

Wednesday 1st March.

Mr. Parker, from the Committee appointed to join the Committee of Council, to prepare an Address to His Majesty on the subject of the Boundary Line, between this Province and the United States of America, Reported a draft of the Joint Address, which being read at the Clerk's Table, was agreed to by the House, and is as follows:—

To the King's Most Excellent Majesty,

The joint Address of Your Majesty's Council and House of Assembly, of the Province of New-Brunswick in General Assembly.

Most humbly sheweth.

THAT the Council and House of Assembly view with great surprise and concern the recent attempts made by the Governments of Massachusetts and Maine to disturb the possession of your Majesty, and the jurisdiction of this Province in a Tract of Country on the Saint John and Madawaska Rivers.

They beg leave humbly to represent to your Majesty that the Inhabitants of this Tract of Country, so far as it is settled, are, with the exception of a few Persons, who have lately become Settlers, French Acadians, and their descendants; the first of whom removed thither from the lower parts of the Country, soon after the Treaty of 1783, and the immediately subsequent erection of this Province, under the full faith that they were planting themselves upon British Territory. That grants of their lands were at the beginning of the settlement made to the Settlers under the Great Seal of this Province. That Militia Companies were organized in this settlement by General CARLETON, the first Governor of this Province, at so early a period as the year 1786. That Magistrates and Parish Officers have been from time to time appointed there under the laws and institutions of this Province, and the process of your Majesty's Courts in this Province has uniformly run thither. That the Inhabitants vote at elections for the County of York in this Province, and that all the powers of sovereignty and jurisdiction have in fact been exercised by the constituted authorities of this Province, throughout the whole of this Tract of Country bordering on the Saint John and Madawaska Rivers, in the same manner as in any other part of the Province without question or disturbance quite up to the period of the Treaty of Ghent in the year 1814, and from thence until the recent attempts at interference which it is the present object of the Council and House of Assembly to represent to your Majesty.

It is well known that this Tract of Country is included in a claim to a much larger extent made by the Government of the United States, before the Commission that was established under the fifth article of the Treaty of Ghent, for settling the Boundary in this quarter, and was also claimed on the part of your Majesty, before the same Commission as belonging to your Majesty. It would be out of place on the present occasion to enter upon the grounds upon which the claim on the part of your Majesty may be supported, but as in some official documents which have emanated from the Governments of Maine and Massachusetts it seems to be held out that your Majesty is claiming a part of the Territory of those States, to the cession of which their consent must be obtained, it is proper to remark that the question of right between the two Governments must be determined by the Provisions of the Treaty of 1783, which prescribes the line of demarcation, and that if what your Majesty claims as your own an undoubted right according to the true construction of that Treaty be finally confirmed, the Tract of Country now in question does not and never did de jure form a part of Massachusetts or of Maine, as de facto it is not and never has been in the possession or under the jurisdiction of either of those States.

The Council and House of Assembly conceive that upon every principle of Justice, and from a due regard to the friendly understanding happily subsisting between the two Countries, the possession and actual exercise of jurisdiction, which existed at the time of making the Treaty of Ghent, the instrument which provided for a decision of any conflicting claims between the two nations in

this quarter, should have remained sacred and inviolate until that decision may take place. The Government of this Province has done no more than to exercise the ordinary powers of Sovereignty and jurisdiction, to which it succeeded on the first erection of the Province in the year 1784, and to which it has ever since been accustomed, and it was in this ordinary exercise of those powers that the Licences to cut Pine Timber, which have been so much complained of by the Governments of Maine and Massachusetts were issued—upon these complaints being conveyed to your Majesty by the General Government of the United States, your Majesty's Government with that spirit of conciliation towards the United States which it has uniformly exhibited, directed the Government of this Province to abstain from granting Licences to cut Timber on the Territory claimed by that power. This disposition to remove grounds of complaint, and prevent causes of collision, having been thus evinced by your Majesty, the Council and House of Assembly feel themselves imperatively called upon to represent to your Majesty the doings of Public Agents of the Governments of the United States, and of the States of Maine and Massachusetts of late years within this Territory, thus being in the actual possession and under the jurisdiction and Laws of this Province.

In the year 1820 the Marshal of the District of Maine professing to Act under a Law of the United States commissioned an Assistant to go into the above mentioned French Settlement commonly known by the name of the Madawaska Settlement, and there take an enumeration of the Inhabitants, as being within the said District. This enumeration was accordingly made, and the Inhabitants of this Settlement included in the public returns, as Citizens of the United States, and part of the Inhabitants of Maine.

In the year 1821 a Senator of the State of Maine, professing to act as an Agent of the Government of that State, came into this Province, and seized and marked a quantity of Pine Timber, lying in the River St. John, within our acknowledged Boundaries, far below the Line claimed by the United States, as having been cut on the River Restook, in the Territory of the United States; (the place where this Timber was alleged to have been cut, being part of the Territory in dispute between the two Governments,) and induced the persons who had this Timber in possession, to give obligations for paying certain sums of money therefor to the Government of Maine.

In the last year, 1825, the Governments of the States of Massachusetts and Maine, appear deliberately to have adopted measures to subvert your Majesty's actual possession and jurisdiction, in all that part of the Territory claimed by the United States, which lies on the Saint John and Madawaska Rivers. By Resolves of the Legislatures of those States, which have been published to the world, Land Agents were authorized to convey to the settlers in this Territory by good and sufficient Deeds, one hundred Acres each, of the Land by them possessed, to include their improvements on their respective Lots, for a certain sum to be paid for the use of the said States. These settlers, let it be remembered, are your Majesty's subjects, the Lands thus by them possessed, are held by Grants from the Crown, and these Lands and the Inhabitants upon them, whose number now exceeds fifteen hundred souls, have been under your Majesty's protection and Sovereignty, and been governed in quiet by the Laws of this Province for the last forty years. The Land Agents of the States above mentioned, appear by their own shewing, in a Report which has also been published to the world, to have zealously executed their Commission. Early in the month of October last, they proceeded to the Settlement in question, commenced surveying the Settlers Lots, to several of whom they made Deeds in conformity to the above mentioned Resolves of the Legislatures of the two States, and finding there was not then time to complete their Surveys, deemed it sufficient to make a few deeds, and then post up Notices of the disposition of the State towards the Settlers, at the Catholic Church, and at the Grist Mills in the before mentioned Settlement, of your Majesty's subjects at Madawaska, now under the jurisdiction and Laws of this Province. They acknowledge having been informed, that the Permits from the Government of this Province to cut Pine Timber, for the approaching winter had been with-

drawn, and reciprocate this Act of moderation and forbearance on the part of your Majesty's Government, by appointing an Agent at Madawaska, and another at the Restook, with power to grant permits to cut Pine Timber, on the same disputed Territory, which they affect to consider their own soil, and upon which your Majesty has desisted from exercising this accustomed right of Sovereignty, while the question of Boundary remains undecided, at the express instance of the Government of the United States. They make what they call demiciliary visits to many of the Settlers, to whom they explain the objects of their visit to the Country, whom they state to have expressed great delight at the prospect of being received into the family of Maine, to have little confidence in the value of their Grants, and to have made application to the Legislatures of those States for obtaining deeds of all the Lands they have in possession, these Agents being authorized to convey only one hundred acres to each Settler, — not contented with these measures in the disputed Territory, they proceed down the River Saint John, into the acknowledged and unquestioned Territory of your Majesty, and there sound the dispositions of your Majesty's subjects, to become Citizens of the United States, upon a Scheme of exchange of Territory which they profess to set forth, and they report to the Governments under which they Act, that the greater part of these Inhabitants would be well pleased with the exchange. On their return to their own Country, they recommend to the Governor of the State of Maine, and state it to have been approved of by him, that two Justices of the Peace be commissioned, that a deputy Sheriff or Constable be appointed, that one or more Military districts be formed at Madawaska, and at a suitable time be so organized that they may have a Representative in the Legislature of Maine, that authority be granted to sell to the Madawaska Settlers, the Land they have in possession more than one hundred Acres for a reasonable consideration, and that a bushed winter road be cut from the head waters of the Penobscot, in a direction near the head of the Restook, and continued to Madawaska or Fish River, the Tract of Country through which this proposed road is to pass, being also a part of the disputed Territory before referred to.

All this appears by a document published in the American Newspapers, purporting to be the official "Report of the Agent of the Land Office" of Massachusetts and dated "Land Office, Boston, November 10th 1825."

It might have been added, because it is a well known fact, which has been verified on oath, that these Agents also endeavoured to persuade the Inhabitants of Madawaska not to attend a Militia training then about to be held under the Laws of this Province, and offered to some of them that they would not attend, to pay any fines that might be recovered against them for their delinquency. This attempt however was unavailing for the General Training was held on the fourth of October last, in the Settlement of Madawaska, and upwards of three hundred men under forty-five years of age, were present at it: And the Council and Assembly are well persuaded, that all the other attempts of these Land Agents to seduce your Majesty's subjects in this quarter, from their allegiance, and to shake their faith in their titles to their Lands, and in your Majesty's support and protection, were equally ineffectual.

Never heless the Council and House of Assembly cannot view these proceedings of the Governments of the States of Massachusetts and Maine and of their authorized Agents without great regret and alarm. They cannot reconcile them to those principles of moderation and equity, which have induced the two nations of late years so often to refer their differences, as well with regard to disputed points of Boundary, as to other matters of high import, to tribunals of their own selection for amicable adjustment, nor to that spirit of courtesy and conciliation which ought always to subsist between friendly powers.

Had any Peace Officers of this Province detected these Land Agents in the course of the proceedings above detailed, it would have been their unquestionable duty to have secured their persons, and to have brought them before the proper municipal Tribunal in this Province, for an infraction of your Majesty's Sovereignty in places under its

actual exercise. For although your Majesty has thought proper to abstain from granting Licences to your Subjects to cut Timber on the wilderness Lands claimed by the United States, the Council and House of Assembly have not understood that your Majesty has abandoned or means to abandon, under present circumstances, any rights of practical Sovereignty which your Majesty has been accustomed to exercise in any part of the disputed Territory, which have been, and now are in fact occupied and held as British Settlements, and under your Majesty's jurisdiction. In consequence of a remonstrance made by the Lieutenant Governor of this Province to your Majesty's Minister at Washington, and by him conveyed to the Government of the United States, the Legislature of Massachusetts appears to have suspended the execution of the Resolves above mentioned, until their Session in the month of June next. But should these Resolves, or the additional measures recommended by the Land Agents of the two States, be attempted to be put in force while the question of Boundary remains unsettled; it may be confidently asserted that the Government of this Province will not tamely surrender the Sovereignty which has been uniformly exercised in the Territory in question, and the most unpleasant collisions may be expected to ensue.

While the Council and House of Assembly deeply feel the importance of a speedy settlement of this disputed Boundary, they can by no means accede to the proposition for an adjustment made by the Land Agents of the States of Massachusetts and Maine, in the report above alluded to in what they term an exchange of Territory, by leaving to your Majesty all the Lands lying North Eastward of the Rivers Saint John and Madawaska, and asking for the United States a portion of Territory, on the west side of the River Saint John as far down as Eel River, far below the line now claimed by the United States. This would be to vary both the Line and the principle of Boundary in this quarter as designated in the Treaty of 1783. There is moreover engrafed on this proposition a right to the free Navigation and use of the River Saint John to its mouth, and such a compromise it is stated would be for the mutual advantage of the two Nations.

The Council and House of Assembly humbly conceive that the inconveniences and disadvantages to your Majesty's Interests of a River Boundary have been already so much experienced in other parts of your Majesty's North American Dominions, as to render it altogether inexpedient to adopt such a Boundary in this quarter especially if the consequence is to be that a Foreign nation is to have a free right of navigation of a Great River lying altogether within your Majesty's Territories for a distance of near two hundred miles down to its mouth in the Bay of Fundy, and to a coast navigation from thence along your Majesty's Territories for a distance of sixty miles further until it meets its own sea board. The facilities for illicit traffic, the exposure of frontier in a Military view, and the control of the communications between your Majesty's Provinces, which such an arrangement would afford to a Foreign power are in addition to the relinquishment of a large portion of very valuable Territory, most cogent reasons against adopting it. The Council and House of Assembly on the contrary entertain the most sanguine hope, that your Majesty's Government will maintain the true principle on which the designation of Boundary in this quarter in the Treaty of 1783 was founded, namely to leave within the Territories of the respective powers, the whole course of those Great Rivers, quite up to their sources, which have their mouths within the same Territories. This is a principle in full accordance with that spirit of reciprocal advantage and mutual convenience, which was the declared object of the provisional articles of Peace afterwards framed into the Treaty of 1783, which will make the line of Boundary to be a substantial separation between the two distinct nations, will prevent that constant contact between their respective subjects that inevitably leads to dissension and difficulty, and will tend more than any one circumstance that can be named to preserve the integrity of your Majesty's remaining North American Colonies.

The Council and House of Assembly beg leave with great humility to lay this representation at the foot of the Throne.