Her Majesty's most honorable Privy Council, and Her Majesty's Minister Plenipotentiary on a special mission to the United States; who, after a reciprocal communication of their respective full powers, have agreed to and signed the following articles:

#### ARTICLE I.

It is hereby agreed and declared that the line of boundary shall be as follows: Beginning at the monument at the source of the river St. Croix, as designated and agreed to by the Commissioners under the fifth article of the treaty of 1794, between the Governments of the United States and Great Britain; thence, north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river St. John, and to the middle of the channel thereof: thence, up the middle of the main channel of the said river St. John, to the mouth of the river St. Francis; thence, up the middle of the channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pobenagamook; thence, southwesterly, in a straight line to a point on the northwest branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the river St. Lawrence from those which fall into the river Saint John, then the said point shall be made to recede down the said northwest branch of the river St. John, to a point seven miles in a straight line from the said summit or crest; thence, in a straight line, in a course about south eight degrees west, to the point where the parallel of latitude of  $46^{\circ} 25'$  north, intersects the southwest branch of the St. John's; thence southerly, by the said branch, to the source thereof in the highlands at the Metjarmette portage; thence, down along the said highlands which divide the waters which empty themselves into the river Saint Lawrence from those which fall into the Atlantic ocean, to the head of Hall's stream; thence, down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins previously to the year 1774, as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British Province of Canada on the other; and, from said point of intersection, west along the said dividing line as heretofore known and understood, to the Iroquois, or St. Lawrence river.

#### ARTICLE II.

It is moreover agreed, that, from the place where the joint Commissioners terminated their labors under the sixth article of the treaty of Ghent, to wit: at a point in the Neebish channel, near Muddy Lake, the line shall run into and along the ship channel between Saint Joseph and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence, turning southwardly and northwardly, around the lower end of St. George's

or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence, up the east Neebish channel, nearest to St. George's Island, through the middle of Lake George;—thence, west of Jonas' Island, into St. Mary's river, to a point in the middle of that river, about one mile above St. George's or Sugar Island, so as to appropriate and assign the said Island to the United States; thence, adopting the line traced on the maps by the commissioners, through the river St. Mary and Lake Superior, to a point north of Ile Royale in said Lake, one hundred yards to the north and east of Ile Chapeau, which last-mentioned island lies near the northeastern point of Ile Royale, where the line marked by the Commissioners terminates; and from the last-mentioned point, southwesterly, through the middle of the sound between Ile Royale and the northwestern main land, to the mouth of Pigeon river, and up the said river to, and through, the north and south Fowl Lakes, to the Lakes of the height of land, between Lake Superior and the Lake of the Woods; thence, along the water-communication to Lake Saisaginaga, and through that lake; thence, to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermilion Lake, and Lake Namecan, and through the several smaller lakes, straights, or streams, connecting the lakes here mentioned, to that point in Lac la Pluie, or Rainy Lake, at the Chaudiere Falls, from which the Commissioners traced the line to the most northwestern point of the Lake of the Woods;—thence, along the said line to the said most northwestern point, being in latitude  $49^{\circ} 23' 55''$  north, and in longitude  $95^{\circ} 14' 38''$  west from the Observatory at Greenwich; thence, according to existing treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky mountains.—It being understood that all the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods; and also Grand Portage, from the shore of Lake Superior to the Pigeon river, as now actually used, shall be free and open to the use of the citizens and subjects of both countries.

### ARTICLE III.

In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the river St. John and its tributaries, whether living within the State of Maine or the Province of New Brunswick, it is agreed that, where, by the provisions of the present treaty, the river St. John is declared to be the line of boundary, the navigation of the said river shall be free and open to both parties, and shall in no way be obstructed by either: that all the produce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture not being manufactured, grown on any of those parts of the State of Maine watered by the river St. John, or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries, having their source within the State of Maine, to and from the seaport at the mouth of the said river St. John's, and to and round the Falls of the said river, either by boats, rafts, or other conveyance: that when within the provinces of New Brunswick, the said produce shall be dealt with as if it were the produce of the said province: that, in like manner, the inhabitants of the territory of the upper St. John determined by this treaty to belong to Her Britannic Majesty, shall have free access to and through the river for their produce, in those parts where the

said river runs wholly through the State of Maine: provided always, that this agreement shall give no right to either party to interfere with any regulations not inconsistent with the terms of this treaty which the Governments, respectively, of Maine or of New Brunswick may make respecting the navigation of the said river, where both banks thereof shall belong to the same party.

#### ARTICLE IV.

All grants of land heretofore made by either Party, within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made: and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this treaty, shall, in like manner, be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects the two contracting parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them, respectively, which has heretofore been in dispute between them.

#### ARTICLE V.

Whereas, in the course of the controversy respecting the disputed territory on the northeastern boundary, some moneys have been received by the authorities of her Britannic Majesty's Province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which moneys were to be carried to a fund called the "Disputed Territory Fund," the proceeds whereof, it was agreed, should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of boundaries: It is hereby agreed, that a correct account of all receipts and payments on the said fund, shall be delivered to the Government of the United States, within six months after the ratification of this treaty; and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto, shall be paid and delivered over to the Government of the United States; and the Government of the United States agree to receive for the use of, and pay over to the States of Maine and Massachusetts, their respective portions of said fund: and further to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof, in 1838; the Government of the United States agreeing with the States of Maine and Massachusetts to pay them the further sum of three hundred thousand dollars, in equal moieties, on account of their assent to the line of boundary described in this treaty, and in consideration of the conditions and equivalents received therefor, from the Government of Her Britannic Majesty.

## ARTICLE VI.

It is furthermore understood and agreed, that for the purpose of running and tracing those parts of the line between the source of the St. Croix and the St. Lawrence river, which will require to be run and ascertained, and for marking the residue of said line by proper monuments on the land, two Commissioners shall be appointed, one by the President of the United States, by and with the advice and consent of the Senate thereof, and one by Her Britannic Majesty: and the said commissioners shall meet at Bangor, in the State of Maine, on the first day of May next, or as soon thereafter as may be, and shall proceed to mark the line above described, from the source of the St. Croix to the river St. John; and shall trace on proper maps the dividing line along said river, and along the river St. Francis, to the outlet of the Lake Pohenagamook; and from the outlet of the said Lake, they shall ascertain, fix, and mark by proper and durable monuments on the land, the line described in the first article of this treaty; and the said Commissioners shall make to each of their respective Governments a joint report or declaration, under their hands and seals, designating such line of boundary, and shall accompany such report or declaration with maps certified by them to be true maps of the new boundary.

## ARTICLE VII.

It is further agreed, that the channels in the river St. Lawrence, on both sides of the Long Sault Islands, and of Barnhart Island; the channels in the river Detroit, on both sides of the Island Bois Blanc, and between that island and both the American and Canadian shores; and all the several channels and passages between the various Islands lying near the junction of the river St. Clair with the lake of that name, shall be equally free and open to the ships, vessels, and boats of both parties.

## ARTICLE VIII.

The parties mutually stipulate that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws rights and obligations of each of the two countries, for the suppression of the Slave Trade; the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and coöperation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each Government to the other respectively.

## ARTICLE IX.

Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the Slave Trade, the facilities for carrying on that traffic and avoiding the vigilance of cruisers by the fraudulent use of flags, and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long de-

layed, unless all markets be shut against the purchase of African negroes; the parties to this treaty agree that they will unite in all becoming representations and remonstrances, with any and all Powers within whose dominions such markets are allowed to exist; and that they will urge upon all such powers the propriety and duty of closing such markets effectually at once and for ever.

#### ARTICLE X.

It is agreed that the United States and Her Britannic Majesty shall, upon mutual requisitions by them, or their Ministers, Officers, or authorities, respectively made, deliver up to justice, all persons who, being charged with the crime of murder, or assault with intent to commit murder, or Piracy, or arson, or robbery, or forgery, or the utterance of forged papers committed within the jurisdiction of either, shall seek an asylum, or shall be found, within the territories of the other: provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged, shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed: and the respective Judges and other magistrates of the two Governments, shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such Judges or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge it shall be the duty of the examining Judge or Magistrate, to certify the same to the proper Executive authority, that a warrant may issue for the surrender of such fugitive.—The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition, and receives the fugitive.

#### ARTICLE XI.

The eighth article of this treaty shall be in force for five years from the date of the exchange of the ratifications, and afterwards until one or the other Party shall signify a wish to terminate it. The tenth article shall continue in force until one or the other of the parties shall signify its wish to terminate it, and no longer.

#### ARTICLE XII.

The present treaty shall be duly ratified, and the mutual exchange of ratifications shall take place in London, within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done, in duplicate, at Washington, the ninth day of August, Anno Domini one thousand eight hundred and forty-two.

DANL. WEBSTER.

[SEAL.]

ASHBURTON.

[SEAL.]

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A treaty with Great Britain.*

AUGUST 11, 1842.

Read, and, with the treaty and documents, ordered to be printed, in confidence, for the use of the Senate.

*To the Senate of the United States :*

I have the satisfaction to communicate to the Senate the results of the negotiations recently had in this city with the British minister special and extraordinary.

These results comprise—

1st. A treaty to settle and define the boundaries between the territories of the United States and the possessions of her Britannic Majesty in North America, for the suppression of the African slave-trade, and the surrender of criminals, fugitive from justice, in certain cases.

2d. A correspondence on the subject of the interference of the colonial authorities of the British West Indies with American merchant vessels driven by stress of weather, or carried by violence, into the ports of those colonies.

3d. A correspondence upon the subject of the attack and destruction of the steamboat *Caroline*.

4th. A correspondence on the subject of impressment.

If this treaty shall receive the approbation of the Senate, it will terminate a difference respecting boundary which has long subsisted between the two Governments—has been the subject of several ineffectual attempts at settlement, and has sometimes led to great irritation, not without danger of disturbing the existing peace. Both the United States and the States more immediately concerned, have entertained no doubt of the validity of the American title to all the territory which has been in dispute; but that title was controverted, and the Government of the United States had agreed to make the dispute a subject of arbitration. One arbitration had been actually had, but had failed to settle the controversy; and it was found, at the commencement of last year, that a correspondence had been in progress between the two Governments for a joint commission, with an ultimate reference to an umpire or arbitrator, with authority to make a final decision. That correspondence, however, had been retarded by various occurrences, and had come to no definite result when the special mission of Lord Ashburton was announced. This movement on the part of England afforded, in the judgment of the Executive, a favorable opportunity for making an attempt to

settle this long-existing controversy by some agreement or treaty, without further reference to arbitration. It seemed entirely proper that, if this purpose were entertained, consultation should be had with the authorities of the States of Maine and Massachusetts. Letters, therefore, of which copies are herewith communicated, were addressed to the Governors of those States, suggesting that commissioners should be appointed by each of them, respectively, to repair to this city and confer with the authorities of this Government, on a line by agreement or compromise, with its equivalents and compensations. This suggestion was met by both States in a spirit of candor and patriotism, and promptly complied with. Four commissioners on the part of Maine, and three on the part of Massachusetts, all persons of distinction and high character, were duly appointed and commissioned, and lost no time in presenting themselves at the seat of the Government of the United States. These commissioners have been in correspondence with this Government during the period of the discussions; have enjoyed its confidence and freest communications; have aided the general object with their counsel and advice; and, in the end, have unanimously signified their assent to the line proposed in the treaty.

Ordinarily, it would be no easy task to reconcile and bring together such a variety of interests in a matter in itself difficult and perplexed; but the efforts of the Government in attempting to accomplish this desirable object have been seconded and sustained by a spirit of accommodation and conciliation on the part of the States concerned, to which much of the success of these efforts is to be ascribed.

Connected with the settlement of the line of the northeastern boundary, so far as it respects the States of Maine and Massachusetts, is the continuation of that line along the highlands to the northwesternmost head of Connecticut river. Which of the sources of that stream is entitled to this character, has been matter of controversy and of some interest to the State of New Hampshire. The King of the Netherlands decided the main branch to be the northwesternmost head of the Connecticut. This did not satisfy the claim of New Hampshire. The line agreed to in the present treaty follows the highlands to the head of Hall's stream, and thence down that river, embracing the whole claim of New Hampshire, and establishing her title to 100,000 acres of territory more than she would have had by the decision of the King of the Netherlands.

By the treaty of 1783, the line is to proceed down the Connecticut river to the 45th degree of north latitude and thence west, by that parallel, till it strikes the St. Lawrence. Recent examinations having ascertained that the line heretofore received as the true line of latitude between those points was erroneous, and that the correction of this error would not only leave, on the British side, a considerable tract of territory heretofore supposed to belong to the States of Vermont and New York, but also Rouse's point, the site of a military work of the United States; it has been regarded as an object of importance, not only to establish the rights and jurisdiction of those States up to the line to which they have been considered to extend, but also to comprehend Rouse's point within the territory of the United States. The relinquishment by the British Government of all the territory south of the line heretofore considered to be the true line, has been obtained; and the consideration for this relinquishment is to enure, by the provisions of the treaty, to the States of Maine and Massachusetts.

The line of boundary, then, from the source of the St. Croix to the St. Lawrence, so far as Maine and Massachusetts are concerned, is fixed by their own consent, and for considerations satisfactory to them; the chief of these considerations being the privilege of transporting the lumber and agricultural products grown and raised in Maine on the waters of the St. John's and its tributaries down that river to the ocean, free from imposition or disability. The importance of this privilege, perpetual in its terms, to a country covered at present by pine forests of great value, and much of it capable hereafter of agricultural improvement, is not a matter upon which the opinion of intelligent men is likely to be divided.

So far as New Hampshire is concerned, the treaty secures all that she requires; and New York and Vermont are quieted to the extent of their claim and occupation. The difference which would be made in the northern boundary of these two States, by correcting the parallel of latitude, may be seen on Tanner's maps (1836) new atlas, maps Nos. 6 and 9.

From the intersection of the 45° of north latitude with the St. Lawrence, and along that river and the lakes to the water communication between Lake Huron and Lake Superior, the line was definitively agreed on by the commissioners of the two Governments, under the 6th article of the treaty of Ghent. But between this last-mentioned point and the Lake of the Woods, the commissioners acting under the 7th article of that treaty found several matters of disagreement, and therefore made no joint report to their respective Governments. The first of these was Sugar island, or St. George's island, lying in St. Mary's river, or the water communication between Lakes Huron and Superior. By the present treaty this island is embraced in the territories of the United States. Both from soil and position, it is regarded as of much value.

Another matter of difference was the manner of extending the line from the point at which the commissioners arrived, north of Isle Royale, in Lake Superior, to the Lake of the Woods. The British commissioner insisted on proceeding to Fond du Lac, at the southwest angle of the lake, and thence, by the river St. Louis, to the Rainy Lake. The American commissioner supposed the true course to be, to proceed by way of the Dog river. Attempts were made to compromise this difference, but without success. The details of these proceedings are found at length in the printed, separate reports of the commissioners.

From the imperfect knowledge of this remote country, at the date of the treaty of peace, some of the descriptions in that treaty do not harmonize with its natural features, as now ascertained. "Long Lake" is nowhere to be found under that name. There is reason for supposing, however, that the sheet of water intended by that name, is the estuary, at the mouth of Pigeon river. The present treaty, therefore, adopts that estuary and river, and afterward pursues the usual route, across the height of land by the various portages and small lakes, till the line reaches Rainy Lake; from which the commissioners agreed on the extension of it to its termination, in the northwest angle of the Lake of the Woods. The region of country on and near the shore of the lake, between Pigeon river on the north, and Fond du Lac and the river St. Louis on the south and west, considered valuable as a mineral region, is thus included within the United States. It embraces a territory of four millions of acres, northward of the claim set up by the British commissioner under the treaty of Ghent. From the height of land at the head of Pigeon river, westerly to the Rainy Lake, the country is understood

to be of little value, being described by surveyors, and marked on the map as a region of rock and water.

From the northwest angle of the Lake of the Woods, which is found to be in latitude  $45^{\circ} 23' 55''$  north, existing treaties require the line to be run due south to its intersection with the 45th parallel, and thence along that parallel, to the Rocky mountains.

After sundry informal communications with the British minister upon the subject of the claims of the two countries to territory west of the Rocky mountains, so little probability was found to exist of coming to any agreement on that subject at present, that it was not thought expedient to make it one of the subjects of formal negotiation, to be entered upon between this Government and the British minister, as part of his duties under his special mission.

By the treaty of 1783, the line of division along the rivers and lakes, from the place where the 45th parallel of north latitude strikes the St. Lawrence, to the outlet of Lake Superior, is invariably to be drawn through the middle of such waters, and not through the middle of their main channels. Such a line, if extended according to the literal terms of the treaty, would, it is obvious, occasionally intersect islands. The manner in which the commissioners of the two Governments dealt with this difficult subject, may be seen in their reports. But where the line, thus following the middle of the river, or water course, did not meet with islands, yet it was liable sometimes to leave the only practicable navigable channel altogether on one side. The treaty made no provision for the common use of the waters by the citizens and subjects of both countries.

It has happened, therefore, in a few instances, that the use of the river, in particular places, would be greatly diminished, to one party or the other, if, in fact, there was not a choice in the use of channels and passages. Thus, at the Long Sault, in the St. Lawrence, a dangerous passage, practicable only for boats, the only safe run is between the Long Sault islands and Barnhart's island, all which belong to the United States, on one side, and the American shore on the other. On the other hand, by far the best passage for vessels of any depth of water, from Lake Erie into the Detroit river, is between Bois Blanc, a British island, and the Canadian shore. So again there are several channels or passages, of different degrees of facility and usefulness, between the several islands in the river St. Clair, at or near its entry into the lake of that name. In these three cases, the treaty provides that all the several passages and channels shall be free and open to the use of the citizens and subjects of both parties.

The treaty obligations subsisting between the two countries for the suppression of the African slave-trade, and the complaints made to this Government within the last three or four years, many of them but too well founded, of the visitation, seizure, and detention of American vessels on that coast, by British cruisers, could not but form a delicate and highly important part of the negotiations which have now been held.

The early and prominent part which the Government of the United States has taken for the abolition of this unlawful and inhuman traffic, is well known. By the tenth article of the treaty of Ghent, it is declared that the traffic in slaves is irreconcilable with the principles of humanity and justice, and that both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition; and it is thereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object. The Government of the United States has, by law, declared

the African slave-trade piracy ; and at its suggestion other nations have made similar enactments. It has not been wanting in honest and zealous efforts, made in conformity with the wishes of the whole country, to accomplish the entire abolition of the traffic in slaves upon the African coast ; but these efforts and those of other countries directed to the same end have proved, to a considerable degree, unsuccessful. Treaties are known to have been entered into some years ago between England and France by which the former power, which usually maintains a large naval force on the African station, was authorized to seize, and bring in for adjudication, vessels found engaged in the slave-trade under the French flag.

It is known that, in December last, a treaty was signed in London by the representatives of England, France, Russia, Prussia, and Austria, having for its professed object, a strong and united effort of the five powers to put an end to the traffic. This treaty was not officially communicated to the Government of the United States, but its provisions and stipulations are supposed to be accurately known to the public. It is understood to be not yet ratified on the part of France.

No application or request has been made to this Government to become party to this treaty ; but the course it might take in regard to it, has excited no small degree of attention and discussion in Europe, as the principle upon which it is founded, and the stipulations which it contains, have caused warm animadversions and great political excitement.

In my message at the commencement of the present session of Congress, I endeavored to state the principles which this Government supports respecting the right of search and the immunity of flags. Desirous of maintaining those principles fully, at the same time that existing obligations should be fulfilled, I have thought it most consistent with the honor and dignity of the country, that it should execute its own laws, and perform its own obligations, by its own means and its own power. The examination or visitation of the merchant vessels of one nation, by the cruisers of another, for any purpose, except those known and acknowledged by the law of nations, under whatever restraints or regulations it may take place, may lead to dangerous results. It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit. Interference with a merchant vessel by an armed cruiser, is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interests of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the Treaty of Ghent, but at the same time as removing all pretext on the part of others for violating the immunities of the American flag upon the seas, as they exist and are defined by the law of nations, to enter into the articles now submitted to the Senate.

The treaty which I now submit to you, proposes no alteration, mitigation, or modification of the rules of the law of nations. It provides simply that each of the two Governments shall maintain on the coast of Africa a sufficient squadron to enforce, separately and respectively, the laws, rights, and obligations of the two countries, for the suppression of the slave-trade.

Another consideration of great importance has recommended this mode of fulfilling the duties and obligations of the country. Our commerce along the western coast of Africa is extensive, and supposed to be increasing. There is reason to think that, in many cases, those engaged in it have met with interruptions and annoyances, caused by the jealousy and instigation of rivals engaged in the same trade. Many complaints on this subject have reached

the Government. A respectable naval force on the coast is the natural resort and security against further occurrences of this kind.

The surrender to justice of persons who, having committed high crimes, seek an asylum in the territories of a neighboring nation, would seem to be an act due to the cause of general justice, and properly belonging to the present state of civilization and intercourse. The British provinces of North America are separated from the States of the Union by a line of several thousand miles; and, along portions of this line, the amount of population on either side is quite considerable, while the passage of the boundary is always easy.

Offenders against the law, on the one side, transfer themselves to the other. Sometimes, with great difficulty, they are brought to justice, but very often they wholly escape. A consciousness of immunity, from the power of avoiding justice in this way, instigates the unprincipled and reckless to the commission of offences; and the peace and good neighborhood of the border are consequently often disturbed.

In the case of offenders fleeing from Canada into the United States, the Governors of States are often applied to for their surrender; and questions of a very embarrassing nature arise from these applications. It has been thought highly important, therefore, to provide for the whole case by a proper treaty stipulation. The article on the subject in the proposed treaty is carefully confined to such offences as all mankind agree to regard as heinous, and destructive of the security of life and property. In this careful and specific enumeration of crimes, the object has been to exclude all political offences, or criminal charges, arising from wars or intestine commotions. Treason, misprision of treason, libels, desertion from military service, and other offences of similar character, are excluded.

And, lest some unforeseen inconvenience or unexpected abuse should arise from the stipulation, rendering its continuance, in the opinion of one or both of the parties, not longer desirable, it is left in the power of either to put an end to it at will.

The destruction of the steamboat *Caroline* at Schlosser, four or five years ago, occasioned no small degree of excitement at the time, and became the subject of correspondence between the two Governments. That correspondence having been suspended for a considerable period, was renewed in the spring of the last year, but, no satisfactory result having been arrived at, it was thought proper, though the occurrence had ceased to be fresh and recent, not to omit attention to it on the present occasion. It has only been so far discussed, in the correspondence now submitted, as it was accomplished by a violation of the territory of the United States. The letter of the British minister, while he attempts to justify that violation upon the ground of a pressing and overruling necessity, admitting, nevertheless, that, even if justifiable, an apology was due for it, and accompanying this acknowledgment with assurances of the sacred regard of his Government for the inviolability of national territory, has seemed to me sufficient to warrant forbearance from any further remonstrance against what took place, as an aggression on the soil and territory of the country.

On the subject of the interference of the British authorities in the West Indies, a confident hope is entertained, that the correspondence which has taken place, showing the grounds taken by this Government, and the engagements entered into by the British minister, will be found such as to satisfy the just expectation of the people of the United States.

The impressment of seamen from merchant vessels of this country by British cruisers, although not practised in time of peace, and, therefore, not at present a productive cause of difference and irritation, has, nevertheless, hitherto been so prominent a topic of controversy, and is so likely to bring on renewed contentions at the first breaking out of an European war, that it has been thought the part of wisdom now to take it into serious and earnest consideration. The letter from the Secretary of State to the British minister explains the ground which the Government has assumed, and the principles which it means to uphold. For the defence of these grounds, and the maintenance of these principles, the most perfect reliance is placed on the intelligence of the American people, and on their firmness and patriotism, in whatever touches the honor of the country, or its great and essential interests.

JOHN TYLER.

WASHINGTON, *August 11, 1842.*

## LIST OF ACCOMPANYING PAPERS

*Boundary.*

- Treaty of boundary, &c., &c., August 9, 1842.  
 Lord Ashburton to Mr. Webster, June 13, 1842.  
 Mr. Webster to Lord Ashburton, June 17, 1842.  
 Lord Ashburton to Mr. Webster, June 17, 1842.  
 Mr. Webster to Lord Ashburton, June 17, 1842.  
 Lord Ashburton to Mr. Webster, June 21, 1842.  
 Mr. Webster to Lord Ashburton, July 8, 1842.  
 Lord Ashburton to Mr. Webster, July 11, 1842.  
 Same to same, July 16, 1842.  
 Mr. Webster to Lord Ashburton, July 27, 1842.  
 Lord Ashburton to Mr. Webster, July 29, 1842.  
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 Mr. Webster to Lord Ashburton, August 9, 1842.
- Secretary of State of Massachusetts to the President, March 18, 1842.  
 Mr. Webster to Governors of Maine and Massachusetts, April 11, 1842.  
 Mr. Davis to Mr. Webster, April 17, 1842.  
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 Governor of Maine to the President, May 25, 1842.  
 The Maine Commissioners to Mr. Webster, June 12, 1842.  
 Mr. Webster to Maine Commissioners, June 12, 1842.  
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 Mr. Webster to Commissioners of Massachusetts, June 13, 1842.  
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 New Hampshire delegation in Congress to Mr. Webster, July 15, 1842.  
 Mr. Webster to New Hampshire delegation, July 18, 1842.  
 New Hampshire delegation to Mr. Webster, July 19, 1842.
- Mr. Stewart to Mr. Webster, July 7, 1842.  
 Mr. Delafield to Mr. Fraser, July 20, 1842.  
 Mr. Webster to Mr. Ferguson, July 25, 1842.  
 Mr. Ferguson to Mr. Webster, July 25, 1842.  
 Captain Talcott to same, July 25, 1842.

*Suppression of Slave-trade—Extradition.*

- Lord Ashburton, to Mr. Webster August 9, 1842.  
 Mr. Paine to Mr. Webster, May 2, 1842.

Mr. Webster to Captains Bell and Paine, April 30, 1842.  
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*Case of the "Creole," &c.*

Mr. Webster to Lord Ashburton, August 1, 1842.  
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Mr. Webster to Lord Ashburton (with enclosures), July 27, 1842.  
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*Impressment.*

Mr. Webster to Lord Ashburton, August 8, 1842.  
 Lord Ashburton to Mr. Webster, August 9, 1842.

## CORRESPONDENCE WITH BRITISH SPECIAL MISSION.

NORTHEASTERN AND NORTHWESTERN BOUNDARY.

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*Lord Ashburton to Mr. Webster.*WASHINGTON, *June 13, 1842.*

SIR: On considering the most effectual mode of proceeding to arrive at an amicable and satisfactory termination of the long-continued controversy respecting the northeastern boundary, between the British colony of New Brunswick and the State of Maine, I believe that I may confidently conclude, from what has passed in the preliminary conferences which I have had the honor of holding with you, that we concur in the opinion, that no advantage would be gained by reverting to the interminable discussion on the general grounds on which each party considers their claims respectively to rest. In the course of the many years that this discussion has lasted, every argument, on either side, is apparently exhausted, and that, without any approach to an agreement. The present attempt, therefore, of a settlement must rest, for its success, not on the renewal of a controversy, but on proceeding on the presumption, that, all means of a reciprocal conviction having failed, as also the experiment of calling in the aid of a friendly arbiter and umpire, there remains only the alternative of a compromise for the solution of this, otherwise, apparently insurmountable difficulty, unless, indeed, it were determined to try a second arbitration, attended by its delay, trouble, and expense, in defiance of past experience as to the probability of any more satisfactory results.

It is undoubtedly true, that, should our present attempt unfortunately fail, there might remain no other alternative but a second reference; yet when I consider all the difficulty and uncertainty attending it, I trust that all parties interested will come to the conclusion, that the very intricate details connected with the case must be better known and judged by our two Governments than any diligence can make them to be by any third party, and that a sincere candid disposition to give reciprocally fair weight to the arguments on either side is likely to lead us to a more satisfactory settlement than an engagement to abide by the uncertain award of a less competent tribunal. The very friendly and cordial reception given by you, sir, as well as by all the authorities of your Government, to the assurance that my mission here, by my sovereign, has been determined by an unfeigned desire to settle this and all other questions of difference between us, on principles of conciliation and justice, forbid me to anticipate the possibility of the failure of our endeavors applied with sincerity to this purpose.

With this view of the case, therefore, although not unprepared to enter into the general argument, I abstain from so doing from the conviction that an amicable settlement of this vexed question, so generally desired, will be thereby best promoted. But, at the same time, some opinions have been industriously omitted throughout this controversy, and in some instances by

persons in authority, of a description so much calculated to mislead the public mind, that I think it may be of service to offer a few observations.

I do not, of course, complain of the earnest adherence of partisans on either side to the general arguments on which their case is supposed to rest; but a position has been taken, and facts have been repeatedly stated, which I am sure the authorities of the Federal Government will be abundantly able to contradict, but which have evidently given rise to much public misapprehension. It is maintained that the whole of this controversy about the boundary began in 1814, that up to that period the line as claimed by Maine was undisputed by Great Britain, and that the claim was avowedly founded on motives of interest, to obtain the means of conveniently connecting the British provinces. I confine these remarks to the refuting this imputation, and I should, indeed, not have entered upon controversy, even on this, if it did not appear to me to involve in some degree a question of national sincerity and good faith.

The assertion is founded on the discussions which preceded the treaty of peace signed at Ghent, in 1814. It is perfectly true that a proposal was submitted by the British plenipotentiaries for the revision of the boundary line on the northeastern frontier, and that it was founded on the position that it was desired to secure the communication between the provinces, the precise delimitation of which was at that time imperfectly known. The American plenipotentiaries in their first communication from Ghent to the Secretary of State, admit that the British ministers expressly disclaimed any intention of acquiring an increase of territory, and that they proposed the revision for the purpose of preventing uncertainty and dispute—a purpose sufficiently justified by subsequent events. Again, in their note of the 4th of September, 1814, the British ministers remind those from America that the boundary had never been ascertained, and that the line *claimed by America*, which interrupted the communication between Halifax and Quebec, never could have been in the contemplation of the parties to the treaty of peace in 1763. The same view of the case will be found to pervade all the communications between the plenipotentiaries of the two countries at Ghent. There was no attempt to press any cession of territory on the ground of policy or expedience; but although the precise geography of the country was then imperfectly known, it was notorious at the time that different opinions existed as to the boundary likely to result from continuing the north line from the head of the river St. Croix. This appears to have been so clearly known and admitted by the American plenipotentiaries, that they, in submitting to the conference the project of a treaty, offer a preamble to their 4th article, in these words: "Whereas, neither *that part of the highlands* lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two powers, as the northwest angle of Nova Scotia, nor the northwesternmost head of the Connecticut river, has yet been ascertained," &c. It should here be observed that these are the words proposed, not by the British, but by the American negotiators, and that they were finally adopted by both in the fifth article of the treaty.

To close my observations upon what passed on this subject at Ghent, I would draw your attention to the letter of Mr. Gallatin, one of the American plenipotentiaries, to Mr. Secretary Benson, of the 5th of December, 1814. He offers the following conjectures as to what might probably be the arguments of Great Britain against the line set up by America: "They hope that the river which empties into the Bay des Chaleurs, in the Gulf of St.

Lawrence, has its source so far west as to intervene between the head waters of the river St. John's and those of the streams emptying into the river St. Lawrence; so that the line north from the source of the river St. Croix will first strike the heights of land which divide the waters emptying into the Atlantic ocean (river St. John's) from those emptying into the *Gulf* of St. Lawrence (river des Chaleurs), and afterward the heights of land which divide the waters emptying into the *Gulf* of St. Lawrence (river des Chaleurs) from those emptying into the river St. Lawrence; but that the said line never can, in the words of the treaty, strike any spot of land actually dividing the waters emptying into the Atlantic ocean, from those which fall into the river St. Lawrence."

So obvious an argument in opposition to the line claimed by America, could not escape the known sagacity of Mr. Gallatin. I state it not for the purpose of discussing its merit, but to show that, at Ghent, not only the fact was well known that this boundary was a matter in dispute, but that the arguments respecting it had then been weighed by the gentleman so eminent in its subsequent discussion. Indeed, the fact that the American ministers made this disputed question a matter for reference, by a treaty afterward ratified by the President and Senate, must to every candid mind be sufficient proof that it was generally considered to be involved in sufficient doubt to entitle it to such a mode of solution. It can not, possibly, be supposed that the President and Senate would have admitted, by treaty, doubts respecting this boundary, if they had been heard of for the first time through the pretensions of the British plenipotentiaries at Ghent.

If the argument or assertions which I am now noticing, and to which I studiously confine myself, had not come from authority, I should owe some apology for these observations. The history of this unfortunate controversy is too well known to you, sir, and stands but too voluminously recorded in your Department, to make them necessary for your own information.

The repeated discussions between the two countries, and the repeated projects for settlement which have occupied every successive administration of the United States, sufficiently prove how unfounded is the assertion that doubts and difficulties respecting this boundary had their first origin in the year 1814. It is true that down to that time, and indeed to a later period, the local features of the country were little known, and the different arguments had in consequence not assumed any definite form; but sufficient was known to both parties to satisfy them of the impossibility of tracing strictly the boundary prescribed by the treaty of peace of 1763.

I would refer in proof of this, simply to American authorities, and those of the very first order.

In the year 1803, Mr. Madison, at that time Secretary of State for the United States, in his instructions to Mr. Rufus King, observed that the difficulty in fixing the northwest angle of Nova Scotia "arises from a reference in the treaty of 1763, to highlands which it is now found have no definite existence." And he suggests the appointment of a commission, to be jointly appointed, "to determine on a point most proper to be substituted for the description in article II. of the treaty of 1763." Again, Mr. President Jefferson, in a message to Congress, on the 17th October, 1803, stated that "a further knowledge of the ground in the northeastern and northwestern angles of the United States has evinced that the boundaries established by the treaty of Paris, between the British territories and ours, in those points, were too imperfectly described to be susceptible of execution."

These opinions of two most distinguished American statesmen gave rise to a convention of boundary, made in London by Mr. Rufus King and Lord Hawkesbury, which, from other circumstances, which it is not necessary to refer to, was not ratified by the Senate.

I might further refer you on this subject to the report of Judge Sullivan, who acted as commissioner of the United States for settling the controversy with Great Britain, respecting the true river St. Croix, who says, "the boundary between Nova Scotia and Canada was described by the King's proclamation in the same mode of expression as that used in the treaty of peace. Commissioners who were appointed to settle that line have traversed the country in vain to find the highlands designated as the boundary."

With these known facts, how can it possibly be maintained, that doubts about the boundary arose for the first time in the year 1814.

I need not pursue this subject further. Indeed, it would have been useless to treat of it at all with any person having before him the records of the diplomatic history of the two countries for the last half a century. My object in adverting to it is, to correct an error, arising, I am ready to believe, not from any intention to misrepresent, but from want of information, and which seemed to be sufficiently circulated to make some refutation useful toward promoting the desired friendly and equitable settlement of this question.

We believe the position maintained by us on the subject of this boundary to be founded in justice and equity; and we deny that we have been determined in our pretensions by policy and expedience. I might, perhaps, fairly admit that those last-mentioned considerations have prompted, in some measure, our perseverance in maintaining them. The territory in controversy is (for that portion of it at least which is likely to come to Great Britain by any amicable settlement) as worthless for any purposes of habitation or cultivation as probably any tract of equal size on the habitable globe, and if it were not for the obvious circumstance of its connecting the British North American provinces, I believe I might venture to say that whatever might have been the merit of our case, we should long since have given up the controversy, and willingly have made the sacrifice to the wishes of a country with which it is so much our interest, as it is our desire, to maintain the most perfect harmony and good-will.

I trust that this sentiment must be manifest in my unreserved communication with you on this and all other subjects connected with my mission. If I have failed in this respect, I shall have ill obeyed the instructions of my Government and the earnest dictates of my personal inclination. Permit me, sir, to avail myself of this, my first opportunity of formally addressing you, to assure you unfeignedly of my most distinguished consideration.

ASHBURTON.

HON. DANIEL WEBSTER, &c., &c.

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,

Washington, June 17, 1842.

Lord Ashburton having been charged by the Queen's Government with full powers to negotiate and settle all matters in discussion between the

United States and England, and having on his arrival at Washington announced that in relation to the question of the northeastern boundary of the United States, he was authorized to treat for a conventional line, or line by agreement, on such terms and conditions and with such mutual considerations and equivalents as might be thought just and equitable, and that he was ready to enter upon a negotiation for such conventional line so soon as this Government should say that it was authorized and ready on its part to commence such negotiation, the undersigned, Secretary of State of the United States, has now the honor to acquaint his lordship, by direction of the President, that the undersigned is ready, on behalf of the Government of the United States, and duly authorized to proceed to the consideration of such conventional line, or line by agreement, and will be happy to have an interview on that subject at his lordship's convenience.

The undersigned avails himself of this occasion to tender to Lord Ashburton assurances of his distinguished consideration.

DANIEL WEBSTER.

Lord ASHBURTON, &c., &c.

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*Lord Ashburton to Mr. Webster.*

WASHINGTON, June 17, 1842.

The undersigned, plenipotentiary of her Britannic Majesty on an extraordinary and special mission to the United States of America, has the honor of acknowledging, with much satisfaction, the communication received this day from Mr. Webster, Secretary of State of the United States, that he is ready, on behalf of the United States, and duly authorized, in relation to the question of the northeastern boundary of the United States, to proceed to the consideration of a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as might be thought just and equitable. And in reply to Mr. Webster's invitation to the undersigned to fix some time for their first conference upon this subject, he begs to propose to call on Mr. Webster at the Department of State to-morrow at 12 o'clock for this purpose, should that time be perfectly convenient to Mr. Webster.

The undersigned avails himself of this opportunity to assure Mr. Webster of his distinguished consideration.

ASHBURTON.

HON. DANIEL WEBSTER,  
&c., &c., &c.

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,  
Washington, June 17, 1842.

The Secretary of State will have great pleasure in seeing Lord Ashburton at twelve o'clock to-morrow, as proposed by him.

*Lord Ashburton to Mr. Webster.*

WASHINGTON, June 21, 1842.

SIR: The letter you did me the honor of addressing me the 17th instant, informed me that you were now prepared and authorized to enter with me into discussion of that portion of the differences between our two countries which relates to the northeastern boundary; and we had the following day our first formal conference for this purpose, with a view to consider, in the first instance, the best mode of proceeding to arrive at what is so much desired by all parties—an amicable and at the same time equitable settlement of a controversy, which, with the best intentions, the authorities of the two countries, for nearly half a century, have in vain endeavored to effect.

The result of this conference has been that I have been invited by you to state generally my view of this case, and of the expectations of my Government; and although I am aware that in the ordinary practice of diplomatic intercourse I should expose myself to some disadvantage by so doing, I nevertheless do not hesitate to comply, premising only that the following observations are to be considered merely as memoranda for discussion, and not as formal propositions to have any binding effect, should our negotiations have the unfortunate fate of the many which have preceded it, of ending in disappointment.

I believe you are sufficiently aware of the circumstances which induced me personally to undertake this mission. If the part, which during a long life I have taken in public affairs, is marked by any particular character, it has been by an earnest, persevering desire to maintain peace, and to promote harmony between our two countries. My exertions were unavailingly employed to prevent the last unfortunate war, and have since been unremitting in watching any passing clouds which might at any time forebode its renewal. On the accession to power of the present ministers, in England, perceiving the same wise and honorable spirit to prevail with them, I could not resist the temptation and the hope of being of some service to my country and to our common race, at a time of life when no other cause could have had sufficient interest to draw me from a retirement better suited to my age and to my inclinations.

I trust, sir, that you will have perceived, in the course of my hitherto informal communications with you, that I approach my duties generally without any of those devices and manœuvres which are supposed, I believe ignorantly, to be the useful tools of ordinary diplomacy. With a person of your penetration they would avail as little as they would with the intelligent public of the two great enlightened countries of whose interests we are treating. I know no other mode of acting than open, plain dealing, and I therefore disregard, willingly, all the disadvantage of complying with the invitation given me to be the first to speak on this question of the eastern boundary. It is already agreed that we abstain from a continued discussion of the arguments by which the lines of the two countries are reciprocally maintained; and I have so well observed this rule that I have not even communicated to you a volume of additional controversial matter which I brought with me, and much of which would, if controversy were our object, be of no inconsiderable weight and importance. It would be in the event only of the failure of this negotiation,

which I will not anticipate, that we should be again driven into the labyrinth from which it is our purpose to escape, and that failing to interpret strictly the words of the treaty, we should be obliged to search again into contemporaneous occurrences and opinions for principles of construction which might shed light on the actual intentions of the parties.

Our success must, on the contrary, depend on the reciprocal admission or presumption that the royal arbiter was so far right when he came to the conclusion which others had come to before him, that the treaty of 1783 was not executable according to its strict expression, and that the case was therefore one for agreement by compromise. The only point upon which I thought it my duty to enter upon anything like controversy, is that referred to in my letter of the 13th instant, and I did so to rescue my Government and myself from an imputation of unworthy motives, and the charge that they had set up a claim, which they knew to be unfounded, from mere considerations of policy or convenience. The assertions of persons in my position, on subjects connected with their diplomatic duties, are naturally received by the world with some caution; but I trust you will believe me when I assure you that I should not be the person to come here on any such errand. I do not pretend, nor have I ever thought the claim of Great Britain, with respect to this boundary, any more than the claim of America, to be unattended with difficulties. Those claims have been considered by impartial men, of high authority and unquestioned ability, to be equally so attended, and therefore it is that this is a question for a compromise, and it is this compromise which it has become our duty to endeavor to accomplish. I will only here add the most solemn assurance, which I would not lightly make, that after a long and careful consideration of all the arguments and inferences, direct and circumstantial, bearing on the whole of this truly difficult question, it is my settled conviction that it was the intentions of the parties to the treaty of peace of 1783, however imperfectly those intentions may have been executed, to leave to Great Britain, by their description of boundaries, the whole of the waters of the river St. John.

The length of these preliminary observations requires, perhaps, some apology, but I now proceed to comply with your application to me to state the principles and conditions on which, it appears to me, that this compromise, which it is agreed we should attempt, should be founded.

A new boundary is in fact to be traced between the State of Maine and the province of New Brunswick. In doing this, reference must be had to the extent and value of the territory in dispute, but as a general principle, we can not do better than keep in mind the intention of the framers of the first treaty of peace in 1783, as expressed in the preamble to the provisional articles in the following words: "Whereas reciprocal advantages and mutual convenience are found by experience to form the only permanent foundation of peace and friendship between states," &c. I have on a former occasion explained the reasons which have induced the British Government to maintain their rights in this controversy beyond any apparent value in the object in dispute, to be the establishing a good boundary between our two countries, so as to prevent collision and dispute, and an unobstructed communication and connexion of our colonies with each other. Further, it is desired to retain under the jurisdiction of each Government respectively, such inhabitants as have for a length of time been so living, and to whom a transfer of allegiance might be painful or distressing.

These are shortly the objects we have in view, and which we must now see to reconcile to a practical division of the territory in dispute. Great Britain has no wish of aggrandizement for any general purpose, of increased dominion, as you must be satisfied by the liberality with which I have professed myself ready to treat questions of boundaries in other quarters where no considerations of particular convenience or fitness occur. I might further prove this by calling your attention to the fact, that of the land likely to come to us by any practicable settlement, nine tenth parts of it are, from its position and quality, wholly worthless. It can support no population, it grows even little timber of value, and can be of no service but as a boundary, though from its desert nature a useful boundary, for two distinct Governments.

In considering on the map a division of the territory in question, this remarkable circumstance must be kept in mind, that a division of acres by their number would be a very unequal division of their value. The southern portion of this territory, the valley of the Aroostook, is represented to be one of the most beautiful and most fertile tracts of land in this part of the continent; capable of the highest state of cultivation, and covered with fine timber; while the northern portion, with the exception of that small part comprised within the Madawaska settlement, is of the miserable description I have stated. It would be no exaggeration to say, that one acre on the Aroostook would be of much more value than ten acres north of the St. John. There would be, therefore, no equality in making a division of acre for acre.

But although I remind you of this circumstance, I do not call on you to act upon it. On the contrary, I am willing that you should have the advantage in this settlement, both in the quantity and the quality of this land. All I wish is to call this fact in proof of my assertion, that the object of Great Britain was simply to claim that which was essential to her, and would form a convenient boundary, and to leave all the more material advantages of this bargain to the State of Maine.

I now come to the more immediate application of these principles to a definite line of boundary; and looking at the map with reference to the sole object of Great Britain as already described, the line of the St. John's, from where the north line from the St. Croix strikes it, up to some one of its sources, seems evidently to suit both parties, with the exception which I shall presently mention. This line throws the waste and barren tract to Great Britain, and the rich and valuable lands to Maine; but it makes a good boundary, one which avoids collision and probable dispute; and for the reasons stated we should be satisfied with it, if it were not for the peculiar circumstances of a settlement formed on both sides of the St. John's, from the mouth of the Madawaska up to that of the Fish river.

The history and circumstances of this settlement are well known to you. It was originally formed from the French establishments in Acadia, and has been uninterruptedly under French or British dominion, and never under any other laws. The inhabitants have professed great apprehensions of being surrendered by Great Britain, and have lately sent an earnest petition to the Queen, deprecating that being done. Further, this settlement forms one united community all connected together, and living some on one and some on the other side of the river, which forms a sort of high road between them. It seems self-evident that no more inconvenient line of boundary could well be drawn than one which divides in two an existing municipality, inconvenient as well to the inhabitants themselves, as to the authorities under which

they are to live. There would be evident hardship, I might say cruelty, in separating this now happy and contented village, to say nothing of the bickerings and probable collisions likely to arise from taking in this spot the precise line of the river, which would under other circumstances satisfy us. Indeed, I should consider that such a separation of these industrious settlers, by placing them under separate laws and governments, a most harsh proceeding, and that we should thereby abandon the great object we should have in view of the happiness and convenience of the people, and the fixing a boundary the least likely to occasion future strife.

I dwell on this circumstance at some length in justification of the necessity I am under of departing to this inconsiderable extent from the marked line of the river St. John's. What line should be taken to cover this difficulty I shall have to consider with you, but I can not in any case abandon the obvious interests of these people. It will be seen by an inspection of the map, that it is not possible to meet this difficulty by making over to Maine the northern portion of this settlement, as that would be giving up by Great Britain the immediately adjoining communications with Canada, which it is her principal object to preserve.

These observations dispose of those parts of this question which immediately concern the State of Maine; but it may be well at the same time to state my views respecting the adjoining boundary of the States of New Hampshire, Vermont, and New York, because they made part of the reference to the King of the Netherlands, and were, indeed, the only part of the subject in dispute upon which a distinct decision was given.

The question here at issue between the two countries was as to the correct determination of the parallel of latitude and the true source of the Connecticut river. Upon both these points decisions were pronounced in favor of Great Britain; and I might add that the case of America, as matter of right, was but feebly and doubtfully supported by her own authorities. I am nevertheless disposed to surrender the whole of this case, if we should succeed in settling, as proposed, the boundary of Maine. There is a point or two in this line of boundary where I may have to consider, with the assistance of the surveyors acquainted with the localities, the convenience of the resident settlers, as, also, what line may best suit the immediate country at the head of the Connecticut river, but substantially the Government of America shall be satisfied, and this point be yielded to them.

This concession, considered with reference to the value of the land ceded, which is generally reported to be fertile, and contains a position at Rouse's point much coveted in the course of the controversy, would, under ordinary circumstances, be considered of considerable importance. The concession will, however, be made by Great Britain without reluctance, not only to mark the liberal and conciliatory spirit by which it is desired to distinguish these negotiations, but because the case is in some respects analogous to that of the Madawaska settlement, before considered. It is believed that the settlers on the narrow strip, which would be transferred to Great Britain by rectifying the 45th parallel of latitude, which was formerly incorrectly laid down, are principally from the United States, and that their opinions and habits incline them to give a preference to that form of Government, under which, before the discovery of the error in question, they supposed themselves to be living. It can not be desired by her Majesty to acquire any addition of territory under such circumstances, whatever may be the weight of her rights; but it will be observed that the same argument applies almost exactly to the Madawaska

settlement, and justifies the reservation I am there obliged to make. In these days, the convenience and happiness of the people to be governed will ever be the chief guide in transactions of this description, between such governments as those of Great Britain and the United States.

Before quitting this subject, I would observe that it is rumored that Major Graham, in his late survey in Maine, reports some deviation from the true north of the line from the head of the St. Croix toward the St. John's. I would here also propose to abide by the old line long established, and from which the deviation by Major Graham is, I am told, inconsiderable, without at all doubting the accuracy and good faith of that very distinguished officer.

In stating the important concessions I am prepared to make on a final settlement of these boundaries, I am sensible that concessions to one State of this Union are not always to be made available for the satisfaction of any other; but you are aware that I am treating with the United States, and that for a long line of important boundaries, and that I could not presume to enter on the question how this settlement might operate on, or be in any way compensated to, the different States of the confederacy. I should, however, add my unfeigned belief that what I have proposed will appear reasonable with reference to the interests of the State of Maine considered singly. That the proposition, taken as a whole, will be satisfactory to the country at large, I can entertain no doubt.

I abstain from noticing here the boundaries further west, which I am prepared to consider and to settle, because they seem to form part of a case which it will be more convenient to treat separately.

In the course of these discussions, much anxiety has been expressed that Maine should be assured of some means of communication by the St. John's, more especially for the conveyance of her lumber. This subject I am very willing to consider, being sensible of the great importance of it to that State, and that the friendly and peaceful relations between neighboring countries can not be better secured than by reciprocally providing for all their wants and interests. Lumber must for many years be the principal produce of the extensive valley of the Aroostook and of the southern borders of the St. John's; and it is evident that this article of trade being worth anything, must mainly depend upon its having access to the sea through that river. It is further evident that there can be no such access under any arrangement otherwise than by the consent of the province of New Brunswick. It is my wish to seek an early opportunity of considering, with some person well acquainted with the commerce of that country, what can be done to give it the greatest possible freedom and extent, without trenching too much on the fiscal regulations of the two countries. But, in the meantime, in order to meet at once the urgent wants and wishes of Maine in this respect, I would engage that, on the final settlement of these differences, all lumber and produce of the forest of the tributary waters of the St. John's shall be received freely without duty and dealt with in every respect like the same articles of New Brunswick. I can not now say positively whether I may be able to go further, but this seems to me what is principally required. Suggestions have at times been thrown out of making the port and river of St. John's free to the two countries, but I think you will be sensible that this could not be done without some reciprocity for the trade of St. John's in ports of the United States, and that, in endeavoring to regulate this, we should be embarking in an intricate question, much and often discussed between the two countries. It can not also fail to occur to you that joint rights in the same harbors and

waters must be a fruitful source of dissension, and that it behooves us to be careful not to sow the seeds of future differences in the settlement of those of our own day.

I have now stated, as I was desired to do, my views of the terms on which it appears to me that this settlement may be made. It must be sufficiently evident that I have not treated the subject in the ordinary form of a bargain, where the party making the proposal leaves himself something to give up. The case would not admit of this, even if I could bring myself so to act. It would have been useless for me to ask what I know could not be yielded; and I can unfeignedly say that, even if your vigilance did not forbid me to expect to gain any undue advantage over you, I should have no wish to do so. The treaty we have to make will be subjected to the scrutiny of a jealous and criticising public, and it would ill answer its main purpose of producing and perpetuating harmony and good will if its provisions were not considered by good and reasonable men to make a just and equitable settlement of this long-continued controversy.

Permit me, sir, to conclude with the assurance of my distinguished consideration,

ASHBURTON.

HON. DANIEL WEBSTER,  
*&c., &c., &c.*

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,  
*Washington, July 8, 1842.*

MY LORD: Your notes of the 13th and the 21st of June were duly received.

In the first of these you correctly say that in our conferences on the boundary question we have both been of opinion that no advantage would be gained by resorting at this time to the discussion at length of the grounds on which each party considers its claim of right to rest. At the same time you deem it expedient, nevertheless, to offer some observations, calculated, in your judgment, to repel a supposed allegation, or suggestion, that this controversy only began in 1814; that up to that period the American claim was undisputed; and that the English claim, as now set forth, is founded merely in motives of interest. Nothing is more natural than that your lordship should desire to repel an imputation which would impeach the sincerity and good faith of your government, and all the weight which justice and candor require is given to your lordship's observations in this respect. It is not my purpose, nor do I conceive it pertinent to the occasion, to go into any consideration of the facts and reasonings presented by you, to show the good faith and sincerity of England in the claim asserted by her. Any such discussion would be a departure from the question of right now subsisting between the two Governments, and would be more especially unfit for an occasion in which the parties are approaching each other in a friendly spirit, with the hope of terminating the controversy by agreement. Following your lordship's example, however, I must be permitted to say that few questions have ever arisen under this Government, in regard to which a stronger or more general conviction was felt that the country

was in the right than this question of the northeastern boundary. To say nothing of the sentiments of the Government and people of the States more directly interested, whose opinions may be supposed capable of bias, both Houses of Congress, after full and repeated consideration, have affirmed the validity of the American claim, by a unanimity experienced on very few other subjects, and the general judgment of the whole people seems to be the same way. Abstaining from all historical facts, all contemporaneous expositions, and all external arguments and circumstances, I will venture to present to your lordship a very condensed view of the reasons which produce in this country the conviction that a boundary line may be ascertained, run, and delineated with precision, under and according to the words of the stipulation in the treaty of 1783; that no doubt can be raised by any part of that stipulation which other parts of it do not remove or explain, and that a line so run would include all that the United States claim. This view is presented by a series of short propositions:

1. The northwest angle of Nova Scotia is the thing to be sought for and found.

2. That angle is to be ascertained by running a line due north from the source of the St. Croix river till that line reaches the highlands, and where such north line intersects the highlands, there is the angle; and thence the line is to run along the *said* highlands—which said highlands divide those rivers which empty themselves into the river St. Lawrence from those that fall into the Atlantic ocean. The angle required, therefore, is an angle made by the intersection of a due north line with highlands, from one slope of which the rivers empty themselves into the river St. Lawrence, and from the other into the Atlantic ocean.

3. Supposing it to be matter of doubt whether the St. John's and the Ristigouch are rivers falling into the Atlantic ocean, in the sense of the treaty, then the rule of just interpretation is, that if one element or one part in the description be uncertain, it is to be explained by others which are certain, if there be such others. Now, there is no doubt as to the rivers which fall into the St. Lawrence. They are certain, and to their sources the north line is to run, since at their sources the highlands required by the treaty do certainly exist. And departing for a moment from the rule just prescribed to myself, I will remind your lordship that the joint commissioners and the agents of the two governments in 1817, in giving the surveyors instructions for finding these highlands, directed them, in terms, to proceed upon a due north line "till they should arrive at some one of the streams connected with the river St. Lawrence," and then to explore the highlands from that point to the northwesternmost head of Connecticut river. It is indisputable that a line run according to these instructions, thus given by the commissioners and agents of both Governments, would give to the United States all that they have at any time claimed.

4. It is certain that by the treaty the eastern boundary of the United States, from the head of the St. Croix, is to be a due north and south line. And it is equally certain that the line is to run north until it reaches highlands from whose northern watershed the rivers flow into the river St. Lawrence.

5. These two things being, one mathematically, and the other physically certain in themselves, and capable of being precisely marked and delineated, explain or control the uncertainty, if there be uncertainty, in the other part or element of the description.

6. The British argument, assuming that the Bay of Fundy, and more especially the Bay of Chaleur, are not the Atlantic ocean, within the meaning of the treaty, insists that the rivers flowing into these bays are not, therefore, in the sense of the treaty, rivers falling into the Atlantic, and therefore the highlands to which the United States claim, have not that southern or eastern watershed which the treaty calls for, and as it is agreed, nevertheless, that we must somewhere find highlands, and go to them, whose northern waters run into the St. Lawrence, the conclusion is, that the different parts of the description in the treaty do not cohere, and that therefore the treaty can not be executed.

7. Our answer to this, as is obvious from what has already been said, is two-fold.

First. What may be doubtful in itself, may be made certain by other things which are certain; and inasmuch as the treaty does certainly demand a due north line, and does certainly demand the extension of that line to highlands from whose northern sides the rivers flow into the river St. Lawrence, these two clear requirements make it plain that the parties to the treaty considered, in fact, the rivers flowing from the south or east of the *said* highlands, to be rivers falling into the Atlantic ocean, because they have placed St. Lawrence rivers, and the Atlantic rivers in contradistinction to each other, as rivers running in opposite directions, but with their sources in the same highlands. Rivers fed from these highland fountains, running north or northwest, are rivers emptying themselves into the St. Lawrence; and rivers arising from the same fountains, and running in an opposite direction seem to be as clearly meant to be designated by the character of Atlantic rivers. And, as strongly corroborating this view of the subject, allow me to call your lordship's attention to two facts.

1. The coast of the Atlantic ocean, from Penobscot river northeasterly, and the western shore of the Bay of Fundy, which is but a continuation of the coast, and is in a line with it, is very nearly parallel to the course of the river St. Lawrence through the same latitudes. This is obvious from the map.

2. The rivers which, from their sources in the same ridge, flow respectively into the St. Lawrence and into the Bay of Fundy, and even into the Bay of Chaleur, run with remarkable uniformity in directions almost exactly opposite, as if hastening away from a common origin to their different destinations by the shortest course. The only considerable exception to this is the northern sweep of the upper part of the St. John's; but the smaller streams flowing into this part of that river from the west still strictly obey the general rule.

Now if, from a certain general line on the face of the country, or as delineated on the map, rivers are found flowing away in opposite directions, however strongly it may be asserted that the mountains or eminences are but isolated elevations, it is nevertheless absolutely certain that such a line does in fact define a ridge of highlands which turns the waters both ways.

And, as the commissioners in 1783 had the map before them; as they saw the parallelism of the seacoast and the course of the St. Lawrence; as they saw rivers rising from a common line and running some north or northwest, the others south or southeast; and as they speak of some of these rivers as emptying themselves into the river St. Lawrence, and of the others as falling into the Atlantic ocean; and *as they make no third class*, is there a reasonable doubt in which class they intended to comprehend all

the rivers running in a direction from the St. Lawrence, whether falling immediately or only ultimately into the Atlantic ocean?

If there be nothing incoherent or inconsequential in this chain of remarks, it will satisfy your lordship, I trust, that it is not without reason that American opinion has settled firmly in the conviction of the rights of the American side of the question; and I forbear from going into the consideration of the mass of other arguments and proofs, for the same reasons which restrain your lordship from entering into an extended discussion of the question, as well as because your lordship will have an opportunity of perusing a paper addressed to me by the commissioners of Maine, which strongly presents the subject on other grounds and in other lights.

I am now to consider your lordship's note of the 21st June. Before entering upon this, I have the President's instructions, to say, that he fully appreciates the motives which induced your lordship, personally, to undertake your present mission; that he is quite aware that your public life has been distinguished by efforts to maintain peace and harmony between the two countries; that he quite well recollects that your exertions were employed to prevent the late war, and that he doubts not the sincerity of your declaration that nothing could have drawn you from your retirement and induced you to engage in your present undertaking, but the hope of being of service to your country, and to our common race. And I have the utmost pleasure, my lord, in acknowledging the frankness, candor, and plain dealing, which have characterized your official intercourse with this Government; nor am I permitted or inclined to entertain any doubt of your lordship's entire conviction, as expressed by yourself, as to the merits of this controversy and the difficulties of the case. The question before us, is whether these confident opinions, on both sides, of the rightful nature and just strength of our respective claims, will permit us, while a desire to preserve harmony, and a disposition to yield liberally to mutual convenience so strongly incite us, to come together and to unite on a line by agreement.

It appears to be your lordship's opinion that the line of the St. John's, from the point where the north line from the St. Croix strikes that river, up to some one of its sources, evidently suits both parties, with an exception, however, of that part of the Madawaska settlement which is on the south side of the St. John's, which you propose should be included within the British territory. That, as a line by agreement, the St. John's for some distance upward from its intersection by the line running north from the St. Croix would be a very convenient boundary for the two parties, is readily admitted; but it is a very important question how far up, and to which of the sources of this river this line should extend. Above Madawaska the course of the river turns to the south, and stretching away toward the sources of the Penobscot leaves far to the north the line of communication between New Brunswick and Canada. That line departs from the St. John's altogether near Madawaska, and keeping principally upon the left or north bank of the Madawaska, and proceeding by way of the Temiscouata Lake, reaches the St. Lawrence, at the mouth of the river du Loup.

There are, then, two important subjects for consideration:

First. Whether the United States can agree to cede, relinquish, or cease to claim, any part of the territory west of the north line from the St. Croix and south of the St. John's. And I think it but candid to say, at once, that we see insurmountable objections to admitting the line to come south of the river. Your lordship's observations upon the propriety of preserving the

unity of the Madawaska settlement, are, in a great measure, just and altogether founded, I doubt not, in entirely good motives. They savor of humanity and a kind regard to the interests and feelings of individuals. But the difficulties seem insuperable. The river, as your lordship remarks, seems a natural boundary, and in this part of it, to run in a convenient direction. It is a line always clear and indisputable. If we depart from it where shall we find another boundary, equally natural, equally clear, and conforming to the same general course? A departure from the line of the river, moreover, would open new questions about equivalents, which it would probably be found impracticable to settle. If your lordship was at liberty, as I understand you not to be, to cede the whole or a part of the territory, commonly called the strip, lying east of the north line, and west of the St. John's, considerations might be found in such a cession, possibly, for some new demarcation west of the north line and south of the river. But in the present posture of things I can not hold out the expectation to your lordship that anything south of the river can be yielded.

And, perhaps, the inconvenience to the settlers on the southern bank, of making the river the boundary, are less considerable than your lordship supposes. These settlers are scattered along a considerable extent, very likely soon to connect themselves with whomsoever may come to live near them; and, though of different origin, and some difference of religion, not likely, on the whole, to be greatly dissimilar from other borderers occupying the neighboring territory, their rights of property would, of course, be all preserved, both of inheritance and alienation; and, if some of them should choose to retain the social and political relations under which they now are, their removal, for that purpose, to the North bank, drawing after it no loss of property, or of means of subsistence, would not be a great hardship. Your lordship suggests the inconvenience of dividing a municipality by a line of national boundary; and certainly there is force in the observation; but if, departing from the river, we were to establish, to the south of it, an artificial line upon the land, there might be points on such line, at which people would live in numbers, on both sides; and a mere mathematical line might thus divide villages, while it divided nations. The experience of the world, and our own experience, show the propriety of making rivers boundaries, for the same reason that, in other cases to which they are applicable, mountain ranges, or ridges of highlands, are adopted for the same purpose; these last being, perhaps, still more convenient lines of division than rivers, being equally clear and prominent objects, and the population of neighboring countries bordering on a mountain line of separation, being usually thin and inconsiderable on either side. Rivers and inland waters constitute the boundary between the United States and the territories of her Majesty for some thousands of miles westward from the place where the 45th degree of north latitude intersects the St. Lawrence; and along this line, though occasional irregularities and outbreaks have taken place, always by the agency and instigation of agitators and lawless men, friends of neither country, yet it is clear that no better demarcation of limits could be made. And at the north part, along the space through which the St. Croix constitutes the line of separation, controversies and conflicts are not heard of; but similarity of language, character, and pursuits, and mutual respect for the rights of each other, preserve the general peace.

Upon the whole, my lord, feeling that there may be inconvenience, and perhaps a small degree of hardship, I yet can not admit that there is any

cruelty in separating the Madawaska settlers south of the St. John's, so far as political relations are concerned, from their neighbors on the north of that river. In the present state of society, and of peace which exists between the two countries, the severance of political relations needs not to disturb social and family intercourse; while high considerations, affecting both the present and the future, seem to me to require, that, following natural indications, we adhere to the St. John's, in this part of its course, as the line of division.

The next question is, how far upward this boundary ought to be observed, and along which of its branches. This question would be easily settled, if what may be called the main branch of the river, in this part of it, differing from the general character of the rivers in this region of country, did not make a sudden turn. But, if we consider the main branch of the St. John's, that which has been recently usually so denominated, your lordship observes, that, near the mouth of the Madawaska, it turns almost at right angles, and pushes its sources toward those of the Penobscot. Contiguity and compactness of territory can hardly be preserved by following a stream which makes not occasional windings, but at once so great a deflection from its previous course. The Madawaska is one of its branches or principal sources, and, as the map shows, is very much a continuance of the line of the principal river, from the Great Falls upward. The natural course would, therefore, seem to be, to continue along this branch.

We understand, and indeed collect from your lordship's note, that with whatever opinion of her right to the disputed territory, England, in asserting it, has principally in view to maintain, on her own soil, her accustomed line of communication between Canada and New Brunswick. We acknowledge the general justice and propriety of this object, and agree, at once, that, with suitable equivalents, a conventional line ought to be such as to secure it to England. The question, therefore, simply is, what line will secure it?

The common communication between the provinces follows the course of the St. John's from the Great Falls to the mouth of the Madawaska, and then, not turning away to the south with the course of the main stream, identifies itself with that of the Madawaska, going along with it to the Temiscouata lakes, thence along those lakes, and so across the highlands to streams running into the St. Lawrence. And this line of communication we are willing to agree shall hereafter be within acknowledged British territory, upon such conditions and considerations as may be assented to. The Madawaska and the forementioned lakes might conveniently constitute the boundary. But I believe it is true that, in some part of the distance, above the mouth of the Madawaska, it has been found convenient to establish the course of communication on the south bank of that river. This consideration may be important enough to justify a departure from what would otherwise be desirable, and the running of the line at some distance south of the Madawaska, observing natural monuments where it may be practicable, and thus leaving the whole valley of the Madawaska on the British side.

The United States, therefore, upon the adjustment of proper equivalents, would not object to a line of boundary which should begin at the middle of the main channel of the river St. John's, where that river is intersected by a due north line, extended from the source of the St. Croix, thence proceeding westerly, by the middle of the main channel of that river, to a point three miles westerly of the mouth of the Madawaska, thence by a straight line to the outlet of Long lake, thence westerly by a direct line to the point where the river St. Francis empties itself into the lake called Pobsungamook,

thence continuing in the same direct line to the highlands, which divide the waters falling into the river du Loup from those which fall into the river St. Francis. Having thus arrived at the highlands, I shall be ready to confer on the correct manner of following them to the northwesternmost head of the Connecticut river.

Such a line as has been now described would secure to England a free intercourse between Canada and New Brunswick; and, with the navigation of the St. John's yielded to the United States, would appear to meet the wants of all parties. Your lordship's proposition in regard to the navigation is received as just, and as constituting, so far as it may go, a natural equivalent. Probably the use of the river for the transportation of the products of the forest grown on the American side of the line, would be equally advantageous to both parties, and, therefore, in granting it, no sacrifice of British interest would be incurred. A conviction of this, together with their confidence in the validity of their own claim, is very likely to lead the two States immediately concerned to consider their relinquishment of the lands north of the line much in the light of a mere cession. It need not be denied that, to secure this privilege, and to have a right to enjoy it, free from tax, toll, or other liability or inability, is an object of considerable importance to the people of Maine.

Your lordship intimates that, as a part of the general arrangement of boundaries, England would be willing to surrender to the United States Rouse's Point, and all the territory heretofore supposed to be within the boundaries of New Hampshire, Vermont, and New York, but which a correct ascertainment of the forty-fifth parallel or north latitude shows to be included within the British line. This concession is, no doubt, of some value. If made, its benefits would enure partly to these three States and partly to the United States; and none of it to the particular interests of Maine and Massachusetts. If regarded, therefore, as a part of the equivalent for the manner of adjusting the northeastern boundary, these two last-mentioned States would, perhaps, expect that the value, if it could be ascertained, should be paid to them. On this point further consideration may be necessary.

If, in other respects, we should be able to agree on a boundary, the points which you refer to, connected with the ascertainment of the head of the Connecticut, will be attended to, and Captain Talcott, who made the exploration in that quarter, will be ready to communicate the result of his observations.

I have the honor to be, with distinguished consideration, your obedient servant,

DANL. WEBSTER.

Lord ASHBURTON, &c., &c.

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*Lord Ashburton to Mr. Webster.*

WASHINGTON, July 11, 1842.

SIR; I lose no time in acknowledging the receipt of the note you did me the honor of addressing me on the 8th instant, and I beg, in the first place, to say that I am duly sensible of the assurance you give me that the President has been pleased to appreciate the motives which induced my present emission, and much flattered by your recognition of the candor and frankness which have hitherto marked our intercourse.

I had hoped that we had escaped by mutual consent from a return to the endless and fruitless argument on the general question of the rights of our respective Governments in the matter of the northeastern boundary.

It seemed to have been decided by so many high and competent authorities that the precise geographical point so long looked for was not to be found, that it necessarily followed that any hope of settlement must rest upon an amicable compromise.

The arrival here of commissioners from Maine and Massachusetts, and the admitted disposition of the two Governments, have given the public a very general expectation that this compromise might at last be effected; and I hope you will excuse my expressing my regret that the note now before me, and the paper from the gentlemen from Maine, addressed to you, which accompanied it, should have contained so much of a renewal of the old controversy, and should not have been confined to the simple question whether we could or could not agree to terms of settlement. If the observations contained in my note of the 13th ultimo, have given rise to these consequences, I much regret it; and I would now pass over all these more than useless discussions, and proceed at once to notice the proposals you make, if I were not apprehensive that my so doing might be construed into some want of respect for the parties from whom these observations have proceeded.

I will, however, endeavor to bring within a narrow compass what I have to say on the subject, and the more so, because, with all deference to you, sir, I may add, that there is little in these arguments that is new, or that has not been often advanced and refuted during the many past years of controversy.

I should except from this want of novelty the position, to me entirely new, advanced by the commissioners from Maine, that the northwest angle of Nova Scotia, which is, as you express it, "the thing to be sought for and found," was at the head of the Madawaska river, which river, it is maintained by a long argument, supported by authorities and maps, was always considered as the real St. John; and this is stated to justify the opinion expressed by the old Congress, in 1799, that this northwest angle was at the source of the St. John.

Giving all possible consideration to this apparently new discovery, I can not say that it appears well founded. Looking at Mitchell's map, the use of which by the negotiators of the peace of 1783 has been always so much relied upon on the part of America, there is nothing more clearly marked than the great distinct channel of the Upper St. John, and it seems hardly possible that the negotiators or the Congress should have made the supposed mistake.

But, supposing this hypothesis were well founded, the Temiscouata lake is, then, now to be this long lost angle of Nova Scotia. What becomes, then, of the point so long contended for by Maine, between the Metis and one of the tributaries of the Ristagouche? These points must be about fifty miles apart. Both can not be true; and if it be maintained, as I rather collect it to be from the paper of the Maine commissioners, that the point at the Metis is the true boundary, as being the point stricken by the north line, though the other be the true northwest angle of Nova Scotia, there is at least an end of the whole argument, resting upon this northwest angle being, as stated by you, "the thing to be sought for and found."

If this new discovery leads us to no other inference, we can hardly fail to derive from it the conviction that all the ingenuity applied to unravel this

mystery leaves us equally in the dark ; and that it is not without reason that it has been decided by so many persons, after careful examination, that this boundary is not susceptible of settlement according to the precise words of the treaty.

This decision has been come to by Mr. Madison, in 1802, by Mr. Jefferson, in 1803, by Judge Sullivan about the same time, by the arbiter in 1831, and it has been acted upon by nearly every Secretary of State of the United States during the controversy from that time to this; for, although in a case in dispute each party during the dispute endeavors to hold his own, I am not aware that any Secretary of State, or any President of the United States, has ever treated this subject otherwise than as one attended by that degree of uncertainty, that it could only be solved by an arbiter, or by a compromise. I would appeal to your candor, sir, to say whether at this time, and under these circumstances, it is fair to speak of this disputed territory as belonging indisputably to one party, and to be yielded by way of concession, and for equivalents, to the other. Any convention I may sign must be for a division of that which is in doubt and dispute. With any arrangements between the State of Maine and the General Government I have nothing to do; and if, which God forbid, our endeavors at an amicable compromise should at last fail, I must hold that Great Britain retains her right, at least equal to that of the United States, to every part of the territory in dispute, until by a renewed reference, or by the skill of some more fortunate negotiator, this difference may be brought to a close.

I have now only to add a few observations upon the arguments contained in your own note.

Some stress is laid upon the fact that the joint commissioners of the two Governments in 1817 directed the surveyors to run the north line from the St. Croix until it met waters running into the St. Lawrence. The lines to be run were to ascertain the geographical facts of the case. No proceeding could be more proper. The claims of the two parties varied, and it was natural that, in the first instance, a line should be run north to the extent claimed by either party; where that line would reach, and what highlands or streams it might strike was unknown; so much so that Mr. Gallatin, in his letter from Ghent, mentioned in my note of the 13th ultimo, expressed his doubts on this subject. His prediction turned out to be true. The point where the line strikes the Metis was a point not fulfilling the words of the treaty. It did not divide the waters as desired, unless the Bay of Chaleurs and the Gulf of St. Lawrence are considered to answer to the description of the Atlantic ocean. Mr. Gallatin was sensible of this, and intimates that if this fact created doubt, the lands about the Ristagouche might be given up; but he forgets that in giving up this territory he gives up his argument; for he maintains, in opposition to the British line of boundary, that it does not *continuously and in all its parts* divide the waters as required by the treaty. The American line was in this respect equally deficient, and it is useless, therefore, here to consider whether it would have been preferable to the British line, if it had divided the waters of the St. Lawrence from those of the St. John's. To make even a plausible case for the American line, both the St. John's and the Ristagouche must be held to be rivers emptying into the Atlantic ocean. The royal arbiter says it would be *hazardous* so to class them. I believe that whatever argument might be made in the case of the St. John's, connected with the distinctions with which it was mentioned in the treaty, to consider the Ristagouche as flowing into the Atlantic ocean would be more than hazardous, it would be most absurd.

At all events, I would submit to you that no inference could be drawn from the commissioners in 1817 having ordered a north line to be run; the same commissioners, after drawing the line, having disagreed as to any conclusions from it.

I am rather surprised that an inspection of the map should lead us to such different views of the course of the rivers and of the coast, as stated by you. I find that the upper St. John's and the Ristagouche, so far from cutting at right angles the parallel lines of the coast and the St. Lawrence, as you say, run in their main course nearly parallel with them. I am not aware that the fact is important, although it seems connected with your argument.

My inspection of these maps, and my examination of the documents, lead me to a very strong conviction that the highlands contemplated by the negotiators of the treaty, were the only highlands then known to them at the head of the Penobscot, Kennebec, and the rivers west of the St. Croix; and that they did not precisely know how the north line from the St. Croix would strike them; and, if it were not my wish to shorten this discussion, I believe a very good argument might be drawn from the words of the treaty in proof of this. In the negotiations with Mr. Livingston, and afterward with Mr. McLane, this view seemed to prevail, and, as you are aware, there were proposals to search for these highlands to the west, where alone I believe they will be found to answer *perfectly* the description of the treaty. If this question should unfortunately go to a further reference, I should by no means despair of finding some confirmation of this view of the case.

I shall now, sir, close what I have to say on the controversial part of this question. I should not have treated of it at all, but from respect to the gentlemen from Maine, whose arguments you conveyed to me, and I shall certainly not renew it unless called upon by you to do so. Our immediate business is with the compromise of what is not otherwise to be settled, and argument and controversy, far from assisting to that end, have more generally a tendency to irritate and excite.

Referring, then, to our more immediate subject of a line by agreement, I deeply regret, on reading your observations and proposals, that we are yet so far asunder. I always thought this part of our duty better performed by conference than by correspondence, unless, indeed, we had the misfortune not to be able ultimately to agree, in which case it would certainly be necessary that our two countries should see clearly on paper how nearly we had approached to each other, and on whom the blame at last rested of leaving unsettled a question involving such serious consequences. I would still recommend this course of personal discussion and conference, but, in the meantime, I proceed to notice the proposals and observations contained in your note.

It is sufficiently explained in my plan for a settlement why I was anxious not to divide in two parts, by any new line of boundary, the Madawaska settlements; and I am sorry to say that the information I have since received, both as to local circumstances and the anxiety of the people themselves, tends strongly to confirm my impressions. At the same time, you will have seen that I was sensible that some good reason should be assigned why we should not be satisfied with what you justly term the otherwise perfect boundary of the St. John. In your reply you recognise the difficulties of the case, and do justice to our motives, but you state distinctly, on the part of your Government, that you can consent to no line which should bring us over the St. John without some equivalent of territory to be found out of the

limits of that part which is in dispute ; and you refer more particularly to a certain narrow strip lying between the north line and the river. This strip I have no power to give up ; and I beg to add that the refusal of my Government is founded simply on their objection to dispose arbitrarily of the persons and property of her Majesty's subjects living by preference under her authority—an objection which you are sensible applies with peculiar force to the inhabitants of this part of New Brunswick.

I had hoped that the other equivalents which I had offered, combined with the sense entertained by the Government of the United States of the pressing importance of the case on the ground of humanity, would have been sufficient for the purpose I so anxiously desired ; but perceiving, from your note, as well as from personal conversation, that concession on this point is insisted upon, I might be disposed to consider whether my anxious desire to arrive at a friendly settlement would not justify me in yielding, however reluctantly, if the latter part of your proposal did not, if finally persevered in, forbid all hope of any settlement whatever.

The boundary you propose, supposing the British territory not to come over the St. John, is to run from the north side of that river, three miles above its junction with the Madawaska over an arbitrary line, which my map does not exactly permit me to follow, until it reaches somewhere the St. Francis. I need not examine this line in its precise details, because I am obliged frankly to state that it is inadmissible. I think I might, sir, fairly appeal to your candid judgment to say whether this is a proposition of conciliation—whether, after all antecedent discussions on this subject, it could be reasonably expected that, whatever might be the anxiety of my Government for a friendly settlement, I could be found with power to accede to such terms. I need not observe to you that this would give to Great Britain less than the award of the arbiter, while at the same time she would be called upon to give up what that arbiter awarded to her, and, if I do not mistake you, the floatage of the lumber of Maine down the St. John's is also expected to be surrendered.

I must beg to say that I am quite at a loss to account for such a proposal. Your own principle of maintaining the great river as the best boundary is abandoned, an arbitrary line is drawn which nobody ever suggested before, and I can only suppose this course to be dictated by that general assumption that, notwithstanding all former admissions and decisions to the contrary, this territory, said to be in dispute, in truth, belongs to one party, to be doled out as a favor to the other ; an assumption which can not for a moment be admitted, and which you, sir, with the records of your office before you will hardly maintain.

The position in which this negotiation now stands, seems to prove what I have before ventured to advance, that it would have a better chance of success by conference than by correspondence ; at all events, that we should sooner arrive at ascertaining what we can or can not do. Slow, unnecessarily slow, our progress has hitherto been, and the public seem, somehow or other, to have become informed that there are differences. I hope when we come to discuss them, that they will prove less serious, than they are supposed to be ; but it is very desirable that doubts and distrusts should be set at rest, and that public credit and the transactions of commerce should suffer the least possible disturbance. For although, should this negotiation unfortunately fail, it will be our duty immediately to place it in some new course of further reference, it is not to be disguised that such a result must be productive of considerable public anxiety and disappointment.

What I have said with respect to the case of the Madawaska settlements will, I trust, sufficiently prove my disposition to approach such a discussion with the true spirit of conciliation, and I trust you will permit me to express a hope that it will be met with a corresponding feeling.

Before concluding, I wish to add a few words respecting the line of the St. John to one of its sources, and the navigation for certain purposes of that river. It may be true that the district between the St. John and the highlands west of the St. Francis, may be of some extent, but your own surveyors will confirm to you that it is of very little value either for cultivation or timber. Is it reasonable that in the division of an object in dispute, its intrinsic value should be wholly disregarded, and its size or extent be alone considered?

I would farther suggest for your consideration whether, supposing the division by the King of the Netherlands to be admitted to satisfy fairly the equity of the case between the parties, what is proposed to be added by Great Britain, viz: the strip on the 45th parallel of latitude, and the use of the navigation of the St. John, be not an ample compensation for what we ask in return, viz: that barren strip above the upper St. John, which is wanted for no other purpose than as a boundary, for which purpose it is admitted on all sides to be most convenient.

The right to use the St. John for floating down the lumber of Maine on the same terms as the river is used by the Queen's subjects, is now treated as a matter of light importance. This is not uncommon when a concession of any kind is about to be yielded, but I beg to remind you that this was not formerly so considered. It has been repeatedly solicited and invariable refused, and no minister of Great Britain has before been permitted to connect this concession with the settlement of the boundary. It is considered by my Government as a very important concession. I am sure that it must be considered by all persons in Maine connected with the lumber trade as not only valuable but indispensable, and I am compelled to add that I am empowered to allow this privilege only in the event of a settlement of the boundary on satisfactory terms. It is said in the memorandum of the Maine commissioners that this conceded navigation will be as useful to the town of St. John as to the lumberers of Maine, but it will not escape you that, even if this be so, it is a concession necessary to give any value whatever to so bulky an article as lumber, which being not otherwise disposable, would bear any reasonable toll which the provincial authorities of New Brunswick might think it expedient to levy upon it. Further, it should not be forgotten, that the timber, once at the mouth of the St. John, will have the privilege of reaching the British as well as other markets, and lastly, that it is a very different thing to hold a privilege of this important description by right or by mere sufferance, to be granted or withheld at pleasure.

I have to apologise for entering into these details in treating of the great question with which we are occupied, but they seemed called for by observations contained in the paper you send me.

I beg sir, you will be assured of my unfeigned and distinguished consideration.

ASHBURTON.

HON. DANIEL WEBSTER, &c., &c., &c.

*Lord Ashburton to Mr. Webster.*

WASHINGTON, July 16, 1842.

SIR: There is a further question of disputed boundary between Great Britain and the United States, called the northwest boundary, about which we have had some conferences; and I now proceed to state the terms which I am ready to agree to for the settlement of this difference. As the principal object in dispute is to be given up by Great Britain, I trust, sir, that you will here again recognise the spirit of friendly conciliation which has guided my Government in disposing of these questions.

I have already sufficiently discussed with you the boundaries between her Majesty's provinces and the United States, from the monument at the head of the river St. Croix, to the monument on the river St. Lawrence, near the village of St. Regis.

The commissioners under the sixth article of the treaty of Ghent, succeeded in continuing this boundary from St. Regis, through the St. Lawrence and the great northern lakes, up to a point in the channel between Lake Huron and Lake Superior.

A further continuation of this boundary, from this point through Lake Superior to the Lake of the Woods, was confided to the same commissioners under the seventh article of the treaty of Ghent, but they were unfortunately unable to agree, and have consequently left this portion of the boundary undetermined. Its final settlement has been much desired by both Governments, and urgently pressed by communications from Mr. Secretary Forsyth to Mr. Fox, in 1839 and 1840.

What I have now to propose can not, I feel assured, be otherwise than satisfactory for this purpose.

The commissioners who failed in their endeavors to make this settlement differed on two points:

First, as to the appropriation of an island called St. George's island, lying in the water communication between Lake Huron and Lake Superior; and

Secondly, as to the boundary through the water communications from Lake Superior to the Lake of the Woods.

The first point I am ready to give up to you, and you are no doubt aware that it is the only object of any real value in this controversy. The island of St. George's is reported to contain 25,920 acres of very fertile land, but the other things connected with these boundaries being satisfactorily arranged, a line shall be drawn so as to throw this island within the limits of the United States.

In considering the second point, it really appears of little importance to either party how the line be determined through the wild country between Lake Superior and the Lake of the Woods, but it is important that some line should be fixed and known.

The American commissioner asked for the line from Lake Superior up the river Kaminastiguia to the lake called Dog lake, which he supposed to be the same as that called Long lake in the treaties, thence through Sturgeon lake to the Lac la Pluie, to that point where the two lines assumed by the commissioners again meet.

The British commissioner, on the other hand, contended for a line from the southwestern extremity, at a point called le Fond du Lac to the middle

of the mouth of the estuary or Lake of St. Louis river, thence up that river through Vermilion river to Lac la Pluie.

Attempts were made to compromise these differences, but they failed, apparently more from neither party being willing to give up the island of St. George's, than from much importance being attached to any other part of the case.

Upon the line from Lake Superior to the Lake of the Woods, both commissioners agreed to abandon their respective claims, and to adopt a middle course, for which the American commissioner admitted that there was some ground of preference. This was from Pigeon river, a point between Kamarastiguia and the Fond du Lac; and although there were differences as to the precise point near the mouth of Pigeon river, where the line should begin, neither party seem to have attached much importance to this part of the subject.

I would propose that the line be taken from a point about six miles south of Pigeon river, where the Grand Portage commences on the lake, and continued along the line of the said Portage, alternately by land and water, to Lac la Pluie—the existing route by land and by water remaining common to both parties. This line has the advantage of being known, and attended with no doubt or uncertainty in running it.

In making the important concession on this boundary, of the Isle St. George, I must attach a condition to it of accommodation, which experience has proved to be necessary in the navigation of the great waters which bound the two countries—an accommodation which can, I apprehend, be no possible inconvenience to either. This was asked by the British commissioner, in the course of the attempts at compromise above alluded to; but nothing was done because he was not then prepared, as I am now, to yield the property and sovereignty of St. George's island.

The first of these two cases is at the head of Lake St. Clair, where the river of that name empties into it from Lake Huron. It is represented that the channel bordering the United States coast in this part, is not only the best for navigation, but, with some winds, is the only serviceable passage. I do not know that under such circumstances the passage of a British vessel would be refused; but on a final settlement of boundaries, it is desirable to stipulate for what the commissioners would probably have settled had the facts been known to them.

The other case, of nearly the same description, occurs on the St. Lawrence, some miles above the boundary at St. Regis. In distributing the islands of the river by the commissioners, Barnhart's island and the Long Sault islands were assigned to America. This part of the river has very formidable rapids, and the only safe passage is on the southern or American side, between those islands and the main land. We want a clause in our present treaty to say that for a short distance, viz.: from the upper end of upper Long Sault island to the lower end of Barnhart's island, the several channels of the river shall be used in common by the boatmen of the two countries.

I am not aware that these very reasonable demands are likely to meet with any objection, especially when the United States will have surrendered to them all that is essential in the boundary I have now to propose to you.

I beg you will be assured, sir, of my unfeigned and distinguished consideration.

ASHBURTON.

HON. DANIEL WEBSTER, &c., &c.

*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,

*Washington, July 27, 1842.*

MY LORD: I have now to propose to your lordship a line of division embracing the disputed portions of the boundary between the United States and the British provinces of New Brunswick and the Canadas, with its considerations and equivalents, such as conforms, I believe, in substance, to the result of the many conferences and discussions which have taken place between us.

The acknowledged territories of the United States and England, join upon each other from the Atlantic ocean to the eastern foot of the Rocky Mountains, a distance of more than three thousand miles. From the ocean to the source of the St. Croix the line of division has been ascertained and fixed by agreement; from the source of the St. Croix to a point near St. Regis, on the river St. Lawrence, it may be considered as unsettled, or controverted; from this last-mentioned point, along the St. Lawrence and through the lakes, it is settled, until it reaches the water communication between Lake Huron and Lake Superior. At this point the commissioners under the 7th article of the treaty of Ghent, found a subject of disagreement which they could not overcome, in deciding up which branch, or channel, the line should proceed till it should reach a point in the middle of St. Mary's river, about one mile above St. George's, or Sugar island.

From the middle of the water communication, between the two lakes, at the point last mentioned, the commissioners extended the line through the remaining part of that water communication, and across Lake Superior, to a point north of Isle Royale; but they could not agree in what direction the line should run from this last-mentioned point, nor where it should leave Lake Superior, nor how it should be extended to the Rainy Lake, or *Lac la Pluie*. From this last-mentioned lake, they agreed on the line to the northwesternmost point of the Lake of the Woods, which they found to be in latitude  $49^{\circ} 23' 55''$ . The line extends according to existing treaties, due south from this point to the 49th parallel of north latitude, and by that parallel to the Rocky mountains.

Not being able to agree upon the whole line, the commissioners, under the 7th article, did not make any joint report to their respective Governments; so far as they agreed on any part of the line, that part has been considered settled; but it may be well to give validity to these portions of the line by a treaty.

To complete the boundary line, therefore, and to remove all doubts and disputes, it is necessary for the two Governments to come to an agreement on three points:

1st. What shall be the line on the northeastern and northern limits of the United States, from the St. Croix to the St. Lawrence. This is by far the most important and difficult of the subjects, and involves the principal questions of equivalents and compensations.

2d. What shall be the course of the boundary from the point where the commissioners, under the 6th article of the treaty of Ghent, terminated their labors, to wit: a point in the Neebish channel, near Muddy lake, in the water communication between Lake Huron and Lake Superior, to a

point in the middle of St. Mary's river, one mile above Sugar Island. This question is important, as it involves the ownership of that island.

3d. What shall be the line from the point north of Isle Royale, in Lake Superior, to which the commissioners of the two Governments arrived, by agreement, to the Rainy lake; and also to confirm those parts of the line to which the said commissioners agreed.

Beside agreeing upon the line of division through these controverted portions of the boundary, you have suggested also, as the proposed settlement proceeds upon the ground of compromise and equivalents, that boats belonging to her Majesty's subjects may pass the falls of the Long Sault in the St. Lawrence, on either side of the Long Sault islands; and that the passages between the islands lying at or near the junction of the river St. Clair, with the lake of that name, shall be severally free and open to the vessels of both countries. There appears no reasonable objection to what is requested in these particulars; and on the part of the United States it is desirable, that their vessels, in proceeding from Lake Erie into the Detroit river, should have the privilege of passing between Bois Blanc, an island belonging to England, and the Canadian shore, the deeper and better channel being on that side.

The line, then, now proposed to be agreed to, may be thus described:

Beginning at the monument at the source of the river St. Croix, as designated and agreed to by the commissioners, under the fifth article of the treaty of 1794, between the Governments of the United States and Great Britain; thence, north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river St. John, and to the middle of the channel thereof; thence, up the middle of the main channel of the said river St. John, to the mouth of the river St. Francis; thence, up the middle of the channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pobenagamook; thence, southwesterly, in a straight line, to a point of the northwest branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction; but, if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the river St. Lawrence from those which fall into the river St. John, then the said point shall be made to recede down the said river to a point seven miles, in a straight line, from the said summit or crest; thence, in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of  $46^{\circ} 25'$  north intersects the southwest branch of the St. John; thence, southerly, by the said branch, to the source thereof in the highlands at the Metjarmette portage; thence, down along the said highlands which divide the waters which empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, to the head of Hall's stream; thence, down the middle of said stream, till the line thus run intersects the old line of boundary, surveyed and marked by Valentine and Collins previously to the year 1774, as the forty-fifth degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont, on one side, and the British province of Canada on the other; and from said point of intersection, west, along the said dividing line, as heretofore known and understood, to the Iroquois or St. Lawrence river; and from the place where the joint commissioners ter-

minated their labors, under the sixth article of the treaty of Ghent, to wit: at a point in the Neebish channel, near Muddy lake, the line shall run into and along the ship channel between St. Joseph's and St. Tammany islands, to the division of the channel at or near the head of St. Joseph's island; thence, turning eastwardly and northwardly, around the lower end of St. George's, or Sugar island, and following the middle of the channel which divides St. George's from St. Joseph's island; thence, up the east Neebish channel, nearest to St. George's island, through the middle of Lake George; thence, west of Jonas island, into St. Mary's river, to a point in the middle of that river, about one mile above St. George's or Sugar island, so as to appropriate and assign the said island to the United States; thence, adopting the line traced on the maps by the commissioners, through the river St. Mary and Lake Superior, to a point north of Isle Royale, in said lake, one hundred yards to the north and east of Isle Chapeau, which last-mentioned island lies near the northeastern point of Isle Royale, where the line marked by the commissioners terminates; and from the last-mentioned point, southwesterly, through the middle of the sound between Isle Royale and the northwestern main land, to the mouth of Pigeon river, and up the said river to and through the north and south Fowl lakes, to the lakes of the height of land, between Lake Superior and the Lake of the Woods; thence, along the water communication, to Lake Saisaginaga, and through that lake; thence to and through Cypress lake, Lac du Bois Blanc, Lac la Croix, Little Vermillion lake, and Lake Namecan, and through the several smaller lakes, straits, or streams, connecting the lakes here mentioned to that point in Lac la Pluie, or Rainy lake, at the Chaudiere falls, from which the commissioners traced the line, to the most northwestern point of the Lake of the Woods; thence, along the said line to the said most northwestern point, being in latitude  $49^{\circ} 23' 55''$  north, and in longitude  $95^{\circ} 14' 38''$  west, from the observatory at Greenwich; thence, according to existing treaties, the line extends due south to its intersection with the forty-ninth parallel of north latitude, and along that parallel, to the Rocky mountains. It being understood that all the water communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand portage, from the shore of Lake Superior to the Pigeon river, as now actually used, shall be free and open to the use of the subjects and citizens of both countries.

It is desirable to follow the description and the exact line of the original treaty as far as practicable. There is reason to think that "Long lake," mentioned in the treaty of 1783, meant merely the estuary of the Pigeon river, as no lake called "Long lake," or any other water strictly conforming to the idea of a lake, is found in that quarter. This opinion is strengthened by the fact that the words of the treaty would seem to imply that the water intended as "Long lake" was immediately joining Lake Superior. In one respect an exact compliance with the words of the treaty is not practicable. There is no continuous water communication between Lake Superior and the Lake of the Woods, as the Lake of the Woods is known to discharge its waters through the Red river of the north into Hudson's bay. The dividing height or ridge between the eastern sources of the tributaries of the Lake of the Woods and the western sources of Pigeon river appears, by authentic maps, to be distant about forty miles from the mouth of Pigeon river, on the shore of Lake Superior.

It is not improbable that in the imperfection of knowledge which then existed of those remote countries, and perhaps misled by Mitchell's map, the

negotiators of the treaty of 1783 supposed the Lake of the Woods to discharge its waters into Lake Superior. The broken and difficult nature of the water communication from Lake Superior to the Lake of the Woods renders numerous portages necessary; and it is right that these water communications and these portages should make a common highway, where necessary, for the use of the subjects and citizens of both Governments.

When the proposed line shall be properly described in the treaty, the grant by England of the right to use the waters of the river St. John's for the purpose of transporting to the mouth of that river all the timber and agricultural products raised in Maine, on the waters of the St. Johns, or any of its tributaries, without subjection to any discriminating toll, duty, or disability, is to be inserted. Provision should also be made for quieting and confirming the titles of all persons having claims to lands on either side of the line, whether such titles be perfect or inchoate only, and to the same extent in which they would have been confirmed by their respective Governments had no change taken place. What has been agreed to, also, in respect to the common use of certain passages in the rivers and lakes, as already stated, must be made matter of regular stipulation.

Your lordship is also informed, by the correspondence which formerly took place between the two Governments, that there is a fund arising from the sale of timber, concerning which fund an understanding was had some years ago. It will be expedient to provide by the treaty that this arrangement shall be carried into effect.

A proper article will be necessary to provide for the creation of a commission to run and mark some parts of the line between Maine and the British provinces.

These several objects appear to me to embrace all respecting the boundary line and its equivalents which the treaty needs to contain as matters of stipulation between the United States and England.

I have the honor to be, with high consideration, your lordship's most obedient servant.

DANIEL WEBSTER.

Lord ASHBURTON, &c., &c.

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*Lord Ashburton to Mr. Webster.*

WASHINGTON, July 29, 1842.

SIR: I have attentively considered the statements contained in the letter you did me the honor of addressing me the 27th of this month, of the terms agreed to for the settlement of boundaries between her Majesty's provinces and the United States, being the final result of the many conferences we have had on this subject. This settlement appears substantially correct in all its parts, and we may now proceed, without further delay, to draw up the treaty. Several of the articles for this purpose are already prepared and agreed, and our most convenient course will be to take and consider them singly. I would beg leave to recommend, that as we have excellent charts of the country through which the boundary, which failed of being settled by the commissioners under the seventh article of the treaty of Ghent, is partially marked, that it would be advisable to make good the delineation on those charts, which would spare to both parties the unnecessary expense of new

commissioners and a new survey. In this case the only commission required would be to run the line on the boundary of Maine.

The stipulations for the greater facility of the navigation of the river St. Lawrence, and of the two passages between the upper lakes, appear evidently desirable for general accommodation, and I can not refuse the reciprocal claim made by you to render common the passage from Lake Erie into the Detroit river. This must be done by declaring the several passages in those parts free to both parties.

I should remark, also, that the free use of the navigation of the Long Sault passage on the St. Lawrence must be extended to below Barnhardt's island, for the purpose of clearing those rapids.

I beg leave to repeat to you, sir, the assurance of my most distinguished consideration.

ASHBURTON.

HON. DANIEL WEBSTER,  
*&c., &c., &c.*

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*Lord Ashburton to Mr. Webster.*

WASHINGTON, August 9, 1842.

SIR: It appears desirable that some explanation between us should be recorded by correspondence respecting the fifth article of the treaty signed by us this day, for the settlement of the boundaries between Great Britain and the United States.

By that article of the treaty it is stipulated, that certain payments shall be made by the Government of the United States to the States of Maine and Massachusetts. It has of course been understood that my negotiations have been with the Government of the United States, and the introduction of terms of agreement between the general Government and the States would have been irregular and inadmissible, if it had not been deemed expedient to bring the whole of these transactions within the purview of the treaty. There may not be wanting analogous cases to justify this proceeding, but it seems proper that I should have confirmed by you, that my Government incurs no responsibility for these engagements, of the precise nature and object of which I am uninformed, nor have I considered it necessary to make inquiry concerning them.

I beg, sir, to renew to you the assurances of my high consideration.

ASHBURTON.

HON. DANIEL WEBSTER,  
*&c., &c., &c.*

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,  
 Washington, August 9, 1842.

MY LORD: I have the honor to acknowledge the receipt of your note of the 9th of August, with respect to the object and intention of the fifth article of the treaty. What you say in regard to that subject is quite correct.

It purports to contain no stipulation on the part of Great Britain, nor is any responsibility supposed to be incurred by it, on the part of your Government.

I renew, my lord, the assurance of my distinguished consideration.

DANIEL WEBSTER.

Lord ASHBURTON, &c., &c.

## CORRESPONDENCE WITH STATE AUTHORITIES.

## NORTHEASTERN BOUNDARY.

*Secretary of State of Massachusetts to the President.*

COMMONWEALTH OF MASSACHUSETTS,  
*Secretary's Department, March 18, 1842.*

SIR: By direction of his excellency the Governor, I have the honor to transmit to you an official copy of certain resolutions passed at the late session of the Legislature of this State.

With the highest respect, your obedient servant,  
JOHN P. BIGELOW,  
*Secretary of the Commonwealth.*

His Excellency JOHN TYLER,  
*President of the United States.*

## COMMONWEALTH OF MASSACHUSETTS.

IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND FORTY-TWO.

*Resolves concerning the Northeastern boundary of the United States.*

*Resolved,* That the boundary line between the State of Maine and the British province of New Brunswick is so clearly defined by the treaty of 1783, that the terms of the treaty can neither be misapprehended, nor afford any support to the unjust pretensions of Great Britain.

*Resolved,* That this Commonwealth, as a joint proprietor, with the State of Maine, of the territory alleged to be in dispute, has an interest in all negotiations respecting the same, which demands her watchful attention, that her rights and interests may be preserved unimpaired and unchanged without her assent.

*Resolved,* That the Governor, with the advice and consent of the Council, be authorized and requested, from time to time, to adopt such measures, to secure the rights and interest of the Commonwealth in said territory, and to produce an honorable and satisfactory adjustment, as the emergency may demand.

*Resolved,* That no compromise which concedes any territory west of the treaty line of 1783 can be constitutionally made without the assent of Maine and Massachusetts; and that, as they are co-proprietors of the soil, this Commonwealth will cheerfully co-operate with Maine in support of their mutual interests and rights.

*Resolved,* That the Governor be requested to transmit a copy of these resolutions to the President of the United States, and to the Governor of the State of Maine.

HOUSE OF REPRESENTATIVES, *March 3, 1842.*

Passed: SAMUEL H. WALLEY, *Speaker pro tem.*

IN SENATE, *March 3, 1842.*

Passed: JOSIAH QUINCY, JR., *President.*

Approved, *March 3, 1842.*

JOHN DAVIS.

A true copy.

Attest: JOHN P. BIGELOW,  
*Secretary of the Commonwealth.*

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*Mr. Webster to Mr. Fairfield.\**

DEPARTMENT OF STATE,

*Washington, April 11, 1842.*

Your excellency is aware that, previous to March, 1841, a negotiation had been going on for some time between the Secretary of State of the United States, under the direction of the President, and the British minister accredited to this Government, having for its object the creation of a joint commission for settling the controversy respecting the Northeastern boundary of the United States, with a provision for an ultimate reference to arbitrators, to be appointed by some of the sovereigns of Europe, in case an arbitration should become necessary. On the leading features of a convention for this purpose the two Governments were agreed; but, on several matters of detail, the parties differed, and appear to have been interchanging their respective views and opinions, projects and counter-projects, without coming to a final arrangement, down to August, 1840. Various causes, not now necessary to be explained, arrested the progress of the negotiation at that time, and no considerable advance has since been made in it.

It seems to have been understood, on both sides, that, one arbitration having failed, it was the duty of the two parties to proceed to institute another, according to the spirit of the treaty of Ghent and other treaties; and the President has felt it to be his duty, unless some new course should be proposed, to cause the negotiation to be resumed, and pressed to its conclusion. But I have now to inform your excellency that Lord Ashburton, a minister plenipotentiary and special, has arrived at the seat of the Government of the United States, charged with full powers from his sovereign to negotiate and settle the different matters in discussion between the two Governments. I have further to state to you, that he has officially announced to this Department, that, in regard to the boundary question, he has authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as may be thought just and equitable; and that he is ready to enter upon a negotiation for such conventional line, so soon as this Government shall say that it is authorized and ready, on its part, to commence such negotiation.

Under these circumstances, the President has felt it to be his duty to call the serious attention of the Governments of Maine and Massachusetts to

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\* Same, *mutatis mutandis*, to the Governor of Massachusetts.

the subject, and to submit to those Governments the propriety of their cooperation, to a certain extent, and in a certain form, in an endeavor to terminate a controversy already of so long duration, and which seems very likely to be still considerably further protracted before the desired end of a final adjustment shall be attained, unless a shorter course of arriving at that end be adopted than such as has heretofore been pursued, and as the two Governments are still pursuing.

Yet, without the concurrence of the two States whose rights are more immediately concerned, both having an interest in the soil, and one of them in the jurisdiction and government, the duty of this Government will be to adopt no new course, but, in compliance with treaty stipulations, and in furtherance of what has already been done, to hasten the pending negotiations as fast as possible.

But the President thinks it a highly desirable object to prevent the delays necessarily incident to any settlement of the question by these means. Such delays are great and unavoidable. It has been found that an exploration and examination of the several lines constitute a work of three years. The existing commission for making such exploration, under the authority of the United States, has been occupied two summers, and a very considerable portion of the work remains still to be done. If a joint commission should be appointed, and should go through the same work, and the commissioners should disagree, as is very possible, and an arbitration on that account become indispensable, the arbitrators might find it necessary to make an exploration and survey themselves, or cause the same to be done by others of their own appointment. If to these causes, operating to postpone the final decision, be added the time necessary to appoint arbitrators, and for their preparation to leave Europe for the service, and the various retarding incidents always attending such operations, seven or eight years constitute perhaps the shortest period within which we can look for a final result. In the mean time, great expenses have been incurred, and further expenses cannot be avoided. It is well known that the controversy has brought heavy charges upon Maine herself, to the remuneration or proper settlement of which she cannot be expected to be indifferent. The exploration by the Government of the United States has already cost a hundred thousand dollars, and the charge of another summer's work is in prospect. These facts may be sufficient to form a probable estimate of the whole expense likely to be incurred before the controversy can be settled by arbitration; and our experience admonishes us that even another arbitration might possibly fail.

The opinion of this Government upon the justice and validity of the American claim has been expressed at so many times, and in so many forms, that a repetition of that opinion is not necessary. But the subject is a subject in dispute. The Government has agreed to make it matter of reference and arbitration; and it must fulfil that agreement, unless another mode for settling the controversy should be resorted to, with the hope of producing a speedier decision. The President proposes, then, that the Governments of Maine and Massachusetts should severally appoint a commissioner or commissioners, empowered to confer with the authorities of this Government upon a conventional line, or line by agreement, with its terms, conditions, considerations, and equivalents, with an understanding that no such line will be agreed upon without the assent of such commissioners.

This mode of proceeding, or some other which shall express assent beforehand, seems indispensable, if any negotiation for a conventional line is to be had, since, if happily a treaty should be the result of the negotiation, it can only be submitted to the Senate of the United States for ratification.

It is a subject of deep and sincere regret to the President, that the British plenipotentiary did not arrive in the country and make known his powers in time to have made this communication before the annual session of the Legislatures of the two States had been brought to a close. He perceives and laments the inconvenience which may be experienced from reassembling those Legislatures. But the British mission is a special one ; it does not supersede the resident mission of the British Government at Washington, and its stay in the United States is not expected to be long. In addition to these considerations, it is to be suggested that more than four months of the session of Congress have already passed, and it is highly desirable, if any treaty for a conventional line should be agreed on, it should be concluded before the session shall terminate, not only because of the necessity of the ratification of the Senate, but also because it is not impossible that measures may be thought advisable, or become important, which can only be accomplished by the authority of both Houses.

These considerations, in addition to the importance of the subject, and a firm conviction in the mind of the President that the interests of both countries, as well as the interests of the two States more immediately concerned, require a prompt effort to bring this dispute to an end, constrain him to express an earnest hope that your excellency will convene the Legislature of Maine, and submit the subject to its grave and candid deliberations.

I am, &c.

DANIEL WEBSTER.

His Excellency JOHN FAIRFIELD,  
*Governor of Maine.*

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*Mr. Davis to Mr. Webster.*

EXECUTIVE DEPARTMENT,

*Worcester, (Mass.) April 17, 1842.*

SIR: I have the honor to acknowledge the reception of your official communication announcing the arrival of Lord Ashburton, as a special envoy from Her Majesty the Queen of the United Kingdoms, vested with full authority to adjust, by a conventional line, the Northeastern boundary of the United States. It will be highly satisfactory to the people of this Commonwealth to learn that no attempt is to be made to establish a line by compromise, without their assent ; but if such a line can be agreed upon for a satisfactory equivalent, which should leave all the parties interested at peace, and terminate the controversy, I have no doubt it would meet with the approbation of the people of this State. No opinion can with safety be formed upon any such proposition, till it is submitted in its details and fully understood. That the parties may all have full opportunity to act with deliberation, the desire of the President is, that the Legislatures of Massachusetts and Maine should be assembled, to make suitable

provisions for the appointment of commissioners to take charge of their respective interests at Washington, during the negotiation between the United States and Great Britain.

Anticipating the contingency which has occurred, I invited the attention of the Legislature to the subject while in session, and suggested the expediency of legislation which should provide for it. In pursuance of that suggestion, certain joint resolutions were passed and approved, which have been forwarded to the President, which appear to me to confer all the authority necessary, and were undoubtedly designed by the Legislature to meet this emergency. This wise provision will, I trust, supersede all occasion for reassembling the Legislature, as the Governor and Council have authority to act in the matter in any way that the interests and honor of the Commonwealth demand. There will be a meeting, by appointment, of the Council on the 25th of May, which, if Maine can only move after legislation is had, will be sufficiently seasonable for all practicable purposes, when the subject will be laid before them, and there can be little doubt that they will acquiesce in the propriety of sending a commissioner to represent the State in a matter of such decided importance.

If this movement on the part of Great Britain is indicative, as it seems to me it is, of a settled purpose to close the controversy, and she is prepared to give satisfactory equivalents for the concession of territory sufficient to answer her purposes, then the division of such an equivalent or equivalents between Maine and Massachusetts will become an important question; but it should in no particular be left for future discussion or decision, by Congress or any other body, but should be definitively adjusted in the general arrangement, that each State may know the exact measure of its rights.

You will learn, also, from these resolutions, the disposition of the State to bring this question to an issue, in any manner consistent with her honor, interest, and dignity. The opinions conveyed in them, as far as I know, were unanimous, and indicate the tone of public sentiment. The people of Massachusetts are not disposed to yield any thing to unjust pretension. Not a particle of doubt is entertained, by any one, that the treaty line of 1783 may be as certainly identified as Mars Hill, and the northwest angle of Nova Scotia as certainly established by the description in the treaty as the meridian of Quebec. We all feel that no doubt can exist that there are highlands which divide the waters that flow into the St. Lawrence and the sea, and that a line due north can be run from the monument to the dividing summit. These are matters that no one can feel any hesitation about, and hence there is but one opinion in Massachusetts. While, therefore, we cannot listen to a claim upon what we know to be our own, we can, in the spirit of peace and accommodation, yield something to the convenience of a neighbor by agreement. This is, without shade of coloring, the sentiment of Massachusetts. She will, on honorable terms, concede something to the convenience and necessity of Great Britain, but nothing—not a rood of barren heath or rock—to unfounded claims. If an earlier day than the 25th of May shall prove desirable, the Council can be summoned.

I have the honor to be your obedient servant,

J. DAVIS.

To the SECRETARY OF STATE.

## COMMONWEALTH OF MASSACHUSETTS,

IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND FORTY-TWO.

*Resolves concerning the Northeastern boundary of the United States.*

*Resolved*, That the boundary line between the State of Maine and the British province of New Brunswick is so clearly defined by the treaty of seventeen hundred and eighty-three, that the terms of the treaty can neither be misapprehended, nor afford any support to the unjust pretensions of Great Britain.

*Resolved*, That this Commonwealth, as a joint proprietor with the State of Maine, of the territory alleged to be in dispute, has an interest in all negotiations respecting the same, which demands her watchful attention, that her rights and interests may be preserved unimpaired and unchanged without her assent.

*Resolved*, That the Governor, with the advice and consent of the Council, be authorized and requested, from time to time, to adopt such measures to secure the rights and interest of the Commonwealth in said territory, and to produce an honorable and satisfactory adjustment, as the emergency may demand.

*Resolved*, That no compromise which concedes any territory west of the treaty line of seventeen hundred and eighty-three can be constitutionally made without the assent of Maine and Massachusetts; and, that as they are co-proprietors of the soil, this Commonwealth will cheerfully co-operate with Maine in support of their mutual interests and rights.

*Resolved*, That the Governor be requested to transmit a copy of these resolutions to the President of the United States, and to the Governor of the State of Maine.

HOUSE OF REPRESENTATIVES, *March 3, 1842.*Passed: SAMUEL H. WALLEY, *Speaker pro tem.*IN SENATE, *March 3, 1842.*Passed: JOSIAH QUINCY, JR., *President.*

Approved March 3, 1842.

JOHN DAVIS.

A true copy.

Attest: JOHN P. BIGELOW,  
*Secretary of the Commonwealth.*

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Mr. Webster to Mr. Davis.—[COPY.]

DEPARTMENT OF STATE,

*Washington, April 16, 1842.*

SIR: I have the honor to acknowledge the receipt, from your excellency, of certain resolves concerning the Northeastern boundary of the United States, passed by the Legislature of Massachusetts on the third day of March last.

As those resolves appear to recognise the propriety of endeavoring to fix upon a line by compromise, with the assent of Maine and Massachusetts, and as they authorize your excellency, with advice of Council, to adopt such measures to secure the rights and interests of the Commonwealth of Massachusetts as the emergency may demand, it appears to me that they are a sufficient warrant for such proceedings as you may see fit to adopt, in order to gain the assent of the Commonwealth to any line of boundary which may be just and equitable, and upon which the parties may be likely to agree. If your excellency should take this view of the subject, a call of the Legislature would of course be unnecessary.

I have the honor to be, &c.

DANIEL WEBSTER.

His Excellency JOHN DAVIS,  
*Governor of Massachusetts.*

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*Mr. Davis to Mr. Webster.*

EXECUTIVE DEPARTMENT,

*Worcester, April 27, 1842.*

SIR: Since I last addressed you, I have received your favor of the 16th instant, by which it appears the resolutions of the Legislature of this Commonwealth have reached you. These resolves, respecting the Northeastern boundary, were adopted to meet the contingency which has occurred, and to avoid any necessity for reassembling the Legislature on this account. As soon as it became certain that a special envoy was to be despatched hither, by the Queen of the United Kingdoms, it was apparent to me that he would be authorized to propose a conventional line, as this is manifestly the only alternative short of acceding to the treaty line of 1783. When the subject was brought to the attention of the Legislature, it seemed to entertain similar views, and with great harmony of opinion provided, as well as the state of things, which was then wholly conjectural, would enable them.

The Council will meet on the 25th of May for the regular despatch of business, when their attention will be invited to the expediency of consenting to the appointment of an agent or agents to represent the State.

I have the honor to be your obedient servant,

J. DAVIS.

The SECRETARY OF STATE *for the United States.*

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*The Governor of Maine to the President.*

EXECUTIVE DEPARTMENT,

*Augusta, May 27, 1842.*

SIR: I have the honor to enclose a copy of preamble and resolutions adopted by the Legislature of this State, relating to the subject of the Northern and Northeastern boundaries of Maine; and also to inform you that

the Hon. Edward Kavanagh, Hon. Edward Kent, Hon. William P. Preble, and Hon. John Otis, have been elected commissioners under said resolves.

Most respectfully, your obedient servant,

JOHN FAIRFIELD.

His Excellency JOHN TYLER,

*President of the United States, Washington.*

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STATE OF MAINE.

The joint select committee of both Houses of the Legislature, to which was referred the Governor's message of the 18th instant, with the accompanying communication from the Secretary of State of the United States, have had the same under consideration, and ask leave to report the following preamble and resolutions.

EDWARD KAVANAGH, *Chairman.*

COMMITTEE ROOM, May 20, 1842.

*Resolves in relation to the Northeastern boundary of this State.*

Whereas the preceding Legislature of this State, in conformity with the well-settled conviction of all the people thereof, and with incontrovertible evidence before them on the subject, have uniformly declared that the boundary of Maine, on its Northern and Northeastern frontiers, as designated in the treaty of 1783, can be laid down and fixed according to the terms of that treaty; and that such line embraces all the territory over which this State claims property, sovereignty, and jurisdiction; and the Executive and Congress of the United States having recognised the validity of that claim in its full extent, this Legislature renews such declarations in the most solemn manner: and

Whereas, for a series of years, every attempt to adjust the vexed questions in regard to the establishment of the said boundary having proved ineffectual, it has been represented to the Government of this State that the minister plenipotentiary and special of Her Britannic Majesty at Washington, has officially announced to the Government of the United States that he has authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such considerations and equivalents, as may be thought just and equitable; and that he is ready to enter upon a negotiation for such conventional line as soon as the Government of the United States shall say that it is authorized and ready, on its part, to commence such negotiation: and

Whereas the Government of the United States, not possessing the constitutional power to conclude any such negotiation without the assent of Maine, has invited the Government of this State to co-operate to a certain extent, and in a certain form, in an endeavor to terminate a controversy of so long duration:

Now, considering the premises, and believing that the people of this State, after having already manifested a forbearance honorable to their character, under long-continued violations of their rights by a foreign nation; and, though not disposed to yield to unfounded pretensions, are still willing, in regard to the proposal now made by the General Government, to give

additional evidence to their fellow-citizens, throughout the United States, of their desire to preserve the peace of this Union by taking measures to discuss and conclude, if possible, the subject in controversy in a manner that will secure the honor and interests of the State, this Legislature adopts the following resolutions, with the understanding, however, that, in the event of a failure in such endeavor towards an arrangement, no proceedings thereunder shall be so construed as to prejudice in any manner the rights of the State as they have been herein asserted to exist:

*Resolved*, That there shall be chosen, by ballot, in convention of both branches of the Legislature, four persons, who are hereby constituted and appointed commissioners, on the part of this State, to repair to the seat of Government of the United States, and to confer with the authorities of that Government touching a conventional line, or line by agreement, between the State of Maine and the British provinces, having regard to the line designated by the treaty of 1783, as uniformly claimed by this State, and to the declarations and views expressed in the foregoing preamble, and to give the assent of this State to any such conventional line, with such terms, conditions, considerations, and equivalents, as they shall deem consistent with the honor and interests of the State; with the understanding that no such line be agreed upon without the unanimous assent of such commissioners.

*Resolved*, That this State cannot regard the relinquishment by the British Government of any claim heretofore advanced by it to territory included within the limits of the line of this State as designated by the treaty of 1783, and uniformly claimed by Maine, as a consideration or equivalent within the meaning of these resolutions.

*Resolved*, That the said commissioners be furnished by the Governor with evidence of their appointment, under the seal of the State.

*Resolved*, That the Governor, by and with the advice and consent of the Council, have power to fill any vacancy that may occur in said commission, by death, resignation, or otherwise.

*Resolved*, That the said commissioners make return of their doings herein to the Governor, to be by him presented to the Legislature at its next session.

IN THE HOUSE OF REPRESENTATIVES, *May 26 1842.*

Read and passed: CHARLES ANDREWS, *Speaker.*

IN SENATE, *May 26, 1842,*  
S. H. BLAKE, *President.*

Read and passed:

Approved, *May 26, 1842.*

JOHN FAIRFIELD.

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STATE OF MAINE.

SECRETARY'S OFFICE, AUGUSTA,  
*May 26, 1842.*

I hereby certify that the foregoing is a true copy of the original preamble and resolutions deposited in this office.

Attest:

PHILIP C. JOHNSON, *Secretary of State.*

*The Maine Commissioners to Mr. Webster.*

FULLER'S HOTEL, WASHINGTON,

June 12, 1842.

The commissioners of Maine, on the subject of the Northeastern boundary, present their respectful compliments to the honorable Mr. Webster, Secretary of State of the United States, and beg leave to inform him that they are now in this city, ready to enter upon the business intrusted to them. They also avail themselves of the occasion to request him to name the time and place when and where it would suit the convenience of the Secretary of State to receive them.

*Mr. Webster to the Maine Commissioners.*

PRESIDENT'S SQUARE, June 12, 1842.

Mr. Webster has the honor to acknowledge the receipt of the note of the commissioners of Maine, announcing their arrival, and their readiness to enter on the business of their appointment.

Mr. W. will have great pleasure in receiving the commissioners at the Department of State, on Monday, at 1 o'clock.

*Commissioners of Massachusetts to Mr. Webster.*

WASHINGTON, June 13, 1842.

SIR: The undersigned, commissioners appointed by the State of Massachusetts to confer with the Government of the United States upon a conventional line to be established on our Northeastern boundary, are ready to proceed in the execution of their commission whenever the Secretary may signify his wish to meet them. Our colleague (Mr. Allen) will probably be here to-morrow.

We have the honor to remain, with the highest respect, your obedient servants,

ABBOTT LAWRENCE.  
JOHN MILLS.HON. DANIEL WEBSTER, *Secretary of State.**Mr. Webster to the Commissioners of Massachusetts.*

DEPARTMENT OF STATE,

Washington, June 13, 1842.

The undersigned has the honor to acknowledge the receipt of the communication addressed to him this day by Messrs. Lawrence and Mills, commissioners of the Commonwealth of Massachusetts. He will be happy to see these gentlemen at this Department at  $\frac{1}{4}$  past 1 o'clock, P. M., to-day.

DANIEL WEBSTER.

MESSRS. LAWRENCE and MILLS,

*Commissioners of the Commonwealth of Massachusetts.*

*The Maine Commissioners to Mr. Webster.*

WASHINGTON, June 29, 1842.

SIR: The undersigned, commissioners of Maine, have given to the letter of Lord Ashburton, addressed to you, under date of the 21st instant, and by you communicated to them, all the consideration which the importance of the subject of which it treats, the views it expresses, and the proposition it submits to you, demand.

There are passages in his lordship's communication, the exact extent of the meaning of which the undersigned are not quite sure that they fully understand.

In speaking of the inhabitants on the south side of the St. John, in the Madawaska settlement, he says: "I cannot, in any case, abandon the obvious interest of these people." Again, in speaking of the proposition submitted by him, he remarks: "I have not treated the subject in the ordinary form of a bargain, where the party making the proposal leaves himself something to give up. The case would not admit of this, even if I could bring myself so to act."

If his lordship's meaning is, that the proposed boundary, by agreement or conventional line, between the State of Maine and the province of New Brunswick, must, at all events, be established on the south side of the St. John, extending from the due north line to Fish river, and at a distance back from the river, so as to include the Madawaska settlement, and that the adoption of such a line is a *sine qua non* on the part of the British Government, the commissioners on the part of the State of Maine feel it their duty as distinctly to say, that any attempt at an amicable adjustment of the controversy respecting the Northeastern boundary on that basis, with the consent of Maine, would be entirely fruitless.

The people of Maine have a deep-settled conviction and the fullest confidence in the justice of their claim, to its utmost extent; yet, being appealed to as a constituent member of the American Union, and called upon, as such, to yield something in a spirit of patriotism for the common good, and to listen, in a spirit of peace, of accommodation, and good neighborhood, to propositions for an amicable settlement of the existing controversy, they have cheerfully and promptly responded to the appeal. Her Governor and Legislature, in good faith, immediately adopted the measures necessary on her part, with a view to relinquish to Great Britain such portion of territory and jurisdiction as might be needed by her for her accommodation, on such terms and for such equivalents as might be mutually satisfactory. Beyond this, nothing more was supposed to be expected or desired. During the negotiations at Ghent, the British commissioners, in a communication to the American commissioners, dated October 8, 1814, distinctly avow that the British Government never required all that portion of Massachusetts intervening between the province of New Brunswick and Quebec should be ceded to Great Britain, but only that *small portion* of unsettled country which intercepts the communication between Halifax and Quebec. So his lordship, in his communication, admits that the reasons which have induced the British Government to maintain their rights ("claim") in this controversy are, "the establishing a good boundary between our two countries, so as to prevent collisions and dispute, and an unobstructed communication and connexion of our colonies with each other." Again: looking, as he says, on the map, for such a boundary, "with reference to the sole object of

Great Britain, as already described, the line of the St. John, from where the north line from the St. Croix strikes it, up to some one of its sources, seems evidently to suit both parties," &c. Indeed, the portion of territory which Great Britain needs for her accommodation is so perfectly obvious, that no material difference of opinion, it is believed, has ever been expressed on the subject. It is that portion which lies north of the St. John and east of the Madawaska rivers, with a strip of convenient width on the west side of the latter river, and of the lake from which it issues.

Sent here, then, under this state of things, and with these views, by the Legislature of Maine, in a spirit of peace and conciliation, her commissioners were surprised and pained to be repelled, as it were, in the outset, by such a proposition as his lordship has submitted to you. On carefully analyzing it, it will be seen that, in addition to all the territory needed by Great Britain for her accommodation, as stated and admitted by her own authorities and agents, it requires that Maine should further yield a valuable territory, of more than fifty miles in extent, lying along the south side of the St. John, extending from the due north line westerly to Fish river, and so back from the river St. John, as it is understood, to the Eagle lakes, and probably to the Little Madawaska and Aroostook. Speaking of this branch of his proposition, his lordship treats it merely as "departing to this inconsiderable extent from the marked line of the river St. John." His lordship does not state how much further up the river he contemplates going. His language implies that the distance to Fish river, although over fifty miles, is only an inconsiderable part of the whole extent contemplated. This part of the proposition, then, would seem to imply a relinquishment also, on the part of Maine, of a large portion of her territory north of the St. John and west of the Madawaska rivers. In this view of the case, it is due to the Governor, and Legislature, and people of Maine, to say that they had not expected such a proposition. If they had, nothing is hazarded in saying no commissioners would have been sent here to receive and consider it. And, in this state of things, it becomes a bounden duty, on the part of the undersigned, to say to you, that if the yielding and relinquishing, on the part of the State of Maine, of any portion of territory, however small, on the south side of the St. John, be with Her Britannic Majesty's Government a *sine qua non* to an amicable settlement of the boundary of Maine, the mission of the commissioners of Maine is ended. They came not to throw obstacles in the way to the successful accomplishment of the great work you have on hand—that of consolidating an honorable peace between two great nations—but, on the contrary, they came prepared to yield much, to sacrifice much, on the part of Maine, to the peace of the Union and the interest of her sister States. If the hopes of the people of Maine, and of the United States, are to be disappointed, it is believed the fault lies not at the door of the Governor or Legislature of Maine, or of her commissioners.

At the date of the earliest map of that country, the river now called the Madawaska had not acquired a distinctive name, and consequently the source of that river was regarded as one of the sources, if not the principal source, of the St. John. On looking at the map, it will at once be seen that the general course of the St. John and Madawaska, from the mouth of the former to the source of the latter, are one and the same. As connected with this fact, we find that at least five different maps, published in London in the years 1765, 1769, 1771, 1774, and 1775, place the north-

west angle of Nova Scotia on the highlands at the source of that branch of the St. John, then without distinctive appellation, but now known as the Madawaska.

One of these five is especially quoted in the report of the committee of Congress of the 16th August, 1782, so often referred to in this controversy. In no map of a date prior to the treaty of 1783, it is believed, is the northwest angle of Nova Scotia placed on the highlands at the source of any breach whatever, of the St. John, but the Madawaska. Hence the proposition of the American commissioners, in 1782, in discussing the subject of the boundaries of the United States, to begin at the northwest angle of Nova Scotia, on the highlands at the source of the St. John. Respect for the distinguished men who negotiated the treaty of peace of 1783, would induce the undersigned to renew the proposition, so far as regards adopting the Madawaska as a boundary, were it not that, being prepared to yield all that is needed for the accommodation of Great Britain, they are aware that a strip on the west side of that river is necessary to that object. The particular map quoted in the report above mentioned is that of Emanuel Bowen, geographer to the King, published in 1775, in which the Penobscot, and a line drawn from one of its sources, crossing the St. John, to the source of that branch now called the Madawaska, are distinctly laid down as the western boundary of Nova Scotia. So in all the maps which place the northwest angle of Nova Scotia on the highlands at the source of the St. John, those highlands and that source are on the north side of the Waloostook, which is now known to be the main branch of the St. John. The inference or assumption then, that it was not the intention of the commissioners who negotiated the treaty of peace that any portion of the valley or waters of the St. John should be included within the limits of the United States, because the American negotiators of that treaty proposed the northwest angle of Nova Scotia, on the highlands at the source of the St. John, as the place of beginning, in establishing the boundaries of the United States, is, it is believed, wholly unwarranted. The fact, on the contrary, as it seems to the undersigned, disproves any such intention or supposition on the part of the American commissioners.

The British commissaries, Messrs. Mildmay and De Cosne, in their reply of the 23d of January, 1753, to the French commissaries, say: "We have sufficiently proved, first, that Acadia (Nova Scotia) has had an inland limit from the earliest times; and, secondly, that that limit has ever been the river St. Lawrence." At that time, then, the British Government contended that the northwest angle of Nova Scotia was formed by the river St. Lawrence, as one line, and a line drawn north from the St. Croix to the St. Lawrence as the other; and this is in conformity with the position assigned to it on Mitchell's map, and some others. By the grant to Sir William Alexander, the northwest angle of Nova Scotia was also placed at the river St. Lawrence, although its precise locality on that river is not determined by the language of the grant.

The French commissaries, on their part, contended that the limits of Canada extended on the south side of the St. Lawrence, so as to embrace the territory watered by the rivers that empty themselves into the river St. Lawrence. ("Les pays dont les eaux vont se rendre dans le fleuve St. Laurent.") The commissions granted to the Governors of Canada, and all the public documents issued by the authority of the French Government, fully sustain their position. There is no ground, say they, for enter-

taining a doubt that all the commissions granted by the King, for the Government of Canada, were conceived in the same terms. In the splendid Universal Atlas, published at Paris by De Vaugondy & Son, in 1757, there is a map, dated 1755, and referred to expressly by the author, who was geographer to the King, as illustrating the dispute between France and Great Britain, in regard to the boundaries of their respective territories. On this map, the dividing ridge, or highlands, is placed where the United States have ever contended it is only to be found; and what is deserving of notice is, that the northwest angle of Nova Scotia is there placed on these highlands, at the head of the lake there called Metaousta; the line separating Nova Scotia from New England being drawn through the centre of that lake, to the source of the St. Croix. The disputes above referred to having led to a war between France and Great Britain, France finally ceded to Great Britain, in February, 1763, Canada, and abandoned all claim to Nova Scotia and the whole territory in controversy between the two Powers. On the 7th of October, 1763, His Britannic Majesty issued his proclamation, defining the southern boundary of Canada, or the province of Quebec, and establishing it where the French Government had always contended it was. Immediately afterward, he also defined and established the western limit of Nova Scotia, alleging, by way of justification of certain pretensions which had been put forward in opposition to Massachusetts, in regard to the Penobscot as a boundary, that although he might have removed the line as far west as the Penobscot, yet he would limit himself at the St. Croix. Accordingly, the western boundary of Nova Scotia was, in November, 1763, defined and established as follows: "By a line," &c., "across the entrance of the Bay of Fundy, to the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec." The northwest angle of Nova Scotia was, by these two documents, established in November, 1763, and defined to be the angle formed by the line last described, and the line which "passes along the highlands which divide the rivers that empty themselves into the said river St. Lawrence, from those which fall into the sea, and also along the north coast of the Bay des Chaleurs." We now see wherefore it was that the distinguished men who negotiated the treaty of peace were so particular in describing the precise position and giving so exact a definition of the northwest angle of Nova Scotia, mentioned in the treaty. They distinctly and explicitly state that motive to be, that "all disputes which might arise in future, on the subject of the boundaries of the United States, may be prevented." Their starting bounds, or point of departure, is the northwest angle of Nova Scotia. Here the question presents itself, what northwest angle? They describe it, not that northwest angle which in several maps is laid down on the highlands, at the Madawaska source of the St. John; not that northwest angle on the southern bank of the river St. Lawrence, laid down on Mitchell's map, and so strenuously contended for by the British Government and British commissaries in their dispute with France; not that northwest angle on the river St. Lawrence, described in the charter or grant by King James to Sir William Alexander; but the northwest angle of Nova Scotia defined and established in November, 1763, "to wit: that angle which is formed by a line drawn due north from the source of St. Croix river, to the highlands," &c.; and, further, that there might be no ground for reviving the old pretension in regard to the Penobscot, or any

other western river, being intended as the St. Croix, the river St. Croix intended in the treaty is declared to have its mouth in the Bay of Fundy. Nor is there any pretence of any doubt or question having been raised, until long after the treaty of peace, as to what highlands were intended in the proclamation of 1763 as constituting the southern boundary of Quebec. So far from it, the Parliament of Great Britain in 1774 passed the Quebec act, which was one of the grievances complained of by the colonies, and which confirmed the boundaries, so far as the matter under consideration is concerned, defined, and established by that proclamation. Of these two public acts the American commissioners were not ignorant nor misinformed. They are both expressly referred to and mentioned in the report of August 16, 1782, already mentioned. To find these highlands, the statesman and jurist, who has no other object in view than to expound the treaty according to its terms and provisions, uninfluenced by any secret bias or preconceived theory, will, it is believed, begin, not at the mouth or source of the St. Croix, but on the bank of the river St. Lawrence, at a point north of a source of the river St. Croix, and following the due north line, so called, southward, he will find no difficulty in discovering the line of the "*Versants*," from which issue the rivers that empty themselves into the river St. Lawrence. The whole and exclusive object and intent of the proclamation of 1763, so far as relates to this matter of boundary in that section of country, was not in any way to affect or alter the limits of jurisdiction over the territory lying south of that line of "*Versants*," but only to cut off from Nova Scotia and Massachusetts that portion of territory which was watered by the rivers which empty themselves into the river St. Lawrence. Accordingly, the due north line or boundary between Nova Scotia and Massachusetts is described as extending "from the source of the St. Croix to the southern boundary of our province of Quebec."

The commissioners of Maine do not consider themselves as sent here to argue the question of right in regard to the conflicting claims to the disputed territory, nor to listen to an argument in opposition to the claim of Maine. Their mission contemplated a far different and more conciliatory object. They have, however, felt themselves compelled, in justice to Maine, to reply to two positions assumed by Lord Ashburton, the soundness of which, with great deference and respect for his lordship, they cannot admit. First. That "it was the intention of the parties to the treaty of peace of 1783 to leave to Great Britain, by their description of boundaries, the whole waters of the river St. John." Secondly. "That the treaty of 1783 was not executable according to its strict expression." His lordship also speaks of a volume of additional controversial matter, which he has not communicated, but which he has brought with him, and much of which would be of no inconsiderable weight and importance, if controversy were our object." Among the matter referred to in that volume, the undersigned believe they have reason to conjecture will be found a map entitled "North America, with the New Discoveries," by William Faden, geographer to the King, published in the year 1785. That map, a copy of which is now before the undersigned, communicated by you, extends the British possessions so as to include the waters of the St. John, and dispenses with the due north line of the treaty altogether. The map referred to is a small one, of small pretensions. It is, however, somewhat remarkable that the same William Faden published, in 1783, a map, prepared with great

care, entitled "The United States of North America, with the British and Spanish territories, according to the treaty," in which he lays down the boundary of Quebec according to the act of 1774, and the boundary of the United States in precise accordance with the American claim. He was not at that time geographer to the King. It is well known that difficulties very soon after the treaty of peace began to spring up between the United States and Great Britain, which became more and more exasperated, until the conclusion of the treaty negotiated by Mr. Jay. During that period, the boundaries of the United States became more restricted on more British maps than the one published by Mr. Faden. How far the new light let in upon him by the feeling of the times and his new position enlightened the mind of Mr. Faden in making his new discoveries, it is neither our duty nor our disposition to discuss. Mr. Faden and others were only imitating in this particular what had been done some thirty years before, during the controversy between France and Great Britain; and again in the subsequent one, between the Crown and Massachusetts, when the officers of the Crown were endeavoring to reclaim the territory east of the Penobscot.

As they have been assured that Lord Ashburton is restrained by his instructions from yielding the island of Grand Manan, or any of the islands in Passamaquoddy bay, or even any portion of the narrow strip of territory which lies between the due north line from the source of the St. Croix and the St. John river, above Eel river, so called, as an equivalent for any portion of the territory claimed by Maine as within her boundaries, her commissioners, on their part, feel themselves constrained to say that the portion of territory within the limits of Maine, as claimed by her, which they are prepared in a spirit of peace and good neighborhood to yield for the accommodation of Great Britain, must be restrained and confined to such portion only, and in such reasonable extent, as is necessary to secure to Great Britain "an unobstructed communication and connexion of her colonies with each other." It appears, by his communication to you, that his lordship proposes to yield the disputed territory claimed by New Hampshire, at the sources of the Connecticut river; the strip of disputed territory at the head of Vermont, in the possession of that State, north of the forty-fifth parallel of latitude; and the strip of disputed territory, embracing Rouse's point, on Lake Champlain, north of the same parallel, in the possession of the State of New York; notwithstanding these have been decided by the arbiter to belong of right to Great Britain.

Now, the undersigned are fully aware of the importance of having all these difficulties in regard to boundaries amicably adjusted, and that it is highly desirable to the United States to have them so adjusted, and to the particular States interested to be confirmed and quieted in their respective limits and possessions. But it cannot have escaped your attention, that all this is proposed to be done partly at the expense of Massachusetts, but principally at the expense of Maine. The only thing in the nature of an equivalent, offered to Maine and Massachusetts, relates to a concession, by Great Britain, of the right of transporting the produce of the forests without duty down the St. John. It is not the intention of the undersigned to depreciate or underrate the value of such a concession; but it is contended that it is a privilege as desirable to New Brunswick as it is to Maine and Massachusetts. It is to the territory of Maine, watered by the St. John and its tributary streams, that the city of St. John must look for the principal material to sustain her external commerce—for her means to pay for

the supplies she receives from the mother country. The unobstructed navigation of the St. John, for the transportation of the products of the forests, free of toll or duty of any kind whatever, would be a concession mutually advantageous to Maine and Massachusetts on the one part, and to Great Britain and New Brunswick on the other; but, being mutually advantageous, it ought not perhaps to be treated exactly in the character of an equivalent. Yielding, however, to the force of the considerations which have been referred to—considerations which affect materially the interests of Maine and Massachusetts as members of the Union—and assuming it for granted, and as a condition, that the United States themselves will furnish to the two States such an equivalent as in justice and equity they ought to do, the undersigned, with the assent and concurrence of the commissioners of Massachusetts, propose the following as a conventional line, or line by agreement, between the United States and the State of Maine on the one part, and Great Britain and the territories of Her Britannic Majesty on the other, viz: Beginning at the middle of the main channel of the river St. John, where the due north line from the source of the river St. Croix crosses the St. John; thence westerly, by the middle of the main channel of the St. John, to a point three miles westerly of the mouth of the river Madawaska; thence, by a straight line, to the outlet of Long Lake; thence westerly, by a direct line, to the point where the river St. Francis empties itself into Lake Poheragamook; thence, continuing in the same direct line, to the highlands which divide the waters emptying themselves into the river Du Loup from those which empty themselves into the river St. Francis.

In proposing this line, the following reasons have presented themselves to the undersigned for adopting it as a conventional line, or line by agreement, in preference to any other:

1. It yields to Great Britain all she needs to secure to her “an unobstructed communication and connexion of her colonies with each other;” and connected with the unobstructed and free navigation of the St. John, seems to meet the legitimate wants of all parties.

2. The most natural boundary from the due north line to the highlands of the treaty would be the St. John and the Madawaska to its source, as first proposed by the American commissioners who negotiated the peace of 1783. But as that boundary, taken in its whole extent, would cut off the communication between the British colonies at the Grand Portage, the line here proposed removes that difficulty. At or near the point where the proposed line leaves the St. John, which, from the due north line from the St. Croix, pursues a northwesterly course upwards, the river suddenly turns, and trends for a distance of about five miles nearly south, and thence for its whole course upward to its source trends southerly of west. To pursue the line of the St. John further west than the point indicated, which is about three miles above the mouth of the Madawaska, would be to adopt an angular line projecting itself into the American territory. The outlet of Long Lake is proposed as a natural and permanent bound, which cannot be mistaken; and, for the same reason, the inlet of Lake Pohagamook is also proposed; and the line being continued to the highlands, removes all possible ground of misapprehension and controversy.

3. As Great Britain has restrained her minister plenipotentiary from granting any territorial equivalent, to be incorporated into the territorial

limits of Maine, any further concession of territory on the part of Maine could hardly, it is apprehended, be expected from her.

In making the proposition above submitted on their part, in connexion with a concession, on the part of Great Britain, of the unobstructed navigation of the St. John and all its branches and tributaries which in any part flow from the territory of the United States, for the transportation of the lumber and products of the forest, free of toll or duty, the undersigned had supposed it quite possible that they had misapprehended the meaning intended to be conveyed by the expression of Lord Ashburton, where he speaks of "some one of the sources of the St. John." But they have now just learned (informally) that the expression was used by him advisedly, meaning thereby some one of the sources of that river situated in the vicinity of the sources of the Penobscot and Chaudiere. His proposition, therefore, extends to a yielding, on the part of Maine, of the whole territory on the north side of the St. John, from the due north line to its source; and this, too, without any territorial equivalent to Maine. With this explanation, the language of Lord Ashburton in calling the southern border of the St. John, from the due north line to the mouth of Fish river, an "inconsiderable extent," is more readily understood. To this part of the proposition there is only one reply. Whatever may be the solicitude of the undersigned that the difficulties which have arisen in regard to the boundaries of Maine may be amicably and definitively arranged, the proposition, as now explained and understood, cannot be acceded to.

In making the offer they have submitted, the undersigned are sensible their proposition involves a sacrifice of no inconsiderable portion of the just claims and expectations of Maine. It is made in the spirit of peace—of conciliation. It is made to satisfy her sister States that Maine is not pertinacious or unreasonable, but is desirous of peace, and ready to make large sacrifices for the general good.

Before closing this communication, the undersigned feel it their duty to say something, by way of explanation, of their views in regard to the French settlers at Madawaska. In any treaty which may be made with Great Britain, affecting these people, the grants which have been made to them by New Brunswick may and ought to be confirmed to them in fee simple, with such provision in regard to the possessory rights acquired by other actual settlers there, as may be just and equitable; and also the right may be reserved to the settlers on both banks of the river to elect, within some reasonable period, and determine of which Government the individuals signifying their election will remain or become citizens or subjects. If, then, they should have any preference, they will have it in their power, on mature consideration and reflection, to decide for themselves, and act accordingly. The hard lot and sufferings of these people, and of their fathers, give them a claim to our sympathies. The atrocious cruelties practised upon their ancestors are matters of history; the appalling details of them are among their traditions. The fathers and the mothers have taught them to their children. When fleeing from their oppressors, in 1785, they settled down in the wilderness at Madawaska; they believed and understood themselves to be within the limits and jurisdiction of the United States—a people of whom France had been the friend and ally in the war which had just terminated in their independence, and who was still the friend and ally of France in peace. Their history since that period has lost little of its interest. Too few in number, too weak in resources, too remote to expect or receive aid, they

have submitted to whatever master assumed authority over them. With a knowledge of their history, and the wrongs they and their ancestors have suffered, it will be difficult for the people of Maine to bring themselves into the belief that these people are opposed to living under the mild and gentle sway of our free institutions. It will be equally difficult for the people of Maine to satisfy themselves that it is only from a lively and disinterested sympathy for these poor Frenchmen, that the Government of Great Britain is so solicitous to retain possession of the south bank of the St. John, extending from the due north line more than fifty miles up to Fish river. On the best consideration they have been able to give to this subject, the undersigned can see nothing in the condition or circumstances of these settlers which would justify them in abandoning the very obvious and only natural boundary, to adopt one that must be altogether arbitrary.

The undersigned avail themselves of this occasion to tender to Mr. Webster, Secretary of State, assurances of their distinguished consideration and respect,

W. P. PREBLE.  
EDWARD KAVANAGH.  
EDWARD KENT.  
JOHN OTIS.

HON. DANIEL WEBSTER,  
*Secretary of State.*

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[CONFIDENTIAL.]

*Mr. Webster to the Commissioners of Maine and Massachusetts.*

DEPARTMENT OF STATE,  
*Washington, July 12, 1842.*

GENTLEMEN: I place in your hands a note received yesterday from Lord Ashburton; it would have been transmitted sooner, but I was not able to read it myself until this morning.

I shall have the honor of inviting a conference with you at an early opportunity, being very desirous of making progress in the business in which we are engaged, and satisfied that the various parties in interest are as well prepared now to come to a decision as they are likely to be at any time hereafter.

I have the honor, &c.

DANIEL WEBSTER.

The Hon. COMMISSIONERS OF MAINE AND MASSACHUSETTS.

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*Mr. Webster to the Maine Commissioners.*

DEPARTMENT OF STATE,  
*Washington, July 15, 1842.*

GENTLEMEN: You have had an opportunity of reading Lord Ashburton's note to me of the 11th of July. Since that date, I have had full and frequent conferences with him respecting the eastern boundary, and believe

[To be inserted at page 64.]

*The Maine commissioners to Mr. Webster.*

WASHINGTON, July 16, 1842.

SIR: We learn from the letter addressed to you by Lord Ashburton, dated the 11th instant, and by you communicated to the commissioners of Maine and Massachusetts, that the line proposed by us as a conventional line, with the assent and concurrence of the commissioners of Massachusetts in our note to you of the 29th ultimo, is inadmissible. His lordship even expresses himself as being "quite at a loss to account for such a proposal," and appeals to your candid judgment to say "whether this is a proposition of conciliation," and whether it could reasonably be expected that, whatever might be the anxiety of his Government for a friendly settlement, he could be found with power to accede to such terms. That public, to which his lordship more than once alludes in both his letters, will have it in their power to judge which proposition, on the whole, under all the circumstances of the case, is best entitled to the character of conciliatory, his lordship's or ours. To you, sir, the commissioners must be permitted to insist that they did intend and consider their offer as a proposition of conciliation, however it may appear to Lord Ashburton. It is predicated upon the basis of yielding to Great Britain all she needs, and more than she needs, for the natural, convenient, and "unobstructed communication and connexion of her colonies with each other." A desire on her part to obtain which, is believed to be at the bottom of this controversy, and the necessity of securing which, even his lordship seems to admit, has been the main reason of her continuing to persist in it. The royal arbiter, as his lordship is pleased to call him, clearly understood this and governed himself accordingly. He recommended the yielding on the part of the United States of this portion of territory, coupling it at the same time with a yielding on the part of Great Britain to the United States of Rouse's point, on Lake Champlain, and the fort there erected, with its kilometrical radius, and so much of the territory adjacent as might be necessary to include it. The existence of such a place and its fortifications had not been even alluded to in the American statements nor by the American agents. The British agents could not suffer such a fact to pass unnoticed. They studiously informed the royal arbiter in their first statement, and took care to advert to it again in their second, that there was "a certain point called *Rouse's point*, where there happened to be an important American fort, which had been erected not long before at considerable expense, as a defence for that frontier." Thus admonished of the fact, the royal arbiter readily availed himself of it and placed the value and convenience of this supposed important military position and fortification to the account of the United States, as an offset for the territory in Maine, needed for the convenience of Great Britain and for "the unobstructed communication and connexion of her colonies with each other;" supposing, without doubt, that in so doing he was promoting the interest, and objects, and conveniences, of both parties. When, therefore, Lord Ashburton bases his proposition on the supposition "that the division by the King of the Netherlands united fairly the equity of the case between the parties," and restrains that monarch's views to an equitable division of the territory in dispute in Maine only. He overlooks, as it appears to us, the fact that both matters were before his Majesty's mind at one and the same time; and that, as in the one instance, he

recommended that a certain portion of territory should be yielded by the United States to Great Britain for her accommodation; so, in the other, he recommended that a certain other portion of territory, belonging of right to Great Britain, in, his opinion, should be yielded by Great Britain to the United States for their supposed accommodation and security. It is true that Rouse's point had formerly been considered as of great importance as a military position, and that the United States had expended very large sums of money in erecting fortifications there. The royal arbiter, therefore, acting under the influence of the *ex-parte* information so gratuitously furnished him, might well attach to Rouse's point and its fortifications an inflated importance, and, taking the whole relations and interests of the parties before him into consideration, might regard his recommendation as satisfying fairly the equity of the case between the parties. But however this may be, it is certain that what would be an equitable division of the territory in dispute was never submitted to the King of the Netherlands at all by the United States; that no evidence upon that point was placed before him by the United States; nor were the United States nor their agents ever heard or consulted on that point by him. Against the adoption of his recommendation in this respect, the State of Maine has ever solemnly protested; and the Senate of the United States, who alone had the constitutional power to adopt and ratify it, rejected it with great unanimity. The recommendation of the royal arbiter, therefore, given under such circumstances, can in no way affect the rights of the parties in interest; and is, in fact, entitled to no more consideration and respect than that of any other gentleman of equal intelligence and information under the same circumstances. We feel it our duty, therefore, to say to you that the hypothesis assumed by Lord Ashburton that the portion of disputed territory cut off from Maine by the line recommended by the King of the Netherlands should be yielded to Great Britain without any equivalent whatever, can not be, and, in our opinion, ought not for a moment to be, admitted or acquiesced in by the commissioners of Maine.

Among the objections made by Lord Ashburton to the line proposed by us, drawn from the bend of the St. John, three miles above the mouth of the Madawaska, to the outlet of Long lake, one is, that it is an arbitrary line, which nobody ever suggested before; and, that it would give to Great Britain less than the award of the arbiter. All this is true. But the line proposed by us, is a straight line, like that from the source of the St. Croix, drawn from one well known natural monument to another well known natural monument within convenient distances of each other, and about which there could be no mistake or dispute. It yields, so, all, and more than all, that is needed by Great Britain, for the unobstructed communication of her colonies with each other; and, as suggested by us in our note of the 29th ult., was proposed, rather than the channel of the Madawaska, solely for that reason and on that account; and what does Great Britain want of more? If the true character of that territory be of the description, "the miserable description," stated by his lordship in his note of the 21st ult., why should he feel it to be an objection, that the line, proposed by us, would give to Great Britain less than the award of the arbiter, when it gives her enough to answer all her purposes? Beyond the designated bend of the St. John, the course of that river is such, as to make with the St. Francis an acute angle, thereby forming between them a wedge of territory inserting itself for its whole length, according to that award, into the territory of the United States. Again, at the mouth of Turtle river, so called, a few miles

above the designated bend of the St. John, there is a small settlement of Americans holding their lands under grants from Maine and Massachusetts. Again, the river St. Francis is one, whose course is exceedingly crooked, having many sharp bends, so that while the distance by the river and lakes from the Grand Portage to the mouth of the St. Francis is estimated by the assistant geologist of Massachusetts, who followed it down its whole length, at not less than eighty-five miles, the distance from the one point to the other in a straight line is only about forty miles. Moreover, the line recommended by the King of the Netherlands without any knowledge of the topography of the country, is believed to be impracticable, on account of there being in fact no such stream emptying into the lake, as in his recommendation he supposes to exist. And we will add, that however miserable his lordship may consider the territory there to be, we regard it as of much value, inasmuch as it is well known to be covered with a fine growth of timber, equal, it is said, to any to be found on the disputed territory.

In connexion with these considerations, we wish to add a few words on the subject of the right to float down our timber on the St. John's, since his lordship has made it a special subject of comment. Great changes, as his lordship well knows, are brought about in the state of things by the mere course of time. The timber of New Brunswick suitable for the British market has nearly all disappeared. While they had a supply of their own, the right of carrying down our lumber was most strenuously and pertinaciously resisted, as Lord Ashburton himself states. A very large quantity of the most valuable lumber is situated upon the banks of the Alagash, above the falls of that river. By first throwing a dam across the Alagash, and then with a common pickaxe and spade digging a channel across the range of British highlands, our enterprising lumbermen have found the means of turning the valuable timber of the Alagash down the river Penobscot. More than six million feet of this lumber were sawed in the mills on the Penobscot the last season. How far the change in the disposition of the British cabinet, which his lordship speaks of, has been effected by these and the like considerations, it is not our purpose to inquire, nor do we mean to be understood as undervaluing this change of policy. Our object has been to show that Great Britain in making the proposition, is pursuing her own objects and promoting her own interests, and not making any sacrifice by way of an equivalent for concessions on our part. It will not have escaped your recollection, that the river St. John is not a river navigable from the sea, in the ordinary acceptation of that expression. There is a ledge running across the mouth of that river, of such a character that, owing to the very high tides in the Bay of Fundy, there is a fall of about twenty feet out at low water, and a fall of some four feet in at high water. It is only about forty-five minutes in a tide, that you can pass in or out of the river at all, and even during that short period the passage is a difficult and dangerous one; so, again, there is a fall of about forty feet on the Aroostook before you reach the American territory; and a fall also on the St. John itself of eighty feet before you reach the State of Maine, as you follow up the river. The boasted free navigation of the St. John and its tributaries from the disputed territory, may well be illustrated by the free navigation of the Potomac to this city from the valley of the Shenandoah. When, therefore, as commissioners of Maine, we consented to accept, as an equivalent from Great Britain for the territory proposed to be yielded to her for her convenience and accommodation, the free navigation of the St. John for the floating down of our lumber, we did con-

sider ourselves under all the circumstances of the case, as having proposed all that a liberal spirit of conciliation could require us to do. And it will not be deemed improper by you if we here advert to the fact that we can not regard the relinquishment by the British Government of any claim, heretofore, advanced by it to territory within the limits of Maine, as asserted by her, as a consideration or equivalent for the yielding, on our part, to Great Britain of any other portion of the same territory. On this point the declarations of the Legislature of Maine are explicit, and we are bound to respect them.

By his lordship's note of the 11th instant, we learn, that he withdraws that part of his proposition which relates to a cession of territory on the south side of the St. John. Even with this restriction of his proposition, the adoption of the St. John, as a boundary from the line drawn due north from the source of the St. Croix, at its intersection with the St. John, to a source of that river in the vicinity of the sources of the Penobscot and Metjarmette, would yield to Great Britain nearly four millions of acres, and more than one half of the whole territory to which she has ever pretended to set up a claim. Nor is this all. His lordship further proposes to abide by the exploring line, so called, run and marked in 1817, from the monument at the source of the St. Croix—a line which interferes with, and cuts off a portion of the grants made long before by Massachusetts. This line is well known not to be the *true* line—never was run as such, nor pretended so to be. It takes, however, from Maine a strip of territory which is nearly a mile wide where it crosses the St. John, and which diminishes in width till it reaches the monument. His lordship's proposition contemplates the adoption and establishment of that exploring line as the true boundary. It does not fall within our province to consider the value of those shreds and patches which his lordship proposes to yield to the United States as an equivalent. In New Hampshire, he consents to take the true northwest source of Connecticut river, instead of the northeast source, as being the source intended in the treaty of 1783. In Vermont, he will abide by the old line, which was run, marked, and solemnly established nearly seventy years ago. In New York, he will abide by the same old line, the effect of rectifying it being merely to give to New York a small angular strip on the west, and Great Britain a small angular strip on the east. These small tracts and paring shaved from the States just named, and the right of floating down the St. John the products of the forest, as already explained, constitute alone the sum and magnitude of the equivalent offered by his lordship for the whole territory of Maine on the north side of the St. John. Whether such a proposition has pre-eminent claims over the one we have made, to be regarded as a "proposition of conciliation," we leave to that public to which his lordship is pleased so often to refer.

Lord Ashburton has been led into an error, unintentional no doubt on his part, if he supposes, that, in submitting to you, what we apprehend to be the reason why the precise and peculiar phraseology used in the treaty of 1783, respecting the northwest angle of Nova Scotia, was adopted by the distinguished men who framed it, our object was, to revive and enter upon a controversy, which for the present, at least, should be permitted to rest in peace. His lordship, in his letter to you of the 21st ult., had assumed it as a fact, and as the ground upon which the negotiation for an amicable settlement was to proceed, that the language and phraseology of the treaty of 1783 was such, "that the treaty itself was not executable according to its strict expression." We, on our part, could make no such "admission,"

nor acquiesce in any such "presumption," nor by our silence even be supposed, for a moment, to proceed in the negotiation on any such ground or hypothesis; nor could we suffer to pass without observation, the declaration of a settled conviction on the part of the minister of Great Britain, made under such circumstances and with such bearings, "that it was the intention of the parties to the treaty of 1783 to leave to Great Britain the whole of the waters of the St. John." If his lordship would have avoided the introduction of any remarks bearing on these points on our part, it seems to us, that he himself should have avoided giving occasion for them. It is not a little remarkable, that the very dispute which the sagacious men who framed the treaty endeavored, by their studied and select phraseology and terms to guard against, should have arisen, notwithstanding all their care and precaution.

We have already shown in our letter to you of the 29th ult., that the members of the continental Congress and the framers of the treaty of 1783 well knew of the existence and prescriptions of the proclamation of 1763, and the provisions of the Quebec act of 1774. They also well knew, that the northwest angle of Nova Scotia, and the northeast angle of Massachusetts (Maine), were adjacent angles.

They knew that the jurisdiction of Massachusetts and Nova Scotia extended back from the Atlantic ocean to the southern boundary of the province of Quebec; and they well knew that the southern boundary of the province of Quebec, both by the proclamation of 1763 and the Quebec act of 1774, was the north side of the bay des Chaleurs and the line of the highlands, lying on the south side of the St. Lawrence, in which the rivers that empty themselves into the river St. Lawrence, on that side, take their rise. When, however, they came to inquire whereabouts was the line that separated Massachusetts from Nova Scotia, they were at a loss. Accordingly, both in the instructions drawn up and sanctioned in 1779, and the report and doings of the Congress in August, 1782, it was proposed that that part of the State of Massachusetts Bay formerly called the province of Maine, and the colony of Nova Scotia, according to their respective rights." The Committee of Congress, in their report of August 16, 1782, after suggesting several vague and unsatisfactory reasons for considering the St. John's as the true boundary, add: "We are obliged to urge probabilities; but we wish that the northeastern boundary of Massachusetts may be left to future discussion, when *other evidences* may be obtained, which the *war has removed from us*." Mr. Adams, in his answer to an interrogatory propounded to him August 15, 1797, says, speaking of the negotiations at Paris: "Documents from the public offices in England were brought over and laid before us." Again: "The ultimate agreement was to adhere to the charter of Massachusetts Bay and St. Croix river, mentioned in it, which was supposed to be delineated on Mitchell's map." The charter of Massachusetts Bay, here referred to, originally embraced Nova Scotia also; but Nova Scotia having been erected into a separate province, the limits and jurisdiction of Massachusetts were curtailed and restricted to the western boundary, and that boundary was the river St. Croix.

To remove all doubts in regard to the limit or boundary between Nova Scotia and Massachusetts Bay, the King of Great Britain, on the 21st day of November, 1763, established and defined it as follows, viz: "To the westward, although our said Province (Nova Scotia) hath anciently ex-

tended, and doth of right extend, as far as the river Pentagonet or Penobscot, it shall be bounded by a line drawn from Cape Sable across the entrance of the bay of Fundy to the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec :” that is to say, to the line of the highlands from whose northern declivity issue the streams that form the rivers which empty themselves into the river St. Lawrence on its south side. Instead, therefore, of leaving the eastern boundary of Massachusetts to future discussion, as proposed provisionally in the instructions of Congress of 1779, and by the committee in 1792, in order to get “other evidences,” the commissioners at Paris, having the documents before them, and to prevent all disputes which might in future arise on the subject of boundaries, at once ingrafted into the treaty the boundary prescribed by the document of 21st November, 1763, already quoted, as the boundary between Nova Scotia and the United States. Hence, also, in connexion with the facts stated in our communication, in respect to the uncertainty that had existed in regard to the true position of the northwest angle of Nova Scotia, the peculiar care and abundant caution with which they specified and defined which of all those places or positions, where the northwest angle of Nova Scotia had been supposed to be situated, was the place or position of the northwest angle of Nova Scotia, intended by the framers of the treaty. We do not assume to say that any other and different view of these facts is most absurd; but we will venture to say, with the most entire respect for Lord Ashburton, that in our opinion an argument drawn from notorious and well-authenticated facts, such as these, whether it be an old or a new discovery, is deserving of more careful examination and more consideration than his lordship seems to have bestowed upon it.

There is one other view, presented with much confidence in his lordship’s letter, which we can not permit to pass unnoticed; we mean the expression of his belief that “to consider the Ristigouche, as flowing into the Atlantic ocean, would be more than hazardous; it would be most absurd.”

The southern boundary of the colony of Quebec is declared by the proclamation of 1763 to be “a line which passes along the highlands which divide the rivers that empty themselves into the said river St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs and the coast of the gulf of St. Lawrence,” &c. The place of the mouth of the river St. Lawrence, in contradistinction to the gulf of St. Lawrence, is a point established beyond all dispute. It is at the west end of the island of Anticosti. The river Ristigouche, which empties itself through the Bay des Chaleurs into the gulf of St. Lawrence, is, by the proclamation, classed and considered as one of “the rivers which empty themselves into the sea,” notwithstanding the bay des Chaleurs and the gulf of St. Lawrence are both named by their distinctive appellations in the same sentence. In another part of the same instrument the governors are inhibited from passing any patents for any lands beyond the heads of any of “the rivers which fall into the *Atlantic ocean* from the west and northwest.” And in another clause it is said: “Our will and pleasure as aforesaid [is] to reserve all the lands and territories lying to the westward of the sources of ‘the rivers which fall into the *sea* from the west and northwest as aforesaid.’” Here the words “sea” and “Atlantic ocean” are used indiscriminately, the one being substituted for the other in

reference to the rivers which flow from the west and northwest; the river Ristigouche being one of these rivers. This also is in accordance with the view entertained and expressed in his argument in 1797, by the British agent, who, in speaking of the province of Quebec, says, that by the proclamation of the 7th October, 1763, it is "bounded on the south by the highlands, which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, or Atlantic ocean." So, in the commission to Guy Carleton of 27th December, 1774, the Ristigouche is again classed and considered as a river falling into the sea; and what is more striking in the same sentence, in which it speaks of the islands of Madelaine, in the *gulf of St. Lawrence*, it speaks of "the river St. John, which discharges itself into the sea nearly opposite the west end of the island of Anticosti." After the passage of the Quebec act, and prior to the treaty of 1783, the southern boundary of the province of Quebec was described as being "a line from the bay of Chaleurs along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude on the eastern bank of the river Connecticut," &c. Again, after the treaty of 1783, the southern boundary of the province of Quebec is described as "a line from the bay of Chaleurs along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean to the northwesternmost head of Connecticut river," &c. But the point of beginning being the same, and the point at the Connecticut substantially the same, that point after the treaty being only placed further north, and the rivers taking their rise in the northern declivity being described in the same identical words, the inference appears irresistible that the highlands referred to are one and the same; and that the rivers taking their rise in the southern declivity, and described before the treaty as falling into the sea, and after the treaty as falling into the Atlantic ocean, are one and the same rivers; the words sea and Atlantic ocean being used indiscriminately, and the one substituted for the other, as had already been done before in the proclamation of 1763. The only difference in the description of the boundary of the province of Quebec and that of the treaty of 1783, is, that the boundary of the province of Quebec begins at the bay of Chaleurs, whereas that of the treaty begins at a point farther west. Hence it plainly appears, that, under the classification of rivers with reference to these highlands, as made by the proclamation of 1763, and recognised in the treaty of 1783, the river Ristigouche was then classed and considered as a river which falls into the sea, or Atlantic ocean, in contradistinction to the rivers which empty themselves into the river St. Lawrence. We are, therefore, wholly unable to perceive wherein consists the great absurdity at the present day, in expounding the language of the treaty of 1783, of considering the river Ristigouche as a river which falls into the Atlantic ocean, unless it be that by so doing you interfere with the claims and pretensions of Great Britain.

There is one other portion of his lordship's note, in which he attributes certain opinions to Mr. Sullivan, Mr. Madison, Mr. Jefferson, Mr. Gallatin, and others, which we would have wished to notice, in order to show how much his lordship has been disposed to make out of a very little; but the further discussion of this subject we have considered as productive of little good, and hardly falling within our province. We have now only to re-

peat that we as distinctly stated in our note of the 29th ult. that his lordship's proposition, as now modified, namely, that Maine should yield to Great Britain all the territory north of the St. John can not be acceded to on our part.

With great respect and consideration, we have the honor to be, sir, your obedient servants,

WM. P. PREBLE,  
EDWARD KAVANAUGH,  
EDWARD KENT,  
JOHN OTIS.

I understand what is practicable to be done on that subject, so far as he is concerned. In these conferences, he has made no positive or binding proposition, though perhaps it would be more desirable, under present circumstances, that such proposition should proceed from the side of the United States. I have reason to believe, however, that he would agree to a line of boundary between the United States and the British provinces of Canada and New Brunswick, such as is described in a paper accompanying this, (marked B,) and identified by my signature.

In establishing the line between the monument and the St. John, it is thought necessary to adhere to that run and marked by the surveyors of the two Governments in 1817 and 1818. There is no doubt that the line recently run by Major Graham is more entirely accurate; but, being an *ex parte* line, there would be objections to agreeing to it without examination, and thus another survey would become necessary. Grants and settlements, also, have been made, in conformity with the former line, and its errors are so inconsiderable that it is not thought that their correction is a sufficient object to disturb these settlements. Similar considerations have had great weight in adjusting the line in other parts of it.

The territory in dispute between the two countries contains 12,029 square miles, equal to 7,697,280 acres.

By the line described in the accompanying paper, there will be assigned to the United States 7,015 square miles, equal to 4,489,600 acres; and to England 5,012 square miles, equal to 3,207,680 acres.

By the award of the King of the Netherlands, there was assigned to the United States 7,908 square miles—5,061,120 acres; to England 4,119 square miles—2,636,160 acres.

The territory proposed to be relinquished to England, south of the line of the King of the Netherlands, is, as you will see, the mountain range, from the upper part of the St. Francis river to the meeting of the two contested lines of boundary, at the Metjarinette Portage, in the highlands, near the source of the St. John. This mountain tract contains 893 square miles, equal to 571,520 acres. It is supposed to be of no value for cultivation or settlement. On this point you will see, herewith, a letter from Captain Talcott, who has been occupied two summers in exploring the line of the highlands, and is intimately acquainted with the territory. The line leaves to the United States between the base of the hills and the left bank of the St. John, and lying along upon the river, a territory of 657,280 acres, embracing, without doubt, all the valuable land south of the St. Francis and west of the St. John. Of the general division of the territory, it is believed it may be safely said, that while the portion remaining with the United States is, in quantity, seven-twelfths, in value it is at least four-fifths of the whole.

Nor is it supposed that the possession of the mountain region is of any importance, in connexion with the defence of the country, or any military operations. It lies below all the accustomed practicable passages for troops into and out of Lower Canada; that is to say, the Chaudière, Lake Champlain, and the Richelieu, and the St. Lawrence. If an army with its *material* could possibly pass into Canada, over these mountains, it would only find itself on the banks of the St. Lawrence below Quebec; and, on the other hand, it is not conceivable that an invading enemy from Lower Canada would attempt a passage in this direction, leaving the Chaudière on one hand and the route by Madawaska on the other.

If this line shall be agreed to, on the part of the United States, I suppose that the British minister would, as an equivalent, stipulate, first, for the use of the river St. John, for the conveyance of the timber growing on any of its branches, to tide water, free from all discriminating tolls, impositions, or inabilities of any kind, the timber enjoying all the privileges of British colonial timber. All opinions concur, that this privilege of navigation must greatly enhance the value of the territory and the timber growing thereon, and prove exceedingly useful to the people of Maine. Second. That Rouse's point, in Lake Champlain, and the lands heretofore supposed to be within the limits of New Hampshire, Vermont, and New York, but which a correct ascertainment of the 45th parallel of latitude shows to be in Canada, should be surrendered to the United States.

It is probable, also, that the disputed line of boundary in Lake Superior might be so adjusted as to leave a disputed island within the United States.

These cessions on the part of England would enure partly to the benefit of the States of New Hampshire, Vermont, and New York, but principally to the United States. The consideration on the part of England, for making them, would be the manner agreed upon for adjusting the Eastern boundary. The price of the cession, therefore, whatever it might be, would in fairness belong to the two States interested in the manner of that adjustment.

Under the influence of these considerations, I am authorized to say, that if the commissioners of the two States assent to the line as described in the accompanying paper, the United States will undertake to pay to these States the sum of two hundred and fifty thousand dollars, to be divided between them in equal moieties; and, also, to undertake for the settlement and payment of the expenses incurred by those States, for the maintenance of the civil posse; and, also, for a survey which it was found necessary to make.

The line suggested, with the compensations and equivalents which have been stated, is now submitted for your consideration. That it is all which might have been hoped for, looking to the strength of the American claim, can hardly be said. But, as the settlement of a controversy of such duration is a matter of high importance, as equivalents of undoubted value are offered, as longer postponement and delay would lead to further inconvenience, and to the incurring of further expenses, and as no better occasion, or perhaps any other occasion, for settling the boundary by agreement, and on the principle of equivalents, is ever likely to present itself, the Government of the United States hopes that the commissioners of the two States will find it to be consistent with their duty to assent to the line proposed, and to the terms and conditions attending the proposition.

The President has felt the deepest anxiety for an amicable settlement of the question, in a manner honorable to the country, and such as should preserve the rights and interests of the States concerned. From the moment of the announcement of Lord Ashburton's mission, he has sedulously endeavored to pursue a course the most respectful towards the States, and the most useful to their interests, as well as the most becoming to the character and dignity of the Government. He will be happy, if the result shall be such as shall satisfy Maine and Massachusetts, as well as the rest of the country. With these sentiments on the part of the President, and with the conviction that no more advantageous arrangement can be made,

the subject is now referred to the grave deliberation of the commissioners.

I have the honor to be, with great respect, your obedient servant,  
DANIEL WEBSTER.

To the Hon. the COMMISSIONERS OF MAINE.\*

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B.

Beginning at the monument at the source of the river St. Croix, as designated by the commissioners under the fifth article of the treaty of 1794, between the Governments of the United States and Great Britain; thence, north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river St. John, and to the middle of the channel thereof; thence, up the middle of the main channel of the said river St. John, to the mouth of the river St. Francis; thence, up the middle of the channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence, southwesterly, in a straight line, to a point on the northwest branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the highlands that divide those rivers which empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, then the said point shall be made to recede down the said river to a point seven miles in a straight line from the said dividing highlands; thence, in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of  $46^{\circ} 25'$  intersects the southwest branch of the St. John; thence, southerly, by the said branch, to the source thereof, in the highlands at the Metjarmette portage; thence, down along the said highlands, around the headwaters of Indian stream, and so on to the highlands which divide that stream on the one hand, and Hall's stream on the other; thence, south, along the said highlands, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins, previously to the year 1774, as the 45th degree of latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British province of Canada on the other; and from said point of intersection, west, along the said dividing line, as heretofore known and understood, to the Iroquois or St. Lawrence river.

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*Captain Talcott to Mr. Webster.*

WASHINGTON, July 14, 1842.

SIR: The territory within the lines mentioned by you contains *eight hundred and ninety-three* square miles, equal to *five hundred and seventy-one thousand five hundred and twenty* acres. It is a long and narrow

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\* Same, *mutatis mutandis*, to the Commissioners of Massachusetts.

tract upon the mountains or highlands, the distance from Lake Pohenagamook to the Metjarmette portage being one hundred and ten miles. The territory is barren, and without timber of value, and I should estimate that nineteen parts out of twenty are unfit for cultivation. Along eighty miles of this territory, the highlands throw up into irregular eminences, of different heights, and, though observing a general northeast and southwest direction, are not brought well into line. Some of these elevations are over three thousand feet above the sea.

The formation is primitive siliceous rock, with slate resting upon it, around the basis. Between the eminences are morasses and swamps, throughout which beds of moss of luxuriant growth rest on and cover the rocks and earth beneath. The growth is such as is usual in mountain regions on this continent, in high latitudes. On some of the ridges and eminences, birch and maple are found; on others, spruce and fir; and in the swamps, spruce intermixed with cedar; but the wood, every where, is insignificant, and of stunted growth. It will readily be seen, therefore, that for cultivation, or as capable of furnishing the means of human subsistence, the lands are of no value.

I am, sir, your obedient servant,

A. TALCOTT, *Commissioner.*

HON. DANIEL WEBSTER,  
*Secretary of State.*

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*Commissioners of Massachusetts to Mr. Webster.*

WASHINGTON, July 20, 1842.

SIR: We have the honor to acknowledge the receipt of your communication of the 15th of July, addressed to us as commissioners of Massachusetts, authorized to act in her behalf in the settlement of the controversy concerning the Northeastern boundary of the United States. The proposal therein presented for our assent, in behalf of the Government we represent, to the establishment of the conventional boundary indicated in your communication, and upon the terms and equivalents therein set forth, has received our careful consideration, and without further delay we submit the following reply:

After the many interviews which we have had the pleasure to hold with you, during the progress of the negotiation which is drawing to its close, it is unnecessary for us to express our full concurrence in the sentiment, that the line suggested, with its compensations and equivalents, is not all which might have been hoped for, in view of the strength of the American claim to the territory in dispute. But inasmuch as in the progress of a negotiation, conducted with great deliberation, every proposition has been put forth, which any party, in whatever manner and to whatever extent it may be interested, has been disposed to submit for consideration and adoption, and the ultimate point has been reached, at which negotiation must result in a compact, or the interruption of further effort for its accomplishment, we proceed to discharge the remaining duty which is devolved upon us.

We are fully aware of the importance of the act that we called upon to perform. It is not less than the relinquishment, by the Commonwealth of

Massachusetts, of territory which she has always claimed to be a part of her possessions, and to which she believes she has a clear and indisputable title. So strong is the conviction of the right of Massachusetts and Maine to the undisturbed enjoyment of the land constituting what is called the disputed territory, by force of the treaty which terminated the war of the Revolution, that she would prefer an appeal to the same arbitrament by which the acknowledgment of her right was originally obtained, to a surrender, without just equivalents, of any portion of that territory. Still, she is aware that the Government and people of the United States desire to preserve peace and friendly relations with other nations, so long as they can be maintained with honor, by concessions which, not a just policy alone, but that which is liberal and magnanimous, may require. She partakes of the common spirit, and its influence pervades all her action, throughout this negotiation.

There are other considerations of weight in the decision of this question. Though the title of Massachusetts to the lands in dispute is believed to be perfect, it is not to be overlooked that they have been the subject of controversy through many years; that attempts, by negotiation and through the intervention of an umpire, have been unsuccessfully made, to extinguish a conflicting claim; and that the nations which are now seeking by renewed negotiation to put a period to the protracted strife, while desiring peace, have been brought to the verge of destructive war, through dissensions incident to a disputed boundary. Should this negotiation fail of a successful issue, the alternative offered is a renewed submission of our rights to the determination of others. Past experience enforces the belief that other years must elapse, and great inconvenience be felt, before a decision can be obtained; and the same monitor suggests the obvious truth, that however the title of Massachusetts and Maine, and of the United States, may be firmly established in justice, it is not equally certain that it would be confirmed by the tribunal, from whose decision, whatever it might be, no appeal could honorably be taken.

But the considerations which most powerfully impel the State of Massachusetts to acquiesce in the terms for a treaty, that your communication indicates, are, the known desire of the people of the United States for a speedy settlement of the vexed question of the boundary, and the request of the General Government, expressed through its constitutional organs, that Massachusetts would yield her consent to an arrangement which that Government deems to be reasonable. The State we have the honor to represent would be slow to disappoint the hopes of the nation, and reluctant to reject terms which the Government of the United States urges her to accept, as being compatible, in the estimation of that Government, with the interests of the State, and essential to the complete adjustment of difficulties, which the security of national peace demands.

Whether the national boundary suggested by you be suitable or unsuitable, whether the compensations that Great Britain offers to the United States for the territory conceded to her be adequate or inadequate, and whether the treaty which shall be effected shall be honorable to the country or incompatible with its rights and dignity, are questions, not for Massachusetts, but for the General Government, upon its responsibility to the whole country, to decide. It is for the State to determine for what equivalents she will relinquish to the United States her interests in certain lands in the disputed territory, so that they may be made available to the

Government of the United States, in the establishment of the Northeastern boundary, and in a general settlement of all matters in controversy between Great Britain and the United States. In this view of the subject, and with the understanding that by the words "the nearest point of the highlands," in your description of the proposed line of boundary, is meant the nearest point of the crest of the highlands; that the right to the free navigation of the river St. John shall include the right to the free transportation thereupon of all products of the soil as well as of the forest; and that the pecuniary compensation to be paid by the Federal Government to the State of Massachusetts shall be increased to the sum of one hundred and fifty thousand dollars, the State of Massachusetts, through her commissioners, hereby relinquishes to the United States her interest in the lands which will be excluded from the dominion of the United States by the establishment of the boundary aforesaid.

We have the honor to be, with great respect, your obedient servants,  
 ABBOTT LAWRENCE.  
 JOHN MILLS.  
 CHARLES ALLEN.

HON. DANIEL WEBSTER,  
*Secretary of State.*

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*The Maine Commissioners to Mr. Webster.*

WASHINGTON, July 22, 1842.

SIR: The undersigned, commissioners of the State of Maine on the subject of the Northeastern boundary, have the honor to acknowledge the receipt of your note, addressed to them under date of the 15th instant, with enclosures therein referred to. The proposition first submitted by the special minister of Great Britain, on the subject of the boundary, having been disagreed to, and the proposition made on the part of the United States, with the assent of the commissioners of Maine and Massachusetts, having been rejected as inadmissible, coupled with an expression of surprise that it should have been made; and Lord Ashburton, in the same communication, having intimated a preference for conference rather than correspondence, and having omitted in his note to make any new proposition, except a qualified withdrawal of a part of his former one, we learn from your note that you "have had full and frequent conferences with him respecting the Northeastern boundary," and that you "believe you understand what is practicable to be done on that subject, so far as he (Lord Ashburton) is concerned." We also learn, that "in these conferences he has made no positive or binding proposition, thinking, perhaps, it would be more desirable, under present circumstances, that such a proposition should proceed from the side of the United States;" but that you have reason to believe that he would agree to a line of boundary such as is described in the paper accompanying your note, (marked B;) and, also, that you entertain the conviction "that no more advantageous arrangement can be made;" and, with this conviction, you refer the subject to the grave deliberation of the commissioners.

Regarding this as substantially a proposition on the part of the United States, with the knowledge and assent of Great Britain, and as the one most

favorable to us which, under any circumstances, the latter Government would either offer or accept, the undersigned have not failed to bestow upon it the grave deliberation and consideration which its nature and importance, and their ever responsible position, demand. If the result of that deliberation should not fully justify the expressed hopes or meet the expectations and views of the Government of the United States, we beg you to be assured that such failure will be the result of their firm convictions of duty to the State they represent, and will not arise from any want of an anxious desire, on their part, to bring the controversy to an amicable, just, and honorable termination. In coming to this consideration, they have not been unmindful that the State of Maine, with the firmest conviction of her absolute right to the whole territory drawn into controversy, and sustained, as she has been, by the unanimous concurrence of her sister States, and of the Government of the Union, repeatedly expressed and cordially given, and without a wavering doubt as to the perfect practicability of marking the treaty line upon the face of the earth, according to her claim, has yet, at all times, manifested a spirit of forbearance and patience under what she could not but deem unfounded pretensions, and unwarrantable delays, and irritating encroachments. In the midst of all the provocations to resistance, and to the assertion and maintenance of her extreme rights, she has never forgotten that she is a member of the Union, and she has endeavored to deserve the respect, sympathy, and co-operation of her sister States, by pursuing a course equally removed from pusillanimity and rashness, and by maintaining her difficult position in a spirit that would forbear much for peace, but would yield nothing through fear. At all times, and under all circumstances, she has been ready and anxious to bring the controversy to a close upon terms honorable and equitable, and to unite in any proper scheme to effect that object. In this spirit, and with these convictions, Maine instantly and cheerfully acceded to the proposal of the General Government, made through you, to appoint commissioners.

That no obstacle might be interposed to the successful issue of this negotiation, her Legislature gave to her commissioners ample and unlimited powers, which, but for the presumed necessity of the case, her people would be slow to yield to any functionaries. Her commissioners, thus appointed and thus empowered, assumed the duties imposed upon them in the spirit and with the views of the Government and people of Maine. They came to the negotiation with a firm conviction of her rights, but with a disposition and determination to meet a conciliatory proposition for a conventional line in a similar spirit, and to yield, for any reasonable equivalent, all that they presumed would be asked or desired by the other party. They, with the other citizens of Maine, were not unapprized of the fact, so often alluded to in our former communications, that England had long been anxious to obtain the undisputed possession of that portion of the territory which would enable her to maintain a direct and uninterrupted communication between her provinces. So far as they could learn from any source, this was the only professed object she had in view, and the only one which had been regarded as in contemplation.

With this understanding, the undersigned at once decided to yield, upon the most liberal terms, this long-sought convenience; and they indulged the confident expectation that such a concession would at once meet all the wants and wishes of the English Government, and bring the mission to a speedy and satisfactory close. When, therefore, we were met at the out-

set by a proposition which required the cession, on our part, of all the territory north of the St. John river, and enough of the territory on the south to include the Madawaska settlement, extending at least fifty miles up that river, with no other equivalents to us than the limited right to float timber down that river, and to the United States the small tracts adjacent to the forty-fifth parallel of latitude in other States, we could not but express our regret to be thus, as it were, repelled. But, regarding this rather as the extreme limit of a claim, subject, notwithstanding the strong language of Lord Ashburton, to be restrained and limited, we deemed it proper, in our communication of the 6th instant, after declining to accede to the proposition, in conjunction with the commissioners of Massachusetts, to point out and offer a conventional line of boundary as therein specified. In fixing on this line, we were mainly anxious to select such a one as should at once and pre-eminently give to Great Britain all that was necessary for her understood object, and to preserve to Maine the remainder of her territory. To accomplish this object, we departed from the river to secure the unobstructed use of the accustomed way from Quebec to Halifax. We are not aware that any objection has been made, from any quarter, to this line, as not giving up to Great Britain all that she needed, or could reasonably ask for the above purpose. And although Lord Ashburton did not deem it necessary to "examine the line (proposed) in its precise details," or to look at a map on which it could most readily be traced, and although he has seen fit to say that he was "quite at a loss to account for such a proposal," yet he has not intimated that the line suggested fails, in any respect, to meet the object we had in view, and which we frankly and readily avowed. It is well known to you, sir, that we had determined upon no such inflexible adherence to that exact demarcation as would have prevented us from changing it, upon any reasonable evidence that it did not, in every respect, meet the requirements of the above-stated proposition, in relation to a perfect line of communication. But believing then, as we do now, that it did thus meet all these requirements; and although it was, as we feel bound to say, the general and confident expectation of the people of Maine that any relinquishment, on our part, of jurisdiction and territory, would be, *in part* at least, compensated from that strip of contiguous territory on the west bank of the St. John; yet, when we were solemnly assured that no such cession could be made under his lordship's instructions, we forebore to press for this reasonable and just exchange, and contented ourselves with accepting the limited right of navigation of the river, as the only equivalent from Great Britain for the territory and jurisdiction we offered to surrender. And, as you will remark, we offered not merely a right of way on land for a similar easement on the water, but the entire and absolute title to the land and jurisdiction of the large tract north and east of the line specified. It cannot be denied, that it preserves to us a frontier in a forest almost impenetrable on the north, which would defend itself by its own natural character; and that, if any thing should be deducted from the agricultural value of that portion beyond the Madawaska settlements, on account of its ruggedness and its want of attraction to settlers, much may justly be added to its value as a boundary between the two nations.

The value of this tract to Great Britain, both in a civil and military point of view, cannot be overlooked. It gives her the much-coveted route for the movement of troops in war, and her mails and passengers in peace,

and is most particularly important in case of renewed outbreaks in her North American colonies. The assumption of jurisdiction in the Madawaska settlement, and the pertinacity with which it has been maintained, are practical evidence of the value attached to the tract by the Government of Her Britannic Majesty.

We have alluded to these views of the value and importance of this territory, not with any design of expressing our regret that we thus offered it, but to show that we are fully aware of all these views and circumstances affecting the question, and that we duly appreciate the far-seeing sagacity and prudence of those British statesmen who so early attempted to secure it as a cession, by negotiation, and the suggestion of equivalents.

The answer of Lord Ashburton to your note of the 8th instant, contained a distinct rejection of our offer, with a substantial withdrawal of his claim to any territory south of the river St. John, but not modifying the claim for the relinquishment, on the part of Maine and the United States, of all north of that river. Our views in reference to many of the topics in his lordship's reply we have had the honor heretofore to communicate to you, in our note of the 16th instant; and to that answer we would now refer, as forming an important part of this negotiation, and as containing our refusal of the line indicated. We are now called upon to consider the final proposition made by or through the Government of the United States, for our consideration and acceptance. The line indicated may be shortly defined as the line recommended by the King of the Netherlands, and an addition thereto of a strip of land, at the base of the highlands, running to the source of the southwest branch of the St. John. The examination and consideration all other lines, which might better meet our views and objects, have been precluded by the declaration, and other plenary evidence we have, that the line specified in your communication is the most advantageous that can be offered to us; and that no one of less extent, or yielding in fact less to the other party, can be deemed admissible. We are, therefore, brought to the single and simple consideration of the question, whether we can, consistently with our views of our duty to the State we represent, accept the proposition submitted by you.

So far as any claim is interposed, based upon a supposed equity arising from the recommendation of the King of the Netherlands, we have only to refer to our former note for our views on that topic. We have now only to add, that we came to this conference untrammelled and free, to see if, in a spirit of amity and equity, we could not find and agree upon some new line, which, whilst it yielded all that was needed by one party, might fairly be the motive and groundwork for equivalent territory or rights granted to the other; and that we cannot make any admission or consent to any proposition which would not revive, but put vitality and power into that which, up to this time, has never possessed either. We base our whole action on grounds entirely independent of that advice of the arbiter.

It may possibly be intimated in this connexion, as it has more than once been heretofore, that the commissioners of Maine, and the people of that State, are disposed to regard the whole territory as clearly falling within their rightful limits, and are not willing to consider the question as one in doubt and dispute, and, therefore, one to be settled as if each party had nearly or quite equal claims. Certainly, sir, the people and Government of Maine do not deny that the question has been drawn into dispute. They have had too many and too recent painful evidences of that fact, to allow such

a doubt, however much at a loss they may be to perceive any just or tenable grounds on which the adversary claim is based. For years they have borne and forborne, and struggled to maintain their right, in a peaceable and yet unflinching spirit, against what appeared to them injustice from abroad and neglect at home. But they have yet to learn that the mere fact that an adverse claim is made and persisted in, and maintained by ingenuity and ability for a series of years, increasing in extent and varying its grounds as years roll on, is to be regarded as a reason why courtesy should require, in opposition to the fact, a relinquishment of the plain, explicit, and sincere language of perfect conviction and unwavering confidence, or that a continued, adverse, and resisted claim, may yet, by mere lapse of time and reiteration, ripen into a right. But we desire it to be distinctly remembered that, in this attempt to negotiate for a conventional line, Maine has not insisted, or ever requested, that any formal or virtual admission of her title to the whole territory should be a condition preliminary to a settlement. We hold, and we claim, the right to express, at all times, and in all suitable places, our opinion of the perfect right of Maine to the whole territory; but we have never assumed it, as a point of honor, that our adversary should acknowledge it. Indeed, we have endeavored to view the subject rather in reference to a settlement; on even hard terms for us, than to dwell on the strong aspect of the case, when we look at the naked question of our right and title under the treaty. It could hardly be expected, however, that we should silently, and thus virtually, acquiesce in any assumption that our claim was unsustainable, and that "the treaty line was not executable." On this point we expressed ourselves fully in a former note.

In returning to the direct consideration of the last proposition, and the terms and conditions attending it, in justice to ourselves and our State, we feel bound to declare, and we confidently appeal to you, sir, in confirmation of the declaration, that this negotiation has been conducted, on our part, with no mercenary views, and with no design to extort unreasonable equivalents or extravagant compensation. The State of Maine has always felt an insuperable repugnance to parting with any portion even of her disputed territory, for mere pecuniary recompense from adverse claimants. She comes here for no mere bargain for the sale of acres, in the spirit or with the arts of traffic. Her commissioners have been much less anxious to secure benefit and recompense, than to preserve the State from unnecessary curtailment and dismemberment. The proposition we made is evidence of the fact. We have heretofore expressed some opinions of the mutual character of the benefits to each party from the free navigation of the St. John. Without entering, however, upon the particular consideration of the terms and conditions, which we have not thought it necessary to do, we distinctly state that our great repugnance to the line is based upon the extent of territory required to be yielded. We may, however, in passing, remark that all the pecuniary offers contained in your note, most liberally construed, would scarcely recompense and pay to Maine the amount of money and interest which she has actually expended in defending and protecting the territory from wrongs arising and threatened by reason of its condition as disputed ground.

Considering, then, this proposition as involving the surrender of more territory than the avowed objects of England require, as removing our landmarks from the well-known and well-defined boundary of the treaty

of 1783, on the crest of the highlands, besides insisting upon the line of the arbiter in its full extent, we feel bound to say, after the most careful and anxious consideration, that we cannot bring our minds to the conviction that the proposal is such as Maine had a right to expect.

But we are not unaware of the expectations which have been and still are entertained of a favorable issue to this negotiation by the Government and people of this country, and the great disappointment which would be felt and expressed at its failure. Nor are we unmindful of the future, warned as we have been by the past, that any attempts to determine the line by arbitration may be either fruitless, or with a result more to be deplored.

We are now given to understand that the Executive of the United States, representing the sovereignty of the Union, assents to the proposal, and that this Department of the Government at least is anxious for its acceptance, as, in its view, most expedient for the general good.

The commissioners of Massachusetts have already given their assent, on behalf of that Commonwealth. Thus situated, the commissioners of Maine, invoking the spirit of attachment and patriotic devotion of their State to the Union, and being willing to yield to the deliberate convictions of her sister States as to the path of duty, and to interpose no obstacles to an adjustment which the general judgment of the nation shall pronounce as honorable and expedient, even if that judgment shall lead to a surrender of a portion of the birthright of the people of their State, and prized by them because it is their birthright, have determined to overcome their objections to the proposal, so far as to say, that if, upon mature consideration, the Senate of the United States shall advise and consent to the ratification of a treaty, corresponding in its terms with your proposal, and with the conditions in our memorandum accompanying this note, (marked A,) and identified by our signatures, they, by virtue of the power vested in them by the resolves of the Legislature of Maine, give the assent of that State to such conventional line, with the terms, conditions, and equivalents, herein mentioned.

We have the honor to be, sir, with high respect, your obedient servants,  
 EDWARD KAVANAGH.  
 EDWARD KENT.  
 JOHN OTIS.  
 WILLIAM P. PREBLE.

Hon. DANIEL WEBSTER, &c.

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A.

The commissioners of Maine request that the following provisions, or the substance thereof, shall be incorporated into the proposed treaty, should one be agreed on:

1st. That the amount of "the disputed territory fund" (so called) received by the authorities of New Brunswick, for timber cut on the disputed territory, shall be paid over to the United States, for the use of Maine and Massachusetts, in full, and a particular account rendered, or a gross sum, to be agreed upon by the commissioners of Maine and Massachusetts, shall be paid by Great Britain, as a settlement of that fund; and that all

claims, bonds, and securities, taken for timber cut upon the territory, be transferred to the authorities of Maine and Massachusetts.

2d. That all grants of land within that portion of the disputed territory conceded to Great Britain, made by Maine and Massachusetts, or either of them, shall be confirmed, and all equitable possessory titles shall be quieted, to those who possess the claims; and we assent to a reciprocal provision for the benefit of settlers falling within the limits of Maine. And we trust that the voluntary suggestion of the British minister, in regard to John Baker, and any others, if there be any, similarly situated, will be carried into effect, so as to secure their rights.

3d. That the right of free navigation of the St. John, as set forth in the proposition of Mr. Webster, on the part of the United States, shall extend to and include the products of the soil, in the same manner as the products of the forest; and that no toll, tax, or duty, be levied upon timber coming from the territory of Maine.

EDWARD KAVANAGH.  
EDWARD KENT.  
JOHN OTIS.  
WM. P. PREBLE.

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*The New Hampshire Delegation in Congress to Mr. Webster.*

WASHINGTON CITY, July 15, 1842.

SIR: The undersigned, composing the delegation of the State of New Hampshire in both Houses of Congress, have received a copy of a resolution passed by the Legislature of New Hampshire, in respect to a portion of the territory of the State which is claimed by Great Britain.

The resolution is as follows:

“STATE OF NEW HAMPSHIRE.

“IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FORTY-TWO.

“Resolved by the Senate and House of Representatives in General Court convened, That his excellency the Governor request our Senators and Representatives in Congress to take such measures as may be necessary, during the pending negotiations at Washington, relative to the Northern and Northeastern boundary of the United States, to best sustain the rights of this State to the territory over which we have always heretofore claimed and exercised jurisdiction; and that such papers, documents, and information, be transmitted to them by his excellency as may aid in carrying into effect the object of this resolution.”

The undersigned beg leave to represent, that the right of the State to the territory in controversy is, as they believe, incontrovertible; and, before any arrangement shall be made which looks to any relinquishment of that right, in any degree, it is their wish, on behalf of the State, to present such documents and facts as tend to show the impropriety of such a course.

With great respect,

LEVI WOODBURY,  
LEONARD WILCOX,  
*Senators.*

CHAS. G. ATHERTON,  
EDMUND BURKE,  
TRISTRAM SHAW,  
IRA A. EASTMAN,  
JOHN R. REDING,

*Members of the House of Representatives.*

To the PRESIDENT of the United States.

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*Mr. Webster to the New Hampshire Delegation in Congress.*

DEPARTMENT OF STATE,  
*Washington, July 18, 1842.*

GENTLEMEN: The President of the United States has transmitted to this Department a letter, dated the 15th instant, from the delegation of the State of New Hampshire in both Houses of Congress, communicating a copy of a resolution, passed by the Legislature of that State, respecting a portion of her territory which is claimed by Great Britain, and intimating that, pending the present negotiations at Washington, relative to the Northern and Northeastern boundary of the United States, and before any arrangement shall be made for a relinquishment of the right of the State to the territory referred to, it is the wish of the delegation to present such documents and facts as tend to show the impropriety of such a course.

The Secretary of State would be very happy to receive from the delegation of New Hampshire a statement of what they consider the extent of territory to which the resolution of the State Legislature is supposed to refer; and, also, any such documents or proofs of any such facts as they may think it important to lay before the Government of the United States.

I have the honor, &c.

DANIEL WEBSTER.

THE NEW HAMPSHIRE DELEGATION IN CONGRESS.

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*The New Hampshire Delegation in Congress to Mr. Webster.*

WASHINGTON, July 19, 1842.

The undersigned have received a letter from the Secretary of State, dated the 18th instant, in reply to a communication dated the 15th instant, which the undersigned had the honor to address to the President of the United States, communicating a resolution, passed by the Legislature of the State of New Hampshire, respecting a portion of the territory of that State claimed by Great Britain.

The Secretary of State having expressed a desire to receive from the delegation of the State of New Hampshire "a statement of what they consider the extent of territory to which the resolution of the State Legislature is supposed to refer, and also any such documents or proofs of any such facts as they may think it important to lay before the Government of the United States," the undersigned beg leave to refer to the following documents and papers, among others, as furnishing a full statement of the

claims and rights of the State of New Hampshire to the territory in dispute, and as also defining its boundaries.

1. The argument of the Hon. William C. Bradley, furnished the commissioners under the 5th article of the treaty of Ghent.

2. The statement of the Hon. Albert Gallatin, prepared for the King of the Netherlands.

3. A historical sketch of the Northern boundary of New Hampshire, published in the 2d volume of the Collections of the Historical Society of New Hampshire, page 267.

4. A report of commissioners of the State of New Hampshire, dated November 23, 1836, which is to be found accompanying the report of Committee on Foreign Affairs of the House of Representatives, 25th Congress, 3d session, Report No. 176—No. 6 of the accompanying documents.

The undersigned are expecting to receive further documents upon the subject, from his excellency the Governor of New Hampshire, which, when received, they will transmit to the Secretary of State.

I have the honor to be your obedient servants,

LEVI WOODBURY,  
L. WILCOX,  
*Senators of New Hampshire.*

IRA A. EASTMAN,  
EDMUND BURKE,  
JOHN R. REDING,  
TRISTRAM SHAW,

*Representatives of the State of New Hampshire.*

HON DANIEL WEBSTER.

P. S. We transmit, herewith, the report of commissioners above alluded to, and also the 2d volume of Historical Collections. You will oblige us by returning the latter when you may have no further use for it.

The other documents are on file in the State Department.

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*Mr. Stuart to Mr. Webster.*

WASHINGTON, July 7, 1842.

SIR: In answer to the inquiries which you were pleased to make of me yesterday, I would remark, that Sugar island, situate in the river Ste. Marie, a short distance below Fort Brady, is, as to soil, very excellent, and it abounds in the finest (sugar) maple trees to be found any where; the inhabitants of our side of the Sault Ste. Marie derive a handsome revenue from the sugar and sirup which they annually make on this island. It would be a great disappointment to the people of that region to lose it; besides, is the faith of the nation not pledged for its preservation, by the treaty held with the Chippewas in 1826, which provided for half-breed reservations on this island?

It is, in my opinion, of very great importance that the right of passage be secured for American vessels, between the island of Bois Blanc, in the river Detroit, (opposite Fort Malden,) and the British shore; the channel is only 200 to 300 yards wide, and is entirely commanded both by the

island and Fort Malden. At present there is no other passage for our larger class of vessels, steamboats, &c.; and it will require much time and expense to render the old passage south of Gros Isle available. In short, the right of using the British channel is, in my opinion, absolutely necessary.

I am, respectfully, sir, your obedient servant,

ROBERT STUART.

HON. DANIEL WEBSTER,  
*Secretary of State.*

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*Mr. Delafield to Mr. Fraser.*

NEW YORK, July 20, 1842.

DEAR SIR: I have looked over the letter of Mr. F. Webster to you, as you desired, and perceive that it is some "particular topographical information," more especially, that the Secretary desires concerning the country between Lake Superior and the Lake of the Woods. That district was thoroughly explored by Messrs. Ferguson and Whistler, the surveyors of our party, and by myself, as the United States agent.

We all proceeded *inland*, by the Grand portage route, to the Lake of the Woods. I had previously obtained much information to prove that there was a more northern route by a well-known *Long Lake*, and the only lake known by that name, some distance north of the Grand portage route; and as it became my duty to claim that as the true route, (having discovered, too, that the British commissioner intended to claim by the Fond du Lac route,) I returned by that northern route to Lake Superior, accompanied by Mr. Whistler; we consequently saw more of the country than any others of the party.

As you are aware, my claim to the northern route was sustained by the American commissioner, and became a subject of final disagreement.

The only other difference was in relation to the claim I made to the St. George's island, in the river St. Mary's, which was also sanctioned by General Porter, the American commissioner; and is a good claim, I think, by all the evidence in the case.

As to topographical information, some can be had by reference to the maps and discussions which were deposited by me in the State Department, July 24, 1824. Besides the journal of the commissioners, I also deposited the journal of the agent, more in detail, containing all the claims and discussions, &c., at length.

The face of the country is mountainous, rocky, and barren, for nearly the whole distance in question. Throughout my journeys, I may say, I saw but little except rock and water. My route was necessarily confined to the watercourses, but, whenever I ascended a height, it was the same dreary prospect in all directions, every valley between such heights being a little lake or the discharge of a watercourse.

As an agricultural district, it has no value or interest, even prospectively, in my opinion. If the climate were suitable, which it is not, I can only say that I never saw, in my explorations there, tillable land enough to sustain any permanent population sufficiently numerous to justify other settlements than those of the fur traders, and, I might add, fishermen. The fur traders there occupied nearly all those places, and the opinion now ex-

pressed is the only one I ever heard entertained by those most experienced in these Northwestern regions.

There is, nevertheless, much interest felt by the fur traders on this subject of boundary. To them it is of much importance, as they conceive; and it is, in fact, of national importance. Had the British commissioner have consented to proceed by the Pigeon river, which is the Long Lake of Mitchell's map, it is probable there would have been an agreement. There were several reasons for his pertinacity, and for this disagreement, which belong, however, to the private history of the commission, and can be stated when required. The Pigeon river is a continuous watercourse. The St. George's island, in the St. Mary's river, is a valuable island, and worth as much, perhaps, as most of the country between the Pigeon river and Dog river route, claimed for the United States, in an agricultural sense.

Mr. Ferguson is, I believe, in the neighborhood of Wilmington, Delaware. He can give the desired topographical information. I have a complete and daily journal, descriptive of the country passed over, but have no time to refer to it this evening; it would confirm my general remarks, however.

I am now on the eve of departure with my family for Suffolk county, Long Island. Be pleased to say to Mr. Webster, that any and all the information or assistance I can give is at his command, but that, if possible, I hope it may be by correspondence rather than a personal visit, as my engagements here, just now, are such as to make a jaunt to Washington rather inconvenient. Should topographical information only be desired, and the present is not satisfactory, I would refer the Secretary to Mr. Ferguson, and would myself refer to my journal. I shall be absent from the city until the 4th of August. Until, say August 1, my address will be at "\_\_\_\_\_," Suffolk county, Long Island. You are quite at liberty to show these hasty remarks to Mr. Webster. In short, it is better to do so than to repeat them, and I would prefer it.

Yours, truly,

JOS. DELAFIELD.

Major D. FRASER.

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*Mr. Webster to Mr. Ferguson.*

DEPARTMENT OF STATE,

*Washington, July 25, 1842.*

SIR: Having been astronomer and surveyor to the commissioners under the seventh article of the treaty of Ghent, and having, as I understand, explored the country personally and thoroughly, from Lake Superior to the Lake of the Woods, I will be obliged to you to give me information in respect to two or three subjects of inquiry.

In the first place, be kind enough to describe the Pigeon river, its estuary or bay at its mouth, its size, and the nature of its channel and current in the last five or ten miles of its course. Be pleased to say whether the estuary of this river, and its position and bearing in relation to Isle Royal, may naturally lead to the conclusion that it is the Long Lake spoken of in the treaty of 1783.

What is the general nature of the country between the mouth of Pigeon river and the Rainy Lake? Of what formation is it, and how is its surface; and will any considerable part of it ever be fit for cultivation? Are its waters active and running streams, as in other parts of the United States, or are they dead lakes, swamps, and morasses? If the latter be their general character, at what point, as you proceed westward, do the waters receive a more decided character as running streams?

There are said to be two lines of communication, each partly by water and partly by portages, from the neighborhood of Pigeon river to the Rainy Lake; one by way of Fowl Lake, the Saganaga Lake, and the Cypress Lake—the other by way of Arrow river and lake, then by way of Saganaga Lake and through the river Maligne, meeting the other route at Lake La Croix, and through the river Namekan into the Rainy Lake. Do you know any reason for attaching great preference to either of these two lines? Or do you consider it of no importance, in any point of view, which may be agreed to? Please be full and particular on these several points.

Yours, respectfully,

DANIEL WEBSTER.

JAMES FERGUSON, Esq.,  
*Wilmington, Delaware.*

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*Mr. Ferguson to Mr. Webster.*

WASHINGTON, July 25, 1842.

SIR: I have the honor to acknowledge the receipt of your note of to-day, desiring to be informed of the character of the region north westward of Lake Superior, which comprehends the several practised and customary routes between that lake and the Lake of the Woods.

In reply, I submit the following statement, which will give, as far as I am able, the desired information:

At the mouth of the Pigeon river, there is probably about three hundred yards in length of alluvial formation; but the river above that, as far as to near Fort Charlotte, runs between steep cut rocks of basaltic or primitive formation, and is a succession of falls and rapids for nearly its whole length—the last cataract, which is within about a mile of its mouth, being almost one hundred feet in height. You will perhaps understand the formation of the country better, when I mention that nearly the whole of the northern shore of Lake Superior consists of these rocky escarpments, from six hundred to nine hundred feet high, and that the sources of most of the rivers which have cut their channels into the lake lie within thirty or forty miles of its verge.

There is, really, not much difference in elevation between South Fowl Lake and the lakes of the height of land. The character I have given of Pigeon river will suit also for the Arrow river, excepting that the latter has a reach of about two miles of still water.

I have no doubt that the bay of the Pigeon river is the Long Lake of the treaty of 1793. It is designated by that name on Mitchell's map, which, at that time, was the only map existing of these regions, and was proven, by the evidence of Mr. John Adams and Mr. John Jay, to have been the only geographical description before the negotiators of the first treaty. Though evidently defective and erroneous, it is but fair to take it as evidence of the

intention. In addition to this evidence of the construction of the treaty of 1783, at the time it was concluded, we have this fact further: that, immediately after the peace, the traders of the Northwest Fur Company destroyed their forts and warehouses at the Grand portage, and removed themselves to Fort William, ten leagues on the other side of the Pigeon river—a course which could only have been adopted for the reason that they supposed their previous location would now be on a foreign territory. In addition, I have never heard this construction of the treaty of 1783 questioned by any of the partners of the British Fur Company whom I have met in that quarter.

To your query, as to the character of the country between the mouth of the Pigeon river and the Rainy Lake, it is more difficult to give a distinct answer than to any of the others. The rivers here are all rapid; those running towards Lake Superior are of small size. The Pigeon river and Arrow river vary in width from 60 to 200 feet, and, as I have said previously, are almost a continued rapid.

But the rivers running northward—the outlet of Lake Saisaginegau, the river Mahgne, the river Namecan, and the Rainy river—are all bold and strong rivers, and of much greater width and volume, carrying with them, through gentler slopes, the drainage of a more extended surface. On the plateau which makes the height of land, and which I would define as lying between the Fowl Lake and Lake Namecan, lie a group of lakes connecting nearly with each other, having their sorties sometimes toward the Arrow and Pigeon rivers, sometimes toward the St. Louis, sometimes toward the Kamanistiquia and the country of the Nipigon, and sometimes toward the Hudson bay. In examining, therefore, the geography of this country, it is necessary to remember that the rivers and lakes indicated on the maps are only those at present explored, and that there exist other routes and other connexions, known only to the natives, and which the impracticable nature of the country has hitherto prevented from coming to the knowledge of the fur traders, who are doubtless the persons most interested in the capabilities of the country.

As an agricultural district, this region will always be valueless. The pine timber is of high growth, equal for spars, perhaps, to the Norway pine, and may, perhaps, in time, find a market; but there are no alluvions, no arable lands, and the whole country may be described as one waste of rock and water.

From the outlet of the Rainy Lake, the country changes its appearance; the valleys of the rivers are wider, the timber of more varied and luxuriant growth, and the country capable of cultivation.

You have desired me also to express an opinion as to any preference which I may know to exist between the several lines claimed as boundaries through this country between the United States and Great Britain.

Considering that Great Britain abandons her claim by the Fond du Lac and the St. Louis river, cedes also Sugar island, otherwise called St. George's island, in the St. Marie river, and agrees, generally, to a boundary following the old commercial route, commencing at the Pigeon river, I do not think that any reasonable ground exists to a final determination of this part of the boundary.

I have the honor to be, very respectfully, your obedient servant,  
J. FERGUSON.

HON. DANIEL WEBSTER,  
*Secretary of State of the United States.*

*Captain Talcott to Mr. Webster.*

WASHINGTON, July 25, 1842.

SIR : The extent of boundary line separating the United States and territory belonging thereto from the British possessions, and lying between the monument of the St. Croix and the Stony mountains, is estimated as follows for each adjacent State :

Maine, (line as awarded by the King of Holland)	-	-	460 miles.
New Hampshire	-	-	40 "
Vermont	-	-	90 "
New York	-	-	420 "
Pennsylvania	-	-	30 "
Ohio	-	-	200 "
Michigan	-	-	740 "
Territory west of Lake Superior	-	-	1,150 "
Total length of boundary line	-	-	<u>3,130</u> "

Respectfully submitted, by your obedient servant,

A. TALCOTT.

Hon. SECRETARY OF STATE.

## SUPPRESSION OF THE AFRICAN SLAVE TRADE—EXTRADITION.

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*Lord Ashburton to Mr. Webster.*

WASHINGTON, *August 9, 1842.*

SIR: By the 3d article of the convention which I have this day signed with you, there is an agreement for the reciprocal delivery, in certain cases, of criminals fugitive from justice; but it becomes necessary that I should apprise you that this article can have no legal effect within the dominions of Great Britain, until confirmed by act of Parliament. It is possible that Parliament may not be in session before the exchange of the ratifications of the convention, but its sanction shall be asked at the earliest possible period, and no doubt can be entertained that it will be given. In Her Majesty's territories in Canada, where cases for acting under this convention are likely to be of more frequent occurrence, the Governor General has sufficient power under the authority of local legislation, and the convention will there be acted upon so soon as its ratification shall be known; but it becomes my duty to inform you of the short delay which may possibly intervene in giving full effect to it where the confirmation by Parliament becomes necessary for its execution.

I beg, sir, to renew to you the assurance of my high consideration.

ASHBURTON.

HON. DANIEL WEBSTER, &C.

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*Mr. Paine to Mr. Webster.*

WASHINGTON, *May 2, 1842.*

SIR: The agreement between Commander William Tucker, of the British navy, and myself, is so connected with numerous instructions respecting proceedings on the coast of Africa, that I should furnish a copy of all if the object were to justify myself; but, as the wish of the State Department seems to be to ascertain the nature of the agreement itself, and the action of myself thereon, and as I wish to forward this view promptly, I shall restrict myself to these points, commencing with the agreement, of which the following is a copy:

“Commander William Tucker, of Her Britannic Majesty's sloop *Wolverine*, and senior officer on the west coast of Africa, and Lieutenant John S. Paine, commanding the United States schooner *Grampus*, in order to carry into execution, as far as possible, the orders and views of their respective Governments respecting the suppression of the slave trade, hereby request each other and agree to detain all vessels under American colors found to be fully equipped for and engaged in the slave trade; that, if proved to be American property, they shall be handed over to the United

States schooner *Grampus*, or any other American cruiser; and that, if proved to be Spanish, Portuguese, Brazilian, or English property, to any of Her Britannic Majesty's cruisers employed on the west coast of Africa for the suppression of the slave trade, so far as their respective laws and treaties will permit.

Signed and exchanged at Sierra Leone, this 11th day of March, 1840.

JOHN S. PAINE,

*Commanding the U. S. schooner Grampus.*

WILLIAM TUCKER,

*Commanding H. B. M. sloop Wolverine," &c.*

The objects of this agreement were, mainly—

1st. To meet the very common case with slavers, that of having on board two sets of papers.

2d. To let it be known that there subsisted between the British and American force a good understanding, and a disposition to co-operate for the purpose indicated, as far as possible, without violating existing treaties.

A copy was forwarded by me to the Navy Department, to which I received the following reply :

“NAVY DEPARTMENT, *June 4, 1840.*

SIR : Your letter of the 23d March last, with its enclosures, has been received.

The instructions given you, for your government, when you left the United States, while they indicated a friendly co-operation with the commanders of the British cruisers in the suppression of the slave trade on the coast of Africa as likely to aid in detecting the frauds resorted to by those engaged in it for the purpose of avoiding discovery and escaping punishment, were not intended to authorize any such arrangement as that which it appears you have made with the commander of Her Britannic Majesty's sloop *Wolverine*, and by which you delegated to that officer the right to seize vessels under American colors, and, under certain circumstances, to detain them, with the view of turning them over to the *Grampus*, or other United States cruiser.

Such a delegation of power is not only unauthorized by your instructions, but contrary to the established and well-known principles and policy of your Government, and is, therefore, not sanctioned by the Department.

You will make known the views of the Department on this subject to the commander of the *Wolverine*, and inform him that the arrangement made with him, having been disapproved by your Government, cannot, on your part, be complied with; the great object of the co-operation being to obviate the difficulties of capture, growing out of assuming Portuguese, English, Spanish, or Brazilian colors, when overhauled by an American, or American colors when overhauled by a British cruiser.

For this purpose, you are authorized to cruise in company and in co-operation with any British vessel of war employed on the slave coast, in the pursuit of objects similar to your own.

I am, respectfully, your obedient servant,

J. K. PAULDING.

Lieutenant JOHN S. PAINE,

*Com'nding U. S. schr. Grampus, Sierra Leone, coast of Africa."*

In compliance with this, I addressed Captain Tucker as follows :

“ U. S. SCHOONER GRAMPUS, *April 27, 1841.*

SIR : I am directed to make known to you the views of my Government respecting the agreement signed and exchanged with you on the 11th March, 1840, at Sierra Leone.

The Secretary of the Navy says : ‘ Inform him that the arrangement made with him, having been disapproved by your Government, cannot, on your part, be complied with ; the great object of the co-operation being to obviate the difficulties of capture, growing out of the practice adopted by slavers, of assuming Portuguese, English, Spanish, or Brazilian colors, when overhauled by American, or American colors when overhauled by a British cruiser. For this purpose, you are authorized to cruize in company and in co-operation with any British vessel of war employed on the slave coast in pursuit of objects similar to your own.’

From the above extract you will perceive that the Secretary of the Navy at Washington is careful to avoid giving countenance to the practice of detaining American vessels, even though they be slavers, unless by American vessels of war.

The best, if not the only means of co-operation left, would seem to be, exchanging information, or cruising in company.

If any thing can be effected by this vessel within such limits, while on the coast, it will be gratifying to me to aid you, or any of Her Majesty’s officers, in forwarding so desirable an object.

I am, with very high respect, sir, your obedient servant,

JOHN S. PAINE, *Lieut. Commanding.*

Capt. WILLIAM TUCKER,

*Commanding H. B. M. sloop Wolverine, and senior officer of H. B. M. naval forces on the coast of Africa.”*

Hoping to meet Captain Tucker, I did not despatch the letter ; but, finally finding that his successor had arrived, I addressed to him the following :

[EXTRACT.]

“ U. S. SCHOONER GRAMPUS,

*Sierra Leone, June 17, 1841.*

While cruising here last year, I had made an arrangement with Commander Wm. Tucker, of a similar character to that recommended ; which, however, was not approved by the Secretary of the Navy ; and, as I have not fallen in with Captain Tucker since the receipt of a communication from Washington on the subject, I have deemed it proper to enclose to you a letter to Captain Tucker, with a copy of the agreement referred to therein.

In conclusion, I tender to you my sincere wishes for your success in the prosecution of duties so interesting to the cause of humanity.

I am, with the highest respect, sir, your obedient servant,

JNO. S. PAINE, *Lieut. Commanding.*

Captain \_\_\_\_\_,

*Commanding H. B. M. ship Isis, and senior officer on the western coast of Africa.”*

Any expression of my opinion of Mr. Paulding's letter to me would have been improper, and would still be indecorous. I shall be grateful to be informed if you think any explanation or defence necessary. I have never believed so.

I have the honor to be, with the highest respect, sir, your obedient servant,

JOHN S. PAINE,  
*Commander United States Navy.*

Hon. DANIEL WEBSTER,  
*Secretary of State.*

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*Mr. Webster to Captains Bell and Paine.*

DEPARTMENT OF STATE,  
*Washington, April 30, 1842.*

GENTLEMEN: Your experience in the service on the coast of Africa has probably enabled you to give information to the Government on some points, connected with the slave trade on that coast, in respect to which it is desirable that the most accurate knowledge attainable should be possessed. These particulars are:

1. The extent of the western coast of Africa, along which the slave trade is supposed to be carried on; with the rivers, creeks, inlets, bays, harbors, or parts of the coast, to which it is understood slave ships most frequently resort.
2. The space or belt along the shore within which cruisers may be usefully employed for the purpose of detecting vessels engaged in the traffic.
3. The general course of proceeding of a slave ship, after leaving Brazil or the West Indies, on a voyage to the coast of Africa for slaves; including her manner of approach to the shore, her previous bargain or arrangement for the purchase of slaves, the time of her usual stay on or near the coast, and the means by which she has communication with persons on land.
4. The nature of the stations or barracoons in which slaves are collected on shore, to be sold to the traders; whether usually in rivers, creeks, or inlets, or on or near the open shore.
5. The usual articles of equipment and preparation, and the manner of fitting up, by which a vessel is known to be a slaver, though not caught with slaves on board.
6. The utility of employing vessels of different nations to cruise together, so that one or the other might have a right to visit and search every vessel which might be met with under suspicious circumstances, either as belonging to the country of the vessel visiting and searching, or to some other country which has, by treaty, conceded such right of visitation and search.
7. To what places slaves from slave ships could be most conveniently taken.
8. Finally, what number of vessels, and of what size or description, it would be necessary to employ on the western coast of Africa in order to put an entire end to the traffic in slaves, and for what number of years it would probably be necessary to maintain such force to accomplish that purpose.

You will please to add such observations as the state of your knowledge may allow relative to the slave trade on the eastern coast of Africa.

I have the honor to be, &c.

DANIEL WEBSTER.

Captains BELL and PAINE,  
*United States Navy.*

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*Commanders Bell and Paine to the Secretary of State.*

WASHINGTON CITY, May 10, 1842.

SIR: In accordance with the wishes expressed in your communication of the 30th ultimo, we have the honor to submit the following statement:

In reply to the first particular, viz: "The extent of the Western coast of Africa, along which the slave trade is supposed to be carried on, with the rivers, creeks, inlets, bays, harbors, or ports of the coast to which it is understood slave ships most frequently resort."

The slave trade from Western Africa to America is carried on wholly between Senegal, latitude 16° north, longitude 16½° west, and Cape Frio, in latitude 18° south, longitude 12° east, a space (following the windings of the coast at the distance of three or four miles) of more than 3,600 miles. There are scattered along the coast five English, four French, five American, six Portuguese, six or eight Dutch, and four or five Danish settlements, besides many which have been abandoned by their respective Governments.

These settlements are generally isolated; many of them only a fortress without any town, while a few are clusters of villages and farms.

The British, French, and particularly the American settlements, exercise an important influence in suppressing the slave trade.

The influence of the Danes and Dutch is not material.

The Portuguese influence is supposed to favor the continuance of the trade, except the counter influence of the British, through treaty stipulations.

North of the Portuguese cluster of settlements, of which Bissao is the capital, and south of Benguela, (also Portuguese,) there is believed to be no probability of a revival of the slave trade to any extent.

This leaves about 3,000 miles of coast, to which the trade (principally with Cuba, Porto Rico, and Brazil) is limited.

There are hundreds of trading places on the coast, calling themselves "factories," and each claiming the protection of some civilized power. Some of these were the sites of abandoned colonies—others have been established by trading companies or individuals.

The actual jurisdiction of a tribe on the coast seldom exceeds ten miles, though these small tribes are sometimes more or less perfectly associated for a greater distance.

Of these factories and tribes, a few have never been directly engaged in the slave trade, and are opposed to it, but the great preponderance is of the slave trading interest.

To enumerate the rivers and inlets of this coast would not convey a just idea of the slave country or practices, as the embarkation often takes place

from the beach where there is no inlet; but we will state a few of the most noted.

Commencing at Cape Roxo, in latitude  $12^{\circ} 30'$  North, and running down the coast as far as the River Mellacoree, in latitude  $9^{\circ}$  North, the slave trade is more or less carried on, but (in consequence of the vigilance of cruisers) not to the same extent it was a few years ago.

Another portion of the coast, from the limits of the Sierra Leone colony to Cape Mount, (a space including the mouths of six or more rivers,) the slave trade is extensively prosecuted. Here commences the jurisdiction of the American Colonization Society, which extends to Grand Bassa. There are several slave stations between Grand Bassa and Cape Palmas. From thence eastwardly to Cape Coast castle, situated near the meridian of Greenwich, we believe there are no slave stations; but eastward of this, and in the heights of Benin and Biafra, along the whole coast, (which includes the mouths of the great rivers Benin and Formosa, Nun, old and new Calabar, Bonny, Camerons, Gaboon, and Congo,) with few exceptions, down to Benguela, in latitude  $13^{\circ}$  South, the slave trade is carried on to a very great extent.

2d. "The space or belt along the shore, within which cruisers may be usefully employed, for the purpose of detecting vessels engaged in the traffic."

Men of war should always cruise as near the shore as the safety of the vessel will admit, in order to take advantage of the land and sea breezes. Twenty or thirty miles from the coast there are continual calms, where vessels are subject to vexatious delays; besides which, ships engaged in the slave trade keep close in with the land, in order to reach their places of destination.

3d. "The general course of proceeding of a slave ship, after leaving Brazil or the West Indies, on a voyage to the coast of Africa, for slaves, including her manner of approach to the shore, her previous bargain or arrangement for the purchase of slaves, the time of her usual stay on or near the coast, and the means by which she has communication with persons on land."

Vessels bound from the coast of Brazil, or the West Indies, to the coast of Africa, are obliged, in consequence of the trade wind, to run north as far as the latitude of thirty or thirty-five, to get into the variable winds; thence to the eastward, until they reach the longitude of Cape Verd Islands; then steer to the southward to their port of destination; and, if bound as far to the eastward as the Gulf of Guinea, usually make the land near Cape Mount or Cape Palmas. Vessels from Brazil bound to the southern part of the coast of Africa run south as far as the latitude of  $35^{\circ}$  south, and make up their easting in the southern variables.

Slave vessels are generally owned or chartered by those persons who have an interest in the slave establishments on the coast of Africa, where the slaves are collected and confined in barracoons or slave prisons, ready for transshipment the moment the vessel arrives. They are therefore detained but a short time after arriving at their place of destination. Instances have come to our notice of vessels arriving at the slave station in the evening, landing their cargo, taking on board all their slaves, and sailing with the land breeze the following morning.

It is not unusual, however, for vessels, unconnected with any particular slave establishment, to make their purchases after arrival. If any delay is

likely to occur, an agent is landed, and the vessel stands to sea, and remains absent for as long a time as may be thought necessary to complete their arrangements. The slavers communicate with the shore either with their own boats, or boats and canoes belonging to the Kroomen in the employ of those on shore.

4th. "The nature of the stations or barracoons in which slaves are collected on shore to be sold to the traders, whether usually on rivers, creeks, or inlets, or on or near the open shore."

The slave stations are variously situated; some near the mouth, others a considerable distance up the rivers, and many directly on the sea shore. The barracoons are thatched buildings, made sufficiently strong to secure the slaves, and enough of them to contain, in some instances, several thousands. The slaves are collected by the negro chiefs in the vicinity, and sold to the persons in charge of the stations, where they are kept confined until an opportunity offers to ship them off. Materials of all kinds necessary to convert a common trader into a slave ship are kept on hand, and the change can be completed in a few hours; a number of Kroomen are employed, and boats and canoes ready for immediate service.

The slave stations are generally fortified with cannon and muskets, not only to guard against a rising of the slaves, but to protect them from sudden attacks of the natives in the vicinity, and to command their respect.

5th. "The usual articles of equipment and preparation, and the manner of fitting up, by which a vessel is known to be a slaver, though not caught with slaves on board."

Vessels engaged in the slave trade are either fitted up with a slave deck, or have the materials on board prepared to put one up in a few hours. Their hatches, instead of being close, as is usual in merchantmen, have gratings; they are supplied with boilers sufficiently large to cook rice or farina for the number of slaves they expect to receive; an extra number of water-casks, many more than are sufficient for a common crew; also a number of shackles to secure their slaves. Most of these articles, however, are concealed, and every thing is done to disguise the vessel.

It is not unusual for them to have several sets of papers, two or more persons representing themselves as captains or masters of the vessel, and flags of all nations; every device is resorted to, to deceive, should they encounter a cruiser.

Some are armed with only a few muskets, others have a number of heavy guns, according to the size of the vessel; and they range from sixty to four hundred tons burden, with crews from ten to upwards of one hundred men.

6th. "The utility of employing vessels of different nations to cruise together, so that one or the other might have a right to visit and search every vessel which might be met with under suspicious circumstances, either as belonging to the country of the vessel visiting or searching, or to some other country which has, by treaty, conceded such right of visitation and search."

We are of opinion that a squadron should be kept on the coast of Africa to co-operate with the British, or other nations, interested in stopping the slave trade: and that the most efficient mode would be for vessels to cruise in couples, one of each nation.

7th. "To what places slaves taken from slave ships on the coast could be most conveniently taken."

If captured under the American flag, send them to Cape Mesurada, Liberia; or, if convenient, to such other of the American settlements as the agent of the United States there may wish.

Sth. "Finally, what number of vessels, and of what size and description, it would be necessary to employ on the western coast of Africa, in order to put an entire end to the traffic in slaves; and for what number of years it would probably be necessary to maintain such force to accomplish that purpose;" adding "such observations as the state of your knowledge may allow, relative to the slave trade on the eastern coast of Africa."

As our personal knowledge of the coast extends to only that part of it comprised between Cape Verd and Cape Palmas, it is difficult to state the exact force required for this service; not less, however, than the following, we think necessary:

One first class sloop-of-war.

One steamer of from 200 to 300 tons burden.

Two (eight or ten gun) brigs or schooners.

Ten schooners of about one hundred tons, each with four guns.

One store-ship of from 250 to 300 tons.

All the vessels to have one-tenth less than their complements of men, to be filled up with Kroomen on their arrival on the coast.

A steamer (to be fitted up, if possible, to burn either wood or coal, as circumstances require) will be essentially necessary.

That part of the coast of Africa from which slaves are exported is subject to light winds and calms. A steamer propelled at the rate of six miles an hour could easily overtake the fastest sailing vessels, and would be a great auxiliary in ascending rivers and towing boats, in order to attack slave stations. Less duty is performed by sailing cruisers on this coast, than on any other we are acquainted with, from the reasons just stated; and the importance of steam vessels is much increased by this difficulty.

We cannot state confidently how long such force would be necessary, but we are of opinion that in three years the trade would be so far destroyed as to enable the United States to withdraw a greater part, while a small force of observation would be necessary, until the natives had become accustomed to other occupations, and lost all hope of again engaging in the traffic.

In connexion with this subject we beg leave to remark, that the American fair trader is sometimes obstructed in the most vexatious manner by armed British merchantmen, sustained by British cruisers. This arises from the practice which exists with the commanders of single cruisers, the agents of trading companies, the masters of merchantmen, and others, making agreements, treaties, or, as the expression there is, "books," securing to themselves the exclusive trade with the tribe or district. A late instance of this unreasonable, and probably unauthorized, spirit of monopoly, has come to our notice near Cape Mount, where the native chief was induced to believe that he could not make a treaty with the American colonists, because he had made one with the commander of a British cruiser.

The same commander, it is asserted, has also threatened the Governor of the colony at Mourovia that he will make reprisals on the commerce of the colony, for exercising the usual jurisdiction at Bassa Cove, only two or three miles from their towns of Bassa and Edina.

Our knowledge of the commanders of British cruisers authorizes us to

say that their conduct is not usually thus unfriendly ; but many instances show the propriety of guarding the interests of the fair dealer, who is generally opposed to the slave trade.

Respecting these treaties or agreements with the tribes, we think that only the commanders of squadrons or Governors of colonies should be permitted to make them ; and with those over whom their Government cannot reasonably claim jurisdiction, treaties should not be made to the exclusion of other mercantile Powers trading on the coast, as has sometimes been done ; and all treaties should contain a prohibition of the slave trade. Commanders of squadrons and Governors of colonies should be authorized and directed to seize every opportunity, and make use of all honorable means, of inducing the native tribes, and particularly the Emperor of Ashantee, the Empress or Potentate at Zoango, and other powerful nations, to enter into agreements to put a stop, as far as their influence extends, to the traffic ; to seize and send home for trial all foreigners found on the coast engaged in the slave trade, whether belonging to vessels or residing on the coast, (for should these persons be permitted to remain, even after their slave stations are destroyed, they will erect others at points probably less assailable,) and should be enjoined to extend their protection to fair traders, though not of their own nation.

Commanders of squadrons and governors should be directed to destroy all slave factories within the reach of the force employed, and to proclaim to the tribes in the vicinity that they must not be renewed, on pain of having their villages also destroyed.

We have little knowledge of the details respecting the slave trade on the eastern coast of Africa. No instance has come to our knowledge of the use of the American flag there. From the best information we can obtain, it seems that a large trade is carried on by Portuguese colonies, the Arab chiefs, and negro tribes. Their greatest markets are the Mahometan countries, bordering on the Red Sea and Persian Gulf, the Portuguese East India colonies, Bombay, and perhaps other British possessions in the East Indies ; this part of the trade is probably in the hands of the Arabian vessels. Many are also shipped to Brazil, and some perhaps find their way to Cuba and Porto Rico.

In concluding this subject we beg leave to remark, that the field of operations to carry on the slave trade is so extensive, the profits so great, and the obstacles in the path so many, so various, so difficult, that every means should be used by civilized nations, and particularly by the United States and Great Britain, to effect the object ; and we do not believe that any material good can result without an earnest and cordial co-operation.

We have the honor to be, with high respect, your obedient servants,

CHARLES H. BELL,

JOHN S. PAINE,

*Commanders U. S. Navy.*

HON. DANIEL WEBSTER,

*Secretary of State, Washington.*

## CORRESPONDENCE WITH BRITISH SPECIAL MISSION.

## CASE OF THE "CREOLE."

*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,

*Washington, August 1, 1842.*

MY LORD : The President has learned with much regret that you are not empowered by your Government to enter into a formal stipulation for the better security of vessels of the United States, when meeting with disasters in passing between the United States and the Bahama islands, and driven, by such disasters, into British ports. This is a subject which is deemed to be of great importance, and which cannot, on the present occasion, be overlooked.

Your lordship is aware that several cases have occurred within the last few years which have caused much complaint. In some of these cases compensation has been made by the English Government for the interference of the local authorities with American vessels having slaves on board, by which interference these slaves were set free. In other cases, such compensation has been refused. It appears to the President to be for the interest of both countries that the recurrence of similar cases in future should be prevented as far as possible.

Your lordship has been acquainted with the case of the "Creole," a vessel carried into the port of Nassau last winter by persons who had risen upon the lawful authority of the vessel, and, in the accomplishment of their purpose, had committed murder on a person on board.

The opinions which that occurrence gave occasion for this Government to express, in regard to the rights and duties of friendly and civilized maritime States, placed by Providence near to each other, were well considered, and are entertained with entire confidence. The facts in the particular case of the "Creole" are controverted; positive and officious interference by the colonial authorities to set the slaves free being alleged on one side, and denied on the other.

It is not my present purpose to discuss this difference of opinion as to the evidence in this case, as it at present exists, because the rights of individuals having rendered necessary a more thorough and a judicial investigation of facts and circumstances attending the transaction, such investigation is understood to be now in progress, and its result, when known, will render me more able than at this moment to present to the British Government a full and accurate view of the whole case. But it is my purpose, and my duty, to invite your lordship's attention to the general subject, and your serious consideration of some practical means of giving security to the coasting trade of the United States against unlawful annoyance and interruption along this part of their shore. The Bahama islands approach the coast of Florida within a few leagues, and, with the coast, form a long

and narrow channel, filled with innumerable small islands and banks of sand, and the navigation difficult and dangerous, not only on these accounts, but from the violence of the winds and the variable nature of the currents. Accidents are of course frequent, and necessity often compels vessels of the United States, in attempting to double Cape Florida, to seek shelter in the ports of these islands. Along this passage, the Atlantic States hold intercourse with the States on the Gulf and the Mississippi, and through it the products of the valley of that river (a region of vast extent and boundless fertility) find a main outlet to the sea, in their destination to the markets of the world.

No particular ground of complaint exists as to the treatment which American vessels usually receive in these ports, unless they happen to have slaves on board; but, in cases of that kind, complaints have been made, as already stated, of officious interference of the colonial authorities with the vessel, for the purpose of changing the condition in which these persons are, by the laws of their own country, and of setting them free.

In the Southern States of this Union slavery exists by the laws of the States and under the guarantee of the Constitution of the United States; and it has existed in them from a period long antecedent to the time when they ceased to be British colonies. In this state of things, it will happen that slaves will be often on board coasting vessels as hands, as servants attending the families of their owners, or for the purpose of being carried from port to port. For the security of the rights of their citizens, when vessels, having persons of this description on board, are driven by stress of weather, or carried by unlawful force, into British ports, the United States propose the introduction of no new principle into the law of nations. They require only a faithful and exact observance of the injunctions of that code as understood and practised in modern times.

Your lordship observes that I have spoken only of American vessels driven into British ports by the disasters of the seas, or carried in by unlawful force. I confine my remarks to these cases, because they are the common cases, and because they are the cases which the law of nations most emphatically exempts from interference. The maritime law is full of instances of the application of that great and practical rule, which declares that that which is the clear result of necessity ought to draw after it no penalty and no hazard. If a ship be driven, by stress of weather, into a prohibited port, or into an open port, with prohibited articles on board, in neither case is any forfeiture incurred. And what may be considered a still stronger case, it has been decided by eminent English authority, and that decision has received general approbation, that if a vessel be driven, by necessity, into a port strictly blockaded, this necessity is good defence, and exempts her from penalty.

A vessel on the high seas, beyond the distance of a marine league from the shore, is regarded as part of the territory of the nation to which she belongs, and subjected, exclusively, to the jurisdiction of that nation. If, against the will of her master, or owner, she be driven or carried nearer to the land, or even into port, those who have, or who ought to have, control over her, struggling all the while to keep her upon the high seas, and so within the exclusive jurisdiction of her own Government, what reason or justice is there in creating a distinction between her rights and immunities, in a position, thus the result of absolute necessity, and the same

rights and immunities before superior power had forced her out of her voluntary course?

But, my lord, the rule of law, and the comity and practice of nations, go much further than these cases of necessity, and allow even to a merchant vessel coming into any open port of another country voluntarily, for the purposes of lawful trade, to bring with her, and keep over her, to a very considerable extent, the jurisdiction and authority of the laws of her own country. A ship, say the publicists, though at anchor in a foreign harbor, preserves its jurisdiction and its laws. It is natural to consider the vessels of a nation as parts of its territory, though at sea, as the State retains its jurisdiction over them; and, according to the commonly received custom, this jurisdiction is preserved over the vessels, even in parts of the sea subject to a foreign dominion.

This is the doctrine of the law of nations, clearly laid down by writers of received authority, and entirely conformable, as it is supposed, with the practices of modern nations.

If a murder be committed on board of an American vessel, by one of the crew upon another or upon a passenger, or by a passenger on one of the crew or another passenger, while such vessel is lying in a port within the jurisdiction of a foreign state or sovereignty, the offence is cognizable and punishable by the proper court of the United States, in the same manner as if such offence had been committed on board the vessel on the high seas. The law of England is supposed to be the same.

It is true that the jurisdiction of a nation over a vessel belonging to it, while lying in the port of another, is not necessarily wholly exclusive. We do not so consider or so assert it. For any unlawful acts done by her while thus lying in port, and for all contracts entered into while there, by her master or owners, she and they must doubtless be answerable to the laws of the place. Nor, if her master or crew, while on board in such port, break the peace of the community by the commission of crimes, can exemption be claimed for them. But, nevertheless, the law of nations, as I have stated it, and the statutes of Governments founded on that law, as I have referred to them, show that enlightened nations, in modern times, do clearly hold that the jurisdiction and laws of a nation accompany her ships not only over the high seas, but into ports and harbors, or wheresoever else they may be water-borne, for the general purpose of governing and regulating the rights, duties, and obligations of those on board thereof, and that, to the extent of the exercise of this jurisdiction, they are considered as parts of the territory of the nation herself.

If a vessel be driven by weather into the ports of another nation, it would hardly be alleged by any one that, by the mere force of such arrival within the waters of the State, the law of that State would so attach to the vessel as to affect existing rights of property between persons on board, whether arising from contract or otherwise. The local law would not operate to make the goods of one man to become the goods of another man. Nor ought it to affect their personal obligations, or existing relations between themselves; nor was it ever supposed to have such effect, until the delicate and exciting question which has caused these interferences in the British islands arose. The local law in these cases dissolves no obligations or relations lawfully entered into or lawfully existing, according to the laws of the ship's country. If it did, intercourse of civilized men between nation and nation must cease. Marriages are frequently celebrated in one country

in a manner not lawful or valid in another; but did any body ever doubt that marriages are valid all over the civilized world, if valid in the country in which they took place? Did any one ever imagine that local law acted upon such marriages to annihilate their obligation, if the parties should visit a country in which marriages must be celebrated in another form?

It may be said that, in such instances, personal relations are founded in contract, and therefore to be respected; but that the relation of master and slave is not founded in contract, and therefore is to be respected only by the law of the place which recognises it. Whoever so reasons encounters the authority of the whole body of public law, from Grotius down; because there are numerous instances in which the law itself presumes or implies contracts; and prominent among these instances is the very relation which we are now considering, and which relation is holden by law to draw after it mutuality of obligation.

Is not the relation between a father and his minor children acknowledged, when they go abroad? And on what contract is this founded, but a contract raised by general principles of law, from the relation of the parties?

Your lordship will please bear in mind, that the proposition which I am endeavoring to support is, that by the comity of the law of nations, and the practice of modern times, merchant vessels, entering open ports of other nations, for the purpose of trade, are presumed to be allowed to bring with them, and to retain, for their protection and government, the jurisdiction and laws of their own country. All this, I repeat, is presumed to be allowed; because the ports are open, because trade is invited, and because, under these circumstances, such permission or allowance is according to general usage. It is not denied that all this may be refused; and this suggests a distinction, the disregard of which may perhaps account for most of the difficulties arising in cases of this sort; that is to say, the distinction between what a State may do if it pleases, and what it is presumed to do, or not to do, in the absence of any positive declaration of its will. A State might declare that all foreign marriages should be regarded as null and void, within its territory; that a foreign father, arriving with an infant son, should no longer have authority or control over him; that, on the arrival of a foreign vessel in its ports, all shipping articles and all indentures of apprenticeship between her crew and her owners or masters, should cease to be binding. These, and many other things equally irrational and absurd, a sovereign State has doubtless the power to do. But they are not to be presumed. It is not to be taken for granted, *abante*, that it is the will of the sovereign State thus to withdraw itself from the circle of civilized nations. It will be time enough to believe this to be its intention, when it formally announces that intention, by appropriate enactments, edicts, or other declarations. In regard to slavery within the British territories, there is a well-known and clear promulgation of the will of the sovereign authority; that is to say, there is a well-known rule of her law. As to England herself, that law has long existed; and recent acts of Parliament establish the same law for the colonies. The usual mode of stating the rule of English law is, that no sooner does a slave reach the shore of England, than he is free. This is true; but it means no more than that, when a slave comes within the exclusive jurisdiction of England, he ceases to be a slave, because the law of England positively and notoriously prohibits and forbids the existence of such a relation between man and man. But it does not mean that English authorities, with this rule of Eng-

lish law in their hands, may enter where the jurisdiction of another nation is acknowledged to exist, and there destroy rights, obligations, and interests, lawfully existing under the authority of such other nation. No such construction, and no such effect, can be rightfully given to the British law. It is true that it is competent to the British Parliament, by express statute provision, to declare that no foreign jurisdiction of any kind should exist, in or over a vessel, after its arrival voluntarily in her ports. And so she might close all her ports to the ships of all nations. A State may also declare, in the absence of treaty stipulations, that foreigners shall not sue in her courts, nor travel in her territories, nor carry away funds or goods received for debts. We need not inquire what would be the condition of a country that should establish such laws, nor in what relation they would leave her towards the States of the civilized world. Her power to make such laws is unquestionable; but, in the absence of direct and positive enactments to that effect, the presumption is that the opposites of these things exist. While her ports are open to foreign trade, it is to be presumed that she expects foreign ships to enter them, bringing with them the jurisdiction of their own Government, and the protection of its laws, to the same extent that her ships, and the ships of other commercial States, carry with them the jurisdiction of their respective Governments into the open ports of the world; just as it is presumed, while the contrary is not avowed, that strangers may travel in a civilized country, in a time of peace, sue in its courts, and bring away their property.

A merchant vessel enters the port of a friendly State, and enjoys while there the protection of her own laws, and is under the jurisdiction of her own Government, not in derogation of the sovereignty of the place, but by the presumed allowance or permission of that sovereignty. This permission or allowance is founded on the comity of nations, like the other cases which have been mentioned; and this comity is part, and a most important and valuable part, of the law of nations, to which all nations are presumed to assent until they make their dissent known. In the silence of any positive rule, affirming or denying or restraining the operation of foreign laws, their tacit adoption is presumed, to the usual extent. It is upon this ground that courts of law expound contracts according to the law of the place in which they are made; and instances almost innumerable exist, in which, by the general practice of civilized countries, the laws of one will be recognised and often executed in another. This is the comity of nations; and it is upon this, as its solid basis, that the intercourse of civilized States is maintained.

But while that which has now been said is understood to be the voluntary and adopted law of nations, in cases of the voluntary entry of merchant vessels into the ports of other countries, it is nevertheless true, that vessels in such ports, only through an overruling necessity, may place their claim for exemption from interference on still higher principles: that is to say, principles held in more sacred regard by the comity, the courtesy, or indeed the common sense of justice of all civilized States.

Even in regard to cases of necessity, however, there are things of an unfriendly and offensive character, which yet it may not be easy to say that a nation might not do. For example, a nation might declare her will to be, and make it the law of her dominions, that foreign vessels, cast away on her shores, should be lost to their owners, and subject to the ancient law of wreck. Or a neutral State, while shutting her ports to the armed vessels

of belligerents, as she has a right to do, might resolve on seizing and confiscating vessels of that description, which should be driven to take shelter in her harbors by the violence of the storms of the ocean. But laws of this character, however within the absolute competence of Governments, could only be passed, if passed at all, under willingness to meet the last responsibility to which nations are subject.

The presumption is stronger, therefore, in regard to vessels driven into foreign ports by necessity, and seeking only temporary refuge, than in regard to those which enter them voluntarily, and for purposes of trade; that they will not be interfered with; and that, unless they commit, while in port, some act against the laws of the place, they will be permitted to receive supplies, to repair damage, and to depart unmolested.

If, therefore, vessels of the United States, pursuing lawful voyages, from port to port, along their own shore, are driven by stress of weather, or carried by unlawful force, into English ports, the Government of the United States cannot consent that the local authorities in those ports shall take advantage of such misfortunes, and enter them, for the purpose of interfering with the condition of persons or things on board, as established by their own laws. If slaves, the property of citizens of the United States, escape into the British territories, it is not expected that they will be restored. In that case, the territorial jurisdiction of England will have become exclusive over them, and must decide their condition. But slaves on board of American vessels, lying in British waters, are not within the exclusive jurisdiction of England; or under the exclusive operation of English law; and this founds the broad distinction between the cases. If persons, guilty of crimes in the United States, seek an asylum in the British dominions they will not be demanded, until provision for such cases be made by treaty; because the giving up of criminals, fugitive from justice, is agreed and understood to be a matter in which every nation regulates its conduct according to its own discretion. It is no breach of comity to refuse such surrender.

On the other hand, vessels of the United States, driven by necessity into British ports, and staying there no longer than such necessity exists, violating no law, nor having intent to violate any law, will claim, and there will be claimed for them, protection and security, freedom from molestation, and from all interference with the character or condition of persons or things on board. In the opinion of the Government of the United States, such vessels, so driven and so detained by necessity in a friendly port, ought to be regarded as still pursuing their original voyage, and turned out of their direct course only by disaster, or by wrongful violence; that they ought to receive all assistance necessary to enable them to resume that direct course; and that interference and molestation by the local authorities, where the whole voyage is lawful, both in act and intent, is ground for just and grave complaint.

Your lordship's discernment and large experience in affairs cannot fail to suggest to you how important it is to merchants and navigators engaged in the coasting trade of a country so large in extent as the United States, that they should feel secure against all but the ordinary causes of maritime loss. The possessions of the two Governments closely approach each other. This proximity, which ought to make us friends and good neighbors, may, without proper care and regulation, itself prove a ceaseless cause of vexation, irritation, and disquiet.

If your lordship has no authority to enter into a stipulation by treaty for the prevention of such occurrences hereafter as have already happened, occurrences so likely to disturb that peace between the two countries which it is the object of your lordship's mission to establish and confirm, you may still be so far acquainted with the sentiments of your Government as to be able to engage that instructions shall be given to the local authorities in the islands, which shall lead them to regulate their conduct in conformity with the rights of citizens of the United States, and the just expectations of their Government, and in such manner as shall, in future, take away all reasonable ground of complaint. It would be with the most profound regret that the President should see that, whilst it is now hoped so many other subjects of difference may be harmoniously adjusted, nothing should be done in regard to this dangerous source of future collisions.

I avail myself of this occasion to renew to your lordship the assurances of my distinguished consideration.

DANIEL WEBSTER.

Lord ASHBURTON, &c.

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*Lord Ashburton to Mr. Webster.*

WASHINGTON, August 6, 1842.

SIR: You may be well assured that I am duly sensible of the great importance of the subject to which you call my attention in the note which you did me the honor of addressing me the 1st instant, in which you inform me that the President had been pleased to express his regret that I was not empowered by my Government to enter into a formal stipulation for the better security of vessels of the United States, when meeting with disasters in passing between the United States and the Bahama islands, and driven by such disasters into British ports.

It is, I believe, unnecessary that I should tell you that the case of the Creole was known in London a few days only before my departure. No complaint had at that time been made by Mr. Everett. The subject was not therefore among those which it was the immediate object of my mission to discuss. But, at the same time, I must admit that, from the moment I was acquainted with the facts of this case, I was sensible of all its importance, and I should not think myself without power to consider of some adjustment of, and remedy for, a great acknowledged difficulty, if I could see my way clearly to any satisfactory course, and if I had not arrived at the conclusion, after very anxious consideration, that, for the reasons which I will state, this question had better be treated in London, where it will have a much increased chance of settlement, on terms likely to satisfy the interests of the United States.

The immediate case of the Creole would be easily disposed of; but it involves a class and description of cases which, for the purpose of affording that security you seek for the trade of America through the Bahama channel, brings into consideration questions of law, both national and international, of the highest importance; and, to increase the delicacy and difficulty of the subject, public feeling is sensitively alive to every thing connected with it. These circumstances bring me

to the conviction that, although I really believe that much may be done to meet the wishes of your Government, the means of doing so would be best considered in London, where immediate reference may be had to the highest authorities, on every point of delicacy and difficulty that may arise. Whatever I might attempt would be more or less under the disadvantage of being fettered by apprehensions of responsibility, and I might thereby be kept within limits which my Government at home might disregard. In other words, I believe you would have a better chance in this settlement with them than with me. I state this after some imperfect endeavors, by correspondence, to come at satisfactory explanations. If I were in this instance treating of ordinary material interests, I should proceed with more confidence; but, anxious as I unfeignedly am that all questions likely to disturb the future good understanding between us should be averted, I strongly recommend this question of the security of the Bahama channel being referred for discussion in London.

This opinion is more decidedly confirmed by your very elaborate and important argument on the application of the general principles of the law of nations to these subjects—an argument to which your authority necessarily gives great weight, but in which I would not presume to follow you with my own imperfect means. Great Britain and the United States, covering all the seas of the world with their commerce, have the greatest possible interest in maintaining sound and pure principles of international law, as well as the practice of reciprocal aid and good offices in all their harbors and possessions. With respect to the latter, it is satisfactory to know that the disposition of the respective Governments and people leaves little to be desired, with the single exception of those very delicate and perplexing questions which have recently arisen from the state of slavery; and even these seem confined, and likely to continue to be confined, to the narrow passage of the Bahama channel. At no other part of the British possessions are American vessels with slaves ever likely to touch, nor are they likely to touch there otherwise than from the pressure of very urgent necessity. The difficulty, therefore, as well as the desired remedy, is apparently confined within narrow limits.

Upon the great general principles affecting this case we do not differ. You admit that if slaves, the property of American citizens, escape into British territories, it is not expected that they will be restored; and you may be well assured that there is no wish on our part that they should reach our shores, or that British possessions should be used as decoys for the violators of the laws of a friendly neighbor.

When these slaves do reach us, by whatever means, there is no alternative. The present state of British law is in this respect too well known to require repetition, nor need I remind you that it is exactly the same with the laws of every part of the United States where a state of slavery is not recognised; and that the slave put on shore at Nassau would be dealt with exactly as would a foreign slave landed under any circumstances whatever at Boston.

But what constitutes the being within British dominion, from which these consequences are to follow? Is a vessel passing through the Bahama channel, and forced involuntarily, either from storm or mutiny, into British waters, to be so considered? What power have the authorities of those islands to take cognizance of persons or property in such vessels? These are questions which you, sir, have discussed at great length, and

with evident ability. Although you have advanced some propositions which rather surprise and startle me, I do not pretend to judge them; but what is very clear is, that great principles are involved in a discussion which it would ill become me lightly to enter upon; and I am confirmed by this consideration in wishing that the subject be referred to where it will be perfectly weighed and examined.

It behooves the authorities of our two Governments well to guard themselves against establishing by their diplomatic intercourse false precedents and principles, and that they do not, for the purpose of meeting a passing difficulty, set examples which may hereafter mislead the world.

It is not intended on this occasion to consider in detail the particular instances which have given rise to these discussions. They have already been stated and explained. Our object is rather to look to the means of future prevention of such occurrences. That this may be obtained, I have little doubt, although we may not be able immediately to agree on the precise stipulations of a treaty. On the part of Great Britain, there are certain great principles too deeply rooted in the consciences and sympathies of the people for any minister to be able to overlook; and any engagement I might make in opposition to them would be instantly disavowed; but, at the same time that we maintain our own laws within our own territories, we are bound to respect those of our neighbors, and to listen to every possible suggestion of means of averting from them every annoyance and injury. I have great confidence that this may be effectually done in the present instance; but the case to be met and remedied is new, and must not be too hastily dealt with. You may, however, be assured that measures so important for the preservation of friendly intercourse between the two countries shall not be neglected.

In the mean time, I can engage that instructions shall be given to the Governors of Her Majesty's colonies on the southern borders of the United States to execute their own laws with careful attention to the wish of their Government to maintain good neighborhood, and that there shall be no officious interference with American vessels driven by accident or by violence into those ports. The laws and duties of hospitality shall be executed, and these seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony and the proper regulation of its harbors and waters.

A strict and careful attention to these rules, applied in good faith to all transactions as they arise, will, I hope and believe, without any abandonment of great general principles, lead to the avoidance of any excitement or agitation on this very sensitive subject of slavery, and, consequently, of those irritating feelings which may have a tendency to bring into peril all the great interests connected with the maintenance of peace.

I further trust that friendly sentiments, and a conviction of the importance of cherishing them, will, on all occasions, lead the two countries to consider favorably any further arrangements which may be judged necessary for the reciprocal protection of their interests.

I hope, sir, that this explanation on this very important subject will be satisfactory to the President, and that he will see in it no diminution of that earnest desire, which you have been pleased to recognise in me, to perform my work of reconciliation and friendship; but that he will rather perceive

in my suggestion, in this particular instance, that it is made with a well-founded hope of thereby better obtaining the object we have in view.

I beg to renew to you, sir, the assurances of my high consideration.

ASHBURTON.

HON. DANIEL WEBSTER, &c.

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,

*Washington, August 8, 1842.*

MY LORD : I have the honor to acknowledge the receipt of your lordship's note of the 6th instant, in answer to mine of the 1st, upon the subject of a stipulation for the better security of American vessels driven by accident or carried by force into the British West India ports.

The President would have been gratified if you had felt yourself at liberty to proceed at once to consider of some proper arrangement, by formal treaty, for this object ; but there may be weight in the reasons which you urge for referring such mode of stipulation for consideration in London.

The President places his reliance on those principles of public law which were stated in my note to your lordship, and which are regarded as equally well founded and important ; and on your lordship's engagement, that instructions shall be given to the Governors of Her Majesty's colonies to execute their own laws with careful attention to the wish of their Government to maintain good neighborhood ; and that there shall be no officious interference with American vessels driven by accident or by violence into those ports. That the laws and duties of hospitality shall be executed, and that these seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony, and the proper regulation of its harbors and waters. He indulges the hope, nevertheless, that, actuated by a just sense of what is due to the mutual interests of the two countries, and the maintenance of a permanent peace between them, Her Majesty's Government will not fail to see the importance of removing, by such further stipulations, by treaty or otherwise, as may be found to be necessary, all cause of complaint connected with this subject.

I have the honor to be, with high consideration, your lordship's obedient servant,

DANIEL WEBSTER.

Lord ASHBURTON, &c.

## CASE OF THE CAROLINE.

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,

*Washington, July 27, 1842.*

MR LORD: In relation to the case of the "Caroline," which we have heretofore made the subject of conference, I have thought it right to place in your hands an extract of a letter from this Department to Mr. Fox, of the 24th of April, 1841, and an extract from the message of the President of the United States to Congress at the commencement of its present session. These papers you have, no doubt, already seen; but they are, nevertheless, now communicated, as such communication is considered a ready mode of presenting the view which this Government entertains of the destruction of that vessel.

The act of which the Government of the United States complains is not to be considered as justifiable or unjustifiable, as the question of the lawfulness or unlawfulness of the employment in which the "Caroline" was engaged may be decided the one way or the other. That act is, of itself, a wrong, and an offence to the sovereignty and the dignity of the United States, being a violation of their soil and territory—a wrong for which, to this day, no atonement, or even apology, has been made by Her Majesty's Government. Your lordship cannot but be aware that self-respect, the consciousness of independence and national equality, and a sensitiveness to whatever may touch the honor of the country—a sensitiveness which this Government will ever feel and ever cultivate—makes this a matter of high importance, and I must be allowed to ask for it your lordship's grave consideration.

I have the honor to be, my lord, your lordship's most obedient servant,  
DANIEL WEBSTER.

Lord ASHBURTON, &c.

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*Extract of a letter from Mr. Webster to Mr. Fox, dated April 24, 1841.*

The undersigned has now to signify to Mr. Fox that the Government of the United States has not changed the opinion which it has heretofore expressed to Her Majesty's Government, of the character of the act of destroying the "Caroline."

It does not think that that transaction can be justified by any reasonable application or construction of the right of self-defence, under the laws of nations. It is admitted that a just right of self-defence attaches always to nations as well as to individuals, and is equally necessary for the preservation

of both. But the extent of this right is a question to be judged of by the circumstances of each particular case; and when its alleged exercise has led to the commission of hostile acts within the territory of a Power at peace, nothing less than a clear and absolute necessity can afford ground of justification. Not having, up to this time, been made acquainted with the views and reasons, at length, which have led Her Majesty's Government to think the destruction of the "Caroline" justifiable as an act of self-defence, the undersigned, earnestly renewing the remonstrance of this Government against the transaction, abstains, for the present, from any extended discussion of the question. But it is deemed proper, nevertheless, not to omit to take some notice of the general grounds of justification stated by Her Majesty's Government, on their instruction to Mr. Fox.

Her Majesty's Government have instructed Mr. Fox to say, that they are of opinion that the transaction which terminated in the destruction of the "Caroline" was a justifiable employment of force, for the purpose of defending the British territory from the unprovoked attack of a band of British rebels and American pirates, who, having been "permitted" to arm and organize themselves within the territory of the United States, had actually invaded a portion of the territory of Her Majesty.

The President cannot suppose that Her Majesty's Government, by the use of these terms, meant to be understood as intimating that these acts, violating the laws of the United States and disturbing the peace of the British territories, were done under any degree of countenance from this Government, or were regarded by it with indifference; or that, under the circumstances of the case, they could have been prevented by the ordinary course of proceeding. Although he regrets that, by using the term "permitted," a possible inference of that kind might be raised, yet such an inference the President is willing to believe would be quite unjust to the intentions of the British Government.

That, on a line of frontier such as separates the United States from Her Britannic Majesty's North American provinces—a line long enough to divide the whole of Europe into halves—irregularities, violences, and conflicts, should sometimes occur, equally against the will of both Governments, is certainly easily to be supposed. This may be more possible, perhaps, in regard to the United States, without any reproach to their Government, since their institutions entirely discourage the keeping up of large standing armies in time of peace, and their situation happily exempts them from the necessity of maintaining such expensive and dangerous establishments. All that can be expected from either Government, in these cases, is good faith, a sincere desire to preserve peace and do justice, the use of all proper means of prevention; and that, if offences cannot, nevertheless, be always prevented, the offenders shall still be justly punished. In all these respects, this Government acknowledges no delinquency in the performance of its duties.

Her Majesty's Government are pleased, also, to speak of those American citizens who took part with persons in Canada engaged in an insurrection against the British Government as "American pirates." The undersigned does not admit the propriety or justice of this designation. If citizens of the United States fitted out, or were engaged in fitting out, a military expedition from the United States, intended to act against the British Government in Canada, they were clearly violating the laws of their own country, and exposing themselves to the just consequences which might be in

flicted on them, if taken within the British dominions. But, notwithstanding this, they were certainly not pirates, nor does the undersigned think that it can advance the purpose of fair and friendly discussion, or hasten the accommodation of national difficulties, so to denominate them. Their offence, whatever it was, had no analogy to cases of piracy. Supposing all that is alleged against them to be true, they were taking a part in what they regarded as a civil war, and they were taking a part on the side of the rebels. Surely England herself has not regarded persons thus engaged as deserving the appellation which Her Majesty's Government bestows on these citizens of the United States.

It is quite notorious that, for the greater part of the last two centuries, subjects of the British Crown have been permitted to engage in foreign wars, both national and civil, and in the latter in every stage of their progress; and yet it has not been imagined that England has at any time allowed her subjects to turn pirates. Indeed, in our own times, not only have individual subjects of that Crown gone abroad to engage in civil wars, but we have seen whole regiments openly recruited, embodied, armed, and disciplined, in England, with the avowed purpose of aiding a rebellion against a nation with which England was at peace; although it is true that, subsequently, an act of Parliament was passed to prevent transactions so nearly approaching to public war, without license from the Crown.

It may be said, that there is a difference between the case of a civil war arising from a disputed succession, or a protracted revolt of a colony against the mother country, and the case of the fresh outbreak or commencement of a rebellion. The undersigned does not deny that such distinction may, for certain purposes, be deemed well founded. He admits that a Government, called upon to consider its own rights, interests, and duties, when civil wars break out in other countries, may decide on all the circumstances of the particular case upon its own existing stipulations, on probable results, on what its own security requires, and on many other considerations. It may be already bound to assist one party, or it may become bound, if it so chooses, to assist the other, and to meet the consequences of such assistance.

But whether the revolt be recent or long continued, they who join those concerned in it, whatever may be their offence against their own country, or however they may be treated, if taken with arms in their hands in the territory of the Government against which the standard of revolt is raised, cannot be denominated pirates, without departing from all ordinary use of language in the definition of offences. A cause which has so foul an origin as piracy cannot, in its progress or by its success, obtain a claim to any degree of respectability or tolerance among nations; and civil wars, therefore, are not understood to have such a commencement.

It is well known to Mr. Fox that authorities of the highest eminence in England, living and dead, have maintained that the general law of nations does not forbid the citizens or subjects of one Government from taking part in the civil commotions of another. There is some reason, indeed, to think that such may be the opinion of Her Majesty's Government at the present moment.

The undersigned has made these remarks from the conviction that it is important to regard established distinctions, and to view the acts and offences of individuals in the exactly proper light. But it is not to be inferred that there is, on the part of this Government, any purpose of ex-

tenuating in the slightest degree the crimes of those persons, citizens of the United States, who have joined in military expeditions against the British Government in Canada. On the contrary, the President directs the undersigned to say, that it is his fixed resolution that all such disturbers of the national peace, and violators of the laws of their country, shall be brought to exemplary punishment. Nor will the fact that they are instigated and led on to these excesses by British subjects, refugees from the provinces, be deemed any excuse or palliation; although it is well worthy of being remembered, that the prime movers of these disturbances on the borders are subjects of the Queen, who come within the territories of the United States, seeking to enlist the sympathies of their citizens, by all the motives which they are able to address to them, on account of grievances, real or imaginary. There is no reason to believe that the design of any hostile movement from the United States, against Canada, has commenced with citizens of the United States. The true origin of such purposes and such enterprises is on the other side of the line. But the President's resolution to prevent these transgressions of the laws is not, on that account, the less strong. It is taken, not only in conformity to his duty, under the provisions of existing laws, but in full consonance with the established principles and practice of this Government.

The Government of the United States has not, from the first, fallen into the doubts, elsewhere entertained, of the true extent of the duties of neutrality. It has held that, however it may have been in less enlightened ages, the just interpretation of the modern law of nations is, that neutral States are bound to be strictly neutral; and that it is a manifest and gross impropriety for individuals to engage in the civil conflicts of other States, and thus to be at war while their Government is at peace. War and peace are high national relations, which can properly be established or changed only by nations themselves.

The United States have thought, also, that the salutary doctrine of non-intervention by one nation with the affairs of others is liable to be essentially impaired, if, while Government refrains from interference, interference is still allowed to its subjects, individually or in masses. It may happen, indeed, that persons choose to leave their country, emigrate to other regions, and settle themselves on uncultivated lands in territories belonging to other States. This cannot be prevented by Governments which allow the emigration of their subjects and citizens; and such persons, having voluntarily abandoned their own country, have no longer claim to its protection, nor is it longer responsible for their acts. Such cases, therefore, if they occur, show no abandonment of the duty of neutrality.

The Government of the United States has not considered it as sufficient to confine the duties of neutrality and non-interference to the case of Governments whose territories lie adjacent to each other. The application of the principle may be more necessary in such cases, but the principle itself they regard as being the same, if those territories be divided by half the globe. The rule is founded in the impropriety and danger of allowing individuals to make war on their own authority, or, by mingling themselves in the belligerent operations of other nations, to run the hazard of counteracting the policy or embroiling the relations of their own Government. And the United States have been the first among civilized nations to enforce the observance of this just rule of neutrality and peace, by special and adequate legal enactments. In the infancy of this Govern-

ment, on the breaking out of the European wars which had their origin in the French revolution, Congress passed laws, with severe penalties, for preventing the citizens of the United States from taking part in those hostilities.

By these laws, it prescribed to the citizens of the United States what it understood to be their duty as neutrals, by the law of nations, and the duty, also, which they owed to the interest and honor of their own country.

At a subsequent period, when the American colonies of an European Power took up arms against their sovereign, Congress, not diverted from the established system of the Government by any temporary considerations, not swerved from its sense of justice and of duty by any sympathies which it might naturally feel for one of the parties, did not hesitate, also, to pass acts applicable to the case of colonial insurrection and civil war. And these provisions of law have been continued, revised, amended, and are in full force at the present moment. Nor have they been a dead letter, as it is well known that exemplary punishments have been inflicted on those who have transgressed them. It is known, indeed, that heavy penalties have fallen on individuals (citizens of the United States) engaged in this very disturbance in Canada with which the destruction of the *Caroline* was connected. And it is in Mr. Fox's knowledge, also, that the act of Congress of 10th March, 1838, was passed for the precise purpose of more effectually restraining military enterprises, from the United States into the British provinces, by authorizing the use of the most sure and decisive preventive means. The undersigned may add, that it stands on the admission of very high British authority, that during the recent Canadian troubles, although bodies of adventurers appeared on the border, making it necessary for the people of Canada to keep themselves in a state prepared for self-defence, yet that these adventurers were acting by no means in accordance with the feeling of the great mass of the American people or of the Government of the United States.

This Government, therefore, not only holds itself above reproach in every thing respecting the preservation of neutrality, the observance of the principle of non-intervention, and the strictest conformity, in these respects, to the rules of international law, but it doubts not that the world will do it the justice to acknowledge that it has set an example not unfit to be followed by others; and that, by its steady legislation on this most important subject, it has done something to promote peace and good neighborhood among nations, and to advance the civilization of mankind.

The undersigned trusts that, when Her Britannic Majesty's Government shall present the grounds, at length, on which they justify the local authorities of Canada in attacking and destroying the "*Caroline*," they will consider that the laws of the United States are such as the undersigned has now represented them, and that the Government of the United States has always manifested a sincere disposition to see those laws effectually and impartially administered. If there have been cases in which individuals, justly obnoxious to punishment, have escaped, this is no more than happens in regard to other laws.

Under these circumstances, and under those immediately connected with the transaction itself, it will be for Her Majesty's Government to show upon what state of facts, and what rules of national law, the destruction of the "*Caroline*" is to be defended. It will be for that Government to show a necessity of self-defence, instant, overwhelming, leaving no choice of

means, and no moment for deliberation. It will be for it to show, also, that the local authorities of Canada, even supposing the necessity of the moment authorized them to enter the territories of the United States at all, did nothing unreasonable or excessive, since the act, justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it. It must be shown that admonition or remonstrance to the persons on board the "Caroline" was impracticable, or would have been unavailing. It must be shown that daylight could not be waited for; that there could be no attempt at discrimination between the innocent and the guilty; that it would not have been enough to seize and detain the vessel; but that there was a necessity, present and inevitable, for attacking her in the darkness of the night, while moored to the shore, and while unarmed men were asleep on board, killing some and wounding others, and then drawing her into the current, above the cataract, setting her on fire, and, careless to know whether there might not be in her the innocent with the guilty, or the living with the dead, committing her to a fate which fills the imagination with horror. A necessity for all this, the Government of the United States cannot believe to have existed.

All will see that if such things be allowed to occur, they must lead to bloody and exasperated war. And when an individual comes into the United States from Canada, and to the very place on which this drama was performed, and there chooses to make public and vainglorious boast of the part he acted in it, it is hardly wonderful that great excitement should be created, and some degree of commotion arise.

This republic does not wish to disturb the tranquillity of the world; its object is peace, its policy peace. It seeks no aggrandizement by foreign conquest, because it knows that no foreign acquisitions could augment its power and importance so rapidly as they are already advancing by its own natural growth, under the propitious circumstances of its situation. But it cannot admit that its Government has not both the will and the power to preserve its own neutrality, and to enforce the observance of its own laws upon its own citizens. It is jealous of its rights, and among others, and most especially, of the right of the absolute immunity of its territory against aggression from abroad; and these rights it is the duty and determination of this Government fully and at all times to maintain, while it will at the same time as scrupulously refrain from infringing on the rights of others.

The President instructs the undersigned to say, in conclusion, that he confidently trusts that this, and all other questions of difference between the two Governments, will be treated by both in the full exercise of such a spirit of candor, justice, and mutual respect, as shall give assurance of the long continuance of peace between the two countries.

The undersigned avails himself of this opportunity to assure Mr. Fox of his high consideration.

DANIEL WEBSTER.

HENRY S. FOX, Esq.,

*Envoy Extraordinary and Minister Plenipotentiary.*

*Extract from the Message of the President to Congress at the commencement of its present session.*

I regret that it is not in my power to make known to you an equally satisfactory conclusion in the case of the "Caroline" steamer, with the circumstances connected with the destruction of which, in December, 1837, by an armed force fitted out in the province of Upper Canada, you are already made acquainted. No such atonement as was due for the public wrong done to the United States by this invasion of her territory, so wholly irreconcilable with her rights as an independent Power, has yet been made. In the view taken by this Government, the inquiry whether the vessel was in the employment of those who were prosecuting an unauthorized war against that province, or was engaged by the owner in the business of transporting passengers to and from Navy island, in hopes of private gain, which was most probably the case, in no degree alters the real question at issue between the two Governments. This Government can never concede to any foreign Government the power, except in a case of the most urgent and extreme necessity, of invading its territory, either to arrest the persons or destroy the property of those who may have violated the municipal laws of such foreign Government, or have disregarded their obligations arising under the law of nations. The territory of the United States must be regarded as sacredly secure against all such invasions, until they shall voluntarily acknowledge inability to acquit themselves of their duties to others; and, in announcing this sentiment, I do but affirm a principle which no nation on earth would be more ready to vindicate, at all hazards, than the people and Government of Great Britain. If, upon a full investigation of all the facts, it shall appear that the owner of the "Caroline" was governed by a hostile intent, or had made common cause with those who were in the occupancy of Navy island, then, so far as he is concerned, there can be no claim to indemnity for the destruction of his boat, which this Government would feel itself bound to prosecute, since he would have acted not only in derogation of the rights of Great Britain, but in clear violation of the laws of the United States. But that is a question which, however settled, in no manner involves the higher consideration of the violation of territorial sovereignty and jurisdiction. To recognise it as an admissible practice, that each Government, in its turn, upon any sudden and unauthorized outbreak, which, on a frontier the extent of which renders it impossible for either to have an efficient force on every mile of it, and which outbreak, therefore, neither may be able to suppress in a day, may take vengeance into its own hands, and without even a remonstrance, and in the absence of any pressing or overruling necessity, may invade the territory of the other, would inevitably lead to results equally to be deplored by both. When border collisions come to receive the sanction or to be made on the authority of either Government, general war must be the inevitable result. While it is the ardent desire of the United States to cultivate the relations of peace with all nations, and to fulfil all the duties of good neighborhood towards those who possess territories adjoining their own, that very desire would lead them to deny the right of any foreign Power to invade their boundary with an armed force. The correspondence between the two Governments on this subject will, at a future day of your session, be submitted to your consideration; and, in the mean time, I cannot but indulge the hope that the British Government will see the propriety of renouncing, as a rule of future action, the precedent which has been set in the affair at Schlosser.

*Lord Ashburton to Mr. Webster.*

WASHINGTON, July 28, 1842.

SIR: In the course of our conferences on the several subjects of difference which it was the object of my mission to endeavor to settle, the unfortunate case of the *Caroline*, with its attendant consequences, could not escape our attention; for although it is not of a description to be susceptible of any settlement by a convention or treaty, yet, being connected with the highest considerations of national honor and dignity, it has given rise, at times, to deep excitements, so as more than once to endanger the maintenance of peace.

The note you did me the honor of addressing me the 27th instant, reminds me that however disposed your Government might be to be satisfied with the explanations which it has been my duty to offer, the natural anxiety of the public mind requires that these explanations should be more durably recorded in our correspondence, and you send me a copy of your note to Mr. Fox, her Britannic Majesty's minister here, and an extract from the speech of the President of the United States to Congress at the opening of the present session, as a ready mode of presenting the view entertained on this subject by the Government of the United States.

It is so far satisfactory to perceive that we are perfectly agreed as to the general principles of international law applicable to this unfortunate case. Respect for the inviolable character of the territory of independent nations, is the most essential foundation of civilization. It is useless to strengthen a principle so generally acknowledged by any appeal to authorities on international law, and you may be assured, sir, that her Majesty's Government set the highest possible value on this principle, and are sensible of their duty to support it by their conduct and example, for the maintenance of peace and order in the world. If a sense of moral responsibility were not a sufficient security for their observance of this duty toward all nations, it will be readily believed that the most common dictates of interest and policy would lead to it in the case of a long conterminous boundary of some thousand miles, with a country of such great and growing power as the United States of America, inhabited by a kindred race, gifted with all its activity, and all its susceptibility on points of national honor.

Every consideration, therefore, leads us to set, as highly as your Government can possibly do, this paramount obligation of reciprocal respect for the independent territory of each. But however strong this duty may be, it is admitted by all writers, by all jurists, by the occasional practice of all nations, not excepting your own, that a strong overpowering necessity may arise, when this great principle may and must be suspended. It must be so for the shortest possible period, during the continuance of an admitted overruling necessity, and strictly confined within the narrowest limits imposed by that necessity. Self-defence is the first law of our nature, and it must be recognized by every code which professes to regulate the condition and relations of man. Upon this modification, if I may so call it, of the great general principle, we seem also to be agreed; and on this part of the subject I have done little more than repeat the sentiments, though in less forcible language, admitted and maintained by you in the letter to which you refer me.

Agreeing, therefore, on the general principle, and on the possible exception to which it is liable, the only question between us is whether this occurrence came within the limits fairly to be assigned to such exception—wheth-

er, to use your words, there was "that necessity of self-defence, instant, overwhelming, leaving no choice of means," which preceded the destruction of the *Caroline*, while moored to the shore of the United States. Give me leave to say, sir, with all possible admiration of your very ingenious discussion of the general principles which are supposed to govern the right and practice of interference by the people of one country in the wars and quarrels of others, that this part of your argument is little applicable to our immediate case. If Great Britain, America, or any other country suffer their people to fit out expeditions to take part in distant quarrels, such conduct may, according to the circumstances of each case, be justly matter of complaint; and perhaps these transactions have generally been in late times too much overlooked or connived at. But the case we are considering is of a wholly different description, and may be best determined by answering the following questions. Supposing a man standing on ground where you have no legal right to follow him, has a weapon long enough to reach you, and is striking you down and endangering your life, how long are you bound to wait for the assistance of the authority having the legal power to relieve you? or, to bring the facts more immediately home to the case, if cannon are moving and setting up in a battery which can reach you and are actually destroying life and property by their fire, if you have remonstrated for some time without effect, and see no prospect of relief, when begins your right to defend yourself, should you have no other means of doing so than by seizing your assailant on the verge of a neutral territory?

I am unwilling to recal to your recollection the particulars of this case, but I am obliged very shortly to do so, to show what was at the time the extent of the existing justification, for upon this entirely depends the question whether a gross insult has or has not been offered to the Government and people of the United States.

After some tumultuous proceedings in Upper Canada, which were of short duration, and were suppressed by the militia of the country, the persons criminally concerned in them took refuge in the neighboring State of New York, and with a very large addition to their numbers openly collected, invaded the Canadian territory, taking possession of Navy island.

This invasion took place the 16th of December, 1837; a gradual accession of numbers and of military ammunition continued openly, and though under the sanction of no public authority, at least with no public hindrance, until the 29th of the same month, when several hundred men were collected, and twelve pieces of ordnance, which could only have been procured from some public store or arsenal, were actually mounted on Navy island, and were used to fire within easy range upon the unoffending inhabitants of the opposite shore. Remonstrances, wholly ineffective, were made; so ineffectual, indeed, that a militia regiment, stationed on the neighboring American island, looked on without any attempt at interference, while shots were fired from the American island itself. This important fact stands on the best American authority, being stated in a letter to Mr. Forsyth, of the 6th of February, 1838, of Mr. Benton, attorney of the United States, the gentleman sent by your Government to inquire into the facts of the case, who adds, very properly, that he makes the statement "with deep regret and mortification."

This force, formed of all the reckless and mischievous people of the border, formidable from their numbers and from their armament, had in their pay, and as part of their establishment, this steamboat *Caroline*, the impor-

tant means and instrument by which numbers and arms were hourly increasing. I might safely put it to any candid man acquainted with the existing state of things, to say whether the military commander in Canada had the remotest reason, on the 29th of December, to expect to be relieved from this state of suffering by the protective intervention of any American authority. How long could a Government having the paramount duty of protecting its own people, be reasonably expected to wait for what they had then no reason to expect? What would have been the conduct of American officers? what has been their conduct under circumstances much less aggravated? I would appeal to you, sir, to say whether the facts which you say would alone justify this act, viz., "a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation," were not applicable to this case in as high a degree as they ever were to any case of a similar description in the history of nations.

Nearly five years are now past since this occurrence; there has been time for the public to deliberate upon it calmly, and I believe I may take it to be the opinion of candid and honorable men, that the British officers who executed this transaction, and their Government who approved it, intended no slight or disrespect to the sovereign authority of the United States. That they intended no such disrespect I can most solemnly affirm, and I trust it will be admitted that no inference to the contrary can fairly be drawn, even by the most susceptible in points of national honor.

Notwithstanding my wish that the explanation I had to make might not revive in any degree any feelings of irritation, I do not see how I could treat this subject without this short recital of facts, because the proof that no disrespect was intended is mainly to be looked for in the extent of the justification.

There remains only a point or two which I should wish to notice, to remove in some degree the impression which your rather highly colored description of this transaction is calculated to make. The mode of telling a story often tends to distort facts, and in this case more than in any other, it is important to arrive at plain unvarnished truth.

It appears from every account, that the expedition was sent to capture the *Caroline* when she was expected to be found on the British ground of Navy Island, and that it was only owing to the orders of the rebel leader being disobeyed, that she was not so found. When the British officer came round the point of the island in the night, he first discovered that the vessel was moored to the other shore. He was not by this deterred from making the capture, and his conduct was approved. But you will perceive that there was here, most decidedly, the case of justification mentioned in your note, that there should be "no moment left for deliberation." I mention this circumstance to show, also, that the expedition was not planned with a premeditated purpose of attacking the enemy within the jurisdiction of the United States, but that the necessity of so doing arose from altered circumstances at the moment of execution.

I have only further to notice the highly colored picture drawn in your note, of the facts attending the execution of this service. Some importance is attached to the attack having been made in the night, and the vessel having been set on fire and floated down the falls of the river; and it is insinuated rather than asserted, that there was carelessness as to the lives of the persons on board. The account given by the distinguished officer who commanded the expedition distinctly refutes, or satisfactorily explains these

assertions. The time of night was purposely selected as most likely to insure the execution, with the least loss of life, and it is expressly stated that, the strength of the current not permitting the vessel to be carried off, and it being necessary to destroy her by fire, she was drawn into the stream for the express purpose of preventing injury to persons or property of the inhabitants at Schlosser.

I would willingly have abstained from a return to the facts of this transaction, my duty being to offer those explanations and assurances which may lead to satisfy the public mind, and to the cessation of all angry feeling, but it appeared to me that some explanation of facts of the case, apparently misunderstood, might be of service for this purpose.

Although it is believed that a candid and impartial consideration of the whole history of this unfortunate event will lead to the conclusion, that there were grounds of justification as strong as were ever presented in such cases, and above all, that no slight of the authority of the United States was ever intended, yet, it must be admitted, that there was in the hurried execution of this necessary service a violation of territory, and I am instructed to assure you that her Majesty's Government consider this as a most serious fact, and that far from thinking that an event of this kind should be lightly risked, they would unfeignedly deprecate its recurrence. Looking back to what passed at this distance of time, what is, perhaps, most to be regretted, is, that some explanation and apology for this occurrence was not immediately made; this, with a frank explanation of the necessity of the case might, and probably would have prevented much of the exasperation, and of the subsequent complaints and recriminations to which it gave rise.

There are possible cases in the relations of nations, as of individuals, where necessity, which controls all other laws, may be pleaded, but it is neither easy, nor safe to attempt to define the rights or limits properly assignable to such a plea. This must always be a subject of much delicacy, and should be considered by friendly nations with great candor and forbearance. The intentions of the parties must mainly be looked to, and can it for a moment be supposed, that Great Britain would intentionally and wantonly provoke a great and powerful neighbor?

Her Majesty Government earnestly desire that a reciprocal respect for the independent jurisdiction and authority of neighboring States may be considered among the first duties of all Governments; and I have to repeat the assurance of regret they feel that the event of which I am treating should have disturbed the harmony they so anxiously wish to maintain with the American people and Government.

Connected with these transactions, there have also been circumstances, of which I believe it is generally admitted that Great Britain has also had just ground to complain. Individuals have been made personally liable for acts done under the avowed authority of their Government; and there are now many brave men exposed to personal consequences for no other cause than having served their country. That this is contrary to every principle of international law it is useless for me to insist. Indeed, it has been admitted by every authority of your Government; but, owing to a conflict of laws, difficulties have intervened, much to the regret of those authorities, in giving practical effect to these principles; and for these difficulties some remedy has been by all desired. It is no business of mine to enter upon the consideration of them, nor have I sufficient information for the purpose; but I trust

you will excuse my addressing to you the inquiry, whether the Government of the United States is now in a condition to secure, in effect and in practice, the principle which has never been denied in argument, that individuals, acting under legitimate authority, are not personally responsible for executing the orders of their Government. That the power, when it exists, will be used on every fit occasion I am well assured; and I am bound to admit that, looking through the voluminous correspondence concerning these transactions, there appears no indisposition with any of the authorities of the Federal Government, under its several administrations, to do justice in this respect in as far as their means and powers would allow.

I trust, sir, I may now be permitted to hope that all feelings of resentment and ill will, resulting from these truly unfortunate events, may be buried in oblivion, and that they may be succeeded by those of harmony and friendship, which it is certainly the interest, and, I also believe, the inclination of all to promote.

I beg, sir, you will be assured of my high and unfeigned consideration.

ASHBURTON.

HON. DANIEL WEBSTER,  
 &c., &c., &c.

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*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,  
 Washington, August 6, 1842.

Your lordship's note of the 28th of July, in answer to mine of the 27th, respecting the case of the "Caroline," has been received and laid before the President.

The President sees with pleasure that your lordship fully admits those great principles of public law, applicable to cases of this kind, which this Government has expressed; and that on your part, as on ours, respect for the inviolable character of the territory of independent States, is the most essential foundation of civilization. And while it is admitted, on both sides, that there are exceptions to this rule, he is gratified to find that your lordship admits that such exceptions must come within the limitations stated and the terms used in a former communication from this Department to the British Plenipotentiary here. Undoubtedly it is just, that while it is admitted that exceptions growing out of the great law of self-defence do exist, those exceptions should be confined to cases in which the "necessity of that self-defence is instant, overwhelming, and leaving no choice of means, and no moment for deliberation."

Understanding these principles alike, the difference between the two Governments is only whether the facts in the case of the "Caroline" make out a case of such necessity for the purpose of self-defence. Seeing that the transaction is not recent, having happened in the time of one of his predecessors; seeing that your lordship, in the name of your Government, solemnly declares that no slight or disrespect was intended to the sovereign authority of the United States; seeing that it is acknowledged that whether justifiable or not, there was yet a violation of the territory of the United States, and that you are instructed to say that your Government consider that as a most serious occurrence; seeing, finally, that it is now admitted

that an explanation and apology for this violation was due at the time, the President is content to receive these acknowledgments and assurances in the conciliatory spirit which marks your lordship's letter, and will make this subject, as a complaint of violation of territory, the topic of no further discussion between the two Governments.

As to that part of your lordship's note which relates to other occurrences springing out of the case of the "Caroline," with which occurrences the name of Alexander McLeod has become connected, I have to say that the Government of the United States entirely adheres to the sentiments and opinions expressed in the communications from this Department to Mr. Fox. This Government has admitted, that for an act committed by the command of his sovereign, *jure belli*, an individual can not be responsible, in the ordinary courts of another State. It would regard it as a high indignity if a citizen of its own, acting under its authority, and by its special command, in such cases, were held to answer in a municipal tribunal, and to undergo punishment, as if the behest of his Government were no defence or protection to him.

But your lordship is aware that in regular constitutional Governments, persons arrested on charges of high crimes can only be discharged by some judicial proceeding. It is so in England; it is so in the colonies and provinces of England. The forms of judicial proceeding differ, in different countries, being more rapid in some and more dilatory in others; and it may be added, generally more dilatory, or at least more cautious, in cases affecting life, in Governments of a strictly limited than in those of a more unlimited character. It was a subject of regret that the release of McLeod was so long delayed. A State court, and that not of the highest jurisdiction, decided that, on summary application, embarrassed, as it would appear, by technical difficulties, he could not be released by that court. His discharge, shortly afterward, by a jury, to whom he preferred to submit his case, rendered unnecessary the further prosecution of the legal question. It is for the Congress of the United States, whose attention has been called to the subject, to say what further provision ought to be made to expedite proceedings in such cases; and, in answer to your lordship's question toward the close of your note, I have to say that the Government of the United States holds itself, not only fully disposed, but fully competent, to carry into practice every principle which it avows or acknowledges, and to fulfil every duty and obligation which it owes to foreign Governments, their citizens, or subjects.

I have the honor to be, my lord, with great consideration, your obedient servant,

DANIEL WEBSTER.

Lord ASHBURTON,  
 &c., &c., &c.

## IMPRESSMENT.

*Mr. Webster to Lord Ashburton.*

DEPARTMENT OF STATE,  
Washington, August 8, 1842.

MY LORD: We have had several conversations on the subject of impressment, but I do not understand that your lordship has instructions from your Government to negotiate upon it, nor does the Government of the United States see any utility in opening such negotiation, unless the British Government is prepared to renounce the practice in all future wars. No cause has produced, to so great an extent, and for so long a period, disturbing and irritating influences on the political relations of the United States and England as the impressment of seamen by British cruisers from American merchant vessels.

From the commencement of the French revolution to the breaking out of the war between the two countries in 1812, hardly a year elapsed without loud complaint and earnest remonstrance; a deep feeling of opposition to the right claimed, and to the practice exercised under it, and not unfrequently exercised without the least regard to what justice and humanity would have dictated, even if the right itself had been admitted, took possession of the public mind of America, and this feeling, it is well known, co-operated most powerfully with other causes to produce the state of hostilities which ensued.

At different periods, both before and since the war, negotiations have taken place between the two Governments, with the hope of finding some means of quieting these complaints. At some times, the effectual abolition of the practice has been requested and treated of; at other times, its temporary suspension; and, at other times again, the limitation of its exercise and some security against its enormous abuses.

A common destiny has attended these efforts; they have all failed. The question stands at this moment where it stood fifty years ago. The nearest approach to a settlement was a convention proposed in 1803, and which had come to the point of signature, when it was broken off in consequence of the British Government insisting that the *narrow seas* should be expressly excepted, out of the sphere over which the contemplated stipulations against impressment should extend. The American minister, Mr. King, regarded this exception as quite inadmissible, and chose rather to abandon the negotiation than to acquiesce in the doctrine which it proposed to establish.

England asserts the right of impressing British subjects, in time of war, out of neutral merchant vessels, and of deciding by her visiting officers, who, among the crews of such merchant vessels, are British subjects. She asserts this as a legal exercise of the prerogative of the crown; which prerogative is alleged to be founded on the English law of the perpetual and indissoluble allegiance of the subject, and his obligation, under all circumstances, and for his whole life, to render military service to the crown whenever required.

This statement, made in the words of eminent British jurists, shows, at once, that the English claim is far broader than the basis or platform on which it is raised. The law relied on is English law; the obligations insisted

on are obligations existing between the crown of England and its subjects. This law and these obligations, it is admitted, may be such as England may choose they shall be. But then they must be confined to the parties. Impressment of seamen, out of and beyond English territory, and from on board the ships of other nations, is an interference with the rights of other nations; is further, therefore, than English prerogative can legally extend; and is nothing but an attempt to enforce the peculiar law of England beyond the dominions and jurisdiction of the crown. The claim asserts an extra-territorial authority for the law of British prerogative, and assumes to exercise this extra-territorial authority, to the manifest injury and annoyance of the citizens and subjects of other States, on board their own vessels or the high seas.

Every merchant vessel on the seas is rightfully considered as part of the territory of the country to which it belongs. The entry, therefore, into such vessel, being neutral, by a belligerent, is an act of force, and is, *prima facie*, a wrong, a trespass, which can be justified only when done for some purpose, allowed to form a sufficient justification by the law of nations. But a British cruiser enters an American merchant vessel in order to take therefrom supposed British subjects; offering no justification therefor, under the law of nations, but claiming the right under the law of England respecting the King's prerogative. This can not be defended. English soil, English territory, English jurisdiction, is the appropriate sphere for the operation of English law. The ocean is the sphere of the law of nations; and any merchant vessel on the seas is, by that law, under the protection of the laws of her own nation, and may claim immunity, unless in cases in which that law allows her to be entered or visited.

If this notion of perpetual allegiance, and the consequent power of the prerogative, was the law of the world; if it formed part of the conventional code of nations, and was usually practised like the right of visiting neutral ships, for the purpose of discovering and seizing enemy property, then impressment might be defended as a common right, and there would be no remedy for the evils till the national code should be altered. But this is by no means the case. There is no such principle incorporated into the code of nations. The doctrine stands only as English law—not as national law; and English law can not be of force beyond English dominion. Whatever duties or relations that law creates between the sovereign and his subjects, can be enforced and maintained only within the realm, or proper possessions or territory of the sovereign. There may be quite as just a prerogative right to the property of subjects as to their personal services, in an exigency of the State; but no Government thinks of controlling by its own laws property of its subjects situated abroad; much less does any Government think of entering the territory of another power for the purpose of seizing such property and applying it to its own uses. As laws, the prerogatives of the crown of England have no obligation on persons or property domiciled or situated abroad.

“When, therefore,” says an authority not unknown or unregarded on either side of the Atlantic, “we speak of the right of a state to bind its own native subjects every where, we speak only of its own claim and exercise of sovereignty over them, when they return within its own territorial jurisdiction; and not of its right to compel or require obedience to such laws, on the part of other nations, within their own territorial sovereignty. On the contrary, every nation has an exclusive right to regulate persons and things within its own territory, according to its sovereign will and public polity.”

The good sense of these principles, their remarkable pertinency to the sub-

ject now under consideration, and the extraordinary consequences resulting from the British doctrine, are signally manifested by that which we see taking place every day. England acknowledges herself over-burdened with population of the poorer classes. Every instance of the emigration of persons of those classes is regarded by her as a benefit. England, therefore, encourages emigration; means are notoriously supplied to emigrants to assist their conveyance, from public funds; and the new world, and most especially these United States, receive the many thousands of her subjects thus ejected from the bosom of their native land by the necessities of their condition. They come away from poverty and distress, in over-crowded cities, to seek employment, comfort, and new homes, in a country of free institutions, possessed by a kindred race, speaking their own language, and having laws and usages in many respects like those to which they have been accustomed, and a country which, upon the whole, is found to possess more attractions for persons of their character and condition than any other on the face of the globe. It is stated that in the quarter of the year ending with June last, more than twenty-six thousand emigrants left the single port of Liverpool for the United States, being four or five times as many as left the same port within the same period for the British colonies and all other parts of the world. Of these crowds of emigrants, many arrive in our cities in circumstances of great destitution, and the charities of the country, both public and private, are severely taxed to relieve their immediate wants. In time they mingle with the new community in which they find themselves, and seek means of living; some find employment in the cities, others go to the frontiers, to cultivated lands reclaimed from the forest; and a greater or less number of the residue, becoming in time naturalized citizens, enter into the merchant service, under the flag of their adopted country.

Now, my lord, if war should break out between England and a European power, can anything be more unjust, anything more irreconcilable to the general sentiments of mankind, than that England should seek out these persons, thus encouraged by her, and compelled by their own condition to leave their native homes, tear them away from their new employments, their new political relations, and their domestic connexions, and force them to undergo the dangers and hardships of military service, for a country which has thus ceased to be their own country? Certainly, certainly, my lord, there can be but one answer to this question. Is it not far more reasonable that England should either prevent such emigration of her subjects, or that, if she encourage and promote it, she should leave them, not to the embroilment of a double and a contradictory allegiance, but to their own voluntary choice, to form such relations, political or social, as they see fit, in the country where they are to find their bread, and to the laws and institutions of which they are to look for defence and protection?

A question of such serious importance ought now to be put at rest. If the United States give shelter and protection to those whom the policy of England annually casts upon their shores—if, by the benign influences of their Government and institutions, and by the happy condition of the country, those emigrants become raised from poverty to comfort, finding it easy even to become landholders, and being allowed to partake in the enjoyment of all civil rights—if all this may be done (and all this is done, under the countenance and encouragement of England herself), is it not high time, my lord, that, yielding that which had its origin in feudal ideas

as inconsistent with the present state of society, and especially with the intercourse and relations subsisting between the old world and the new, England should, at length, formally disclaim all right to the services of such persons, and renounce all control over their conduct?

But impressment is subject to objections of a much wider range. If it could be justified in its application to those who are declared to be its only objects, it still remains true that, in its exercise, it touches the political rights of other governments, and endangers the security of their own native subjects and citizens. The sovereignty of the state is concerned in maintaining its exclusive jurisdiction and possession over its merchant ships on the seas, except so far as the law of nations justifies intrusion upon that possession for special purposes; and all experience has shown that no member of a crew, wherever born, is safe against impressment when a ship is visited.

The evils and injuries resulting from the actual practice can hardly be overstated, and have ever proved themselves to be such as should lead to its relinquishment, even if it were founded in any defensible principle. The difficulty of discriminating between English subjects and American citizens has always been found to be great, even when an honest purpose of discrimination has existed. But the lieutenant of a man-of-war, having necessity for men, is apt to be a summary judge, and his decisions will be quite as significant of his own wants and his own power as of the truth and justice of the case. An extract from a letter of Mr. King, of the 13th of April, 1797, to the American Secretary of State, shows something of the enormous extent of these wrongful seizures:

"Instead of a few, and these in many instances equivocal cases, I have," says he, "since the month of July past, made application for the discharge, from British men-of-war, of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference. Of this number eighty-six have been ordered by the Admiralty to be discharged, thirty-seven more have been detained as British subjects or as American volunteers, or for want of proof that they are Americans, and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer—the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made in consequence of my application.

"It is certain that some of those who have applied to me are not American citizens, but the exceptions are, in my opinion, few, and the evidence, exclusive of certificates, has been such as, in most cases, to satisfy me that the applicants were real Americans, who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay or bounty, though in some instances they have been in service more than two years."

But the injuries of impressment are by no means confined to its immediate subjects or the individuals on whom it is practised. Vessels suffer from the weakening of the crews, and voyages are often delayed, and not unfrequently broken up, by subtraction from the number of necessary hands by impressment. And what is still of greater and more general moment, the fear of impressment has been found to create great difficulty in obtaining sailors for the American merchant service in times of European war. Seafaring men, otherwise inclined to enter into that service, are, as experience has shown, deterred by the fear of finding themselves ere long in compulsory

**military service in British ships of war. Many instances have occurred, fully established in proof, in which raw seamen, natives of the United States, fresh from the fields of agriculture, entering for the first time on shipboard, have been impressed before they made the land, placed on the decks of British men-of-war, and compelled to serve for years before they could obtain their release, or revisit their country and their homes. Such instances become known, and their effect in discouraging young men from engaging in the merchant service of their country can neither be doubted nor wondered at. More than all, my lord, the practice of impressment, whenever it has existed, has produced not conciliation and good feeling, but resentment, exasperation, and animosity, between the two great commercial countries of the world.**

**In the calm and quiet which have succeeded the late war—a condition so favorable for dispassionate consideration—England herself has evidently seen the harshness of impressment, even when exercised on seamen in her own merchant service, and she has adopted measures calculated if not to renounce the power or to abolish the practice, yet, at least, to supersede its necessity by other means of manning the royal navy more compatible with justice and the rights of individuals, and far more conformable to the spirit and sentiments of the age.**

**Under these circumstances, the Government of the United States has used the occasion of your lordship's pacific mission to renew this whole subject, and to bring it to your notice and that of your Government. It has reflected on the past, pondered the condition of the present, and endeavored to anticipate, so far as might be in its power, the probable future, and I am now to communicate to your lordship the result of these deliberations.**

**The American Government, then, is prepared to say that the practice of impressing seamen from American vessels can not hereafter be allowed to take place. That practice is founded on principles which it does not recognize, and is invariably attended by consequences so unjust, so injurious, and of such formidable magnitude, as can not be submitted to.**

**In the early disputes between the two Governments on this so long contested topic, the distinguished person to whose hands were first intrusted the seals of this Department declared, that "the simplest rule will be, that the vessel being American shall be evidence that the seamen on board are such."**

**Fifty years' experience, the utter failure of many negotiations, and a careful consideration now had of the whole subject at a moment when the passions are laid, and no present interest or emergency exists to bias the judgment, have fully convinced this Government that this is not only the simplest and best, but the only rule, which can be adopted and observed, consistently with the rights and honor of the United States and the security of their citizens. That rule announces therefore, what will hereafter be the principle maintained by their Government. In every regularly documented American merchant vessel the crew who navigate it will find their protection in the flag which is over them.**

**This announcement is not made, my lord, to revive useless recollections of the past, nor to stir the embers from fires which have been, in a great degree, smothered by many years of peace. Far otherwise. Its purpose is to extinguish those fires effectually, before new incidents arise to fan them into flame. The communication is in the spirit of peace, and for the sake of peace, and springs from a deep and conscientious conviction that high interests of both nations require that this so-long-contested and controverted subject should now be finally put to rest. I persuade myself, my lord, that you**

will do justice to this frank and sincere avowal of motives, and that you will communicate your sentiments, in this respect, to your government.

This letter closes, my lord, on my part, our official correspondence; and I gladly use the occasion to offer you the assurance of my high and sincere regard.

DANIEL WEBSTER.

*Lord Ashburton to Mr. Webster.*

WASHINGTON, August 9, 1842.

SIR: The note you did me the honor of addressing me the 8th instant, on the subject of impressment, shall be transmitted without delay to my Government, and will, you may be assured, receive from them the deliberate attention which its importance deserves.

The object of my mission was mainly the settlement of existing subjects of difference, and no differences have or could have arisen of late years with respect to impressment, because the practice has since the peace wholly ceased, and can not, consistently with existing laws and regulations for manning her Majesty's navy, be, under present circumstances, renewed.

Desirous, however, of looking far forward into futurity to anticipate even possible causes of disagreement, and sensible of the anxiety of the American people on this grave subject of past irritation, I should be sorry in any way to discourage the attempt at some settlement of it; and, although without authority to enter upon it here during the limited continuance of my mission, I entertain a confident hope that this task may be accomplished, when undertaken, with the spirit of candor and conciliation which has marked all our late negotiations.

It not being our intention to endeavor now to come to any agreement on this subject, I may be permitted to abstain from noticing, at any length, your very ingenuous arguments relating to it, and from discussing the graver matters of constitutional and international law growing out of them. These sufficiently show that the question is one requiring calm consideration; though I must, at the same time, admit that they prove a strong necessity of some settlement for the preservation of that good understanding which, I trust, we may flatter ourselves that our joint labors have now succeeded in establishing.

I am well aware that the laws of our two countries maintain opposite principles respecting allegiance to the sovereign. America, receiving every year, by thousands, the emigrants of Europe, maintains the doctrine suitable to her condition of the right of transferring allegiance at will. The laws of Great Britain have maintained, from all time, the opposite doctrine. The duties of allegiance are held to be indispensable, and it is believed that this doctrine, under various modifications, prevails in most, if not in all, the civilized States of Europe.

Emigration, the modern mode by which the population of the world peaceably finds its level, is for the benefit of all, and eminently for the benefit of humanity. The fertile deserts of America are gradually advancing to the highest state of cultivation and production, while the emigrant acquires comfort which his own confined home could not afford him.

If there were anything in our laws or our practice on either side tending to impede this march of providential humanity, we could not be too eager to

provide a remedy; but as this does not appear to be the case, we may safely leave this part of the subject without indulging in abstract speculations, having no material practical application to matters in discussion between us.

But it must be admitted that a serious practical question does arise, or rather has existed, from practices formerly attending the mode of manning the British navy in times of war. The principle is, that all subjects of the crown are in case of necessity bound to serve their country, and the sea-faring man is naturally taken for the naval service. This is not, as is some times supposed, any arbitrary principle of monarchical government, but one founded on the natural duty of every man to defend the life of his country; and all the analogy of your laws would lead to the conclusion that the same principle would hold good in the United States if their geographical position did not make its application unnecessary.

The very anomalous condition of the two countries with relation to each other here creates a serious difficulty. Our people are not distinguishable; and owing to the peculiar habits of sailors, our vessels are very generally manned from a common stock. It is difficult, under these circumstances, to execute laws which at times have been thought to be essential for the existence of the country, without risk of injury to others. The extent and importance of those injuries, however, are so formidable that it is admitted that some remedy should, if possible, be applied; at all events, it must be fairly and honestly attempted. It is true that during the continuance of peace no practical grievance can arise; but it is also true that it is for that reason the proper season for the calm and deliberate consideration of an important subject. I have much reason to hope that a satisfactory arrangement respecting it may be made, so as to set at rest all apprehension and anxiety; and I will only further repeat the assurance of the sincere disposition of my Government favorably to consider all matters having for their object the promoting and maintaining undisturbed kind and friendly feelings with the United States.

I beg, sir, on this occasion of closing the correspondence with you connected with my mission, to express the satisfaction I feel at its successful termination, and to assure you of my high consideration and personal esteem and regard.

ASHBURTON.

HON. DANIEL WEBSTER, &c., &c., &c.