

the High Lands, at the point where we are joined by the American Commissioners, and upon which both parties are agreed, are evidently the continuation of the heights from Mars Hill, and the whole together form one and the same Chain. By this Line we execute the principle of the Treaty, for we divide the Rivers, running in contrary directions into the respective territories of each, at their sources. We fulfil its object, of equity, reciprocity, the exclusion of partial advantages, ("those seeds of discord," and the foundation of perpetual peace, for we establish such an *arcifinitus* Boundary, as alone, without exposing their Provinces to attack, could possibly leave ours capable of defence. And, finally, we do no violence to the letter of the Treaty. For the objection to these *High Lands* on this score, may be fairly reduced to this, the words of the treaty are, "Rivers that empty themselves into the river St. Lawrence;" there are waters, on the northern side of these *High Lands*, that flow into the river St. Lawrence; but there are also, that fall by the river St. John's into the Bay of Fundy. Now, if indeed we are to get over this difficulty by verbal subtilty, and the most venial equivocation is to prevail, it certainly appears less sophistical in the Americans to say, the Bay of Fundy is the Atlantic Ocean, than for us to pretend that the Bay of Fundy is the river St. Lawrence; though, to an accurate reasoner, who consulted the distinctions in the Treaty, the pervariation on both sides would appear nearly equal; but if the principle and basis of the Line be kept in view, and we endeavour to reconcile to them any seeming discrepancy in the words, may we not say to this objection, that there is nevertheless nothing in the description of this Boundary by the treaty inconsistent with the facts of the Survey, though there are indeed other and more facts in the Survey than are mentioned in the description; still if these other geographical facts are of a similar nature, and included within the same reason, (viz. Rivers flowing into and through our actual Territories), ought they not to be intended to fall within the same division? Besides, what is it to the Americans, where the rivers north of the *High Lands* discharge? It is enough for them that all on the South flow immediately to the Atlantic, or at least that all which flow immediately to the Atlantic are on the South side. Those are all the Treaty conceded to them, and all, which were not conceded, belong still to their ancient Sovereign, by title paramount, wherever they discharge. It is no objection to our claim therefore, that "the Bay of Fundy" is not "the St. Lawrence," while it is conclusive against theirs that "the Bay of Fundy" is not "the Atlantic Ocean." For granted, that as the Treaty gives them those Rivers only which flow into the Atlantic, so it assigns to us those only which fall into the St. Lawrence; and that the River St. John's which empties into the Bay of Fundy, is an omitted case; still, to whom does it now belong? To the King, who owned and possessed it years before the Treaty? Or to the Republic, which neither owned, nor possessed, nor claimed it till after? But the Boundary at and from the North-west Angle is marked and described by two facts, or circumstances, the *Elevation of land*, and the *Division of rivers*. The former, which, as it is first and separately, mentioned in the treaty, merits perhaps at least an equal consideration, is strictly pursued by the Line we claim, for throughout the whole Survey north to the shore of the St. Lawrence, has no range of heights intersected, more prominent in elevation, or unbroken in extent. The latter designation, the *Division of rivers*, in the strict and literal sense to which they would con-

firm the Treaty, is found utterly inapplicable to the country intersected by the north line. Now if one part of the description be consistent, and one part at variance, with the geography of the Tract surveyed, and the part which is consistent be a Land mark sufficient for our direction, and the part which is at variance easily reconciled with the other, by recurring to the principle, and to what may be considered the abstract delineation of the Boundary, why should we not adopt to obvious a solution of the difficulty, and follow THE HIGH LANDS, and divide the waters that fall into the Atlantic from those that fall into the St. Lawrence, agreeably to the letter of the Treaty, where we can, and where we cannot, divide the waters that flow through their Territories, that is, into "the Atlantic," from those that flow into the St. John's and "the Bay of Fundy," that is, through our Territories, agreeably to the reason and basis of the division.

These considerations have not been mentioned so much with any view of setting forth the arguments, that support the claims of the British or American Governments, which are respectively assisted or impugned by many other collateral reasons, but rather to discover the aims and disposition of the United States, and introduce and explain the late extraordinary proceedings of that Republic. For such being the state of the question, and negotiations respecting this Boundary between the two Countries being now pending, and that possession and jurisdiction over the disputed Territory of the Crown of Great Britain, which had commenced from the conquest or cession of Nova Scotia and Canada, years before the existence of an American republic, still continuing and uninterrupted, (and not merely the constructive possession of Public or Municipal law, but the actual exercise of sovereignty and jurisdiction, by Grants of land, Issuing of writs, Training militia, Licences to cut timber on the vacant forest, and all other the same duties and privileges of British subjects existing there, as are known at Halifax or Quebec); it seems to have been now thought in the United States, as inconsistent with the free and independent spirit of "the American People," to expect longer the result of those negotiations; and accordingly, during the last year, they resolved, "that possessory acts on their part should be resorted to without delay." In compliance with their request, the King had just before discontinued and recalled his Licences, heretofore granted for cutting Timber on the vacant Forest; an act of courtesy, or concession, which, as it surprised and injured his subjects there, so it might have conciliated the Americans, but which, in the true spirit of friendship and reciprocity, was thus returned. Two of those free, sovereign, and independent Republics, which form the confederacy of the United States, to whose general authority their obedience seems in a great measure voluntary and uncertain, the States of Massachusetts and Maine, whose territories adjoin this Boundary, agreed immediately in concurrence with each other in Resolutions to the following purport and words—

"Forthwith to take effectual measures to ascertain the extent of the depredations committed on the lands of this Commonwealth," (Massachusetts) "and the State of Maine, by whom the same have been committed, and under what Authority, if any, such depredations have been made, and all other facts necessary to bring the offenders to justice; also to make and execute good and sufficient deeds, conveying to the settlers on the undivided public lands on the St. John's and Madawaska Rivers, in actual possession as aforesaid, their heirs, and assigns, 100 acres each of the land by them possessed, to include their improve-

ments on their respective lots, they paying to the said Agents for the use of this Commonwealth five dollars each, and the expense of surveying the same; and also to sell the timber on such of the undivided public Lands as lie contiguous to or near to the waters of the river St. John's, in all cases where such sale will in the opinion of the Land Agents promote the interest of this Commonwealth."

In the style and language of these Resolutions, it is interesting to observe that peculiar precision and energy of expression, in which this people has made such amazing progress, since they emancipated themselves from the thralldom of English Sovereignty and English Grammar, and established the Independence of "the American people" and "American tongue." "The depredations" that are here mentioned are the acts of cultivation of British subjects, the King's grantees. "The Authority under which the same have been made," is the King's Representative, who fixed His Great Seal to their grants; and these are the offenders to be brought to justice: "the undivided public lands on the St. John's and Madawaska rivers" are the private estates of British subjects, held by such grants of the crown, of twenty or thirty years date, in lots of 500 to 2000 acres, 100 of which, to include the improvements, (the cultivated portion,) are to be confirmed to them each by good and sufficient deeds of conveyance, from this generous Republic: in consideration of which gracious benevolence, the said grantees are to pay a small fine of five dollars each, for the use of this Commonwealth, and the expense of surveying the same (not the Commonwealth, it is presumed, but the estates of the colonists); and finally, the timber which is thus to be there sold is as much parcel of the King's Demesnes as the trees in Windsor Forest, and by title older than the birth of that Government, which so modestly questions the right, and so delicately anticipates the decision. Not Captain Rock, nor Stafford Sutton Cooke, ever gave notice to their tenants, with more scrupulous deference to the pretensions of an usurping landlord; no Hue and cry in the Police Gazette ever described trespasses parading of felony, in terms more guarded and indulgent. Considering the nature of the offence, and the character of "the offenders," this moderation can only be accounted for by the habitual respect, which it is so necessary to observe in the United States, towards that description of Inhabitants called *Squatters*.

But if there was much in the words and expressions of these Resolutions that called loudly for the due acknowledgments of the British Government, care was taken that their execution should add to the obligation. The public Land-Agents of these two States are jointly commissioned, and dispatched, the following summer, (of 1825,) to enforce their rights to the Territory in question, and reclaim the possession. With a party of men they arrive; "make domiciliary visits to many of the settlers," (the words of their own report,) "explain the object of their visit, and commence surveying the settlers' lots, of 100 acres each, to several of whom they make deeds," (for the consideration we presume, above enjoined); "post up notices of the disposition of the State towards the settlers at the Church and at the corn-mills," and appoint two Agents with power to grant permits for cutting timber. They speak with praise of the beauty and fertility of the country, and of the industry and hospitality of the Inhabitants, whom they represent to be "well deserving the fostering care of government, having grants from the Province of New Brunswick," in which "they have little confidence, and desirous of purchasing at a fair rate" a good

title from their friendly visitors, who succeed in persuading some to make application to their Legislature for that purpose. This much is collected from their Report itself, and from the forwardness with which these facts are avowed, and the industry with which they are published and circulated, these Governments really appear to have been afraid lest their conduct in this respect should pass unknown or unobserved; and while we admire their fostering attention to the King's subjects in that quarter, we cannot but wonder at the ostentation with which it is proclaimed. But from other sources it is discovered that the zeal of these Agents carried them so far, as to endeavour to persuade the Colonists no longer to muster at the Militia Trainings, which were about to take place under the King's Government of New-Brunswick, offering to pay their fines, and omitting no means to seduce their affections; which seem not to have succeeded as was desired, since the Trainings were attended in the usual manner, and a company, it is said, set out in pursuit of the American emissaries, and had they been some hours later in their retreat, the Courts of Law in the Province, might have rendered those acknowledgements to the individuals employed, which their Employers can expect from the Imperial Government alone. On their return, the Report already mentioned is made by these Agents, to their respective Governments. It concludes by recommending, for the Country they have visited, "that two Justices of the Peace be commissioned; that a Deputy Sheriff or Constable be appointed; and that one or more Military Districts be formed at Madawaska, and at a suitable time so organized that they may have a Representative in the Legislature of Maine." Measures, which the same report assures us, have met with the entire approbation of the Executive of that Commonwealth.

Doubtless, persons were not wanting in the States, that adopted those Resolutions, (for there are in that country men of justice and honour, in all the offices of public, and private life, but who, from the nature of their Constitution, have too little influence upon the measures of the Government), who, we may believe, failed not to protest against so bold a defiance of national Law, and demonstrate the danger and impolicy of such an attempt: that by the clearest principle of natural equity, and the acknowledged usage of civilized Nations, the party in possession could never be disturbed before the decision of the controversy: that the idea of strengthening the claim by possessory acts at this hour was absurd in the extreme: that the endeavour either to steal possession, or usurp it by force, was an insult no Nation could be so weak as to dissemble, or so spiritless as to endure; still less that Power, which had often commenced hostilities for lighter provocation and less worthy causes, which, when formerly the Spaniards seized the disputed Territory of Nootka Sound, a desolate, useless possession, on the other side of the Globe, flew instantly to arms; and which here, within our own memory, when France seemed to be encroaching, in fifty-five, from the frontiers of Canada, thought it not too much to light up war in the four quarters of the world, to vindicate her honour, and avenge her subjects. Do not imagine that such a Power is to be thus foored, like a stranger cur, from their possession, but expect rather the revival of that national policy, which their Indian Allies would gladly hail, as *the Dog who bites before he barks*; expect the Fleet and Garrison of Halifax again at the Penobscot. And, finally, that the measure proposed was of all others the most likely to defeat the object in view. Why provoke the attention of that Government to a subject, from which