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## Report of the Commissioners Under the Resolves of May 26, 1842, in Relation to the Northeastern Boundary

Maine Commissioners on the Northeastern Boundary

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REPORT  
OF THE  
COMMISSIONERS  
UNDER THE  
RESOLVES OF MAY 26, 1842,  
“IN RELATION TO THE  
NORTHEASTERN BOUNDARY  
OF THIS STATE.”

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AUGUSTA:  
WM. R. SMITH & Co., PRINTERS TO THE STATE.  
1843.

## NORTHEASTERN BOUNDARY.

such assurances and expectations, is a question, upon which we forbear to express any opinion. Instead of being clothed, as was supposed, with full power to negotiate a mutual interchange of contiguous territory for the purpose of removing the acknowledged inconveniences resulting from the treaty line of demarcation, we soon learned, that he had no authority whatever to concede *a single acre* of British territory adjoining Maine, nay, not even to the smallest of her islands in Passamaquoddy bay. To remove all doubt on this point when, after many conferences and informal propositions, the negotiation had come to a stand, he voluntarily submitted his instructions on this head to two of our number—nay, more, we feel no hesitation in saying, that such was Lord Ashburton's desire to settle by amicable negotiation this long protracted and inveterate dispute, that in acceding on the part of his government to the arrangement, to which we subsequently gave a conditional assent on the part of Maine, he put the most liberal construction on his powers, and went to the utmost extent, his instructions would authorized him to do. How far the arrangement, to which we have referred, falls short of the just claims and expectations of the Legislature and people of Maine, we need not say. We found it exceedingly difficult to bring our minds to entertain and consider the proposition. Still, we were satisfied, the terms, ultimately engrafted into the treaty, were the most favorable terms to Maine, to which the Minister of Great Britain would accede on his part on the principle of *mutual equivalents*. The field of discussion had by this time become so narrowed down by means of informal propositions and conferences, that we readily made up our minds, that there remained to us only one of three courses to pursue, viz :—

1st.—Decline to accede to the proposition already mentioned ; and also the one we are next to consider ; break off the negotiation, and return home, having accomplished nothing.

The immediate consequences of such a course on our part, would have been the grievous disappointment, which would have been felt by the people of Maine and of the United States, especially by the commercial community, and by that most deserving portion, who are the lovers of peace and the haters of war and violence. Besides, we were given distinctly to understand, that such a measure on our part would immediately be followed by a submission of the question anew to arbitration by the United States and Great Britain ;—an arbitration with all its attendant delays, new border troubles, new encroachments, irritation, and expense ; and with the certain danger, that in the end the rights and just claims of Maine might be still more seriously compromised.

2d.—We were given to understand, that it was not yet too late to adopt, ratify, and confirm the line, recommended by the arbiter ; and settle the controversy in that way.

In reference to such a proposition, we suggested on our part, that, if the limited right to the navigation of the St. John could be conceded, as an equivalent, we might bring ourselves, perhaps, to assent to it, particularly if we could mutually agree upon a modification of that line. But every suggestion on our part, as to modifying and narrowing the bounds, and as to equivalents, was met by a prompt and decided negative. If we acceded to that line, it could only be on the basis of the award, *simply and purely*, and *without* any equivalent. Would, then, the commissioners of Maine be justified by their fellow citizens in assenting, in behalf of the State, at this late day,



to a ratification of the award of the King of the Netherlands? More than ten years ago the Legislature of Maine repeatedly and solemnly protested against the ratification of that award. It even refused to trust in the hands of the President and Senate of the United States, the discretionary power of ratifying it, although in case of its eventual ratification, Maine would have realized as an indemnity, more than two millions of dollars, and avoided all the expense and border troubles to which the controversy has since given occasion. The views of the Legislature, so repeatedly expressed, were opposed to any such assent on the part of its agents. The spirit of the resolves under which we derived our authority, was opposed to it. Considering the course, which the Legislature and Executive of Maine have pursued in regard to this matter, the acceptance of such a proposition was out of the question. To have acceded to it would have been in our opinion, to disregard the interest of the State, and trifle with its character and honor.

3d. The last, and only remaining alternative open to us, was, to accede to the proposition made to us by order of the President, subject to such modifications as were finally procured on the *express condition*, however, on our part, that in the opinion of the Senate of the United States, Maine ought under existing circumstances to consent to so great a sacrifice of her just claims for the peace and harmony and general welfare of the Union.

The proposition, when first presented, was so objectionable in our estimation, that it was not until after much consideration and reflection that we were brought to hesitate in regard to it. Meantime the British Minister with much reluctance and hesitation, and as a last effort on his part, had yielded his assent. The Commissioners of Mas-

sachusetts had sent in their adhesion. It was the proposition deliberately made by the Executive of the United States, and in the character of a mediator. The situation of the country was difficult. The whole country seemed to be insisting that the controversy should be adjusted. With the history of the past before us, and the temper manifested at the time, we could not but perceive how little efficient aid and support Maine had to expect, if we persisted in opposition to the almost unanimous wish of the country. We should have readily acceded to the proposition, but for that narrow strip of comparatively little value, which embraces the highland boundary. To Great Britain nearly its whole value will consist in securing to her a broad, inhospitable, wilderness frontier. Such a frontier in that quarter is not undesirable even to Maine. Its possession to Maine would be of little use, and is more a matter of pride, than interest. Should we then for that strip forego all the advantages of a speedy and amicable settlement of the controversy? Maine cannot contend single handed with Great Britain. Already she has incurred great expense, and involved herself in debt on account of this dispute. Still, one encroachment has followed another; and step by step one concession has followed another. Maine has been losing ground and Great Britain steadily strengthening her position against us. We see no reason to doubt, that it would continue to be so. As to the honor of the State, by acceding to the proposition as modified, *conditionally*, we leave the whole question to the representatives of the States in the Senate; and we may safely refer the question of the honor of the State and the country to them. Again, on the other hand, as to the interest of the State in a pecuniary point of view there can be no question. Maine is



a commercial State. Her commerce is one of her principal resources. She is deeply interested both internally and externally in the preservation of peace. It is peace, and not war, that is to people her unoccupied lands, and the rich valley of the Aroostook. It is peace, which is to develop her resources, and give scope to her enterprising, hardy and industrious population. By settling the difficulty Maine secures peace and quiet within her borders. She brings her best settling lands into market, and secures a rapid increase of population, where she most needs it. She puts an end to further encroachments, and to that border warfare, and those depredations, which have given rise to so much trouble, and subjected her to so much expense. She will receive into her treasury in money more than all the territory she gives up, would ever yield her. She secures an indemnity for a large part of the expenses, already incurred by her, in protecting and exploring the territory. And furthermore, she secures the right of the free navigation of the St. John and of a British market for the products of the forests and of the soil that are grown within its valley. On the whole, from considerations such as these, and on a careful reviewing of the whole matter with a single eye to the interests of Maine, we were induced to yield our conditional assent to the proposition made us, as modified and engrafted into the treaty: and we now submit our doings in that behalf to the discernment and sound judgment of the Legislature and people of Maine. As part of our doings, and as illustrating the course and progress of the business, intrusted to us, we refer to the annexed copies of documents; and request that they should constitute and be considered as a part of this report. We also submit a copy of Map A, so called, reduced for the

purpose of illustrating our position in answer to Lord Ashburton as to the source of the St. John intended by the American Commissioners, who negotiated the treaty of 1783—also an extract from Mitchell's Map of 1755, for the same purpose.

With the highest respect and consideration we are, Sir,  
your very obedient servants,

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





## APPENDIX.

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### No. 1. *Letter from the British Minister, asserting the claim of Great Britain to the territory in dispute.*

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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 dil-

igence 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 emitted 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 of 1783. 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 northernmost 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 5th 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 Monroe, of the 25th of December, 1814. He offers the following conjecture

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 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) 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 merits, 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 in 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 cannot 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 re-



peated projects for settlement, which have occupied every successive administration of the United States, sufficiently prove how unfounded is the assertion that the 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 1783.

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

In the year 1802, 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 1783, 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 1783." 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 maintainig 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 circumstances 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.

No. 2. *Proposition of the British Government.*

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Lord Ashburton to Mr. Webster.

*Washington, June 21, 1842.*

SIR :—The letter you did me the honor of addressing me on 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 views 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 forbode 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 inclination.

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 disadvantages 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 any thing like controversy, is that referred to in my let-



ter 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 that 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 intention 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 cannot 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 connection 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 seek 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 tenths 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 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, 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, 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 apprehension 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. What line should be taken to cover this difficulty I shall have to consider with you, but I cannot 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 communication 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 as-

sistance 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 cannot 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. 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, 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 : 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 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 be what is principally required. Suggestions have at times been thrown out of making the port and river of St. John 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 the St. John 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 and 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.

No. 3. *Rejection of the British proposition by the Maine Commissioners.—Proposition of the Maine Commissioners.*

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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 Madawasda 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 sub-



mitted 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 the 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 maps 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 northwest 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 specially 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 branch 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 Walloostook, 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's 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 emptied 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 entertaining 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 bound 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 the



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 can not 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 forest, 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 forest, 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 part, 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 Pohenagamook; 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:

1st. 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.

2d. 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 upward, 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 can not be mistaken; and for the same reason the inlet of Lake Pohenagamook is also proposed, and the line being continued to the highlands removes all possible ground of misapprehension and controversy.

3d. 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, can not 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 individual 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 had 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.

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

HON. DANIEL WEBSTER,  
*Secretary of State.*

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No. 4. *Rejection of the British proposition by the United States.  
American proposition.*

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Mr. Webster to Lord Ashburton.

*Department of State, }  
Washington, July 8, 1842. }*

MY LORD:—Your notes of the 13th and 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 reasoning 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 Governments 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 and the Restigouch 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 the 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 this line is to run north till 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 Chaleurs, 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 cannot be executed.

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

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 Chaleurs, 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; 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 intend to comprehend all the rivers running in a direction from the St. Lawrence, whether falling immediately or only ultimately in 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 conveniences 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, 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, which you propose should be included in the British territory. That, as a line by agreement, the St. John 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 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. 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 observation upon the propriety of preserving the unity of 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, considerations might be found in such a cession, possibly, for some new demarcations 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 whenever their courses suit the general object, 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 northeast, 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 inconveni-



ence, 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, 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, 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, that which has been recently usually so denominated, your lordship will observe 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 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 the 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 aforementioned 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, 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 Pohenagamook, 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 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 constitut-



ing, 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 of 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,

DANIEL WEBSTER.

Lord Ashburton, &c., &c., &c.

No. 5. *Rejection of the American proposition by the British Minister.*

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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 mission, 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 the 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 Mada-waska 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 1779, 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 Ristigouch? These points must be about fifty miles apart. Both cannot 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 the description of the Atlantic ocean. Mr. Gallatin was sensible of this, and intimates that if this fact created doubt, the lands about the Restigouche 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. To make even a plausible case for the American line, both the St. John and the Ristigouche 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, connected with the distinctions with which it was mentioned in the treaty, to consider the Ristigouche 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 and the Ristigouche, 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 or 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 the arbiter awarded to her, and, if I do not mistake you, the floatage of the lumber of Maine down the St. John, 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 cannot 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 cannot 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 a 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 further 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 invariably 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.

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No. 6. *Communication of the same to the Commissioners of Maine and Massachusetts.*

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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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No. 7. *Reply of the Maine Commissioners to the rejection of their proposition, and to the letter of Lord Ashburton of July 11, 1842.*

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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 commu-

nication 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 the 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 convenience of both nations. When, therefore, Lord Ashburton bases his proposition on the supposition that "the division by the King of the Netherlands satisfied 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 or 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, cannot 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 also all, and more than all, that is needed by Great Britain, for the unobstructed communication and connection 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, 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 on 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 the 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 of 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 consider 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 cannot 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 the 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 parings shaved from the State 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, unintentionally 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., has 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 "presump-

tion," 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 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 that 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 in the report and doings of the Congress in August, 1782, it was proposed that the eastern boundary should be "a line to be settled and adjusted between 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 16th August, 1782, after suggesting several vague and unsatisfactory reasons for considering the St. John 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 15th August, 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 extended, 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 thence to the southern boundary of our colony of Quebec:" that is to say, 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 of 1782, 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 Madelane, 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 repeat what 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 KAVANAGH,  
EDWARD KENT,  
JOHN OTIS.

HON. DANIEL WEBSTER,  
*Secretary of State.*

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No. 8. *Proposition in behalf of the United States by Mr. Webster, Secretary of State.*

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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 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, thinking 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 12,027 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 7,903 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 Metjar-mette 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 connection 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 Chaudiere, Lake Champlain, and the Richelieu, and the St. Lawrence. If an army, with its *materiel*, 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 Chaudiere on one hand and the route by Madawaska on the other.

If this line should 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 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.



## 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 summit or crest 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 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  $46^{\circ} 25'$  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, 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 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.

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 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 the 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 everywhere 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.*



Letter from the Land Agents of Maine and Massachusetts to Mr. Webster.

*Bangor, June 3, 1842.*

Hon. DANIEL WEBSTER,

*Secretary of State of the United States.*

SIR: We have received your letter of the 28th ult. requesting information from us in relation to the quantity and value of the public lands in the State of Maine, belonging to the States of Massachusetts and Maine, and the value of timber standing thereon, &c.

We have examined the several plans, field notes of surveyors and explorers, and other documents in the Land offices of both States, and we have herewith endeavored to comply with the several questions propounded, according to the best information we have been able to gather from said documents, as well as from personal inspection and examination, which some of us have made upon several parts of the territory at various times.

Question First. What quantity of unsold land still belongs to the two States, as nearly as may be known, assuming the true boundary between Maine and the British Provinces to be such as the United States asserts, beyond the St. John, and taking the British claim on the south of the St. John, in each of two ways, to wit: first, according to the alleged line of highland running from Mars Hill? Second, according to the award of the King of Holland.

Answer. The quantity of unsold lands in the State of Maine, which belongs to the two States, as near as it is practicable to ascertain from the surveys on the files of the Land offices, adding thereto the quantity of unsurveyed land which we obtain by measuring the lines on Greenleaf's map, is about six millions four hundred thousand acres, viz:—That portion south of the line recommended by the King of Holland, contains about four millions three hundred thousand acres, and north of said line about two millions one hundred thousand acres.

Question Second. What is the average price at which the public lands in Maine have sold per acre for the last five or ten years, and how far north have lands been sold?

Answer. The prices for which lands have been sold for the last ten years, (say since the year 1831) averages one dollar ten cents and eight mills per acre, which includes a considerable quantity of lands sold to settlers at the low price of fifty cents per acre, with a condition of erecting mills, &c., for the purpose of enhancing the value of surrounding lands ; otherwise, the aggregate would have considerably increased the above average.

The situation of the above lands are immediately bordering on the south line of the disputed territory. A few settlers lots have been sold on the St. John, and many settlers lots have been sold on the Aroostook river, amounting in all to about seventy thousand acres.

Question Third. What is the estimated value of the lands north of the St. John, per acre, or what is their value compared with that of the lands south of the St. John ?

Answer. Of the lands north of the line recommended by the King of Holland, about one third is equal in value to that south of the river St. John ; the remainder is of considerable less value.

Question Fourth. Does the value of these lands much depend on the timber which may be standing upon them, and are the lands north of the St. John timbered, or well timbered in comparison with those on the south ?

Answer. Most of the land south of the line recommended by the King of Holland, situate on the waters of the Aroostook river, is valuable both for the timber standing thereon and for cultivation. The other land may be said to be principally valuable for its timber at present, but hereafter will be valuable for cultivation when the country is cleared up and settlements progress. That country north of said line, is perhaps as well timbered, which is its principal value.

Question Fifth. Of the well timbered lands, what portion lies on the waters of the St. John, and what would, in your opinion, be the value of the right of transporting this timber down that river to the sea, without import or toll ?

Answer. Nearly all the timber on the disputed territory lies on and near the St. John and its tributaries. At present the British



refuse to let it pass through their Province, consequently, (as will readily and obviously appear, on reference being had to the maps of that section of country) if such refusal is continued, it will be valueless. But if we are permitted to transport the timber down the St. John, without impost or toll of any kind, and market it at the city of St. John, or carry it to any other market at our option, as we do from our own rivers, it will be of great value to us, and not otherwise. The timber cut for the English market is of the best quality, perfectly sound and hewn square; whereas for the home market, to saw into boards, &c., the trees are cut down in the form of logs, with the bark on, and such as have hollow butts and hard sound knots answer equally well for making the best of lumber, while such description of timber would be of little or no value at the city of St. John.

Question Sixth. Is the land lying on the streams which run into the St. John from the south, such as that it is likely to be valuable for cultivation when the timber is removed, and what produce is it likely to afford?

Answer. The lands on the streams running south into the St. John river, are valuable for cultivation, and are well adapted for raising wheat, oats, barley, peas, potatoes, and excellent for grazing.

Question Seventh. Will the land to the north of the St. John, or any considerable part of it, ever be valuable for cultivation?

Answer. Most of the land north of the St. John is of little value for cultivation, except a small strip on the banks of the main river, and some small tracts scattered in various parts, the residue is mountainous and very rocky.

The questions in relation to lands lying north and south of the St. John, we have supposed were intended as meaning north and south of the line awarded by the King of Holland, and as no part of said line is south of St. John river, we have made our remarks to apply to that line rather than to the river.

GEO. W. COFFIN,

*Land Agent for Mass.*

LEVI BRADLEY,

*Land Agent for Maine.*

The undersigned having been Land Agent for the State of Maine, for the years 1838 and 1841, and having a knowledge of the northern part of the State, from personal observation, fully concurs in the above statements.

ELIJAH L. HAMLIN.

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No. 9. *Acceptance of Mr. Webster's proposition, as modified, by the Commissioners of Massachusetts.*

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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 are 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 the 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 of 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 the 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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No. 10. *Acceptance of Mr. Webster's proposition as modified, on condition that the Senate should advise and approve the same, by the Commissioners of Maine.*

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The Commissioners of Maine 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 own 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 un-



warrantable 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 outset 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 16th 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 of 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 the equivalent territory of 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 rights, 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 even 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 unsustained, and that "the treaty line was not exe-

cutable." 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 a 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 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 repay 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 land-marks from the well-known and well defined boundary of the treaty of 1783, 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., &c., &c.

## 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.

2. 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.

3. 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.



No. 11. *Articles of the treaty as finally concluded and ratified, in relation to the boundary.*

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Articles I., III., IV., V., VI.

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.

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 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 summit or crest of the highlands that divide those rivers which empty themselves into the river Saint Lawrence from those which fall into the river St. 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 a point where the parallel of latitude of 46° 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 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 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, and to and around the falls of the said river, either by boats, rafts, or other conveyance ; that when within the province 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 in 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 agrees 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.

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

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

DANL. WEBSTER.

ASHBURTON.

[SEAL.]

[SEAL.]

And, whereas, the said treaty has been duly ratified on both parts, and the respective ratifications of the same having been exchanged, to wit: at London, on the thirteenth day of October, one thousand eight hundred and forty-two, by Edward Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States, and the Right Honorable the Earl of Aberdeen, her Britannic Majesty's Principal Secretary of State for Foreign Affairs, on the part of their respective Governments:

Now, therefore, be it known, that I, John Tyler, President of the United States of America, have caused the said treaty to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith, by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused [L. s.]      ed the seal of the United States to be affixed.

Done at the city of Washington, this tenth day of November, in the year of our Lord one thousand eight hundred and forty-two, and of the Independence of the United States, the sixty-seventh.

JOHN TYLER.

By the President;

DANIEL WEBSTER,

*Secretary of State.*

No. 12. *Explanatory Letters.*


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Lord Ashburton to Mr. Webster.

*Washington, 9th August, 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 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 perview 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.

In renew, my lord, the assurances of my distinguished consideration.

DANIEL WEBSTER.

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



