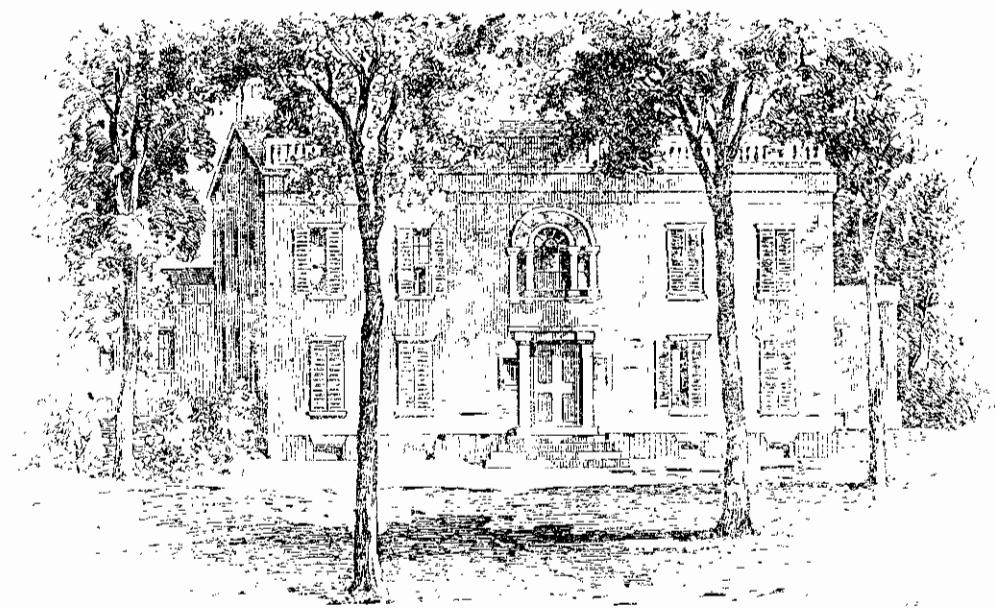


Martin Van Buren

March 4, 1837, to March 4, 1841



HOME OF MARTIN VAN BUREN

MARTIN VAN BUREN

WITH ADDITIONAL ILLUSTRATIONS OF THE HOUSE AND GARDEN



Martin Van Buren

MARTIN VAN BUREN was born in Kinderhook, Columbia County, N. Y., December 5, 1782. He was the eldest son of Abraham Van Buren, a small farmer, and of Mary Hoes (originally spelled Goes), whose first husband was named Van Alen. He studied the rudiments of English and Latin in the schools of his native village. At the age of 14 years commenced reading law in the office of Francis Sylvester, and pursued his legal novitiate for seven years. Combining with his professional studies a fondness for extemporaneous debate, he was early noted for his intelligent observation of public events and for his interest in politics; was chosen to participate in a nominating convention when only 18 years old. In 1802 went to New York City and studied law with William P. Van Ness, a friend of Aaron Burr; was admitted to the bar in 1803, returned to Kinderhook, and associated himself in practice with his half-brother, James I. Van Alen. He was a zealous adherent of Jefferson, and supported Morgan Lewis for governor of New York in 1803 against Aaron Burr. In February, 1807, he married Hannah Hoes, a distant kinswoman. In the winter of 1806-7 removed to Hudson, the county seat of Columbia County, and in the same year was admitted to practice in the supreme court. In 1807 supported Daniel D. Tompkins for governor against Morgan Lewis, the latter having come to be considered less true than the former to the measures of Jefferson. In 1808 became surrogate of Columbia County, displacing his half-brother and partner, who belonged to the defeated faction. In 1813, on a change of party predominance at Albany, his half-brother was restored to the office. Early in 1811 he figured in the councils of his party at a convention held in Albany, when the proposed recharter of the United States Bank was the leading question of Federal politics. Though Albert Gallatin, Secretary of the Treasury, had recommended a recharter, the predominant sentiment of the Republican party was adverse to the measure. Van Buren shared in this hostility, and publicly lauded the "Spartan firmness" of George Clinton when as Vice-President he gave his casting vote in the United States Senate against the bank bill, February 20, 1811. In 1812 was elected to the senate of New York from the middle district as a Clinton Republican, defeating Edward P. Livingston; took his seat in November of that year, and became thereby a member of the court of errors, then composed of senators in connection with the chancellor and

the supreme court. As senator he strenuously opposed the charter of "The Bank of America," which was then seeking to establish itself in New York and to take the place of the United States Bank. Though counted among the adherents of Madison's Administration, and though committed to the policy of declaring war against Great Britain, he sided with the Republican members of the New York legislature in 1812, and supported De Witt Clinton for the Presidency. In the following year, however, he dissolved his political relations with Clinton and resumed the *entente cordiale* with Madison's Administration. In 1815, while still a member of the senate, was appointed attorney-general of the State, superseding the venerable Abraham Van Vechten. In 1816 was reelected to the State senate, and, removing to Albany, formed a partnership with his life-long friend, Benjamin F. Butler. In the same year was appointed a regent of the University of New York. Supported De Witt Clinton for governor of New York in 1817, but opposed his reelection in 1820. In 1819 was removed from the office of attorney-general. February 6, 1821, was elected United States Senator. In the same year was chosen from Otsego County as a member of the convention to revise the constitution of the State. Took his seat in the United States Senate December 3, 1821, and was at once made a member of its Committees on the Judiciary and Finance. For many years was chairman of the former. Supported William H. Crawford for the Presidency in 1824. Was reelected to the Senate in 1827, but soon resigned his seat to accept the office of governor of New York, to which he was elected in 1828. Was a zealous supporter of Andrew Jackson in the Presidential election of 1828, and in 1829 became premier of the new Administration. As Secretary of State he brought to a favorable close the long-standing feud between the United States and England with regard to the West India trade. Resigned his Secretaryship in June, 1831, and was sent as minister to England. The Senate refused in 1832 to confirm his nomination by the casting vote of John C. Calhoun, the Vice-President. In 1832 was elected Vice-President of the United States, and in 1833 came to preside over the body which a year before had rejected him as a foreign minister. On May 20, 1835, was formally nominated for the Presidency, and was elected in 1836 over his three competitors, William H. Harrison, Hugh L. White, and Daniel Webster, by a majority of 57 in the electoral college, but of only 25,000 in the popular vote. On May 5, 1840, was nominated for the Presidency by the Democratic national convention at Baltimore, Md. At the election on November 10 was defeated by William Henry Harrison, who received 234 electoral votes and a popular majority of nearly 140,000. Van Buren received but 60 votes in the electoral college. Retired to his country seat, Lindenwald, in his native county. Was a candidate for the Presidential nomination at the Democratic national convention at Baltimore, Md., May 27, 1844, but was defeated by James K. Polk. Was nominated for the Presidency by a Barnburner convention at Utica, N. Y., June

22, 1848, a nomination which he had declined by letter in advance. He was also nominated for the Presidency by the Free Soil national convention of Buffalo, August 9, 1848. At the election, November 7, received only a popular vote of 291,263, and no electoral vote. Supported Franklin Pierce for the Presidency in 1852 and James Buchanan in 1856. In 1860 voted the fusion ticket of Breckinridge, Douglas, and Bell in New York against Mr. Lincoln, but when the civil war began gave to the Administration his zealous support. Died at Kinderhook July 24, 1862, and was buried there.

INAUGURAL ADDRESS.

FELLOW-CITIZENS: The practice of all my predecessors imposes on me an obligation I cheerfully fulfill—to accompany the first and solemn act of my public trust with an avowal of the principles that will guide me in performing it and an expression of my feelings on assuming a charge so responsible and vast. In imitating their example I tread in the footsteps of illustrious men, whose superiors it is our happiness to believe are not found on the executive calendar of any country. Among them we recognize the earliest and firmest pillars of the Republic—those by whom our national independence was first declared, him who above all others contributed to establish it on the field of battle, and those whose expanded intellect and patriotism constructed, improved, and perfected the inestimable institutions under which we live. If such men in the position I now occupy felt themselves overwhelmed by a sense of gratitude for this the highest of all marks of their country's confidence, and by a consciousness of their inability adequately to discharge the duties of an office so difficult and exalted, how much more must these considerations affect one who can rely on no such claims for favor or forbearance! Unlike all who have preceded me, the Revolution that gave us existence as one people was achieved at the period of my birth; and whilst I contemplate with grateful reverence that memorable event, I feel that I belong to a later age and that I may not expect my countrymen to weigh my actions with the same kind and partial hand.

So sensibly, fellow-citizens, do these circumstances press themselves upon me that I should not dare to enter upon my path of duty did I not look for the generous aid of those who will be associated with me in the various and coordinate branches of the Government; did I not repose with unwavering reliance on the patriotism, the intelligence, and the kindness of a people who never yet deserted a public servant honestly laboring in their cause; and, above all, did I not permit myself humbly to hope for the sustaining support of an ever-watchful and beneficent Providence.

To the confidence and consolation derived from these sources it would be ungrateful not to add those which spring from our present fortunate condition. Though not altogether exempt from embarrassments that disturb our tranquillity at home and threaten it abroad, yet in all the attributes of a great, happy, and flourishing people we stand without a parallel in the world. Abroad we enjoy the respect and, with scarcely an exception, the friendship of every nation; at home, while our Government quietly but efficiently performs the sole legitimate end of political institutions—in doing the greatest good to the greatest number—we present an aggregate of human prosperity surely not elsewhere to be found.

How imperious, then, is the obligation imposed upon every citizen, in his own sphere of action, whether limited or extended, to exert himself in perpetuating a condition of things so singularly happy! All the lessons of history and experience must be lost upon us if we are content to trust alone to the peculiar advantages we happen to possess. Position and climate and the bounteous resources that nature has scattered with so liberal a hand—even the diffused intelligence and elevated character of our people—will avail us nothing if we fail sacredly to uphold those political institutions that were wisely and deliberately formed with reference to every circumstance that could preserve or might endanger the blessings we enjoy. The thoughtful framers of our Constitution legislated for our country as they found it. Looking upon it with the eyes of statesmen and patriots, they saw all the sources of rapid and wonderful prosperity; but they saw also that various habits, opinions, and institutions peculiar to the various portions of so vast a region were deeply fixed. Distinct sovereignties were in actual existence, whose cordial union was essential to the welfare and happiness of all. Between many of them there was, at least to some extent, a real diversity of interests, liable to be exaggerated through sinister designs; they differed in size, in population, in wealth, and in actual and prospective resources and power; they varied in the character of their industry and staple productions, and [in some] existed domestic institutions which, unwisely disturbed, might endanger the harmony of the whole. Most carefully were all these circumstances weighed, and the foundations of the new Government laid upon principles of reciprocal concession and equitable compromise. The jealousies which the smaller States might entertain of the power of the rest were allayed by a rule of representation confessedly unequal at the time, and designed forever to remain so. A natural fear that the broad scope of general legislation might bear upon and unwisely control particular interests was counteracted by limits strictly drawn around the action of the Federal authority, and to the people and the States was left unimpaired their sovereign power over the innumerable subjects embraced in the internal government of a just republic, excepting such only as necessarily appertain to the concerns of the whole confederacy or its intercourse as a united community with the other nations of the world.

This provident forecast has been verified by time. Half a century, teeming with extraordinary events, and elsewhere producing astonishing results, has passed along, but on our institutions it has left no injurious mark. From a small community we have risen to a people powerful in numbers and in strength; but with our increase has gone hand in hand the progress of just principles. The privileges, civil and religious, of the humblest individual are still sacredly protected at home, and while the valor and fortitude of our people have removed far from us the slightest apprehension of foreign power, they have not yet induced us in a single instance to forget what is right. Our commerce has been extended to the remotest nations; the value and even nature of our productions have been greatly changed; a wide difference has arisen in the relative wealth and resources of every portion of our country; yet the spirit of mutual regard and of faithful adherence to existing compacts has continued to prevail in our councils and never long been absent from our conduct. We have learned by experience a fruitful lesson—that an implicit and undeviating adherence to the principles on which we set out can carry us prosperously onward through all the conflicts of circumstances and vicissitudes inseparable from the lapse of years.

The success that has thus attended our great experiment is in itself a sufficient cause for gratitude, on account of the happiness it has actually conferred and the example it has unansweredly given. But to me, my fellow-citizens, looking forward to the far-distant future with ardent prayers and confiding hopes, this retrospect presents a ground for still deeper delight. It impresses on my mind a firm belief that the perpetuity of our institutions depends upon ourselves; that if we maintain the principles on which they were established they are destined to confer their benefits on countless generations yet to come, and that America will present to every friend of mankind the cheering proof that a popular government, wisely formed, is wanting in no element of endurance or strength. Fifty years ago its rapid failure was boldly predicted. Latent and uncontrollable causes of dissolution were supposed to exist even by the wise and good, and not only did unfriendly or speculative theorists anticipate for us the fate of past republics, but the fears of many an honest patriot overbalanced his sanguine hopes. Look back on these forebodings, not hastily but reluctantly made, and see how in every instance they have completely failed.

An imperfect experience during the struggles of the Revolution was supposed to warrant the belief that the people would not bear the taxation requisite to discharge an immense public debt already incurred and to pay the necessary expenses of the Government. The cost of two wars has been paid, not only without a murmur, but with unequalled alacrity. No one is now left to doubt that every burden will be cheerfully borne that may be necessary to sustain our civil institutions or guard our honor or welfare. Indeed, all experience has shown that the willingness of the

people to contribute to these ends in cases of emergency has uniformly outrun the confidence of their representatives.

In the early stages of the new Government, when all felt the imposing influence as they recognized the unequaled services of the first President, it was a common sentiment that the great weight of his character could alone bind the discordant materials of our Government together and save us from the violence of contending factions. Since his death nearly forty years are gone. Party exasperation has been often carried to its highest point; the virtue and fortitude of the people have sometimes been greatly tried; yet our system, purified and enhanced in value by all it has encountered, still preserves its spirit of free and fearless discussion, blended with unimpaired fraternal feeling.

The capacity of the people for self-government, and their willingness, from a high sense of duty and without those exhibitions of coercive power so generally employed in other countries, to submit to all needful restraints and exactions of municipal law, have also been favorably exemplified in the history of the American States. Occasionally, it is true, the ardor of public sentiment, outrunning the regular progress of the judicial tribunals or seeking to reach cases not denounced as criminal by the existing law, has displayed itself in a manner calculated to give pain to the friends of free government and to encourage the hopes of those who wish for its overthrow. These occurrences, however, have been far less frequent in our country than in any other of equal population on the globe, and with the diffusion of intelligence it may well be hoped that they will constantly diminish in frequency and violence. The generous patriotism and sound common sense of the great mass of our fellow-citizens will assuredly in time produce this result; for as every assumption of illegal power not only wounds the majesty of the law, but furnishes a pretext for abridging the liberties of the people, the latter have the most direct and permanent interest in preserving the landmarks of social order and maintaining on all occasions the inviolability of those constitutional and legal provisions which they themselves have made.

In a supposed unfitness of our institutions for those hostile emergencies which no country can always avoid their friends found a fruitful source of apprehension, their enemies of hope. While they foresaw less promptness of action than in governments differently formed, they overlooked the far more important consideration that with us war could never be the result of individual or irresponsible will, but must be a measure of redress for injuries sustained, voluntarily resorted to by those who were to bear the necessary sacrifice, who would consequently feel an individual interest in the contest, and whose energy would be commensurate with the difficulties to be encountered. Actual events have proved their error; the last war, far from impairing, gave new confidence to our Government, and amid recent apprehensions of a similar conflict we saw that the energies of our country would not be wanting in ample

season to vindicate its rights. We may not possess, as we should not desire to possess, the extended and ever-ready military organization of other nations; we may occasionally suffer in the outset for the want of it; but among ourselves all doubt upon this great point has ceased, while a salutary experience will prevent a contrary opinion from inviting aggression from abroad.

Certain danger was foretold from the extension of our territory, the multiplication of States, and the increase of population. Our system was supposed to be adapted only to boundaries comparatively narrow. These have been widened beyond conjecture; the members of our Confederacy are already doubled, and the numbers of our people are incredibly augmented. The alleged causes of danger have long surpassed anticipation, but none of the consequences have followed. The power and influence of the Republic have risen to a height obvious to all mankind; respect for its authority was not more apparent at its ancient than it is at its present limits; new and inexhaustible sources of general prosperity have been opened; the effects of distance have been averted by the inventive genius of our people, developed and fostered by the spirit of our institutions; and the enlarged variety and amount of interests, productions, and pursuits have strengthened the chain of mutual dependence and formed a circle of mutual benefits too apparent ever to be overlooked.

In justly balancing the powers of the Federal and State authorities difficulties nearly insurmountable arose at the outset, and subsequent collisions were deemed inevitable. Amid these it was scarcely believed possible that a scheme of government so complex in construction could remain uninjured. From time to time embarrassments have certainly occurred; but how just is the confidence of future safety imparted by the knowledge that each in succession has been happily removed! Overlooking partial and temporary evils as inseparable from the practical operation of all human institutions, and looking only to the general result, every patriot has reason to be satisfied. While the Federal Government has successfully performed its appropriate functions in relation to foreign affairs and concerns evidently national, that of every State has remarkably improved in protecting and developing local interests and individual welfare; and if the vibrations of authority have occasionally tended too much toward one or the other, it is unquestionably certain that the ultimate operation of the entire system has been to strengthen all the existing institutions and to elevate our whole country in prosperity and renown.

The last, perhaps the greatest, of the prominent sources of discord and disaster supposed to lurk in our political condition was the institution of domestic slavery. Our forefathers were deeply impressed with the delicacy of this subject, and they treated it with a forbearance so evidently wise that in spite of every sinister foreboding it never until the

present period disturbed the tranquillity of our common country. Such a result is sufficient evidence of the justice and the patriotism of their course; it is evidence not to be mistaken that an adherence to it can prevent all embarrassment from this as well as from every other anticipated cause of difficulty or danger. Have not recent events made it obvious to the slightest reflection that the least deviation from this spirit of forbearance is injurious to every interest, that of humanity included? Amidst the violence of excited passions this generous and fraternal feeling has been sometimes disregarded; and standing as I now do before my countrymen, in this high place of honor and of trust, I can not refrain from anxiously invoking my fellow-citizens never to be deaf to its dictates. Perceiving before my election the deep interest this subject was beginning to excite, I believed it a solemn duty fully to make known my sentiments in regard to it, and now, when every motive for misrepresentation has passed away, I trust that they will be candidly weighed and understood. At least they will be my standard of conduct in the path before me. I then declared that if the desire of those of my countrymen who were favorable to my election was gratified "I must go into the Presidential chair the inflexible and uncompromising opponent of every attempt on the part of Congress to abolish slavery in the District of Columbia against the wishes of the slaveholding States, and also with a determination equally decided to resist the slightest interference with it in the States where it exists." I submitted also to my fellow-citizens, with fullness and frankness, the reasons which led me to this determination. The result authorizes me to believe that they have been approved and are confided in by a majority of the people of the United States, including those whom they most immediately affect. It now only remains to add that no bill conflicting with these views can ever receive my constitutional sanction. These opinions have been adopted in the firm belief that they are in accordance with the spirit that actuated the venerated fathers of the Republic, and that succeeding experience has proved them to be humane, patriotic, expedient, honorable, and just. If the agitation of this subject was intended to reach the stability of our institutions, enough has occurred to show that it has signally failed, and that in this as in every other instance the apprehensions of the timid and the hopes of the wicked for the destruction of our Government are again destined to be disappointed. Here and there, indeed, scenes of dangerous excitement have occurred, terrifying instances of local violence have been witnessed, and a reckless disregard of the consequences of their conduct has exposed individuals to popular indignation; but neither masses of the people nor sections of the country have been swerved from their devotion to the bond of union and the principles it has made sacred. It will be ever thus. Such attempts at dangerous agitation may periodically return, but with each the object will be better understood. That predominating affection for our political system which prevails through-

out our territorial limits, that calm and enlightened judgment which ultimately governs our people as one vast body, will always be at hand to resist and control every effort, foreign or domestic, which aims or would lead to overthrow our institutions.

What can be more gratifying than such a retrospect as this? We look back on obstacles avoided and dangers overcome, on expectations more than realized and prosperity perfectly secured. To the hopes of the hostile, the fears of the timid, and the doubts of the anxious actual experience has given the conclusive reply. We have seen time gradually dispel every unfavorable foreboding and our Constitution surmount every adverse circumstance dreaded at the outset as beyond control. Present excitement will at all times magnify present dangers, but true philosophy must teach us that none more threatening than the past can remain to be overcome; and we ought (for we have just reason) to entertain an abiding confidence in the stability of our institutions and an entire conviction that if administered in the true form, character, and spirit in which they were established they are abundantly adequate to preserve to us and our children the rich blessings already derived from them, to make our beloved land for a thousand generations that chosen spot where happiness springs from a perfect equality of political rights.

For myself, therefore, I desire to declare that the principle that will govern me in the high duty to which my country calls me is a strict adherence to the letter and spirit of the Constitution as it was designed by those who framed it. Looking back to it as a sacred instrument carefully and not easily framed; remembering that it was throughout a work of concession and compromise; viewing it as limited to national objects; regarding it as leaving to the people and the States all power not explicitly parted with, I shall endeavor to preserve, protect, and defend it by anxiously referring to its provision for direction in every action. To matters of domestic concernment which it has intrusted to the Federal Government and to such as relate to our intercourse with foreign nations I shall zealously devote myself; beyond those limits I shall never pass.

To enter on this occasion into a further or more minute exposition of my views on the various questions of domestic policy would be as obtrusive as it is probably unexpected. Before the suffrages of my countrymen were conferred upon me I submitted to them, with great precision, my opinions on all the most prominent of these subjects. Those opinions I shall endeavor to carry out with my utmost ability.

Our course of foreign policy has been so uniform and intelligible as to constitute a rule of Executive conduct which leaves little to my discretion, unless, indeed, I were willing to run counter to the lights of experience and the known opinions of my constituents. We sedulously cultivate the friendship of all nations as the condition most compatible with our welfare and the principles of our Government. We decline alliances as adverse to our peace. We desire commercial relations on equal terms, being ever

willing to give a fair equivalent for advantages received. We endeavor to conduct our intercourse with openness and sincerity, promptly avowing our objects and seeking to establish that mutual frankness which is as beneficial in the dealings of nations as of men. We have no disposition and we disclaim all right to meddle in disputes, whether internal or foreign, that may molest other countries, regarding them in their actual state as social communities, and preserving a strict neutrality in all their controversies. Well knowing the tried valor of our people and our exhaustless resources, we neither anticipate nor fear any designed aggression; and in the consciousness of our own just conduct we feel a security that we shall never be called upon to exert our determination never to permit an invasion of our rights without punishment or redress.

In approaching, then, in the presence of my assembled countrymen, to make the solemn promise that yet remains, and to pledge myself that I will faithfully execute the office I am about to fill, I bring with me a settled purpose to maintain the institutions of my country, which I trust will atone for the errors I commit.

In receiving from the people the sacred trust twice confided to my illustrious predecessor, and which he has discharged so faithfully and so well, I know that I can not expect to perform the arduous task with equal ability and success. But united as I have been in his counsels, a daily witness of his exclusive and unsurpassed devotion to his country's welfare, agreeing with him in sentiments which his countrymen have warmly supported, and permitted to partake largely of his confidence, I may hope that somewhat of the same cheering approbation will be found to attend upon my path. For him I but express with my own the wishes of all, that he may yet long live to enjoy the brilliant evening of his well-spent life; and for myself, conscious of but one desire, faithfully to serve my country, I throw myself without fear on its justice and its kindness. Beyond that I only look to the gracious protection of the Divine Being whose strengthening support I humbly solicit, and whom I fervently pray to look down upon us all. May it be among the dispensations of His providence to bless our beloved country with honors and with length of days. May her ways be ways of pleasantness and all her paths be peace!

MARCH 4, 1837.

SPECIAL MESSAGE.

WASHINGTON, March 6, 1837.

To the Senate of the United States:

I nominate to the Senate Powhatan Ellis, of Mississippi, to be envoy extraordinary and minister plenipotentiary of the United States to the United Mexican States, to be sent whenever circumstances will permit a renewal of diplomatic intercourse honorably with that power.

M. VAN BUREN.

PROCLAMATIONS.

[From *Statutes at Large* (Little & Brown), Vol. V, p. 802.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas by an act of Congress of the 7th of June, 1836, it was enacted that when the Indian title to all the lands lying between the State of Missouri and the Missouri River should be extinguished the jurisdiction over said land should be ceded by the said act to the State of Missouri and the western boundary of said State should be then extended to the Missouri River, reserving to the United States the original right of soil in said lands and of disposing of the same; and

Whereas it was in and by the said act provided that the same should not take effect until the President should by proclamation declare that the Indian title to said lands had been extinguished, nor until the State of Missouri should have assented to the provisions of the said act; and

Whereas an act was passed by the general assembly of the State of Missouri on the 16th of December, 1836, expressing the assent of the said State to the provisions of the said act of Congress, a copy of which act of the general assembly, duly authenticated, has been officially communicated to this Government and is now on file in the Department of State:

Now, therefore, I, Martin Van Buren, President of the United States of America, do by this my proclamation declare and make known that the Indian title to all the said lands lying between the State of Missouri and the Missouri River has been extinguished and that the said act of Congress of the 7th of June, 1836, takes effect from the date hereof.

Given under my hand, at the city of Washington, this 28th day of March, A. D. 1837, and of the Independence of the United States of America the sixty-first.

By the President:

MARTIN VAN BUREN.

JOHN FORSYTH,
Secretary of State.

[From *Statutes at Large* (Little, Brown & Co.), Vol. XI, p. 783.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas great and weighty matters claiming the consideration of the Congress of the United States form an extraordinary occasion for convening them, I do by these presents appoint the first Monday of September

next for their meeting at the city of Washington, hereby requiring the respective Senators and Representatives then and there to assemble in Congress in order to receive such communications as may then be made to them and to consult and determine on such measures as in their wisdom may be deemed meet for the welfare of the United States.

In testimony whereof I have caused the seal of the United States to be hereunto affixed, and signed the same with my hand.

[SEAL.] Done at the city of Washington, the 15th day of May, A. D. 1837, and of the Independence of the United States the sixty-first.

MARTIN VAN BUREN.

By the President:

JOHN FORSYTH,
Secretary of State.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

—
A PROCLAMATION.

Whereas by the third section of the act of Congress of the United States of the 13th of July, 1832, entitled "An act concerning tonnage duty on Spanish vessels," it is provided that whenever the President shall be satisfied that the discriminating or countervailing duties of tonnage levied by any foreign nation on the ships or vessels of the United States shall have been abolished he may direct that the tonnage duty on the vessels of such nation shall cease to be levied in the ports of the United States; and

Whereas satisfactory evidence has lately been received from His Majesty the King of Greece that the discriminating duties of tonnage levied by said nation on the ships or vessels of the United States have been abolished:

Now, therefore, I, Martin Van Buren, President of the United States, do hereby declare and proclaim that the tonnage duty on the vessels of the Kingdom of Greece shall from this date cease to be levied in the ports of the United States.

Given under my hand, at the city of Washington, the 14th day of June, A. D. 1837, and of the Independence of the United States the sixty-first.

M. VAN BUREN.

By the President:

JOHN FORSYTH,
Secretary of State.

EXECUTIVE ORDER.

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, March 7, 1837.

GENERAL ORDER No. 6.

I. The Major-General Commanding in Chief has received from the War Department the following order:

WASHINGTON, *March 6, 1837.*

General Andrew Jackson, ex-President of the United States, being about to depart from this city for his home in Tennessee, and the state of his health rendering it important that he should be accompanied by a medical attendant, the President directs that the Surgeon-General of the Army accompany the ex-President to Wheeling, in the State of Virginia, there to be relieved, in case the ex-President's health shall be such as to allow it, by some officer of the Medical Department, who will attend the ex-President from that place to his residence.

In giving this order the President feels assured that this mark of attention to the venerable soldier, patriot, and statesman now retiring in infirm health from the cares of office to the repose of private life will be as grateful to the feelings of the American people as it appears to the President to be suitable in itself.

M. VAN BUREN.

The Major-General Commanding in Chief will carry into effect the foregoing directions of the President of the United States.

B. F. BUTLER,
Secretary of War ad interim.

II. Pursuant to the above order, Surgeon-General Lawson will immediately join the ex-President, and will accompany him as his medical attendant to Wheeling, in the State of Virginia, and, at his discretion, to the residence of the ex-President, at the Hermitage, near Nashville, in the State of Tennessee.

III. Assistant Surgeon Reynolds will join the ex-President at Wheeling, Va., and from that place, either alone or in conjunction with the Surgeon-General, as the latter may direct, will proceed with the ex-President to his residence in Tennessee.

IV. The officers above named, on the conclusion of the duties above assigned to them, will repair to their respective stations.

By order of Alexander Macomb, Major-General Commanding in Chief:

R. JONES, *Adjutant-General.*

SPECIAL SESSION MESSAGE.

WASHINGTON, September 4, 1837.

Fellow-Citizens of the Senate and House of Representatives:

The act of the 23d of June, 1836, regulating the deposits of the public money and directing the employment of State, District, and Territorial banks for that purpose, made it the duty of the Secretary of the Treasury to discontinue the use of such of them as should at any time refuse to redeem their notes in specie, and to substitute other banks, provided a sufficient number could be obtained to receive the public deposits upon the terms and conditions therein prescribed. The general and almost simultaneous suspension of specie payments by the banks in May last rendered the performance of this duty imperative in respect to those which had been selected under the act, and made it at the same time impracticable to employ the requisite number of others upon the prescribed conditions. The specific regulations established by Congress for the deposit and safe-keeping of the public moneys having thus unexpectedly become inoperative, I felt it to be my duty to afford you an early opportunity for the exercise of your supervisory powers over the subject.

I was also led to apprehend that the suspension of specie payments, increasing the embarrassments before existing in the pecuniary affairs of the country, would so far diminish the public revenue that the accruing receipts into the Treasury would not, with the reserved five millions, be sufficient to defray the unavoidable expenses of the Government until the usual period for the meeting of Congress, whilst the authority to call upon the States for a portion of the sums deposited with them was too restricted to enable the Department to realize a sufficient amount from that source. These apprehensions have been justified by subsequent results, which render it certain that this deficiency will occur if additional means be not provided by Congress.

The difficulties experienced by the mercantile interest in meeting their engagements induced them to apply to me previously to the actual suspension of specie payments for indulgence upon their bonds for duties, and all the relief authorized by law was promptly and cheerfully granted. The dependence of the Treasury upon the avails of these bonds to enable it to make the deposits with the States required by law led me in the outset to limit this indulgence to the 1st of September, but it has since been extended to the 1st of October, that the matter might be submitted to your further direction.

Questions were also expected to arise in the recess in respect to the October installment of those deposits requiring the interposition of Congress.

A provision of another act, passed about the same time, and intended to

secure a faithful compliance with the obligation of the United States to satisfy all demands upon them in specie or its equivalent, prohibited the offer of any bank note not convertible on the spot into gold or silver at the will of the holder; and the ability of the Government, with millions on deposit, to meet its engagements in the manner thus required by law was rendered very doubtful by the event to which I have referred.

Sensible that adequate provisions for these unexpected exigencies could only be made by Congress; convinced that some of them would be indispensably necessary to the public service before the regular period of your meeting, and desirous also to enable you to exercise at the earliest moment your full constitutional powers for the relief of the country, I could not with propriety avoid subjecting you to the inconvenience of assembling at as early a day as the state of the popular representation would permit. I am sure that I have done but justice to your feelings in believing that this inconvenience will be cheerfully encountered in the hope of rendering your meeting conducive to the good of the country.

During the earlier stages of the revulsion through which we have just passed much acrimonious discussion arose and great diversity of opinion existed as to its real causes. This was not surprising. The operations of credit are so diversified and the influences which affect them so numerous, and often so subtle, that even impartial and well-informed persons are seldom found to agree in respect to them. To inherent difficulties were also added other tendencies which were by no means favorable to the discovery of truth. It was hardly to be expected that those who disapproved the policy of the Government in relation to the currency would, in the excited state of public feeling produced by the occasion, fail to attribute to that policy any extensive embarrassment in the monetary affairs of the country. The matter thus became connected with the passions and conflicts of party; opinions were more or less affected by political considerations, and differences were prolonged which might otherwise have been determined by an appeal to facts, by the exercise of reason, or by mutual concession. It is, however, a cheering reflection that circumstances of this nature can not prevent a community so intelligent as ours from ultimately arriving at correct conclusions. Encouraged by the firm belief of this truth, I proceed to state my views, so far as may be necessary to a clear understanding of the remedies I feel it my duty to propose and of the reasons by which I have been led to recommend them.

The history of trade in the United States for the last three or four years affords the most convincing evidence that our present condition is chiefly to be attributed to overaction in all the departments of business—an overaction deriving, perhaps, its first impulses from antecedent causes, but stimulated to its destructive consequences by excessive issues of bank paper and by other facilities for the acquisition and enlargement of credit. At the commencement of the year 1834 the banking capital of the United States, including that of the national bank, then existing, amounted to

about \$200,000,000, the bank notes then in circulation to about ninety-five millions, and the loans and discounts of the banks to three hundred and twenty-four millions. Between that time and the 1st of January, 1836, being the latest period to which accurate accounts have been received, our banking capital was increased to more than two hundred and fifty-one millions, our paper circulation to more than one hundred and forty millions, and the loans and discounts to more than four hundred and fifty-seven millions. To this vast increase are to be added the many millions of credit acquired by means of foreign loans, contracted by the States and State institutions, and, above all, by the lavish accommodations extended by foreign dealers to our merchants.

The consequences of this redundancy of credit and of the spirit of reckless speculation engendered by it were a foreign debt contracted by our citizens estimated in March last at more than \$30,000,000; the extension to traders in the interior of our country of credits for supplies greatly beyond the wants of the people; the investment of \$39,500,000 in unproductive public lands in the years 1835 and 1836, whilst in the preceding year the sales amounted to only four and a half millions; the creation of debts, to an almost countless amount, for real estate in existing or anticipated cities and villages, equally unproductive, and at prices now seen to have been greatly disproportionate to their real value; the expenditure of immense sums in improvements which in many cases have been found to be ruinously improvident; the diversion to other pursuits of much of the labor that should have been applied to agriculture, thereby contributing to the expenditure of large sums in the importation of grain from Europe—an expenditure which, amounting in 1834 to about \$250,000, was in the first two quarters of the present year increased to more than \$2,000,000; and finally, without enumerating other injurious results, the rapid growth among all classes, and especially in our great commercial towns, of luxurious habits founded too often on merely fancied wealth, and detrimental alike to the industry, the resources, and the morals of our people.

It was so impossible that such a state of things could long continue that the prospect of revulsion was present to the minds of considerate men before it actually came. None, however, had correctly anticipated its severity. A concurrence of circumstances inadequate of themselves to produce such widespread and calamitous embarrassments tended so greatly to aggravate them that they can not be overlooked in considering their history. Among these may be mentioned, as most prominent, the great loss of capital sustained by our commercial emporium in the fire of December, 1835—a loss the effects of which were underrated at the time because postponed for a season by the great facilities of credit then existing; the disturbing effects in our commercial cities of the transfers of the public moneys required by the deposit law of June, 1836, and the measures adopted by the foreign creditors of our merchants to reduce

their debts and to withdraw from the United States a large portion of our specie.

However unwilling any of our citizens may heretofore have been to assign to these causes the chief instrumentality in producing the present state of things, the developments subsequently made and the actual condition of other commercial countries must, as it seems to me, dispel all remaining doubts upon the subject. It has since appeared that evils similar to those suffered by ourselves have been experienced in Great Britain, on the Continent, and, indeed, throughout the commercial world, and that in other countries as well as in our own they have been uniformly preceded by an undue enlargement of the boundaries of trade, prompted, as with us, by unprecedented expansions of the systems of credit. A reference to the amount of banking capital and the issues of paper credits put in circulation in Great Britain, by banks and in other ways, during the years 1834, 1835, and 1836 will show an augmentation of the paper currency there as much disproportioned to the real wants of trade as in the United States. With this redundancy of the paper currency there arose in that country also a spirit of adventurous speculation embracing the whole range of human enterprise. Aid was profusely given to projected improvements; large investments were made in foreign stocks and loans; credits for goods were granted with unbounded liberality to merchants in foreign countries, and all the means of acquiring and employing credit were put in active operation and extended in their effects to every department of business and to every quarter of the globe. The reaction was proportioned in its violence to the extraordinary character of the events which preceded it. The commercial community of Great Britain were subjected to the greatest difficulties, and their debtors in this country were not only suddenly deprived of accustomed and expected credits, but called upon for payments which in the actual posture of things here could only be made through a general pressure and at the most ruinous sacrifices.

In view of these facts it would seem impossible for sincere inquirers after truth to resist the conviction that the causes of the revulsion in both countries have been substantially the same. Two nations, the most commercial in the world, enjoying but recently the highest degree of apparent prosperity and maintaining with each other the closest relations, are suddenly, in a time of profound peace and without any great national disaster, arrested in their career and plunged into a state of embarrassment and distress. In both countries we have witnessed the same redundancy of paper money and other facilities of credit; the same spirit of speculation; the same partial successes; the same difficulties and reverses, and at length nearly the same overwhelming catastrophe. The most material difference between the results in the two countries has only been that with us there has also occurred an extensive derangement in the fiscal affairs of the Federal and State Governments, occasioned by the suspension of specie payments by the banks.

The history of these causes and effects in Great Britain and the United States is substantially the history of the revulsion in all other commercial countries.

The present and visible effects of these circumstances on the operations of the Government and on the industry of the people point out the objects which call for your immediate attention.

They are, to regulate by law the safe-keeping, transfer, and disbursement of the public moneys; to designate the funds to be received and paid by the Government; to enable the Treasury to meet promptly every demand upon it; to prescribe the terms of indulgence and the mode of settlement to be adopted, as well in collecting from individuals the revenue that has accrued as in withdrawing it from former depositories; and to devise and adopt such further measures, within the constitutional competency of Congress, as will be best calculated to revive the enterprise and to promote the prosperity of the country.

For the deposit, transfer, and disbursement of the revenue national and State banks have always, with temporary and limited exceptions, been heretofore employed; but although advocates of each system are still to be found, it is apparent that the events of the last few months have greatly augmented the desire, long existing among the people of the United States, to separate the fiscal operations of the Government from those of individuals or corporations.

Again to create a national bank as a fiscal agent would be to disregard the popular will, twice solemnly and unequivocally expressed. On no question of domestic policy is there stronger evidence that the sentiments of a large majority are deliberately fixed, and I can not concur with those who think they see in recent events a proof that these sentiments are, or a reason that they should be, changed.

Events similar in their origin and character have heretofore frequently occurred without producing any such change, and the lessons of experience must be forgotten if we suppose that the present overthrow of credit would have been prevented by the existence of a national bank. Proneness to excessive issues has ever been the vice of the banking system—a vice as prominent in national as in State institutions. This propensity is as subservient to the advancement of private interests in the one as in the other, and those who direct them both, being principally guided by the same views and influenced by the same motives, will be equally ready to stimulate extravagance of enterprise by improvidence of credit. How strikingly is this conclusion sustained by experience! The Bank of the United States, with the vast powers conferred on it by Congress, did not or could not prevent former and similar embarrassments, nor has the still greater strength it has been said to possess under its present charter enabled it in the existing emergency to check other institutions or even to save itself. In Great Britain, where it has been seen the same causes have been attended with the

same effects, a national bank possessing powers far greater than are asked for by the warmest advocates of such an institution here has also proved unable to prevent an undue expansion of credit and the evils that flow from it. Nor can I find any tenable ground for the reestablishment of a national bank in the derangement alleged at present to exist in the domestic exchanges of the country or in the facilities it may be capable of affording them. Although advantages of this sort were anticipated when the first Bank of the United States was created, they were regarded as an incidental accommodation, not one which the Federal Government was bound or could be called upon to furnish. This accommodation is now, indeed, after the lapse of not many years, demanded from it as among its first duties, and an omission to aid and regulate commercial exchange is treated as a ground of loud and serious complaint. Such results only serve to exemplify the constant desire among some of our citizens to enlarge the powers of the Government and extend its control to subjects with which it should not interfere. They can never justify the creation of an institution to promote such objects. On the contrary, they justly excite among the community a more diligent inquiry into the character of those operations of trade toward which it is desired to extend such peculiar favors.

The various transactions which bear the name of domestic exchanges differ essentially in their nature, operation, and utility. One class of them consists of bills of exchange drawn for the purpose of transferring actual capital from one part of the country to another, or to anticipate the proceeds of property actually transmitted. Bills of this description are highly useful in the movements of trade and well deserve all the encouragement which can rightfully be given to them. Another class is made up of bills of exchange not drawn to transfer actual capital nor on the credit of property transmitted, but to create fictitious capital, partaking at once of the character of notes discounted in bank and of bank notes in circulation, and swelling the mass of paper credits to a vast extent in the most objectionable manner. These bills have formed for the last few years a large proportion of what are termed the domestic exchanges of the country, serving as the means of usurious profit and constituting the most unsafe and precarious paper in circulation. This species of traffic, instead of being upheld, ought to be discountenanced by the Government and the people.

In transferring its funds from place to place the Government is on the same footing with the private citizen and may resort to the same legal means. It may do so through the medium of bills drawn by itself or purchased from others; and in these operations it may, in a manner undoubtedly constitutional and legitimate, facilitate and assist exchanges of individuals founded on real transactions of trade. The extent to which this may be done and the best means of effecting it are entitled to the fullest consideration. This has been bestowed by the Secretary of the Treasury, and his views will be submitted to you in his report.

But it was not designed by the Constitution that the Government should assume the management of domestic or foreign exchange. It is indeed authorized to regulate by law the commerce between the States and to provide a general standard of value or medium of exchange in gold and silver, but it is not its province to aid individuals in the transfer of their funds otherwise than through the facilities afforded by the Post-Office Department. As justly might it be called on to provide for the transportation of their merchandise. These are operations of trade. They ought to be conducted by those who are interested in them in the same manner that the incidental difficulties of other pursuits are encountered by other classes of citizens. Such aid has not been deemed necessary in other countries. Throughout Europe the domestic as well as the foreign exchanges are carried on by private houses, often, if not generally, without the assistance of banks; yet they extend throughout distinct sovereignties, and far exceed in amount the real exchanges of the United States. There is no reason why our own may not be conducted in the same manner with equal cheapness and safety. Certainly this might be accomplished if it were favored by those most deeply interested; and few can doubt that their own interest, as well as the general welfare of the country, would be promoted by leaving such a subject in the hands of those to whom it properly belongs. A system founded on private interest, enterprise, and competition, without the aid of legislative grants or regulations by law, would rapidly prosper; it would be free from the influence of political agitation and extend the same exemption to trade itself, and it would put an end to those complaints of neglect, partiality, injustice, and oppression which are the unavoidable results of interference by the Government in the proper concerns of individuals. All former attempts on the part of the Government to carry its legislation in this respect further than was designed by the Constitution have in the end proved injurious, and have served only to convince the great body of the people more and more of the certain dangers of blending private interests with the operations of public business; and there is no reason to suppose that a repetition of them now would be more successful.

It can not be concealed that there exists in our community opinions and feelings on this subject in direct opposition to each other. A large portion of them, combining great intelligence, activity, and influence, are no doubt sincere in their belief that the operations of trade ought to be assisted by such a connection; they regard a national bank as necessary for this purpose, and they are disinclined to every measure that does not tend sooner or later to the establishment of such an institution. On the other hand, a majority of the people are believed to be irreconcilably opposed to that measure; they consider such a concentration of power dangerous to their liberties, and many of them regard it as a violation of the Constitution. This collision of opinion has doubtless caused much

useful; but when it became necessary, under the act of June, 1836, to withdraw from them the public money for the purpose of placing it in additional institutions or of transferring it to the States, they found it in many cases inconvenient to comply with the demands of the Treasury, and numerous and pressing applications were made for indulgence or relief. As the installments under the deposit law became payable their own embarrassments and the necessity under which they lay of curtailing their discounts and calling in their debts increased the general distress and contributed, with other causes, to hasten the revulsion in which at length they, in common with the other banks, were fatally involved.

Under these circumstances it becomes our solemn duty to inquire whether there are not in any connection between the Government and banks of issue evils of great magnitude, inherent in its very nature and against which no precautions can effectually guard.

Unforeseen in the organization of the Government and forced on the Treasury by early necessities, the practice of employing banks was in truth from the beginning more a measure of emergency than of sound policy. When we started into existence as a nation, in addition to the burdens of the new Government we assumed all the large but honorable load of debt which was the price of our liberty; but we hesitated to weigh down the infant industry of the country by resorting to adequate taxation for the necessary revenue. The facilities of banks, in return for the privileges they acquired, were promptly offered, and perhaps too readily received by an embarrassed Treasury. During the long continuance of a national debt and the intervening difficulties of a foreign war the connection was continued from motives of convenience; but these causes have long since passed away. We have no emergencies that make banks necessary to aid the wants of the Treasury; we have no load of national debt to provide for, and we have on actual deposit a large surplus. No public interest, therefore, now requires the renewal of a connection that circumstances have dissolved. The complete organization of our Government, the abundance of our resources, the general harmony which prevails between the different States and with foreign powers, all enable us now to select the system most consistent with the Constitution and most conducive to the public welfare. Should we, then, connect the Treasury for a fourth time with the local banks, it can only be under a conviction that past failures have arisen from accidental, not inherent, defects.

A danger difficult, if not impossible, to be avoided in such an arrangement is made strikingly evident in the very event by which it has now been defeated. A sudden act of the banks intrusted with the funds of the people deprives the Treasury, without fault or agency of the Government, of the ability to pay its creditors in the currency they have by law a right to demand. This circumstance no fluctuation of commerce could have produced if the public revenue had been collected in the legal

currency and kept in that form by the officers of the Treasury. The citizen whose money was in bank receives it back since the suspension at a sacrifice in its amount, whilst he who kept it in the legal currency of the country and in his own possession pursues without loss the current of his business. The Government, placed in the situation of the former, is involved in embarrassments it could not have suffered had it pursued the course of the latter. These embarrassments are, moreover, augmented by those salutary and just laws which forbid it to use a depreciated currency, and by so doing take from the Government the ability which individuals have of accommodating their transactions to such a catastrophe.

A system which can in a time of profound peace, when there is a large revenue laid by, thus suddenly prevent the application and the use of the money of the people in the manner and for the objects they have directed can not be wise; but who can think without painful reflection that under it the same unforeseen events might have befallen us in the midst of a war and taken from us at the moment when most wanted the use of those very means which were treasured up to promote the national welfare and guard our national rights? To such embarrassments and to such dangers will this Government be always exposed whilst it takes the moneys raised for and necessary to the public service out of the hands of its own officers and converts them into a mere right of action against corporations intrusted with the possession of them. Nor can such results be effectually guarded against in such a system without investing the Executive with a control over the banks themselves, whether State or national, that might with reason be objected to. Ours is probably the only Government in the world that is liable in the management of its fiscal concerns to occurrences like these.

But this imminent risk is not the only danger attendant on the surrender of the public money to the custody and control of local corporations. Though the object is aid to the Treasury, its effect may be to introduce into the operations of the Government influences the most subtle, founded on interests the most selfish.

The use by the banks, for their own benefit, of the money deposited with them has received the sanction of the Government from the commencement of this connection. The money received from the people, instead of being kept till it is needed for their use, is, in consequence of this authority, a fund on which discounts are made for the profit of those who happen to be owners of stock in the banks selected as depositories. The supposed and often exaggerated advantages of such a boon will always cause it to be sought for with avidity. I will not stop to consider on whom the patronage incident to it is to be conferred. Whether the selection and control be trusted to Congress or to the Executive, either will be subjected to appeals made in every form which the sagacity of interest can suggest. The banks under such a system are stimulated to make the most of their fortunate acquisition; the deposits are treated as

an increase of capital; loans and circulation are rashly augmented, and when the public exigencies require a return it is attended with embarrassments not provided for nor foreseen. Thus banks that thought themselves most fortunate when the public funds were received find themselves most embarrassed when the season of payment suddenly arrives.

Unfortunately, too, the evils of the system are not limited to the banks. It stimulates a general rashness of enterprise and aggravates the fluctuations of commerce and the currency. This result was strikingly exhibited during the operations of the late deposit system, and especially in the purchases of public lands. The order which ultimately directed the payment of gold and silver in such purchases greatly checked, but could not altogether prevent, the evil. Specie was indeed more difficult to be procured than the notes which the banks could themselves create at pleasure; but still, being obtained from them as a loan and returned as a deposit, which they were again at liberty to use, it only passed round the circle with diminished speed. This operation could not have been performed had the funds of the Government gone into the Treasury to be regularly disbursed, and not into banks to be loaned out for their own profit while they were permitted to substitute for it a credit in account.

In expressing these sentiments I desire not to undervalue the benefits of a salutary credit to any branch of enterprise. The credit bestowed on probity and industry is the just reward of merit and an honorable incentive to further acquisition. None oppose it who love their country and understand its welfare. But when it is unduly encouraged; when it is made to inflame the public mind with the temptations of sudden and unsubstantial wealth; when it turns industry into paths that lead sooner or later to disappointment and distress, it becomes liable to censure and needs correction. Far from helping probity and industry, the ruin to which it leads falls most severely on the great laboring classes, who are thrown suddenly out of employment, and by the failure of magnificent schemes never intended to enrich them are deprived in a moment of their only resource. Abuses of credit and excesses in speculation will happen in despite of the most salutary laws; no government, perhaps, can altogether prevent them, but surely every government can refrain from contributing the stimulus that calls them into life.

Since, therefore, experience has shown that to lend the public money to the local banks is hazardous to the operations of the Government, at least of doubtful benefit to the institutions themselves, and productive of disastrous derangement in the business and currency of the country, is it the part of wisdom again to renew the connection?

It is true that such an agency is in many respects convenient to the Treasury, but it ~~is not indispensable~~. A limitation of the expenses of the Government to its actual wants, and of the revenue to those expenses, with convenient means for its prompt application to the purposes for

which it was raised, are the objects which we should seek to accomplish. The collection, safe-keeping, transfer, and disbursement of the public money can, it is believed, be well managed by officers of the Government. Its collection, and to a great extent its disbursement also, have indeed been hitherto conducted solely by them, neither national nor State banks, when employed, being required to do more than keep it safely while in their custody, and transfer and pay it in such portions and at such times as the Treasury shall direct.

Surely banks are not more able than the Government to secure the money in their possession against accident, violence, or fraud. The assertion that they are so must assume that a vault in a bank is stronger than a vault in the Treasury, and that directors, cashiers, and clerks not selected by the Government nor under its control are more worthy of confidence than officers selected from the people and responsible to the Government—officers bound by official oaths and bonds for a faithful performance of their duties, and constantly subject to the supervision of Congress.

The difficulties of transfer and the aid heretofore rendered by banks have been less than is usually supposed. The actual accounts show that by far the larger portion of payments is made within short or convenient distances from the places of collection; and the whole number of warrants issued at the Treasury in the year 1834—a year the result of which will, it is believed, afford a safe test for the future—fell short of 5,000, or an average of less than 1 daily for each State; in the city of New York they did not average more than 2 a day, and at the city of Washington only 4.

The difficulties heretofore existing are, moreover, daily lessened by an increase in the cheapness and facility of communication, and it may be asserted with confidence that the necessary transfers, as well as the safe-keeping and disbursements of the public moneys, can be with safety and convenience accomplished through the agencies of Treasury officers. This opinion has been in some degree confirmed by actual experience since the discontinuance of the banks as fiscal agents in May last—a period which from the embarrassments in commercial intercourse presented obstacles as great as any that may be hereafter apprehended.

The manner of keeping the public money since that period is fully stated in the report of the Secretary of the Treasury. That officer also suggests the propriety of assigning by law certain additional duties to existing establishments and officers, which, with the modifications and safeguards referred to by him, will, he thinks, enable the Department to continue to perform this branch of the public service without any material addition either to their number or to the present expense. The extent of the business to be transacted has already been stated; and in respect to the amount of money with which the officers employed would be intrusted at any one time, it appears that, assuming a balance of five

millions to be at all times kept in the Treasury, and the whole of it left in the hands of the collectors and receivers, the proportion of each would not exceed an average of \$30,000; but that, deducting one million for the use of the Mint and assuming the remaining four millions to be in the hands of one-half of the present number of officers—a supposition deemed more likely to correspond with the fact—the sum in the hands of each would still be less than the amount of most of the bonds now taken from the receivers of public money. Every apprehension, however, on the subject, either in respect to the safety of the money or the faithful discharge of these fiscal transactions, may, it appears to me, be effectually removed by adding to the present means of the Treasury the establishment by law at a few important points of offices for the deposit and disbursement of such portions of the public revenue as can not with obvious safety and convenience be left in the possession of the collecting officers until paid over by them to the public creditors. Neither the amounts retained in their hands nor those deposited in the offices would in an ordinary condition of the revenue be larger in most cases than those often under the control of disbursing officers of the Army and Navy, and might be made entirely safe by requiring such securities and exercising such controlling supervision as Congress may by law prescribe. The principal officers whose appointments would become necessary under this plan, taking the largest number suggested by the Secretary of the Treasury, would not exceed ten, nor the additional expenses, at the same estimate, \$60,000 a year.

There can be no doubt of the obligation of those who are intrusted with the affairs of Government to conduct them with as little cost to the nation as is consistent with the public interest; and it is for Congress, and ultimately for the people, to decide whether the benefits to be derived from keeping our fiscal concerns apart and severing the connection which has hitherto existed between the Government and banks offer sufficient advantages to justify the necessary expenses. If the object to be accomplished is deemed important to the future welfare of the country, I can not allow myself to believe that the addition to the public expenditure of comparatively so small an amount as will be necessary to effect it will be objected to by the people.

It will be seen by the report of the Postmaster-General herewith communicated that the fiscal affairs of that Department have been successfully conducted since May last upon the principle of dealing only in the legal currency of the United States, and that it needs no legislation to maintain its credit and facilitate the management of its concerns, the existing laws being, in the opinion of that officer, ample for those objects.

Difficulties will doubtless be encountered for a season and increased services required from the public functionaries; such are usually incident to the commencement of every system, but they will be greatly lessened in the progress of its operations.

The power and influence supposed to be connected with the custody and disbursement of the public money are topics on which the public mind is naturally, and with great propriety, peculiarly sensitive. Much has been said on them in reference to the proposed separation of the Government from the banking institutions; and surely no one can object to any appeals or animadversions on the subject which are consistent with facts and evince a proper respect for the intelligence of the people. If a Chief Magistrate may be allowed to speak for himself on such a point, I can truly say that to me nothing would be more acceptable than the withdrawal from the Executive, to the greatest practicable extent, of all concern in the custody and disbursement of the public revenue; not that I would shrink from any responsibility cast upon me by the duties of my office, but because it is my firm belief that its capacity for usefulness is in no degree promoted by the possession of any patronage not actually necessary to the performance of those duties. But under our present form of government the intervention of the executive officers in the custody and disbursement of the public money seems to be unavoidable; and before it can be admitted that the influence and power of the Executive would be increased by dispensing with the agency of banks the nature of that intervention in such an agency must be carefully regarded, and a comparison must be instituted between its extent in the two cases.

The revenue can only be collected by officers appointed by the President with the advice and consent of the Senate. The public moneys in the first instance must therefore in all cases pass through hands selected by the Executive. Other officers appointed in the same way, or, as in some cases, by the President alone, must also be intrusted with them when drawn for the purpose of disbursement. It is thus seen that even when banks are employed the public funds must twice pass through the hands of executive officers. Besides this, the head of the Treasury Department, who also holds office at the pleasure of the President, and some other officers of the same Department, must necessarily be invested with more or less power in the selection, continuance, and supervision of the banks that may be employed. The question is then narrowed to the single point whether in the intermediate stage between the collection and disbursement of the public money the agency of banks is necessary to avoid a dangerous extension of the patronage and influence of the Executive. But is it clear that the connection of the Executive with powerful moneyed institutions, capable of ministering to the interests of men in points where they are most accessible to corruption, is less liable to abuse than his constitutional agency in the appointment and control of the few public officers required by the proposed plan? Will the public money when in their hands be necessarily exposed to any improper interference on the part of the Executive? May it not be hoped that a prudent fear of public jealousy and disapprobation in a matter so peculiarly exposed to

them will deter him from any such interference, even if higher motives be found inoperative? May not Congress so regulate by law the duty of those officers and subject it to such supervision and publicity as to prevent the possibility of any serious abuse on the part of the Executive? And is there equal room for such supervision and publicity in a connection with banks, acting under the shield of corporate immunities and conducted by persons irresponsible to the Government and the people? It is believed that a considerate and candid investigation of these questions will result in the conviction that the proposed plan is far less liable to objection on the score of Executive patronage and control than any bank agency that has been or can be devised.

With these views I leave to Congress the measures necessary to regulate in the present emergency the safe-keeping and transfer of the public moneys. In the performance of constitutional duty I have stated to them without reserve the result of my own reflections. The subject is of great importance, and one on which we can scarcely expect to be as united in sentiment as we are in interest. It deserves a full and free discussion, and can not fail to be benefited by a dispassionate comparison of opinions. Well aware myself of the duty of reciprocal concession among the coordinate branches of the Government, I can promise a reasonable spirit of cooperation, so far as it can be indulged in without the surrender of constitutional objections which I believe to be well founded. Any system that may be adopted should be subjected to the fullest legal provision, so as to leave nothing to the Executive but what is necessary to the discharge of the duties imposed on him; and whatever plan may be ultimately established, my own part shall be so discharged as to give to it a fair trial and the best prospect of success.

The character of the funds to be received and disbursed in the transactions of the Government likewise demands your most careful consideration.

There can be no doubt that those who framed and adopted the Constitution, having in immediate view the depreciated paper of the Confederacy—of which \$500 in paper were at times only equal to \$1 in coin—intended to prevent the recurrence of similar evils, so far at least as related to the transactions of the new Government. They gave to Congress express powers to coin money and to regulate the value thereof and of foreign coin; they refused to give it power to establish corporations—the agents then as now chiefly employed to create a paper currency; they prohibited the States from making anything but gold and silver a legal tender in payment of debts; and the First Congress directed by positive law that the revenue should be received in nothing but gold and silver.

Public exigency at the outset of the Government, without direct legislative authority, led to the use of banks as fiscal aids to the Treasury. In admitted deviation from the law, at the same period and under the

same exigency, the Secretary of the Treasury received their notes in payment of duties. The sole ground on which the practice thus commenced was then or has since been justified is the certain, immediate, and convenient exchange of such notes for specie. The Government did, indeed, receive the inconvertible notes of State banks during the difficulties of war, and the community submitted without a murmur to the unequal taxation and multiplied evils of which such a course was productive. With the war this indulgence ceased, and the banks were obliged again to redeem their notes in gold and silver. The Treasury, in accordance with previous practice, continued to dispense with the currency required by the act of 1789, and took the notes of banks in full confidence of their being paid in specie on demand; and Congress, to guard against the slightest violation of this principle, have declared by law that if notes are paid in the transactions of the Government it must be under such circumstances as to enable the holder to convert them into specie without depreciation or delay.

Of my own duties under the existing laws, when the banks suspended specie payments, I could not doubt. Directions were immediately given to prevent the reception into the Treasury of anything but gold and silver, or its equivalent, and every practicable arrangement was made to preserve the public faith by similar or equivalent payments to the public creditors. The revenue from lands had been for some time substantially so collected under the order issued by directions of my predecessor. The effects of that order had been so salutary and its forecast in regard to the increasing insecurity of bank paper had become so apparent that even before the catastrophe I had resolved not to interfere with its operation. Congress is now to decide whether the revenue shall continue to be so collected or not.

The receipt into the Treasury of bank notes not redeemed in specie on demand will not, I presume, be sanctioned. It would destroy without the excuse of war or public distress that equality of imposts and identity of commercial regulation which lie at the foundation of our Confederacy, and would offer to each State a direct temptation to increase its foreign trade by depreciating the currency received for duties in its ports. Such a proceeding would also in a great degree frustrate the policy so highly cherished of infusing into our circulation a larger proportion of the precious metals—a policy the wisdom of which none can doubt, though there may be different opinions as to the extent to which it should be carried. Its results have been already too auspicious and its success is too closely interwoven with the future prosperity of the country to permit us for a moment to contemplate its abandonment. We have seen under its influence our specie augmented beyond eighty millions, our coinage increased so as to make that of gold amount, between August, 1834, and December, 1836, to \$10,000,000, exceeding the whole coinage at the Mint during the thirty-one previous years.

The prospect of further improvement continued without abatement until the moment of the suspension of specie payments. This policy has now, indeed, been suddenly checked, but is still far from being overthrown. Amidst all conflicting theories, one position is undeniable—the precious metals will invariably disappear when there ceases to be a necessity for their use as a circulating medium. It was in strict accordance with this truth that whilst in the month of May last they were everywhere seen and were current for all ordinary purposes they disappeared from circulation the moment the payment of specie was refused by the banks and the community tacitly agreed to dispense with its employment. Their place was supplied by a currency exclusively of paper, and in many cases of the worst description. Already are the bank notes now in circulation greatly depreciated, and they fluctuate in value between one place and another, thus diminishing and making uncertain the worth of property and the price of labor, and failing to subserve, except at a heavy loss, the purposes of business. With each succeeding day the metallic currency decreases; by some it is hoarded in the natural fear that once parted with it can not be replaced, while by others it is diverted from its more legitimate uses for the sake of gain. Should Congress sanction this condition of things by making irredeemable paper money receivable in payment of public dues, a temporary check to a wise and salutary policy will in all probability be converted into its absolute destruction.

It is true that bank notes actually convertible into specie may be received in payment of the revenue without being liable to all these objections, and that such a course may to some extent promote individual convenience—an object always to be considered where it does not conflict with the principles of our Government or the general welfare of the country. If such notes only were received, and always under circumstances allowing their early presentation for payment, and if at short and fixed periods they were converted into specie to be kept by the officers of the Treasury, some of the most serious obstacles to their reception would perhaps be removed. To retain the notes in the Treasury would be to renew under another form the loans of public money to the banks, and the evils consequent thereon.

It is, however, a mistaken impression that any large amount of specie is required for public payments. Of the seventy or eighty millions now estimated to be in the country, ten millions would be abundantly sufficient for that purpose provided an accumulation of a large amount of revenue beyond the necessary wants of the Government be hereafter prevented. If to these considerations be added the facilities which will arise from enabling the Treasury to satisfy the public creditors by its drafts or notes receivable in payment of the public dues, it may be safely assumed that no motive of convenience to the citizen requires the reception of bank paper.

To say that the refusal of paper money by the Government introduces an unjust discrimination between the currency received by it and that used by individuals in their ordinary affairs is, in my judgment, to view it in a very erroneous light. The Constitution prohibits the States from making anything but gold and silver a tender in the payment of debts, and thus secures to every citizen a right to demand payment in the legal currency. To provide by law that the Government will only receive its dues in gold and silver is not to confer on it any peculiar privilege, but merely to place it on an equality with the citizen by reserving to it a right secured to him by the Constitution. It is doubtless for this reason that the principle has been sanctioned by successive laws from the time of the first Congress under the Constitution down to the last. Such precedents, never objected to and proceeding from such sources, afford a decisive answer to the imputation of inequality or injustice.

But in fact the measure is one of restriction, not of favor. To forbid the public agent to receive in payment any other than a certain kind of money is to refuse him a discretion possessed by every citizen. It may be left to those who have the management of their own transactions to make their own terms, but no such discretion should be given to him who acts merely as an agent of the people—who is to collect what the law requires and to pay the appropriations it makes. When bank notes are redeemed on demand, there is then no discrimination in reality, for the individual who receives them may at his option substitute the specie for them; he takes them from convenience or choice. When they are not so redeemed, it will scarcely be contended that their receipt and payment by a public officer should be permitted, though none deny that right to an individual; if it were, the effect would be most injurious to the public, since their officer could make none of those arrangements to meet or guard against the depreciation which an individual is at liberty to do. Nor can inconvenience to the community be alleged as an objection to such a regulation. Its object and motive are their convenience and welfare.

If at a moment of simultaneous and unexpected suspension by the banks it adds something to the many embarrassments of that proceeding, yet these are far overbalanced by its direct tendency to produce a wider circulation of gold and silver, to increase the safety of bank paper, to improve the general currency, and thus to prevent altogether such occurrences and the other and far greater evils that attend them.

It may indeed be questioned whether it is not for the interest of the banks themselves that the Government should not receive their paper. They would be conducted with more caution and on sounder principles. By using specie only in its transactions the Government would create a demand for it, which would to a great extent prevent its exportation, and by keeping it in circulation maintain a broader and safer basis for the paper currency. That the banks would thus be rendered more sound and the community more safe can not admit of a doubt.

The foregoing views, it seems to me, do but fairly carry out the provisions of the Federal Constitution in relation to the currency, as far as relates to the public revenue. At the time that instrument was framed there were but three or four banks in the United States, and had the extension of the banking system and the evils growing out of it been foreseen they would probably have been specially guarded against. The same policy which led to the prohibition of bills of credit by the States would doubtless in that event have also interdicted their issue as a currency in any other form. The Constitution, however, contains no such prohibition; and since the States have exercised for nearly half a century the power to regulate the business of banking, it is not to be expected that it will be abandoned. The whole matter is now under discussion before the proper tribunal—the people of the States. Never before has the public mind been so thoroughly awakened to a proper sense of its importance; never has the subject in all its bearings been submitted to so searching an inquiry. It would be distrustful the intelligence and virtue of the people to doubt the speedy and efficient adoption of such measures of reform as the public good demands. All that can rightfully be done by the Federal Government to promote the accomplishment of that important object will without doubt be performed.

In the meantime it is our duty to provide all the remedies against a depreciated paper currency which the Constitution enables us to afford. The Treasury Department on several former occasions has suggested the propriety and importance of a uniform law concerning bankruptcies of corporations and other bankers. Through the instrumentality of such a law a salutary check may doubtless be imposed on the issues of paper money and an effectual remedy given to the citizen in a way at once equal in all parts of the Union and fully authorized by the Constitution.

The indulgence granted by Executive authority in the payment of bonds for duties has been already mentioned. Seeing that the immediate enforcement of these obligations would subject a large and highly respectable portion of our citizens to great sacrifices, and believing that a temporary postponement could be made without detriment to other interests and with increased certainty of ultimate payment, I did not hesitate to comply with the request that was made of me. The terms allowed are to the full extent as liberal as any that are to be found in the practice of the executive department. It remains for Congress to decide whether a further postponement may not with propriety be allowed; and if so, their legislation upon the subject is respectfully invited.

The report of the Secretary of the Treasury will exhibit the condition of these debts, the extent and effect of the present indulgence, the probable result of its further extension on the state of the Treasury, and every other fact necessary to a full consideration of the subject. Similar information is communicated in regard to such depositories of the public moneys as are indebted to the Government, in order that Congress may also adopt the proper measures in regard to them.

The receipts and expenditures for the first half of the year and an estimate of those for the residue will be laid before you by the Secretary of the Treasury. In his report of December last it was estimated that the current receipts would fall short of the expenditures by about \$3,000,000. It will be seen that the difference will be much greater. This is to be attributed not only to the occurrence of greater pecuniary embarrassments in the business of the country than those which were then predicted, and consequently a greater diminution in the revenue, but also to the fact that the appropriations exceeded by nearly six millions the amount which was asked for in the estimates then submitted. The sum necessary for the service of the year, beyond the probable receipts and the amount which it was intended should be reserved in the Treasury at the commencement of the year, will be about six millions. If the whole of the reserved balance be not at once applied to the current expenditures, but four millions be still kept in the Treasury, as seems most expedient for the uses of the Mint and to meet contingencies, the sum needed will be ten millions.

In making this estimate the receipts are calculated on the supposition of some further extension of the indulgence granted in the payment of bonds for duties, which will affect the amount of the revenue for the present year to the extent of two and a half millions.

It is not proposed to procure the required amount by loans or increased taxation. There are now in the Treasury \$9,367,214, directed by the act of the 23d of June, 1836, to be deposited with the States in October next. This sum, if so deposited, will be subject under the law to be recalled if needed to defray existing appropriations; and as it is now evident that the whole, or the principal part, of it will be wanted for that purpose, it appears most proper that the deposit should be withheld. Until the amount can be collected from the banks, Treasury notes may be temporarily issued, to be gradually redeemed as it is received.

I am aware that this course may be productive of inconvenience to many of the States. Relying upon the acts of Congress which held out to them the strong probability, if not the certainty, of receiving this installment, they have in some instances adopted measures with which its retention may seriously interfere. That such a condition of things should have occurred is much to be regretted. It is not the least among the unfortunate results of the disasters of the times; and it is for Congress to devise a fit remedy, if there be one. The money being indispensable to the wants of the Treasury, it is difficult to conceive upon what principle of justice or expediency its application to that object can be avoided. To recall any portion of the sums already deposited with the States would be more inconvenient and less efficient. To burden the country with increased taxation when there is in fact a large surplus revenue would be unjust and unwise; to raise moneys by loans under such circumstances, and thus to commence a new national debt, would scarcely be sanctioned by the American people.

The plan proposed will be adequate to all our fiscal operations during the remainder of the year. Should it be adopted, the Treasury, aided by the ample resources of the country, will be able to discharge punctually every pecuniary obligation. For the future all that is needed will be that caution and forbearance in appropriations which the diminution of the revenue requires and which the complete accomplishment or great forwardness of many expensive national undertakings renders equally consistent with prudence and patriotic liberality.

The preceding suggestions and recommendations are submitted in the belief that their adoption by Congress will enable the executive department to conduct our fiscal concerns with success so far as their management has been committed to it. Whilst the objects and the means proposed to attain them are within its constitutional powers and appropriate duties, they will at the same time, it is hoped, by their necessary operation, afford essential aid in the transaction of individual concerns, and thus yield relief to the people at large in a form adapted to the nature of our Government. Those who look to the action of this Government for specific aid to the citizen to relieve embarrassments arising from losses by revulsions in commerce and credit lose sight of the ends for which it was created and the powers with which it is clothed. It was established to give security to us all in our lawful and honorable pursuits, under the lasting safeguard of republican institutions. It was not intended to confer special favors on individuals or on any classes of them, to create systems of agriculture, manufactures, or trade, or to engage in them either separately or in connection with individual citizens or organized associations. If its operations were to be directed for the benefit of any one class, equivalent favors must in justice be extended to the rest, and the attempt to bestow such favors with an equal hand, or even to select those who should most deserve them, would never be successful.

All communities are apt to look to government for too much. Even in our own country, where its powers and duties are so strictly limited, we are prone to do so, especially at periods of sudden embarrassment and distress. But this ought not to be. The framers of our excellent Constitution and the people who approved it with calm and sagacious deliberation acted at the time on a sounder principle. They wisely judged that the less government interferes with private pursuits the better for the general prosperity. It is not its legitimate object to make men rich or to repair by direct grants of money or legislation in favor of particular pursuits losses not incurred in the public service. This would be substantially to use the property of some for the benefit of others. But its real duty—that duty the performance of which makes a good government the most precious of human blessings—is to enact and enforce a system of general laws commensurate with, but not exceeding, the objects of its establishment, and to leave every citizen and every interest to reap under its benign protection the rewards of virtue, industry, and prudence.

I can not doubt that on this as on all similar occasions the Federal Government will find its agency most conducive to the security and happiness of the people when limited to the exercise of its conceded powers. In never assuming, even for a well-meant object, such powers as were not designed to be conferred upon it, we shall in reality do most for the general welfare. To avoid every unnecessary interference with the pursuits of the citizen will result in more benefit than to adopt measures which could only assist limited interests, and are eagerly, but perhaps naturally, sought for under the pressure of temporary circumstances. If, therefore, I refrain from suggesting to Congress any specific plan for regulating the exchanges of the country, relieving mercantile embarrassments, or interfering with the ordinary operations of foreign or domestic commerce, it is from a conviction that such measures are not within the constitutional province of the General Government, and that their adoption would not promote the real and permanent welfare of those they might be designed to aid.

The difficulties and distresses of the times, though unquestionably great, are limited in their extent, and can not be regarded as affecting the permanent prosperity of the nation. Arising in a great degree from the transactions of foreign and domestic commerce, it is upon them that they have chiefly fallen. The great agricultural interest has in many parts of the country suffered comparatively little, and, as if Providence intended to display the munificence of its goodness at the moment of our greatest need, and in direct contrast to the evils occasioned by the waywardness of man, we have been blessed throughout our extended territory with a season of general health and of uncommon fruitfulness. The proceeds of our great staples will soon furnish the means of liquidating debts at home and abroad, and contribute equally to the revival of commercial activity and the restoration of commercial credit. The banks, established avowedly for its support, deriving their profits from it, and resting under obligations to it which can not be overlooked, will feel at once the necessity and justice of uniting their energies with those of the mercantile interest.

The suspension of specie payments at such a time and under such circumstances as we have lately witnessed could not be other than a temporary measure, and we can scarcely err in believing that the period must soon arrive when all that are solvent will redeem their issues in gold and silver. Dealings abroad naturally depend on resources and prosperity at home. If the debt of our merchants has accumulated or their credit is impaired, these are fluctuations always incident to extensive or extravagant mercantile transactions. But the ultimate security of such obligations does not admit of question. They are guaranteed by the resources of a country the fruits of whose industry afford abundant means of ample liquidation, and by the evident interest of every merchant to sustain a credit hitherto high by promptly applying these means for its preservation.

I deeply regret that events have occurred which require me to ask your consideration of such serious topics. I could have wished that in making my first communication to the assembled representatives of my country I had nothing to dwell upon but the history of her unalloyed prosperity. Since it is otherwise, we can only feel more deeply the responsibility of the respective trusts that have been confided to us, and under the pressure of difficulties unite in invoking the guidance and aid of the Supreme Ruler of Nations and in laboring with zealous resolution to overcome the difficulties by which we are environed.

It is under such circumstances a high gratification to know by long experience that we act for a people to whom the truth, however unpromising, can always be spoken with safety; for the trial of whose patriotism no emergency is too severe, and who are sure never to desert a public functionary honestly laboring for the public good. It seems just that they should receive without delay any aid in their embarrassments which your deliberations can afford. Coming directly from the midst of them, and knowing the course of events in every section of our country, from you may best be learnt as well the extent and nature of these embarrassments as the most desirable measures of relief.

I am aware, however, that it is not proper to detain you at present longer than may be demanded by the special objects for which you are convened. To them, therefore, I have confined my communication; and believing it will not be your own wish now to extend your deliberations beyond them, I reserve till the usual period of your annual meeting that general information on the state of the Union which the Constitution requires me to give.

M. VAN BUREN.

SPECIAL MESSAGES.

WASHINGTON, *September 7, 1837.*

To the Senate of the United States:

I transmit, for the consideration of the Senate with a view to its ratification, a general convention of peace, friendship, commerce, and navigation between the United States and the Peru-Bolivian Confederation, signed at Lima on the 30th of November, 1836, by Samuel Larned, the chargé d'affaires of the United States, and J. Garcia del Rio, minister of state in the department of finance of the North Peruvian State.

M. VAN BUREN.

Hon. R. M. JOHNSON.

WASHINGTON, *September 19, 1837.*

SIR: I have the honor to inclose a report of the Secretary of War, on the subject of the resolution of the Senate of the 2d of March, 1837.*

Very respectfully, your obedient servant,

M. VAN BUREN.

* Whether the works at Black Rock raise the waters of Lake Erie to the injury of property on its southern and western shores.

WASHINGTON, September 26, 1837.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, accompanied by copies of the correspondence requested by their resolution of the 13th instant.

M. VAN BUREN.

DEPARTMENT OF STATE,
Washington, September 25, 1837.

The Secretary of State, to whom was referred the resolution of the House of Representatives dated the 13th instant, requesting the President to communicate to that body, "so far as the public interest will permit, the correspondence between the Government of the United States and that of Great Britain relating to the north-eastern boundary of the United States since the message of the late President to the Senate of the United States of the 15th of June, 1836, and all the correspondence which has taken place since that period between the Government of the United States and the governor of the State of Maine on the subject of alleged aggressions upon the rights of Maine by the British authorities," has the honor respectfully to submit to the President copies of the letters and documents requested by that resolution.

JOHN FORSYTH.

STATE OF MAINE, EXECUTIVE DEPARTMENT,
Augusta, March 30, 1837.

SIR: In compliance with a request of the legislature of this State, I have the honor to transmit to you the accompanying report and resolutions.

I am, very respectfully, your obedient servant,

ROBERT P. DUNLAP.

STATE OF MAINE, HOUSE OF REPRESENTATIVES,
March 29, 1837.

The joint select committee who had under consideration the order relating to the expediency of calling the attention of Congress to the subject of fortifying our maritime and interior frontier have attended to that duty, and ask leave to present the following report:

One object of the federal compact is "to provide for the common defense and general welfare."

In accordance with these objects of the compact, the General Government has from time to time made liberal appropriations for fortifying and defending the several States along our extended maritime frontier west and south of the western boundary line of this State. East of that line a mere trifle has as yet been appropriated for these objects.

Maine has a maritime frontier of about 500 miles in extent, following the indentations of her shores, and our interior frontier, bounding on New Brunswick on the east and the Canadas on the north, is about 600 miles in extent.

Considering this great extent of seacoast, her numerous excellent harbors, her noble rivers and great advantages for shipbuilding, and her proximity to the fishing grounds, probably no State in the Union possesses the natural advantages for carrying on this branch of industry that Maine does.

It is a fact worthy of consideration that all maritime nations have looked to their fisheries as the nursery of hardy seamen for the merchant service in time of peace and for the navy in time of war, and as a great question of national policy (aside

from the inducement to encourage this branch of business as an unfailing source of natural wealth,) it is deemed worthy of the fostering care of all commercial nations.

Already the navigation of Maine is estimated at more than 300,000 tons, and exceeded by only two States in the Union, and her increase annually of tonnage is greater than that of any other State.

The abundance of building materials, believed to be inexhaustible, her great conveniences for shipbuilding along her extended seacoast, her numerous bays, rivers, and harbors, render it highly probable that the day is not far distant when the maritime interests of Maine will exceed that of any of her sister States; and if reliance can be placed upon the statements of a scientific engineer of high respectability and standing, who has during the past year, under the direction of the government of this State and our parent Commonwealth, made a geological survey of a portion of our State, it may be doubted whether the same extent of territory on the continent contains more real value viewed in all its bearings (the facilities of quarrying, manufacturing, exporting, and its influence upon the great interests of the State and nation) than is contained in our inexhaustible quarries of granite, lime, marble, slate, etc., mines and minerals in which large and profitable investments are already made. Some of these branches of business have been carried on for many years, and others to a large extent are commencing under the most favorable auspices.

These, together with our agricultural, commercial, and manufacturing interests, our immense forests of invaluable timber, with a water power of vast extent and value, giving us the means of laying the seaports of the Union under a contribution for ages to come, and warranting the belief that our present shipping interest will be sustained and employed and a great increase required.

About one-third of the most valuable portion of our territory is claimed by Great Britain, and the history of this protracted controversy from its commencement to the present time is such as to awaken general anxiety. We are admonished by recent events that we have not yet reached the termination of our toils and embarrassments, and they have awakened the painful apprehension that our just rights may not be secured by honorable negotiation or patient submission to unprovoked injuries. These considerations, in the opinion of your committee, call loudly for the interposition of the General Government, and require at their hands all needful preparation for possible contingencies. The late Governor Lincoln nearly ten years since called the attention of the Government to the importance of erecting a strong fortification in some eligible position on the confines of that portion of our territory to which an adverse claim is set up by Great Britain. In the opinion of your committee, the subject has lost none of its interest since that period, but, on the contrary, the events to which we have alluded give to it vastly augmented importance; and to our view, irrespective of any conditions growing out of the present controversy, a strong fortification upon the northeastern boundary of the United States, situated far in the interior and upon the confines of a foreign country, and surrounded by millions of acres of fertile land, destined soon to be peopled with a numerous population of hardy yeomanry, is of high importance.

Our isolated situation, being the northeastern boundary of the nation, with an interior frontier upward of 600 miles upon a foreign country and a large proportion of our territory lying between two Provinces of Great Britain and so situated as to render it greatly to the advantage of that nation to possess it; the inflexible determination which she manifests to pursue the course which interest dictates should not be forgotten; the extent of our seacoast; the exposed situation of our seaport towns, lying within a few hours' sail of the British naval depot in the neighborhood of Maine; the disastrous consequences of our defenseless situation during the last war; the great and increasing maritime interests which we have at stake without one single point where a ship, if dependent upon the United States fortifications, would be safe from the attacks of a frigate—these and the consideration that little,

comparatively, has yet been done for Maine seem to our view to constitute irresistible reasons why Maine should no longer be forgotten or neglected in the common defense of the country.

Through all the long-protracted struggles, difficulties, and embarrassments of our infant Republic this portion of our Union has never been urgent or importunate in pressing its claims, but has submitted patiently to the force of circumstances which rendered it necessary to defer them.

But in the present altered condition of the country—the national debt paid off at a season of universal peace and unexampled prosperity, with an overburthened Treasury, and when it is deemed necessary to dispose of it to resort to measures which many eminent statesmen consider unwarranted by the Constitution and which a great portion of the people of the Union consider of doubtful policy—at such a period and under such circumstances it is difficult to perceive the justice of longer withholding suitable appropriations for the defense of Maine, and to our view it can only be withheld by doing violence to the principles of equal rights and by neglecting a plain constitutional duty.

Your committee therefore submit the following resolutions.

STEPHEN C. FOSTER, *Chairman.*

STATE OF MAINE.

RESOLVE relating to the fortification of frontier States.

Resolved, That the obligation of the Federal Government, under the Constitution, when it has the means to erect suitable fortifications for the defense of the frontier of the States, is a practical duty not justly to be denied, evaded, neglected, or delayed.

Resolved, That our Senators in Congress be instructed and our Representatives requested to use their influence to obtain liberal appropriations for the defense of Maine and the Union.

Resolved, That the governor be requested to transmit copies of the above report and resolutions to the President and Vice-President, the Secretaries of State, Navy, and War, and to each of our Senators and Representatives in Congress.

[Passed by both Houses and approved March 30, 1837.]

STATE OF MAINE, EXECUTIVE DEPARTMENT,

Augusta, April 30, 1837.

His Excellency MARTIN VAN BUREN,

President of the United States.

SIR: In compliance with a request of the legislature of this State, I have the honor to transmit to Your Excellency the accompanying report and resolutions:

In behalf of the State of Maine, I would respectfully, yet urgently, call on the President of the United States to cause the northeastern boundary of this State to be explored and surveyed and monuments erected in accordance with the request contained in the resolutions which are herewith communicated. As the subject is one in which the people of Maine have a deep interest, I feel a confidence it will commend itself to your early attention.

With high consideration, I have the honor to be, your obedient servant,

ROBERT P. DUNLAP.

STATE OF MAINE, IN HOUSE OF REPRESENTATIVES,

February 2, 1837.

The joint committee to whom was referred so much of the governor's message as relates to the northeastern boundary, and the documents and evidence, together with an order of the two houses instructing the committee "to inquire into the expediency of providing by law for the appointment of commissioners on the part of this

State, by the consent of the Government of the United States, to survey the line between this State and the Province of New Brunswick according to the treaty of 1783, to establish monuments in such places as shall be fixed by said commissioners and by commissioners to be appointed on the part of the Government of Great Britain," have attended to the duties assigned them with the industry and solicitude which the importance of the subject demanded. Could the committee have spared the time and had the means to obtain documents not within the jurisdiction of the State, and consequently out of its power, a more clear, methodical, and perfect view of the subject would have been presented; but as there had been hitherto so much procrastination and the impatience of the public, already great, was becoming more and more intense, your committee without further preamble or apology ask leave to present the following report:

The legislature and people of Maine, we believe, will not contend that the treaty-making power of the United States does not extend to a final adjustment of a disputed and undefined line of boundary between a State and a foreign nation; *but we do insist that no power is granted by the Constitution of the United States to limit or change the boundary of a State or cede a part of its territory without its consent.* It is even by no means certain how far *such consent* would enable the treaty authority to exert its powers. *Citizens* might be made the subjects of a treaty transfer, and these citizens owing allegiance to the State and to the Union, and allegiance and protection being reciprocally binding, the right to transfer a citizen to a foreign government, to *sell* him, might well be questioned as being inconsistent with the spirit of our free institutions. But be this as it may, Maine will never concede the principle that the President and two-thirds of the Senate can transfer its territory, much less its citizens, without its permission, given by its constitutional organs.

Your committee, however, deem it but fair to admit that they have discovered no inclination in the General Government, or any department of it, to assume this power. On the contrary, the President has repeatedly declined the adoption of a conventional line deviating from the treaty of 1783, upon the express ground that it could not be done without the consent of Maine.

It is due, nevertheless, to the State of Maine to say that the committee have no evidence that any conventional line has been proposed to them for their consent. It indeed appears that the consent of Maine had not been given to the adoption of any other boundary than that prescribed by the treaty of 1783 up to the 29th February, 1836, and we are well assured that no proposition for a different boundary has since that time been made to any department of the government of this State.

The President of the United States on the 15th June last communicated to the Senate, in compliance with their resolution, a copy of the correspondence relative to the northeastern boundary. This correspondence embraced a period from the 21st July, 1832, to the 5th March, 1836.

The opinion and advice of the King of the Netherlands, to whom the controversy was referred by the provisions of the treaty of Ghent, was made on the 10th January, 1831, and of the three questions submitted, viz, *the northeastern boundary, the northwesternmost head of Connecticut River, and the forty-fifth parallel of latitude*, he seems to have determined *but one*. He did decide that the source of the stream running into and through Connecticut Lake is the true northwest head of that river as intended by the treaty of 1783; and as to the rest, he *advises* that it will be *convenient* (*il conviendra*) to adopt the "Thalweg," the deepest channel of the St. John and St. Francis, for the north line, and that the forty-fifth degree is to be measured in order to mark out the boundary to the St. Lawrence, with a deviation so as to include Rouses Point within the United States. As to the *convenience* of establishing the St. John and St. Francis as the northern boundary of Maine, we have only to observe that however "convenient" it may be to Great Britain to obtain

so large a portion of our territory and waters, it would certainly be very *inconvenient* to us, and inasmuch as we are probably capable of judging of our own "convenience," and have never solicited *the advice* of anyone on this point, it is scarcely to be expected that we shall be *advised* to adopt a line so preposterous and injurious.

It was in this view and in strict conformity with the Constitution conferring the treaty power that the President on the 7th December, 1831, submitted to the Senate this "award" and "advice" of the King of the Netherlands. Senators were divided on a principal point, some insisting that to carry the award or opinion into effect was only *in execution* of the treaty, and it therefore belonged exclusively to the President "to take care" that this "supreme law" was faithfully executed or to reject it altogether.

But the prevailing opinion was that this "award" or "advice" was *perfecting an unfinished* treaty, and that therefore it could not be effected by the President without "the advice and consent of the Senate, two-thirds of the members present concurring therein." So far from the concurrence of two-thirds *for* the measure, there were *thirty-four to eight against* it, and it was consequently rejected, and a recommendation to the President was adopted to open a new negotiation to determine the line of boundary according to the treaty of 1783.

It is insisted by the British ministers that a due north line from the monument at the source of the St. Croix will intersect no highlands described in the treaty of 1783. Now this is an assumption by Great Britain totally unwarranted by any evidence. The boundaries bearing upon the question are thus given: "From the northwest angle of Nova Scotia, to wit, that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands; along the said highlands which divide *the rivers* that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut River;" "east by a line to be drawn along the middle of the river St. Croix from its mouth, in the Bay of Fundy, to its source, and from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the St. Lawrence."

The first object, starting place, or *terminus a quo*, is this *northwest angle of Nova Scotia*. It is the corner of the British Province *designated by themselves*. It was presumed, and it is still believed, that they knew the identical spot; we have a right to demand of them to define it. In the treaty of 1783 they were disposed to define it, and hence they say it is *that angle which is formed by a line drawn due north from the source of the St. Croix to those highlands which divide the rivers that flow into the St. Lawrence from those which flow into the Atlantic Ocean*.

Nothing can be more clear than that the British negotiators of the treaty of 1783 had reference to their east and west line between Canada and Nova Scotia. This in 1755-56 was matter of controversy between France and England, the French claiming that it was far south and the British strenuously contending that these very highlands were even more north than we have endeavored to fix them.

The controversy resulted in a war, which, after the capture of Quebec, was terminated by the peace of 1763, whereby Great Britain obtained both sides of the line, and she then established the north line of Nova Scotia about where we contend it should be. So far from admitting that a due north line from the monument will not intersect the highlands intended by the treaty of 1783, the State of Maine has always insisted, and still insists, that no known obstacle exists to the ascertaining and accurately defining them, and thus establishing the *terminus a quo, to wit, the northwest angle of Nova Scotia*. It would seem strange, indeed, that this line, so fully discussed and controverted between the English and French in 1755-56, should have been left unsettled still when both Provinces became British. It is impossible to imagine such ignorance of so important a point as this northwest angle, so often referred to and spoken of as a notorious monument.

The peace of 1783 was considered by Great Britain as *a grant by metes and bounds*. The boundaries were prescribed, and this northwest angle was *the commencement*. Twenty years only before this (1763) Nova Scotia had been organized as a distinct Province, then including what are now Nova Scotia and New Brunswick, and this angle was referred to as a boundary without hesitancy or doubt. Indeed, the treaty itself, as if to make assurance doubly sure, fixed it where a due north line from the source of the St. Croix will intersect those highlands which divide the rivers which flow into the *river* St. Lawrence from those which flow into the Atlantic Ocean. This source of the St. Croix has been determined and a monument fixed there by the commissioners under the fifth article of the treaty of 1795 (Jay's). Now the assumption that the north line from this monument will intersect or meet no such highlands is entirely gratuitous.

The treaty does not speak of mountains nor even hills, but of "highlands" that divide rivers flowing different ways. It was well known that rivers did fall into the St. Lawrence and into the Atlantic, that these rivers would run *down* and not *up*, and it was consequently inferred that the *land* from whence these *rivers* flowed must of necessity be *high*, and unless there are to be found in that region *geological phenomena* which exist nowhere else on the face of the globe this inference is irresistible.

The truth is that these highlands have been known and well understood by the British themselves ever since the grant of James I to Sir William Alexander, in 1621. The portion of the boundary there given which relates to this controversy is "from the western spring head of the St. Croix, by an *imaginary* line conceived to run through the land northward to the next road of Ships River or Spring discharging itself into the great river of Canada, and proceeding thence *eastward* along the shores of the sea of the said river of Canada to the road, haven, or shore commonly called *Gaspé*" (Gaspé).

The cession of Canada by France made it necessary to define the limits of the Province of Quebec, and accordingly His Britannic Majesty, by his proclamation of 7th October, 1763, is thus explicit as to what affects this question: "Passing 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 de Chaleurs* and the coast of the *Gulf* of the St. Lawrence to *Cape Rosiers*," etc.

The act of Parliament of the fourteenth George III (1774) defines thus the south line of Canada: "South by a line from the Bay de Chaleurs along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which flow into the sea." The north line of the grant to Alexander is from the source of the St. Croix to the "spring head" or source of some river or stream which falls into the river St. Lawrence, and thence *eastward* to Gaspé Bay, which communicates with the Gulf of St. Lawrence in latitude $49^{\circ} 30'$, and would make nearly an east and west line. The proclamation of 1763 defines the *south* line of the Province of Quebec as passing along the highlands which divide the rivers that fall into the St. Lawrence from those which fall into the sea, and also along the north coast of the Bay de Chaleurs to the *Gulf* of St. Lawrence. This is the *south* boundary, and consequently in an *east and west direction*; but it passes *north* of Bay de Chaleurs, wherefore the south boundary of the Province must of necessity be north of Bay de Chaleurs. The eastern boundary is northerly by the Gulf of *Cape Rosiers*, in about latitude 50° , longitude 64° north of Gaspé Bay, and at the mouth of the river St. Lawrence, where it communicates with the gulf or sea. And the act of Parliament makes *this south side* from this same bay along those highlands, and it must *inevitably run west* or *it is no south boundary*. Now no one can doubt that in the proclamation of 1763 it was the intent to adopt Sir William Alexander's *northern* for *his southern* boundary of the Province of Quebec.

Indeed, it appears in every commission to the governor of Nova Scotia and New

Brunswick from 1763 to 1784, and after the treaty of peace of 1783, that the Province of Nova Scotia extended to the southern boundary of the Province of Quebec. It then irresistibly and inevitably follows that a west line from the Bay de Chaleurs, intersecting a due north line from the monument, is the identical northwest angle. Now a line from Mars Hill direct to Cape Rosiers, instead of being *easterly*, would be north of northeast, *crossing* the Bay de Chaleurs. But passing along its north coast, as the proclamation provides, the line from this Mars Hill must be more northerly still. Indeed, the pretense that a pyramidal spur or peak, such as this hill, should constitute the range of highlands mentioned in the treaty is so utterly visionary that it is entitled to *no sort of respect*.

We may now by these facts and reflections give this inquiry a right direction, *to wit*, to the ascertainment of the north boundary of Nova Scotia, which is the southern boundary of Canada. We have always been lured from this by the British negotiators to the *left* or *west* of this north line from the monument.

No one who is in the least conversant with the subject can suppose for a moment that this northwest angle can be found in such a direction. The question for us is, Are there any highlands north of the Bay de Chaleurs extending *in a western direction toward* a north line drawn from the monument? If this line westerly from the bay be not distinctly marked so far as to intersect this north line, the principle is to extend it in the same direction to the place of intersection; that is, if the line between Nova Scotia and Canada is *west* to within, say, 30 miles of the north line from the monument, and the rest of the way is indefinite or obscure, extend it on in the same direction until you form a point of intersection, and this will be the northwest angle of Nova Scotia. But the truth is, *the highlands are there*, and have been found in running due north from the monument. The elevations were taken by the British surveyor from the source of the St. Croix, at the monument, to the first waters of the Restigouche; and at Mars Hill, 40 miles, the summit of this isolated sugar loaf was 1,100 feet, and at the termination of the survey at the Restigouche waters, 100 miles farther, the elevation was 1,600 feet; consequently the summit of Mars Hill, 1,100 feet above the waters of the St. Croix, is 500 feet lower than the lands at the Restigouche. And yet the pretense is that there are no highlands but this detached spur, Mars Hill! Still further, the highest position surveyed is nearly 50 miles short of the Melis, which falls into the St. Lawrence, and we do not perceive that the elevations have been taken there at all, but we do find it is here that *the waters separate*, and consequently the land must be still higher.

In failure of highlands (*assumed* not to exist), the British negotiators claim a line which, instead of dividing the St. Lawrence and Atlantic waters, would actually extend between two rivers, *both of which fall into the Atlantic*.

To say nothing of the absurdity, not to say ignorance, of such a claim, it is enough that it is in the teeth of the treaty itself. It is painful to repeat the argument that no other highlands were intended, for all others were expressly excluded but those which divide the waters that flow in those different directions. The effect of their construction, as we all know, is to give them the whole of the St. John, with all its tributaries, and a tract of territory south of that river equal at least to 75 miles square.

Whether from the peaceful spirit of our Government, the Christian patience of Maine, or the "modest assurance" of the British negotiators—any or all—certain it is that His Britannic Majesty's pretensions *are growing every day*. It is not only an afterthought, but one very recently conceived, that we were to be driven south of the St. John.

His Britannic Majesty's agent, Mr. Chipman, who has been lately urging us south of that river, was also agent to the commission, under the treaty of 1795, to ascertain the true St. Croix, and in insisting on a more *western* branch of this river gives as a reason that a line due north will cross the St. John *farther up*, whereas if you

take an *eastern* branch such line will cross near Frederickton, the seat of government of New Brunswick, and materially infringe upon His Majesty's Province. He not only admits, but contends, that this north line *must* cross the river. Here are his words: "This north line must of necessity cross the river St. John." Mr. Liston, the British minister, in a private letter to Mr. Chipman of 23d October, 1798, recommends a modification of the powers of the commissioners for the reason that *it might give Great Britain a greater extent of navigation on the St. John River.* The same agent, Mr. Chipman, was also agent under the fourth article of the treaty of Ghent, and we find him contending there "that the northwest angle of Nova Scotia is the same designated in the grant to Sir William Alexander in 1621, subject only to such alterations as were occasioned by the erection of the Province of Quebec in 1763." Now we have already seen that this south line of the Province of Quebec, so far from *altering* this northwest angle, in fact confirms it.

In perfect accordance with this disposition to encroach is a proposition of the British minister (Mr. Vaughan) that inasmuch as the highlands can not be found by a due north direction from the monument we should *vary west* until we should intersect them, *but not EAST.* Now that in case a monument can not be found in the course prescribed you should look for it *at the left, but not to the right*, seems to us a very *sinisler* proposition. We have shown, and, as we think, conclusively, that the range of highlands is to be looked for on British ground, and nowhere else, because it is their own boundary, and a line which must, with an ascertained north line, form the angle of one of their own Provinces. And yet we are not to examine there at all; we have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions!

We would ask why, in what justice, if we can not find the object in the route prescribed, are we to be thus trammeled? Where is the *reciprocity* of such a proposition, so degrading to the dignity and insulting to the rights and liberties of this State? No; the people of Maine will not now, and we trust they never will, tamely submit to such a *one-sided* measure.

The next restriction or limitation with which this negotiation is to be clogged is an admission that the Restigouche and St. John are not Atlantic rivers, because one flows into the Bay de Chaleurs and the other into the Bay of Fundy; yet neither falls into the river St. Lawrence. They would then find those highlands between the St. John and the Penobscot. There can not be a more arrogant pretension or palpable absurdity. Suppose the waters of both these rivers are excluded as flowing *neither way*, still the waters that flow *each way* are so far separated as to leave a tract of country which, if equally divided, would carry us far beyond the St. John. But we admit no such hypothesis. The *Atlantic* and the *sea* are used in the charters as synonymous terms. The Restigouche, uniting with the Bay de Chaleurs, which communicates with the sea, and the St. John, uniting with the Bay of Fundy, which also communicates with the sea, and that, too, by a mouth 90 miles wide, are both Atlantic rivers. These rivers were known by the negotiators not to be *St. Lawrence rivers*; they were known to exist, for they were rivers of the first class. If they were neither St. Lawrence nor Atlantic, why were they not excepted? They were not of the former, therefore they must be included in the latter description. Indeed, if rivers uniting with Atlantic bays are not Atlantic rivers, the Penobscot and Kennebec, which unite with the respective bays of Penobscot and Sagadahock, would not be Atlantic rivers, and then where are those highlands which divide the waters referred to in the treaty of 1783? Should we leave this question unsettled a little longer, and the British claims continue to increase, we might very soon find these highlands south of the Connecticut, and all the intermediate country would be *recolonized* by "construction." We therefore invoke the sympathy of all New England, with New York besides, to unite against this progressive claim—this avalanche which threatens to overwhelm *them as well as ourselves.*

Again, if this Mars Hill (and we confess we can not speak of the pretension with any patience) is the *northwest angle*, and the north boundary of Nova Scotia and the south boundary of the Province of Quebec are the same, and north of the Bay de Chaleurs, then there is indeed *no* northwest angle, for a line due north from the monument, passing by Mars Hill, must pursue nearly the same direction to get to the north of that bay without crossing it; and who ever thought of an angle at the side of a continuous line? Now, according to the British maps taken in this very case, you must run a course of north about 14° east to obtain the north side of the bay without crossing it, and the distance would be in this almost due north direction more than 100 miles, while that from the monument to Mars Hill would be little more than 40. Now when we consider that this northerly line must form nearly a right angle to pass along the north shore of the Bay de Chaleurs, that this is 100 miles farther north than Mars Hill, where instead of an angle there can be only an inclination of 14° , can there be a greater absurdity than the British claim founded on these facts?

We will now present some facts and remarks in regard to the surveys and explorings made by the commission under the fifth article of the treaty of Ghent, and the first fact that occurs is that the elevations taken by the British surveyor stop far short of where the waters divide, and we find no proof that these elevations were carried through by our own surveyors. If the British surveyor, after ascertaining *he was still ascending* and had in fact arrived at the lands at *a branch of a river* elevated 500 feet above the summit of Mars Hill, *found it prudent to stop short*, we see no good reason why the American agent did not *proceed on* and take accurate elevations at a place where the waters divide. If such a survey was made, the committee have not been able to obtain the evidence. It is not in the maps or documents in the library or office of the Secretary of State, and the committee believe that no such elevations have been taken northerly of the first waters of the Restigouche. It is, indeed, a little singular that we have so little evidence, not only in regard to this height of land, but also of the rivers which flow into the St. Lawrence *to the left*, and *especially to the right*, of the north line from the monument.

We know some of them, to be sure, such as the *Oelle Kamouska, Verte, Trois Pistoles, Remouskey, and Metis* on the left, and the *Blanche, Louis, Magdalen*, and others on the right of this line, but we know them chiefly as *on maps* and as transcribed from older maps, but very little from actual survey or even exploration. An examination of the sources of those rivers at the right of this north line, with the important natural boundary, the north shore of the Bay de Chaleurs, would accurately define the divisional line between the Province of Quebec and Nova Scotia, which extending west would intersect the due north line and thus form the northwest angle of Nova Scotia.

It moreover appears that little or no exploration has been made of the lands *east* of the due north line. It seems strange to us, although it may be satisfactorily explained, why we should have been drawn away from this very important region. It is, indeed, the true source of inquiry. In this direction the evidence is to be found, and Maine can never be satisfied until it is looked for here.

An extraordinary method of adjusting this question, though in perfect accordance with other pretensions, has been proposed by Great Britain—that the disputed territory should be divided in equal portions, each party being satisfied of the justice of its claims. To this proposition we can not subscribe. It is equally unjust between nations and individuals. Whether a party in controversy is satisfied or not with the justice of his claims is what is only known to himself, and consequently the one whose claims are most exorbitant, however unjust, will always get the best end of the bargain. But such a rule would in this case apply most unfortunately to Maine. We are limited at farthest to the St. Lawrence, and to a very narrow point there, while the British may extend their claims to the south and west indefinitely.

Establish this principle and we shall soon find their claims, already so progressive, stretched over to the Piscataqua, and then if we are to divide equally both as to *quantity and quality* the divisional line then would fall south of the Kennebec. If the want of the consent of Maine is the obstacle to such an adjustment, we trust it will always remain an insuperable one. Indeed, we protest against the application to us of such a rule as manifestly unequal and unjust.

We come now to the recent transactions of the British colonial authorities, sanctioned, as it appears, by the Government at home, and we regret to perceive in them also those strong indications of continual and rapid encroachment which have characterized that Government in the whole of this controversy. Mr. Livingston, in his letter of 21st July, 1832, proposes that "until the matter be brought to a final conclusion both parties should refrain from the exercise of jurisdiction," and Mr. Vaughan, in reply of 14th April, 1833, in behalf of his Government, "entirely concurs." Here, then, the faith of the two Governments is *pledged* to abstain from acts of jurisdiction until all is settled. Now, how are the facts? We understand, and indeed it appears by documents herewith exhibited, that an act has passed the legislature of New Brunswick "incorporating the St. Andrews and Quebec Railroad Company," that the King has granted £10,000 to aid the enterprise, and that the legislature of Lower Canada, by its resolutions of both houses, has approved the scheme and promised its cooperation. It may be that the Government at home was not aware that this railroad must inevitably cross the disputed territory.

But this ignorance of the subject seems incredible. A railroad from St. Andrews to Quebec would be *impossible* unless it crossed the territory in question, even next to impossible and totally useless were it to pass at the north of the St. John. It seems, therefore, extraordinary indeed that the British Government, even in the incipient stages of this enterprise, should make an appropriation which is in direct violation of its solemn pledge. To give to a railroad corporation powers over our rights and property is the strongest act of sovereignty. It is an act of delegated power which we ourselves give to our own citizens with extreme caution and with guarded restrictions and reservations. This railroad *must* not only cross the disputed territory, but it crosses it 50 miles south of the St. John and almost to the southerly extremity of the British claim, extravagant as it is. By the map herewith exhibited of the survey of the route it appears that the road crosses our due north line at Mars Hill, thence doubling round it toward the south it crosses the *Roostic* between the Great and Little *Machias*, the *Alleguash* at the outlet of *First Lake*, a branch of the St. John south of *Black River*, and passes into Canada between "Spruce Hills" on the right and "Three Hills" on the left, thus crossing a tract of country south of the St. John 100 by 50 miles. We have not a copy of the act of incorporation of New Brunswick, and can not, therefore, say that the route there defined is the same as on the map. Be this as it may, certain it is, as anyone will see, that no possible route can be devised which will not cross the territory in question. It is, then, a deliberate act of power, palpable and direct, claiming and exercising sovereignty far south even of the line recommended by the King of the Netherlands.

In all our inquiries and examinations of this subject there has been great negligence in regard to this northwest angle. Judge Benson, one of the commissioners under Jay's treaty, in a letter to the President of the United States expressly and clearly defines this angle. He states distinctly that the due north line from the source of the St. Croix is the *west-side line*, and the highlands are the *north-side line* which form this angle, and this had never been questioned by the British themselves.

This due north line, *viz.*, the *west-side line*, was established by the commission of which Judge Benson was a member, and the British have made the *north-side line* to be north of the Bay de Chaleurs, and yet with these postulates to pretend that the points of intersection can not be found is one of the greatest of their absurdities; and another absurdity quite equal is that after passing west along the north shore

of this bay they would fall down nearly south more than 100 miles to Mars Hill, about 60 miles from the south shore of the Province, at the Bay of Passamaquoddy, which is part of the Bay of Fundy, and this point, too, of so little inclination that it is a palpable perversion of language to call it *an angle*, much more a northwest angle.

It is, indeed, time for us to begin to search, and in the right places, too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia, which is the south boundary of the Province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work, with the cooperation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and if they refuse our Government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to *ascertain facts*—much more pacific than the survey, *without notice*, of the St. Andrews and Quebec Railroad through our territory, not for the purpose of ascertaining a boundary, but to assume jurisdiction.

Your committee have gone through this tedious investigation with all the deliberation, exactness, and candor which our time, means, and feelings would allow. Our animadversions may in some instances have been strong, and even severe, but we think we have expressed the sentiments and feelings of the people of Maine, suffering under protracted injuries. This State should take a firm, deliberate, and dignified stand, and one which it will not retract. While it awards to the General Government all its legitimate powers, it will not be forgetful of its own. We call upon the President and Congress. We invoke that aid and sympathy of our sister States which Maine has always accorded to them. We ask, nay we demand, in the name of justice, HOW LONG we are to be thus trampled down by a foreign people? And we trust we shall meet a cordial and patriotic response in the heart of every republican of the Union.

Your committee therefore submit the following resolutions:

STATE OF MAINE.

RESOLVES relative to the northeastern boundary.

Resolved, That we view with much solicitude the British usurpations and encroachments on the northeastern part of the territory of this State.

Resolved, That pretensions so groundless and extravagant indicate a spirit of hostility which we had no reason to expect from a nation with whom we are at peace.

Resolved, That vigilance, resolution, firmness, and union on the part of this State are necessary in this state of the controversy.

Resolved, That the governor be authorized and requested to call on the President of the United States to cause the northeastern boundary of this State to be explored and surveyed and monuments erected according to the *treaty of 1783*.

Resolved, That the cooperation of Massachusetts be requested.

Resolved, That our Senators in Congress be *instructed* and our Representatives *requested* to endeavor to obtain a *speedy* adjustment of the controversy.

Resolved, That copies of this report and resolution be transmitted to the governor of Massachusetts, the President of the United States, to each of our Senators and Representatives in Congress, and other Senators in Congress, and the governors of the several States.

[Passed house March 24, 1837; passed Senate and approved March 25, 1837.]

STATE OF MAINE, EXECUTIVE DEPARTMENT,
Augusta, June 27, 1837.

His Excellency MARTIN VAN BUREN,
President of the United States.

SIR: I lose no time in communicating to Your Excellency a copy of a letter from Sir John Harvey, lieutenant-governor of the Province of New Brunswick, and also of a letter from J. A. MacLachlan to Sir John Harvey, in relation to the arrest and imprisonment of Ebenezer S. Greely.

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

ROBERT P. DUNLAP.

GOVERNMENT HOUSE,
Frederickton, New Brunswick, June 12, 1837.

His Excellency the GOVERNOR OF THE STATE OF MAINE.

SIR: Since I had the honor of addressing your excellency under date the 6th instant, announcing my assumption of the administration of this government, a report has been laid before me by the warden of the disputed territory, copy of which I feel it to be an act of courtesy toward your excellency to lose no time in communicating to you.

In including the territory within the limits of the British claim in the census which "Ebenezer Greely" appears to have been instructed to take of the population of the county of "Penobscot" he has evidently acted in ignorance or under a misconception of the subsisting relations betwixt England and the United States of America, which I can not allow myself to doubt that your excellency will lose no time in causing to be explained and removed. Though necessarily committed to confinement, I have desired that every regard may be shown to Greely's personal convenience consistent with the position in which he has *voluntarily* placed himself. I use this expression because, as your excellency will observe, Greely was informed by the warden that if he would desist from the act in which he was engaged and the language which he was holding to the people of the Madawaska settlement (acts constituting not only an interference with the acknowledged rights of jurisdiction of this Province, but the positive exercise within its limits of actual jurisdiction, however unauthorized on the part of the State of Maine) and would withdraw from this district he should be allowed to do so; otherwise that in the discharge of the duties imposed upon him by his office he (the warden), who is in the commission of the peace, must be under the necessity of apprehending, in order to make him amenable to the laws of the Province. This proposal Greely rejected, and was accordingly committed to jail to be dealt with according to law. In the meantime, as an evidence of my desire to cultivate the most friendly understanding with the government of the State of which Greely is a citizen, I lose no time in saying that upon receiving an assurance from your excellency that your authority shall be exerted in restraining this or any other citizen of the State of Maine from adopting proceedings within the British limits (as claimed) calculated to infringe the authority and jurisdiction of this Province and to disturb and unsettle the minds of that portion of its inhabitants residing in the disputed territories until the question in dispute be brought to a final settlement Greely shall immediately be enlarged.

Trusting that your excellency will see in this proposition an anxious desire on my part to redeem the pledge given in my communication of the 6th instant, I have the honor to be, your excellency's most obedient, humble servant,

J. HARVEY,
Major-General, Lieutenant-Governor, etc.

FREDERICKTON, NEW BRUNSWICK, June 10, 1837.

His Excellency Major-General SIR JOHN HARVEY, K. C. H.,

Licutenant-Governor, etc.:

May it please your excellency: In obedience to your excellency's instructions, communicated to me through the advocate-general in the absence of the attorney and solicitor generals, I have now the honor to report for the information of your excellency that I proceeded with the least possible delay to the Madawaska settlement. On my arrival at the Great Falls, 130 miles from hence, I was informed the American citizen Ebenezer S. Greely had passed up the day previous for the purpose of again proceeding with the census of the inhabitants of Madawaska under authority from the State of Maine. Aware of the probable excitement that would naturally arise between the two governments from this circumstance, and at the same time fully convinced that His Majesty's Government would but regret any unnecessary misunderstanding during the pending negotiation, I thought it advisable to call upon Mr. Coombs, a magistrate residing 12 miles above the Falls, and request him to accompany me, which he readily did, to witness the conversation between Mr. Greely and myself.

We then proceeded and overtook Mr. Greely a short distance above Green River, about 24 miles from the Falls, having ascertained by the inhabitants, as he passed up the river, that Mr. Greely was the whole of the previous day employed in taking down their names, number of each family, and stating they would shortly receive from the State of Maine a sum of money not exceeding \$3 for each head of family out of the surplus revenue of the United States.

I required Mr. Greely to show me his instructions for exercising authority in Madawaska, when he handed me a document, a copy of which I beg to inclose your excellency, and after perusing the same I returned it with my opinion that I really thought he (Mr. Greely) had mistaken the intention of his instructions, as no allusion was made either to that settlement or the territory in dispute, and therefore if he would then desist in taking the census I would take no notice of what had passed. Moreover, in reply to my advice and request, he (Mr. Greely) remonstrated and attempted to make it appear that he would be fully borne out by his government in what he had done, and it was also his intention to complete the census if he was not prevented; this reply I regret having left me no alternative but to make him a prisoner, which I did on Wednesday, the 7th instant. On Friday evening I arrived in Frederickton, and this morning (Saturday), by the advice of the advocate-generals, I committed him to the gaol of the county of York.

I have the honor to be, your excellency's most obedient, humble servant.

J. A. MACLAUCHLAN,
Warden of the Disputed Territory.

STATE OF MAINE, EXECUTIVE DEPARTMENT,

June 19, 1837.

His Excellency MARTIN VAN BUREN,

President of the United States.

SIR: I have the honor to inclose to Your Excellency the copy of a letter which came to hand by the last mail, by which it appears that Ebenezer S. Greely, esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska, has been arrested by the authorities of the Province of New Brunswick and is now incarcerated in the jail at Frederickton.

In this state of things it becomes my painful duty to make this communication to Your Excellency and to insist that prompt measures be adopted by the Government of the United States to effect the early release of the aforementioned citizen.

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

ROBERT P. DUNLAP.

FREDERICKTON, PROVINCE OF NEW BRUNSWICK,

June 12, 1837.

ROBERT P. DUNLAP, Esq.,
Governor of Maine.

SIR: On the 15th of May last I was appointed by the county commissioners of Penobscot County to take the census of Madawaska. On the 6th of June instant I was arrested by Mr. Maclauchlan, from this place, and committed to jail by him, and there I now remain—in the prison at Frederickton. I was committed on the 10th instant. I addressed a letter to you on the 10th, which has gone by the way of St. Andrews. Fearing that letter will not arrive soon, I write again to-day by way of Houlton. I have described my arrest more particularly in my first letter, which you will undoubtedly receive before long; therefore I only give the facts in this, having a chance, by the assistance of Mr. Lombard, of Hallowell, of forwarding this to Houlton privately. I was employed in business of the State, and do expect my Government will intercede and liberate me from prison in a foreign and adjacent Province. I shall be pleased to receive a line from you expressing your opinion, direction, etc.

I remain, sir, respectfully, your obedient servant,

EBEN'R. S. GREELY.

DEPARTMENT OF STATE,
Washington, June 26, 1837.His Excellency ROBERT P. DUNLAP, Esq.,
Governor of Maine.

SIR: I have the honor, by direction of the President, to acknowledge the receipt of your letter to him of the 19th instant, inclosing the copy of a communication dated the 12th of the same month addressed to you by Ebenezer S. Greely, esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska, from which it appears that he has been arrested by the authorities of the Province of New Brunswick and is now in confinement in the jail at Frederickton, and insisting that prompt measures be adopted by the Government of the United States to effect the early release of the above-named citizen.

The circumstances attending this outrage as given in Mr. Greely's letter are not sufficient, in the view of the President, to warrant the interference of the Government at present. For what cause, at what place, and by what authority the arrest was made is not stated. The necessary explanations may be found, perhaps, in the previous communication which Mr. Greely refers to as having been addressed to you by him on the 10th June; if not, it is probable that you will easily be able to obtain explicit information from other sources and communicate it to this Department. It is indispensable that a full knowledge of all the facts illustrative of the case should be in possession of the Government before any formal application for redress can be properly preferred.

In the meantime I have in conversation unofficially called the attention of Mr. Fox, the British minister at Washington, to this complaint, and he has given me an assurance that he will immediately address a representation on the subject to the governor of New Brunswick requesting, unless there shall be some very extraordinary reasons against it, that Mr. Greely may be set at liberty.

I am, sir, your obedient servant,

JOHN FORSYTH.

STATE OF MAINE, EXECUTIVE DEPARTMENT,

Augusta, June 27, 1837.

Hon. JOHN FORSYTH,

Secretary of State of the United States.

SIR: I would respectfully solicit copies of all documents and papers in the Department of State of the United States in relation to the subject of the northeastern boundary, with the exception of such as were furnished this department by the General Government in the year 1827. It is understood that copies have been furnished relative to this subject down to the respective statements submitted by the two Governments to the King of the Netherlands, but the arguments we have not been furnished with.

I am, very respectfully, your obedient servant,

ROBERT P. DUNLAP.

STATE OF MAINE, EXECUTIVE DEPARTMENT,

July 3, 1837.

Hon. JOHN FORSYTH,

Secretary of State of United States.

SIR: I have had the honor to receive yours of the 26th of June last, in which, by direction of the President, you indicate that the circumstances detailed in Mr. Greely's letter relative to his arrest and imprisonment are not of themselves without further explanation sufficient to justify the interference of the Government of the United States. This information is received with some surprise and much regret—surprise because I had understood Mr. Greely's communication to show that while employed within the limits of this State and under its authority on a business intrusted to him by the laws of the State he was, without being charged or suspected of any other offense, seized and transported to a foreign jail; regret inasmuch as the feelings of the people of this State have been strongly excited by this outrage upon the honor and sovereignty of Maine, and each additional day's confinement which that unoffending citizen endures is adding to the indignation of our citizens. I therefore hasten to lay before you a summary of the transactions connected with this subject as they are gathered from Mr. Greely's communications to this department. The facts are to be considered the less indisputable because they are in the main confirmed by the statements contained in the letter of the lieutenant-governor of the Province of New Brunswick, by whose order the imprisonment was made, and a copy of which I recently had the honor of transmitting to the President.

On the 8th day of March last the legislature of this State passed an act relative to the surplus revenue, a copy of which is inclosed,* to the eleventh, twelfth, and thirteenth sections of which I beg leave to refer your attention. An additional act was passed on the 29th day of March last, a copy of which I also inclose.* By this last-named act it became the duty of the county commissioners of Penobscot County to cause an enumeration to be taken of the inhabitants of said county residing north of the surveyed and located townships. The tract thus defined comprised the town of Madawaska, which was incorporated by this State on the 15th of March, 1831. Pursuant to that requirement, the county commissioners of said county appointed Ebenezer S. Greely to perform that service, and, being duly commissioned, he forthwith proceeded to the place designated and entered upon the required operations. Being thus employed, he was on the 29th day of May last arrested by the authorities of the Province of New Brunswick and conveyed to Woodstock, in the county of Carleton, in said Province, but the sheriff of the county refused to commit him to jail, and he was accordingly discharged. He immediately returned to the

*Omitted.

Madawaska settlements to enter again upon the duty intrusted to him. On the 6th day of June last he was arrested a second time by the same authorities and committed to the jail at Frederickton. It is for this act of obedience to the laws of his government that Mr. Greely now lies incarcerated in a public jail in the Province of New Brunswick. Is not redress urgently called for? Must not this unoffending citizen be immediately released?

Permit me, sir, to add my confident belief that the President on this presentation of the facts relative to this outrage upon the national as well as the State rights will not fail to demand the immediate release of Ebenezer S. Greely and to interpose suitable claims of indemnity for the wrongs so wantonly enforced upon him.

I am, very respectfully, your obedient servant,

ROBERT P. DUNLAP.

DEPARTMENT OF STATE,
Washington, July 14, 1837.

Hon. ROBERT P. DUNLAP,
Governor of the State of Maine.

SIR: Your letter of the 3d instant has been received. The surprise you express that the information contained in the letter of Mr. Greely which accompanied your former communication was not considered sufficient to enable the President to make a formal application to the British Government for his release has probably arisen from your not having adverted particularly to the defects of his statement. It was not expressly mentioned for what offense the arrest was made nor where it took place—upon the territory in dispute between the United States and Great Britain or beyond it. The character of the charge and the place at which the offense was committed might have been inferred from what was stated, but you must perceive the impropriety of a formal complaint from one government to another founded upon inference when the means of ascertaining and presenting the facts distinctly were within the power of the party complaining; but although this Department felt itself constrained by these considerations to delay a formal application to the British Government for the release of Mr. Greely, it lost no time, as has been already stated, in procuring the interference to that end of the British minister near this Government; and I have now the satisfaction to inform you that I have learnt from him that he has opened a correspondence with the lieutenant-governor of New Brunswick, which it is expected will lead to the release of Greely from confinement without waiting for the decision of His Britannic Majesty's Government on the whole question.

The information communicated to the Department since the receipt of your letter of the 3d instant is sufficiently explicit, and a note founded upon it has been, by direction of the President, addressed to Mr. Stevenson, instructing him to demand the immediate liberation of Mr. Greely and indemnity for his imprisonment.

I have the honor to be, sir, your obedient servant,

JOHN FORSYTH.

P. S.—The papers asked for in your letter of the 27th ultimo will be sent to you.

DEPARTMENT OF STATE,
Washington, July 19, 1837.

Hon. ROBERT P. DUNLAP,
Governor of Maine.

SIR:—In compliance with the request contained in your letter of the 27th ultimo, I have the honor to transmit to you a printed volume containing a statement on the part of the United States of the case referred, in pursuance of the convention of the 29th September, 1827, between the said States and Great Britain to the King

of the Netherlands for his decision thereon, and to refer you for such other papers and documents in relation to the northeastern boundary as have not been specially furnished by this Department to the executive of Maine to the following numbers in the volumes of documents of the Senate and House of Representatives distributed under a resolution of Congress, and which have been from time to time transmitted to the several State governments, including that of Maine:

Documents of the House of Representatives: First session Twentieth Congress, Nos. 217, 218; second session Twentieth Congress, No. 90; second session Twenty-third Congress, No. 62. Documents of the Senate: First session Twenty-fourth Congress, No. 414.

I have the honor to be, sir, your obedient servant,

JOHN FORSYTH.

STATE OF MAINE, EXECUTIVE DEPARTMENT,

July 28, 1837.

His Excellency MARTIN VAN BUREN,

President of the United States.

SIR: Impelled by a sense of duty arising from the oversight committed to me of the rights and interests of this State, I beg leave to invite the attention of Your Excellency to the subject of the northeastern boundary of Maine. By the federal compact the obligation of defending each State against foreign invasion and of protecting it in the exercise of its jurisdictional rights up to its extreme line of boundary is devolved upon the National Government. Permit me respectfully to inform the President that in the opinion of the people of Maine the justice due to this State in this respect has not been rendered.

Let it not be suspected that the discontents which are moving strongly and deeply through the public mind flow from any deficiency of attachment or practical adhesion to our National Government. Without appealing to the blood so freely poured out in war by the citizens of Maine, to the privations so cheerfully endured while the restrictive measures of the Government were prostrating the most important interests of this commercial people, or to the support of the Union so cordially given through every vicissitude up to the present hour, such a suspicion, if it could arise, would be sufficiently refuted by merely adverting to the forbearance with which they have so long endured the aggressions by a foreign government upon their sovereignty, their citizens, and their soil.

It would be easy to prove that the territory of Maine extends to the highlands north of the St. John; but that point, having been not only admitted, but successfully demonstrated, by the Federal Government, needs not now to be discussed. Candor, however, requires me to say that this conceded and undeniable position ill accords with the proceedings in which the British authorities have for many years been indulged, and by which the rightful jurisdiction of Maine has been subverted, her lands ravaged of their most valuable products, and her citizens dragged beyond the limits of the State to undergo the sufferings and ignominies of a foreign jail. These outrages have been made known to the Federal Government; they have been the subject of repeated remonstrances by the State, and these remonstrances seem as often to have been contemned. It can not be deemed irrelevant for me here to ask, amid all these various impositions, and while Maine has been vigorously employed in sustaining the Union and in training her children to the same high standard of devotion to the political institutions of the country, what relief has been brought to us by the Federal Government. The invaders have not been expelled. The sovereignty and soil of the State are yet stained by the hostile machinations of resident emissaries of a foreign government. The territory and the jurisdiction of 6,000,000 acres, our title to which the Government of the United States has pronounced to be perfect, have, without the knowledge of Maine, been once put entirely at hazard. Grave

discussions, treaty arrangements, and sovereign arbitration have been resorted to, in which Maine was not permitted to speak, and they have resulted not in removing the fictitious pretensions, but in supplying new encouragements to the aggressors. Diplomatic ingenuity, the only foundation of the British claim, has been arrayed against the perfect right. In the meantime a stipulation made by the Executive of the nation, without the knowledge of Maine, purported to preclude her from reclaiming her rightful jurisdiction until the slow process of a negotiation should be brought to a close. Whatever the real force of that stipulation might be, made as it was without the concurrence of the two branches of the treaty-making power, it was hoped when it expired by the closing up of that negotiation that a measure fraught with such hurtful consequences to Maine would not again be attempted; but that hope was to be disappointed, and now, by a compact of similar character, a writ of protection appears to have been spread by our own Government over the whole mass of British aggressions. What, then, has the Federal Government done for this State? May it not be said, in the language of another, "Maine has not been treated as she endeavored to deserve"?

On the 22d day of April last I had the honor to transmit to Your Excellency certain resolves passed by the legislature of this State relative to the northeastern boundary, and in behalf of the State to call upon the President of the United States to cause the line to be explored and surveyed and monuments thereof erected. That this call, made by direction of the legislature, did not extend to the expulsion of invaders, but merely to the ascertainment of the treaty line, will, I trust, be viewed as it was designed to be, not only as an evidence of the continued forbearance of Maine, but as a testimonial of the confidence she cherished that the Federal Executive would protect the territory after its limitation should be ascertained. That this application would meet with favor from the Federal Executive was expected, more especially as Congress had made a specific appropriation for the purpose. I will not attempt to conceal the mortification I have realized that no reply has been made to that communication nor any measures taken, so far as my information extends, for effecting the object proposed.

It now remains that in the exercise of that faithfulness for which I stand solemnly pledged to the people of Maine I should again commend to the attention of the National Executive this apparently unwelcome but really important subject.

I have, therefore, the honor again to request that the President will cause the treaty line upon the northeastern limits of Maine to be run and marked, and I can not but hope that on a reexamination of the subject Your Excellency will concur with this State in relation to the rightfulness and the necessity of the measure proposed, as well as to all the remedies to be adopted for restoring to Maine the invaluable rights from which she has so long been debarred.

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

ROBERT P. DUNLAP.

DEPARTMENT OF STATE,
Washington, August 17, 1837.

His Excellency ROBERT P. DUNLAP,
Governor of the State of Maine.

SIR: Your letter of the 28th ultimo to the President was duly received. It has been referred to this Department with instructions to make a suitable reply.

Your excellency is of opinion that the Federal Government has for a series of years failed to protect the State of Maine in the exercise of her jurisdictional rights to the extent of her boundary, and complains that these rights have been in consequence thereof subverted, the lands of the State ravaged of their most valuable productions, and her citizens subjected to imprisonment in a foreign jail. Your excellency particularly objects to the course of the Federal Government for having,

without the knowledge of the State, put entirely at hazard the title of Maine, admitted by the Government of the United States to be perfect, to the territory in question by the resort to diplomatic discussions, treaty arrangements, and foreign arbitration in which Maine was not permitted to speak; for having entered into a stipulation without her consent purporting to preclude the State from retaining her rightful jurisdiction pending a negotiation, and for the continuance of it after that negotiation was supposed to have been concluded, and for an omission on the part of the Executive of the United States to comply with an application of the State made through her legislature to have the boundary line between Maine and the British North American possessions explored, surveyed, and monuments erected thereon in pursuance of the authority conferred on the President by Congress and of a request made by your excellency, which is now renewed.

The views which your excellency has been pleased to take of the subject at this time embrace measures some of which have long since ceased to be operative and reach back to the propriety of the stipulations entered into by the treaty of Ghent, also of the subsequent negotiation designed to bring those stipulations to a satisfactory result in the mode prescribed by that treaty—that of arbitrament. It being, as your excellency states, the opinion of Maine that those proceedings were unjust and unwise, it is, in a matter in which she is so deeply interested, her undoubted right to say so; yet the President thinks that he can not be mistaken in believing that no practical good can at this time be expected from discussion between the Federal and State Governments upon those points. That the measures referred to have not been as fortunate in their results as was hoped is entirely true, but your excellency may nevertheless be assured that they had their origin in a sincere desire on the part of the Federal Government to discharge all its duties toward the State of Maine as a member of the Union, and were resorted to in the full belief that her just rights would be promoted by their adoption.

In speaking of the restrictions imposed upon Maine in reclaiming her rightful jurisdiction your excellency doubtless refers to the understanding between the Federal Government and that of Great Britain that each party should abstain from the exercise of jurisdiction over the disputed territory during the pendency of negotiation. Unless it be correct to say that the controversy was one that did not admit of negotiation, and that the duty of the Federal Government consisted only in an immediate resort to maintain the construction put by itself upon its own rights and those of the State of Maine, there would seem to be no reasonable objection to such an arrangement as that alluded to, whether it be viewed in respect to the interests or the peaceful and just characters of the respective Governments. That this arrangement was not abrogated at the period at which your excellency is understood to suppose that it ought to have been done, viz, upon the failure of a settlement of the controversy by arbitration, is explained by events of subsequent occurrence. When the award of the arbitrator was submitted by the late President to the Senate of the United States, that body refused its advice and consent to the execution of the award, and passed a resolution recommending to him to open a new negotiation with Great Britain for the ascertainment of the boundary according to the treaty of peace of 1783. That negotiation was forthwith entered upon by the Executive, is still pending, and has been prosecuted with unremitting assiduity. It is under such circumstances that the Federal Executive has decided upon a continued compliance with the arrangement referred to, and has insisted also upon its observance on the part of Great Britain.

Considerations of a similar nature have induced the President to refrain hitherto from exercising the discretionary authority with which he is invested to cause the boundary line in dispute to be explored, surveyed, and monuments to be erected thereon. Coinciding with the government of Maine on the question of the true boundary between the British Provinces and the State, the President is yet bound by

duty to consider the claim which has been set up by a foreign power in amity with the United States and the circumstances under which the negotiation for the adjustment of that claim has been transmitted to him. It could not be useful to examine the foundation of the British claim in a letter to your excellency. Respect for the authorities of a friendly nation compels us to admit that they have persuaded themselves that their claim is justly grounded. However that may be, the present President of the United States upon entering on the discharge of the duties of his office found that a distinct proposition had been made by his predecessor for the purpose of amicably settling this long-disputed controversy, to which no answer has yet been received. Under such circumstances the President was not able to satisfy himself, however anxious to gratify the people and the legislature of Maine, that a step like that recommended by them could be usefully or properly taken.

The clause containing the specific appropriation made by the last Congress for exploring, surveying, and marking certain portions of the northeastern boundary of the United States, to which your excellency alludes, is by no means imperative in its character. The simple legislative act of placing a sum of money under the control of the Executive for a designated object is not understood to be a direction that it must in any event be immediately applied to the prosecution of that object. On the contrary, so far from implying that the end in view is to be attained at all hazards, it is believed that it merely vests a discretionary power in the President to carry out the views of Congress on his own responsibility should contingencies arise to render expedient the proposed expenditure.

Under existing circumstances the President deems it proper to wait for the definitive answer of the British Government to the last proposition offered by the United States. When received, a further communication to your excellency may be found proper, and if so will be made without unnecessary delay.

It can not be necessary to assure your excellency that the omission to reply to your communication forwarding to this Department the resolutions of the legislature of Maine did not in any degree arise either from a want of respect for their wishes or for the wishes of your excellency, or from indifference to the interests of the State. When these resolutions were received, there was every reason at no distant day to expect what is now daily looked for—a definitive answer to the proposition just alluded to, to which the attention of the British Government had been again forcibly invited about the time those resolutions were on their passage. Under this expectation a reply to the application from Maine was temporarily delayed; the more readily as about the time of its reception the Representatives of Maine, acting in reference to one of those resolutions, had a full and free conversation with the President. The most recent proceedings relative to the question of boundary were shewn to them in this Department by his directions, and the occasion thus afforded was cheerfully embraced of offering frank and unreserved explanations of the President's views.

Of the recent events which have called the attention of the State of Maine to the question of the northeastern boundary, and which have been brought by it to the notice of the President, one—the arrest and imprisonment of Mr. Greely—has already been made the subject of communication with your excellency. All that it was competent for the Federal Executive to do has been done. Redress has been demanded, will be insisted upon, and is expected from that authority from whom alone redress can properly be sought. The President has followed the same course that was pursued by one of his predecessors and which was understood to be satisfactory to the State of Maine under circumstances of a somewhat similar character. In respect to the other—the projected construction of a railroad between St. Andrews and Quebec—a representation has been addressed to the British Government stating that the proposed measure is inconsistent with the understanding between the two Governments to preserve the *status quo* in the disputed territory until the question of boundary be satisfactorily adjusted, remonstrating against the project as contrary

to the American claim and demanding a suspension of all further movements in execution of it. No answer has yet been received to this communication. From an informal conversation between the British minister at Washington and myself at the Department of State, the President is, however, firm in the conviction that the attempt to make the road in question will not be further prosecuted.

I am, in conclusion, directed to inform you that however unbounded may be the confidence of the legislature and people of Maine in the justice of their claim to the boundary contended for by the United States, the President's is not less so; and your excellency may rest assured that no exertions have been or shall be spared on his part to bring to a favorable and speedy termination a question involving interests so highly important to Maine and to the Union.

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

JOHN FORSYTH.

DEPARTMENT OF STATE,

Washington, August 25, 1837.

His Excellency ROBERT P. DUNLAP,

Governor of Maine.

SIR: I have the honor to transmit to your excellency, by direction of the President, the copy of a note from the British minister at Washington, dated yesterday, stating that the Government of Her Britannic Majesty has been pleased to direct the immediate discontinuance by the colonial authorities of Lower Canada and New Brunswick, respectively, of all operations connected with the projected railroad between the cities of Quebec and St. Andrews.

Mr. Fox took occasion on Wednesday last to inform me that Mr. Greely had been discharged from imprisonment at Fredericton, a fact of which doubtlessly your excellency has been some time since apprised.

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

JOHN FORSYTH.

DEPARTMENT OF STATE,

Washington, March 23, 1837.

HENRY S. FOX, Esq., etc.:

The undersigned, Secretary of State of the United States, has the honor, by direction of the President, to invite the attention of Mr. Fox, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, to a subject which from its high importance demands the prompt consideration of His Majesty's Government.

It appears from representations and documents recently received at the Department of State that a number of inhabitants of the town of St. Andrews, in New Brunswick, associated themselves together in the year 1835, by the name of the St. Andrews and Quebec Railroad Association, for the purpose of bringing into public notice the practicability of constructing a railway between those ports, and that sundry resolutions were passed in furtherance of this object; that the project was sanctioned and patronized by the governor in chief of British North America, the lieutenant-governors of New Brunswick and Nova Scotia, and the legislatures and people of the Provinces of Lower Canada and New Brunswick; that the route of the proposed railroad had been explored as far as the head waters of the St. John River by surveyors employed by the association; that an act has actually passed the legislature of New Brunswick incorporating this company, and that a similar act was expected to be passed in Lower Canada; that letters were addressed to the boards of trade of Quebec and Montreal requesting their cooperation; that these communications were favorably received, and that petitions had been forwarded to His Britannic Majesty, signed by committees of the association and by inhabitants of the cities of Quebec and

Montreal, soliciting the construction of a railway between the ports above named, or the extension of royal aid and protection to the petitioners in the proposed undertaking.

Without allowing himself for a moment to believe that His Britannic Majesty's Government will in any manner countenance the projected railroad from St. Andrews to Quebec when the slightest inspection of the map of the country which it crosses will show that its intended location would be for a great portion of the route an encroachment upon the territory in dispute between the United States and Great Britain, the President yet sees cause for painful surprise and deep regret in the fact that the civil authorities of His Majesty's Provinces on our northeastern borders should have lent their encouragement to or should in any wise have promoted an undertaking which if persevered in will inevitably lead to the most disastrous consequences. The object of the association from its inception was objectionable, since it could only be effected by entering upon territory the title to which was controverted and unsettled—a proceeding which could not fail to be offensive to the Government and people of the United States. Still more unjustifiable was the act of sovereignty giving to this company corporate powers over property known to be claimed by citizens of a friendly and neighboring State, and which constituted at the time the subject of an amicable negotiation between the Government of His Majesty and that of the United States. The President regrets to see in this step on the part of His Majesty's provincial authorities and subjects a most exceptional departure from the principle of continuing to abstain during the progress of negotiation from any extension of the exercise of jurisdiction within the disputed territory on either side, the propriety of which has been hitherto so sedulously inculcated and so distinctly acquiesced in by both parties. An understanding that this principle should be observed by them was the natural result of the respective positions and pacific intentions of the two Governments, and could alone prevent the exercise of asserted rights by force. Without it the end of all negotiation on the subject would have been defeated. If, therefore, nothing had been said by either party relative to such an understanding, it would have been proper to infer that a tacit agreement to that effect existed between the two Governments. But the correspondence between them is sufficiently full and explicit to prevent all misconception. The views of both Governments in respect to it will be found in the letters of the Secretary of State to the minister of Great Britain dated the 18th of January, 1826, 9th of January, 11th of March, and 11th of May, 1829, and of the British minister to the Secretary of State dated 15th of November and 2d of December, 1825; 16th of January, 1827; 18th of February and 25th of March, 1828, and 14th of April, 1833, as well as in other communications, which it is deemed needless now to designate.

The undersigned is directed by the President to inform Mr. Fox that the prosecution of the enterprise above referred to will be regarded by this Government as a deliberate infringement of the rights of the United States to the territory in question and as an unwarrantable assumption of jurisdiction therein by the British Government, and the undersigned is instructed to urge the prompt adoption of such measures as may be deemed most appropriate by His Majesty's Government to suspend any further movements in execution of the proposed railroad from St. Andrews to Quebec during the continuance of the pending negotiations between the two Governments relative to the northeastern boundary of the United States.

The proceedings above alluded to, considered in connection with incidents on other parts of the disputed boundary line well known to His Majesty's ministers, would seem to render it indispensable to the maintenance of those liberal and friendly relations between the two countries which both Governments are so sincerely anxious to preserve that they should come to a speedy adjustment of the subject. The recent resolutions of the State of Maine, to which the projected railroad from St. Andrews to Quebec gave rise, requesting the President of the United States to cause the line

established by the treaty of 1783 to be run and monuments to be established thereon, and the appropriation of \$20,000 by Congress at their late session to enable the Executive to carry that request into effect, with a subsequent earnest application from the Representatives of Maine for an immediate compliance with it, afford additional incentives to exertion to bring this controversy to a conclusion not to be disregarded by the President of the United States.

The President therefore awaits with great anxiety the decision of His Majesty's Government on the proposition made by the undersigned to His Majesty's chargé d'affaires at Washington in February, 1836, suggesting the river St. John, from its mouth to its source, as an eligible and convenient line of boundary. No small degree of disappointment has been felt that this decision, already long expected, has not been given, but the hope is entertained that the result of this protracted deliberation will prove favorable to the wishes of the President, and that even if that proposition be not acceded to by His Britannic Majesty some definitive offer looking to a prompt termination of the controversy will be made without further delay.

The undersigned avails himself of this occasion to renew to Mr. Fox the assurance of his distinguished consideration.

JOHN FORSYTH.

WASHINGTON, *March 23, 1837.*

Hon. JOHN FORSYTH, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has had the honor to receive the official note addressed to him under date of the 23d instant by Mr. Forsyth, Secretary of State of the United States, upon the subject of information received by the United States Government of a projected railroad between the cities of Quebec and St. Andrews, and upon certain other matters connected with the question of the boundary line between the United States and the British possessions in North America.

The undersigned, in accordance with the wishes of the President signified in Mr. Forsyth's official note, will not fail immediately to convey that note to the knowledge of his Government at home; and he entertains no doubt that His Majesty's Government will proceed to the consideration of the several matters therein contained with the serious and ready attention that their importance deserves.

The undersigned avails himself of this occasion to renew to Mr. Forsyth the assurance of his high esteem and consideration.

H. S. FOX.

WASHINGTON, *August 24, 1837.*

Hon. JOHN FORSYTH, etc.

SIR: With reference to the official note which, by direction of the President, you addressed to me on the 23d of March last, respecting a projected railroad between the cities of Quebec and St. Andrews, which it was apprehended would, if carried into effect, traverse a part of the territory at present in dispute between Great Britain and the United States, I am now enabled to inform you that, in consideration of the arguments and observations contained in your note, Her Majesty's Government has been pleased to direct the colonial authorities of Lower Canada and New Brunswick, respectively, to cause all operations connected with the above-mentioned project within the limits of the disputed territory to be immediately discontinued.

I have the honor to be, sir, with high respect and consideration, your most obedient and humble servant,

H. S. FOX. -

Mr. Stevenson to Lord Palmerston.

[Extract.]

23 PORTLAND PLACE, August 10, 1837.

* * * * *

The undersigned will avail himself of the occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long-pending controversy [respecting the northeastern boundary] and the increased obstacles which will be thrown in the way of its harmonious settlement by these repeated collisions of authority and the exercise of exclusive jurisdiction by either party within the disputed territory.

He begs leave also to repeat to his lordship assurances of the earnest and unabated desire which the President feels that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of Her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the undersigned had been led to believe would long since have been given; and he has been further directed to say that should this proposition be disapproved the President entertains the hope that some new one, on the part of Her Majesty's Government, will immediately be made for the final and favorable termination of this protracted and deeply exciting controversy.

The undersigned begs Lord Palmerston to receive renewed assurances of his distinguished consideration.

A. STEVENSON.

WASHINGTON, September 26, 1837.

To the House of Representatives of the United States:

In compliance with that part of the resolution of the House of Representatives of the 9th of January last which relates to the diplomatic correspondence of the late William Tudor while chargé d'affaires of the United States to Brazil, I transmit a report from the Secretary of State, together with the documents by which it was accompanied.

M. VAN BUREN.

WASHINGTON, September 30, 1837.

To the House of Representatives of the United States:

In compliance with the resolution of the House of Representatives of the United States of the 13th instant, respecting an annexation of Texas to the United States, I transmit a report from the Secretary of State and the documents by which it was accompanied.

M. VAN BUREN.

WASHINGTON, September 30, 1837.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report of the Secretary of State, containing the information requested by their resolution of the 19th instant, together with the documents by which the report was accompanied.

M. VAN BUREN.

DEPARTMENT OF STATE,
Washington, September 29, 1837.

The PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 19th instant, requesting the President to communicate to that House what measures have been adopted since the adjournment of the last Congress in relation to the tobacco trade between the United States and foreign countries, also such information as he may have received from our ministers or other agents abroad in relation to the same, has the honor to report that since the adjournment of the last Congress instructions have been given to the diplomatic representatives of this country at the Courts of Great Britain, France, Russia, Prussia, Sweden, Denmark, Holland, and Belgium directing them to endeavor to procure from the respective Governments to which they are accredited the abolition or modification of the existing duties and restrictions upon tobacco imported from the United States, and that special agents have been appointed to collect information respecting the importation, the cultivation, the manufacture, and consumption of tobacco in the various States of Germany to which the United States have not accredited representatives, and to prepare the way for negotiations for the promotion of the interests of the tobacco trade with those countries. A copy of the dispatches of the representatives of the United States received upon this subject is herewith communicated.*

The special agents have proceeded to the execution of their duties, but no report has as yet been received from either of them.

All which is respectfully submitted.

JOHN FORSYTH.

WASHINGTON CITY, *October 2, 1837.*

To the Senate of the United States:

I transmit herewith, for the consideration of the Senate, a treaty concluded with the Miami tribe of Indians by General Marshall in 1834, with explanatory documents from the Department of War, and ask its advice in regard to the ratification of the original treaty with the amendments proposed by the Secretary of War; the treaty, with the amendments, in the event of its ratification by the United States, to be again submitted to the chiefs and warriors of the Miami tribes for their sanction or rejection.

M. VAN BUREN.

WASHINGTON, *October 2, 1837.*

To the House of Representatives of the United States:

In compliance with the resolution of the House of Representatives of the 13th ultimo, concerning the boundary between the United States and the Mexican Republic and a cession of territory belonging to the Mexican Confederation to the United States, I transmit a report from the Secretary of State and the documents by which it was accompanied.

M. VAN BUREN.

[*Omitted.]

WASHINGTON, October, 1837.

To the House of Representatives of the United States:

I have the honor, in compliance with the resolution of the House of Representatives of the 4th instant, to transmit the proceedings of the court of inquiry in the case of Brevet Brigadier-General Wool.*

M. VAN BUREN.

PROCLAMATION.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas by an act of Congress of the United States of the 25th of May, 1832, entitled "An act to exempt the vessels of Portugal from the payment of duties of tonnage," it was enacted as follows: "No duties upon tonnage shall be hereafter levied or collected of the vessels of the Kingdom of Portugal: *Provided, always,* That whenever the President of the United States shall be satisfied that the vessels of the United States are subjected in the ports of the Kingdom of Portugal to payment of any duties of tonnage, he shall by proclamation declare the fact, and the duties now payable by vessels of that Kingdom shall be levied and paid as if this act had not been passed;" and

Whereas satisfactory evidence has been received by me not only that the vessels of the United States are subjected in the ports of the said Kingdom of Portugal to payment of duties of tonnage, but that a discrimination exists in respect to those duties against the vessels of the United States:

Now, therefore, I, Martin Van Buren, President of the United States of America, do hereby declare that fact and proclaim that the duties payable by vessels of the said Kingdom of Portugal on the 25th day of May, 1832, shall henceforth be levied and paid as if the said act of the 25th of May, 1832, had not been passed.

Given under my hand, at the city of Washington, the 11th day of October, 1837, and of the Independence of the United States the sixty-second.

M. VAN BUREN.

By the President:

JOHN FORSYTH,

Secretary of State.

*Respecting transactions in the Cherokee country.

FIRST ANNUAL MESSAGE.

WASHINGTON, December 5, 1837.

Fellow-Citizens of the Senate and House of Representatives:

We have reason to renew the expression of our devout gratitude to the Giver of All Good for His benign protection. Our country presents on every side the evidences of that continued favor under whose auspices it has gradually risen from a few feeble and dependent colonies to a prosperous and powerful confederacy. We are blessed with domestic tranquillity and all the elements of national prosperity. The pestilence which, invading for a time some flourishing portions of the Union, interrupted the general prevalence of unusual health has happily been limited in extent and arrested in its fatal career. The industry and prudence of our citizens are gradually relieving them from the pecuniary embarrassments under which portions of them have labored; judicious legislation and the natural and boundless resources of the country have afforded wise and timely aid to private enterprise, and the activity always characteristic of our people has already in a great degree resumed its usual and profitable channels.

The condition of our foreign relations has not materially changed since the last annual message of my predecessor. We remain at peace with all nations, and no efforts on my part consistent with the preservation of our rights and the honor of the country shall be spared to maintain a position so consonant to our institutions. We have faithfully sustained the foreign policy with which the United States, under the guidance of their first President, took their stand in the family of nations—that of regulating their intercourse with other powers by the approved principles of private life; asking and according equal rights and equal privileges; rendering and demanding justice in all cases; advancing their own and discussing the pretensions of others with candor, directness, and sincerity; appealing at all times to reason, but never yielding to force nor seeking to acquire anything for themselves by its exercise.

A rigid adherence to this policy has left this Government with scarcely a claim upon its justice for injuries arising from acts committed by its authority. The most imposing and perplexing of those of the United States upon foreign governments for aggressions upon our citizens were disposed of by my predecessor. Independently of the benefits conferred upon our citizens by restoring to the mercantile community so many millions of which they had been wrongfully divested, a great service was also rendered to his country by the satisfactory adjustment of so many ancient and irritating subjects of contention; and it reflects no ordinary credit on his successful administration of public affairs that this great object was accomplished without compromising on any occasion either the honor or the peace of the nation.

With European powers no new subjects of difficulty have arisen, and those which were under discussion, although not terminated, do not present a more unfavorable aspect for the future preservation of that good understanding which it has ever been our desire to cultivate.

Of pending questions the most important is that which exists with the Government of Great Britain in respect to our northeastern boundary. It is with unfeigned regret that the people of the United States must look back upon the abortive efforts made by the Executive, for a period of more than half a century, to determine what no nation should suffer long to remain in dispute—the true line which divides its possessions from those of other powers. The nature of the settlements on the borders of the United States and of the neighboring territory was for a season such that this, perhaps, was not indispensable to a faithful performance of the duties of the Federal Government. Time has, however, changed this state of things, and has brought about a condition of affairs in which the true interests of both countries imperatively require that this question should be put at rest. It is not to be disguised that, with full confidence, often expressed, in the desire of the British Government to terminate it, we are apparently as far from its adjustment as we were at the time of signing the treaty of peace in 1783. The sole result of long-pending negotiations and a perplexing arbitration appears to be a conviction on its part that a conventional line must be adopted, from the impossibility of ascertaining the true one according to the description contained in that treaty. Without coinciding in this opinion, which is not thought to be well founded, my predecessor gave the strongest proof of the earnest desire of the United States to terminate satisfactorily this dispute by proposing the substitution of a conventional line if the consent of the States interested in the question could be obtained. To this proposition no answer has as yet been received. The attention of the British Government has, however, been urgently invited to the subject, and its reply can not, I am confident, be much longer delayed. The general relations between Great Britain and the United States are of the most friendly character, and I am well satisfied of the sincere disposition of that Government to maintain them upon their present footing. This disposition has also, I am persuaded, become more general with the people of England than at any previous period. It is scarcely necessary to say to you how cordially it is reciprocated by the Government and people of the United States. The conviction, which must be common to all, of the injurious consequences that result from keeping open this irritating question, and the certainty that its final settlement can not be much longer deferred, will, I trust, lead to an early and satisfactory adjustment. At your last session I laid before you the recent communications between the two Governments and between this Government and that of the State of Maine, in whose solicitude concerning a subject in which she has so deep an interest every portion of the Union participates.

The feelings produced by a temporary interruption of those harmonious relations between France and the United States which are due as well to the recollections of former times as to a correct appreciation of existing interests have been happily succeeded by a cordial disposition on both sides to cultivate an active friendship in their future intercourse. The opinion, undoubtedly correct, and steadily entertained by us, that the commercial relations at present existing between the two countries are susceptible of great and reciprocally beneficial improvements is obviously gaining ground in France, and I am assured of the disposition of that Government to favor the accomplishment of such an object. This disposition shall be met in a proper spirit on our part. The few and comparatively unimportant questions that remain to be adjusted between us can, I have no doubt, be settled with entire satisfaction and without difficulty.

Between Russia and the United States sentiments of good will continue to be mutually cherished. Our minister recently accredited to that Court has been received with a frankness and cordiality and with evidences of respect for his country which leave us no room to doubt the preservation in future of those amicable and liberal relations which have so long and so uninterruptedly existed between the two countries. On the few subjects under discussion between us an early and just decision is confidently anticipated.

A correspondence has been opened with the Government of Austria for the establishment of diplomatic relations, in conformity with the wishes of Congress as indicated by an appropriation act of the session of 1837, and arrangements made for the purpose, which will be duly carried into effect.

With Austria and Prussia and with the States of the German Empire (now composing with the latter the Commercial League) our political relations are of the most friendly character, whilst our commercial intercourse is gradually extending, with benefit to all who are engaged in it.

Civil war yet rages in Spain, producing intense suffering to its own people, and to other nations inconvenience and regret. Our citizens who have claims upon that country will be prejudiced for a time by the condition of its treasury, the inevitable consequence of long-continued and exhausting internal wars. The last installment of the interest of the debt due under the convention with the Queen of Spain has not been paid and similar failures may be expected to happen until a portion of the resources of her Kingdom can be devoted to the extinguishment of its foreign debt.

Having received satisfactory evidence that discriminating tonnage duties were charged upon the vessels of the United States in the ports of Portugal, a proclamation was issued on the 11th day of October last, in compliance with the act of May 25, 1832, declaring that fact, and the duties on foreign tonnage which were levied upon Portuguese vessels in

the United States previously to the passage of that act are accordingly revived.

The act of July 4, 1836, suspending the discriminating duties upon the produce of Portugal imported into this country in Portuguese vessels, was passed, upon the application of that Government through its representative here, under the belief that no similar discrimination existed in Portugal to the prejudice of the United States. I regret to state that such duties are now exacted in that country upon the cargoes of American vessels, and as the act referred to vests no discretion in the Executive, it is for Congress to determine upon the expediency of further legislation on the subject. Against these discriminations affecting the vessels of this country and their cargoes seasonable remonstrance was made, and notice was given to the Portuguese Government that unless they should be discontinued the adoption of countervailing measures on the part of the United States would become necessary; but the reply of that Government, received at the Department of State through our chargé d'affaires at Lisbon in the month of September last, afforded no ground to hope for the abandonment of a system so little in harmony with the treatment shown to the vessels of Portugal and their cargoes in the ports of this country and so contrary to the expectations we had a right to entertain.

With Holland, Sweden, Denmark, Naples, and Belgium a friendly intercourse has been uninterruptedly maintained.

With the Government of the Ottoman Porte and its dependencies on the coast of the Mediterranean peace and good will are carefully cultivated, and have been fostered by such good offices as the relative distance and the condition of those countries would permit.

Our commerce with Greece is carried on under the laws of the two Governments, reciprocally beneficial to the navigating interests of both; and I have reason to look forward to the adoption of other measures which will be more extensively and permanently advantageous.

Copies of the treaties concluded with the Governments of Siam and Muscat are transmitted for the information of Congress, the ratifications having been received and the treaties made public since the close of the last annual session. Already have we reason to congratulate ourselves on the prospect of considerable commercial benefit; and we have, besides, received from the Sultan of Muscat prompt evidence of his desire to cultivate the most friendly feelings, by liberal acts toward one of our vessels, bestowed in a manner so striking as to require on our part a grateful acknowledgment.

Our commerce with the islands of Cuba and Porto Rico still labors under heavy restrictions, the continuance of which is a subject of regret. The only effect of an adherence to them will be to benefit the navigation of other countries at the expense of both the United States and Spain.

The independent nations of this continent have ever since they emerged from the colonial state experienced severe trials in their progress to the

permanent establishment of liberal political institutions. Their unsettled condition not only interrupts their own advances to prosperity, but has often seriously injured the other powers of the world. The claims of our citizens upon Peru, Chili, Brazil, the Argentine Republic, the Governments formed out of the Republics of Colombia and Mexico, are still pending, although many of them have been presented for examination more than twenty years. New Granada, Venezuela, and Ecuador have recently formed a convention for the purpose of ascertaining and adjusting claims upon the Republic of Colombia, from which it is earnestly hoped our citizens will ere long receive full compensation for the injuries inflicted upon them and for the delay in affording it.

An advantageous treaty of commerce has been concluded by the United States with the Peru-Bolivian Confederation, which wants only the ratification of that Government. The progress of a subsequent negotiation for the settlement of claims upon Peru has been unfavorably affected by the war between that power and Chili and the Argentine Republic, and the same event is also likely to produce delays in the settlement of our demands on those powers.

The aggravating circumstances connected with our claims upon Mexico and a variety of events touching the honor and integrity of our Government led my predecessor to make at the second session of the last Congress a special recommendation of the course to be pursued to obtain a speedy and final satisfaction of the injuries complained of by this Government and by our citizens. He recommended a final demand of redress, with a contingent authority to the Executive to make reprisals if that demand should be made in vain. From the proceedings of Congress on that recommendation it appeared that the opinion of both branches of the Legislature coincided with that of the Executive, that any mode of redress known to the law of nations might justifiably be used. It was obvious, too, that Congress believed with the President that another demand should be made, in order to give undeniable and satisfactory proof of our desire to avoid extremities with a neighboring power, but that there was an indisposition to vest a discretionary authority in the Executive to take redress should it unfortunately be either denied or unreasonably delayed by the Mexican Government.

So soon as the necessary documents were prepared, after entering upon the duties of my office, a special messenger was sent to Mexico to make a final demand of redress, with the documents required by the provisions of our treaty. The demand was made on the 20th of July last. The reply, which bears date the 29th of the same month, contains assurances of a desire on the part of that Government to give a prompt and explicit answer respecting each of the complaints, but that the examination of them would necessarily be deliberate; that in this examination it would be guided by the principles of public law and the obligation of treaties; that nothing should be left undone that might lead to the most speedy

and equitable adjustment of our demands, and that its determination in respect to each case should be communicated through the Mexican minister here.

Since that time an envoy extraordinary and minister plenipotentiary has been accredited to this Government by that of the Mexican Republic. He brought with him assurances of a sincere desire that the pending differences between the two Governments should be terminated in a manner satisfactory to both. He was received with reciprocal assurances, and a hope was entertained that his mission would lead to a speedy, satisfactory, and final adjustment of all existing subjects of complaint. A sincere believer in the wisdom of the pacific policy by which the United States have always been governed in their intercourse with foreign nations, it was my particular desire, from the proximity of the Mexican Republic and well-known occurrences on our frontier, to be instrumental in obviating all existing difficulties with that Government and in restoring to the intercourse between the two Republics that liberal and friendly character by which they should always be distinguished. I regret, therefore, the more deeply to have found in the recent communications of that Government so little reason to hope that any future efforts of mine for the accomplishment of those desirable objects would be successful.

Although the larger number—and many of them aggravated cases of personal wrongs—have been now for years before the Mexican Government, and some of the causes of national complaint, and those of the most offensive character, admitted of immediate, simple, and satisfactory replies, it is only within a few days past that any specific communication in answer to our last demand, made five months ago, has been received from the Mexican minister. By the report of the Secretary of State herewith presented and the accompanying documents it will be seen that for not one of our public complaints has satisfaction been given or offered, that but one of the cases of personal wrong has been favorably considered, and that but four cases of both descriptions out of all those formally presented and earnestly pressed have as yet been decided upon by the Mexican Government.

Not perceiving in what manner any of the powers given to the Executive alone could be further usefully employed in bringing this unfortunate controversy to a satisfactory termination, the subject was by my predecessor referred to Congress as one calling for its interposition. In accordance with the clearly understood wishes of the Legislature, another and formal demand for satisfaction has been made upon the Mexican Government, with what success the documents now communicated will show. On a careful and deliberate examination of their contents, and considering the spirit manifested by the Mexican Government, it has become my painful duty to return the subject as it now stands to Congress, to whom it belongs to decide upon the time, the mode, and the

measure of redress. Whatever may be your decision, it shall be faithfully executed, confident that it will be characterized by that moderation and justice which will, I trust, under all circumstances govern the councils of our country.

The balance in the Treasury on the 1st January, 1837, was \$45,968,523. The receipts during the present year from all sources, including the amount of Treasury notes issued, are estimated at \$23,499,981, constituting an aggregate of \$69,468,504. Of this amount about \$35,281,361 will have been expended at the end of the year on appropriations made by Congress, and the residue, amounting to \$34,187,143, will be the nominal balance in the Treasury on the 1st of January next; but of that sum only \$1,085,498 is considered as immediately available for and applicable to public purposes. Those portions of it which will be for some time unavailable consist chiefly of sums deposited with the States and due from the former deposit banks. The details upon this subject will be found in the annual report of the Secretary of the Treasury. The amount of Treasury notes which it will be necessary to issue during the year on account of those funds being unavailable will, it is supposed, not exceed four and a half millions. It seemed proper, in the condition of the country, to have the estimates on all subjects made as low as practicable without prejudice to any great public measures. The Departments were therefore desired to prepare their estimates accordingly, and I am happy to find that they have been able to graduate them on so economical a scale. In the great and often unexpected fluctuations to which the revenue is subjected it is not possible to compute the receipts beforehand with great certainty, but should they not differ essentially from present anticipations, and should the appropriations not much exceed the estimates, no difficulty seems likely to happen in defraying the current expenses with promptitude and fidelity.

Notwithstanding the great embarrassments which have recently occurred in commercial affairs, and the liberal indulgence which in consequence of these embarrassments has been extended to both the merchants and the banks, it is gratifying to be able to anticipate that the Treasury notes which have been issued during the present year will be redeemed and that the resources of the Treasury, without any resort to loans or increased taxes, will prove ample for defraying all charges imposed on it during 1838.

The report of the Secretary of the Treasury will afford you a more minute exposition of all matters connected with the administration of the finances during the current year—a period which for the amount of public moneys disbursed and deposited with the States, as well as the financial difficulties encountered and overcome, has few parallels in our history.

Your attention was at the last session invited to the necessity of additional legislative provisions in respect to the collection, safe-keeping, and

transfer of the public money. No law having been then matured, and not understanding the proceedings of Congress as intended to be final, it becomes my duty again to bring the subject to your notice.

On that occasion three modes of performing this branch of the public service were presented for consideration. These were, the creation of a national bank; the revival, with modifications, of the deposit system established by the act of the 23d of June, 1836, permitting the use of the public moneys by the banks; and the discontinuance of the use of such institutions for the purposes referred to, with suitable provisions for their accomplishment through the agency of public officers. Considering the opinions of both Houses of Congress on the first two propositions as expressed in the negative, in which I entirely concur, it is unnecessary for me again to recur to them. In respect to the last, you have had an opportunity since your adjournment not only to test still further the expediency of the measure by the continued practical operation of such parts of it as are now in force, but also to discover what should ever be sought for and regarded with the utmost deference—the opinions and wishes of the people.

The national will is the supreme law of the Republic, and on all subjects within the limits of his constitutional powers should be faithfully obeyed by the public servant. Since the measure in question was submitted to your consideration most of you have enjoyed the advantage of personal communication with your constituents. For one State only has an election been held for the Federal Government; but the early day at which it took place deprived the measure under consideration of much of the support it might otherwise have derived from the result. Local elections for State officers have, however, been held in several of the States, at which the expediency of the plan proposed by the Executive has been more or less discussed. You will, I am confident, yield to their results the respect due to every expression of the public voice. Desiring, however, to arrive at truth and a just view of the subject in all its bearings, you will at the same time remember that questions of far deeper and more immediate local interest than the fiscal plans of the National Treasury were involved in those elections. Above all, we can not overlook the striking fact that there were at the time in those States more than one hundred and sixty millions of bank capital, of which large portions were subject to actual forfeiture, other large portions upheld only by special and limited legislative indulgences, and most of it, if not all, to a greater or less extent dependent for a continuance of its corporate existence upon the will of the State legislatures to be then chosen. Apprised of this circumstance, you will judge whether it is not most probable that the peculiar condition of that vast interest in these respects, the extent to which it has been spread through all the ramifications of society, its direct connection with the then pending elections, and the feelings it was calculated to infuse into the canvass have —

exercised a far greater influence over the result than any which could possibly have been produced by a conflict of opinion in respect to a question in the administration of the General Government more remote and far less important in its bearings upon that interest.

I have found no reason to change my own opinion as to the expediency of adopting the system proposed, being perfectly satisfied that there will be neither stability nor safety either in the fiscal affairs of the Government or in the pecuniary transactions of individuals and corporations so long as a connection exists between them which, like the past, offers such strong inducements to make them the subjects of political agitation. Indeed, I am more than ever convinced of the dangers to which the free and unbiased exercise of political opinion—the only sure foundation and safeguard of republican government—would be exposed by any further increase of the already overgrown influence of corporate authorities. I can not, therefore, consistently with my views of duty, advise a renewal of a connection which circumstances have dissolved.

The discontinuance of the use of State banks for fiscal purposes ought not to be regarded as a measure of hostility toward those institutions. Banks properly established and conducted are highly useful to the business of the country, and will doubtless continue to exist in the States so long as they conform to their laws and are found to be safe and beneficial. How they should be created, what privileges they should enjoy, under what responsibilities they should act, and to what restrictions they should be subject are questions which, as I observed on a previous occasion, belong to the States to decide. Upon their rights or the exercise of them the General Government can have no motive to encroach. Its duty toward them is well performed when it refrains from legislating for their special benefit, because such legislation would violate the spirit of the Constitution and be unjust to other interests; when it takes no steps to impair their usefulness, but so manages its own affairs as to make it the interest of those institutions to strengthen and improve their condition for the security and welfare of the community at large. They have no right to insist on a connection with the Federal Government, nor on the use of the public money for their own benefit. The object of the measure under consideration is to avoid for the future a compulsory connection of this kind. It proposes to place the General Government, in regard to the essential points of the collection, safe-keeping, and transfer of the public money, in a situation which shall relieve it from all dependence on the will of irresponsible individuals or corporations; to withdraw those moneys from the uses of private trade and confide them to agents constitutionally selected and controlled by law; to abstain from improper interference with the industry of the people and withhold inducements to improvident dealings on the part of individuals; to give stability to the concerns of the Treasury; to preserve the measures of the Government from the unavoidable reproaches that flow from such a connection, and

the banks themselves from the injurious effects of a supposed participation in the political conflicts of the day, from which they will otherwise find it difficult to escape.

These are my views upon this important subject, formed after careful reflection and with no desire but to arrive at what is most likely to promote the public interest. They are now, as they were before, submitted with unfeigned deference for the opinions of others. It was hardly to be hoped that changes so important on a subject so interesting could be made without producing a serious diversity of opinion; but so long as those conflicting views are kept above the influence of individual or local interests, so long as they pursue only the general good and are discussed with moderation and candor, such diversity is a benefit, not an injury. If a majority of Congress see the public welfare in a different light, and more especially if they should be satisfied that the measure proposed would not be acceptable to the people, I shall look to their wisdom to substitute such as may be more conducive to the one and more satisfactory to the other. In any event, they may confidently rely on my hearty cooperation to the fullest extent to which my views of the Constitution and my sense of duty will permit.

It is obviously important to this branch of the public service and to the business and quiet of the country that the whole subject should in some way be settled and regulated by law, and, if possible, at your present session. Besides the plans above referred to, I am not aware that any one has been suggested except that of keeping the public money in the State banks in special deposit. This plan is to some extent in accordance with the practice of the Government and with the present arrangements of the Treasury Department, which, except, perhaps, during the operation of the late deposit act, has always been allowed, even during the existence of a national bank, to make a temporary use of the State banks in particular places for the safe-keeping of portions of the revenue. This discretionary power might be continued if Congress deem it desirable, whatever general system be adopted. So long as the connection is voluntary we need, perhaps, anticipate few of those difficulties and little of that dependence on the banks which must attend every such connection when compulsory in its nature and when so arranged as to make the banks a fixed part of the machinery of government. It is undoubtedly in the power of Congress so to regulate and guard it as to prevent the public money from being applied to the use or intermingled with the affairs of individuals. Thus arranged, although it would not give to the Government that entire control over its own funds which I desire to secure to it by the plan I have proposed, it would, it must be admitted, in a great degree accomplish one of the objects which has recommended that plan to my judgment—the separation of the fiscal concerns of the Government from those of individuals or corporations.

With these observations I recommend the whole matter to your dis-

passionate reflection, confidently hoping that some conclusion may be reached by your deliberations which on the one hand shall give safety and stability to the fiscal operations of the Government, and be consistent, on the other, with the genius of our institutions and with the interests and wishes of the great mass of our constituents.

It was my hope that nothing would occur to make necessary on this occasion any allusion to the late national bank. There are circumstances, however, connected with the present state of its affairs that bear so directly on the character of the Government and the welfare of the citizen that I should not feel myself excused in neglecting to notice them. The charter which terminated its banking privileges on the 4th of March, 1836, continued its corporate power two years more for the sole purpose of closing its affairs, with authority "to use the corporate name, style, and capacity for the purpose of suits for a final settlement and liquidation of the affairs and acts of the corporation, and for the sale and disposition of their estate—real, personal, and mixed—but for no other purpose or in any other manner whatsoever." Just before the banking privileges ceased, its effects were transferred by the bank to a new State institution, then recently incorporated, in trust, for the discharge of its debts and the settlement of its affairs. With this trustee, by authority of Congress, an adjustment was subsequently made of the large interest which the Government had in the stock of the institution. The manner in which a trust unexpectedly created upon the act granting the charter, and involving such great public interests, has been executed would under any circumstances be a fit subject of inquiry; but much more does it deserve your attention when it embraces the redemption of obligations to which the authority and credit of the United States have given value. The two years allowed are now nearly at an end. It is well understood that the trustee has not redeemed and canceled the outstanding notes of the bank, but has reissued and is actually reissuing, since the 3d of March, 1836, the notes which have been received by it to a vast amount. According to its own official statement, so late as the 1st of October last, nineteen months after the banking privileges given by the charter had expired, it had under its control uncanceled notes of the late Bank of the United States to the amount of \$27,561,866, of which \$6,175,861 were in actual circulation, \$1,468,627 at State bank agencies, and \$3,002,390 *in transitu*, thus showing that upward of ten millions and a half of the notes of the old bank were then still kept outstanding.

The impropriety of this procedure is obvious, it being the duty of the trustee to cancel and not to put forth the notes of an institution whose concerns it had undertaken to wind up. If the trustee has a right to reissue these notes now, I can see no reason why it may not continue to do so after the expiration of the two years. As no one could have anticipated a course so extraordinary, the prohibitory clause of the charter above quoted was not accompanied by any penalty or other special

provision for enforcing it, nor have we any general law for the prevention of similar acts in future.

But it is not in this view of the subject alone that your interposition is required. The United States in settling with the trustee for their stock have withdrawn their funds from their former direct liability to the creditors of the old bank, yet notes of the institution continue to be sent forth in its name, and apparently upon the authority of the United States. The transactions connected with the employment of the bills of the old bank are of vast extent, and should they result unfortunately the interests of individuals may be deeply compromised. Without undertaking to decide how far or in what form, if any, the trustee could be made liable for notes which contain no obligation on its part, or the old bank for such as are put in circulation after the expiration of its charter and without its authority, or the Government for indemnity in case of loss, the question still presses itself upon your consideration whether it is consistent with duty and good faith on the part of the Government to witness this proceeding without a single effort to arrest it.

The report of the Commissioner of the General Land Office, which will be laid before you by the Secretary of the Treasury, will show how the affairs of that office have been conducted for the past year. The disposition of the public lands is one of the most important trusts confided to Congress. The practicability of retaining the title and control of such extensive domains in the General Government, and at the same time admitting the Territories embracing them into the Federal Union as coequals with the original States, was seriously doubted by many of our wisest statesmen. All feared that they would become a source of discord, and many carried their apprehensions so far as to see in them the seeds of a future dissolution of the Confederacy. But happily our experience has already been sufficient to quiet in a great degree all such apprehensions. The position at one time assumed, that the admission of new States into the Union on the same footing with the original States was incompatible with a right of soil in the United States and operated as a surrender thereof, notwithstanding the terms of the compacts by which their admission was designed to be regulated, has been wisely abandoned. Whether in the new or the old States, all now agree that the right of soil to the public lands remains in the Federal Government, and that these lands constitute a common property, to be disposed of for the common benefit of all the States, old and new. Acquiescence in this just principle by the people of the new States has naturally promoted a disposition to adopt the most liberal policy in the sale of the public lands. A policy which should be limited to the mere object of selling the lands for the greatest possible sum of money, without regard to higher considerations, finds but few advocates. On the contrary, it is generally conceded that whilst the mode of disposition adopted by the Government should always be a prudent one, yet its leading object ought to be the early settlement

and cultivation of the lands sold, and that it should discountenance, if it can not prevent, the accumulation of large tracts in the same hands, which must necessarily retard the growth of the new States or entail upon them a dependent tenantry and its attendant evils.

A question embracing such important interests and so well calculated to enlist the feelings of the people in every quarter of the Union has very naturally given rise to numerous plans for the improvement of the existing system. The distinctive features of the policy that has hitherto prevailed are to dispose of the public lands at moderate prices, thus enabling a greater number to enter into competition for their purchase and accomplishing a double object—of promoting their rapid settlement by the purchasers and at the same time increasing the receipts of the Treasury; to sell for cash, thereby preventing the disturbing influence of a large mass of private citizens indebted to the Government which they have a voice in controlling; to bring them into market no faster than good lands are supposed to be wanted for improvement, thereby preventing the accumulation of large tracts in few hands; and to apply the proceeds of the sales to the general purposes of the Government, thus diminishing the amount to be raised from the people of the States by taxation and giving each State its portion of the benefits to be derived from this common fund in a manner the most quiet, and at the same time, perhaps, the most equitable, that can be devised. These provisions, with occasional enactments in behalf of special interests deemed entitled to the favor of the Government, have in their execution produced results as beneficial upon the whole as could reasonably be expected in a matter so vast, so complicated, and so exciting. Upward of 70,000,000 acres have been sold, the greater part of which is believed to have been purchased for actual settlement. The population of the new States and Territories created out of the public domain increased between 1800 and 1830 from less than 60,000 to upward of 2,300,000 souls, constituting at the latter period about one-fifth of the whole people of the United States. The increase since can not be accurately known, but the whole may now be safely estimated at over three and a half millions of souls, composing nine States, the representatives of which constitute above one-third of the Senate and over one-sixth of the House of Representatives of the United States.

This has been formed a body of free and independent landholders with a rapidity unequaled in the history of mankind; and this great result has been produced without leaving anything for future adjustment between the Government and its citizens. The system under which so much has been accomplished can not be intrinsically bad, and with occasional modifications to correct abuses and adapt it to changes of circumstances may, I think, be safely trusted for the future. There is in the management of such extensive interests much virtue in stability; and although great and obvious improvements should not be declined,

changes should never be made without the fullest examination and the clearest demonstration of their practical utility. In the history of the past we have an assurance that this safe rule of action will not be departed from in relation to the public lands; nor is it believed that any necessity exists for interfering with the fundamental principles of the system, or that the public mind, even in the new States, is desirous of any radical alterations. On the contrary, the general disposition appears to be to make such modifications and additions only as will the more effectually carry out the original policy of filling our new States and Territories with an industrious and independent population.

The modification most perseveringly pressed upon Congress, which has occupied so much of its time for years past, and will probably do so for a long time to come, if not sooner satisfactorily adjusted, is a reduction in the cost of such portions of the public lands as are ascertained to be unsalable at the rate now established by law, and a graduation according to their relative value of the prices at which they may hereafter be sold. It is worthy of consideration whether justice may not be done to every interest in this matter, and a vexed question set at rest, perhaps forever, by a reasonable compromise of conflicting opinions. Hitherto, after being offered at public sale, lands have been disposed of at one uniform price, whatever difference there might be in their intrinsic value. The leading considerations urged in favor of the measure referred to are that in almost all the land districts, and particularly in those in which the lands have been long surveyed and exposed to sale, there are still remaining numerous and large tracts of every gradation of value, from the Government price downward; that these lands will not be purchased at the Government price so long as better can be conveniently obtained for the same amount; that there are large tracts which even the improvements of the adjacent lands will never raise to that price, and that the present uniform price, combined with their irregular value, operates to prevent a desirable compactness of settlements in the new States and to retard the full development of that wise policy on which our land system is founded, to the injury not only of the several States where the lands lie, but of the United States as a whole.

The remedy proposed has been a reduction of the prices according to the length of time the lands have been in market, without reference to any other circumstances. The certainty that the efflux of time would not always in such cases, and perhaps not even generally, furnish a true criterion of value, and the probability that persons residing in the vicinity, as the period for the reduction of prices approached, would postpone purchases they would otherwise make, for the purpose of availing themselves of the lower price, with other considerations of a similar character, have hitherto been successfully urged to defeat the graduation upon time.

May not all reasonable desires upon this subject be satisfied without encountering any of these objections? All will concede the abstract

principle that the price of the public lands should be proportioned to their relative value, so far as can be accomplished without departing from the rule heretofore observed requiring fixed prices in cases of private entries. The difficulty of the subject seems to lie in the mode of ascertaining what that value is. Would not the safest plan be that which has been adopted by many of the States as the basis of taxation—an actual valuation of lands and classification of them into different rates? Would it not be practicable and expedient to cause the relative value of the public lands in the old districts which have been for a certain length of time in market to be appraised and classed into two or more rates below the present minimum price by the officers now employed in this branch of the public service or in any other mode deemed preferable, and to make those prices permanent if upon the coming in of the report they shall prove satisfactory to Congress? Could not all the objects of graduation be accomplished in this way, and the objections which have hitherto been urged against it avoided? It would seem to me that such a step, with a restriction of the sales to limited quantities and for actual improvement, would be free from all just exception.

By the full exposition of the value of the lands thus furnished and extensively promulgated persons living at a distance would be informed of their true condition and enabled to enter into competition with those residing in the vicinity; the means of acquiring an independent home would be brought within the reach of many who are unable to purchase at present prices; the population of the new States would be made more compact, and large tracts would be sold which would otherwise remain on hand. Not only would the land be brought within the means of a larger number of purchasers, but many persons possessed of greater means would be content to settle on a larger quantity of the poorer lands rather than emigrate farther west in pursuit of a smaller quantity of better lands. Such a measure would also seem to be more consistent with the policy of the existing laws—that of converting the public domain into cultivated farms owned by their occupants. That policy is not best promoted by sending emigration up the almost interminable streams of the West to occupy in groups the best spots of land, leaving immense wastes behind them and enlarging the frontier beyond the means of the Government to afford it adequate protection, but in encouraging it to occupy with reasonable denseness the territory over which it advances, and find its best defense in the compact front which it presents to the Indian tribes. Many of you will bring to the consideration of the subject the advantages of local knowledge and greater experience, and all will be desirous of making an early and final disposition of every disturbing question in regard to this important interest. If these suggestions shall in any degree contribute to the accomplishment of so important a result, it will afford me sincere satisfaction.

In some sections of the country most of the public lands have been

sold, and the registers and receivers have very little to do. It is a subject worthy of inquiry whether in many cases two or more districts may not be consolidated and the number of persons employed in this business considerably reduced. Indeed, the time will come when it will be the true policy of the General Government, as to some of the States, to transfer to them for a reasonable equivalent all the refuse and unsold lands and to withdraw the machinery of the Federal land offices altogether. All who take a comprehensive view of our federal system and believe that one of its greatest excellences consists in interfering as little as possible with the internal concerns of the States look forward with great interest to this result.

A modification of the existing laws in respect to the prices of the public lands might also have a favorable influence on the legislation of Congress in relation to another branch of the subject. Many who have not the ability to buy at present prices settle on those lands with the hope of acquiring from their cultivation the means of purchasing under preemption laws from time to time passed by Congress. For this encroachment on the rights of the United States they excuse themselves under the plea of their own necessities; the fact that they dispossess nobody and only enter upon the waste domain: that they give additional value to the public lands in their vicinity, and their intention ultimately to pay the Government price. So much weight has from time to time been attached to these considerations that Congress have passed laws giving actual settlers on the public lands a right of preemption to the tracts occupied by them at the minimum price. These laws have in all instances been retrospective in their operation, but in a few years after their passage crowds of new settlers have been found on the public lands for similar reasons and under like expectations, who have been indulged with the same privilege. This course of legislation tends to impair public respect for the laws of the country. Either the laws to prevent intrusion upon the public lands should be executed, or, if that should be impracticable or inexpedient, they should be modified or repealed. If the public lands are to be considered as open to be occupied by any, they should by law be thrown open to all. That which is intended in all instances to be legalized should at once be made legal, that those who are disposed to conform to the laws may enjoy at least equal privileges with those who are not. But it is not believed to be the disposition of Congress to open the public lands to occupancy without regular entry and payment of the Government price, as such a course must tend to worse evils than the credit system, which it was found necessary to abolish.

It would seem, therefore, to be the part of wisdom and sound policy to remove as far as practicable the causes which produce intrusions upon the public lands, and then take efficient steps to prevent them in future. Would any single measure be so effective in removing all plausible grounds for these intrusions as the graduation of price already sug-

gested? A short period of industry and economy in any part of our country would enable the poorest citizen to accumulate the means to buy him a home at the lower prices, and leave him without apology for settling on lands not his own. If he did not under such circumstances, he would enlist no sympathy in his favor, and the laws would be readily executed without doing violence to public opinion.

A large portion of our citizens have seated themselves on the public lands without authority since the passage of the last preemption law, and now ask the enactment of another to enable them to retain the lands occupied upon payment of the minimum Government price. They ask that which has been repeatedly granted before. If the future may be judged of by the past, little harm can be done to the interests of the Treasury by yielding to their request. Upon a critical examination it is found that the lands sold at the public sales since the introduction of cash payments, in 1820, have produced on an average the net revenue of only 6 cents an acre more than the minimum Government price. There is no reason to suppose that future sales will be more productive. The Government, therefore, has no adequate pecuniary interest to induce it to drive these people from the lands they occupy for the purpose of selling them to others.

Entertaining these views, I recommend the passage of a preemption law for their benefit in connection with the preparatory steps toward the graduation of the price of the public lands, and further and more effectual provisions to prevent intrusions hereafter. Indulgence to those who have settled on these lands with expectations that past legislation would be made a rule for the future, and at the same time removing the most plausible ground on which intrusions are excused and adopting more efficient means to prevent them hereafter, appears to me the most judicious disposition which can be made of this difficult subject. The limitations and restrictions to guard against abuses in the execution of a preemption law will necessarily attract the careful attention of Congress, but under no circumstances is it considered expedient to authorize floating claims in any shape. They have been heretofore, and doubtless would be hereafter, most prolific sources of fraud and oppression, and instead of operating to confer the favor of the Government on industrious settlers are often used only to minister to a spirit of cupidity at the expense of the most meritorious of that class.

The accompanying report of the Secretary of War will bring to your view the state of the Army and all the various subjects confided to the superintendence of that officer.

The principal part of the Army has been concentrated in Florida, with a view and in the expectation of bringing the war in that Territory to a speedy close. The necessity of stripping the posts on the maritime and inland frontiers of their entire garrisons for the purpose of assembling in the field an army of less than 4,000 men would seem to indicate the

necessity of increasing our regular forces; and the superior efficiency, as well as greatly diminished expense of that description of troops, recommend this measure as one of economy as well as of expediency. I refer to the report for the reasons which have induced the Secretary of War to urge the reorganization and enlargement of the staff of the Army, and of the Ordnance Corps, in which I fully concur.

It is not, however, compatible with the interests of the people to maintain in time of peace a regular force adequate to the defense of our extensive frontiers. In periods of danger and alarm we must rely principally upon a well-organized militia, and some general arrangement that will render this description of force more efficient has long been a subject of anxious solicitude. It was recommended to the First Congress by General Washington, and has been since frequently brought to your notice, and recently its importance strongly urged by my immediate predecessor. The provision in the Constitution that renders it necessary to adopt a uniform system of organization for the militia throughout the United States presents an insurmountable obstacle to an efficient arrangement by the classification heretofore proposed, and I invite your attention to the plan which will be submitted by the Secretary of War, for the organization of volunteer corps and the instruction of militia officers, as more simple and practicable, if not equally advantageous, as a general arrangement of the whole militia of the United States.

A moderate increase of the corps both of military and topographical engineers has been more than once recommended by my predecessor, and my conviction of the propriety, not to say necessity, of the measure, in order to enable them to perform the various and important duties imposed upon them, induces me to repeat the recommendation.

The Military Academy continues to answer all the purposes of its establishment, and not only furnishes well-educated officers to the Army, but serves to diffuse throughout the mass of our citizens individuals possessed of military knowledge and the scientific attainments of civil and military engineering. At present the cadet is bound, with consent of his parents or guardians, to remain in service five years from the period of his enlistment, unless sooner discharged, thus exacting only one year's service in the Army after his education is completed. This does not appear to me sufficient. Government ought to command for a longer period the services of those who are educated at the public expense, and I recommend that the time of enlistment be extended to seven years, and the terms of the engagement strictly enforced.

The creation of a national foundry for cannon, to be common to the service of the Army and Navy of the United States, has been heretofore recommended, and appears to be required in order to place our ordnance on an equal footing with that of other countries and to enable that branch of the service to control the prices of those articles and graduate the supplies to the wants of the Government, as well as to regulate their

quality and insure their uniformity. The same reasons induce me to recommend the erection of a manufactory of gunpowder, to be under the direction of the Ordnance Office. The establishment of a manufactory of small arms west of the Alleghany Mountains, upon the plan proposed by the Secretary of War, will contribute to extend throughout that country the improvements which exist in establishments of a similar description in the Atlantic States, and tend to a much more economical distribution of the armament required in the western portion of our Union.

The system of removing the Indians west of the Mississippi, commenced by Mr. Jefferson in 1804, has been steadily persevered in by every succeeding President, and may be considered the settled policy of the country. Unconnected at first with any well-defined system for their improvement, the inducements held out to the Indians were confined to the greater abundance of game to be found in the West; but when the beneficial effects of their removal were made apparent a more philanthropic and enlightened policy was adopted in purchasing their lands east of the Mississippi. Liberal prices were given and provisions inserted in all the treaties with them for the application of the funds they received in exchange to such purposes as were best calculated to promote their present welfare and advance their future civilization. These measures have been attended thus far with the happiest results.

It will be seen by referring to the report of the Commissioner of Indian Affairs that the most sanguine expectations of the friends and promoters of this system have been realized. The Choctaws, Cherokees, and other tribes that first emigrated beyond the Mississippi have for the most part abandoned the hunter state and become cultivators of the soil. The improvement in their condition has been rapid, and it is believed that they are now fitted to enjoy the advantages of a simple form of government, which has been submitted to them and received their sanction; and I can not too strongly urge this subject upon the attention of Congress.

Stipulations have been made with all the Indian tribes to remove them beyond the Mississippi, except with the bands of the Wyandots, the Six Nations in New York, the Menomonees, Munsees, and Stockbridges in Wisconsin, and Miamies in Indiana. With all but the Menomonees it is expected that arrangements for their emigration will be completed the present year. The resistance which has been opposed to their removal by some of the tribes even after treaties had been made with them to that effect has arisen from various causes, operating differently on each of them. In most instances they have been instigated to resistance by persons to whom the trade with them and the acquisition of their annuities were important, and in some by the personal influence of interested chiefs. These obstacles must be overcome, for the Government can not relinquish the execution of this policy without sacrificing important interests and abandoning the tribes remaining east of the Mississippi to certain destruction.

The decrease in numbers of the tribes within the limits of the States and Territories has been most rapid. If they be removed, they can be protected from those associations and evil practices which exert so pernicious and destructive an influence over their destinies. They can be induced to labor and to acquire property, and its acquisition will inspire them with a feeling of independence. Their minds can be cultivated, and they can be taught the value of salutary and uniform laws and be made sensible of the blessings of free government and capable of enjoying its advantages. In the possession of property, knowledge, and a good government, free to give what direction they please to their labor, and sharers in the legislation by which their persons and the profits of their industry are to be protected and secured, they will have an ever-present conviction of the importance of union and peace among themselves and of the preservation of amicable relations with us. The interests of the United States would also be greatly promoted by freeing the relations between the General and State Governments from what has proved a most embarrassing incumbrance by a satisfactory adjustment of conflicting titles to lands caused by the occupation of the Indians, and by causing the resources of the whole country to be developed by the power of the State and General Governments and improved by the enterprise of a white population.

Intimately connected with this subject is the obligation of the Government to fulfill its treaty stipulations and to protect the Indians thus assembled "at their new residences from all interruptions and disturbances from any other tribes or nations of Indians or from any other person or persons whatsoever," and the equally solemn obligation to guard from Indian hostility its own border settlements, stretching along a line of more than 1,000 miles. To enable the Government to redeem this pledge to the Indians and to afford adequate protection to its own citizens will require the continual presence of a considerable regular force on the frontiers and the establishment of a chain of permanent posts. Examinations of the country are now making, with a view to decide on the most suitable points for the erection of fortresses and other works of defense, the results of which will be presented to you by the Secretary of War at an early day, together with a plan for the effectual protection of the friendly Indians and the permanent defense of the frontier States.

By the report of the Secretary of the Navy herewith communicated it appears that unremitting exertions have been made at the different navy-yards to carry into effect all authorized measures for the extension and employment of our naval force. The launching and preparation of the ship of the line *Pennsylvania* and the complete repairs of the ships of the line *Ohio*, *Delaware*, and *Columbus* may be noticed as forming a respectable addition to this important arm of our national defense. Our commerce and navigation have received increased aid and protection

during the present year. Our squadrons in the Pacific and on the Brazilian station have been much increased, and that in the Mediterranean, although small, is adequate to the present wants of our commerce in that sea. Additions have been made to our squadron on the West India station, where the large force under Commodore Dallas has been most actively and efficiently employed in protecting our commerce, in preventing the importation of slaves, and in cooperating with the officers of the Army in carrying on the war in Florida.

The satisfactory condition of our naval force abroad leaves at our disposal the means of conveniently providing for a home squadron for the protection of commerce upon our extensive coast. The amount of appropriations required for such a squadron will be found in the general estimates for the naval service for the year 1838.

The naval officers engaged upon our coast survey have rendered important service to our navigation. The discovery of a new channel into the harbor of New York, through which our largest ships may pass without danger, must afford important commercial advantages to that harbor and add greatly to its value as a naval station. The accurate survey of Georges Shoals, off the coast of Massachusetts, lately completed, will render comparatively safe a navigation hitherto considered dangerous.

Considerable additions have been made to the number of captains, commanders, lieutenants, surgeons, and assistant surgeons in the Navy. These additions were rendered necessary by the increased number of vessels put in commission to answer the exigencies of our growing commerce.

Your attention is respectfully invited to the various suggestions of the Secretary for the improvement of the naval service.

The report of the Postmaster-General exhibits the progress and condition of the mail service. The operations of the Post-Office Department constitute one of the most active elements of our national prosperity, and it is gratifying to observe with what vigor they are conducted. The mail routes of the United States cover an extent of about 142,877 miles, having been increased about 37,103 miles within the last two years. The annual mail transportation on these routes is about 36,228,962 miles, having been increased about 10,359,476 miles within the same period. The number of post-offices has also been increased from 10,770 to 12,099, very few of which receive the mails less than once a week, and a large portion of them daily. Contractors and postmasters in general are represented as attending to their duties with most commendable zeal and fidelity. The revenue of the Department within the year ending on the 30th of June last was \$4,137,056.59, and its liabilities accruing within the same time were \$3,380,847.75.—The increase of revenue over that of the preceding year was \$708,166.41.

For many interesting details I refer you to the report of the Postmaster-General, with the accompanying papers. Your particular attention is

invited to the necessity of providing a more safe and convenient building for the accommodation of that Department.

I lay before Congress copies of reports submitted in pursuance of a call made by me upon the heads of Departments for such suggestions as their experience might enable them to make as to what further legislative provisions may be advantageously adopted to secure the faithful application of public moneys to the objects for which they are appropriated, to prevent their misapplication or embezzlement by those intrusted with the expenditure of them, and generally to increase the security of the Government against losses in their disbursement. It is needless to dilate on the importance of providing such new safeguards as are within the power of legislation to promote these ends, and I have little to add to the recommendations submitted in the accompanying papers.

By law the terms of service of our most important collecting and disbursing officers in the civil departments are limited to four years, and when reappointed their bonds are required to be reviewed. The safety of the public is much increased by this feature of the law, and there can be no doubt that its application to all officers intrusted with the collection or disbursement of the public money, whatever may be the tenure of their offices, would be equally beneficial. I therefore recommend, in addition to such of the suggestions presented by the heads of Departments as you may think useful, a general provision that all officers of the Army or Navy, or in the civil departments, intrusted with the receipt or payment of public money, and whose term of service is either unlimited or for a longer time than four years, be required to give new bonds, with good and sufficient sureties, at the expiration of every such period.

A change in the period of terminating the fiscal year, from the 1st of October to the 1st of April, has been frequently recommended, and appears to be desirable.

The distressing casualties in steamboats which have so frequently happened during the year seem to evince the necessity of attempting to prevent them by means of severe provisions connected with their custom-house papers. This subject was submitted to the attention of Congress by the Secretary of the Treasury in his last annual report, and will be again noticed at the present session, with additional details. It will doubtless receive that early and careful consideration which its pressing importance appears to require.

Your attention has heretofore been frequently called to the affairs of the District of Columbia, and I should not again ask it did not their entire dependence on Congress give them a constant claim upon its notice. Separated by the Constitution from the rest of the Union, limited in extent, and aided by no legislature of its own, it would seem to be a spot where a wise and uniform system of local government might have been easily adopted. This District has, however, unfortunately been left to linger behind the rest of the Union. Its codes, civil and

criminal, are not only very defective, but full of obsolete or inconvenient provisious. Being formed of portions of two States, discrepancies in the laws prevail in different parts of the territory, small as it is; and although it was selected as the seat of the General Government, the site of its public edifices, the depository of its archives, and the residence of officers intrusted with large amounts of public property and the management of public business, yet it has never been subjected to or received that special and comprehensive legislation which these circumstances peculiarly demand. I am well aware of the various subjects of greater magnitude and immediate interest that press themselves on the consideration of Congress, but I believe there is not one that appeals more directly to its justice than a liberal and even generous attention to the interests of the District of Columbia and a thorough and careful revision of its local government.

M. VAN BUREN.

SPECIAL MESSAGES.

WASHINGTON, December 6, 1837.

To the Senate and House of Representatives of the United States:

I transmit herewith a report from the Secretary of the Treasury, exhibiting a transfer of appropriation that has been made in that Department in pursuance of the power vested in the President by the first section of the act of Congress of the 3d of March, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments."

M. VAN BUREN.

WASHINGTON, December, 1837.

To the Senate:

I transmit, for the action of the Senate, treaties negotiated with the following Indian tribes, viz:

(1) The Clippewas of the Mississippi; (2) the Kioways, Ka-ta-kas, and Ta-wa-ka-ros; (3) the Sioux of the Mississippi; (4) the Sacs and Foxes of the Mississippi; (5) the Sioux of the Missouri; (6) the Sacs and Foxes of the Missouri; (7) the Winnebagoes; (8) the Ioways.

M. VAN BUREN.

WASHINGTON, December 11, 1837.

To the Senate of the United States:

I herewith transmit to the Senate a report* from the Secretary of State, with accompanying documents, in pursuance of their resolution of the 12th of October last.

M. VAN BUREN.

* Relating to the capture and sequestration of the ship *Mary*, of Baltimore, and her cargo by the Dutch Government at the island of Curaçoa in 1800.

WASHINGTON, December, 1837.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 13th of October last, relative to claims of citizens of the United States on the Government of the Mexican Republic, I transmit a report from the Secretary of State and the documents by which it was accompanied.

M. VAN BUREN.

WASHINGTON, December 15, 1837.

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War and the plans for marine hospitals on the Western waters, referred to by him, which are connected with the annual report from the War Department.

M. VAN BUREN.

WASHINGTON, December 18, 1837.

To the Senate of the United States:

I transmit herewith a report and accompanying documents* from the Secretary of War, which contain the information called for by a resolution of the 13th of October last.

M. VAN BUREN.

WASHINGTON, December 21, 1837.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the last session, I transmit a report made to me by the architect of the public buildings, with the accompanying documents, exhibiting a plan of the Treasury building now in process of erection, showing its location in reference to the adjacent streets and public square on which it is located, its elevation, the number and size of the rooms it will afford suitable for office business and the number and size of those suitable only for the deposit of records, with a statement of the sum expended on said building and an estimate of the sum that will be required to complete the same. As the fifth section of the act of July 4, 1836, under the authority of which this building has been commenced, provides only for the erection of an edifice of such dimensions as may be required for the present and future accommodation of the Treasury Department, the size of the structure has been adapted to that purpose; and it is not contemplated to appropriate any part of the building to the use of any other Department. As it is understood, however, that the plan of the edifice admits of its

* Relating to adjustment of claims to reservations of land under the fourteenth article of the treaty of 1830 with the Choctaw Indians.

being completed either with or without wings, and that if Congress should think proper accommodation may be provided by means of wings consistently with the harmony of the original design for the Department of State and the General Post-Office, it is not thought that the public interest requires any change in the location or plan, although it is believed that the convenience of the public business would be promoted by including in the building the proposed accommodations for the two other Departments just mentioned. The report of the architect shows the supposed difference of the expense that would be incurred in the event of the construction of the building with wings, in taking down the edifice now occupied by the Department of State, or repairing it so as to render it fireproof and make its outside conform to the other parts of the new building.

I also transmit statements from the heads of the several Departments of the number and size of the rooms that are necessary for their respective Departments for office business and for the deposit of records.

M. VAN BUREN.

WASHINGTON, December 22, 1837.

To the Senate of the United States:

I herewith transmit to the Senate a report from the Secretary of State, in answer to their resolution of the 16th of October last.

M. VAN BUREN.

DEPARTMENT OF STATE,
Washington, December 22, 1837.

The PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom has been referred the resolution of the Senate of the 16th of October last, requesting the President of the United States to communicate to that body "at the next session of Congress (if not inconsistent with the public interest) any correspondence between the Government of the United States and any foreign government relative to the occupation of the territory of the United States west of the Rocky Mountains and bordering on the Pacific Ocean, and whether any, and, if so, what, portion of the said territory is in the possession of any foreign power," has the honor to report to the President that no correspondence between this and any foreign government on the subject referred to has passed since the negotiation of the existing convention of 1827 with Great Britain, by which the provisions of the third article of the convention of the 20th of October, 1818, with His Britannic Majesty, leaving the territory claimed by either power westward of the Rocky Mountains free and open to the citizens and subjects of both, were extended and continued in force indefinitely, but liable to be annulled at the will of either party, on due notice of twelve months, at any time after the 20th of October, 1828, and that the papers relating to the negotiation to which allusion has just been made were communicated to the Senate in confidence in the early part of the first session of the Twentieth Congress.

With regard to the second clause of the resolution above cited, the Secretary has to state that the trading establishment called "Astoria," at the mouth of the Columbia River, formerly belonging to John Jacob Astor, of New York, was sold to, and therefore left in the possession of, the British Northwest Company, which subsequently united with the British Hudson Bay Company; that this company has now several

depots in the country, the principal of which is at Fort Vancouver, on the north bank of the Columbia River, and about 80 or 100 miles from its mouth. It appears that these posts have not been considered as being in contravention of the third article of the convention of 1818, before referred to; and if not, there is no portion of the territory claimed by the United States west of the Stony Mountains known to be in the exclusive possession of a foreign power. It is known, by information recently obtained, that the English company have a steamboat on the Columbia, and have erected a sawmill and are cutting timber on the territory claimed by the United States, and shipping it in considerable quantities to the Sandwich Islands.

Respectfully submitted,

JOHN FORSYTH.

WASHINGTON, December 26, 1837.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, in answer to their resolution of the 9th of October last.

M. VAN BUREN.

DEPARTMENT OF STATE,
Washington, December 23, 1837.

The PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 9th of October last, requesting the President to communicate to that House "at its next session, so far as in his judgment is consistent with the public interest, whether any foreign power, or the subjects of any foreign power, have possession of any portion of the territory of the United States on the Columbia River, or are in the occupancy of the same, and, if so, in what way, by what authority, and how long such possession or occupancy has been kept by such persons," has the honor to report to the President that a trading establishment called "Astoria" was founded at the mouth of the Columbia River about the year 1811 by J. J. Astor, of New York; that his interest was sold to the British Northwest Company during the late war between the United States and Great Britain; that this company held it, and were left in possession at the time the country was formally delivered to the American commissioners, and that this company afterwards united with and became a part of the Hudson Bay Company under that name, which company, it is believed, have from the period of such union occupied the post in question, now commonly called "Fort George." The Hudson Bay Company have also several depots situated on water courses in the interior of the country. The principal one is at Fort Vancouver, on the northern bank of the Columbia River, about 80 or 100 miles from its mouth. It is known by information recently obtained that the English company have a steamboat on this river, and that they have erected a sawmill and are cutting timber on the territory claimed by the United States, and are shipping it in considerable quantities to the Sandwich Islands.

The original occupation was under the authority of the purchase of J. J. Astor's interest, and it has been continued under the provisions of the conventions of 1818 and 1827 with Great Britain. By the third article of the first of these conventions it is stipulated that the territory claimed by either power westward of the Rocky Mountains shall be free and open for a term of years to the citizens and subjects of both. By the second convention this stipulation is extended and continued in force indefinitely, liable, however, to be annulled at any time after the 20th of October, 1828, at the will of either party, on due notice of twelve months.

Respectfully submitted,

JOHN FORSYTH.

WASHINGTON, January 5, 1838.

To the Senate and House of Representatives of the United States:

Recent experience on the southern boundary of the United States and the events now daily occurring on our northern frontier have abundantly shown that the existing laws are insufficient to guard against hostile invasion from the United States of the territory of friendly and neighboring nations.

The laws in force provide sufficient penalties for the punishment of such offenses after they have been committed, and provided the parties can be found, but the Executive is powerless in many cases to prevent the commission of them, even when in possession of ample evidence of an intention on the part of evil-disposed persons to violate our laws.

Your attention is called to this defect in our legislation. It is apparent that the Executive ought to be clothed with adequate power effectually to restrain all persons within our jurisdiction from the commission of acts of this character. They tend to disturb the peace of the country and inevitably involve the Government in perplexing controversies with foreign powers. I recommend a careful revision of all the laws now in force and such additional enactments as may be necessary to vest in the Executive full power to prevent injuries being inflicted upon neighboring nations by the unauthorized and unlawful acts of citizens of the United States or of other persons who may be within our jurisdiction and subject to our control.

In illustration of these views and to show the necessity of early action on the part of Congress, I submit herewith a copy of a letter received from the marshal of the northern district of New York, who had been directed to repair to the frontier and take all authorized measures to secure the faithful execution of existing laws.

M. VAN BUREN.

BUFFALO, December 28, 1837.

His Excellency M. VAN BUREN.

SIR: This frontier is in a state of commotion. I came to this city on the 22d instant, by direction of the United States attorney for the northern district of this State, for the purpose of serving process upon individuals suspected of violating the laws of the United States enacted with a view to maintain our neutrality. I learned on my arrival that some 200 or 300 men, mostly from the district of country adjoining this frontier and from this side of the Niagara, had congregated upon Navy Island (Upper Canada), and were there in arms, with Rensselaer van Rensselaer, of Albany, at their head as commander in chief. From that time to the present they have received constant accessions of men, munitions of war, provisions, etc., from persons residing within the States. Their whole force is now about 1,000 strong, and, as is said, are well supplied with arms, etc.

Warrants have been issued in some cases, but no arrests have as yet been effected. This expedition was got up in this city soon after McKenzie's arrival upon this side of the river, and the first company that landed upon the island were organized, partially at least, before they crossed from this side to the island.

From all that I can see and learn I am satisfied that if the Government deem it their duty to prevent supplies being furnished from this side to the army on the island, and also the augmentation of their forces from among the citizens of the States, that an armed force stationed along upon the line of the Niagara will be absolutely necessary to its accomplishment.

I have just received a communication from Colonel McNab, commanding His Majesty's forces now at Chippewa, in which he strongly urges the public authorities here to prevent supplies being furnished to the army on the island, at the same time stating that if this can be effected the whole affair could be closed without any effusion of blood.

McNab is about 2,500 strong and constantly increasing. I replied to him that I should communicate with you immediately, as also with the governor of this State, and that everything which could be done to maintain a strict neutrality.

I learn that persons here are engaged in dislodging one or more steamboats from the ice, and, as is supposed, with a view to aid in the patriot expedition.

I am, sir, with great consideration, your obedient servant,

N. GANON,
United States Marshal, Northern District of New York.

WASHINGTON, January 8, 1838.

To the House of Representatives of the United States:

In answer to the resolution of the House of Representatives of the 5th instant, respecting the capture* and restoration of the Mexican brig of war the *General Urrea*, I transmit reports from the Secretaries of State and the Navy.

M. VAN BUREN.

WASHINGTON, January 8, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report,† and accompanying documents, from the Secretary of State, in compliance with a resolution of that body dated the 5th instant.

M. VAN BUREN.

WASHINGTON, January 8, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, in answer to a resolution‡ of that body dated the 5th instant.

M. VAN BUREN.

* By the United States sloop of war *Natchez* off the coast of Texas.

† Transmitting instructions and correspondence concerning the preservation of the neutrality of the United States in the civil wars and insurrections in Mexico and in any of the British Provinces north of the United States since 1829.

‡ Calling for information of any acts endangering the amicable relations with Great Britain.

WASHINGTON, January 8, 1838.

To the Senate and House of Representatives of the United States:

In the highly excited state of feeling on the northern frontier, occasioned by the disturbances in Canada, it was to be apprehended that causes of complaint might arise on the line dividing the United States from Her Britannic Majesty's dominions. Every precaution was therefore taken on our part authorized by the existing laws, and as the troops of the Provinces were embodied on the Canadian side it was hoped that no serious violation of the rights of the United States would be permitted to occur. I regret, however, to inform you that an outrage of a most aggravated character has been committed, accompanied by a hostile though temporary invasion of our territory, producing the strongest feelings of resentment on the part of our citizens in the neighborhood and on the whole border line, and that the excitement previously existing has been alarmingly increased. To guard against the possible recurrence of any similar act I have thought it indispensable to call out a portion of the militia, to be posted on that frontier. The documents herewith presented to Congress show the character of the outrage committed, the measures taken in consequence of its occurrence, and the necessity for resorting to them.

It will also be seen that the subject was immediately brought to the notice of the British minister accredited to this country, and the proper steps taken on our part to obtain the fullest information of all the circumstances leading to and attendant upon the transaction, preparatory to a demand for reparation. I ask such appropriations as the circumstances in which our country is thus unexpectedly placed require.

M. VAN BUREN.

Mr. Rogers to the President.

BUFFALO, December 30, 1837.

His Excellency MARTIN VAN BUREN,

President of the United States. —

SIR: Inclosed are copies of affidavits which I have prepared in great haste, and which contain all that is material in relation to the gross and extraordinary transaction to which they relate. Our whole frontier is in commotion, and I fear it will be difficult to restrain our citizens from revenging by a resort to arms this flagrant invasion of our territory. Everything that can be done will be by the public authorities to prevent so injudicious a movement. The respective sheriffs of Erie and Niagara have taken the responsibility of calling out the militia to guard the frontier and prevent any further depredations.

I am, sir, with great consideration, your obedient servant,

H. W. ROGERS,

District Attorney for Erie County, and Acting for the United States.

— STATE OF NEW YORK, Niagara County, ss: —

Gilman Appleby, of the city of Buffalo, being sworn, says that he left the port of Buffalo on the morning of the 29th instant in the steamboat *Caroline*, owned by William Wells, of Buffalo, and bound for Schlosser, upon the east side of the Niagara

River and within the United States; that this deponent commanded the said *Caroline*, and that she was cleared from Buffalo with a view to run between said Buffalo and Schlosser, carrying passengers, freight, etc.; that this deponent caused the said *Caroline* to be landed at Black Rock on her way down, and that while at Black Rock this deponent caused the American flag to be run up, and that soon after leaving Black Rock Harbor a volley of musketry was discharged at the *Caroline* from the Canada shore, but without injury; that the said *Caroline* continued her course down the Niagara River unmolested and landed outside of certain scows or boats attached to Navy Island, where a number of passengers disembarked and, as this deponent supposes, certain articles of freight were landed; that from this point the *Caroline* ran to Schlosser, arriving there at 3 o'clock in the afternoon; that between this time and dark the *Caroline* made two trips to Navy Island, landing as before; that at about 6 o'clock in the evening this deponent caused the said *Caroline* to be landed at Schlosser and made fast with chains to the dock at that place; that the crew and officers of the *Caroline* numbered ten, and that in the course of the evening twenty-three individuals, all of whom were citizens of the United States, came on board of the *Caroline* and requested this deponent and other officers of the boat to permit them to remain on board during the night, as they were unable to get lodgings at the tavern near by; these requests were acceded to, and the persons thus coming on board retired to rest, as did also the crew and officers of the *Caroline*, except such as were stationed to watch during the night; that about midnight this deponent was informed by one of the watch that several boats filled with men were making toward the *Caroline* from the river, and this deponent immediately gave the alarm, and before he was able to reach the dock the *Caroline* was boarded by some seventy or eighty men, all of whom were armed; that they immediately commenced a warfare with muskets, swords, and cutlasses upon the defenseless crew and passengers of the *Caroline* under a fierce cry of "G—d d—n them, give them no quarters; kill every man. Fire! fire!"; that the *Caroline* was abandoned without resistance, and the only effort made by either the crew or passengers seemed to be to escape slaughter; that this deponent narrowly escaped, having received several wounds, none of which, however, are of a serious character; that immediately after the *Caroline* fell into the hands of the armed force who boarded her she was set on fire, cut loose from the dock, was towed into the current of the river, there abandoned, and soon after descended the Niagara Falls; that this deponent has made diligent search after the individuals, thirty-three in number, who are known to have been on the *Caroline* at the time she was boarded, and twenty-one only are to be found, one of which, to wit, Amos Durfee, of Buffalo, was found dead upon the dock, having received a shot from a musket, the ball of which penetrated the back part of the head and came out at the forehead; James H. King and Captain C. F. Harding were seriously though not mortally wounded; several others received slight wounds; the twelve individuals who are missing, this deponent has no doubt, were either murdered upon the steamboat or found a watery grave in the cataract of the Falls; and this deponent further says that immediately after the *Caroline* was got into the current of the stream and abandoned, as before stated, beacon lights were discovered upon the Canada shore near Chippewa, and after sufficient time had elapsed to enable the boats to reach that shore this deponent distinctly heard loud and vociferous cheering at that point; that this deponent has no doubt that the individuals who boarded the *Caroline* were a part of the British forces now stationed at Chippewa.

[Subscribed and sworn to before a commissioner, etc.]

STATE OF NEW YORK, *Niagara County, ss.*

Charles F. Harding, James H. King, Joshua H. Smith, William Seaman, William Kennedy, William Wells, John Leonard, Sylvanus Staring, and John Haggarty, being sworn, severally depose and say that they have heard the foregoing affidavit

of Gilman Appleby read; that they were on the *Caroline* at the time she was boarded as stated in said affidavit, and that all the facts sworn to by said Appleby as occurring after the said *Caroline* was so boarded as aforesaid are correct and true.

[Subscribed and sworn to before a commissioner, etc.]

Mr. Poinsett to General Scott.

DEPARTMENT OF WAR, January 5, 1838.

Brevet Major-General WINFIELD SCOTT,

Washington City.

SIR: You will repair without delay to the Canada frontier of the United States and assume the military command there.

Herewith you will receive duplicate letters to the governors of the States of New York and Vermont, requesting them to call into the service of the United States such a militia force as you may deem necessary for the defense of that frontier of the United States.

This power has been confided to you in the full persuasion that you will use it discreetly and extend the call only so far as circumstances may seem to require.

It is important that the troops called into the service should be, if possible, exempt from that state of excitement which the late violation of our territory has created, and you will therefore impress upon the governors of these border States the propriety of selecting troops from a portion of the State distant from the theater of action.

The Executive possesses no legal authority to employ the military force to restrain persons within our jurisdiction and who ought to be under our control from violating the laws by making incursions into the territory of neighboring and friendly nations with hostile intent. I can give you, therefore, no instructions on that subject, but request that you will use your influence to prevent such excesses and to preserve the character of this Government for good faith and a proper regard for the rights of friendly powers.

The militia will be called into the service for three months, unless sooner discharged, and in your requisitions you will designate the number of men and take care that the officers do not exceed a due proportion.

It is deemed important that the administrative branch of the service should be conducted wherever practicable by officers of the Regular Army.

The disposition of the force with regard to the points to be occupied is confided to your discretion, military skill, and intimate knowledge of the country; and the amount of that force must depend upon the character and duration of the contest now going on in Canada and the disposition manifested by the people and the public authorities of that colony.

The President indulges a hope that outrages similar to that which lately occurred at Schlosser will not be repeated, and that you will be able to maintain the peace of that frontier without being called upon to use the force which has been confided to you.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Mr. Poinsett to Governor Marcy.

DEPARTMENT OF WAR, January 5, 1838.

His Excellency W. L. MARCY,

Governor of New York, Albany, N. Y.

SIR: The territory of the United States having been violated by a party of armed men from the Canada shore, and apprehensions being entertained from the highly excited feelings of both parties that similar outrages may lead to an invasion of our

soil, the President has thought proper to exercise the authority vested in him by law and call out such militia force as may be deemed necessary to protect the frontiers of the United States.

I am, in consequence, instructed by the President to request you will call into the service of the United States and place under the command of Brevet Major-General Scott such militia force as he may require, to be employed on the Canada frontier for the purpose herein set forth.

Very respectfully, your most obedient servant,

J. R. POINSETT.

[Same to His Excellency Silas H. Jennison, governor of Vermont, Montpelier, Vt.]

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,

Washington, January 5, 1838.

HENRY S. FOX, Esq., etc.

SIR: By the direction of the President of the United States I have the honor to communicate to you a copy of the evidence furnished to this Department of an extraordinary outrage committed from Her Britannic Majesty's Province of Upper Canada on the persons and property of citizens of the United States within the jurisdiction of the State of New York. The destruction of the property and assassination of citizens of the United States on the soil of New York at the moment when, as is well known to you, the President was anxiously endeavoring to allay the excitement and earnestly seeking to prevent any unfortunate occurrence on the frontier of Canada has produced upon his mind the most painful emotions of surprise and regret. It will necessarily form the subject of a demand for redress upon Her Majesty's Government. This communication is made to you under the expectation that through your instrumentality an early explanation may be obtained from the authorities of Upper Canada of all the circumstances of the transaction, and that by your advice to those authorities such decisive precautions may be used as will render the perpetration of similar acts hereafter impossible. Not doubting the disposition of the government of Upper Canada to do its duty in punishing the aggressors and preventing future outrage, the President, notwithstanding, has deemed it necessary to order a sufficient force on the frontier to repel any attempt of a like character, and to make known to you that if it should occur he can not be answerable for the effects of the indignation of the neighboring people of the United States.

I take this occasion to renew to you the assurance of my distinguished consideration.

JOHN FORSYTH.

WASHINGTON, January 12, 1838.

To the Senate and House of Representatives of the United States:

I transmit to Congress copies of a representation from a late grand jury of the county of Washington, in this District, concurred in by two of the judges of the circuit court, of the necessity of the erection of a new jail and a lunatic asylum in this city. I also transmit copies of certain proceedings of the circuit court for the county of Alexandria at the last October term, and of a representation of the grand jury, made with the approbation of the court, showing the unsafe condition of the court-house of that county and the necessity for a new one.

I recommend these objects to the favorable consideration of Congress.

M. VAN BUREN.

WASHINGTON, *January 12, 1838.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In answer to a resolution of the House of Representatives of the 2d instant, I transmit herewith a report* of the Secretary of War, explanatory of the causes which have prevented a compliance with a resolution of that branch of Congress of February 24, 1837.

M. VAN BUREN.

WASHINGTON, *January 13, 1838.*

To the Senate:

I transmit to the Senate, for its constitutional action, a treaty made with the Chippewa Indians of Saganaw on the 20th of December, 1837.

M. VAN BUREN.

WASHINGTON, *January 26, 1838.*

To the House of Representatives of the United States:

I herewith communicate to the House of Representatives a report from the Secretary of State, with accompanying documents, in answer to their resolution of the 9th instant.

M. VAN BUREN.

DEPARTMENT OF STATE,

Washington, January 25, 1838.

The PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom has been referred a resolution of the House of Representatives, dated the 9th instant, requesting the President to communicate to that body "what measures, if any, have been taken by the Executive for the release of Mr. Greely, a citizen of Maine, now imprisoned in the provincial jail of New Brunswick at Fredericton for an alleged violation of the jurisdiction of said Province over the territory claimed by the British Government; and also to communicate any correspondence which the executive department may have had with the British Government or the executive of Maine upon the subject of said Greely's imprisonment, so far as a communication of the same may be deemed by him not incompatible with the public interest;" and likewise requesting the President, if not incompatible with the public interests, to communicate to that House "any correspondence or communication held between the Government of the United States and that of Great Britain at different times respecting the wardenship, occupation, or actual possession of that part of the territory of the State of Maine which is claimed by Great Britain," has the honor to report to the President the accompanying documents, which embrace the information and correspondence not heretofore published by Congress called for by the above-cited resolution.

Respectfully submitted.

JOHN FORSYTH.

The governor of Maine to the President of the United States.

STATE OF MAINE, EXECUTIVE DEPARTMENT,

His Excellency MARTIN VAN BUREN,

September 18, 1837.

President of the United States.

SIR: I lose no time in advising Your Excellency that Ebenezer S. Greely, esq., a citizen of this State, while employed within its limits and under its authority in taking an enumeration of the inhabitants of the county of Penobscot residing north

* Relating to alleged frauds upon the Creek Indians in the sale and purchase of their lands, etc.

of the surveyed and located townships, has been arrested a second time by the provincial authorities of New Brunswick, and is now in confinement in the jail of Fredericton.

It becomes my duty to request that prompt measures be adopted by the Government of the United States to effect the release of Mr. Greely.

I have the honor to be, etc.,

ROBERT P. DUNLAP.

Mr. Forsyth to Mr. Dunlap.

DEPARTMENT OF STATE,

His Excellency ROBERT P. DUNLAP,

Washington, September 26, 1837.

Governor of Maine.

SIR: I have the honor, by direction of the President, to acknowledge the receipt of the letter addressed to him by your excellency on the 18th instant, advising him that Ebenezer S. Greely, esq., a citizen of Maine, while employed within its limits and under its authority in taking an enumeration of the inhabitants of the county of Penobscot, has been arrested a second time by the provincial authorities of New Brunswick, and is now in confinement in the jail at Fredericton; and requesting that prompt measures be adopted by the Government of the United States to effect the release of Mr. Greely.

I hasten to assure you in reply that Mr. Stevenson, the minister of the United States at London, will be immediately instructed to renew his application to the British Government for the release of Mr. Greely, and that the result, when obtained and communicated to this Department, will be made known to your excellency without unnecessary delay.

Information was given at an early day to the executive of Maine of the informal arrangement between the United States and Great Britain in regard to the exercise of jurisdiction within the disputed territory, and the President's desire was then expressed that the government and people of that State would cooperate with the Federal Government in carrying it into effect. In the letter addressed to your excellency from this Department on the 17th ultimo you were informed of the continuance of that arrangement and of the reasons for it. I am now instructed by the President (who indulges the confident expectation that the executive of Maine will still see in the gravity of the interests involved a sufficient motive for his cordial concurrence in an arrangement which offers the best prospect of an amicable and satisfactory adjustment of the general question of boundary) to request your excellency's cooperation in the conciliatory course adopted by the two Governments, an adherence to which seems the more important at this time from the consideration that an answer to the President's last proposition is daily looked for, and to renew to you the assurance that no efforts shall be spared on his part to bring the negotiation to a speedy conclusion.

I have the honor to be, etc.,

JOHN FORSYTH.

Mr. Forsyth to Mr. Stevenson.

[Extract.]

DEPARTMENT OF STATE,

ANDREW STEVENSON, Esq., etc.

Washington, July 12, 1837.

SIR: I inclose an extract* of a letter received at this Department from the governor of Maine, by which you will perceive that a citizen of that State, named Ebenezer S. Greely, while employed, in virtue of an appointment under one of its laws, in making an enumeration of the inhabitants upon a part of the territory claimed as being within the limits of the State, was seized by order of the authorities of the Province of New Brunswick on the 6th of June last and imprisoned in the public jail of

*Omitted.

Frederickton, where he still remains. I also transmit a copy of sundry documents relating to his arrest and detention.* This outrage upon the personal liberty of one of its citizens has actually caused great excitement in Maine, and has produced an urgent appeal to the General Government for its intervention in procuring redress for what is considered an unprovoked and unjustifiable aggression. This arrest was made on a part of the territory in dispute between the United States and Great Britain, and could only have been justified in the existing state of that controversy by some plain infringement of the understanding which exists between the parties, that until the settlement of the question of right there shall be no extension of jurisdiction on either side within the disputed limits. It is not perceived how the simple enumeration of the inhabitants, about which Mr. Greely was employed, could be construed as a breach of that understanding, and it is expected that the Government of Great Britain will promptly mark its disapproval of this act of violence committed by the provincial authorities, so inconsistent with those amicable feelings under which the negotiation respecting the controverted boundary has been hitherto conducted, and so essential to bring it to a happy termination. You are directed immediately upon the receipt of this dispatch to bring the subject to the notice of His Majesty's Government, and to demand as a matter of justice and right the prompt release of Mr. Greely and a suitable indemnity for his imprisonment.

Mr. Stevenson to Mr. Forsyth.

[Extract.]

LEGATION OF THE UNITED STATES,

London, August 21, 1837.

SIR: I received by the last packet to Liverpool your dispatch of the 12th of July (No. 21), transmitting copies of the documents and correspondence in relation to the arrest and imprisonment of Mr. Greely, a citizen of Maine, by the authorities of New Brunswick.

In pursuance of your instructions, I lost no time in presenting the subject to the consideration of the Government, and herewith transmit to you a copy of my note to Lord Palmerston, to which no answer has yet been received.

You will see that I waived for the present the discussion of the question of right and jurisdiction, and contented myself with presenting the facts of the case and demanding the immediate release of Mr. Greely and indemnity for the injuries which he had sustained.

Mr. Stevenson to Lord Palmerston.

23 PORTLAND PLACE, August 10, 1837.

LORD PALMERSTON, etc.:

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, has the honor, in pursuance of instructions from his Government, to transmit to Lord Palmerston, Her Majesty's principal secretary of state for foreign affairs, copies of sundry official documents detailing the circumstances under which a most unwarrantable outrage has recently been committed by the authorities of the Province of New Brunswick upon the rights and liberty of a citizen of the United States.

From these papers it appears that Ebenezer S. Greely, a citizen of the State of Maine, was duly appointed for the purpose of taking an enumeration of the inhabitants of that State by an act of its legislature; that on the 6th of June last, whilst Mr. Greely was engaged in performing this duty and taking down the names of the inhabitants residing in that part of the disputed territory claimed by the United States as lying within the limits of Maine, he was forcibly arrested by the authorities

* Omitted.

of New Brunswick, immediately transported in custody to the town of Fredericton, and imprisoned in the public jail, where he still remains. This proceeding by the authorities of New Brunswick, having produced, as might justly have been expected, very deep excitement in Maine, was followed by an immediate appeal from the governor of that State to the Government of the United States for intervention and redress.

This application on the part of Maine having received the special consideration of the President, the undersigned has been instructed to lose no time in presenting the subject to the early and earnest attention of Her Majesty's Government, and demanding not only the immediate liberation of Mr. Greely from imprisonment, but indemnity for the injuries that he has sustained.

In fulfilling these instructions of his Government it is not the purpose of the undersigned to open the general discussion of the respective claims of Great Britain and the United States to the disputed territory (within which Mr. Greely was arrested), or the right of either Government to exercise jurisdiction within its limits. Whatever opinion the undersigned may entertain as to the rightful claim of the State of Maine to the territory in dispute, and however unanswerable he may regard the arguments by which the claim may be sustained, he deems it neither proper nor needful to urge them upon the consideration of Her Majesty's Government in the decision of the present case; more especially as the whole subject is elsewhere, and in another form, matter of negotiation between the two Governments, where the discussion of the question of right more appropriately belongs. The undersigned, moreover, does not presume that pending the negotiation, and whilst efforts are making for the peaceable and final adjustment of these delicate and exciting questions, Her Majesty's Government can claim the right of exclusive jurisdiction and sovereignty over the disputed territory or the persons residing within its limits. In such a claim of power on the part of Great Britain or its provincial authorities, the undersigned need not repeat to Lord Palmerston (what he is already fully apprised of) the Government of the United States can never consent to acquiesce in the existing state of the controversy. On the contrary, the mutual understanding which exists between the two Governments on the subject and the moderation which both Governments have heretofore manifested forbid the exercise by either of such high acts of sovereign power as that which has been exerted in the present case by the authorities of Her Majesty's provincial government.

The undersigned must therefore suppose that this arrest and imprisonment of an American citizen under such circumstances and in the existing state of the controversy could only have been justified by some supposed infringement of the understanding existing between the parties in relation to the question of jurisdiction within the disputed territory. Such, however, was not the case. The correspondence between the governor of Maine and the lieutenant-governor of New Brunswick shows that the only act done by Mr. Greely was the simple enumeration of the inhabitants, and it is not perceived how such an act could be construed into a breach of the understanding between the two Governments.

It is proper also to remark that this was not the first time that the inhabitants within this particular settlement had been enumerated under the authority of the United States. It was done in the census of 1820 (as a portion of the State of Maine), and was at the time neither objected to nor remonstrated against by the British Government or that of New Brunswick.

Wherever, then, the right of jurisdiction and sovereignty over this territory may dwell, the undersigned feels satisfied that Her Majesty's Government can not fail to perceive that the arrest and imprisonment of Mr. Greely under the circumstances of the case was not only a violation of the rights of the United States, but was wholly irreconcileable with that moderation and forbearance which it is peculiarly the duty of both Governments to maintain until the question of right shall be definitively settled.

It becomes the duty of the undersigned, therefore, in pursuance of special instructions from his Government, to invite the early and favorable consideration of Her Majesty's Government to the subject, and to demand, as a matter of justice and right, the immediate discharge of Mr. Greely from imprisonment, and a suitable indemnity for the wrongs he has sustained.

Before closing this note the undersigned will avail himself of the occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long-pending controversy, and the increased obstacles which will be thrown in the way of its harmonious settlement by these repeated collisions of authority and the exercise of exclusive jurisdiction by either party within the disputed territory.

He begs leave also to repeat to his lordship assurances of the earnest and unabated desire which the President feels that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of Her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the undersigned had been led to believe would long since have been given; and he has been further directed to say that should this proposition be disapproved the President entertains the hope that some new one on the part of Her Majesty's Government will immediately be made for the final and favorable termination of this protracted and deeply exciting controversy.

The undersigned begs Lord Palmerston to receive renewed assurances of his distinguished consideration.

A. STEVENSON.

Mr. Forsyth to Mr. Stevenson.

DEPARTMENT OF STATE,
Washington, September 28, 1837.

ANDREW STEVENSON, Esq., etc.

SIR: You will receive herewith the copy of a note, dated the 18th instant, recently received by the President from the governor of Maine, who alleges that Ebenezer S. Greely, esq., a citizen of that State, while employed within its limits and under its authority in enumerating the inhabitants of Penobscot County, has been again arrested and imprisoned by the provincial authorities of New Brunswick, and requests that speedy measures be adopted by the Government of the United States to procure the release of Mr. Greely.

Governor Dunlap has been assured, by the President's direction, that steps would be immediately taken to effect that object, and you are accordingly instructed, on the receipt of this dispatch, to bring the subject without delay to the attention of the British secretary of state for foreign affairs. You will remonstrate in a respectful but earnest manner against this second violation of the rights of Maine in the person of her agent, and demand the prompt release of Mr. Greely, with such additional indemnification as the nature of the outrage calls for.

I am, etc.,

JOHN FORSYTH.

Mr. Stevenson to Mr. Forsyth.

[Extracts.]

LEGATION OF THE UNITED STATES,
London, November 22, 1837.

On my return to London, after an absence of a few weeks, I found your dispatches Nos. 26 and 27, under date of the 8th and 28th of September. In pursuance of your instructions I addressed an official note to Lord Palmerston on the subject of the

second arrest and imprisonment of Mr. Greely by the provincial authority of New Brunswick, a copy of which I have now the honor of transmitting to you.

No answer has yet been received to my first note, but I presume a decision of the case may be soon expected.

Mr. Stevenson to Lord Palmerston.

23 PORTLAND PLACE, November 8, 1837.

The undersigned, envoy extraordinary and minister plenipotentiary from the United States, had the honor on the 10th of August last of addressing to Lord Viscount Palmerston, Her Majesty's principal secretary of state for foreign affairs, an official note complaining of the arrest and imprisonment of Ebenezer S. Greely, a citizen of the United States, by the provincial authorities of New Brunswick, and demanding, by order of his Government, the immediate release of Mr. Greely from imprisonment, with suitable indemnity for the wrongs he had sustained. To this communication a note was received from his lordship, under date of the 22d of the same month, in which an assurance was given that an early answer to the complaint might be expected. No answer, however, has yet been received, and it is with unfeigned regret that the undersigned finds himself constrained, in again inviting the attention of Her Majesty's Government to the subject, to accompany it with another complaint of a second outrage committed by the authorities of New Brunswick upon the rights and liberty of this individual.

From recent information received it appears that shortly after the first arrest and imprisonment of Mr. Greely he was, by the orders of the lieutenant-governor of New Brunswick, released from confinement, but was immediately thereafter again taken into custody by his authority and recommitted to the jail of Fredericton, where he is now detained. This fact having been communicated by the governor of Maine to the President of the United States (in an official communication setting forth the circumstances under which it was done, a copy of which is herewith transmitted), the undersigned has received the special instructions of his Government to bring the subject without delay to the notice of Her Majesty's Government, in order that immediate steps may be taken for the liberation of Mr. Greely and indemnity made for the injuries he has suffered.

Having in the first note which he had the honor of addressing to Lord Palmerston stated the grounds upon which the release of this individual was demanded and the expectations of his Government in relation to the subject, and having waived the discussion of the questions of right and jurisdiction, which he still intends doing, it will not be needful to do more on this occasion than express to his lordship the painful surprise and regret with which the President has received information of this second outrage on the part of the authorities of New Brunswick, and to repeat the assurances heretofore given that such proceeding can be regarded in no other light than a violation of the rights and sovereignty of the United States, and entirely irreconcilable with that mutual forbearance which it was understood would be practiced by both Governments pending the negotiation.

The circumstances under which these recent attempts to enforce jurisdiction have been made show that in the most favorable aspect in which they can be regarded they were wholly indefensible.

The act for which Greely was arrested and imprisoned, so far from having been committed within the acknowledged dominions of the British Crown, and beyond the limits of the disputed territory, and therefore liable to be treated as a violation of territorial jurisdiction, took place, as appears by the statement of the ~~governor of~~ Maine, whilst he was employed within the limits of that State, and under its authority, in enumerating the inhabitants of the county of Penobscot.

By what authority, then, the provincial government of New Brunswick felt itself

justified in exercising such acts of sovereign power the undersigned is at a loss to conceive, unless, indeed, upon the ground that the jurisdiction and sovereignty over the disputed territory pending the controversy rests exclusively with Great Britain. If such should turn out to be the fact, it can hardly be necessary again to repeat the assurances which have been heretofore given that in any such claim of power the Government of the United States can not acquiesce.

Upon the consequences which would unavoidably result from attempting to exercise such jurisdiction it is needless to enlarge. It must now be apparent that all such attempts, if persevered in, can produce only feuds and collisions of the most painful character, and besides increasing the feelings of international discord which have already been excited between the contending parties, they will close every avenue to an amicable adjustment of a controversy which it is so much the desire and interest of both Governments to accomplish. Ought it not, then, to be the earnest endeavor of the two Governments to avoid doing anything which can have a tendency to lead to such mischievous consequences?

It is under this view of the subject that the undersigned has been instructed again to remonstrate against these proceedings of the authorities of New Brunswick, as a violation of the rights of Maine in the person of her agent, and to protest in the most solemn manner against the future exercise of all such acts of jurisdiction and sovereignty over the disputed territory or the citizens of the United States residing within its limits until a final adjustment of the controversy takes place.

The undersigned, therefore, can not and ought not to close this note without again invoking the early and earnest attention of Lord Palmerston and that of Her Majesty's Government to this painful subject.

It is one of deep and mutual interest to the parties concerned, and the delicacy and embarrassments which surround it are justly appreciated by the Government of the United States. Deeply regretting, as that Government does, the collisions of authority to which both countries have been so repeatedly exposed by the delay that has taken place in the final settlement of the main question, it is sincerely desirous, as the undersigned has taken occasion repeatedly to assure Lord Palmerston, to have it brought to a speedy and amicable termination. This can only be done by measures of mutual forbearance and moderation on the part of both Governments. To this end the efforts of the American Government have been earnest, persevering, and constant. It has done, as it will continue to do, everything in its power to induce the State of Maine to pursue a course best calculated to avoid all excitement and collision between the citizens of that State and the inhabitants of New Brunswick, or which would tend in any manner to embarrass the mediatorial action of their two Governments on the subject; but it can not be expected, if the authorities of New Brunswick still persevere in attempting to exercise jurisdiction over the disputed territory by the arrest and imprisonment in foreign jails of citizens of Maine for performing their duty under the laws of their own State, and within what is believed to be her territorial limits, that measures of retaliation will not be resorted to by Maine, and great mischief ensue.

Indeed, under existing circumstances and in the nature of human connections, it is not possible, should such a course of violence be continued, to avoid collisions of the most painful character, for which the Government of the United States can not be responsible, but which both Governments would equally deplore.

It was doubtless with a view of guarding against these consequences that the understanding took place that each Government should abstain from exercising jurisdiction within the limits of the disputed territory pending the settlement of the main question.

The undersigned therefore persuades himself that these proceedings of the colonial government may have taken place without a careful examination of the important questions involved in them or the consequences to which they might lead, rather

than under instructions from Her Majesty's Government or with a deliberate view of asserting and enforcing territorial and jurisdictional rights over the contested territory.

In looking back, as he does with satisfaction, to the conciliatory spirit in which the negotiation has heretofore been conducted and the moderation which both Governments have observed, the undersigned can not permit himself to doubt but that upon a careful review of the whole subject Her Majesty's Government will see fit not only to mark with its disapprobation this last proceeding of her colonial government, and direct the immediate liberation of Mr. Greely from imprisonment, with ample indemnity for the wrongs he may have sustained, but that it will see the propriety of giving suitable instructions to the authorities of New Brunswick to abstain for the future from all acts of that character, which can have no other tendency than to increase the excitement and jealousies which already prevail and retard the final and amicable adjustment of this painful controversy.

The undersigned requests Lord Palmerston to accept assurances of his distinguished consideration.

A. STEVENSON.

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE,
Washington, January 9, 1829.

Right Hon. CHARLES R. VAUGHAN, etc.

SIR: I have this day received a letter from the governor of the State of Massachusetts, transmitting an extract from a letter addressed by George W. Coffin, esq., land agent of Massachusetts, to his excellency, a copy of which is herewith communicated, and to which I request your immediate and particular attention:

It appears from this document that "mills are now erecting on the grant formerly made to General Eaton, on the Aroostook River, for the avowed purpose of getting their supply of timber from our forests;" that the proprietor of these mills "says he has assurances from the authorities of New Brunswick that he may cut timber without hindrance from them, provided he will engage to pay them for it if they succeed in obtaining their right to the territory;" "that mills are also erected at Fish River, and to supply them the growth in that section is fast diminishing, and that the inhabitants of St. John River obtain from the Province of New Brunswick permits to cut on the Crown lands. But it is evident that many having such permits do not confine themselves to Crown lands, for in my travels across the interior country logging roads and the chips where timber had been hewn were seen in every direction, also many stumps of trees newly cut." I need scarcely remark that the proceedings thus described are in opposition to the understanding which has existed between the Governments of the United States and Great Britain that during the pendency of the arbitration which is to settle the question of boundary neither party should exercise any jurisdiction or perform any act on the disputed territory to strengthen his own claims or to affect the state of the property in issue. The governor of Massachusetts observes in his letter to me that, "in relation to the lands on Fish River, it must be recollected that the survey of a road by the joint commissioners of Massachusetts and Maine a short time since was made matter of complaint by the British minister resident at Washington on the express ground that the territory was within the scope of the dispute. From courtesy to his Government and a respectful regard to a suggestion from the Department of State, the making of the road was suspended." The governor justly concludes: "But it will be an ill requital for this voluntary forbearance on our part if the land is to be plundered of its timber and the value of the property destroyed before it shall be determined that it does not belong to us."

If the government of New Brunswick will authorize or countenance such tres-

passes as have been stated by Mr. Coffin on the disputed territory, it can not be expected that the State of Maine will abstain from the adoption of preventive measures or from the performance of similar or other acts of jurisdiction and proprietorship. The consequence would be immediate and disagreeable collision. To prevent this state of things, I am directed by the President again to demand through you the effectual interposition of the British Government. Without that the friendly, if not the peaceful, relations between the two countries may be interrupted or endangered.

I request your acceptance on this occasion of assurances of my distinguished consideration.

H. CLAY.

Mr. Vaughan to Mr. Clay.

Hon. HENRY CLAY, etc.:

WASHINGTON, January 13, 1829.

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to acknowledge the receipt of Mr. Clay's note containing a representation which has been made by his excellency the governor of the State of Massachusetts respecting the cutting down of timber upon the disputed territory in the Province of New Brunswick.

The undersigned will immediately transmit a copy of Mr. Clay's note to His Majesty's lieutenant-governor of New Brunswick, in order to obtain an explanation of the transaction which has given rise to the remonstrance made by the governor of Massachusetts.

The undersigned takes this opportunity of renewing to the Secretary of State the assurances of his highest consideration.

CHS. R. VAUGHAN.

Mr. Vaughan to Mr. Hamilton.

JAMES A. HAMILTON, Esq., etc.:

WASHINGTON, March 7, 1829.

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, had the honor to receive from the Secretary of State of the United States a note, dated the 9th January last, containing a representation made by his excellency the governor of Massachusetts respecting some trespasses committed on the disputed territory in the Province of New Brunswick.

A copy of the note of the Secretary of State having been transmitted to Sir Howard Douglas, His Majesty's lieutenant-governor of that Province, the undersigned has lately received an answer, which he has the honor to communicate to Mr. Hamilton by inclosing an extract* of his excellency's letter, which shews in the most satisfactory manner that, so far from the proceedings complained of by the governor of Massachusetts having been authorized or countenanced in any shape by the government of New Brunswick, every precaution has been taken to prevent and restrain depredations in the disputed territory.

Mr. Hamilton will see by the inclosed letter that Sir Howard Douglas has sent a magistrate to report upon the mills which have been established without license or authority, to inspect minutely the stations of the cutters of lumber, and to seize any timber brought into the acknowledged boundaries of New Brunswick from the disputed territory, and to hold the proceeds of the sale of it for the benefit of the party to whom that territory may be ultimately awarded.

As the time is approaching when Sir Howard Douglas will be absent from his government, he will leave injunctions strictly to observe the understanding between the two governments during his absence. The undersigned has great satisfaction in being able to offer to the Government of the United States the unequivocal testimony

* Omitted.

contained in the inclosed letter from Sir Howard Douglas of the conciliatory spirit in which the government of New Brunswick is administered, and trusting that a similar spirit will animate the government of the American States which border on that Province, he confidently anticipates a cessation of that excitement which has unfortunately prevailed in the neighborhood of the disputed territory.

The undersigned takes this occasion to offer to Mr. Hamilton the assurances of his high consideration.

CHAS. R. VAUGHAN.

Mr. Hamilton to Mr. Vaughan.

DEPARTMENT OF STATE,

Washington, March 11, 1829.

Right Hon. CHARLES RICHARD VAUGHAN,

Envoy Extraordinary and Minister Plenipotentiary from Great Britain.

SIR: I have received and laid before the President of the United States the note, with its inclosures, which you did me the honor to write to me on the 7th of this month in answer to a representation which was made to you by Mr. Clay on the 9th of January last, at the instance of the governor of Massachusetts, concerning depredations complained of by him against inhabitants of the Province of New Brunswick in cutting timber, preparing lumber for market, and erecting mills upon the soil of the territory in dispute between the United States and Great Britain, and I am directed by the President to state in reply, as I have much pleasure in doing, that he derives great satisfaction from the information contained in your communication, as he especially perceives in the prompt and energetic measures adopted by Sir Howard Douglas, lieutenant-governor of the Province in question, and detailed in the inclosure referred to, a pledge of the same disposition on the part of the authorities of that Province which animates this Government—to enforce a strict observance of the understanding between the two Governments that the citizens or subjects of neither shall exercise any acts of ownership in the disputed territory whilst the title to it remains unsettled. I will lose no time in making known to the governors of Massachusetts and Maine the measures which have been thus adopted by the lieutenant-governor of New Brunswick to guard against all depredations upon the disputed territory, and will at the same time inform their excellencies of the just and confident expectation entertained by the President that the conciliatory understanding or arrangement between the two Governments of the United States and Great Britain already referred to should not be disturbed by the citizens of these two States.

I am directed likewise by the President expressly to use this first occasion of an official communication with you under his orders to request the favor of you to make known to your Government the sincere regret he feels at the existence of any difference or misunderstanding between the United States and Great Britain upon the subject-matter of this letter, or any other whatever, and that in all the measures which may be adopted on his part toward their adjustment he will be entirely actuated and governed by a sincere desire to promote the kindest and best feelings on both sides and secure the mutual and lasting interests of the parties.

I pray you, sir, to accept the renewed assurances of the high and distinguished consideration with which I have the honor to be, your obedient, humble servant,

JAMES A. HAMILTON.

Mr. Vaughan to Mr. Hamilton.

Mr. J. A. HAMILTON, etc.:

WASHINGTON, March 12, 1829.

It is with great satisfaction that the undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, acknowledges the receipt of Mr. Hamilton's note of the 11th instant, containing a prompt acknowledgment of the efficacious

measures adopted by the lieutenant-governor of New Brunswick to investigate and to restrain the proceedings complained of in the disputed territory; and he begs leave to assure the President that he derives great satisfaction from being requested to communicate to His Majesty's Government that in the adjustment of differences between Great Britain and the United States the President will be entirely actuated and governed by a sincere desire to promote the kindest and best feelings on both sides and secure the mutual and lasting interests of the parties.

The undersigned begs Mr. Hamilton to accept the assurances of his highest consideration.

CHAS. R. VAUGHAN.

Mr. Vaughan to Mr. Van Buren.

WASHINGTON, April 10, 1829.

Hon. MARTIN VAN BUREN, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to inform the Secretary of State of the United States that he has received an intimation from His Majesty's lieutenant-governor of New Brunswick that, apparently, it is the intention of the Government of the United States to carry the road now making through the State of Maine to Mars Hill over the point, and to occupy it as a military station.

The undersigned begs leave to remind Mr. Van Buren that Mars Hill is situated upon the northeastern line of boundary which is in dispute between the two Governments; and he is called upon to protest against the occupation of it by American troops upon the ground that the line drawn by the commissioners of boundary under the treaty of Ghent due north from the monument which marks the sources of the river St. Croix was not considered by them as correctly laid down, and it yet remains to be determined whether Mars Hill lies eastward or westward of a line drawn upon scientific principles. For a better explanation of the motives for this protest the undersigned has the honor to refer the Secretary of State to a copy of a letter, which is inclosed,* from Sir Howard Douglas.

A joint resolution of both Houses of Congress passed during the last session tends to confirm the intentions of the Government of the United States as inferred by Sir Howard Douglas from the information which he has received. That resolution authorized the making of a road from and beyond Mars Hill to the mouth of the Madawaska River; but as the carrying into effect that resolution was left entirely to the discretion of the President, the undersigned can not entertain any apprehension of a forcible seizure of a large portion of the disputed territory, which a compliance with the resolution of Congress would imply.

The undersigned acknowledges with great satisfaction the assurances which he has received of the kind feelings which will actuate the President of the United States in the adjustment of any differences which may exist with Great Britain. He submits, therefore, the representation of the lieutenant-governor of New Brunswick respecting the occupation of Mars Hill, relying confidently on the manifest propriety of restraining the aggression which it is supposed is meditated from the frontier of the State of Maine, and of both parties mutually abstaining from any acts which can affect the disputed territory, as the question of possession is now in the course of arbitration.

The undersigned reiterates to the Secretary of State the assurances of his highest consideration.

— CHAS. R. VAUGHAN.

* Omitted.

Mr. Van Buren to Mr. Vaughan.

DEPARTMENT OF STATE,
Washington, May 11, 1829.

Right Hon. CHARLES R. VAUGHAN, etc.:

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note which Mr. Vaughan, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, addressed to him on the 10th of April, stating upon the authority of a letter from the governor of New Brunswick, whereof a copy came inclosed in Mr. Vaughan's note, that it was apparently the intention of the Government of the United States to carry the road now making through the State of Maine to Mars Hill over that point, and to occupy Mars Hill as a military station; and protesting against such occupation upon the ground that the line drawn by the commissioners of boundary under the treaty of Ghent due north from the monument which marks the source of the river St. Croix was not considered by them as correctly laid down, and that it yet remains to be determined whether Mars Hill is eastward or westward of the true line.

The undersigned deems it unnecessary upon the present occasion to enter into an elaborate discussion of the point stated by Sir Howard Douglas, the lieutenant-governor of New Brunswick, concerning the line referred to by him, inasmuch as the relative position of Mars Hill to that line is already designated upon map A, and the line itself mutually agreed to and sufficiently understood for all present purposes, though not definitively settled by the convention of London of the 29th September, 1827.

The undersigned will therefore merely state that he finds nothing in the record of the proceedings of the commissioners under the fifth article of the treaty of Ghent to warrant the doubt suggested by the lieutenant-governor of New Brunswick whether Mars Hill lies to the westward of the line to be drawn due north from the monument at the source of the St. Croix to the highlands which divide the waters that empty into the river St. Lawrence from those which empty into the Atlantic Ocean; that the joint surveys and explorations made under that commission place the hill about a mile due west of that line; and that the agent of His Britannic Majesty before the commissioners, so far from intimating any doubt on the point, made it one ground of argument that the true line, when correctly laid down, would necessarily, on account of the ascertained progressive westerly variation of the needle, fall still farther westward.

The undersigned can not acquiesce in the supposition that, because the agent of His Britannic Majesty thought proper in the proceedings before the commissioners to lay claim to all that portion of the State of Maine which lies north of a line running westerly from Mars Hill, and designated as the limit or boundary of the British claim, thereby the United States or the State of Maine ceased to have jurisdiction in the territory thus claimed. In the view of this Government His Britannic Majesty's agent might with equal justice have extended his claim to any other undisputed part of the State as to claim the portion of it which he has drawn in question, and in such case the lieutenant-governor of New Brunswick could surely not have considered a continuance on the part of the United States and of the State of Maine to exercise their accustomed jurisdiction and authority to be an encroachment. If so, in what light are we to regard the continued acts of jurisdiction now exercised by him in the Madawaska settlement? More than twenty years ago large tracts of land lying westward of Mars Hill, and northward on the river Restook, were granted by the State of Massachusetts, which tracts are held and possessed under those grants to this day, and the United States and the States of Massachusetts and Maine, in succession, have never ceased to exercise that jurisdiction which the unsettled condition of the country in that region and other circumstances admitted and required.

The undersigned, therefore, can not discover in the facts and circumstances of the case any just principles upon which Sir Howard Douglas could predicate his protest. He has, however, submitted the note which he had the honor to receive from Mr. Vaughan to the President of the United States, and is by him directed to say in reply that although this Government could feel no difficulty in the exercise of what it deems an unquestionable right, and could not allow itself to be restrained by the protest of the lieutenant-governor of New Brunswick, yet, as a further proof of the spirit of amity, forbearance, and conciliation which the President is desirous of cultivating between the two Governments, he has decided to postpone for the present the exercise of the authority vested in him by the Congress of the United States to cause to be surveyed and laid out a military road to be continued from Mars Hill, or such other point on the military road laid out in the State of Maine as he may think proper, to the mouth of the river Madawaska, and to add that the lieutenant-governor of New Brunswick is under a misapprehension as to the design of this Government to occupy Mars Hill as a military station, no such intention being entertained by the President, nor have any measures been taken by this Government with an ulterior view to that object.

The undersigned indulges the hope that Mr. Vaughan will perceive in the manner in which the President, discriminating between the rights of this Government and their present exercise, has used the discretion conferred upon him an additional evidence of the desire which he sincerely entertains, and which he has heretofore caused to be communicated to Mr. Vaughan, that both Governments should, as far as practicable, abstain from all acts of authority over the territory in dispute which are not of immediate and indispensable necessity, and which would serve to create or increase excitement whilst the matter is in course of arbitration; and he feels well persuaded that Mr. Vaughan will not fail to inculcate the same spirit and to recommend in the strongest terms the observance of the same course on the part of the provincial government of New Brunswick.

The undersigned offers to Mr. Vaughan the renewed assurances of his high consideration.

M. VAN BUREN.

Mr. Vaughan to Mr. Van Buren.

WASHINGTON, May 14, 1829.

Hon. MARTIN VAN BUREN, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to acknowledge the receipt of Mr. Van Buren's note dated the 11th instant, and he derives great satisfaction from being able to communicate to His Majesty's Government the assurances which it contains that the Government of the United States has never entertained the design of occupying Mars Hill, and that the President, in the spirit of amity, forbearance, and conciliation which he is desirous of cultivating between the two Governments, has decided to postpone for the present the exercise of the authority vested in him by the Congress of the United States to cause to be surveyed and laid out a military road to be continued from Mars Hill to the river Madawaska.

The undersigned will transmit immediately a copy of Mr. Van Buren's note to His Majesty's Government, and he forbears, therefore, from taking notice of the observations which it contains relative to the exact position of Mars Hill and to the exercise of jurisdiction in the district on the northwest of it.

The undersigned begs leave to renew to Mr. Van Buren the assurances of his highest consideration.

CHAS. R. VAUGHAN.

Mr. Vaughan to Mr. Van Buren.

WASHINGTON, June 8, 1829.

Hon. MARTIN VAN BUREN, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, had the honor on the 7th March last to lay before the Government of the United States a letter from Sir Howard Douglas, His Majesty's lieutenant-governor of New Brunswick, in explanation of trespasses alleged by the governor of the State of Massachusetts to have been committed by British subjects in the disputed territory within that Province. The lieutenant-governor announced his intention in that letter of sending a magistrate into the district where the proceedings complained of had taken place to ascertain the nature and extent of the alleged trespasses and afterwards to make a report to his excellency.

The report of the magistrate having been received by Mr. Black, who has been commissioned by His Majesty to administer the government of New Brunswick during the temporary absence of Sir Howard Douglas, a copy of it has been transmitted to the undersigned, and he begs leave to submit it* to the consideration of the Secretary of State of the United States, together with an extract* of the letter of Mr. Black which accompanied it. As it appears by the report of Mr. Maclauchlan, the magistrate, that some American citizens settled in the disputed territory are implicated in the trespasses which have been committed, Mr. Black, the president and commissioner in chief of the government of New Brunswick, suggests the propriety of an officer being appointed by the Government of the United States to act in concert with the British magistrate in preventing further depredations.

The undersigned has received from Mr. Black the most satisfactory assurances that it will be his earnest study to adhere scrupulously to the good feeling and conciliatory conduct toward the United States which has been observed by Sir Howard Douglas.

The undersigned seizes this opportunity to renew to Mr. Van Buren the assurances of his distinguished consideration.

CHAS. R. VAUGHAN.

Mr. Bankhead to Mr. Livingston.

WASHINGTON, October 1, 1831.

Hon. EDWARD LIVINGSTON, etc.:

The undersigned, His Britannic Majesty's chargé d'affaires, has the honor to acquaint Mr. Livingston, Secretary of State of the United States, that he has received a communication from His Majesty's lieutenant-governor of New Brunswick, stating that the authorities of Maine have endeavored to exercise a jurisdiction over part of the territory at present in dispute between His Majesty and the United States, and, further, that an order has been issued by a justice of the peace for the county of Penobscot to the inhabitants of the town of Madawaska to assemble for the purpose of choosing municipal officers.

The undersigned regrets sincerely that these irregular proceedings should have been had recourse to during a period when the question of boundary is in a course of settlement, and in opposition to the desire expressed by the President that pending the discussion of that question the State of Maine should refrain from committing any act which could be construed into a violation of the neighboring territory.

The undersigned begs leave to submit to the Secretary of State several documents* which he has received from Sir Archibald Campbell in support of his complaint of a violation of territory; and the undersigned entertains a confident hope that such measures will be adopted as shall prevent a recurrence of acts on the part of the authorities of the State of Maine which are productive of so much inconvenience

*Omitted.

and which tend to disturb that harmony and good will so necessary to be preserved between the two countries.

The undersigned has the honor to renew to Mr. Livingston the assurances of his distinguished consideration.

CHARLES BANKHEAD.

Mr. Livingston to Mr. Bankhead.

DEPARTMENT OF STATE,
Washington, October 17, 1831.

CHARLES BANKHEAD, Esq., etc.

SIR: Immediately after receiving your note of the 1st instant I wrote to the governor of the State of Maine for information on the subject of it. I have just received his answer, of which I have the honor to inclose two extracts.* By the first you will perceive that the election of town officers in the settlement of Madawaska, of which complaint was made in the papers inclosed in your letter, was made under color of a general law, which was not intended by either the executive or legislative authority of that State to be executed in that settlement, and that the whole was the work of inconsiderate individuals.

By the second extract it will appear that the individuals said to have been most prominent in setting up the authority of the State have been arrested by order of the lieutenant-governor of the Province of New Brunswick, and were on their way to be imprisoned at Frederickton.

The innovation on the existing state of things in the disputed territory being distinctly disavowed by the executive authority of the State, no act of authority or exercise of jurisdiction having followed the election, I would respectfully suggest the propriety of your recommending to the lieutenant-governor of New Brunswick the release of the prisoners who were arrested for exercising this act of authority in the territory mutually claimed by the two nations, contrary to the understanding between their Governments. It is their avowed object to avoid any collision until the intention of both parties in relation to the award shall be fully known. All subjects calculated to produce irritation, therefore, ought evidently to be avoided. The arrest of the persons concerned in the election must produce that feeling in a high degree. A conviction can not take place without eliciting a decision from the bench declaratory of and enforcing the jurisdiction over the territory in dispute, which it is the present policy of both powers to avoid, at least for the short time that must elapse before the question can be finally settled. If punishment should follow conviction, the passions that would be excited must inevitably be hostile to that spirit of conciliation so necessary where sacrifices of national feeling and individual interest are required for the common good. It would be absurd here to enter into the question of title. Both parties claim it. No act that either can do is necessary to assist its right while there is hope of an amicable arrangement; and it was with this view of the subject that a mutual understanding has been had to leave things in the state in which they are until the question of the award is settled.

On the part of the Americans some individuals, in contravention of this understanding, have proceeded to do acts which if followed out would change the political state of part of the disputed land. But it has not been so followed out; it is disavowed by the power whose assent is necessary to carry it into execution. It is therefore of no avail, and can have no more effect than if the same number of men had met at Madawaska and declared themselves duly elected members of the British Parliament. The act interferes with no right; it comes in actual collision with no established power. Not so the punishment of the individuals concerned. This is at once

*Omitted.

a practical decision of the question, and may lead to retaliating legal measures; for if the lieutenant-governor of New Brunswick feels himself obliged, as he says he does, to impose the authority of the law within which he thinks the boundaries of his Province, will not the same feeling incite the governor of Maine, under the same sense of duty, to pursue the like measures? And thus the fruits of moderation and mutual forbearance during so long a period will be lost for the want of perseverance in them for the short time that is now wanting to bring the controversy to an amicable close. It is therefore, sir, that I invite your interposition with his excellency the lieutenant-governor of New Brunswick to induce him to set at liberty the persons arrested, on their engagement to make no change in the state of things until the business shall be finally decided between the two Governments.

On our part, the desire of the General Government to avoid any measures tending to a change in the existing state of things on our northeast boundary has been fully and, it is believed, efficaciously expressed to the executive of the State of Maine, so that the actual relation of the State with the neighboring Province will not in future suffer any change.

I have great pleasure, sir, in renewing on this occasion the assurance of my high consideration.

EDWD. LIVINGSTON.

Mr. Bankhead to Mr. Livingston.

WASHINGTON, October 20, 1831.

Hon. EDWARD LIVINGSTON, Esq., etc.:

The undersigned, His Britannic Majesty's chargé d'affaires, has the honor to acknowledge the receipt of Mr. Livingston's note of the 17th instant, in answer to a representation which the undersigned thought it his duty to make to the Government of the United States upon a violation committed upon the territory at present in dispute between the two countries.

The friendly tone assumed by the Secretary of State in this communication, the discountenance on the part of the General Government of the proceedings which were complained of, and the determination of the President to cause the strictest forbearance to be maintained until the question of boundary shall be settled have been received by the undersigned with great satisfaction, and it is in the same spirit of harmony that he has addressed a letter to His Majesty's lieutenant-governor of New Brunswick, inclosing a copy of Mr. Livingston's note, for his excellency's serious consideration.

The undersigned has the honor to renew to Mr. Livingston the assurance of his distinguished consideration.

CHARLES BANKHEAD.

Mr. Bankhead to Mr. Livingston.

WASHINGTON, October 22, 1831.

Hon. EDWARD LIVINGSTON, etc.:

The undersigned, His Britannic Majesty's chargé d'affaires, has the honor to transmit to the Secretary of State of the United States the copy of a letter* from His Majesty's lieutenant-governor of New Brunswick, inclosing a deposition* made before a justice of the peace of that Province in support of a charge against certain inhabitants of Houlton, in the State of Maine, for having made a forcible inroad on the territory of His Majesty in search of an Irishman (an inhabitant of Woodstock, New Brunswick) who committed a most violent outrage against the constituted authorities at Houlton.

*Omitted.

The lieutenant-governor deprecates in the strongest manner the infamous conduct of the individual in question, and is perfectly ready to exert the utmost rigor of the laws against him; but his excellency at the same time protests against the conduct of those persons who have thus attempted to interfere with the jurisdiction of the laws in His Majesty's possessions.

Under these circumstances the undersigned has to request that Mr. Livingston will be good enough to cause the necessary inquiries to be instituted into this transaction, and upon the charges being clearly proved that he will make such a representation to the authorities of the State of Maine as shall prevent the recurrence of a similar irregularity in future.

The undersigned has the honor to renew to Mr. Livingston the assurances of his distinguished consideration.

CHARLES BANKHEAD.

Mr. Bankhead to Mr. Livingston.

WASHINGTON, November 25, 1831.

Hon. EDWARD LIVINGSTON, etc.:

The undersigned, His Britannic Majesty's chargé d'affaires, has the honor to refer the Secretary of State of the United States to the correspondence which took place in the month of October upon the subject of violations which had been committed upon the territory at present in dispute between Great Britain and the United States, and the measures which His Majesty's lieutenant-governor of New Brunswick deemed it expedient to adopt thereupon.

The trial of these persons took place at Fredericton, and they were sentenced by the supreme court of the Province to fine and imprisonment.

At the time the undersigned communicated to the Government of the United States the decision which the authorities of New Brunswick had felt it necessary to adopt upon this occasion he expressed the deep regret of the governor of that Province that the conduct of these individuals was such as to compel his excellency to pursue a course so uncongenial to his own feelings and at variance with the harmony which subsists between the Governments of Great Britain and the United States.

The Secretary of State upon receiving this communication expressed to the undersigned the earnest desire of the President, upon a total disavowal on the part of the General Government of the proceedings of the persons implicated in this transaction, that His Majesty's lieutenant-governor might consider himself authorized to exercise a prerogative in their favor and to remit the sentence which had been pronounced against them.

No time was lost in submitting Mr. Livingston's note to the consideration of Sir Archibald Campbell, and the undersigned has the greatest satisfaction in acquainting him that his excellency fully acquiesced in the desire manifested by the President of the United States. The undersigned can not better fulfill the wishes of Sir Archibald Campbell, which are so much in accordance with that spirit of good will which happily subsists between the two countries and which characterizes their relations with each other, than by transmitting to the Secretary of State a copy of the dispatch which he yesterday received from that officer, and which he feels assured will be received by the President as an earnest of his uninterrupted good feeling toward the Government and people of the United States.

The undersigned has the honor to renew to Mr. Livingston the assurance of his highest consideration.

CHARLES BANKHEAD.

Sir Archibald Campbell to Mr. Bankhead.

GOVERNMENT HOUSE,
Frederickton, November 8, 1831.

SIR: I had this morning the honor to receive your letter of the 20th ultimo, which, with its inclosures, are in every respect so satisfactory that I did not lose a moment in giving effect to the wishes therein expressed by exercising that prerogative so congenial to my own feelings, whether viewed in the extension of mercy or in the gratifying anticipation of such a measure being received as an earnest of my most anxious desire, as far as rests with me (consistent with my public duties), to preserve inviolate the harmony and good understanding so happily existing between the two Governments. The prisoners, Barnabas Hunnewell, Jesse Wheelock, and Daniel Savage, are released; and I have taken it upon myself, knowing that such a measure will be fully sanctioned by my Government, to remit the fines imposed by the supreme court of this Province, as already communicated to you by Lieutenant-Colonel Snodgrass—an act that I trust will not fail in being duly appreciated *when it is known* that the above-mentioned individuals did, with several others, follow up their first proceedings by acts of much more serious aggression, for which they stood charged under another (untried) indictment. However, everything connected therewith is now corrected.

You will see with what readiness and satisfaction I have received and adopted your kind advice, for which accept of my sincere thanks, and believe me to remain, sir, etc.,

ARCHIBALD CAMPBELL,
Lieutenant-Governor.

Mr. Livingston to Mr. Bankhead.

DEPARTMENT OF STATE,
Washington, November 28, 1831.

CHARLES BANKHEAD, Esq., etc.:

The undersigned, Secretary of State, etc., has the honor to acknowledge the receipt of a note from Mr. Bankhead, His Britannic Majesty's chargé d'affaires, under date of the 25th instant, accompanied by a copy of a letter from Sir A. Campbell, the lieutenant-governor of the Province of New Brunswick, by both of which the Secretary of State is informed that the citizens of the United States lately under prosecution at Frederickton for acts done in the territory now possessed by Great Britain within the country claimed both by that power and the United States, have been set at liberty, in accordance with the suggestions made in the former correspondence between Mr. Bankhead and the Secretary of State.

Mr. Bankhead's note, with its inclosure, has been laid before the President, who has instructed the undersigned to express his satisfaction at the prompt manner in which his suggestions have been complied with, and to say that he considers it as a proof of the disposition of His Britannic Majesty's officers to preserve the harmony that so happily subsists between the two Governments.

The undersigned renews to Mr. Bankhead the assurance of his high consideration.

EDWARD LIVINGSTON.

Sir Charles-R. Vaughan to Mr. McLane.

Hon. LOUIS McLANE, etc. — — —

WASHINGTON, October 20, 1833. — — —

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to lay before the Secretary of State of the United States

a copy of a letter* which he has received from His Excellency Sir Archibald Campbell, His Majesty's lieutenant-governor of New Brunswick, and to call his attention to the conduct of certain land agents of the States of Maine and Massachusetts in the territory in dispute between Great Britain and the United States.

It appears by the report contained in Sir Archibald Campbell's letter that land agents of Maine and Massachusetts have been holding out inducements to persons of both countries to cut pine timber on the disputed territory on condition of paying to them 2 shillings and 6 pence the ton, and that they have entered into contracts for opening two roads which will intersect the Roostook River.

As it is the declared will and mutual interest of the Governments of Great Britain and of the United States to preserve the disputed territory in its present state and to avoid all collision pending the settlement of the boundary question, the undersigned is convinced that it is sufficient to insure the prompt interference of the Government of the United States to put a stop to the proceedings of these land agents to state the conduct complained of.

The undersigned has the honor to renew to Mr. McLane the assurance of his most distinguished consideration.

CHAS. R. VAUGHAN.

Mr. McLane to Sir Charles R. Vaughan.

DEPARTMENT OF STATE,

Washington, October 23, 1833.

Right Hon. SIR CHARLES R. VAUGHAN, G. C. B.,

Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty:

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Sir Charles R. Vaughan, envoy extraordinary and minister plenipotentiary of His Britannic Majesty, of the 20th instant, accompanied by a copy of a letter from Sir Archibald Campbell, lieutenant-governor of New Brunswick, to Sir Charles R. Vaughan, and also a letter from J. A. Maclauchlan to the lieutenant-governor of New Brunswick, complaining of the "conduct of certain land agents of the States of Maine and Massachusetts in the territory in dispute between the United States and Great Britain."

The undersigned is instructed to state that it would be a source of regret to the President should this complaint prove to be well founded, and that he has caused a copy of Sir Charles's note and of the accompanying papers promptly to be communicated to the governors of Maine and Massachusetts, in order that the necessary steps may be taken to enforce a due observance of the terms of the existing arrangement between the Government of the United States and that of Great Britain in regard to the disputed territory.

The undersigned avails himself of the occasion to renew to Sir Charles R. Vaughan the assurance of his distinguished consideration.

LOUIS McLANE.

Sir Charles R. Vaughan to Mr. McLane.

WASHINGTON, December 17, 1833.

Hon. LOUIS McLANE, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, regrets that a letter received from His Majesty's lieutenant-governor of New Brunswick should again require him to ask the intervention of the General Government of the United States to put a stop to certain proceedings of the State of Maine in the territory still in dispute between Great Britain and the United States.

*Omitted.

The inclosed letter, with the report which accompanies it,* shows that the State of Maine has opened a road beyond the conventional frontier, with the avowed intention of carrying it to the bank of the river St. John.

The undersigned is convinced that the Secretary of State of the United States will agree with him that the State of Maine must not be allowed to take upon herself the right to define the meaning of the treaty of 1783, and, by aggressions such as those against which the undersigned is called upon to remonstrate, to take possession, without reference to the General Government of the United States, of territory which has been so long in abeyance between the two Governments. Such conduct is calculated to lead to collisions of a distressing nature between the subjects of His Britannic Majesty and the citizens of the United States employed to assert a futile and hazardous possession which so entirely depends upon the arrangements in progress between the two Governments.

The undersigned trusts that the representation made in this note will be received by the Secretary of State in the same spirit of good will and conciliation which has hitherto characterized the conduct of the Government of the United States in all occurrences of a similar nature.

The undersigned has the honor to renew to Mr. McLane the assurance of his most distinguished consideration.

CHAS. R. VAUGHAN.

Mr. McLane to Sir Charles R. Vaughan.

DEPARTMENT OF STATE,
Washington, December 21, 1833.

Right Hon. SIR CHARLES R. VAUGHAN, G. C. H.,

Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty:

The undersigned, Secretary of State, has the honor to acknowledge the receipt of the note addressed to him on the 17th instant by Sir Charles R. Vaughan, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, requesting the intervention of the Government of the United States to put a stop to certain proceedings of the State of Maine in the territory still in dispute between Great Britain and the United States.

The proceedings referred to appear, by the letter of the lieutenant-governor of New Brunswick and the report of the officer acting on the part of Great Britain as warden of the disputed territory (copies of which accompanied Sir Charles R. Vaughan's note), to be the construction of a road to the Restook River, passing, as is alleged, through 15 miles of the disputed territory, and supposed by the warden to be intended to intersect the St. John River in the Madawaska settlement.

The undersigned is happy to have it in his power to afford at once such explanations upon this subject as he trusts may be satisfactory. By a communication received from the governor of Maine, in answer to a representation recently made by Sir Charles R. Vaughan concerning other alleged encroachments on the disputed territory, it will be seen that no part of the road now constructing by that State is believed to be within the territory of which the British Government has ever been in the actual possession since the treaty of 1783, and that it is not designed to extend the road beyond the Aroostook. The apprehensions entertained of its being extended to the St. John River in the Madawaska settlement appear, therefore, to be groundless, and, if the views of the governor of Maine as to the locality of the road be correct, it would seem that its construction can afford no just cause of complaint, as it is not supposed that such improvements made by either party within that part of the territory which has been in its possession, or so considered, since the treaty of 1783 are

* Omitted.

contrary to the spirit of the existing understanding between the two Governments. It will be seen, moreover, as well by the communication from the governor of Maine as by one received from the governor of Massachusetts on the same occasion, that a conciliatory and forbearing disposition prevails on their part, and that no measures will be taken or any acts authorized by them which may justly be considered as a violation of the understanding in regard to the disputed territory.

The undersigned has nevertheless been directed by the President to transmit copies of Sir Charles R. Vaughan's note and its inclosures to the governors of Maine and Massachusetts, and to repeat to their excellencies his earnest desire that as far as depends on them no departure from the understanding between the two Governments may be permitted.

In regard to the complaint heretofore made by Sir Charles R. Vaughan, upon the representations of the lieutenant-governor of New Brunswick and the warden of the disputed territory, as to the cutting and sale of timber under the authority of the land agents of Maine and Massachusetts, the undersigned begs leave to refer to the communications from the governors of those States already mentioned, copies of which are now transmitted, by which it appears that the conduct of those agents has furnished no just cause of dissatisfaction, but that, on the contrary, it is alleged that His Britannic Majesty's officers of the Province of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the agent of the State of Massachusetts, have been the first to violate the existing understanding upon this subject.

These complaints on both sides, arising, as the undersigned believes, from acts which do not on either side indicate an intention to disregard the existing understanding, but are attributable to the unsettled state of the boundary question, and which should therefore be viewed with mutual forbearance, furnish increased reason for a speedy adjustment of that interesting matter; and the President looks with great solicitude for the answer, which is daily expected, from the British Government to the proposition submitted on the part of the United States, in the hope that it may soon set all those difficulties at rest.

The undersigned has the honor to renew to Sir Charles R. Vaughan the assurance of his distinguished consideration.

LOUIS McLANE.

EXECUTIVE DEPARTMENT OF MASSACHUSETTS,
November 1, 1833.

Hon. LOUIS McLANE,
Secretary of State of the United States.

SIR: I have to acknowledge the honor of the receipt of your letter of the 23d of October, covering a copy of a note addressed to you by Sir Charles R. Vaughan, envoy extraordinary and minister plenipotentiary of His Britannic Majesty, accompanied also by copies of certain documents conveying complaints on the part of the authorities of His Majesty's Province of New Brunswick "of the conduct of certain land agents of the States of Maine and Massachusetts on the territory in dispute between the United States and Great Britain."

Permit me to assure you that I shall lose no time in making inquiry of the land agent of this Commonwealth into the supposed occasion of the complaints of His Majesty's provincial officers, and in transmitting to the Department of State such information as I may receive in reply.

Prejudicial as the delay in the settlement of this long-vexed subject of boundary is to the rights of property which Massachusetts claims in the disputed territory, and impatient as both the government and the people have become at the unreasonableness and pertinacity of the adversary pretensions and with the present state of the question, yet the executive of this Commonwealth will not cease to respect the

understanding which has been had between the Governments of the two countries, *that no act of wrong to the property of either* shall be committed during the pending of measures to produce an amicable adjustment of the controversy.

In the meantime, I can not but earnestly protest against the authority of any appointment on the behalf of His Majesty's Government which may be regarded as a claim to the executive protection of this property or be deemed an acquiescence on the part of the United States in an interference, *under color* of a "wardenship of the disputed territory," with the direction to its improvement which the governments of Massachusetts and Maine, respectively, may see fit to give to their agents. The rights of soil and jurisdiction over it are in the States, and forbearance to the exercise of these rights for a season, from mere prudential considerations, a respectful regard to the wishes of the General Government, or amity toward a foreign nation is not to be construed into a readiness to surrender them upon the issue of any proposed negotiation.

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

LEVI LINCOLN.

EXECUTIVE DEPARTMENT OF MAINE,
Augusta, November 23, 1833.

Hon. LOUIS McLANE,
Secretary of State of the United States, Washington.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d of October last, communicating a copy of a note from Sir Charles R. Vaughan, accompanied with a copy of a letter from Sir Archibald Campbell, lieutenant-governor of New Brunswick, to Sir Charles R. Vaughan, and also of a letter from Lieutenant J. A. Mac-lauchlan to Sir Archibald Campbell, complaining of the conduct of the land agents of the States of Maine and Massachusetts in the territory in dispute between the United States and Great Britain.

In compliance with your request to be furnished with information in relation to this subject, I reply that by a resolve of the legislature of this State passed March 30, 1831, "the land agent of this State, in conjunction with the land agent of the Commonwealth of Massachusetts, is authorized and empowered to survey, lay out, and make a suitable winter road, or cause the same to be done, from the mouth of the Matawankeag, a branch of the Penobscot River, in a northerly direction, so as to strike the Aroostook River on or near the line dividing the sixth and seventh ranges of townships." The same resolve authorizes the land agents to lay out and make, or cause to be made, a winter road from the village of Houlton, in a westerly direction, to intersect the road to the Aroostook River at some point most convenient for traveling and most for the interest of the State. By a subsequent resolve, passed March 8, 1832, the authority given to the land agents was enlarged so as to authorize them "to locate and survey the Aroostook road so that it may strike the Aroostook River at any place between the west line of the third range and the east line of the sixth range of townships west of the east line of the State." The first of these roads has been surveyed and located, and much the greater part of it lies within the undisputed limits of this State south of the sources of the Penobscot River, and it is believed that no part of it lies within territory of which the British Government has ever been in the actual possession since the treaty of 1783. A portion of this road only has yet been opened, and I have no information that any part of it has been opened over territory *claimed* by the British, although it is contemplated to extend it to the Aroostook when it can be done consistently with the public interest. The second road described in the resolve of March 30, 1831, is wholly within the undisputed limits of this State.

A report of the recent proceedings of the land agent in making these roads and

disposing of the timber on the lands of the State has not been received, and his late sickness and death have rendered it impossible at this time to obtain a detailed statement of all that has been done in his official capacity. But it can not be presumed that he has in any particular exceeded his instructions (copies of which are herewith transmitted*), or, in the discharge of his official duties, taken any measures or authorized any acts to be done which could justly be considered as a violation of any known provision of the existing arrangement between the Governments of the United States and Great Britain in regard to the disputed territory.

With high consideration, I have the honor to be, sir, your obedient servant,

SAML. E. SMITH.

Sir Charles R. Vaughan to Mr. McLane.

WASHINGTON, December 23, 1833.

Hon. LOUIS McLANE, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to acknowledge the receipt of the note of the Secretary of State of the United States, in answer to the representation which he was called upon to make respecting proceedings of the States of Massachusetts and Maine in the disputed territory.

To understand correctly the bearings of the roads which those States have resolved to construct requires a more accurate knowledge of the topography of the country through which they are to pass than the undersigned possesses, but he will not fail to transmit a copy of Mr. McLane's note, together with its inclosures, to His Majesty's lieutenant-governor of New Brunswick. In the meantime the undersigned begs leave to observe that the letter from the executive of Maine states that one of the roads surveyed and located lies, for the greater part of it, within the undisputed limits of that State, although it is contemplated to extend it to the Aroostook River. The land agent of Massachusetts is aware that the road from the river Matawankeag to the Aroostook is the one that has given rise to complaint, and which, he observes, "is now nearly completed." As the Aroostook River, from its source till it falls into the St. John, flows exclusively through the disputed territory, to reach it by a road from the State of Maine must cause an encroachment and be considered an attempt to assume a right of possession in territory which has never yet been set apart from the original possession of Great Britain, on account of the difficulties of ascertaining the boundary according to the treaty of 1783.

With regard to the cutting down and sale of timber, the justification of the land agent at Boston will be submitted to Sir Archibald Campbell, and the undersigned is sure that the grievance complained of (taking away timber which had been seized by the agent from Massachusetts) will be attended to.

The undersigned receives with great satisfaction the assurances of Mr. McLane that "a conciliatory and forbearing disposition prevails on the part of Massachusetts and Maine, and that no measure will be taken or any acts authorized by them which may justly be considered as a violation of the understanding in regard to the disputed territory;" and he can not conclude without begging leave to acknowledge the readiness with which the President directed inquiries to be made and the desire which he has shewn on this and every similar occasion to prevent any encroachment on the disputed territory pending the settlement of the boundary now in progress between the two Governments.

— The undersigned has the honor to assure Mr. McLane of his most distinguished consideration.

CHAS. R. VAUGHAN.

*Omitted.

*Messages and Papers of the Presidents**Sir Charles R. Vaughan to Mr. McLane.*

WASHINGTON, February 28, 1834.

Hon. LOUIS McLANE, etc.:

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to communicate to the Secretary of State of the United States the explanation which he has received from the lieutenant-governor of New Brunswick of a transaction complained of by the land agent of Massachusetts in a report communicated to the undersigned in a note from Mr. McLane dated 21st December last.

The complaint arose out of the seizure of timber cut down without authority upon the disputed territory, and which, after having been seized in the first instance by the land agent of Massachusetts, was taken possession of and sold by the British agent intrusted with the preservation of the disputed territory on the northeastern frontier of the United States.

The explanation of this transaction is contained in an extract of a letter to the undersigned from the lieutenant-governor of New Brunswick and the report of Mr. Beckwith, the surveyor-general of that Province, which the undersigned has the honor to inclose in this note.*

The seizure of the timber in the first instance by Mr. Coffin, the land agent of Maine [Massachusetts], was the exercise of authority within the conventional frontier of the Province of New Brunswick, which could not be admitted so long as the northeastern boundary of the United States remains a subject of negotiation; and it appears that the proceeds of the sale of timber unlawfully cut down are carried to account, and the possession of them will be appropriated to the party to which the territory may be adjudged by the settlement of the boundary question.

The undersigned trusts that the explanation which he is now able to give of this transaction will prove satisfactory to the Government of the United States.

The undersigned has the honor to renew to Mr. McLane the assurance of his most distinguished consideration.

CHAS. R. VAUGHAN.

Mr. McLane to Sir Charles R. Vaughan.

DEPARTMENT OF STATE,

Washington, March 4, 1834.

Right Hon. SIR CHARLES R. VAUGHAN, G. C. H.,

Envoy Extraordinary, etc.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, furnishing the explanation of the lieutenant-governor of New Brunswick of a transaction referred to by the land agent of Massachusetts in a letter addressed to his excellency the governor of that Commonwealth, and subsequently communicated to you by this Department in a note dated 21st December last, and to inform you that copies of your communication, together with the documents which accompanied it, will, by direction of the President, be transmitted without unnecessary delay to the executive of the State of Massachusetts.

I pray you to accept the assurance of my distinguished consideration.

LOUIS McLANE.

Hon. R. M. JOHNSON,

WASHINGTON, January 27, 1838.

President of the Senate.

SIR: I transmit herewith, in compliance with the requirements of the second section of the act of March 3, 1837, making appropriations for

*Omitted.

the Indian Department, a communication from the War Department, accompanied by a copy of the report of the agents appointed to inquire what depredations had been committed by the Seminole and Creek Indians on the property of citizens of Florida, Georgia, and Alabama.

M. VAN BUREN.

[The same message was addressed to the Speaker of the House of Representatives.]

WASHINGTON CITY, *February 5, 1838.*

Hon. JAMES K. POLK,

Speaker of the House of Representatives.

SIR: I have the honor to transmit to you a report from the Secretary of the Navy, prepared in obedience to a resolution of the House of Representatives of the 7th December last, requiring information as to the causes which have delayed the outfit and preparation of the South Sea surveying and exploring expedition.

M. VAN BUREN.

WASHINGTON, *February, 1838.*

To the House of Representatives of the United States:

In compliance with the resolution of the House of Representatives of the 20th instant, I transmit a report from the Secretary of State, which is accompanied by a copy and translation of the pamphlet* requested in that resolution.

M. VAN BUREN.

WASHINGTON, *February 17, 1838.*

To the Senate:

I transmit for your constitutional action articles of a treaty concluded on the 23d ultimo with the Chippewas of Saganaw, accompanied by a communication from the Secretary of War.

M. VAN BUREN.

WASHINGTON, *February 17, 1838.*

To the Senate:

I transmit for your consideration a communication from the Secretary of War, respecting a treaty now before you with the Stockbridge and Munsee Indians.

M. VAN BUREN.

* Issued by Manuel E. de Gorostiza, formerly minister from Mexico, before his departure from the United States, containing the correspondence between the Department of State and the Mexican legation relative to the passage of the Sabine River by troops under the command of General Gaines.

Hon. J. K. POLK,

WASHINGTON, *March, 1838.**Speaker of the House of Representatives.*

SIR: The inclosed report and accompanying papers from the Secretary of War contain all the information required by the resolution of the House of Representatives of the 5th instant, respecting the present state of the campaign in Florida and the disposition of the Indians to treat for peace.

Very respectfully, your most obedient servant,

M. VAN BUREN.

WASHINGTON, *March 12, 1838.**To the House of Representatives:*

I transmit for the consideration of Congress a report from the Secretary of State, with the accompanying documents, relative to an application made by the minister of France in behalf of Captain Beziers for remuneration for services in saving the captain and crew of an American vessel wrecked in the bay of Cadiz in the year 1825.

I am happy to evince my high sense of the humane and intrepid conduct of Captain Beziers by presenting his case to Congress, to whom alone it belongs to determine upon the expediency of granting his request.

M. VAN BUREN.

WASHINGTON, *March 13, 1838.***The SPEAKER OF THE HOUSE OF REPRESENTATIVES:**

In compliance with a resolution of the House of Representatives of the 17th of February, I transmit a report* of the Secretary of State, with the accompanying documents, which contain the information requested.

M. VAN BUREN.

WASHINGTON, *March 14, 1838.***The PRESIDENT OF THE SENATE:**

I transmit to the Senate a treaty of commerce and navigation between the United States and His Majesty the King of Greece, concluded at London on the 22d day of December last, together with a copy of the documents relating to the negotiation of the same, for the constitutional consideration of the Senate in reference to its ratification.

M. VAN BUREN.

WASHINGTON, *March 15, 1838.**To the House of Representatives of the United States:*

In compliance with the resolution of the House of Representatives of the 5th instant, I transmit a report† from the Secretary of State, to whom the resolution was referred, with the documents by which the said report was accompanied.

M. VAN BUREN.

*Relating to a ship canal across the Isthmus of Darien.

†Relating to the prosecution of the claim of the United States to the bequest made by James Smithson.

WASHINGTON, *March, 1838.**To the House of Representatives of the United States:*

I transmit a copy and translation of a letter from Mr. Poncet, the minister plenipotentiary from France to this Government, addressed to the Secretary of State, and communicating a memorial to me from the trustees of the former house of Lafitte & Co., of Paris, complaining of the rejection of a claim preferred in behalf of that house before the commissioners under the convention with France of the 4th of July, 1831, and asking redress.

The commission created by the act for carrying that convention into effect has expired. The fund provided by it has been distributed among those whose claims were admitted. The Executive has no power over the subject. If the memorialists are entitled to relief, it can be granted by Congress alone, to whom, in compliance with the request of the trustees, that question is now submitted for decision.

M. VAN BUREN.

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WASHINGTON, *March 19, 1838.**To the House of Representatives of the United States:*

I transmit a report* from the Secretary of State, to whom the resolution of the House of Representatives of the 5th instant was referred, with the documents by which the said report was accompanied.

M. VAN BUREN.

WASHINGTON, *March 20, 1838.**To the Senate of the United States:*

I herewith transmit to the Senate of the United States a report from the Secretary of State, accompanied by a copy of the correspondence requested by their resolution of the 5th ultimo.

M. VAN BUREN.

DEPARTMENT OF STATE,
Washington, *March 7, 1838.**The President of the United States:*

The Secretary of State, to whom has been referred the resolution of the Senate of the 5th of February, requesting the President of the United States to communicate to that body, in such manner as he shall deem proper, all the correspondence recently received and had between this and the Governments of Great Britain and the State of Maine on the subject of the northeastern boundary, has the honor to report to the President the accompanying copy of letters, which comprise all the correspondence in the Department asked for by the resolution.

Respectfully submitted.

JOHN FORSYTH.

*Relating to high duties and restrictions on tobacco imported into foreign countries from the United States, etc.

Mr. Fox to Mr. Forsyth.

WASHINGTON, January 10, 1838.

Hon. JOHN FORSYTH, etc.:

The undersigned, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary, is directed by his Government to make the following observations to Mr. Forsyth, Secretary of State of the United States, with reference to certain points connected with the question of the northeastern boundary, which question forms the subject of the accompanying note, which the undersigned has the honor this day to address to Mr. Forsyth:

The British Government, with a view to prevail upon that of the United States to come to an understanding with Great Britain upon the river question, had stated that the King of the Netherlands in his award had decided that question according to the British interpretation of it and had expressed his opinion that the rivers which fall into the Bay of Fundy are not to be considered as Atlantic rivers for the purposes of the treaty.

Mr. Forsyth, however, in his note to Sir Charles Vaughan of the 28th of April, 1835, controverts this assertion and maintains that the King of the Netherlands did not in his award express such an opinion, and Mr. Forsyth quotes a passage from the award in support of this proposition.

But it appears to Her Majesty's Government that Mr. Forsyth has not correctly perceived the meaning of the passage which he quotes, for in the passage in question Mr. Forsyth apprehends that the word "*alone*" is governed by the verb "*include*," whereas an attentive examination of the context will show that the word "*alone*" is governed by the verb "*divide*," and that the real meaning of the passage is this: That the rivers flowing north and south from the highlands claimed by the United States may be arranged in two genera, the first genus comprehending the rivers which fall into the St. Lawrence, the second genus comprehending those whose waters in some manner or other find their way into the Atlantic; but that even if, according to this general classification and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall into the bays of Chaleurs and Fundy might be comprised in the same genus with the rivers which fall directly into the Atlantic, still the St. John and the Restigouche form a distinct species by themselves and do not belong to the species of rivers which fall *directly* into the Atlantic, for the St. John and Restigouche are not divided in company with any such last-mentioned rivers. And the award goes on to say that, moreover, if this distinction between the two species were confounded an erroneous interpretation would be applied to a treaty in which every separate word must be supposed to have a meaning, and a generic distinction would be given to cases which are purely specific.

The above appears to be the true meaning of the passage quoted by Mr. Forsyth; but if that passage had not been in itself sufficiently explicit, which Her Majesty's Government think it is, the passage which immediately follows it would remove all doubt as to what the opinion of the King of the Netherlands was upon the river question, for that passage, setting forth reasons against the line of boundary claimed by the United States, goes on to say that such line would not even separate the St. Lawrence rivers immediately from the St. John and Restigouche, and that thus the rivers which this line would separate from the St. Lawrence rivers would need, *in order to reach the Atlantic*, the aid of *two intermediaries*—first, the rivers St. John and Restigouche, and, *secondly*, the bays of Chaleurs and Fundy.

Now it is evident from this passage that the King of the Netherlands deemed the bays of Fundy and Chaleurs to be, for the purposes of the treaty, as distinct and separate from the Atlantic Ocean as are the rivers St. John and Restigouche, for he specifically mentions those rivers and those bays as the channels through which certain rivers would have to pass in their way from the northern range of dividing

highlands down to the Atlantic Ocean; and it is clear that he considers that the waters of those highland rivers would not reach the Atlantic Ocean until after they had traveled through the whole extent either of the Restigouche and the Bay of Chaleurs or of the St. John and the Bay of Fundy, as the case might be; and for this reason, among others, the King of the Netherlands declared it to be his opinion that the line north of the St. John claimed by the United States is not the line intended by the treaty.

The undersigned avails himself of this occasion to renew to Mr. Forsyth the assurances of his high respect and consideration.

H. S. FOX.

Mr. Fox to Mr. Forsyth.

WASHINGTON, January 17, 1838.

Hon. JOHN FORSYTH, etc.:

The undersigned, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary, has received the orders of his Government to make the following communication to the Secretary of State of the United States with reference to the question pending between the two Governments upon the subject of the northeastern boundary:

The undersigned is, in the first instance, directed to express to Mr. Forsyth the sincere regret of Her Majesty's Government that the long-continued endeavors of both parties to come to a settlement of this important matter have hitherto been unavailing. Her Majesty's Government feel an undiminished desire to cooperate with the Cabinet of Washington for the attainment of an object of so much mutual interest, and they learn with satisfaction that their sentiments upon this point are fully shared by the actual President of the United States.

The communications which during the last few years have taken place between the two Governments with reference to the present subject, if they have not led to the solution of the questions at issue, have at least narrowed the field of future discussion.

Both Governments have agreed to consider the award of the King of the Netherlands as binding upon neither party, and the two Governments, therefore, are as free in this respect as they were before the reference to that Sovereign was made. The British Government, despairing of the possibility of drawing a line that shall be in literal conformity with the words of the treaty of 1783, has suggested that a conventional boundary should be substituted for the line described by the treaty, and has proposed that in accordance with the principles of equity and in pursuance of the general practice of mankind in similar cases the object of difference should be equally divided between the two differing parties, each of whom is alike convinced of the justice of its own claim.

The United States Government has replied that to such an arrangement it has no power to agree; that until the line of the treaty shall have been otherwise determined the State of Maine will continue to assume that the line which it claims is the true line of 1783, and will assert that all the land up to that line is territory of Maine; that consequently such a division of the disputed territory as is proposed by Great Britain would be considered by Maine as tantamount to a cession of what that State regards as a part of its own territory, and that the Federal Government has no power to agree to such an arrangement without the consent of the State concerned.

Her Majesty's Government exceedingly regrets that such an obstacle should exist to prevent that settlement which under all the circumstances of the case appears to be the simplest, the readiest, the most satisfactory, and the most just. Nor can Her Majesty's Government admit that the objection of the State of Maine is well founded, for the principle on which that objection rests is as good for Great Britain as it is for Maine. If Maine thinks itself entitled to contend that until the true line described in the treaty is determined the boundary claimed by Maine must be regarded as the

right one, Great Britain is surely still more entitled to insist upon a similar ~~pretension~~, and to assert that until the line of the treaty shall be established to the satisfaction of both parties the whole of the disputed territory ought to be considered as belonging to the British Crown, because Great Britain is the original possessor, and all the territory which has not been proved to have been by treaty ceded by her must be looked upon as belonging to her still. But the very existence of such conflicting pretensions seems to point out the expediency of a compromise, and what compromise can be more fair than that which would give to each party one-half of the subject-matter of dispute?

A conventional line different from that described in the treaty was agreed to, as stated by Mr. Forsyth in his note of the 28th of April, 1835, with respect to the boundary westward from the Lake of the Woods. Why should such a line not be agreed to likewise for the boundary eastward from the river Connecticut?

Her Majesty's Government can not refrain from again pressing this proposition upon the serious consideration of the Government of the United States as the arrangement which would be best calculated to effect a prompt and satisfactory settlement between the two powers.

The Government of the United States, indeed, while it expressed a doubt of its being able to obtain the assent of Maine to the above-mentioned proposal, did, nevertheless, express its readiness to apply to the State of Maine for the assent of that State to the adoption of another conventional line, which should make the river St. John from its source to its mouth the boundary between the two countries. But it is difficult to understand upon what grounds any expectation could have been formed that such a proposal could be entertained by the British Government, for such an arrangement would give to the United States even greater advantages than they would obtain by an unconditional acquiescence in their claim to the whole of the disputed territory, because such an arrangement would, in the first place, give to Maine all that part of the disputed territory which lies to the south of the St. John, and would, in the next place, in exchange for the remaining part of the disputed territory which lies to the north of the St. John, add to the State of Maine a large district of New Brunswick lying between the United States boundary and the southern part of the course of the St. John—a district smaller, indeed, in extent, but much more considerable in value, than the portion of the disputed territory which lies to the north of the St. John.

But with respect to a conventional line generally, the Government of Washington has stated that it has not at present the powers constitutionally requisite for treating for such a line and has no hopes of obtaining such powers until the impossibility of establishing the line described by the treaty shall have been completely demonstrated by the failure of another attempt to trace that line by a local survey.

Under these circumstances it appears that a conventional line can not at present be agreed upon, and that such a mode of settlement is in the existing state of the negotiation impossible.

Thus, then, the award of the King of the Netherlands has been abandoned by both parties in consequence of its rejection by the American Senate, and a negotiation between the two Governments for a conventional line suited to the interests and convenience of the two parties has for the present been rendered impossible by difficulties arising on the part of the United States; and both Governments are alike averse to a new arbitration. In this state of things the Government of the United States has proposed to the British cabinet that another attempt should be made to trace out a boundary according to the letter of the treaty, and that a commission of exploration and survey should be appointed for that purpose.

Her Majesty's Government have little expectation that such a commission could lead to any useful result, and on that account would be disposed to object to the measure; but at the same time they are so unwilling to reject the only plan now left

which seems to afford a chance of making any further advance in this long-pending matter that they will not withhold their consent to such a commission if the principle upon which it is to be formed and the manuer in which it is to proceed can be satisfactorily settled.

The United States Government have proposed two modes in which such a commission might be constituted: First, that it might consist of commissioners named in equal numbers by each of the two Governments, with an umpire to be selected by some friendly European power; secoundly, that it might be entirely composed of scientific Europeans, to be selected by a friendly sovereign, and might be accompanied in its operations by agents of the two different parties, in order that such agents might give to the commissioners assistance and information.

If such a commission were to be appointed, Her Majesty's Government think that the first of these two modes of constructing it would be the best, and that it should consist of members chosen in equal numbers by each of the two Governments. It might, however, be better that the umpire should be selected by the members of the commission themselves rather than that the two Governments should apply to a third power to make such a choice.

The object of this commission, as understood by Her Majesty's Government, would be to explore the disputed territory in order to find within its limits dividing highlands which may answer the description of the treaty, the search being first to be made in the due north line from the monument at the head of the St. Croix, and if no such highlands should be found in that meridian the search to be then continued to the westward thereof; and Her Majesty's Government have stated their opinion that in order to avoid all fruitless disputes as to the character of such highlands the commissioners should be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the treaty.

The United States Secretary of State, in his note of the 5th of March, 1836, expresses a wish to know how the report of the commissioners would, according to the views of Her Majesty's Government, be likely when rendered to lead to an ultimate settlement of the question of boundary between the two Governments.

In reply to this inquiry Her Majesty's Government would beg to observe that the proposal to appoint a commission originated not with them, but with the Government of the United States, and that it is therefore rather for the Government of the United States than for that of Great Britain to answer this question.

Her Majesty's Government have themselves already stated that they have little expectation that such a commission could lead to any useful result, and that they would on that account be disposed to object to it; and if Her Majesty's Government were now to agree to appoint such a commission it would be only in compliance with the desire so strongly expressed by the Government of the United States, and in spite of doubts (which Her Majesty's Government still continue to entertain) of the efficacy of the measure.

But with respect to the way in which the report of the commission might be likely to lead to an ultimate settlement of the question, Her Majesty's Government, in the first place, conceive that it was meant by the Government of the United States that if the commission should discover highlands answering to the description of the treaty a connecting line drawn from these highlands to the head of the St. Croix should be deemed to be a portion of the boundary line between the two countries. But Her Majesty's Government would further beg to refer the United States Secretary of State to the notes of Mr. McLane of the 5th of June, 1833, and of the 11th and 28th of March, 1834, on this subject, in which it will be seen that the Government of the United States appears to have contemplated as one of the possible results of the proposed commission of exploration that such additional information might possibly be obtained respecting the features of the country in the district to which the treaty relates as might remove all doubt as to the impracticability of laying down a boundary in accordance with the letter of the treaty.

And if the investigations of the proposed commission should show that there is no reasonable prospect of finding a line strictly conformable with the description contained in the treaty of 1783, the constitutional difficulties which now prevent the United States from agreeing to a conventional line may possibly be removed, and the way may thus be prepared for the satisfactory settlement of the difference by an equitable division of the disputed territory.

But if the two Governments should agree to the appointment of such a commission it would be necessary that their agreement should be first recorded in a convention, and it would obviously be indispensable that the State of Maine should be an assenting party to the arrangement.

The undersigned, in making the above communication by order of Her Majesty's Government to the United States Secretary of State, Mr. Forsyth, has the honor to renew to him the assurance of his high respect and consideration.

H. S. FOX.

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,
Washington, February 6, 1838.

HENRY S. FOX, Esq., etc.:

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Fox, envoy extraordinary and minister plenipotentiary of Her Britannic Majesty, of the 10th ultimo, in which he presents, by direction of his Government, certain observations in respect to the construction to be given to that part of the award of the arbiter on the question of the northeastern boundary which relates to the character in which the rivers St. John and Restigouche are to be regarded in reference to that question. Sir Charles Vaughan, in his note to Mr. McLane of February 10, 1834, alleged that although the arbiter had not decided the first of the three main questions proposed to him, yet that he had determined certain subordinate points connected with that question upon which the parties had entertained different views, and among others that the rivers St. John and Restigouche could not be considered, according to the meaning of the treaty, as "rivers flowing into the Atlantic." The undersigned, in his note to Sir Charles R. Vaughan of the 28th of April, 1835, questioned the correctness of the interpretation which had been given by Sir Charles to the award of the arbiter in this particular, and after quoting that part of the award to which Sir Charles was supposed to refer as containing the determination by the arbiter of the point just mentioned observed that it could not but appear from further reflection to Sir Charles that the declaration that the rivers St. John and Restigouche could not be *alone* taken into view without hazard in determining the disputed boundary was not the expression of an opinion that they should be altogether excluded in determining that question; or, in other words, that they could not be looked upon as rivers emptying into the Atlantic. The remarks presented by Mr. Fox in the note to which this is a reply are designed to shew a misconception on the part of the undersigned of the true meaning of the passage cited by him from the award and to support the construction which was given to it by Sir Charles Vaughan. Whether the apprehension entertained by the one party or the other of the opinion of the arbiter upon this minor point be correct is regarded by the undersigned as a matter of no consequence in the settlement of the main question. The Government of the United States, never having acquiesced in the decision of the arbiter that "the nature of the difference and the vague and not sufficiently determinate stipulations of the treaty of 1783 do not permit the adjudication of either of the two lines respectively claimed by the interested parties to one of the said parties without wounding the principles of law and equity with regard to the other," can not consent to be governed in the prosecution of the existing

negotiation by the opinion of the arbiter upon any of the preliminary points about which there was a previous difference between the parties, and the adverse decision of which has led to so unsatisfactory and, in the view of this Government, so erroneous a conclusion. This determination on the part of the United States not to adopt the premises of the arbiter while rejecting his conclusion has been heretofore made known to Her Majesty's Government, and while it remains must necessarily render the discussion of the question what those premises were inavailing, if not irrelevant. The few observations which the undersigned was led to make in the course of his note to Sir Charles Vaughan upon one of the points alleged to have been thus determined were prompted only by a respect for the arbiter and a consequent anxiety to remove a misinterpretation of his meaning, which alone, it was believed, could induce the supposition that the arbiter, in searching for the rivers referred to in the treaty as designating the boundary, could have come to the opinion that the two great rivers whose waters pervaded the whole district in which the search was made and constituted the most striking objects of the country had been entirely unnoticed by the negotiators of the treaty and were to be passed over unheeded in determining the line, while others were to be sought for which he himself asserts could not be found. That the imputation of such an opinion to the respected arbiter could only be the result of misinterpretation seemed the more evident, as he had himself declared that "it could not be sufficiently explained how, if the high contracting parties intended in 1783 to establish the boundary at the south of the river St. John, that river, to which the territory in dispute was in a great measure indebted for its distinctive character, had been neutralized and set aside." It is under the influence of the same motives that the undersigned now proceeds to make a brief comment upon the observations contained in Mr. Fox's note of the 10th ultimo, and thus to close a discussion which it can answer no purpose to prolong.

The passage from the award of the arbiter quoted by the undersigned in his note of the 28th April, 1835, to Sir Charles Vaughan, and the true meaning of which Mr. Fox supposes to have been misconceived, is the following: "If in contradistinction to the rivers that empty themselves into the river St. Lawrence it had been proper, agreeably to the language ordinarily used in geography, to comprehend the rivers falling into the bays Fundy and Des Chaleurs with those emptying themselves directly into the Atlantic Ocean in the generical denomination of rivers falling into the Atlantic Ocean it would be hazardous to include into the species belonging to that class the rivers St. John and Restigouche, which the line claimed at the north of the river St. John divides *immediately* from rivers emptying themselves into the river St. Lawrence, not with other rivers falling into the Atlantic Ocean, but *alone*, and thus to apply in interpreting the delimitation established by a treaty, where each word must have a meaning, to two exclusively special cases, and where no mention is made of the genus (*genre*), a generical expression which would ascribe to them a broader meaning," etc.

It was observed by the undersigned that this passage did not appear to contain an expression of opinion by the arbiter that the rivers St. John and Restigouche should be altogether excluded in determining the question of disputed boundary, or, in other words, that they could not be looked upon as "rivers emptying into the Atlantic." Mr. Fox alleges this to be a misconception of the meaning of the arbiter, and supposes it to have arisen from an erroneous apprehension by the undersigned that the word "*alone*" is governed by the verb "*include*," whereas he thinks that an attentive examination of the context will shew that the word "*alone*" is governed by the verb "*divide*," and that the real meaning of the passage is this: "That the rivers flowing north and south from the highlands claimed by the United States may be arranged in two genera, the first genus comprehending the rivers which fall into the St. Lawrence, the second genus comprehending those whose waters in some manner or other find their way into the Atlantic; but that even if, according to the general

classification and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall into the bays of Chaleurs and Fundy might be comprised in the same genus with the rivers which fall directly into the Atlantic, still the St. John and the Restigouche form a distinct species by themselves and do not belong to the species of rivers which fall *directly* into the Atlantic, for the St. John and Restigouche are not divided in company with any *such last-mentioned rivers*." The undersigned considers it unnecessary to enter into the question whether according to the context the circumstance expressed by the adverb "alone" has reference to the verb "divide" or to the verb "include," because even allowing it to refer to the former it does not appear to the undersigned that his interpretation of the passage is thereby impaired or that of Mr. Fox sustained. The undersigned conceives that the arbiter contemplated two different *species* of rivers as admissible into the *genus* of those which "fall into the Atlantic," to wit, those which fall *directly* into the Atlantic and those which fall into it *indirectly*; that the arbiter was further of opinion, though at variance with the idea entertained in that respect by the United States, that the rivers St. John and Restigouche, emptying their waters into the bays of Fundy and Des Chaleurs, did not belong to the species of rivers falling *directly* into the Atlantic; that if they were considered *alone*, therefore, the appellation of "rivers falling into the Atlantic Ocean" could not be regarded as applicable to them, because, to use the language of the award, it would be "applying to two exclusively special cases, where no mention was made of the genus, a generical expression which would ascribe to them a broader meaning;" but it is not conceived that the arbiter intended to express an opinion that these rivers *might not be included with others* in forming the *genus* of rivers described by the treaty as those which "fall into the Atlantic," and that upon this ground they should be wholly excluded in determining the question of the disputed boundary. While, therefore, the undersigned agrees with Mr. Fox that the arbiter did not consider these rivers as falling directly into the Atlantic Ocean, the undersigned can not concur in Mr. Fox's construction when he supposes the arbiter to give as a reason for this that they are not divided in company with any *such last-mentioned rivers*—that is, with rivers falling *directly* into the Atlantic. Conceding as a point which it is deemed unnecessary for the present purpose to discuss that the grammatical construction of the sentence contended for by Mr. Fox is the correct one, the arbiter is understood to say only that those rivers are not divided *immediately* with others falling into the Atlantic, either directly or indirectly, but he does not allege this to be a sufficient reason for excluding them when connected with other rivers divided *mediately* from those emptying into the St. Lawrence from the *genus* of rivers "falling into the Atlantic." On the contrary, it is admitted in the award that the line claimed to the north of the St. John divides the St. John and Restigouche in company with the Schoodic Lakes, the Penobscot, and the Kennebec, which are stated as emptying themselves *directly* into the Atlantic; and it is strongly implied in the language used by the arbiter that the first-named rivers might, in his opinion, be classed for the purposes of the treaty with those last named, though not in the same *species*, yet in the same *genus* of "Atlantic rivers."

The reason why the St. John and Restigouche were not permitted to determine the question of boundary in favor of the United States is understood to have been, not that they were to be wholly excluded as rivers not falling into the Atlantic Ocean, as Mr. Fox appears to suppose, but because in order to include them in that *genus* of rivers they must be considered in connection with other rivers which were not divided *immediately*, like themselves, from the rivers falling into the St. Lawrence, but *mediately* only; which would introduce the principle that the treaty of 1783 meant highlands that divide as well mediately as immediately the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean—a principle which the arbiter did not reject as unfounded or erroneous, but which, considered in connection with the other points which he had decided, he regarded

as *equally realized by both lines*, and therefore as constituting an equal weight in either scale, and consequently affording him no assistance in determining the dispute between the respective parties.

The arbiter appears to the undersigned to have viewed the rivers St. John and Restigouche as possessing both a specific and a generic character; that considered *alone* they were *specific*, and the designation in the treaty of "rivers falling into the Atlantic" was inapplicable to them; that considered *in connection with other rivers* they were *generic* and were embraced in the terms of the treaty, but that as their connection with other rivers would bring them within a principle which, according to the views taken by him of other parts of the question, was equally realized by both lines, it would be hazardous to allow them any weight in deciding the disputed boundary. It has always been contended by this Government that the rivers St. John and Restigouche were to be considered in connection with the Penobscot and Kennebec in determining the highlands called for by the treaty, and the arbiter is not understood to deny to them, when thus connected, the character of "rivers falling into the Atlantic Ocean."

This construction of the arbiter's meaning, derived from the general tenor of the context, it will be perceived, is not invalidated by the next succeeding paragraph cited by Mr. Fox, in which the bays of Fundy and Des Chaleurs are spoken of as *intermediaries* whereby the rivers flowing into the St. John and Restigouche reach the Atlantic Ocean, inasmuch as such construction admits the opinion of the arbiter to have been that the St. John and Restigouche do not fall *directly* into the Atlantic, and that they thus constitute a *species* by themselves, while it denies that they are therefore excluded by the arbiter from the genus of "rivers falling into the Atlantic."

The undersigned avails himself of this opportunity to renew to Mr. Fox the assurance of his distinguished consideration.

JOHN FORSYTH.

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,
Washington, February 7, 1838.

HENRY S. FOX, Esq., etc.:

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note addressed to him on the 10th ultimo by Mr. Fox, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary at Washington, with regard to the question pending between the two Governments upon the subject of the northeastern boundary, and to inform him that his communication has been submitted to the President. It has received from him the attentive examination due to a paper expected to embody the views of Her Britannic Majesty's Government in reference to interests of primary importance to both countries. But whilst the President sees with satisfaction the expression it contains of a continued desire on the part of Her Majesty's Government to cooperate with this in its earnest endeavors to arrange the matter of dispute between them, he perceives with feelings of deep disappointment that the answer now presented to the propositions made by this Government with the view of effecting that object, after having been so long delayed, notwithstanding the repeated intimations that it was looked for here with much anxiety, is so indefinite in its terms as to render it impracticable to ascertain without further discussion what are the real wishes and intentions of Her Majesty's Government respecting the proposed appointment of a commission of exploration and survey to trace out a boundary according to the letter of the treaty of 1783. The President, however, for the purpose of placing in the possession of the State of Maine the views of Her Majesty's Government as exhibited in Mr. Fox's note, and of ascertaining the sense of the State authorities upon the expediency of meeting those views

so far as they are developed therein, has directed the undersigned to transmit a copy of it to Governor Kent for their consideration. This will be accordingly done without unnecessary delay, and the result when obtained may form the occasion of a further communication to Her Majesty's minister.

In the meantime the undersigned avails himself of the present occasion to offer a few remarks upon certain parts of Mr. Fox's note of the 10th ultimo. After advert- ing to the suggestion heretofore made by the British Government that a conventional line equally dividing the territory in dispute between the two parties should be substituted for the line described by the treaty, and regretting the constitutional incompetency of the Federal Government to agree to such an arrangement without the consent of the State of Maine, Mr. Fox refers to the conventional line adopted, although different from that designated by the treaty, with respect to the boundary westward from the Lake of the Woods, and asks, "Why should such a line not be agreed to likewise for the boundary eastward from the river Connecticut?" The reply to this question is obvious. The parallel of latitude adopted on the occasion referred to as a conventional substitute for the treaty line passed over territory within the exclusive jurisdiction of the General Government without trenching upon the rights or claims of any individual member of the Union, and the legitimate power of the Government, therefore, to agree to such line was perfect and unquestioned. Now in consenting to a conventional line for the boundary eastward from the river Connecticut the Government of the United States would transcend its constitutional powers, since such a measure could only be carried into effect by violating the jurisdiction of a sovereign State of the Union and by assuming to alienate, without the color of rightful authority to do so, a portion of the territory claimed by the State.

With regard to the suggestion made by the undersigned in his note of the 29th of February, 1836, of the readiness of the President to apply to the State of Maine for her assent to the adoption of a conventional line making the river St. John, from its source to its mouth, the boundary between the United States and the adjacent British Provinces, Mr. Fox thinks it difficult to understand upon what grounds an expectation could have been formed that such a proposal could be entertained by the British Government, since such an arrangement would give to the United States even greater advantages than would be obtained by an unconditional acquiescence in their claim to the whole territory in dispute. In making the suggestion referred to, the undersigned expressly stated to Mr. Bankhead that it was offered, as the proposition on the part of Great Britain that led to it was supposed to have been, without regard to the mere question of acres—the extent of territory lost or acquired by the respective parties. The suggestion was submitted in the hope that the prepon- derating importance of terminating at once and forever this controversy by estab- lishing an unchangeable and definite and indisputable boundary would be seen and acknowledged by Her Majesty's Government, and have a correspondent weight in influencing its decision. That the advantages of substituting a river for a highland boundary could not fail to be recognized was apparent from the fact that Mr. Bank- head's note of 28th December, 1835, suggested the river St. John from the point in which it is intersected by a due north line drawn from the monument at the head of the St. Croix to the southernmost source of that river as a part of the general out- line of a conventional boundary. No difficulty was anticipated on the part of Her Majesty's Government in understanding the grounds upon which such a proposal was expected to be entertained by it, since the precedent proposition of Mr. Bank- head, just adverted to, although professedly based on the principle of an equal division between the parties, could not be justified by it, as it would have given nearly two-thirds of the disputed territory to Her Majesty's Government. It was therefore fairly presumed that the river line presented, in the opinion of Her Majesty's Gov- ernment, advantages sufficient to counterbalance any loss of territory by either party that would follow its adoption as a boundary. Another recommendation of the river

line, it was supposed, would be found by Her Majesty's Government in the fact that whilst by its adoption the right of jurisdiction alone would have been yielded to the United States over that portion of New Brunswick south of the St. John, Great Britain would have acquired the right of soil as well as of jurisdiction of the whole portion of the disputed territory north of the river. It is to be lamented that the imposing considerations alluded to have failed in their desired effect—that the hopes of the President in regard to them have not been realized, and consequently that Her Britannic Majesty's Government is not prepared at present to enter into an arrangement of the existing difference between the two nations upon the basis proposed.

It would seem to the undersigned, from an expression used in Mr. Fox's late communication, that some misapprehension exists on his part either as to the object of this Government in asking for information relative to the manner in which the report of a commission of exploration and survey might tend to a practical result in the settlement of the boundary question or as to the distinctive difference between the American proposal for the appointment of such a commission and the same proposition when modified to meet the wishes of Her Majesty's Government. Of the two modes suggested, by direction of the President, for constituting such a commission, the first is that which is regarded by Her Majesty's Government with most favor, viz, the commissioners to be chosen in equal numbers by each of the two parties, with an umpire selected by some friendly European sovereign to decide on all points on which they might disagree, with instructions to explore the disputed territory in order to find within its limits dividing highlands answering to the description of the treaty of 1783, in a due north or northwesterly direction from the monument at the head of the St. Croix, and that a right line drawn between such highlands and said monument should form so far as it extends a part of the boundary between the two countries, etc. It is now intimated that Her Majesty's Government will not withhold its consent to such a commission "if the principle upon which it is to be formed and the manner in which it is to proceed can be satisfactorily settled." This condition is partially explained by the suggestion afterwards made that instead of leaving the umpire to be chosen by some friendly European power it might be better that he should be elected by the members of the commission themselves, and a modification is then proposed that "the commission shall be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the treaty." The American proposition is intended—and if agreed to would doubtless be successful—to decide the question of boundary definitively by the adoption of the highlands reported by the commissioners of survey, and would thus secure the treaty line. The British modification looks to no such object. It merely contemplates a commission of boundary analogous to that appointed under the fifth article of the treaty of Ghent, and would in all probability prove equally unsatisfactory in practice. Whether highlands such as are described in the treaty do or do not exist, it can scarcely be hoped that those called for by the modified instructions could be found. The fact that this question is still pending, although more than half a century has elapsed since the conclusion of the treaty in which it originated, renders it in the highest degree improbable that the two Governments can unite in believing that either the one or the other of the ranges of highlands claimed by the respective parties fulfills the required conditions of that instrument. The opinions of the parties have been over and over again expressed on this point and are well known to differ widely. The commission can neither reconcile nor change these variant opinions resting on conviction, nor will it be authorized to decide the difference. Under these impressions of the inefficiency of such a commission was the inquiry made in the letter of the undersigned of 5th March, 1836, as to the manner in which the report of the commission, as proposed to be constituted and instructed by Her Majesty's Government, was expected to lead to an ultimate settlement of the question of boundary. The results which the American proposition promised to secure were

fully and frankly explained in previous notes from the Department of State, and had its advantages not been clearly understood this Government would not have devolved upon that of Her Majesty the task of illustrating them. Mr. Fox will therefore see that although the proposal to appoint a commission had its origin with this Government the modification of the American proposition was, as understood by the undersigned, so fundamentally important that it entirely changed its nature, and that the supposition, therefore, that it was rather for the Government of the United States than for that of Great Britain to answer the inquiry referred to is founded in misapprehension. Any decision made by a commission constituted in the manner proposed by the United States and instructed to seek for the Highlands of the treaty of 1783 would be binding upon this Government and could without unnecessary delay be carried into effect; but if the substitute presented by Her Majesty's Government be insisted on and its principles be adopted, a resort will then be necessary to the State of Maine for her assent to all proceedings hereafter in relation to this matter, since if any arrangement can be made under it it can only be for a conventional line, to which she must of course be a party.

The undersigned, in conclusion, is instructed to inform Mr. Fox that if a negotiation be entertained at all upon the inconclusive and unsatisfactory basis afforded by the British counter proposition or substitute, which possesses hardly a feature in common with the American proposition, the President will not venture to invite it unless the authorities of the State of Maine, to whom, as before stated, it will be forthwith submitted, shall think it more likely to lead to a final adjustment of the question of boundary than the General Government deems it to be, though predisposed to see it in the most favorable light.

The undersigned avails himself of the occasion to renew to Mr. Fox the assurance of his distinguished consideration.

JOHN FORSYTH.

His Excellency EDWARD KENT,
Governor of the State of Maine.

DEPARTMENT OF STATE,
Washington, March 1, 1838.

SIR: The discussions between the Federal Government and that of Great Britain in respect to the northeastern boundary of the United States have arrived at a stage in which the President thinks it due to the State of Maine and necessary to the intelligent action of the General Government to take the sense of that State in regard to the expediency of opening a direct negotiation for the establishment of a conventional line, and if it should deem an attempt to adjust the matter of controversy in that form advisable, then to ask its assent to the same. With this view and to place the government of Maine in full possession of the present state of the negotiation and of all the discussions that have been had upon the subject, the accompanying documents are communicated, which, taken in connection with those heretofore transmitted, will be found to contain that information.

The principles which have hitherto governed every successive Administration of the Federal Government in respect to its powers and duties in the matter are—

First. That it has power to settle the boundary line in question with Great Britain upon the principles and according to the stipulations of the treaty of 1783, either by direct negotiation or, in case of ascertained inability to do so, by arbitration, and that it is its duty to make all proper efforts to accomplish this object by one or the other of those means.

Second. That the General Government is not competent to negotiate, unless, perhaps, on grounds of imperious public necessity, a conventional line involving a cession of territory to which the State of Maine is entitled, or the exchange therefor for other territory not included within the limits of that State according to the true construction of the treaty, without the consent of the State.

In these views of his predecessors in office the President fully concurs, and it is his design to continue to act upon them.

The attention of the Federal Government has, of course, in the first instance been directed to efforts to settle the treaty line. A historical outline of the measures which have been successively taken by it to that end may be useful to the government of Maine in coming to a conclusion on the proposition now submitted. It will, however, be unnecessary here to do more than advert to the cardinal features of this protracted negotiation.

The treaty of peace between the United States of America and His Britannic Majesty, concluded at Paris in September, 1783, defines the boundaries of the said States, and the following words, taken from the second article of that instrument, are intended to designate a part of the boundary between those States and the British North American Provinces, viz: "From the northwest angle of Nova Scotia, viz, that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands; along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean to the northwesternmost head of Connecticut River;" * * * "east by a line to be drawn along the middle of the river St. Croix from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence." An immediate execution of some of the provisions of this treaty was, however, delayed by circumstances on which it is now unnecessary to dwell, and in November, 1794, a second treaty was concluded between the two powers. In the meantime, doubts having arisen as to what river was truly intended under the name of the St. Croix mentioned in the treaty of peace and forming a part of the boundary therein described, this question was referred by virtue of the fifth article of the new treaty to the decision of a commission appointed in the manner therein prescribed, both parties agreeing to consider such decision final and conclusive. The commissioners appointed in pursuance of the fifth article of the treaty of 1794 decided by their declaration of October 25, 1798, that the northern branch (Cheputnaticook) of a river called Scoodiae was the true river St. Croix intended by the treaty of peace.

At the date of the treaty of Ghent, December 24, 1814, the whole of the boundary line from the source of the river St. Croix to the most northwesternmost point of the Lake of the Woods still remained unascertained, and it was therefore agreed to provide for a final adjustment thereof. For this purpose the appointment of commissioners was authorized by the fifth article of the treaty of Ghent, with power to ascertain and determine the northwest angle of Nova Scotia and the northwesternmost head of Connecticut River, in conformity with the provisions of the treaty of 1783, and to cause the boundary from the source of the river St. Croix to the river Iroquois or Cateraguy to be surveyed and marked according to the said provisions, etc. In the event of the commissioners differing, or both or either of them failing to act, the same article made provision for a reference to a friendly sovereign or state. Commissioners were appointed under this article in 1815-16, but although their sessions continued several years, they were unable to agree on any of the matters referred to them. Separate reports were accordingly made to both Governments of the two commissioners in 1822, stating the points on which they differed and the grounds upon which their respective opinions had been formed. The case having thus happened which made it necessary to refer the points of difference to a friendly sovereign or state, it was deemed expedient by the parties to regulate this reference by a formal arrangement. A convention for the purpose was therefore concluded on the 29th of September, 1827, and the two Governments subsequently agreed in the choice of His Majesty the King of the Netherlands as arbiter, who consented to act as such. The submission of the points of difference, three in number, was

accordingly made to that Sovereign, and his award, or rather written opinion on the questions submitted to him, was rendered on the 10th of January, 1831. On the 7th of December following the President communicated the award of the arbiter to the Senate of the United States for the advice and consent of that body as to its execution, and at the same time intimated the willingness of the British Government to abide by it. The result was a determination on the part of the Senate not to consider the decision of His Netherland Majesty obligatory and a refusal to advise and consent to its execution. They, however, passed a resolution in June, 1832, advising the President to open a new negotiation with His Britannic Majesty's Government for the ascertainment of the boundary between the possessions of the two powers on the northeastern frontier of the United States according to the definitive treaty of peace. Of the negotiation subsequent to this event it is deemed proper to take a more particular notice.

In July the result of the action of the Senate in relation to the award was communicated to Mr. Bankhead, the British chargé d'affaires, and he was informed that the resolution had been adopted in the conviction that the sovereign arbiter, instead of deciding the questions submitted to him, had recommended a specified compromise of them. The Secretary of State at the same time expressed the desire of the President to enter into further negotiation in pursuance of the resolution of the Senate, and proposed that the discussion should be carried on at Washington. He also said that if the plenipotentiaries of the two parties should fail in this new attempt to agree upon the line intended by the treaty of 1783 there would probably be less difficulty than before in fixing a convenient boundary, as measures were in progress to obtain from the State of Maine more extensive powers than were before possessed, with a view of overcoming the constitutional obstacles which had opposed themselves to such an arrangement; and he further intimated that the new negotiation would naturally embrace the important question of the navigation of the river St. John.

In April, 1833, Sir Charles R. Vaughan, the British minister, addressed a note to the Department of State, in which, hopeless of finding out by a new negotiation an assumed line of boundary which so many attempts had been fruitlessly made to discover, he wished to ascertain, first, the principle of the plan of boundary which the American Government appeared to contemplate as likely to be more convenient to both parties than those hitherto discussed, and, secondly, whether any, and what, arrangement for avoiding the constitutional difficulty alluded to had yet been concluded with the State of Maine. Satisfactory answers on these points, he said, would enable the British Government to decide whether it would entertain the proposition, but His Majesty's Government could not consent to embarrass the negotiation respecting the boundary by mixing up with it a discussion regarding the navigation of the St. John as an integral part of the same question or as necessarily connected with it.

In reply to this note, Mr. Livingston, under date of the 30th of April, stated that the arrangement spoken of in his previous communication, by which the Government of the United States expected to be enabled to treat for a more convenient boundary, had not been effected, and that as the suggestion in regard to the navigation of the St. John was introduced merely to form a part of the system of compensations in negotiating for such a boundary if that of the treaty should be abandoned, it would not be insisted on.

The proposition of the President for the appointment of a joint commission, with an umpire, to decide upon all points on which the two Governments disagree was then presented. It was accompanied by a suggestion that the controversy might be terminated by the application to it of the rule for surveying and laying down the boundaries of tracts and of countries designated by natural objects, the precise situation of which is not known, viz, that the natural objects called for as terminating points should first be found, and that the lines should then be drawn to them from

the given points with the least possible departure from the course prescribed in the instrument describing the boundary. Two modes were suggested in which such commission might be constituted: First, that it should consist of commissioners to be chosen in equal numbers by the two parties, with an umpire selected by some friendly sovereign from among the most skillful men in Europe; or, secondly, that it should be entirely composed of such men so selected, to be attended in the survey and view of the country by agents appointed by the parties. This commission, it was afterwards proposed, should be restricted to the simple question of determining the point designated by the treaty as the highlands which divide the waters that fall into the Atlantic from those which flow into the St. Lawrence; that these highlands should be sought for in a north or northwest direction from the source of the St. Croix, and that a straight line to be drawn from the monument at the head of that river to those highlands should be considered, so far as it extends, as a part of the boundary in question. The commissioners were then to designate the course of the line along the highlands and to fix on the northwesternmost head of the Connecticut River.

In a note of 31st May the British minister suggested that this perplexed and hitherto interminable question could only be set at rest by an abandonment of the defective description of boundary contained in the treaty, by the two Governments mutually agreeing upon a conventional line more convenient to both parties than those insisted upon by the commissioners under the fifth article of the treaty of Ghent, or that suggested by the King of the Netherlands.

Mr. McLane remarked in reply (June 5) that the embarrassments in tracing the treaty boundary had arisen more from the principles assumed and from the manner of seeking for it than from any real defect in the description when properly understood; that in the present state of the business the suggestion of Sir Charles R. Vaughan would add to the existing difficulties growing out of a want of power in the General Government under the Constitution of the United States to dispose of territory belonging to either of the States of the Union without the consent of the State; that as a conventional line to the south of and confessedly variant from that of the treaty would deprive the State of Maine of a portion of the territory she claims, it was not probable that her consent to it would be given while there remained a reasonable prospect of discovering the line of the treaty of 1783, and that the President would not be authorized, after the recent proceedings in the Senate, to venture now to agree upon a conventional line without such consent, whilst the proposition submitted in April afforded not only a fair prospect, but in his opinion the certain means, of ascertaining the boundary called for by the treaty of 1783 and of finally terminating all the perplexities which have encompassed that subject.

In February, 1834, Sir Charles R. Vaughan, after submitting certain observations intended to controvert the positions assumed by the United States on the subject of the constitutional difficulty by which the American Government was prevented from acquiescing in the arrangement recommended by the King of the Netherlands for the settlement of the boundary in the neighborhood of the St. John, asserted that the two Governments bound themselves by the convention of September, 1827, to submit to an arbiter certain points of difference relative to the boundary between the American and British dominions; that the arbiter was called on to determine certain questions, and that if he has determined the greater part of the points submitted to him his decision on them ought not to be set aside merely because he declares that one remaining point can not be decided in conformity with the words of the treaty of 1783, and therefore recommends to the parties a compromise on that particular point; that the main points referred to the arbiter were three in number; that upon the second and third of these he made a plain and positive decision; that upon the remaining point he has declared that it is impossible to find a spot or to trace a line which shall fulfill all the conditions required by the words of the treaty for the northwest angle of Nova Scotia and for the highlands along which the boundary from that

angle is to be drawn; yet that in the course of his reasoning upon this point he has decided several questions connected with it upon which the two parties had entertained different views, viz:

"First. The arbiter expresses his opinion that the term 'highlands' may properly be applied not only to a hilly and elevated country, but to a tract of land which, without being hilly, divides waters flowing in different directions, and consequently, according to this opinion, the highlands to be sought for are not necessarily a range of mountains, but rather the summit level of the country.

"Second. The arbiter expresses his opinion that an inquiry as to what were the ancient boundaries of the North American Provinces can be of no use for the present purpose, because those boundaries were not maintained by the treaty of 1783 and had in truth never been distinctly ascertained and laid down.

"Third. The arbiter declares that the northwest angle of Nova Scotia mentioned in the treaty of 1783 is not a point which was then known and ascertained; that it is not an angle which is created by the intersection of any lines of boundary at that time acknowledged as existing, but that it is an angle still to be found and to be created by the intersection of new lines, which are hereafter to be drawn in pursuance of the stipulations of the treaty; and further, that the nature of the country eastward of the said angle affords no argument for laying that angle down in one place rather than in another.

"Fourth. He states that no just argument can be deduced for the settlement of this question from the exercise of the rights of sovereignty over the sief of Madawaska and over the Madawaska settlement.

"Fifth. He declares that the highlands contemplated in the treaty should divide immediately, and not mediately, rivers flowing into the St. Lawrence and rivers flowing into the Atlantic, and that the word 'divide' requires contiguity of the things to be divided.

"Sixth. He declares that rivers falling into the Bay of Chaleurs and the Bay of Fundy can not be considered according to the meaning of the treaty as rivers flowing into the Atlantic, and specifically that the rivers St. John and Restigouche can not be looked upon as answerable to the latter description.

"Seventh. He declares that neither the line of boundary claimed by Great Britain nor that claimed by the United States can be adjudged as the true line without departing from the principles of equity and justice as between the two parties."

It was the opinion of His Majesty's Government, Sir Charles alleged, that the decisions of the arbiter upon the second and third points referred to him, as well as upon the subordinate questions, ought to be acquiesced in by the two Governments, and that in any future attempt to establish a boundary, whether in strict conformity with the words of the treaty of 1783 or by agreeing to the mode of settlement recommended by the arbiter, it would be necessary to adopt these seven decisions as a groundwork for further proceedings; that the British Government, therefore, previously to any further negotiation, claimed from the Government of the United States an acquiescence in the decisions pronounced by the arbiter upon all those points which he had decided, and as a preliminary to any attempt to settle the remaining point by negotiation to be satisfied that the Federal Government was possessed of the necessary powers to carry into effect any arrangement upon which the two parties might agree.

With respect to the proposition made by the American Government, Sir Charles thought that the difficulty which was found insurmountable as against the line recommended by the King of the Netherlands, viz, the want of authority to agree to any line which might imply a cession of any part of the territory to which the treaty as hitherto interpreted by the United States might appear to entitle one of the component States of the Union, would be equally fatal to that suggested by Mr. Livingston, since a line drawn from the head of the St. Croix to highlands found to the

westward of the meridian of that spot would not be the boundary of the treaty and might be more justly objected to by Maine and with more appearance of reason than that proposed by the arbiter.

The reply of Mr. McLane to the preceding note is dated on the 11th of March. He expressed his regret that His Britannic Majesty's Government should still consider any part of the opinion of the arbiter obligatory on either party. Those opinions, the Secretary stated, could not have been carried into effect by the President without the concurrence of the Senate, who, regarding them not only as not determining the principal object of the reference, but as in fact deciding that object to be impracticable, and therefore recommending to the two parties a boundary not even contemplated either by the treaty or by the reference nor within the power of the General Government to take, declined to give their advice and consent to the execution of the measures recommended by the arbiter, but did advise the Executive to open a new negotiation for the ascertainment of the boundary in pursuance of the treaty of 1783, and the proposition of Mr. Livingston, submitted in his letter of 30th of April, 1833, accordingly proceeded upon that basis. Mr. McLane denied that a decision, much less the expression of an opinion, by the arbiter upon some of the disputed points, but of a character not to settle the real controversy, was binding upon either party, and he alleged that the most material point in the line of the true boundary, both as it respects the difficulty of the subject and the extent of territory and dominions of the respective Governments, the arbiter not only failed to decide, but acknowledged his inability to decide, thereby imposing upon both Governments the unavoidable necessity of resorting to further negotiation to ascertain the treaty boundary and absolving each party from any obligation to adopt his recommendations. The Secretary also declined to admit that of the three main points referred to the arbiter as necessary to ascertain the boundary of the treaty he had decided two. On the first point, Mr. McLane said, it was not contended a decision was made or that either the angle or the highlands called for by the treaty was found, and on the third point an opinion merely was expressed that it would be suitable to proceed to fresh operations to measure the observed latitude, etc.

The Secretary admitted that if the American proposition should be acceded to by His Majesty's Government and the commission hereafter to be appointed should result in ascertaining the true situation of the boundary called for by the treaty of 1783, that it would be afterwards necessary, in order to ascertain the true line, to settle the other two points according to which it should be traced. He therefore offered, if the American proposition should be acceded to, notwithstanding the obligatory effect of the decision of the arbiter on the point is denied, "to take the stream situated farthest to the northwest among those which fall into the northernmost of the three lakes, the last of which bears the name of Connecticut Lake, as the northwesternmost head of the Connecticut River according to the treaty of 1783;" and as it respects the third point referred to the arbiter, the line of boundary on the forty-fifth degree of latitude, but upon which he failed to decide, the President would agree, if the proposition as to the first point was embraced, to adopt the old line surveyed and marked by Valentine and Collins in 1771 and 1772.

The Secretary then proceeded to state further and insuperable objections to an acquiescence by the United States in the opinions supposed to have been pronounced by the arbiter in the course of his reasoning upon the first point submitted to him. He remarked that the views expressed by the arbiter on these subordinate matters could not be regarded as decisions within the meaning of the reference, but rather as postulates or premises, by which he arrived at the opinion expressed in regard to the point in dispute. By an acquiescence in them, therefore, as required by Great Britain, the United States would reject as erroneous the conclusion of the arbiter, whilst they would adopt the premises and reasoning by which it was attained--that the seven postulates or premises prescribed as necessary to be considered by the United

States are but part of those on which the arbiter was equally explicit in the expression of his views, that on others his reasoning might be considered as more favorable to the pretensions of this Government, and that no reason was perceived why an acquiescence in his opinions upon them should not equally apply to all the premises assumed by him and be binding upon both parties. Mr. McLane was, however, persuaded that there was no obligation on either Government to acquiesce in the opinion of the arbiter on any of the matters involved in his premises; that such acquiescence would defeat the end of the present negotiation, and that as it appeared to be mutually conceded that the arbiter had not been able to decide upon the first and most material point so as to make a binding decision, there could certainly be no greater obligation to yield to his opinions on subordinate matters merely. The Secretary further observed that the most material point of the three submitted to the arbiter was that of the highlands, to which the President's proposition directly applies, and which are designated in the treaty of peace as the northwest angle of Nova Scotia, formed by a line drawn due north from the source of the St. Croix River to the highlands dividing the rivers, etc.; that the arbiter found it impossible to decide this point, and therefore recommended a new line, different from that called for by the treaty of 1783, and which could only be established by a conventional arrangement between the two Governments; that the Government of the United States could not adopt this recommendation nor agree upon a new and conventional line without the consent of the State of Maine; that the present negotiation proposed to ascertain the boundary according to the treaty of 1783, and for this purpose, however attained, the authority of the Government of the United States was complete; that the proposition offered by the Government of the United States promised, in the opinion of the President, the means of ascertaining the true line by discovering the highlands of the treaty, but the British Government asked the United States as a preliminary concession to acquiesce in the opinion of the arbiter upon certain subordinate facts—a concession which would in effect defeat the sole object, not only of the proposition, but of the negotiation, viz, the determination of the boundary according to the treaty of 1783 by confining the negotiation to a conventional line, to which this Government had not the authority to agree. Mr. McLane also said that if by a resort to the plain rule now recommended it should be found impracticable to trace the boundary according to the definitive treaty, it would then be time enough to enter upon a negotiation for a conventional substitute for it. He stated in answer to the suggestion of Sir Charles R. Vaughan that the objection urged against the line of the arbiter would equally lie against that suggested by Mr. Livingston; that the authority of the Government to ascertain the true line of the treaty was unquestionable, and that the American proposition, by confining the course to the natural object, would be a legitimate ascertainment of that line.

In a note dated 16th March Sir Charles R. Vaughan offered some observations upon the objections on the part of the United States to acquiesce in the points previously submitted to the American Government. He said that the adoption of the views of the British Government by the Government of the United States was meant to be the groundwork of future proceedings, whether those proceedings were to be directed to another attempt to trace the boundary as proposed by the latter or to a division of the territory depending upon the conventional line. He maintained that the arbiter had decided, as the British Government asserted, two out of the three main points submitted for his decision, viz, what ought to be considered as the northwesternmost head of the Connecticut (but which the Government of the United States is only willing to admit conditionally) and the point relative to tracing the boundary along the forty-fifth degree of latitude. This point, he observed, Mr. McLane wished to dispose of by adopting the old line of Collins and Valentine, which was suspected of great inaccuracy by both parties, and the only motive for retaining which was because some American citizens have made settlements upon territory

that a new survey might throw into the possession of Great Britain. Sir Charles denied that the acquiescence of the United States in the seven subordinate points lately submitted by His Majesty's Government would confine the negotiation to a conventional line, to which the President had no authority to agree, and affirmed that not a step could be taken by the commissioners to be appointed according to Mr. Livingston's proposition, notwithstanding the unlimited discretion which it was proposed to give them, unless the two Governments agreed upon two of the seven subordinate points—"the character of the land they are to discover as dividing waters according to the treaty of 1783 and what are to be considered as Atlantic rivers." In answer to Mr. McLane's observation that on many points the reasoning of the arbiter had been more favorable to the United States than to Great Britain, and that therefore acquiescence should equally apply to all the premises assumed, Sir Charles expressed his confidence that if acquiescence in them could facilitate the object which now occupied both Governments they would meet with the most favored consideration. Sir Charles adverted to the obligations contracted under the seventh article of the convention, to the opinion of His Majesty's Government that they were binding and its willingness to abide by the award of the arbiter. He referred to the small majority by which he supposed the award to have been defeated in the Senate of the United States and a new negotiation advised to be opened, to the complicated nature of the plan proposed by the United States for another attempt to trace the boundary of the treaty, to the rejection of the points proposed by the British Government to render that plan more practicable, etc., and regretted sincerely that the award of the arbiter, which conferred upon the United States three-fifths of the disputed territory, together with Rousc Point—a much greater concession than is ever likely to be obtained by a protracted negotiation—was set aside. An alleged insuperable constitutional difficulty having occasioned the rejection of the award, Sir Charles wished to ascertain previously to any further proceedings how far the General Government had the power to carry into effect any arrangement resulting from a new negotiation, the answer of Mr. McLane upon this point having been confined to stating that should a new commission of survey, freed from the restriction of following the due north line of the treaty, find anywhere westward of that line highlands separating rivers according to the treaty of 1783, a line drawn from the monument at the source of the St. Croix would be such a fulfillment of the terms of that treaty that the President could agree to make it the boundary without reference to the State of Maine.

Mr. McLane, under date of 21st March, corrected the error into which Sir Charles had fallen in regard to the proceedings on the award in the Senate of the United States, and showed that that body not only failed, but by two repeated votes of 35 and 34 to 8 refused, to consent to the execution of the award, and by necessary implication denied its binding effect upon the United States, thus putting it out of the power of the President to carry it into effect and leaving the high parties to the submission situated precisely as they were prior to the selection of the arbiter.

The President had perceived, Mr. McLane said, in all the previous efforts to adjust the boundary in accordance with the terms of the treaty of 1783 that a natural and uniform rule in the settlement of disputed questions of location had been quite overlooked; that the chief, if not only, difficulty arose from a supposed necessity of finding highlands corresponding with the treaty description in a due north line from the monument, but it was plain that if such highlands could be anywhere discovered it would be a legal execution of the treaty to draw a line to them from the head of the St. Croix without regard to the precise course given in the treaty. It therefore became his duty to urge the adoption of this principle upon the Government of His Britannic Majesty as perhaps the best expedient which remained for ascertaining the boundary of the treaty of 1783. The Secretary could not perceive in the plan proposed anything so complicated as Sir Charles appeared to suppose. On the

contrary, it was recommended to approbation and confidence by its entire simplicity. It chiefly required the discovery of the highlands called for by the treaty, and the mode of reaching them upon the principle suggested was so simple that no observations could make it plainer. The difficulty of discovering such highlands, Mr. McLane said, was presumed not to be insuperable. The arbiter himself was not understood to have found it impracticable to discover highlands answering the description of the highlands of the treaty, though unable to find them due north from the monument; and certainly it could not be more difficult for commissioners on the spot to arrive at a conclusion satisfactory to their own judgment as to the locality of the highlands.

Mr. McLane, in answer to Sir Charles's request for information on the subject, stated that the difficulty in the way of the adoption of the line recommended by the arbiter was the want of authority in the Government of the United States to agree to a line not only confessedly different from the line called for by the treaty, but which would deprive the State of Maine of a portion of territory to which she would be entitled according to the line of the definitive treaty; that by the President's proposition a commission would be raised, not to establish a new line differing from the treaty of 1783, but to determine what the true and original boundary was and in which of the two disagreeing parties the right to the disputed territory originally was; that for this purpose the authority of the original commissioners, if they could have agreed, was complete under the Ghent treaty, and that of the new commission proposed to be constituted could not be less.

Sir Charles R. Vaughan explained, under date of the 24th of March, with regard to his observation "that the mode in which it was proposed by the United States to settle the boundary was complicated; that he did not mean to apply it to the adoption of a rule in the settlement of disputed questions of location, but to the manner in which it is proposed by the United States that the new commission of survey shall be selected and constituted."

On the 8th of December, 1834, Sir Charles R. Vaughan transmitted a note to the Department of State, in which, after a passing expression of the regret of His Majesty's Government that the American Government still declined to come to a separate understanding on the several points of difference with respect to which the elements of decision were fully before both Governments, but without abandoning the argument contained in his note of 10th February last, he addressed himself exclusively to the American proposition for the appointment of a new commission to be empowered to seek westward of the meridian of the St. Croix highlands answering to the description of those mentioned in the treaty of 1783. He stated with regard to the rule of surveying on which the proposition was founded that however just and reasonable it might be, His Majesty's Government did not consider it so generally established and recognized as Mr. McLane assumed it to be; that, indeed, no similar case was recollected in which the principle asserted had been put in practice; yet, on the contrary, one was remembered not only analogous to that under discussion, but arising out of the same article of the same treaty, in which the supposed rule was invested by the agents of the American Government itself; that the treaty of 1783 declared that the line of boundary was to proceed from the Lake of the Woods "in a due west course to the Mississippi," but it being ascertained that such a line could never reach that river, since its sources lie south of the latitude of the Lake of the Woods, the commissioners, instead of adhering to the natural object—the source of the Mississippi—and drawing a new connecting line to it from the Lake of the Woods, adhered to the arbitrary line to be drawn due west from the lake and abandoned the Mississippi, the specific landmark mentioned in the treaty.

Sir Charles further stated that if the President was persuaded that he could carry out the principle of surveying he had proposed without the consent of Maine, and if no hope remained, as was alleged by Mr. McLane, of overcoming the constitutional

difficulty in any other way until at least this proposition should have been tried and have failed, His Majesty's Government, foregoing their own doubts on the subject, were ready to acquiesce in the proceeding proposed by the President if that proceeding could be carried into effect in a manner not otherwise objectionable; that "His Majesty's Government would consider it desirable that the principles on which the new commissioners would have to conduct their survey should be settled beforehand by a special convention between the two Governments;" that there was, indeed, one preliminary question upon which it was obviously necessary the two Governments should agree before the commission could begin their survey with any chance of success, viz, What is the precise meaning to be attached to the words employed in the treaty to define the highlands which the commissioners are to seek for? that those highlands are to be distinguished from other highlands by the rivers flowing from them, and those distinguishing rivers to be known from others by the situation of their mouths; that with respect to the rivers flowing south into the Atlantic Ocean a difference of opinion existed between the two Governments; that whilst the American Government contended that rivers falling into the Bay of Fundy were, the British Government contended that they were not, for the purposes of the treaty, rivers falling into the Atlantic Ocean, and that the views and arguments of the British Government on this point had been confirmed by an impartial authority selected by the common consent of the two Governments, who was of opinion that the rivers St. John and Restigouche were not Atlantic rivers within the meaning of the treaty, and that His Majesty's Government therefore trusted that the American Cabinet would concur with that of His Majesty in deciding "that the Atlantic rivers which are to guide the commissioners in searching for the highlands described in the treaty are those which fall into the sea to the westward of the mouth of the river St. Croix;" that a clear agreement on this point must be an indisputable preliminary to the establishment of any new commission of survey; that till this point be decided no survey of commissioners could lead to a useful result, but that its decision turns upon the interpretation of the words of a treaty, and not upon the operations of surveyors; and His Majesty's Government, having once submitted it, in common with other points, to the judgment of an impartial arbiter, by whose award they had declared themselves ready to abide, could not consent to refer it to any other arbitration.

In a note from the Department of State dated 28th April, 1835, Sir Charles R. Vaughan was assured that his prompt suggestion, as His Britannic Majesty's minister, that a negotiation should be opened for the establishment of a conventional boundary between the two countries was duly appreciated by the President, who, had he possessed like powers with His Majesty's Government over the subject, would have met the suggestion in a favorable spirit.

The Secretary observed that the submission of the whole subject or any part of it to a new arbitrator promised too little to attract the favorable consideration of either party; that the desired adjustment of the controversy was consequently to be sought for in the application of some new principle to the controverted question, and that the President thought that by a faithful prosecution of the plan submitted by his direction a settlement of the boundary in dispute according to the terms of the treaty of 1783 was attainable.

With regard to the rule of practical surveying offered as the basis of the American proposition, he said if it should become material to do so—which was not to be anticipated—he would find no difficulty either in fortifying the ground occupied by this Government in this regard or in satisfying Sir Charles that the instance brought into notice by His Britannic Majesty's Government of a supposed departure from the rule was not at variance with the assertion of Mr. Livingston repeated by Mr. McLane. The Secretary therefore limited himself to the remark that the line of demarcation referred to by Sir Charles was not established as the true boundary prescribed by the treaty of 1783, but was a conventional substitute for it, the result

of a new negotiation controlled by other considerations than those to be drawn from that instrument only.

The Secretary expressed the President's unfeigned regret upon learning the decision of His Majesty's Government not to agree to the proposition made on the part of the United States without a precedent compliance by them with inadmissible conditions. He said that the views of this Government in regard to this proposal of His Majesty's Government had been already communicated to Sir Charles R. Vaughan, and the President perceived with pain that the reasons upon which these opinions were founded had not been found to possess sufficient force and justice to induce the entire withdrawal of the objectionable conditions, but that, on the contrary, while His Majesty's Government had been pleased to waive for the present six of the seven opinions referred to, the remaining one, amongst the most important of them all, was still insisted upon, viz., that the St. John and Restigouche should be treated by the supposed commission as not being Atlantic rivers according to the meaning of those terms in the treaty. With reference to that part of Sir Charles's communication which seeks to strengthen the ground heretofore taken on this point by the British Government by calling to its aid the supposed confirmation of the arbiter, the Secretary felt himself warranted in questioning whether the arbiter had ever given his opinion that the rivers St. John and Restigouche can not be considered according to the meaning of the treaty as rivers falling into the Atlantic, and he insisted that it was not the intention of the arbiter to express the opinion imputed to him.

The Secretary also informed Sir Charles that the President could not consent to clog the submission with the condition proposed by Her Majesty's Government; that a just regard to the rights of the parties and a proper consideration of his own duties required that the new submission, if made, should be made without restriction or qualification upon the discretion of the commissioners other than such as resulted from established facts and the just interpretation of the definitive treaty, and such as had been heretofore and were now again tendered to His Britannic Majesty's Government; that he despaired of obtaining a better constituted tribunal than the one proposed; that he saw nothing unfit or improper in submitting the question as to the character in which the St. John and Restigouche were to be regarded to the decision of an impartial commission; that the parties had heretofore thought it proper so to submit it, and that it by no means followed that because commissioners chosen by the parties themselves, without an umpire, had failed to come to an agreement respecting it, that the same result would attend the efforts of a commission differently selected. The Secretary closed his note by stating that the President had no new proposal to offer, but would be happy to receive any such proposition as His Britannic Majesty's Government might think it expedient to make, and by intimating that he was authorized to confer with Sir Charles whenever it might suit his convenience and comport with the instructions of his Government with respect to the treaty boundary or a conventional substitute for it.

On the 4th of May, 1835, Sir Charles R. Vaughan expressed his regret that the condition which His Majesty's Government had brought forward as an essential preliminary to the adoption of the President's proposal had been declared to be inadmissible by the American Government.

Sir Charles confidently appealed to the tenor of the language of the award of the arbiter to justify the inference drawn from it by His Majesty's Government in regard to that point in the dispute which respects the rivers which are to be considered as falling directly into the Atlantic. The acquiescence of the United States in what was understood to be the opinion of the arbiter was invited, he said, because the new commission could not enter upon their survey in search of the highlands of the treaty without a previous agreement between the two Governments what rivers ought to be considered as falling into the Atlantic, and that if the character in which the

Restigouche and St. John were to be regarded was a question to be submitted to the commissioners the President's proposition would assume the character of a new arbitration, which had been already objected to by the Secretary. Sir Charles also stated that while His Majesty's Government had wished to maintain the decisions of the arbiter on subordinate points, their mention had not been confined to those decided in favor of British claims; that the decisions were nearly balanced in favor of either party, and the general result of the arbitration was so manifestly in favor of the United States that to them were assigned three-fifths of the territory in dispute and Rouses Point, to which they had voluntarily resigned all claim.

Sir Charles acknowledged with much satisfaction the Secretary's assurance that if the President possessed the same power as His Majesty's Government over the question of boundary he would have met the suggestion of a conventional line, contained in Sir Charles's note of 31st May, 1833, in a favorable spirit. He lamented that the two Governments could not coincide in the opinion that the removal of the only difficulty in the relations between them was attainable by the last proposal of the President, as it was the only one in his power to offer in alleviation of the task of tracing the treaty line, to which the Senate had advised that any further negotiation should be restricted. He said that he was ready to confer with the Secretary whenever it might be convenient to receive him, and stated that as to any proposition which it might be the wish of the United States to receive from His Majesty's Government respecting a conventional substitute for the treaty of 1783, it would in the first instance, to avoid constitutional difficulties in the way of the Executive, be necessary to obtain the consent of Maine, an object which must be undertaken exclusively by the General Government of the United States.

Mr. Bankhead, the British chargé d'affaires, in a note to the Department dated 28th December, 1835, stated that during the three years which had elapsed since the refusal of the Senate to agree to the award of the King of the Netherlands, although the British Government had more than once declared its readiness to abide by its offer to accept the award, the Government of the United States had as often replied that on its part that award could not be agreed to; that the British Government now considered itself by this refusal of the United States fully and entirely released from the conditional offer which it had made, and that he was instructed distinctly to announce to the President that the British Government withdrew its consent to accept the territorial compromise recommended by the King of the Netherlands.

With regard to the American proposition for the appointment of a new commission of exploration and survey, Mr. Bankhead could not see, since the President found himself unable to admit the distinction between the Bay of Fundy and the Atlantic Ocean, how any useful result could arise out of the proposed survey. He thought, on the contrary, that if it did not furnish fresh subjects of difference between the two Governments it could at best only bring the subject back to the same point at which it now stood.

To the suggestion of the President that the commission of survey should be empowered to decide the river question Mr. Bankhead said it was not in the power of His Majesty's Government to assent; that this question could not properly be referred to such a commission, because it turned upon the interpretation to be put upon the words of the treaty of 1783, and upon the application of that interpretation to geographical facts already well known and ascertained, and that therefore a commission of survey had no peculiar competency to decide such a question; that to refer it to any authority would be to submit it to a fresh arbitration, and that if His Majesty's Government were prepared to agree to a fresh arbitration, which was not the case, such arbitration ought necessarily, instead of being confined to one particular point alone, to include all the points in dispute between the two Governments; that His Majesty's Government could therefore only agree to such a commission provided there were a previous understanding between the two Governments; that although neither should

be required to give up its own interpretation of the river question, yet "the commissioners should be instructed to search for highlands upon the character of which no doubt could exist on either side."

If this modification of the President's proposal should not prove acceptable, Mr. Bankhead observed, the only remaining way of adjusting the difference would be to abandon altogether the attempt to draw a line in conformity with the words of the treaty and to fix upon a convenient line, to be drawn according to equitable principles and with a view to the respective interests and the convenience of the two parties. He stated that His Majesty's Government were perfectly ready to treat for such a line, and conceived that the natural features of the disputed territory would afford peculiar facilities for drawing it; that His Majesty's Government would therefore propose an equal division of the territory in dispute between Great Britain and the United States, and that the general outline of such a division would be that the boundary between the two States should be drawn due north from the head of St. Croix River till it intersected the St. John; thence up the bed of the St. John to the southernmost source of that river, and from that point it should be drawn to the head of the Connecticut River in such manner as to make the northern and southern allotments of the divided territory as nearly as possible equal to each other in extent.

In reply to the preceding note the Secretary, under date of February 29, 1836, expressed the President's regret to find that His Britannic Majesty's Government adhered to its objection to the appointment of a commission to be chosen in either of the modes heretofore proposed by the United States and his conviction that the proposition on which it was founded, "that the river question was a treaty construction only," although repeated on various occasions by Great Britain, was demonstrably untenable, and, indeed, only plausible when material and most important words of description in the treaty are omitted in quoting from that instrument. He said that while His Majesty's Government maintain their position agreement between the United States and Great Britain on this point was impossible; that the President was therefore constrained to look to the new and conventional line offered in Mr. Bankhead's note, but that in such a line the wishes and interests of Maine were to be consulted, and that the President could not in justice to himself or that State make any proposition utterly irreconcilable with her previously well-known opinions on the subject; that the principle of compromise and equitable division was adopted by the King of the Netherlands in the line recommended by him, a line rejected by the United States because unjust to Maine; and yet that line gave to Great Britain little more than 2,000,000, while the proposition now made by His Majesty's Government secured to Great Britain of the disputed land more than 4,000,000 acres; that the division offered by Mr. Bankhead's note was not in harmony with the equitable rule from which it is said to spring, and if it were in conformity with it could not be accepted without disrespect to the previous decisions and just expectations of Maine. The President was far from attributing this proposition, the Secretary said, to the desire of His Majesty's Government to acquire territory. He doubted not that the offer, without regard to the extent of territory falling to the north or south of the St. John, was made by His Majesty's Government from a belief that the substitution of a river for a highland boundary would be useful in preventing territorial disputes in future; but although the President coincided in this view of the subject he was compelled to decline the boundary proposed as inconsistent with the known wishes, rights, and decisions of the State.

The Secretary concluded by stating that the President, with a view to terminate at once all controversy, and without regard to the extent of territory lost by one party or acquired by the other, to establish a definite and indisputable line, would, if His Majesty's Government assented to it, apply to the State of Maine for its consent to make the river St. John from its source to its mouth the boundary between Maine and His Britannic Majesty's dominions in that part of North America.

Mr. Bankhead acknowledged on the 4th March, 1836, the receipt of this note from the Department, and said that the rejection of the conventional line proposed in his previous note would cause His Majesty's Government much regret. He referred the Secretary to that part of his note of the 28th December last wherein the proposition of the President for a commission of exploration and survey was fully discussed, as it appeared to Mr. Bankhead that the Secretary had not given the modification on the part of His Majesty's Government of the American proposition the weight to which it was entitled. He said that it was offered with the view of meeting as far as practicable the wishes of the President and of endeavoring by such a preliminary measure to bring about a settlement of the boundary upon a basis satisfactory to both parties; that with this view he again submitted to the Secretary the modified proposal of His Majesty's Government, remarking that the commissioners who might be appointed were not to *decide* upon points of difference, but merely to present to the respective Governments the result of their labors, which, it was hoped and believed, would pave the way for an ultimate settlement of the question.

Mr. Bankhead considered it proper to state frankly and clearly that the proposition offered in the last note from the Department to make the river St. John from its source to its mouth the boundary between the United States and His Majesty's Province of New Brunswick was one to which the British Government, he was convinced, would never agree.

On the 5th March the Secretary expressed regret that his proposition to make the river St. John the boundary between Maine and New Brunswick would, in the opinion of Mr. Bankhead, be declined by his Government; that the Government of the United States could not, however, relinquish the hope that the proposal, when brought before His Majesty's cabinet and considered with the attention and deliberation due to its merits, would be viewed in a more favorable light than that in which it appeared to have presented itself to Mr. Bankhead. If, however, the Secretary added, this expectation should be disappointed, it would be necessary before the President consented to the modification of his previous proposition for the appointment of a commission of exploration and survey to be informed more fully of the views of the British Government in offering the modification, so that he might be enabled to judge how the report of the commission (which as now proposed to be constituted was not to decide upon points of difference) would be likely to lead to an ultimate settlement of the question of boundary, and also which of the modes proposed for the selection of commissioners was the one intended to be accepted, with the modification suggested by His Britannic Majesty's Government.

In January last Mr. Fox, the British minister at Washington, made a communication to the Department of State, in which, with reference to the objection preferred by the American Government that it had no power without the consent of Maine to agree to the arrangement proposed by Great Britain, since it would be considered by that State as equivalent to a cession of what she regarded as a part of her territory, he observed that the objection of the State could not be admitted as valid, for the principle on which it rested was as good for Great Britain as it was for Maine; that if the State was entitled to contend that until the treaty line was determined the boundary claimed by Maine must be regarded as the right one, Great Britain was still more entitled to insist on a similar pretension and to assert that until the line of the treaty shall be established satisfactorily the whole of the disputed territory ought to be considered as belonging to the British Crown, since Great Britain was the original possessor, and all the territory which had not been proved to have been by treaty ceded by her must be deemed to belong to her still. But Mr. Fox said the existence of these conflicting pretensions pointed out the expediency of a compromise; and why, he asked, as a conventional line different from that described in the treaty was agreed to with respect to the boundary westward from the Lake of the Woods, should such a line not be agreed to likewise for the boundary eastward

from the Connecticut? Her Majesty's Government could not, he added, refrain from again pressing this proposition upon the serious consideration of the United States as the arrangement best calculated to effect a prompt and satisfactory settlement between the two powers.

With reference to the American proposition to make the river St. John from its mouth to its source the boundary, Mr. Fox remarked that it was difficult to understand upon what grounds any expectation could have been formed that such a proposal could be entertained by the British Government, for such an arrangement would give to the United States even greater advantages than they would obtain by an unconditional acquiescence in their claim to the whole of the disputed territory, because it would give to Maine all the disputed territory lying south of the St. John, and in exchange for the remaining part of the territory lying to the north of the St. John would add to the State of Maine a large district of New Brunswick—a district smaller in extent, but much more considerable in value, than the portion of the disputed territory which lies to the north of the St. John.

With regard to the proposition for the appointment of a commission of exploration and survey, Mr. Fox stated that Her Majesty's Government, with little expectation that it could lead to a useful result, but unwilling to reject the only plan left which seemed to afford a chance of making a further advance in this matter, would not withhold their consent to such a commission if the principle upon which it was to be formed and the manner in which it was to proceed could be satisfactorily settled; that of the two modes proposed in which such a commission might be constituted Her Majesty's Government thought the first, viz., that it might consist of commissioners named in equal numbers by each of the two Governments, with an umpire to be selected by some friendly European power, would be the best, but suggested that it might be better that the umpire should be selected by the members of the commission themselves rather than that the two Governments should apply to a third power to make such a choice; that the object of this commission should be to explore the disputed territory in order to find within its limits dividing highlands which might answer the description of the treaty, the search to be made in a north and northwest line from the monument at the head of the St. Croix; and that Her Majesty's Government had given their opinion that the commissioners should be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the treaty.

In answer to the inquiry how the report of the commission would, according to the views of Her Majesty's Government, be likely when rendered to lead to an ultimate settlement of the boundary question, Mr. Fox observed that since the proposal for the appointment of a commission originated with the Government of the United States, it was rather for that Government than the Government of Great Britain to answer this question. Her Majesty's Government had already stated they had little expectation that such a commission could lead to any useful result, etc., but that Her Majesty's Government, in the first place, conceived that it was meant by the Government of the United States that if the commission should discover highlands answering to the description of the treaty a connecting line from them to the head of the St. Croix should be deemed to be a portion of the boundary between the two countries. Mr. Fox further referred the Secretary to the previous notes of Mr. McLane on the subject, in which it was contemplated as one of the possible results of the proposed commission that such additional information might be obtained of the features of the country as might remove all doubt as to the impracticability of laying down a boundary in accordance with the letter of the treaty. Mr. Fox said that if the investigations of the commission should show that there was no reasonable prospect of finding the line described in the treaty of 1783 the constitutional difficulties which now prevented the United States from agreeing to a conventional line might possibly be removed, and the way be thus prepared for a satisfactory settlement of the

difference by equitable division of the territory; but, he added in conclusion, if the two Governments should agree to the appointment of such a commission, it would be necessary that their agreement should be by a convention, and it would be obviously indispensable that the State of Maine should be an assenting party to the arrangement.

In acknowledging the receipt of Mr. Fox's communication at the Department he was informed (7th February) that the President experienced deep disappointment in finding that the answer just presented on the part of the British Government to the proposition made by this Government with the view of effecting the settlement of the boundary question was so indefinite in its terms as to render it impracticable to ascertain without further discussion what were the real wishes and intentions of Her Majesty's Government respecting the appointment of a commission of exploration and survey, but that a copy of it would be transmitted to the executive of Maine for the purpose of ascertaining the sense of the State authorities upon the expediency of meeting the views of Her Majesty's Government so far as they were therein developed.

Occasion was taken at the same time to explain to Mr. Fox, in answer to the suggestion in his note of the 10th of January last, that the parallel of latitude adopted as a conventional substitute for the line designated in the treaty for the boundary westward from the Lake of the Woods passed over territory within the exclusive jurisdiction of the General Government, without trenching upon the rights or claims of any member of the Union, and the legitimate power of the Government, therefore, to agree to such line was held to be perfect, but that in acceding to a conventional line for the boundary eastward from the river Connecticut it would transcend its constitutional powers, since such a measure could only be carried into effect by violating the jurisdiction of a sovereign State and assuming to alienate a portion of the territory claimed by such State.

In reply to the observation of Mr. Fox that it was difficult to understand upon what ground an expectation could have been entertained that the proposition to make the St. John the boundary would be received by Her Majesty's Government, he was informed that the suggestion had been offered, as the proposition on the part of Great Britain that led to it was supposed to have been, with regard to the extent of territory lost or acquired by the respective parties, and in the hope that the great importance of terminating this controversy by establishing a definite and indisputable boundary would be seen and acknowledged by the British Government, and have a correspondent weight in influencing its decision; that the suggestion in Mr. Bankhead's note of 28th December, 1835, of a part of the river St. John as a portion of the general outline of a conventional boundary, apparently recognized the superior advantages of a river over a highland boundary, and that no difficulty was anticipated on the part of Her Majesty's Government in understanding the grounds upon which such a proposal was expected to be entertained by it, since the precedent proposition of Mr. Bankhead just alluded to, although based upon the principle of an equal division between the parties, could not be justified by it, as it would have given nearly two-thirds of the disputed territory to Great Britain; that it was therefore fair to presume that the river line, in the opinion of His Majesty's Government, presented advantages sufficient to counterbalance any loss of territory by either party that might accrue from its adoption; and it was also supposed that another recommendation of this line would be seen by Great Britain in the fact that whilst by its adoption the right of jurisdiction alone would have been yielded to the United States over that portion of New Brunswick south of the St. John, Great Britain would have acquired the right of soil and jurisdiction of all the disputed territory north of that river.

To correct a misapprehension into which Mr. Fox appeared to have fallen, the distinctive difference between the American proposition for a commission and that proposition as subsequently modified by Great Britain was pointed out, and he was

informed that although the proposal originated with this Government, the modification was so fundamentally important that it entirely changed the nature of the proposition, and that the supposition, therefore, that it was rather for the Government of the United States than for that of Great Britain to answer the inquiry preferred by the Secretary of State for information relative to the manner in which the report of the commission as proposed to be constituted and instructed by the British Government might tend to a practical result was unfounded. Mr. Fox was also given to understand that any decision made by a commission constituted in the manner proposed by the United States and instructed to seek for the highlands of the treaty of 1783 would be binding upon this Government and could be carried into effect without unnecessary delay; but if the substitute presented by Her Majesty's Government should be insisted on and its principles be adopted, it would then be necessary to resort to the State of Maine for her assent in all proceedings relative to the matter, since any arrangement under it can only be for a conventional line to which she must be a party.

In conclusion, it was intimated to Mr. Fox that if a negotiation be entertained by this Government at all upon the unsatisfactory basis afforded by the British counter proposition or substitute, the President will not invite it unless the authorities of the State of Maine shall think it more likely to lead to an adjustment of the question of boundary than the General Government deemed it to be, although predisposed to see it in the most favorable light.

Your excellency will perceive that in the course of these proceedings, but without abandoning the attempt to adjust the treaty line, steps necessary, from the want of power in the Federal Government, of an informal character, have been taken to test the dispositions of the respective Governments upon the subject of substituting a conventional for the treaty line. It will also be seen from the correspondence that the British Government, despairing of a satisfactory adjustment of the line of the treaty, avows its willingness to enter upon a direct negotiation for the settlement of a conventional line if the assent of the State of Maine to that course can be obtained.

Whilst the obligations of the Federal Government to do all in its power to effect a settlement of this boundary are fully recognized on its part, it has in the event of its being unable to do so specifically by mutual consent no other means to accomplish the object amicably than by another arbitration, or a commission, with an umpire, in the nature of an arbitration. In the contingency of all other measures failing the President will feel it to be his duty to submit another proposition to the Government of Great Britain to refer the decision of the question to a third party. He would not, however, be satisfied in taking this final step without having first ascertained the opinion and wishes of the State of Maine upon the subject of a negotiation for the establishment of a conventional line, and he conceives the present the proper time to seek it.

I am therefore directed by the President to invite your excellency to adopt such measures as you may deem necessary to ascertain the sense of the State of Maine with respect to the expediency of attempting to establish a conventional line of boundary between that State and the British possessions by direct negotiation between the Governments of the United States and Great Britain, and whether the State of Maine will agree, and upon what conditions, if she elects to prescribe any, to abide by such settlement if the same be made. Should the State of Maine be of opinion that additional surveys and explorations might be useful either in leading to a satisfactory adjustment of the controversy according to the terms of the treaty or in enabling the parties to decide more understandingly upon the expediency of opening a negotiation for the establishment of a line that would suit their mutual convenience and be reconcilable to their conflicting interests, and desire the creation for that purpose of a commission upon the principles and with the limited powers

described in the letter of Mr. Fox, the President will without hesitation open a negotiation with Great Britain for the accomplishment of that object.

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

JOHN FORSYTH.

WASHINGTON, April 5, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, with accompanying papers, in answer to their resolution of the 21st ultimo.

M. VAN BUREN.

DEPARTMENT OF STATE,

Washington, April 4, 1838.

The PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 21st ultimo, requesting the President, "if not incompatible with the public interests, to communicate to that House any information possessed by him respecting the capture and destruction of the steaiboot *Caroline* at Schlosser during the night of the 29th December last, and the murder of citizens of the United States on board, and all the particulars thereof not heretofore communicated, and especially to inform the House whether said capture was authorized, commanded, or sanctioned or has been avowed by the British authorities or officers, or any of them, and also what steps have been taken by him to obtain satisfaction from the Government of Great Britain on account of said outrage, and to communicate to the House all correspondence or communications relative thereto which have passed between the Government of the United States and Great Britain, or any of the public authorities of either," has the honor to lay before the President the accompanying documents, which contain all the information in the possession of this Department relative to the subject of the resolution; and to state, moreover, that instructions have been transmitted to the minister of the United States in London to make a full representation to Her Britannic Majesty's Government of the facts connected with this lamentable occurrence, to remonstrate against the unwarrantable course pursued on the occasion by the British troops from Canada, and to express the expectation of this Government that such redress as the nature of the case obviously requires will be promptly given.

Respectfully submitted.

JOHN FORSYTH.

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,

Washington, January 5, 1838.

HENRY S. FOX, Esq., etc.

SIR: By the direction of the President of the United States, I have the honor to communicate to you a copy of the evidence furnished to this Department of an extraordinary outrage committed from Her Britannic Majesty's Province of Upper Canada on the persons and property of citizens of the United States within the jurisdiction of the State of New York. The destruction of the property and the assassination of citizens of the United States on the soil of New York at the moment when, as is well known to you, the President was anxiously endeavoring to allay the excitement and earnestly seeking to prevent any unfortunate occurrence on the frontier of Canada have produced upon his mind the most painful emotions of surprise and regret. It will necessarily form the subject of a demand for redress upon Her

Majesty's Government. This communication is made to you under the expectation that through your instrumentality an early explanation may be obtained from the authorities of Upper Canada of all the circumstances of the transaction, and that by your advice to those authorities such decisive precautions may be used as will render the perpetration of similar acts hereafter impossible. Not doubting the disposition of the government of Upper Canada to do its duty in punishing the aggressors and preventing future outrage, the President nevertheless has deemed it necessary to order a sufficient force on the frontier to repel any attempt of a like character and to make known to you that if it should occur he can not be answerable for the effects of the indignation of the neighboring people of the United States.

I avail myself of this occasion, etc.

JOHN FORSYTH.

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,

Washington, January 19, 1838.

HENRY S. FOX, Esq., etc.

SIR: With reference to my note of the 5th instant, communicating to you evidence of an extraordinary outrage committed from Her Britannic Majesty's Province of Upper Canada on the persons and property of certain citizens of the United States at Schlosser, within the jurisdiction of the State of New York, on the night of the 29th ultimo, I have now the honor to transmit to you the copy of a letter* recently received from the attorney of the United States for the northern district of New York, dated the 8th of the current month, with transcripts of sundry depositions* which accompanied it, containing additional information in regard to that most disastrous occurrence. A letter from Mr. George W. Pratt of the 10th of January, with inclosures relating to the same subject, is also sent.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

JOHN FORSYTH.

The PRESIDENT.

ROCHESTER, January 10, 1838.

SIR: Colonel McNab, having avowed that the steamboat *Caroline* was destroyed by his orders, justifies himself by the plea, sustained by affidavits, that hostilities were commenced from the American shore.

I inclose you the affidavits* of four respectable citizens of Rochester, who were present at the time, who contradict the assertions of Colonel McNab.

I have the honor to be, your obedient servant,

GEO. W. PRATT.

Mr. Fox to Mr. Forsyth.

Hon. JOHN FORSYTH, etc.

WASHINGTON, February 6, 1838.

SIR: With reference to the letters which, by direction of the President, you addressed to me on the 5th and 19th ultimo, respecting the capture and destruction of the steamboat *Caroline* by a Canadian force on the American side of the Niagara River, within the jurisdiction of the State of New York, I have now the honor to communicate to you the copy of a letter upon that subject which I have received from Sir Francis Head, lieutenant-governor of the Province of Upper Canada, with divers reports and depositions annexed.

The piratical character of the steamboat *Caroline* and the necessity of self-defense and self-preservation under which Her Majesty's subjects acted in destroying that vessel would seem to be sufficiently established.

At the time when the event happened the ordinary laws of the United States were

* Omitted.

not enforced within the frontier district of the State of New York. The authority of the law was overborne publicly by piratical violence. Through such violence Her Majesty's subjects in Upper Canada had already severely suffered, and they were threatened with still further injury and outrage. This extraordinary state of things appears naturally and necessarily to have impelled them to consult their own security by pursuing and destroying the vessel of their piratical enemy wheresoever they might find her.

I avail myself of this occasion to renew to you the assurance of my high respect and consideration.

H. S. FOX.

TORONTO, UPPER CANADA, January 8, 1838.

His Excellency HENRY S. FOX,
Her Majesty's Minister, Washington.

SIR: I have the honor to inclose you the copy of a special message sent by His Excellency Governor Marcy to the legislature of the State of New York, in relation to a matter on which your excellency will desire the earliest and most authentic information. The message only reached this place yesterday, and I lose no time in communicating with your excellency on the subject.

The governor of the State of New York complains of the cutting out and burning of the steamboat *Caroline* by order of Colonel McNab, commanding Her Majesty's forces at Chippewa, in the Province of Upper Canada, and of the destruction of the lives of some American citizens who were on board of the boat at the time she was attacked.

The act complained of was done under the following circumstances:

In Upper Canada, which contains a population of about 450,000 souls, the most perfect tranquillity prevailed up to the 4th day of December last, although in the adjoining Province of Lower Canada many of the French Canadian inhabitants had been in open rebellion against the Government for about a month preceding.

At no time since the treaty of peace with the United States in 1815 had Upper Canada been more undisturbed. The real causes of the insurrection in Lower Canada, namely, the national antipathy of the French inhabitants, did not in any degree apply in the upper Province, whose population, like the British and American inhabitants of Lower Canada, were wholly opposed to the revolt and anxious to render every service in support of the Queen's authority.

It had been reported to the Government some time before the 4th of December that in a remote portion of the home district a number of persons occasionally met and drilled with arms under leaders known to be disaffected, but it was not believed by the Government that anything more could be intended than to make a show of threatened revolt in order to create a diversion in favor of the rebels in Lower Canada.

The feeling of loyalty throughout this Province was known to be so prevalent and decided that it was not thought unsafe to forbear, for the time at least, to take any notice of the proceedings of this party.

On the night of the 4th December the inhabitants of the city of Toronto were alarmed by the intelligence that about 500 persons armed with rifles were approaching the city; that they had murdered a gentleman of great respectability in the highway, and had made several persons prisoners. The inhabitants rushed immediately to arms; there were no soldiers in the Province and no militia had been called out. The home district, from which this party of armed men came, contains 60,000 inhabitants—the city of Toronto 10,000. In a few hours a respectable force, although undisciplined, was collected and armed in self-defense, and awaited the threatened attack. It seems now to admit of no doubt that if they had at once advanced against the insurgents they would have met with no formidable resistance, but it was thought more prudent to wait until a sufficient force should be collected

to put the success of an attack beyond question. In the meantime people poured in from all quarters to oppose the insurgents, who obtained no increase of numbers, but, on the contrary, were deserted by many of their body in consequence of the acts of devastation and plunder into which their leader had forced them.

On the 7th of December an overwhelming force of militia went against them and dispersed them without losing a man, taking many prisoners, who were instantly by my order released and suffered to depart to their homes. The rest, with their leaders, fled; some have since surrendered themselves to justice; many have been taken, and some have escaped from the Province.

It was reported about this time that in the district of London a similar disposition to rise had been observed, and in consequence a militia force of about 400 men was sent into that district, where it was speedily joined by three times as many of the inhabitants of the district, who assembled voluntarily and came to their aid with the greatest alacrity.

It was discovered that about 300 persons under Dr. Duncombe, an American by birth, were assembled with arms, but before the militia could reach them they dispersed themselves and fled. Of these by far the greater came in immediately and submitted themselves to the Government, declaring that they had been misled and deceived, and praying for forgiveness.

In about a week perfect tranquillity was restored, and from that moment not a man has been seen in arms against the Government in any part of the Province, with the exception of the hostile aggression upon Navy Island, which I shall presently notice; nor has there been the slightest resistance offered to the execution of legal process in a single instance.

After the dispersion of the armed insurgents near Toronto Mr. McKenzie, their leader, escaped in disguise to the Niagara River and crossed over to Buffalo. Reports had been spread there and elsewhere along the American frontier that Toronto had been burnt and that the rebels were completely successful, but the falsehood of these absurd rumors was well known before McKenzie arrived on the American side. It was known also that the ridiculous attempt of 400 men to revolutionize a country containing nearly half a million inhabitants had been put down by the people instantly and decidedly without the loss of a man.

Nevertheless, a number of American citizens in Buffalo and other towns on the frontier of the State of New York enlisted as soldiers, with the avowed object of invading Canada and establishing a provisional government. Public meetings were held to forward this design of invading a country with which the United States were at peace. Volunteers were called for, and arms, ammunition, and provisions were supplied by contributions openly made. All this was in direct and flagrant violation of the express laws of the United States, as well as of the law of nations.

The civil authority of Buffalo offered some slight shew of resistance to the movement, being urged to interpose by many of the most respectable citizens. But no real impediment was offered, and on the 13th of December some hundreds of the citizens of the State of New York, as an armed body under the command of a Mr. Van Rensselaer, an American citizen, openly invaded and took possession of Navy Island, a part of Upper Canada, situate in the Niagara River.

Not believing that such an outrage would really be committed, no force whatever was assembled at the time to counteract this hostile movement.

In a very short time this lawless band obtained from some of the arsenals of the State of New York (clandestinely, as it is said) several pieces of artillery and other arms, which in broad daylight were openly transported to Navy Island without resistance from the American authorities. The people of Buffalo and the adjacent country continued to supply them with stores of various kinds, and additional men enlisted in their ranks.

In a few days their force was variously stated from 500 to 1,500, of whom a small

proportion were rebels who had fled from Upper Canada. They began to intrench themselves, and threatened that they would in a short time make a landing on the Canadian side of the Niagara River.

To prevent this and to keep them in check a body of militia was hastily collected and stationed on the frontier, under the command of Colonel Cameron, assistant adjutant-general of militia, who was succeeded in this command by Colonel McNab, the speaker of the house of assembly, an officer whose humanity and discretion, as well as his activity, have been proved by his conduct in putting down the insurrection in the London district and have been acknowledged in warm terms of gratitude by the misguided persons who had surrendered themselves into his hands. He received orders to act on the defensive only, and to be careful not to do any act which the American Government could justly complain of as a breach of neutrality.

An official statement of the unfriendly proceedings at Buffalo was without delay (on the 13th December) made by me to his excellency the governor of the State of New York, to which no answer has been received. And after this open invasion of our territory, and when it became evident that nothing was effected at Buffalo for preventing the violation of neutrality, a special messenger was sent to your excellency at Washington to urge your interposition in the matter. Sufficient time has not yet elapsed to admit of his return. Soon after his departure this band of outlaws on Navy Island, acting in defiance of the laws and Government of both countries, opened a fire from several pieces of ordnance upon the Canadian shore, which in this part is thickly settled, the distance from the island being about 600 yards and within sight of the populous village of Chippewa. They put several balls (6-pound shot) through a house in which a party of militiamen were quartered and which is the dwelling house of Captain Usher, a respectable inhabitant. They killed a horse on which a man at the time was riding, but happily did no further mischief, though they fired also repeatedly with cannon and musketry upon our boats.

They continued daily to render their position more formidable, receiving constant supplies of men and warlike stores from the State of New York, which were chiefly embarked at a landing place on the American main shore, called Fort Schlosser, nearly opposite to Navy Island. This place was once, I believe, a military position, before the conquest of Canada from the French, but there is now neither fort nor village there, but merely a single house occupied as a tavern, and a wharf in front of it, to which boats and vessels are moored. The tavern had been during these lawless proceedings a rendezvous for the band (who can not be called by any name more appropriate than pirates), and was in fact openly and notoriously resorted to as their headquarters on the mainland, and is so to this time. On the 28th December positive information was given to Colonel McNab by persons from Buffalo that a small steamboat called the *Caroline*, of about 50 tons burthen, had been hired by the pirates, who called themselves "patriots," and was to be employed in carrying down cannon and other stores and in transporting men and anything else that might be required between Fort Schlosser and Navy Island.

He resolved if she came down and engaged in this service to take or destroy her. She did come down agreeably to the information he received. She transported a piece of artillery and other stores to the island, and made repeated passages during the day between the island and the main shore.

In the night he sent a party of militia in boats, with orders to take or destroy her. They proceeded to execute the order. They found the *Caroline* moored to the wharf opposite to the inn at Fort Schlosser. In the inn there was a guard of armed men to protect her—part of the pirate force, or acting in their support. On her deck there was an armed party and a sentinel, who demanded the countersign.

Thus identified as she was with the force which in defiance of the law of nations and every principle of natural justice had invaded Upper Canada and made war upon its unoffending inhabitants, she was boarded, and after a resistance in which some desperate wounds were inflicted upon the assailants she was carried. If any peaceable

citizens of the United States perished in the conflict, it was and is unknown to the captors, and it was and is equally unknown to them whether any such were there. Before this vessel was thus taken not a gun had been fired by the force under the orders of Colonel McNab, even upon this gang of pirates, much less upon any peaceable citizen of the United States. It must therefore have been a consciousness of the guilty service she was engaged in that led those who were employing her to think an armed guard necessary for her defense. Peaceable citizens of the United States were not likely to be found in a vessel so employed at such a place and in such a juncture, and if they were there their presence, especially unknown as it was to the captors, could not prevent, in law or reason, this necessary act of self-defense.

Fifteen days had elapsed since the invasion of Upper Canada by a force enlisted, armed, and equipped openly in the State of New York. The country where this outrage upon the law of nations was committed is populous. Buffalo also contains 15,000 inhabitants. The public authorities, it is true, gave no countenance to those flagrant acts, but it did not prevent them or in the slightest degree obstruct them further than by issuing proclamations, which were disregarded.

Perhaps they could not, but in either case the insult and injury to the inhabitants of Canada were the same and their right to defend themselves equally unquestionable.

No wanton injury was committed by the party who gallantly effected this service. They loosed the vessel from the wharf, and finding they could not tow her against the rapid current of the Niagara, they abandoned the effort to secure her, set her on fire, and let her drift down the stream.

The prisoners taken were a man who, it will be seen by the documents accompanying this dispatch, avowed himself to be a subject of Her Majesty, inhabiting Upper Canada, who had lately been traitorously in arms in that Province, and, having fled to the United States, was then on board for the purpose of going to the camp at Navy Island; and a boy, who, being born in Lower Canada, was probably residing in the United States, and who, being afraid to land from the boat in consequence of the firing kept up by the guard on the shore, was placed in one of the boats under Captain Drew and taken over to our side, from whence he was sent home the next day by the Falls ferry with money given him to bear his expenses.

I send with this letter, first, a copy of my first communication to His Excellency Governor Marcy,* to which no reply has reached me; second, the official reports, correspondence, and militia general order respecting the destruction of the *Caroline*, with other documents;* third, the correspondence between Commissary-General Arcularius, of the State of New York, respecting the artillery belonging to the government of the State of New York, which has been and is still used in making war upon this Province;* fourth, other correspondence arising out of the present state of things on the Niagara frontier;* fifth, the special message of Governor Marcy.*

It will be seen from these documents that a high officer of the government of the State of New York has been sent by his excellency the governor for the express purpose of regaining possession of the artillery of that State which is now employed in hostile aggressions upon this portion of Her Majesty's dominions, and that, being aided and favored, as he acknowledges, by the most friendly cooperation which the commanding officer of Her Majesty's forces could give him, he has been successfully defied by this army of American citizens, and has abandoned the object of his mission in despair.

It can hardly fail also to be observed by your excellency that in the course of this negotiation between Mr. Van Rensselaer and the commissary-general of the State of New York this individual, Mr. Van Rensselaer, has not hesitated to place himself within the immediate jurisdiction of the government whose laws he had violated and in direct personal communication with the officer of that government, and has, nevertheless, been allowed to return unmolested to continue in command of American citizens engaged in open hostilities against Great Britain.

The exact position, then, of affairs on our frontier may be thus described:

An army of American citizens, joined to a very few traitors from Upper Canada, and under the command of a subject of the United States, has been raised and equipped in the State of New York against the laws of the United States and the treaties now subsisting, and are using artillery plundered from the arsenals of the State of New York in carrying on this piratical warfare against a friendly country.

The officers and Government of the United States and of the State of New York have attempted to arrest these proceedings and to control their citizens, but they have failed. Although this piratical assemblage are thus defying the civil authorities of both countries, Upper Canada alone is the object of their hostilities. The Government of the United States has failed to enforce its authority by any means, civil or military, and the single question (if it be a question) is whether Upper Canada was bound to refrain from necessary acts of self-defense against a people whom their own Government either could not or would not control.

In perusing the message of His Excellency Governor Marcy to the legislature of the State of New York your excellency will probably feel some degree of surprise that after three weeks' continued hostility carried on by the citizens of New York against the people of Upper Canada his excellency seems to have considered himself not called upon to make this aggression the subject of remark for any other purpose than to complain of a solitary act of self-defense on the part of Her Majesty's Province of Upper Canada, to which such unprovoked hostilities have unavoidably led.

I have the honor to be, sir, your excellency's most obedient, humble servant,

F. B. HEAD.

Mr. Forsyth to Mr. Fox.

DEPARTMENT OF STATE,

Washington, February 13, 1838.

HENRY S. FOX, Esq., etc.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, communicating a copy of a letter from Sir Francis Head, lieutenant-governor of the Province of Upper Canada, respecting the capture and destruction of the steamboat *Caroline* by a Canadian force on the American side of the Niagara River within the jurisdiction of the State of New York, together with the reports and depositions thereto annexed.

The statement of the facts which these papers present is at variance with the information communicated to this Government respecting that transaction; but it is not intended to enter at present upon an examination of the details of the case, as steps have been taken to obtain the fullest evidence that can be had of the particulars of the outrage, upon the receipt of which it will be made the subject of a formal complaint to the British Government for redress. Even admitting that the documents transmitted with your note contain a correct statement of the occurrence, they furnish no justification of the aggression committed upon the territory of the United States—an aggression which was the more unexpected as Sir Francis Head, in his speech at the opening of the parliament of Upper Canada, had expressed his confidence in the disposition of this Government to restrain its citizens from taking part in the conflict which was waging in that Province, and added that, having communicated with the governor of the State of New York and yourself, he was then waiting for replies.

It is not necessary to remind you that his expectations have been met by the adoption of measures on the part of the United States as prompt and vigorous as they have been successful in repressing every attempt of the inhabitants of the frontier States to interfere unlawfully in that contest. The most serious obstacle thrown in the way of these measures was the burning of the *Caroline*, which, while it was of no service to Her Britannic Majesty's cause in Canada, had the natural effect of increasing the excitement on the border, which this Government was endeavoring to allay.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

JOHN FORSYTH.

His Excellency MARTIN VAN BUREN,
President of the United States.

BUFFALO, December 30, 1837.

SIR: Inclosed are copies of affidavits* which I have prepared in great haste, and which contain all that is material in relation to the gross and extraordinary transaction to which they relate. Our whole frontier is in commotion, and I fear it will be difficult to restrain our citizens from avenging by a resort to arms this flagrant invasion of our territory. Everything that can be done will be by the public authorities to prevent so injudicious a movement. The respective sheriffs of Erie and Niagara have taken the responsibility of calling out the militia to guard the frontier and prevent any further depredations.

I am, sir, with great consideration, your obedient servant,

H. W. ROGERS,
District Attorney for Erie County, and Acting for the United States.

To the Senate:

WASHINGTON, April, 1838.

I transmit a communication from the Department of War, on the subject of the treaty with the Stockbridge and Munsee Indians of September, 1836, which is now before the Senate.

M. VAN BUREN.

WASHINGTON, April 15, 1838.

The PRESIDENT OF THE SENATE OF THE UNITED STATES.

SIR: I transmit to you a report from the Secretary of the Navy, accompanied with the papers relating to surveys, examinations and surveys of light-houses, sites for light-houses, and improvements in the light-house system, called for by the resolution of the Senate of the 8th of March last.

M. VAN BUREN.

Hon. JAMES K. POLK,

WASHINGTON, April 16, 1838.

Speaker of the House of Representatives.

SIR: I have the honor to transmit to you copies of the letters, documents, and communications called for by a resolution of the House of Representatives of the 7th of December last, received from the Secretary of the Navy, to be annexed to his report of the 5th day of February last, in relation to the delay of the sailing of the exploring expedition.†

M. VAN BUREN.

WASHINGTON, April 18, 1838.

To the Senate of the United States:

I return the petition and papers of Econchatta Nico,‡ referred to me by a resolution of the Senate of February 7, 1837, and transmit a com-

*Omitted.

†South Sea surveying and exploring expedition.

‡A chief of the Apalachicola Indians, for indemnification for losses sustained by depredations on his property by white persons.

munication and accompanying papers from the Acting Secretary of War, showing the failure of the attempt made, in conformity with the resolution, to obtain indemnity for the petitioner by prosecuting the depredators on his property, and also the causes of the failure. The papers are returned and the report and documents of the Acting Secretary of War submitted in order that Congress may devise such other mode of relief as may seem proper.

M. VAN BUREN.

WASHINGTON, April 23, 1838.

To the House of Representatives of the United States:

In compliance with the resolution of the House of Representatives of the 16th instant, relative to an attack on the steamboat *Columbia* in the Gulf of Mexico by a Mexican armed vessel, I transmit a report from the Secretary of State, to whom the resolution was referred.

M. VAN BUREN.

WASHINGTON, April 23, 1838.

To the Senate:

I transmit, for the consideration and action of the Senate, communications from the Department of War, accompanying treaties with the Indians in the State of New York, with the St. Regis band, and with the Oneidas residing at Green Bay.

M. VAN BUREN.

WASHINGTON, April 26, 1838.

To the House of Representatives of the United States:

In partial compliance with the resolution of the House of Representatives of the 21st ultimo, calling for further information on the relations between the United States and the Mexican Republic, I transmit a report from the Secretary of State, to whom the resolution was referred.

M. VAN BUREN.

WASHINGTON, April 27, 1838.

To the Senate of the United States:

I transmit to the Senate, for their consideration with a view to its ratification, a convention between the United States and the Republic of Texas for marking the boundary between them, signed in this city by the plenipotentiaries of the parties on the 25th instant.

M. VAN BUREN.

WASHINGTON, April 30, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, in answer to that part of their resolution of the 19th ultimo requesting the communication of all correspondence with any

foreign government in regard to the title or occupation of the territory of the United States beyond the Rocky Mountains.

M. VAN BUREN.

DEPARTMENT OF STATE,
Washington, April 25, 1838.

The PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom has been referred so much of the resolution of the House of Representatives dated the 19th ultimo as requests the President, if not incompatible with the public interest, to communicate to that body all correspondence had with any foreign government respecting the title or occupation of the territory of the United States beyond the Rocky Mountains, has the honor to report to the President that no recent communication on this subject has passed between this Government and any foreign power, and that copies of the correspondence growing out of previous discussions in which the question of title or occupation of this territory was involved have been heretofore communicated to the House and will be found among the documents printed by their order. Document No. 65 of the House of Representatives, contained in the fourth volume of State Papers of the first session of the Nineteenth Congress, and that numbered 199, in the fifth volume of State Papers of the first session of the Twentieth Congress, are particularly referred to as immediately connected with this subject.

Respectfully submitted.

JOHN FORSYTH.

WASHINGTON, *May 1, 1838.*

To the House of Representatives of the United States:

I transmit herewith a report, and accompanying documents, from the Acting Secretary of War, which contains the information* required by the resolution of the 16th ultimo, respecting the officers of the Corps of Engineers, the works upon which they were engaged during the last year, and the other matters embraced in the resolution.

M. VAN BUREN.

WASHINGTON, *May 2, 1838.*

To the House of Representatives of the United States:

The report of the Secretary of State transmitted by me to the House of Representatives in compliance with their resolution of the 16th ultimo, respecting an attack alleged to have been made by a Mexican armed vessel upon an American steamboat, having stated that no information on the subject had at that time reached the Department, I now transmit another report from the same officer, communicating a copy of a note from the Mexican minister, with an accompanying document, in reference to the act alluded to, which have been received at the Department since the date of the former report. —

M. VAN BUREN.

*List of officers of the Corps of Engineers and of the works upon which they were employed during the year 1837.

WASHINGTON, May 7, 1838.

To the Senate of the United States:

I transmit to the Senate, for their consideration with a view to its ratification, a convention signed at Houston on the 11th ultimo by Alcée La Branche, chargé d'affaires of the United States, and R. A. Irion, secretary of state of the Republic of Texas, stipulating for the adjustment and satisfaction of claims of citizens of the United States on that Government in the cases of the brigs *Pocket* and *Durango*. This convention having been concluded in anticipation of the receipt from the Department of a formal power for that purpose, an extract from a dispatch of Mr. La Branche to the Secretary of State explanatory of his motives for that act is also transmitted for the information of the Senate.

M. VAN BUREN.

WASHINGTON, May 10, 1838.

To the Senate and House of Representatives:

I submit to the consideration of Congress a statement prepared by the Secretary of the Treasury, by which it appears that the United States, with over twenty-eight millions in deposit with the States and over fifteen millions due from individuals and banks, are, from the situation in which those funds are placed, in immediate danger of being rendered unable to discharge with good faith and promptitude the various pecuniary obligations of the Government. The occurrence of this result has for some time been apprehended, and efforts made to avert it. As the principal difficulty arises from a prohibition in the present law to reissue such Treasury notes as might be paid in before they fell due, and may be effectually obviated by giving the Treasury during the whole year the benefit of the full amount originally authorized, the remedy would seem to be obvious and easy.

The serious embarrassments likely to arise from a longer continuance of the present state of things induces me respectfully to invite the earliest attention of Congress to the subject which may be consistent with a due regard to other public interests.

M. VAN BUREN.

WASHINGTON, May 11, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives reports from the Secretary of State and the Secretary of the Treasury, with accompanying papers, in answer to the resolution of the House of the 30th ultimo, relating to the introduction of foreign paupers into the United States.

M. VAN BUREN.

WASHINGTON, May 19, 1838.

To the Senate of the United States:

I herewith transmit to the Senate the copy of a letter addressed to me on the 28th ultimo by the governor of Maine, inclosing several resolves of the legislature of that State, and claiming reimbursement from the General Government of certain moneys paid to Ebenezer S. Greely, John Baker, and others in compensation for losses and sufferings experienced by them respectively under circumstances more fully explained in his excellency's letter.

In the absence of any authority on the part of the Executive to satisfy these claims, they are now submitted to Congress for consideration; and I deem it proper at the same time, with reference to the observations contained in Governor Kent's note above mentioned, to communicate to the Senate copies of other papers connected with the subject of the northeastern boundary of the United States, which, with the documents already made public, will show the actual state of the negotiations with Great Britain on the general question.

M. VAN BUREN.

[The same message was sent to the House of Representatives.]

STATE OF MAINE, EXECUTIVE DEPARTMENT,
Augusta, April 28, 1838.

His Excellency MARTIN VAN BUREN,
President of the United States.

SIR: I have the honor to inclose to you a copy of a resolve* of the legislature of this State in favor of Ebenezer S. Greely, also a copy of a resolve* in favor of John Baker and others; and in compliance with the request of the legislature I ask of the Government of the United States a reimbursement of the several sums allowed thereby, which several sums have been paid by this State to the individuals named in the resolves.

The justice and propriety of granting this request, I can have no doubt, will be apparent to you and to Congress when the circumstances under which the allowances were made are called to mind.

Mr. Greely, acting as agent under a law of this State authorizing and directing a census to be taken in unincorporated places, was forcibly seized and imprisoned for several months, and then, without trial, released.

John Baker and his associates named in the other resolve suffered by imprisonment and otherwise for acting under a law of this State incorporating the town of Madawaska in 1831. The State of Maine has acknowledged by these and other resolves its sense of obligation to remunerate in the first instance these sufferers in its cause and to satisfy as far as it is able their claims upon its justice. But the wrongs by which they suffered were committed by a foreign power with whom we are now at peace. The State of Maine has no power to make war or authorize reprisals. She can only look to the General Government to assume the payment as an act of justice to a member of the Union under the provisions of the Constitution and to demand redress and remuneration from the authors of the wrong in the name of the United States.

A minute recapitulation of the facts upon which these resolves are founded is deemed entirely unnecessary and superfluous, as they have heretofore been communicated and are well known to the Executive and to Congress.

* Omitted.

Maine has suffered too many repetitions of similar attempts to prevent her from enjoying her rightful possessions and enforcing her just claims to feel indifferent on the subject, and we look with confidence to the General Government for protection and support. The amount of money, although considerable, is of comparatively small importance when contrasted with the principles involved and the effect which must result from an immediate and ready assumption of the liability on the part of the United States. Such an act would be highly gratifying to the people of this State as evidence that their just claims and rights are fully recognized by the United States, and that the strong arm of the Union will be stretched out for their protection in every lawful effort to maintain and enforce their claims, which they know and feel to be just and unimpeachable and which they are determined to maintain.

I trust I shall be pardoned for earnestly urging immediate action on the subject.

I had the honor to inclose to you, under date of the 28th of March last, a copy of my message to the legislature and of the resolves of the legislature of Maine in relation to the northeastern boundary, which I have no doubt have received and will receive all the attention the importance of the subjects therein discussed and acted on demands. You will perceive that in accordance with your wishes I communicated the proposition in relation to a conventional line of boundary, with the letter of Mr. Forsyth addressed to the executive of Maine. The views and wishes and determination of the executive and legislature, and I think I may safely add of the people, of Maine are fully and distinctly set forth in the documents referred to, communicated to you heretofore by me. The proposition was distinct and definite, and the answer is equally so, and I consider that it may be regarded as the fixed determination of Maine to consent to no proposition on our part to vary the treaty line, but to stand by that line as a definite, a practicable, and a fair one until its impracticability is demonstrated. It is needless for me to recapitulate the reasons upon which this determination is founded. I refer you to the documents before alluded to for my own views on this topic, sanctioned fully by the legislature. The duty devolving upon me by your request I have endeavored to discharge in a spirit of profound respect for the constituted officers of the General Government, and with a single eye to the interest and honor of the United States and of the State of Maine. The attitude assumed by Maine in relation to the survey of the line of the treaty of 1783 has doubtless attracted your attention. I feel it due to the State to say to you frankly and unequivocally that this position was taken deliberately and with a full consideration of all the circumstances of the case; but it was assumed in no spirit of defiance or resistance and with no design to embarrass the action of the General Government. Maine feels no desire to act alone or independently on this question. She knows and feels that it is a national question, and that it is the right and duty of the General Government to move forward in effecting the object proposed.

I feel fully warranted in saying that Maine does not intend by this expression of her determination to run the line in a certain contingency to waive in the least degree her well-founded claim upon the General Government to run, mark, and establish it. On the contrary, she will most reluctantly yield the hope she now so strongly feels that it is the intention of that Government to relieve her from the necessity of throwing herself upon her own resources to assert and defend her most unquestionable right. The wish of this State is that the first act should be to run the line of the treaty of 1783 to ascertain the facts in relation to the topography of the country and the exact-spot where the northwest angle of Nova Scotia may be found according to our construction of the treaty language, and to place suitable monuments along the whole line. Such a survey would not settle or determine any rights, but it would express and declare our views and intentions. Such a survey is not a warlike or offensive movement, and can not justly give offense to the other party in the controversy. It is the unquestionable right of litigants in a court of justice to make explorations of land in dispute, and if either party declines a joint

survey it may be made *ex parte*, and surely the United States have never so far yielded the actual possession to Great Britain as to preclude the right on our part to ascertain for ourselves the absolute facts and to mark out the limits of our claim and our alleged right. This act Maine asks, and asks earnestly, the General Government to perform without delay. Such an assumption of the controversy on the part of the United States would be to Maine an assurance that her rights were duly regarded, and would be steadily and perseveringly maintained. We want the name and the authority of the United States, and there can be no doubt that an act emanating from that source would be regarded by those interested on both sides as of more importance than any act of an individual State. So far, then, from any indifference on the part of Maine as to the action of the General Government, or any desire to be driven to assume the performance of the duty alluded to, she looks with intense anxiety and confident hope to be relieved from this position. She believes it is alike due to the honor of the United States and the rights of Maine that the General Government should go forward in the work, and that there is less to apprehend in the result from such a course than any other. But Maine feels that the time for decisive action has come, that she can not be satisfied to have the claim to absolute and exclusive jurisdiction of a large part of her territory longer tolerated and acquiesced in. She knows that it rightfully belongs to her jurisdiction, that it is hers by a clear, perfect, and honest title—as clear, as perfect, and rightful as her title to any portion of the State—and she can not consent to have this title impaired or weakened by bold encroachments and unscrupulous demands. She can not consent that a title transmitted by the fathers of the Revolution shall be destroyed or defeated by acquiescence in the adverse occupation of a foreign state, and that what was once fairly yielded shall be reclaimed in utter defiance of a solemn deed of cession. I am confident I am not mistaken in stating that the legislature of Maine considered the question as fairly and plainly before the National Government, and that if the present session of Congress should close with a denial or postponement of the proposed survey and no commission should be created by the Executive, as contemplated in the resolution referred to, we should have a right and be bound to regard such a delay or refusal as evidence of an indisposition on the part of the General Government to accede to our expressed views and wishes, and a denial of justice, and that Maine in that event owed it to herself to cause the survey to be made under her own authority. The duty of the executive of Maine is plainly pointed out and made imperative and absolute by the resolves of the legislature, and I certainly can not hesitate, so far as I have the means and power, to execute their declared will.

The people of Maine, sir, are not desirous of conflict or war. Both in their habits and their principles they love and wish for peace and quiet within their borders. They are not ambitious to win laurels or to acquire military glory by waging war with their neighbors, and least of all are they desirous of a *border* warfare, which may be the means of sacrificing human life and engendering ill will and bad passions, without bringing the controversy to a conclusion. They are scattered over our thousand hills, engaged in their quiet and peaceful labors, and it is the first wish of their hearts to live peaceably with all men and all nations. They have no anxiety to extend our limits or to gain territory by conquest, but there is a firm and determined spirit in this people which can not brook insult and will not submit to intentional injury. "They know their rights, and knowing dare maintain them" with calm determination and deliberate purpose, and they appeal with unshrinking confidence to their sister States and to the Government which binds them together for effective support in this their purpose.

The crisis, as we believe, demands firm and decided language and the expression of a determined design. Maine has never refused to acquiesce in any fair and honorable mode of fixing the line *according to the treaty of 1783*. I have no doubt (but upon this point I speak according to my individual belief) that the mode proposed

by Great Britain of establishing the treaty line upon the face of the earth by a commission composed of impartial and scientific men, to be selected by a friendly power, would be satisfactory and acquiesced in by this State, but that we should neither ask nor agree that any preliminary points should be yielded by either party. We should only ask that the treaty should be placed in their hands with directions to ascertain and run and fix the line according to its plain language and obvious meaning.

Maine can never consent, as I apprehend, to yield the main points of the case and then refer it to enable the judges to divide the subject-matter of the controversy.

We feel that we now stand on the high vantage ground of truth and justice, and that it can not be that any nation professing to act on the principles of right and equity can stand up before the civilized world and contest with unyielding pertinacity our claim. We have too much respect for the nation from which we descended to believe that she will sully her reputation by such persevering resistance.

I am conscious that the language and style of this communication are unusual and probably undiplomatic; that there is more of the fervor of feeling and the plain language of direct appeal than is usual in such papers; but it is a subject of such vast importance to the State whose interests have been in part intrusted to me and whose organ I am that I can not speak in measured terms or indefinite language. On this subject we have no ulterior views and no concealed objects. Our plans and our policy are open and exposed to the view of all men. Maine has nothing in either to conceal or disguise. She plainly and distinctly asks for specific and definite action. In performing what I conceive to be my duty I have been actuated by entire respect toward the General Government and by the single desire to explain and enforce as well as I was able our wishes and our rights. I can only add that we trust the General Government will assume the performance of the act specified in the resolution and relieve Maine from the necessity of independent action.

With great respect, I have the honor to be, your most obedient servant,

EDWARD KENT.

DEPARTMENT OF STATE,
Washington, April 27, 1838.

HENRY S. FOX, Esq., etc.:

The undersigned, Secretary of State of the United States, has the honor, by the directions of the President, to communicate to Mr. Fox, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary, the result of the application of the General Government to the State of Maine on the subject of the northeastern boundary line and the resolution which the President has formed upon a careful consideration thereof. By the accompanying papers,* received from the executive of Maine, Mr. Fox will perceive that Maine declines to give a consent to the negotiation for a conventional boundary, is disinclined to the reference of the points in dispute to a new arbitration, but is yet firmly persuaded that the line described in the treaty of 1783 can be found and traced whenever the Governments of the United States and Great Britain shall proceed to make the requisite investigations with a predisposition to effect that very desirable object. Confidently relying, as the President does, upon the assurances frequently repeated by the British Government of the earnest desire to reach that result if it is practicable, he has instructed the undersigned to announce to Mr. Fox the willingness of this Government to enter into an arrangement with Great Britain for the establishment of a joint commission of survey and exploration upon the basis of the original American proposition and the modifications offered by Her Majesty's Government.

The Secretary of State is therefore authorized to invite Mr. Fox to a conference upon the subject at as early a day as his convenience will permit, and the

* omitted.

undersigned will be immediately furnished with a requisite full power by the President to conclude a convention embracing that object if Her Majesty's minister is duly empowered to proceed to the negotiation of it on the part of Great Britain.

The undersigned avails himself of this occasion to renew to Mr. Fox the expression of his distinguished consideration.

JOHN FORSYTH.

WASHINGTON, May 1, 1838.

Hon. JOHN FORSYTH, etc.

SIR: I have the honor to acknowledge the receipt of your official note of the 27th ultimo, in which you inclose to me a communication received by the Federal Government from the executive of Maine upon the subject of the northeastern boundary line, and in which you inform me that the President is willing to enter into an arrangement with Her Majesty's Government for the establishment of a joint commission of survey and exploration upon the basis of the original American proposition and of the modifications offered by Her Majesty's Government, as communicated to you in my note of the 10th of January last, and you invite me to a conference for the purpose of negotiating a convention that shall embrace the above object if I am duly empowered by my Government to proceed to such negotiation.

I have the honor to state to you in reply that my actual instructions were fulfilled by the delivery of the communication which I addressed to you on the 10th of January, and that I am not at present provided with full powers for negotiating the proposed convention. I will forthwith, however, transmit to Her Majesty's Government the note which I have had the honor to receive from you in order that such fresh instructions may be furnished to me or such other steps taken as the present situation of the question may appear to Her Majesty's Government to require.

I avail myself of this occasion to renew to you the assurance of my high respect and consideration.

H. S. FOX.

DEPARTMENT OF STATE,
Washington, May 8, 1838.

His Excellency EDWARD KENT,
Governor of Maine.

SIR: I have the honor to acknowledge the receipt on the 22d ultimo of the communication addressed to this Department by your excellency on the 28th of March last, transmitting a printed copy of your message of the 14th of the same month to the legislature of Maine, together with certain resolves passed by that body, in relation to the northeastern boundary of the State.

Although the answer thus given to the application made to you, by direction of the President, under date of the 1st of March last, to ascertain the sense of the State of Maine in regard to a conventional line of boundary may be regarded as conclusive, I still deem it proper, with reference to your excellency's message, to mark a misconception which appears to have existed on your part when communicating to the legislature the letter and documents received from this Department. This is done with the greater freedom since the frank and liberal manner in which your excellency invited the attention of that body to the subject is highly appreciated by the President. The question therein presented for consideration was not, as your excellency supposed, whether the State of Maine should "take the lead in abandoning the treaty and volunteer propositions for a conventional line," but simply whether the government of Maine would consent that the General Government should entertain a direct negotiation with the British Government for a conventional line of boundary on the northeastern frontier of the United States. Had that consent been given it would have been reasonable to expect the proposition of a line from Great Britain, as it was

that power which particularly desired the resort to that mode of settling the controversy. It was also the intention of the President so to arrange the negotiation that the approbation of Maine to the boundary line agreed upon should have been secured. It was with this view that in the application to the State of Maine for its assent to a negotiation for a conventional line express reference was made to such conditions as she might think proper to prescribe. To all such as were, in the opinion of the President, required by a proper regard for the security of Maine and consistent with the Constitution he would have yielded a ready assent. Of that character was he disposed to regard a condition that in a negotiation for the final establishment of a new line, with power on the part of the negotiators to stipulate for the cession or exchange of territory as the interests and convenience of the parties might be found to require, the State of Maine should be represented by commissioners of her own selection and that their previous assent should be requisite to make any treaty containing such stipulation binding upon her.

These suggestions are not now made as matter of complaint at the decision which the State of Maine has come to on a matter in which she was at perfect liberty to pursue the course she has adopted, but in justice to the views of the President in making the application.

I am instructed to announce to your excellency that by direction of the President, upon due consideration of the result of the late application of the General Government to the State of Maine on the subject of the northeastern boundary and in accordance with the expressed wishes of her legislature, I have informed Mr. Fox of the willingness of this Government to enter into an arrangement with that of Great Britain for the establishment of a joint commission of survey and exploration upon the basis of the original American proposition and the modifications offered by Her Majesty's Government, and to apprise you that Mr. Fox, being at present unprovided with full powers for negotiating the proposed convention, has transmitted my communication to Iris Government in order that such fresh instructions may be furnished to him or such other steps taken as may be deemed expedient on its part.

I have the honor to be, with great respect, your excellency's obedient servant,

JOHN FORSYTH.

WASHINGTON, May 21, 1838.

To the Senate and House of Representatives of the United States:

The accompanying copy of a communication addressed by the Secretary of War to the Cherokee delegation is submitted to Congress in order that such measures may be adopted as are required to carry into effect the benevolent intentions of the Government toward the Cherokee Nation, and which it is hoped will induce them to remove peaceably and contentedly to their new homes in the West.

M. VAN BUREN.

WASHINGTON, May 24, 1838.

To the House of Representatives of the United States: —

— I herewith submit a report from the Secretary of the Treasury, explanatory of the manner in which extracts from certain newspapers relating to the introduction of foreign paupers into this country, and the steps taken to prevent it, became connected with his communication to me on

that subject, accompanying my message of the 11th instant. Sensible that those extracts are of a character which would, if attention had been directed to them, have prevented their transmission to the House, I request permission to withdraw them.

M. VAN BUREN.

WASHINGTON, May 30, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report from the Secretary of State, in answer to their resolution of the 28th instant, relative to the claim* in the case of the ship *Mary* and cargo, of Baltimore.

M. VAN BUREN.

WASHINGTON, May 31, 1838.

To the House of Representatives of the United States:

In compliance with the resolution of the House of Representatives of the 28th instant, regarding the annexation of the Republic of Texas to the United States, I transmit a report from the Secretary of State, to whom the resolution was referred.

M. VAN BUREN.

WASHINGTON, June 1, 1838.

To the Senate of the United States:

Negotiations have been opened with the Osage and Delaware Indians, in compliance with the resolution of the Senate of the 19th of January last, for the relinquishment of certain school lands secured to them by treaty. These relinquishments have been obtained on the terms authorized by the resolution, and copies of them are herewith transmitted for the information of the Senate.

M. VAN BUREN.

WASHINGTON, June 4, 1838.

To the House of Representatives of the United States:

I transmit herewith to the House of Representatives a report from the Secretary of State, with accompanying papers, relating to the claim of the orphan children of Peter Shackerly,† in answer to their resolution of the 28th ultimo.

M. VAN BUREN.

* Against the Government of Holland.

† Killed on board of the United States ship *Chesapeake* when attacked by the British ship of war *Leopard*, June 22, 1807.

WASHINGTON, June 6, 1838.

To the House of Representatives of the United States:

In compliance with the resolution of the 4th instant, calling for any communication received from the governors of the States of Georgia, North Carolina, Tennessee, and Alabama in reference to the proposed modification of the Cherokee treaty of 1835, I herewith inclose a report of the Secretary of War, accompanied by a copy of a letter addressed by him to the governor of Georgia and of his reply thereto. As stated by the Secretary, no communication on that subject has been received from either of the other executives mentioned.

M. VAN BUREN.

WASHINGTON, June 7, 1838.

To the House of Representatives of the United States:

I transmit to the House of Representatives an account against the United States, presented by Heman Cady, of Plattsburg, in the State of New York, for services alleged to have been rendered as deputy marshal for the northern district of New York from the 20th December, 1837, to the 9th February, 1838, by direction of the attorney and marshal of the United States for that district, in endeavoring to prevent the arming and enlisting of men for the invasion of Canada. I also transmit certain documents which were exhibited in support of the said account. I recommend to the consideration of Congress the expediency of an appropriation for the payment of this claim and of some general provision for the liquidation and payment of others which may be expected to be presented hereafter for services of a similar character rendered before and after the passage of the act of the 20th March last, for preserving the neutrality of the United States on the northern frontier, which act imposes important duties upon the marshals and other civil officers, but omits to provide for their remuneration or for the reimbursement of their expenses.

M. VAN BUREN.

To the Senate of the United States:

WASHINGTON, June 7, 1838.

Having received satisfactory assurances from the Government of Ecuador of its desire to negotiate a treaty of commerce on the most liberal principles in place of the expired treaty made with the Republic of Colombia, heretofore regulating our intercourse with Ecuador, it is my design to give the requisite authority for that purpose to the chargé d'affaires of the United States about to be appointed for Peru, with instructions to stop in Ecuador on his way to Lima as the agent of the United States to accomplish that object. The only additional charges to be incurred will be the expense of his journey from Panama to Quito, and from thence to the place of embarkation for Lima, to be paid out of the foreign-intercourse fund. I make this communication to the Senate that

an opportunity may be afforded for the expression of an opinion, if it shall be deemed necessary, on the exercise of such a power by the Executive without applying to the Senate for its approbation and consent. In debate it has been sometimes asserted that this power, frequently exercised without question or complaint, and leading to no practical evil, as no arrangement made under such circumstances can be obligatory upon the United States without being submitted to the approbation of the Senate, is an encroachment upon its rightful authority. It appears to have been considered that the annual appropriation of a gross sum for the expenses of foreign intercourse is intended, among other objects, to provide for the cost of such agencies, and that the authority granted is the same as that frequently given to the Secretary of State to form treaties with the representatives or agents of foreign governments, upon the granting of which the Senate never have been consulted.

Desiring in this and in all other instances to act with the most cautious respect to the claims of other branches of the Government, I bring this subject to the notice of the Senate that if it shall be deemed proper to raise any question it may be discussed and decided before and not after the power shall have been exercised.

M. VAN BUREN.

WASHINGTON CITY, June 11, 1838.

To the Senate of the United States:

I submit herewith, for consideration and action, a communication from the Secretary of War and the treaty with the Otoe, Missouria, and Omaha Indians therein referred to.

M. VAN BUREN.

WASHINGTON, June 20, 1838.

To the House of Representatives of the United States:

I transmit, in compliance with a resolution of the House of Representatives of the 11th instant, reports from the Secretaries of State, Treasury, and War, with the documents referred to by them respectively. It will be seen that the outrage committed on the steamboat *Sir Robert Peel*, under the British flag, within the waters of the United States, and on the steamboat *Telegraph*, under the American flag, at Brockville, in Upper Canada, have not been followed by any demand by either Government on the other for redress. These acts have been so far treated on each side as criminal offenses committed within the jurisdiction of tribunals competent to inquire into the facts and to punish the persons concerned in them. Investigations have been made, some of the individuals implicated have been arrested, and prosecutions are in progress, the result of which can not be doubted. The excited state of public feeling on the borders of Canada on both sides of the line has occasioned the most painful anxiety to this Government. Every effort has been and will be made to prevent the success of the design, apparently formed and in

the course of execution by Canadians who have found a refuge within the territory, aided by a few reckless persons of our own country, to involve the nation in a war with a neighboring and friendly power. Such design can not succeed while the two Governments appreciate and confidently rely upon the good faith of each other in the performance of their respective duties. With a fixed determination to use all the means in my power to put a speedy and satisfactory termination to these border troubles, I have the most confident assurances of the cordial cooperation of the British authorities, at home and in the North American possessions, in the accomplishment of a purpose so sincerely and earnestly desired by the Governments and people both of the United States and Great Britain.

M. VAN BUREN.

WASHINGTON, June 28, 1838.

To the House of Representatives of the United States:

In compliance with a resolution passed by the House of Representatives on the 23d instant, in respect to the new Treasury building, I submit the inclosed report from the commissioners charged with a general superintendence of the work, and which, with the documents annexed, is believed to contain all the information desired.

M. VAN BUREN.

WASHINGTON, June 28, 1838.

To the Senate of the United States:

I nominate Lieutenant-Colonel Thayer, of the Corps of Engineers, for the brevet of colonel in the Army, agreeably to the recommendation of the Secretary of War.

M. VAN BUREN.

WAR DEPARTMENT, June 28, 1838.

THE PRESIDENT OF THE UNITED STATES.

SIR: In submitting the name of Brevet Lieutenant-Colonel S. Thayer, of the Corps of Engineers, for the brevet of colonel for ten years' faithful service in one grade it may be proper to state the circumstances of his case.

When the law of 1812 regulating brevets was repealed by the act of June 30, 1834, all the officers of the Army who were known to be entitled to the ordinary brevet promotion for ten years' faithful service in one grade received on that day, by and with the advice and consent of the Senate, the brevet promotion to which they were respectively entitled. The regulation which governed the subject under the law had reference only to service with regularly organized bodies of troops, and valid claims arising under it were generally known and easily understood at the Adjutant-General's Office. If incidental cases occurred for which the written regulations could not provide the rule, although equally valid, such, nevertheless, may not in every instance have been known at the War Department until specially represented by the party interested. The case of Brevet Lieutenant-Colonel Thayer happened to be one of those incidental claims, and as soon as it was submitted for consideration its validity was clearly seen and acknowledged. Had it been submitted to the Department when the list was made out in June, 1834, it may not be doubted that this highly meritorious and deserving officer would at the time have received the brevet

of colonel for "having served faithfully as brevet lieutenant-colonel and performed the appropriate duties of that grade for ten years," which, it may be seen, was due more than a year before the passage of the act repealing the law.

In presenting now this deferred case for your favorable consideration justice requires that I should advert to the valuable services rendered to the Army and the country by Lieutenant-Colonel Thayer as Superintendent of the Military Academy at West Point. In 1817 he found that institution defective in all its branches, and without order; in 1833 he left it established upon a basis alike honorable to himself and useful to the nation. These meritorious services constitute *another* claim which entitles this officer to the notice of the Government, and as they come fairly within one of the conditions of the law which yet open the way to brevet promotion, the incentive it provides is fully realized by the services that have been rendered.

I am, sir, with great respect, your obedient servant,

J. R. POINSETT.

WASHINGTON, July 2, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives a report* from the Secretary of State, together with the documents therein referred to in answer to their resolution of the 28th of May last.

M. VAN BUREN.

WASHINGTON, July 3, 1838.

To the House of Representatives of the United States:

I transmit a report from the War Department, in relation to the investigations of the allegations of fraud committed on the Creek Indians in the sales of their reservations authorized by the resolution of that body of the 1st of July, 1836.

M. VAN BUREN.

WASHINGTON, July 4, 1838.

To the House of Representatives of the United States:

In further compliance with the resolution of the House of Representatives of the 21st of March last, requesting papers on the subject of the relations between the United States and Mexico, I transmit a report from the Secretary of State, to whom the resolution was referred, supplementary to the report of that officer communicated with my message to the House of Representatives of the 27th of April last.

M. VAN BUREN.

WASHINGTON, July 7, 1838.

The PRESIDENT OF THE SENATE.

SIR: In conformity with the resolution of the Senate, I transmit herewith the report of Major-General Jesup,† together with a letter from the Secretary of War.

M. VAN BUREN.

*Transmitting reports of the commissioners appointed under the sixth and seventh articles of the treaty of Ghent to ascertain and fix the boundary between the United States and the British possessions in North America, etc.

† Relating to operations while commanding the army in Florida.

PROCLAMATIONS.

[From *Statutes at Large* (Little, Brown & Co.), Vol. XI, p. 784.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas information having been received of a dangerous excitement on the northern frontier of the United States in consequence of the civil war begun in Canada, and instructions having been given to the United States officers on that frontier and applications having been made to the governors of the adjoining States to prevent any unlawful interference on the part of our citizens in the contest unfortunately commenced in the British Provinces, additional information has just been received that, notwithstanding the proclamations of the governors of the States of New York and Vermont exhorting their citizens to refrain from any unlawful acts within the territory of the United States, and notwithstanding the presence of the civil officers of the United States, who by my directions have visited the scenes of commotion with a view of impressing the citizens with a proper sense of their duty, the excitement, instead of being appeased, is every day increasing in degree; that arms and munitions of war and other supplies have been procured by the insurgents in the United States; that a military force, consisting in part, at least, of citizens of the United States, had been actually organized, had congregated at Navy Island, and were still in arms under the command of a citizen of the United States, and that they were constantly receiving accessions and aid:

Now, therefore, to the end that the authority of the laws may be maintained and the faith of treaties observed, I, Martin Van Buren, do most earnestly exhort all citizens of the United States who have thus violated their duties to return peaceably to their respective homes; and I hereby warn them that any persons who shall compromise the neutrality of this Government by interfering in an unlawful manner with the affairs of the neighboring British Provinces will render themselves liable to arrest and punishment under the laws of the United States, which will be rigidly enforced; and, also, that they will receive no aid or countenance from their Government, into whatever difficulties they may be thrown by the violation of the laws of their country and the territory of a neighboring and friendly nation.

Given under my hand, at the city of Washington, the 5th day of January, A. D. 1838, and the sixty-second of the Independence [SEAL.] of the United States. — M. VAN BUREN.

By the President:

JOHN FORSYTH,

Secretary of State.

M P VOL III-31

—[From *Statutes at Large* (Little, Brown & Co.), Vol. XI, p. 785.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas there is too much reason to believe that citizens of the United States, in disregard to the solemn warning heretofore given to them by the proclamations issued by the Executive of the General Government and by some of the governors of the States, have combined to disturb the peace of the dominions of a neighboring and friendly nation; and

Whereas information has been given to me, derived from official and other sources, that many citizens in different parts of the United States are associated or associating for the same purpose; and

Whereas disturbances have actually broken out anew in different parts of the two Canadas; and

Whereas a hostile invasion has been made by citizens of the United States, in conjunction with Canadians and others, who, after forcibly seizing upon the property of their peaceful neighbor for the purpose of effecting their unlawful designs, are now in arms against the authorities of Canada, in perfect disregard of their obligations as American citizens and of the obligations of the Government of their country to foreign nations:

Now, therefore, I have thought it necessary and proper to issue this proclamation, calling upon every citizen of the United States neither to give countenance nor encouragement of any kind to those who have thus forfeited their claim to the protection of their country; upon those misguided or deluded persons who are engaged in them to abandon projects dangerous to their own country, fatal to those whom they profess a desire to relieve, impracticable of execution without foreign aid, which they can not rationally expect to obtain, and giving rise to imputations (however unfounded) upon the honor and good faith of their own Government; upon every officer, civil or military, and upon every citizen, by the veneration due by all freemen to the laws which they have assisted to enact for their own government, by his regard for the honor and reputation of his country, by his love of order and respect for the sacred code of laws by which national intercourse is regulated, to use every effort in his power to arrest for trial and punishment every offender against the laws providing for the performance of our obligations to the other powers of the world. And I hereby warn all those who have engaged in these criminal enterprises, if persisted in, that, whatever may be the condition to which they may be reduced, they must not expect the interference of this Government in any form on their behalf, but will be left, reproached by every virtuous fellow-citizen, to be dealt with according to the policy and justice of that Government whose dominions they

have, in defiance of the known wishes of their own Government and without the shadow of justification or excuse, nefariously invaded.

Given under my hand, at the city of Washington, the 21st day of November, A. D. 1838, and the sixty-third of the Independence of the United States.

M. VAN BUREN.

By the President:

JOHN FORSYTH,
Secretary of State.

SECOND ANNUAL MESSAGE.

WASHINGTON, December 3, 1838.

Fellow-Citizens of the Senate and House of Representatives:

I congratulate you on the favorable circumstances in the condition of our country under which you reassemble for the performance of your official duties. Though the anticipations of an abundant harvest have not everywhere been realized, yet on the whole the labors of the husbandman are rewarded with a bountiful return; industry prospers in its various channels of business and enterprise; general health again prevails through our vast diversity of climate; nothing threatens from abroad the continuance of external peace; nor has anything at home impaired the strength of those fraternal and domestic ties which constitute the only guaranty to the success and permanency of our happy Union, and which, formed in the hour of peril, have hitherto been honorably sustained through every vicissitude in our national affairs. These blessings, which evince the care and beneficence of Providence, call for our devout and fervent gratitude.

We have not less reason to be grateful for other bounties bestowed by the same munificent hand, and more exclusively our own.

The present year closes the first half century of our Federal institutions, and our system, differing from all others in the acknowledged practical and unlimited operation which it has for so long a period given to the sovereignty of the people, has now been fully tested by experience.

The Constitution devised by our forefathers as the framework and bond of that system, then untried, has become a settled form of government; not only preserving and protecting the great principles upon which it was founded, but wonderfully promoting individual happiness and private interests. Though subject to change and entire revocation whenever deemed inadequate to all these purposes, yet such is the wisdom of its construction and so stable has been the public sentiment that it remains unaltered except in matters of detail comparatively unimportant. It has proved amply sufficient for the various emergencies incident to our

condition as a nation. A formidable foreign war; agitating collisions between domestic, and in some respects rival, sovereignties; temptations to interfere in the intestine commotions of neighboring countries; the dangerous influences that arise in periods of excessive prosperity, and the antirepublican tendencies of associated wealth—these, with other trials not less formidable, have all been encountered, and thus far successfully resisted.

It was reserved for the American Union to test the advantages of a government entirely dependent on the continual exercise of the popular will, and our experience has shown that it is as beneficent in practice as it is just in theory. Each successive change made in our local institutions has contributed to extend the right of suffrage, has increased the direct influence of the mass of the community, given greater freedom to individual exertion, and restricted more and more the powers of Government; yet the intelligence, prudence, and patriotism of the people have kept pace with this augmented responsibility. In no country has education been so widely diffused. Domestic peace has nowhere so largely reigned. The close bonds of social intercourse have in no instance prevailed with such harmony over a space so vast: All forms of religion have united for the first time to diffuse charity and piety, because for the first time in the history of nations all have been totally untrammeled and absolutely free. The deepest recesses of the wilderness have been penetrated; yet instead of the rudeness in the social condition consequent upon such adventures elsewhere, numerous communities have sprung up, already unrivaled in prosperity, general intelligence, internal tranquillity, and the wisdom of their political institutions. Internal improvement, the fruit of individual enterprise, fostered by the protection of the States, has added new links to the Confederation and fresh rewards to provident industry. Doubtful questions of domestic policy have been quietly settled by mutual forbearance, and agriculture, commerce, and manufactures minister to each other. Taxation and public debt, the burdens which bear so heavily upon all other countries, have pressed with comparative lightness upon us. Without one entangling alliance, our friendship is prized by every nation, and the rights of our citizens are everywhere respected, because they are known to be guarded by a united, sensitive, and watchful people.

To this practical operation of our institutions, so evident and successful, we owe that increased attachment to them which is among the most cheering exhibitions of popular sentiment and will prove their best security in time to come against foreign or domestic assault.

This review of the results of our institutions for half a century, without exciting a spirit of vain exultation, should serve to impress upon us the great principles from which they have sprung—constant and direct supervision by the people over every public measure, strict forbearance on the part of the Government from exercising any doubtful or disputed powers, and a cautious abstinence from all interference with concerns

which properly belong and are best left to State regulations and individual enterprise.

Full information of the state of our foreign affairs having been recently on different occasions submitted to Congress, I deem it necessary now to bring to your notice only such events as have subsequently occurred or are of such importance as to require particular attention.

The most amicable dispositions continue to be exhibited by all the nations with whom the Government and citizens of the United States have an habitual intercourse. At the date of my last annual message Mexico was the only nation which could not be included in so gratifying a reference to our foreign relations.

I am happy to be now able to inform you that an advance has been made toward the adjustment of our differences with that Republic and the restoration of the customary good feeling between the two nations. This important change has been effected by conciliatory negotiations that have resulted in the conclusion of a treaty between the two Governments, which, when ratified, will refer to the arbitrament of a friendly power all the subjects of controversy between us growing out of injuries to individuals. There is at present also reason to believe that an equitable settlement of all disputed points will be attained without further difficulty or unnecessary delay, and thus authorize the free resumption of diplomatic intercourse with our sister Republic.

With respect to the northeastern boundary of the United States, no official correspondence between this Government and that of Great Britain has passed since that communicated to Congress toward the close of their last session. The offer to negotiate a convention for the appointment of a joint commission of survey and exploration I am, however, assured will be met by Her Majesty's Government in a conciliatory and friendly spirit, and instructions to enable the British minister here to conclude such an arrangement will be transmitted to him without needless delay. It is hoped and expected that these instructions will be of a liberal character, and that this negotiation, if successful, will prove to be an important step toward the satisfactory and final adjustment of the controversy.

I had hoped that the respect for the laws and regard for the peace and honor of their own country which have ever characterized the citizens of the United States would have prevented any portion of them from using any means to promote insurrection in the territory of a power with which we are at peace, and with which the United States are desirous of maintaining the most friendly relations. I regret deeply, however, to be obliged to inform you that this has not been the case. Information has been given to me, derived from official and other sources, that many citizens of the United States have associated together to make hostile incursions from our territory into Canada and to aid and abet insurrection there, in violation of the obligations and laws of the United States and

in open disregard of their own duties as citizens. This information has been in part confirmed by a hostile invasion actually made by citizens of the United States, in conjunction with Canadians and others, and accompanied by a forcible seizure of the property of our citizens and an application thereof to the prosecution of military operations against the authorities and people of Canada.

The results of these criminal assaults upon the peace and order of a neighboring country have been, as was to be expected, fatally destructive to the misguided or deluded persons engaged in them and highly injurious to those in whose behalf they are professed to have been undertaken. The authorities in Canada, from intelligence received of such intended movements among our citizens, have felt themselves obliged to take precautionary measures against them; have actually embodied the militia and assumed an attitude to repel the invasion to which they believed the colonies were exposed from the United States. A state of feeling on both sides of the frontier has thus been produced which called for prompt and vigorous interference. If an insurrection existed in Canada, the amicable dispositions of the United States toward Great Britain, as well as their duty to themselves, would lead them to maintain a strict neutrality and to restrain their citizens from all violations of the laws which have been passed for its enforcement. But this Government recognizes a still higher obligation to repress all attempts on the part of its citizens to disturb the peace of a country where order prevails or has been re-established. Depredations by our citizens upon nations at peace with the United States, or combinations for committing them, have at all times been regarded by the American Government and people with the greatest abhorrence. Military incursions by our citizens into countries so situated, and the commission of acts of violence on the members thereof, in order to effect a change in their government, or under any pretext whatever, have from the commencement of our Government been held equally criminal on the part of those engaged in them, and as much deserving of punishment as would be the disturbance of the public peace by the perpetration of similar acts within our own territory.

By no country or persons have these invaluable principles of international law—principles the strict observance of which is so indispensable to the preservation of social order in the world—been more earnestly cherished or sacredly respected than by those great and good men who first declared and finally established the independence of our own country. They promulgated and maintained them at an early and critical period in our history; they were subsequently embodied in legislative enactments of a highly penal character, the faithful enforcement of which has hitherto been, and will, I trust, always continue to be, regarded as a duty inseparably associated with the maintenance of our national honor. That the people of the United States should feel an interest in the spread of political institutions as free as they regard their own to be is natural,

nor can a sincere solicitude for the success of all those who are at any time in good faith struggling for their acquisition be imputed to our citizens as a crime. With the entire freedom of opinion and an undisguised expression thereof on their part the Government has neither the right nor, I trust, the disposition to interfere. But whether the interest or the honor of the United States requires that they should be made a party to any such struggle, and by inevitable consequence to the war which is waged in its support, is a question which by our Constitution is wisely left to Congress alone to decide. It is by the laws already made criminal in our citizens to embarrass or anticipate that decision by unauthorized military operations on their part. Offenses of this character, in addition to their criminality as violations of the laws of our country, have a direct tendency to draw down upon our own citizens at large the multiplied evils of a foreign war and expose to injurious imputations the good faith and honor of the country. As such they deserve to be put down with promptitude and decision. I can not be mistaken, I am confident, in counting on the cordial and general concurrence of our fellow-citizens in this sentiment. A copy of the proclamation which I have felt it my duty to issue is herewith communicated. I can not but hope that the good sense and patriotism, the regard for the honor and reputation of their country, the respect for the laws which they have themselves enacted for their own government, and the love of order for which the mass of our people have been so long and so justly distinguished will deter the comparatively few who are engaged in them from a further prosecution of such desperate enterprises. In the meantime the existing laws have been and will continue to be faithfully executed, and every effort will be made to carry them out in their full extent. Whether they are sufficient or not to meet the actual state of things on the Canadian frontier it is for Congress to decide.

It will appear from the correspondence herewith submitted that the Government of Russia declines a renewal of the fourth article of the convention of April, 1824, between the United States and His Imperial Majesty, by the third article of which it is agreed that "hereafter there shall not be formed by the citizens of the United States or under the authority of the said States any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of $54^{\circ} 40'$ of north latitude, and that in the same manner there shall be none formed by Russian subjects or under the authority of Russia south of the same parallel;" and by the fourth article, "that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country." The reasons assigned for declining to renew the provisions of this

article are, briefly, that the only use made by our citizens of the privileges it secures to them has been to supply the Indians with spirituous liquors, ammunition, and firearms; that this traffic has been excluded from the Russian trade; and as the supplies furnished from the United States are injurious to the Russian establishments on the northwest coast and calculated to produce complaints between the two Governments, His Imperial Majesty thinks it for the interest of both countries not to accede to the proposition made by the American Government for the renewal of the article last referred to.

The correspondence herewith communicated will show the grounds upon which we contend that the citizens of the United States have, independent of the provisions of the convention of 1824, a right to trade with the natives upon the coast in question at unoccupied places, liable, however, it is admitted, to be at any time extinguished by the creation of Russian establishments at such points. This right is denied by the Russian Government, which asserts that by the operation of the treaty of 1824 each party agreed to waive the general right to land on the vacant coasts on the respective sides of the degree of latitude referred to, and accepted in lieu thereof the mutual privileges mentioned in the fourth article. The capital and tonnage employed by our citizens in their trade with the northwest coast of America will, perhaps, on advertizing to the official statements of the commerce and navigation of the United States for the last few years, be deemed too inconsiderable in amount to attract much attention; yet the subject may in other respects deserve the careful consideration of Congress.

I regret to state that the blockade of the principal ports on the eastern coast of Mexico, which, in consequence of differences between that Republic and France, was instituted in May last, unfortunately still continues, enforced by a competent French naval armament, and is necessarily embarrassing to our own trade in the Gulf, in common with that of other nations. Every disposition, however, is believed to exist on the part of the French Government to render this measure as little onerous as practicable to the interests of the citizens of the United States and to those of neutral commerce, and it is to be hoped that an early settlement of the difficulties between France and Mexico will soon reestablish the harmonious relations formerly subsisting between them and again open the ports of that Republic to the vessels of all friendly nations.

A convention for marking that part of the boundary between the United States and the Republic of Texas which extends from the mouth of the Sabine to the Red River was concluded and signed at this city on the 25th of April last. It has since been ratified by both Governments, and reasonable measures will be taken to carry it into effect on the part of the United States.

The application of that Republic for admission into this Union, made in August, 1837, and which was declined for reasons already made known

to you, has been formally withdrawn, as will appear from the accompanying copy of the note of the minister plenipotentiary of Texas, which was presented to the Secretary of State on the occasion of the exchange of the ratifications of the convention above mentioned.

Copies of the convention with Texas, of a commercial treaty concluded with the King of Greece, and of a similar treaty with the Peru-Bolivian Confederation, the ratifications of which have been recently exchanged, accompany this message, for the information of Congress and for such legislative enactments as may be found necessary or expedient in relation to either of them.

To watch over and foster the interests of a gradually increasing and widely extended commerce, to guard the rights of American citizens whom business or pleasure or other motives may tempt into distant climes, and at the same time to cultivate those sentiments of mutual respect and good will which experience has proved so beneficial in international intercourse, the Government of the United States has deemed it expedient from time to time to establish diplomatic connections with different foreign states, by the appointment of representatives to reside within their respective territories. I am gratified to be enabled to announce to you that since the close of your last session these relations have been opened under the happiest auspices with Austria and the Two Sicilies, that new nominations have been made in the respective missions of Russia, Brazil, Belgium, and Sweden and Norway in this country, and that a minister extraordinary has been received, accredited to this Government, from the Argentine Confederation.

An exposition of the fiscal affairs of the Government and of their condition for the past year will be made to you by the Secretary of the Treasury.

The available balance in the Treasury on the 1st of January next is estimated at \$2,765,342. The receipts of the year from customs and lands will probably amount to \$20,615,598. These usual sources of revenue have been increased by an issue of Treasury notes, of which less than \$8,000,000, including interest and principal, will be outstanding at the end of the year, and by the sale of one of the bonds of the Bank of the United States for \$2,254,871. The aggregate of means from these and other sources, with the balance on hand on the 1st of January last, has been applied to the payment of appropriations by Congress. The whole expenditure for the year on their account, including the redemption of more than eight millions of Treasury notes, constitutes an aggregate of about \$40,000,000, and will still leave in the Treasury the balance before stated.

Nearly \$8,000,000 of Treasury notes are to be paid during the coming year in addition to the ordinary appropriations for the support of Government. For both these purposes the resources of the Treasury will undoubtedly be sufficient if the charges upon it are not increased beyond

the annual estimates. No excess, however, is likely to exist. Nor can the postponed installment of the surplus revenue be deposited with the States nor any considerable appropriations beyond the estimates be made without causing a deficiency in the Treasury. The great caution, advisable at all times, of limiting appropriations to the wants of the public service is rendered necessary at present by the prospective and rapid reduction of the tariff, while the vigilant jealousy evidently excited among the people by the occurrences of the last few years assures us that they expect from their representatives, and will sustain them in the exercise of, the most rigid economy. Much can be effected by postponing appropriations not immediately required for the ordinary public service or for any pressing emergency, and much by reducing the expenditures where the entire and immediate accomplishment of the objects in view is not indispensable.

When we call to mind the recent and extreme embarrassments produced by excessive issues of bank paper, aggravated by the unforeseen withdrawal of much foreign capital and the inevitable derangement arising from the distribution of the surplus revenue among the States as required by Congress, and consider the heavy expenses incurred by the removal of Indian tribes, by the military operations in Florida, and on account of the unusually large appropriations made at the last two annual sessions of Congress for other objects, we have striking evidence in the present efficient state of our finances of the abundant resources of the country to fulfill all its obligations. Nor is it less gratifying to find that the general business of the community, deeply affected as it has been, is reviving with additional vigor, chastened by the lessons of the past and animated by the hopes of the future. By the curtailment of paper issues, by curbing the sanguine and adventurous spirit of speculation, and by the honorable application of all available means to the fulfillment of obligations, confidence has been restored both at home and abroad, and ease and facility secured to all the operations of trade.

The agency of the Government in producing these results has been as efficient as its powers and means permitted. By withholding from the States the deposit of the fourth installment, and leaving several millions at long credits with the banks, principally in one section of the country, and more immediately beneficial to it, and at the same time aiding the banks and commercial communities in other sections by postponing the payment of bonds for duties to the amount of between four and five millions of dollars; by an issue of Treasury notes as a means to enable the Government to meet the consequences of their indulgences, but affording at the same time facilities for remittance and exchange; and by steadily declining to employ as general depositories of the public revenues, or receive the notes of, all banks which refused to redeem them with specie—by these measures, aided by the favorable action of some of the banks and by the support and cooperation of a large portion of the community,

we have witnessed an early resumption of specie payments in our great commercial capital, promptly followed in almost every part of the United States. This result has been alike salutary to the true interests of agriculture, commerce, and manufactures; to public morals, respect for the laws, and that confidence between man and man which is so essential in all our social relations.

The contrast between the suspension of 1814 and that of 1837 is most striking. The short duration of the latter, the prompt restoration of business, the evident benefits resulting from an adherence by the Government to the constitutional standard of value instead of sanctioning the suspension by the receipt of irredeemable paper, and the advantages derived from the large amount of specie introduced into the country previous to 1837 afford a valuable illustration of the true policy of the Government in such a crisis. Nor can the comparison fail to remove the impression that a national bank is necessary in such emergencies. Not only were specie payments resumed without its aid, but exchanges have also been more rapidly restored than when it existed, thereby showing that private capital, enterprise, and prudence are fully adequate to these ends. On all these points experience seems to have confirmed the views heretofore submitted to Congress. We have been saved the mortification of seeing the distresses of the community for the third time seized on to fasten upon the country so dangerous an institution, and we may also hope that the business of individuals will hereafter be relieved from the injurious effects of a continued agitation of that disturbing subject. The limited influence of a national bank in averting derangement in the exchanges of the country or in compelling the resumption of specie payments is now not less apparent than its tendency to increase inordinate speculation by sudden expansions and contractions; its disposition to create panic and embarrassment for the promotion of its own designs; its interference with politics, and its far greater power for evil than for good, either in regard to the local institutions or the operations of Government itself. What was in these respects but apprehension or opinion when a national bank was first established now stands confirmed by humiliating experience. The scenes through which we have passed conclusively prove how little our commerce, agriculture, manufactures, or finances require such an institution, and what dangers are attendant on its power—a power, I trust, never to be conferred by the American people upon their Government, and still less upon individuals not responsible to them for its unavoidable abuses.

My conviction of the necessity of further legislative provisions for the safe-keeping and disbursement of the public moneys and my opinion in regard to the measures best adapted to the accomplishment of those objects have been already submitted to you. These have been strengthened by recent events, and in the full conviction that time and experience must still further demonstrate their propriety I feel it my duty, with

respectful deference to the conflicting views of others, again to invite your attention to them.

With the exception of limited sums deposited in the few banks still employed under the act of 1836, the amounts received for duties, and, with very inconsiderable exceptions; those accruing from lands also, have since the general suspension of specie payments by the deposit banks been kept and disbursed by the Treasurer under his general legal powers, subject to the superintendence of the Secretary of the Treasury. The propriety of defining more specifically and of regulating by law the exercise of this wide scope of Executive discretion has been already submitted to Congress.

A change in the office of collector at one of our principal ports has brought to light a defalcation of the gravest character, the particulars of which will be laid before you in a special report from the Secretary of the Treasury. By his report and the accompanying documents it will be seen that the weekly returns of the defaulting officer apparently exhibited throughout a faithful administration of the affairs intrusted to his management. It, however, now appears that he commenced abstracting the public moneys shortly after his appointment and continued to do so, progressively increasing the amount, for the term of more than seven years, embracing a portion of the period during which the public moneys were deposited in the Bank of the United States, the whole of that of the State bank deposit system, and concluding only on his retirement from office, after that system had substantially failed in consequence of the suspension of specie payments.

The way in which this defalcation was so long concealed and the steps taken to indemnify the United States, as far as practicable, against loss will also be presented to you. The case is one which imperatively claims the attention of Congress and furnishes the strongest motive for the establishment of a more severe and secure system for the safe-keeping and disbursement of the public moneys than any that has heretofore existed.

It seems proper, at all events, that by an early enactment similar to that of other countries the application of public money by an officer of Government to private uses should be made a felony and visited with severe and ignominious punishment. This is already in effect the law in respect to the Mint, and has been productive of the most salutary results. Whatever system is adopted, such an enactment would be wise as an independent measure, since much of the public moneys must in their collection and ultimate disbursement pass twice through the hands of public officers, in whatever manner they are intermediately kept. The Government, it must be admitted, has been from its commencement comparatively fortunate in this respect. But the appointing power can not always be well advised in its selections, and the experience of every country has shown that public officers are not at all times proof against

temptation. It is a duty, therefore, which the Government owes, as well to the interests committed to its care as to the officers themselves, to provide every guard against transgressions of this character that is consistent with reason and humanity. Congress can not be too jealous of the conduct of those who are intrusted with the public money, and I shall at all times be disposed to encourage a watchful discharge of this duty.

If a more direct cooperation on the part of Congress in the supervision of the conduct of the officers intrusted with the custody and application of the public money is deemed desirable, it will give me pleasure to assist in the establishment of any judicious and constitutional plan by which that object may be accomplished. You will in your wisdom determine upon the propriety of adopting such a plan and upon the measures necessary to its effectual execution. When the late Bank of the United States was incorporated and made the depository of the public moneys, a right was reserved to Congress to inspect at its pleasure, by a committee of that body, the books and the proceedings of the bank. In one of the States, whose banking institutions are supposed to rank amongst the first in point of stability, they are subjected to constant examination by commissioners appointed for that purpose, and much of the success of its banking system is attributed to this watchful supervision.

The same course has also, in view of its beneficial operation, been adopted by an adjoining State, favorably known for the care it has always bestowed upon whatever relates to its financial concerns. I submit to your consideration whether a committee of Congress might not be profitably employed in inspecting, at such intervals as might be deemed proper, the affairs and accounts of officers intrusted with the custody of the public moneys. The frequent performance of this duty might be made obligatory on the committee in respect to those officers who have large sums in their possession, and left discretionary in respect to others. They might report to the Executive such defalcations as were found to exist, with a view to a prompt removal from office unless the default was satisfactorily accounted for, and report also to Congress, at the commencement of each session, the result of their examinations and proceedings. It does appear to me that with a subjection of this class of public officers to the general supervision of the Executive, to examinations by a committee of Congress at periods of which they should have no previous notice, and to prosecution and punishment as for felony for every breach of trust, the safe-keeping of the public moneys might under the system proposed be placed on a surer foundation than it has ever occupied since the establishment of the Government.

The Secretary of the Treasury will lay before you additional information containing new details on this interesting subject. To these I ask your early attention. That it should have given rise to great diversity of opinion can not be a subject of surprise. After the collection and

custody of the public moneys had been for so many years connected with and made subsidiary to the advancement of private interests, a return to the simple self-denying ordinances of the Constitution could not but be difficult. But time and free discussion, eliciting the sentiments of the people, and aided by that conciliatory spirit which has ever characterized their course on great emergencies, were relied upon for a satisfactory settlement of the question. Already has this anticipation, on one important point at least—the impropriety of diverting public money to private purposes—been fully realized. There is no reason to suppose that legislation upon that branch of the subject would now be embarrassed by a difference of opinion, or fail to receive the cordial support of a large majority of our constituents.

The connection which formerly existed between the Government and banks was in reality injurious to both, as well as to the general interests of the community at large. It aggravated the disasters of trade and the derangements of commercial intercourse, and administered new excitements and additional means to wild and reckless speculations, the disappointment of which threw the country into convulsions of panic, and all but produced violence and bloodshed. The imprudent expansion of bank credits, which was the natural result of the command of the revenues of the State, furnished the resources for unbounded license in every species of adventure, seduced industry from its regular and salutary occupations by the hope of abundance without labor, and deranged the social state by tempting all trades and professions into the vortex of speculation on remote contingencies.

The same wide-spreading influence impeded also the resources of the Government, curtailed its useful operations, embarrassed the fulfillment of its obligations, and seriously interfered with the execution of the laws. Large appropriations and oppressive taxes are the natural consequences of such a connection, since they increase the profits of those who are allowed to use the public funds, and make it their interest that money should be accumulated and expenditures multiplied. It is thus that a concentrated money power is tempted to become an active agent in political affairs; and all past experience has shown on which side that influence will be arrayed. We deceive ourselves if we suppose that it will ever be found asserting and supporting the rights of the community at large in opposition to the claims of the few.

In a government whose distinguishing characteristic should be a diffusion and equalization of its benefits and burdens the advantage of individuals will be augmented at the expense of the community at large. Nor is it the nature of combinations for the acquisition of legislative influence to confine their interference to the single object for which they were originally formed. The temptation to extend it to other matters is, on the contrary, not unfrequently too strong to be resisted. The rightful influence in the direction of public affairs of the mass of the people is

therefore in no slight danger of being sensibly and injuriously affected by giving to a comparatively small but very efficient class a direct and exclusive personal interest in so important a portion of the legislation of Congress as that which relates to the custody of the public moneys. If laws acting upon private interests can not always be avoided, they should be confined within the narrowest limits, and left wherever possible to the legislatures of the States. When not thus restricted they lead to combinations of powerful associations, foster an influence necessarily selfish, and turn the fair course of legislation to sinister ends rather than to objects that advance public liberty and promote the general good.

The whole subject now rests with you, and I can not but express a hope that some definite measure will be adopted at the present session.

It will not, I am sure, be deemed out of place for me here to remark that the declaration of my views in opposition to the policy of employing banks as depositories of the Government funds can not justly be construed as indicative of hostility, official or personal, to those institutions; or to repeat in this form and in connection with this subject opinions which I have uniformly entertained and on all proper occasions expressed. Though always opposed to their creation in the form of exclusive privileges, and, as a State magistrate, aiming by appropriate legislation to secure the community against the consequences of their occasional mismanagement, I have yet ever wished to see them protected in the exercise of rights conferred by law, and have never doubted their utility when properly managed in promoting the interests of trade, and through that channel the other interests of the community. To the General Government they present themselves merely as State institutions, having no necessary connection with its legislation or its administration. Like other State establishments, they may be used or not in conducting the affairs of the Government, as public policy and the general interests of the Union may seem to require. The only safe or proper principle upon which their intercourse with the Government can be regulated is that which regulates their intercourse with the private citizen—the conferring of mutual benefits. When the Government can accomplish a financial operation better with the aid of the banks than without it, it should be at liberty to seek that aid as it would the services of a private banker or other capitalist or agent, giving the preference to those who will serve it on the best terms. Nor can there ever exist an interest in the officers of the General Government, as such, inducing them to embarrass or annoy the State banks any more than to incur the hostility of any other class of State institutions or of private citizens. It is not in the nature of things that hostility to these institutions can spring from this source, or any opposition to their course of business, except when they themselves depart from the objects of their creation and attempt to usurp powers not conferred upon them or to subvert the standard of value established by the Constitution. While opposition to

their regular operations can not exist in this quarter, resistance to any attempt to make the Government dependent upon them for the successful administration of public affairs is a matter of duty, as I trust it ever will be of inclination, no matter from what motive or consideration the attempt may originate.

It is no more than just to the banks to say that in the late emergency most of them firmly resisted the strongest temptations to extend their paper issues when apparently sustained in a suspension of specie payments by public opinion, even though in some cases invited by legislative enactments. To this honorable course, aided by the resistance of the General Government, acting in obedience to the Constitution and laws of the United States, to the introduction of an irredeemable paper medium, may be attributed in a great degree the speedy restoration of our currency to a sound state and the business of the country to its wonted prosperity.

The banks have but to continue in the same safe course and be content in their appropriate sphere to avoid all interference from the General Government and to derive from it all the protection and benefits which it bestows on other State establishments, on the people of the States, and on the States themselves. In this, their true position, they can not but secure the confidence and good will of the people and the Government, which they can only lose when, leaping from their legitimate sphere, they attempt to control the legislation of the country and pervert the operations of the Government to their own purposes.

Our experience under the act, passed at the last session, to grant preemption rights to settlers on the public lands has as yet been too limited to enable us to pronounce with safety upon the efficacy of its provisions to carry out the wise and liberal policy of the Government in that respect. There is, however, the best reason to anticipate favorable results from its operation. The recommendations formerly submitted to you in respect to a graduation of the price of the public lands remain to be finally acted upon. Having found no reason to change the views then expressed, your attention to them is again respectfully requested.

Every proper exertion has been made and will be continued to carry out the wishes of Congress in relation to the tobacco trade, as indicated in the several resolutions of the House of Representatives and the legislation of the two branches. A favorable impression has, I trust, been made in the different foreign countries to which particular attention has been directed; and although we can not hope for an early change in their policy, as in many of them a convenient and large revenue is derived from monopolies in the fabrication and sale of this article, yet, as these monopolies are really injurious to the people where they are established, and the revenue derived from them may be less injuriously and with equal facility obtained from another and a liberal system of administration, we can not doubt that our efforts will be eventually crowned with

success if persisted in with temperate firmness and sustained by prudent legislation.

In recommending to Congress the adoption of the necessary provisions at this session for taking the next census or enumeration of the inhabitants of the United States, the suggestion presents itself whether the scope of the measure might not be usefully extended by causing it to embrace authentic statistical returns of the great interests specially intrusted to or necessarily affected by the legislation of Congress.

The accompanying report of the Secretary of War presents a satisfactory account of the state of the Army and of the several branches of the public service confided to the superintendence of that officer.

The law increasing and organizing the military establishment of the United States has been nearly carried into effect, and the Army has been extensively and usefully employed during the past season.

I would again call to your notice the subjects connected with and essential to the military defenses of the country which were submitted to you at the last session, but which were not acted upon, as is supposed, for want of time. The most important of them is the organization of the militia on the maritime and inland frontiers. This measure is deemed important, as it is believed that it will furnish an effective volunteer force in aid of the Regular Army, and may form the basis of a general system of organization for the entire militia of the United States. The erection of a national foundry and gunpowder manufactory, and one for making small arms, the latter to be situated at some point west of the Allegany Mountains, all appear to be of sufficient importance to be again urged upon your attention.

The plan proposed by the Secretary of War for the distribution of the forces of the United States in time of peace is well calculated to promote regularity and economy in the fiscal administration of the service, to preserve the discipline of the troops, and to render them available for the maintenance of the peace and tranquillity of the country. With this view, likewise, I recommend the adoption of the plan presented by that officer for the defense of the western frontier. The preservation of the lives and property of our fellow-citizens who are settled upon that border country, as well as the existence of the Indian population, which might be tempted by our want of preparation to rush on their own destruction and attack the white settlements, all seem to require that this subject should be acted upon without delay, and the War Department authorized to place that country in a state of complete defense against any assault from the numerous and warlike tribes which are congregated on that border.

It affords me sincere pleasure to be able to apprise you of the entire removal of the Cherokee Nation of Indians to their new homes west of the Mississippi. The measures authorized by Congress at its last session,

with a view to the long-standing controversy with them, have had the happiest effects. By an agreement concluded with them by the commanding general in that country, who has performed the duties assigned to him on the occasion with commendable energy and humanity, their removal has been principally under the conduct of their own chiefs, and they have emigrated without any apparent reluctance.

The successful accomplishment of this important object, the removal also of the entire Creek Nation with the exception of a small number of fugitives amongst the Seminoles in Florida, the progress already made toward a speedy completion of the removal of the Chickasaws, the Choctaws, the Pottawatomies, the Ottawas, and the Chippewas, with the extensive purchases of Indian lands during the present year, have rendered the speedy and successful result of the long-established policy of the Government upon the subject of Indian affairs entirely certain. The occasion is therefore deemed a proper one to place this policy in such a point of view as will exonerate the Government of the United States from the undeserved reproach which has been cast upon it through several successive Administrations. That a mixed occupancy of the same territory by the white and red man is incompatible with the safety or happiness of either is a position in respect to which there has long since ceased to be room for a difference of opinion. Reason and experience have alike demonstrated its impracticability. The bitter fruits of every attempt heretofore to overcome the barriers interposed by nature have only been destruction, both physical and moral, to the Indian, dangerous conflicts of authority between the Federal and State Governments, and detriment to the individual prosperity of the citizen as well as to the general improvement of the country. The remedial policy, the principles of which were settled more than thirty years ago under the Administration of Mr. Jefferson, consists in an extinction, for a fair consideration, of the title to all the lands still occupied by the Indians within the States and Territories of the United States; their removal to a country west of the Mississippi much more extensive and better adapted to their condition than that on which they then resided; the guarantee to them by the United States of their exclusive possession of that country forever, exempt from all intrusions by white men, with ample provisions for their security against external violence and internal dissensions, and the extension to them of suitable facilities for their advancement in civilization. This has not been the policy of particular Administrations only, but of each in succession since the first attempt to carry it out under that of Mr. Monroe. All have labored for its accomplishment, only with different degrees of success. The manner of its execution has, it is true, from time to time given rise to conflicts of opinion and unjust imputations; but in respect to the wisdom and necessity of the policy itself there has not from the beginning existed a doubt in the mind of any calm, judicious, disinterested friend of the Indian race accustomed to reflection and enlightened by experience.

Occupying the double character of contractor on its own account and guardian for the parties contracted with, it was hardly to be expected that the dealings of the Federal Government with the Indian tribes would escape misrepresentation. That there occurred in the early settlement of this country, as in all others where the civilized race has succeeded to the possessions of the savage, instances of oppression and fraud on the part of the former there is too much reason to believe. No such offenses can, however, be justly charged upon this Government since it became free to pursue its own course. Its dealings with the Indian tribes have been just and friendly throughout; its efforts for their civilization constant, and directed by the best feelings of humanity; its watchfulness in protecting them from individual frauds unremitting; its forbearance under the keenest provocations, the deepest injuries, and the most flagrant outrages may challenge at least a comparison with any nation, ancient or modern, in similar circumstances; and if in future times a powerful, civilized, and happy nation of Indians shall be found to exist within the limits of this northern continent it will be owing to the consummation of that policy which has been so unjustly assailed. Only a very brief reference to facts in confirmation of this assertion can in this form be given, and you are therefore necessarily referred to the report of the Secretary of War for further details. To the Cherokees, whose case has perhaps excited the greatest share of attention and sympathy, the United States have granted in fee, with a perpetual guaranty of exclusive and peaceable possession, 13,554,135 acres of land on the west side of the Mississippi, eligibly situated, in a healthy climate, and in all respects better suited to their condition than the country they have left, in exchange for only 9,492,160 acres on the east side of the same river. The United States have in addition stipulated to pay them \$5,600,000 for their interest in and improvements on the lands thus relinquished, and \$1,160,000 for subsistence and other beneficial purposes, thereby putting it in their power to become one of the most wealthy and independent separate communities of the same extent in the world.

By the treaties made and ratified with the Miamies, the Chippewas, the Sioux, the Sacs and Foxes, and the Winnebagoes during the last year the Indian title to 18,458,000 acres has been extinguished. These purchases have been much more extensive than those of any previous year, and have, with other Indian expenses, borne very heavily upon the Treasury. They leave, however, but a small quantity of unbought Indian lands within the States and Territories, and the Legislature and Executive were equally sensible of the propriety of a final and more speedy extinction of Indian titles within those limits. The treaties, which were with a single exception made in pursuance of previous appropriations for defraying the expenses, have subsequently been ratified by the Senate, and received the sanction of Congress by the appropriations necessary to

carry them into effect. Of the terms upon which these important negotiations were concluded I can speak from direct knowledge, and I feel no difficulty in affirming that the interest of the Indians in the extensive territory embraced by them is to be paid for at its fair value, and that no more favorable terms have been granted to the United States than would have been reasonably expected in a negotiation with civilized men fully capable of appreciating and protecting their own rights. For the Indian title to 116,349,897 acres acquired since the 4th of March, 1829, the United States have paid \$72,560,056 in permanent annuities, lands, reservations for Indians, expenses of removal and subsistence, merchandise, mechanical and agricultural establishments and implements. When the heavy expenses incurred by the United States and the circumstance that so large a portion of the entire territory will be forever unsalable are considered, and this price is compared with that for which the United States sell their own lands, no one can doubt that justice has been done to the Indians in these purchases also. Certain it is that the transactions of the Federal Government with the Indians have been uniformly characterized by a sincere and paramount desire to promote their welfare; and it must be a source of the highest gratification to every friend to justice and humanity to learn that notwithstanding the obstructions from time to time thrown in its way and the difficulties which have arisen from the peculiar and impracticable nature of the Indian character, the wise, humane, and undeviating policy of the Government in this the most difficult of all our relations, foreign or domestic, has at length been justified to the world in its near approach to a happy and certain consummation.

The condition of the tribes which occupy the country set apart for them in the West is highly prosperous, and encourages the hope of their early civilization. They have for the most part abandoned the hunter state and turned their attention to agricultural pursuits. All those who have been established for any length of time in that fertile region maintain themselves by their own industry. There are among them traders of no inconsiderable capital, and planters exporting cotton to some extent, but the greater number are small agriculturists, living in comfort upon the produce of their farms. The recent emigrants, although they have in some instances removed reluctantly, have readily acquiesced in their unavoidable destiny. They have found at once a recompense for past sufferings and an incentive to industrious habits in the abundance and comforts around them. There is reason to believe that all these tribes are friendly in their feelings toward the United States; and it is to be hoped that the acquisition of individual wealth, the pursuits of agriculture, and habits of industry will gradually subdue their warlike propensities and incline them to maintain peace among themselves. To effect this desirable object the attention of Congress is solicited to the measures recommended by the Secretary of War for their future government and

protection, as well from each other as from the hostility of the warlike tribes around them and the intrusions of the whites. The policy of the Government has given them a permanent home and guaranteed to them its peaceful and undisturbed possession. It only remains to give them a government and laws which will encourage industry and secure to them the rewards of their exertions. The importance of some form of government can not be too much insisted upon. The earliest effects will be to diminish the causes and occasions for hostilities among the tribes, to inspire an interest in the observance of laws to which they will have themselves assented, and to multiply the securities of property and the motives for self-improvement. Intimately connected with this subject is the establishment of the military defenses recommended by the Secretary of War, which have been already referred to. Without them the Government will be powerless to redeem its pledge of protection to the emigrating Indians against the numerous warlike tribes that surround them and to provide for the safety of the frontier settlers of the bordering States.

The case of the Seminoles constitutes at present the only exception to the successful efforts of the Government to remove the Indians to the homes assigned them west of the Mississippi. Four hundred of this tribe emigrated in 1836 and 1,500 in 1837 and 1838, leaving in the country, it is supposed, about 2,000 Indians. The continued treacherous conduct of these people; the savage and unprovoked murders they have lately committed, butchering whole families of the settlers of the Territory without distinction of age or sex, and making their way into the very center and heart of the country, so that no part of it is free from their ravages; their frequent attacks on the light-houses along that dangerous coast, and the barbarity with which they have murdered the passengers and crews of such vessels as have been wrecked upon the reefs and keys which border the Gulf, leave the Government no alternative but to continue the military operations against them until they are totally expelled from Florida. There are other motives which would urge the Government to pursue this course toward the Seminoles. The United States have fulfilled in good faith all their treaty stipulations with the Indian tribes, and have in every other instance insisted upon a like performance of their obligations. To relax from this salutary rule because the Seminoles have maintained themselves so long in the territory they had relinquished, and in defiance of their frequent and solemn engagements still continue to wage a ruthless war against the United States, would not only evince a want of constancy on our part, but be of evil example in our intercourse with other tribes. Experience has shown that but little is to be gained by the march of armies through a country so intersected with inaccessible swamps and marshes, and which, from the fatal character of the climate, must be abandoned at the end of the winter. I recommend, therefore, to your attention the plan submitted

by the Secretary of War in the accompanying report, for the permanent occupation of the portion of the Territory freed from the Indians and the more efficient protection of the people of Florida from their inhuman warfare.

From the report of the Secretary of the Navy herewith transmitted it will appear that a large portion of the disposable naval force is either actively employed or in a state of preparation for the purposes of experience and discipline and the protection of our commerce. So effectual has been this protection that so far as the information of Government extends not a single outrage has been attempted on a vessel carrying the flag of the United States within the present year, in any quarter, however distant or exposed.

The exploring expedition sailed from Norfolk on the 19th of August last, and information has been received of its safe arrival at the island of Madeira. The best spirit animates the officers and crews, and there is every reason to anticipate from its efforts results beneficial to commerce and honorable to the nation.

It will also be seen that no reduction of the force now in commission is contemplated. The unsettled state of a portion of South America renders it indispensable that our commerce should receive protection in that quarter; the vast and increasing interests embarked in the trade of the Indian and China seas, in the whale fisheries of the Pacific Ocean, and in the Gulf of Mexico require equal attention to their safety, and a small squadron may be employed to great advantage on our Atlantic coast in meeting sudden demands for the reenforcement of other stations, in aiding merchant vessels in distress, in affording active service to an additional number of officers, and in visiting the different ports of the United States, an accurate knowledge of which is obviously of the highest importance.

The attention of Congress is respectfully called to that portion of the report recommending an increase in the number of smaller vessels, and to other suggestions contained in that document. The rapid increase and wide expansion of our commerce, which is every day seeking new avenues of profitable adventure; the absolute necessity of a naval force for its protection precisely in the degree of its extension; a due regard to the national rights and honor; the recollection of its former exploits, and the anticipation of its future triumphs whenever opportunity presents itself, which we may rightfully indulge from the experience of the past—all seem to point to the Navy as a most efficient arm of our national defense and a proper object of legislative encouragement.

The progress and condition of the Post-Office Department will be seen by reference to the report of the Postmaster-General. The extent of post-roads covered by mail contracts is stated to be 134,818 miles, and the annual transportation upon them 34,580,202 miles. The number of post-offices in the United States is 12,553, and rapidly increasing. The

gross revenue for the year ending on the 30th day of June last was \$4,262,145; the accruing expenditures, \$4,680,068; excess of expenditures, \$417,923. This has been made up out of the surplus previously on hand. The cash on hand on the 1st instant was \$314,068. The revenue for the year ending June 30, 1838, was \$161,540 more than that for the year ending June 30, 1837. The expenditures of the Department had been graduated upon the anticipation of a largely increased revenue. A moderate curtailment of mail service consequently became necessary, and has been effected, to shield the Department against the danger of embarrassment. Its revenue is now improving, and it will soon resume its onward course in the march of improvement.

Your particular attention is requested to so much of the Postmaster-General's report as relates to the transportation of the mails upon railroads. The laws on that subject do not seem adequate to secure that service, now become almost essential to the public interests, and at the same time protect the Department from combinations and unreasonable demands.

Nor can I too earnestly request your attention to the necessity of providing a more secure building for this Department. The danger of destruction to which its important books and papers are continually exposed, as well from the highly combustible character of the building occupied as from that of others in the vicinity, calls loudly for prompt action.

Your attention is again earnestly invited to the suggestions and recommendations submitted at the last session in respect to the District of Columbia.

I feel it my duty also to bring to your notice certain proceedings at law which have recently been prosecuted in this District in the name of the United States, on the relation of Messrs. Stockton & Stokes, of the State of Maryland, against the Postmaster-General, and which have resulted in the payment of money out of the National Treasury, for the first time since the establishment of the Government, by judicial compulsion exercised by the common-law writ of mandamus issued by the circuit court of this District.

The facts of the case and the grounds of the proceedings will be found fully stated in the report of the decision, and any additional information which you may desire will be supplied by the proper Department. No interference in the particular case is contemplated. The money has been paid, the claims of the prosecutors have been satisfied, and the whole subject, so far as they are concerned, is finally disposed of; but it is on the supposition that the case may be regarded as an authoritative exposition of the law as it now stands that I have thought it necessary to present it to your consideration.

The object of the application to the circuit court was to compel the Postmaster-General to carry into effect an award made by the Solicitor

of the Treasury, under a special act of Congress for the settlement of certain claims of the relators on the Post-Office Department, which award the Postmaster-General declined to execute in full until he should receive further legislative direction on the subject. If the duty imposed on the Postmaster-General by that law was to be regarded as one of an official nature, belonging to his office as a branch of the executive, then it is obvious that the constitutional competency of the judiciary to direct and control him in its discharge was necessarily drawn in question; and if the duty so imposed on the Postmaster-General was to be considered as merely ministerial, and not executive, it yet remained to be shown that the circuit court of this District had authority to interfere by mandamus, such a power having never before been asserted or claimed by that court. With a view to the settlement of these important questions, the judgment of the circuit court was carried by a writ of error to the Supreme Court of the United States. In the opinion of that tribunal the duty imposed on the Postmaster-General was not an official executive duty, but one of a merely ministerial nature. The grave constitutional questions which had been discussed were therefore excluded from the decision of the case, the court, indeed, expressly admitting that with powers and duties properly belonging to the executive no other department can interfere by the writ of mandamus; and the question therefore resolved itself into this: Has Congress conferred upon the circuit court of this District the power to issue such a writ to an officer of the General Government commanding him to perform a ministerial act? A majority of the court have decided that it has, but have founded their decision upon a process of reasoning which in my judgment renders further legislative provision indispensable to the public interests and the equal administration of justice.

It has long since been decided by the Supreme Court that neither that tribunal nor the circuit courts of the United States, held within the respective States, possess the power in question; but it is now held that this power, denied to both of these high tribunals (to the former by the Constitution and to the latter by Congress), has been by its legislation vested in the circuit court of this District. No such direct grant of power to the circuit court of this District is claimed, but it has been held to result by necessary implication from several sections of the law establishing the court. One of these sections declares that the laws of Maryland, as they existed at the time of the cession, should be in force in that part of the District ceded by that State, and by this provision the common law in civil and criminal cases, as it prevailed in Maryland in 1801, was established in that part of the District.

In England the court of king's bench—because the Sovereign, who, according to the theory of the constitution, is the fountain of justice, originally sat there in person, and is still deemed to be present in construction of law—alone possesses the high power of issuing the writ of

mandamus, not only to inferior jurisdictions and corporations, but also to magistrates and others, commanding them in the King's name to do what their duty requires in cases where there is a vested right and no other specific remedy. It has been held in the case referred to that as the Supreme Court of the United States is by the Constitution rendered incompetent to exercise this power, and as the circuit court of this District is a court of general jurisdiction in cases at common law, and the highest court of original jurisdiction in the District, the right to issue the writ of mandamus is incident to its common-law powers. Another ground relied upon to maintain the power in question is that it was included by fair construction in the powers granted to the circuit courts of the United States by the act "to provide for the more convenient organization of the courts of the United States," passed 13th February, 1801; that the act establishing the circuit court of this District, passed the 27th day of February, 1801, conferred upon that court and the judges thereof the same powers as were by law vested in the circuit courts of the United States and in the judges of the said courts; that the repeal of the first-mentioned act, which took place in the next year, did not divest the circuit court of this District of the authority in dispute, but left it still clothed with the powers over the subject which, it is conceded, were taken away from the circuit courts of the United States by the repeal of the act of 13th February, 1801.

Admitting that the adoption of the laws of Maryland for a portion of this District confers on the circuit court thereof, in that portion, the transcendent extrajudicial prerogative powers of the court of king's bench in England, or that either of the acts of Congress by necessary implication authorizes the former court to issue a writ of mandamus to an officer of the United States to compel him to perform a ministerial duty, the consequences are in one respect the same. The result in either case is that the officers of the United States stationed in different parts of the United States are, in respect to the performance of their official duties, subject to different laws and a different supervision—those in the States to one rule, and those in the District of Columbia to another and a very different one. In the District their official conduct is subject to a judicial control from which in the States they are exempt.

Whatever difference of opinion may exist as to the expediency of vesting such a power in the judiciary in a system of government constituted like that of the United States, all must agree that these disparaging discrepancies in the law and in the administration of justice ought not to be permitted to continue; and as Congress alone can provide the remedy, the subject is unavoidably presented to your consideration.

— — — — — M. VAN BUREN.

SPECIAL MESSAGES.

WASHINGTON, December 6, 1838.

To the Senate and House of Representatives of the United States:

The act of the 1st July, 1836, to enable the Executive to assert and prosecute with effect the claim of the United States to the legacy bequeathed to them by James Smithson, late of London, having received its entire execution, and the amount recovered and paid into the Treasury having, agreeably to an act of the last session, been invested in State stocks, I deem it proper to invite the attention of Congress to the obligation now devolving upon the United States to fulfill the object of the bequest. In order to obtain such information as might serve to facilitate its attainment, the Secretary of State was directed in July last to apply to persons versed in science and familiar with the subject of public education for their views as to the mode of disposing of the fund best calculated to meet the intentions of the testator and prove most beneficial to mankind. Copies of the circular letter written in compliance with these directions, and of the answers to it received at the Department of State, are herewith communicated for the consideration of Congress.

M. VAN BUREN.

WASHINGTON, December 7, 1838.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives reports* from the Secretary of State and the Secretary of the Treasury, with accompanying documents, in answer to the resolution of the House of the 9th of July last.

M. VAN BUREN.

WASHINGTON, December 8, 1838.

To the Senate and House of Representatives of the United States:

I herewith transmit a special report made to me by the Secretary of the Treasury, for your consideration, in relation to the recently discovered default of Samuel Swartwout, late collector of the customs at the port of New York.

I would respectfully invite the early attention of Congress to the adoption of the legal provisions therein suggested, or such other measures as may appear more expedient, for increasing the public security against similar defalcations hereafter.

M. VAN BUREN.

*Transmitting communications, papers, documents, etc., elucidating the origin and objects of the Smithsonian bequest and the origin, progress, and consummation of the process by which that bequest was recovered, etc.

WASHINGTON, December 14, 1838.

To the Senate of the United States:

With the accompanying communication of the Secretary of War I transmit, for the consideration and constitutional action of the Senate, a treaty concluded with the Miami tribe of Indians on the 6th ultimo. Your attention is invited to that section which reserves a tract of land for the use of certain Indians, and to other reservations contained in the treaty. All such reservations are objectionable, but for the reasons given by the Secretary of War I submit to your consideration whether the circumstances attending this negotiation, and the great importance of removing the Miamies from the State of Indiana, will warrant a departure in this instance from the salutary rule of excluding all reservations from Indian treaties.

M. VAN BUREN.

WAR DEPARTMENT, December 14, 1838.

The PRESIDENT OF THE UNITED STATES.

SIR: I have the honor to lay before you, for submission to the Senate for its action if approved by you, a treaty with the Miami tribe of Indians concluded on the 6th ultimo. In doing so I beg to call your attention to that section which reserves from the cession made by the Miamies a tract of land supposed to contain 10 square miles, and to other reservations according to a schedule appended to the treaty. The commissioner who negotiated this treaty is of opinion that it could not have been concluded if he had not so far departed from his instructions as to admit these reservations. And it is to be feared that if the rules adopted by the Department in this particular be insisted upon on this occasion it will very much increase the difficulty, if it does not render it impracticable to acquire this land and remove these Indians—objects of so much importance to the United States and especially to the State of Indiana.

Very respectfully, your most obedient servant,

J. R. POINSETT.

WASHINGTON, December 18, 1838.

To the House of Representatives of the United States:

I transmit the accompanying documents, marked from 1 to 5,* in reply to a resolution of yesterday's date, calling for copies of correspondence between the Executive of the General Government and the governor of Pennsylvania in relation to "a call of the latter for an armed force of United States troops since the present session of Congress," and requiring information "whether any officer of the United States instigated or participated" in the riotous proceedings referred to in the resolution, and "what measures, if any, the President has taken to investigate and punish the said acts, and whether any such officer still remains in the service of the United States."

M. VAN BUREN.

* Relating to the "Buckshot war."

WASHINGTON, December 20, 1838.

To the House of Representatives:

I have the honor to transmit herewith additional letters and documents* embraced in the resolution of the House of Representatives of the 17th instant.

M. VAN BUREN.

WASHINGTON, December 20, 1838.

To the House of Representatives:

An important difference of opinion having arisen concerning the construction of an act of Congress making a grant of land to the State of Indiana,† and in which she feels a deep interest, I deem it proper to submit all the material facts to your consideration, with a view to procure such additional legislation as the facts of the case may appear to render proper.

The report of the Secretary of the Treasury and the documents annexed from the General Land Office will disclose all the circumstances deemed material in relation to the subject, and are herewith presented.

M. VAN BUREN.

WASHINGTON, December 26, 1838.

To the Senate and House of Representatives of the United States:

I transmit for your consideration the inclosed communication and accompanying documents from the Secretary of War, relative to the present state of the Pea Patch Island, in the Delaware River, and of the operations going on there for the erection of defenses for that important channel of commerce.

It will be seen from these documents that a complete stop has been put to those operations in consequence of the island having been taken possession of by the individual claimant under the decision, in his favor, of the United States district court for the district of New Jersey, and that unless early measures are taken to bring the island within the jurisdiction of the Government great loss and injury will result to the future operations for carrying on the works. The importance of the subject would seem to render it worthy of the early attention of Congress.

M. VAN BUREN.

WASHINGTON, December, 1838.

To the Senate:

I transmit a letter from the Secretary of War, accompanied by a communication from the Commissioner of Indian Affairs, on the subject of granting to the Chickasaw Indians subsistence for the further term of

* Relating to the "Buckshot war."

† In aid of the construction of the Wabash and Erie Canal.

seven months. Should it be the pleasure of the Senate to give its sanction to the measure suggested by the Commissioner for this purpose, my own will not be withheld.

M. VAN BUREN.

WASHINGTON, January 7, 1839.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 20th December last, I communicate to the Senate reports from the several Executive Departments, containing the information* called for by said resolution.

M. VAN BUREN.

WASHINGTON, January 9, 1839.

The PRESIDENT OF THE SENATE OF THE UNITED STATES.

SIR: I transmit herewith a report from the Secretary of the Navy, in answer to the resolution of the Senate of the 3d instant, calling for information in regard to the examinations of inventions designed to prevent the calamities resulting from the explosion of steam boilers, directed by the acts of Congress of the 28th of June and the 9th of July last.

M. VAN BUREN.

WASHINGTON, January 10, 1839.

To the House of Representatives:

I communicate to the House of Representatives, in compliance with its resolution of the 3d instant, reports† from the Secretaries of State and War, containing all the information called for by said resolution now in possession of the Executive.

M. VAN BUREN.

WASHINGTON, January 11, 1839.

To the Senate of the United States:

I transmit herewith a report of the Secretary of War, in reply to the resolution of the Senate of yesterday's date, calling for information respecting the agreement between him and the United States Bank of Pennsylvania on the subject of the sale or payment of certain bonds of that institution held by the United States, and respecting the disposition made of the proceeds thereof.

M. VAN BUREN.

*Copies of orders and instructions issued since April 14, 1836, relative to the kind of money and bank notes to be paid out on account of the United States.

†Relating to the invasion of the southwestern frontier of the United States by an armed force from the Republic of Texas.

WASHINGTON, January 15, 1839.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 9th of July last, I transmit reports* from the several Departments of the Government to which that resolution was referred.

M. VAN BUREN.

WASHINGTON, January 16, 1839.

To the Senate and House of Representatives of the United States:

I lay before you a communication from the Secretary of War, which is accompanied by one from the Commissioner of Indian Affairs, suggesting the propriety of setting apart a tract of country west of the Mississippi for the Seminole Indians, so that they may be separate from the Creeks, and representing the necessity of a small appropriation for supplying the immediate wants of those who have been removed; and I respectfully recommend these subjects for the early consideration and favorable action of Congress.

M. VAN BUREN.

JANUARY 17, 1839.

To the Senate and House of Representatives:

I herewith communicate to Congress a letter from the Secretary of the Treasury, in respect to the Florida claims under the treaty of 1819 and the subsequent acts of Congress passed to enforce it.

The propriety of some additional legislation on this subject seems obvious. The period when the evidence on the claims shall be closed ought, in my opinion, to be limited, as they are already of long standing, and, as a general consequence, the proof of their justice every day becoming more and more unsatisfactory.

It seems also that the task of making the final examination into the justice of the awards might advantageously be devolved upon some other officer or tribunal than the Secretary of the Treasury, considering the other responsible, laborious, and numerous duties imposed on him at the present juncture.

M. VAN BUREN.

WASHINGTON, January 17, 1839.

To the Senate and House of Representatives of the United States:

I transmit herewith a communication from the Secretary of the Treasury, which presents for the consideration of Congress the propriety of so changing the second section of the act of March 2, 1837, as that the

*Transmitting statements of cases in which a per centum has been allowed to public officers on disbursements of public moneys.

existing humane provisions of the laws for the relief of certain insolvent debtors of the United States may be extended to such cases of insolvency as shall have occurred on or before the 1st day of January, 1839

M. VAN BUREN.

WASHINGTON, January 17, 1839.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In answer to the resolution of the House of Representatives of the 14th instant, calling for information as to the proceedings under the act of Congress of the 28th of June last, providing for examinations of inventions designed to prevent the explosion of steam boilers, I transmit herewith a copy of a report of the Secretary of the Navy, which was made to the Senate in answer to a similar call from that body, as containing the information called for.

M. VAN BUREN.

WASHINGTON, January 18, 1839.

To the House of Representatives:

In addition to the information contained in a report from the Secretary of State communicated with my message of the 30th April, 1838, I transmit to the House of Representatives a report* from the Secretary of War, dated the 16th instant, in answer to a resolution of the House of the 19th March last, and containing so much of the information called for by said resolution as could be furnished by his Department.

M. VAN BUREN.

WASHINGTON, January 21, 1839.

To the Senate of the United States:

I transmit herewith to the Senate, for their consideration in reference to its ratification, a treaty of commerce and navigation between the United States of America and His Majesty the King of the Netherlands, signed at this place on the 19th instant by the Secretary of State and the chargé d'affaires of the Netherlands in the United States.

M. VAN BUREN.

WASHINGTON, January 21, 1839.

To the Senate of the United States:

I transmit for the consideration of the Senate with a view to its ratification a convention for the adjustment of claims of citizens of the United States upon the Government of the Mexican Republic, concluded and --

*Relating to the intermeddling of any foreign government, or subjects or officers thereof, with the Indian tribes in Michigan, Wisconsin, the territory beyond the Rocky Mountains, or elsewhere within the limits of the United States, etc.

signed in this city on the 10th of September last by John Forsyth, Secretary of State of the United States, and Francisco Pizarro Martinez, envoy extraordinary and minister plenipotentiary of the Mexican Republic, on the part of their respective Governments.

M. VAN BUREN.

WASHINGTON, January 21, 1839.

To the Senate of the United States:

I transmit a treaty negotiated with the New York Indians, which was submitted to your body in June last and amended. The amendments have, in pursuance of the requirement of the Senate, been submitted to each of the tribes, assembled in council, for their free and voluntary assent or dissent thereto. In respect to all the tribes except the Senecas the result of this application has been entirely satisfactory. It will be seen by the accompanying papers that of this tribe, the most important of those concerned, the assent of only 42 out of 81 chiefs has been obtained. I deem it advisable under these circumstances to submit the treaty in its modified form to the Senate, for its advice in regard of the sufficiency of the assent of the Senecas to the amendments proposed.

M. VAN BUREN.

WASHINGTON, January 24, 1839.

To the Senate of the United States:

I transmit herewith to the Senate, for their consideration in reference to its ratification, a treaty of commerce and navigation between the United States of America and His Majesty the King of Sardinia, signed at Genoa on the 26th of November last by the plenipotentiaries of the contracting parties.

M. VAN BUREN.

WASHINGTON, January 25, 1839.

To the Senate of the United States:

I herewith transmit to the Senate a report* from the Secretary of State, in answer to their resolution of the 22d instant.

M. VAN BUREN.

WASHINGTON, January 26, 1839.

To the Senate of the United States:

I lay before you, for your consideration, a treaty concluded with the Omaha, Ioway, and Otoe tribes of Indians, and sanctioned by the Yanceton and Santie bands of Sioux, by which a tract of land situated on the

* Stating that there has been no correspondence with Great Britain in relation to the northeastern boundary since December 3, 1838.

south side of the Missouri between the Great and Little Nemahaw rivers has been ceded to the United States.

It appears that the consent of the half-breeds of the above-mentioned tribes and bands is wanting to perfect the treaty. This tract of land was ceded by the treaty of 15th July, 1830, to them by the above-mentioned tribes and bands of Indians, and can not be taken from them, even for such a valuable consideration as will relieve their wants, without their assent. In order to avoid unnecessary delay, I submit it to your consideration in order to receive an expression of your opinion as to the manner of obtaining the assent of the minors, whereby all unnecessary delay in the final action upon the treaty will be avoided.

M. VAN BUREN.

JANUARY 28, 1839.

To the Senate and House of Representatives of the United States:

I transmit herewith a communication received from the Secretary of the Treasury, on the subject of the balances reported on the books of the Treasury against collecting and disbursing agents of the Government, to which I beg leave to invite the early attention of Congress.

M. VAN BUREN.

WASHINGTON, January 30, 1839.

To the Senate and House of Representatives:

I herewith transmit a report from the Secretary of the Treasury, on the subject of commissions claimed by agents or officers employed by the General Government.

The propriety of new legislation regulating the whole matter by express laws seems very apparent, and is urgently recommended to the early attention of Congress.

M. VAN BUREN.

WASHINGTON, February 2, 1839.

To the Senate of the United States:

I transmit a report from the Secretary of State, assigning reasons which render it probable that the time limited for the exchange of the ratifications of the convention for the adjustment of claims of citizens of the United States on the Government of the Mexican Republic may expire before that exchange can be effected, and suggesting that the consent of the Senate be requested for an extension of that time. The object of this communication, accordingly, is to solicit the approval by the Senate of such an extension upon the conditions mentioned in the report of the Secretary of State.

M. VAN BUREN.