

WASHINGTON, February 26, 1839.

MESSAGE FROM THE PRESIDENT.

To the Senate of the United States:

I lay before Congress several despatches from his Excellency the Governor of Maine, with enclosures, communicating certain proceedings of the Legislature of that State, and a copy of the reply of the Secretary of State, made by my direction, together with a note from H. S. Fox, Esq., Envoy Extraordinary and Minister Plenipotentiary of Great Britain, with the answer of the Secretary of State to the same.

It will appear from those documents that a numerous band of lawless and desperate men, chiefly from the adjoining British Provinces, but without the authority or the sanction of the Provincial Government, had trespassed upon that portion of that territory in dispute between the United States and Great Britain which is watered by the river Aroostook, and claimed to belong to the State of Maine; and that they had committed extensive depredations there by cutting and destroying a very large quantity of timber. It will further appear that the Governor of Maine, having been officially apprised of the circumstance, had communicated it to the Legislature, with a recommendation of such provisions, in addition to those already existing by law, as would enable him to arrest the course of such depredations, disperse the trespassers, and secure the timber which they were about carrying away; that in compliance with a resolve of the Legislature, passed in pursuance of his recommendation, his Excellency had despatched the Land Agent of the State, with a force deemed adequate to that purpose, to the scene of the alleged depredations, who, after accomplishing a part of his duty, was seized by a band of the trespassers, at a house claimed to be within the jurisdiction of Maine, whether he had repaired for the purpose of meeting and consulting with the Land Agent of the Province of New Brunswick, and conveyed as a prisoner to Fredericton, in that Province, together with two other citizens of the State, who were assisting him in the discharge of his duty.

It will also appear that the Governor and Legislature of Maine, satisfied that the trespassers had acted in defiance of the laws of both countries, learning that they were in possession of arms, and anticipating (correctly, as the result has proved) that persons of their reckless and desperate character would set at naught the authority of the magistrates, without the aid of a strong force, had authorized the sheriff and the officer appointed in the place of the Land Agent, to employ, at the expense of the State, an armed posse, who had proceeded to the scene of these depredations, with a view to the entire dispersion or arrest of the trespassers and the protection of the public property.

In the correspondence between the Governor of Maine and Sir John Harvey, Lieutenant Governor of the Province of New Brunswick, which has grown out of these occurrences, as is likewise herewith communicated, the former is requested to recall the armed party advanced into the disputed territory for the arrest of trespassers, and is informed that a strong body of British troops is to be held in readiness to support and protect the authority and subjects of Great Britain in said territory. In answer to that request the Provincial Governor is informed of the determination of the State of Maine to support the Land Agent and his party in the performance of their duty, and the same determination, for the execution of which provision is made by a resolution of the State Legislature, is communicated by the Governor to the General Government.

The Lieutenant Governor of New Brunswick, in calling upon the Governor of Maine for the recall of the Land Agent and his party from the disputed territory, and the British Minister in making a similar demand upon the Government of the United States, proceed upon the assumption that an agreement exists between the two nations conceding to Great Britain, until the final settlement of the boundary question, exclusive possession of, and jurisdiction over the territory in dispute. The important bearing which such an agreement, if it existed, would have upon the condition and interests of the parties, and the influence it might have upon the adjustment of the dispute, are too obvious to allow the error upon which the assumption seems to rest, to pass for a moment without correction. The answer of the Secretary of State to Mr. Fox's note, will show the ground taken by the Government of the United States upon this point. It is believed that all the correspondence which has passed between the two Governments upon this subject has already been communicated to Congress, and is now on their files. An abstract of it, however, hastily prepared, accompanies this communication. It is possible that in thus abridging a voluminous correspondence, commencing in 1825 and continuing to a very recent period, a portion may have been accidentally overlooked; but it is believed that nothing has taken place which would materially change the aspect of the question as therein presented. Instead of sustaining the assumption of the British functionaries, that correspondence disproves the existence of any agreement. It shows that the two governments have differed not only in regard to the main question of title to the territory in dispute, but with reference also to the right of jurisdiction, and the fact of the actual exercise of it in different portions thereof. Always aiming at an amicable adjustment of the dispute, both parties have entertained and repeatedly urged upon each other a desire that each should exercise its rights, whatever it considered them to be, in such a manner as to avoid collision, and ally, to the greatest practicable extent, the excitement likely to grow out of the controversy. It was in pursuance of such an understanding that Maine and Massachusetts, upon the remonstrance of Great Britain, desisted from making sales of land, and the General Government from the construction of a projected military road in a portion of the territory, of which they claimed to

have enjoyed the exclusive possession; and that Great Britain on her part, in deference to a similar remonstrance from the U. States, suspended the issue of licences to cut timber in the territory in controversy, and also the survey and location of a rail road through a section of country over which she also claimed to have exercised exclusive jurisdiction.

The State of Maine had a right to arrest the depredations complained of; it belonged to her to judge of the exigency of the occasion calling for her interference; and it is presumed that had the Lieutenant Governor of New Brunswick been correctly advised of the nature of the proceedings of the State of Maine, he would not have regarded the transaction as requiring, on his part, any resort to force. Each party claiming a right to the territory, and hence to the exclusive jurisdiction over it, it is manifest that, to prevent the destruction of the timber by trespassers, acting against the authority of both, and at the same time avoid forcible collision between the contiguous Governments during the pendency of negotiations concerning the title, resort must be had to the mutual exercise of jurisdiction in such extreme cases, or to an amicable and temporary arrangement as to the limits within which it should be exercised by each party. The understanding supposed to exist between the United States and Great Britain has been found heretofore sufficient for that purpose, and I believe will prove so hereafter, if the parties on the frontier, directly interested in the question, are respectively governed by a just spirit of conciliation and forbearance. If it shall be found, as there is now reason to apprehend that there is, in the modes of constructing that understanding by the two Governments, a difference not to be reconciled, I shall not hesitate to propose to her Britannic Majesty's Government, a distinct arrangement for the temporary and mutual exercise of jurisdiction, by means of which similar difficulties may in future be prevented.

But between an effort, on the part of Maine to preserve the property in dispute from destruction by intruders, and a military occupation by that State of the territory, with a view to hold it by force, while the settlement is a subject of negotiation between the two Governments, there is an essential difference, as well in respect to the position of the State, as to the duties of the General Government. In a letter addressed by the Secretary of State to the Governor of Maine, on the first of March last, giving a detailed statement of the steps which had been taken by the Federal Government to bring the controversy to a termination, and design to apprise the Governor of that State of the views of the Federal Executive, in respect to the future, it was stated, that while the obligations of the Federal Government to do all in its power to effect the settlement of the boundary question were fully recognised, it had, in the event of being unable to do specifically, by mutual consent, no other means to accomplish that object amicably, than by another arbitration, or by a commission with an umpire in the nature of an arbitration; and that in the event of all other measures failing, the President would feel it his duty to submit another proposition to the Government of Great Britain, to refer the decision of the question to a third power. These are still my views upon the subject. Until this step shall have been taken, I cannot think it proper to invoke the attention of Congress to other than amicable means for the settlement of the territory in dispute, or to cause the military power of the Federal Government to be brought in aid of the State of Maine, in any attempt to effect that object by a resort to force.

On the other hand, if the authorities of New Brunswick should attempt to enforce the claim of exclusive jurisdiction set up by them, by means of a military occupation on their part, of the disputed territory, I shall feel myself bound to consider the contingency provided by the constitution as having occurred, on the happening of which a State has the right to call for the aid of the Federal Government to repel invasion.

I have expressed to the British Minister near this Government, a confident expectation that the agents of the State of Maine, who have been arrested under an obvious misapprehension of the object of their mission, will be promptly released; and to the Governor of Maine that a similar course will be pursued in regard to the agents of the Province of New Brunswick. I have also recommended that any militia that may have been brought together by the State of Maine, from an apprehension of a collision with the Government or people of the British Province, will be voluntarily and peaceably disbanded.

I cannot allow myself to doubt that the results anticipated from these representations will be seasonably realized. The parties more immediately interested cannot but perceive that an appeal to arms, under existing circumstances, will not only prove fatal to their present interests, but would postpone, if not defeat, the attainment of the main objects which they have in view. The very incidents which have recently occurred will necessarily awaken the Governments to the importance of promptly adjusting a dispute, by which it is now made manifest that the peace of the two nations is daily and immediately endangered. The expectation is further warranted by the general forbearance which has hitherto characterized the conduct of the Government and people on both sides of the line. In the uniform patriotism of Maine, her attachment to the Union, her respect for the wishes of the people of her sister States, of whose interest in her welfare she cannot be unconscious, and in the solicitude felt by the country at large for the preservation of peace with our neighbours, we have a strong guarantee that she will not disregard the request that has been made of her.

As, however, the session of Congress is about to terminate, and the agency of the Executive may become necessary during the recess, it is important that the Legislature should be drawn to the consideration of such measures as may be calculated to obviate the necessity of a call for an extra session. With that view, I have thought it my duty to lay the whole matter before you, and to invite such action thereon as you may think the occasion requires.

M. VAN BUREN.

WASHINGTON, Feb. 27, 1839.

CLOSING SCENES OF THE SESSION.

VERY IMPORTANT NEWS—FRONTIER TROUBLES. Between six and seven o'clock this evening an important message was received from the President of the United States upon the subject of our North Eastern troubles. The Message is but a preface to an important letter from Mr. Fox, the British Minister. Mr. Fox and Mr. Forsyth it seems have come to an amicable arrangement, which will probably prevent hostile movements, if hostile movements have not already been engaged in by the belligerent parties of Maine and New Brunswick.

The following are the documents referred to:—

WASHINGTON, Feb. 27, 1839.

To the House of Representatives of the United States.

I transmit to Congress copies of various other documents received from the Governor of Maine, relating to the dispute between that State and the Province of New Brunswick, which formed the subject of my Message of the 26th instant, and also a copy of a memorandum signed by the Secretary of State of the United States and Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary near the United States, of the terms upon which it is believed all collision can be avoided on the frontier, consistently with, and respecting the claims on either side. As the British Minister acts without specific authority from his government, it will be observed that this memorandum has but the force of recommendation on the Provincial authorities and on the government of the State.

M. VAN BUREN.

MEMORANDUM.

Her Majesty's authorities consider it to have been understood and agreed upon by the two Governments, that the territory in dispute between Great Britain and the United States, on the northeastern frontier, should remain exclusively under British jurisdiction, until the final settlement of the boundary question.

The United States Government have not understood the above agreement in the same sense, but consider, on the contrary, that there has been no agreement whatever for the exercise, by Great Britain, of exclusive jurisdiction over the disputed territory, or any portion thereof, but a mutual understanding that, pending the negotiation, the jurisdiction then exercised by either party over small portions of the territory in dispute, should not be enlarged, but be continued merely for the preservation of local tranquility and the public property, both forbearing as far as practicable, to exert any authority, and, when any should be exercised by either, placing upon the conduct of each other the most favourable construction.

A complete understanding upon the question thus placed at issue, of present jurisdiction, can only be arrived at by friendly discussion between the Governments of the United States and Great Britain; and, as it is confidently hoped that there will be an early settlement of the question, this subordinate point of difference can be of but little moment.

In the mean time the Governor of the Province of New Brunswick and the Governments of the State of Maine will act as follows: Her Majesty's officers will not seek to expel by military force, the armed party which has been sent by Maine into the district bordering on the Aroostook river; but the Government of Maine will voluntarily, and without needless delay, withdraw beyond the bounds of the disputed territory any armed force now within them; and, if future necessity should arise for dispersing notorious trespassers, or protecting public property from depredation by armed force, the operation shall be conducted by concert, jointly or separately, according to agreements between the Governments of Maine and New Brunswick.

The civil officers in the service, respectively, of New Brunswick and Maine, who have been taken into custody by the opposite parties, shall be released.

Nothing in this memorandum shall be construed to fortify or to weaken, in any respect whatever, the claim of either party to the ultimate possession of the disputed territory.

The Minister Plenipotentiary of Her Britannic Majesty having no specific authority to make any arrangement on the subject, the undersigned can only recommend, as they now earnestly do, to the Governments of New Brunswick and Maine, to regulate their future proceedings according to the terms herein before set forth, until the final settlement of the territorial dispute, or until the Governments of the United States and Great Britain shall come to some definite conclusion on the subordinate point upon which they are now at issue.

JOHN FORSYTH, Secretary of State of the United States of America.

H. S. FOX, H. B. M. Envoy Extraordinary and Minister Plenipotentiary.

Washington, Feb. 27, 1839.

A most important debate sprang up in the Senate as soon as this paper was read. Mr. Williams, of Maine, expressed himself dissatisfied with it, and believed that Maine would be dissatisfied with it also. Of right she ought to complain, and the General Government to listen and redress her wrongs.

Mr. Ruggles, of Maine, said Maine had received the first, second, third and last blows. It was now time that some of them were hurled back. War would be ruinous to Maine, but even war was preferable to the imprisonment of our citizens, and the continued wrongs and outrages committed upon our soil and upon our people.

Mr. Walker was for drawing the sword the very moment it should be discovered that negotiations could not be agreed upon whereby the rights of Maine should not be fully recognized. Mr. Brown, of N. C. was fully as belligerent.

Mr. Calhoun and Mr. Preston were both in favour of the pacific measures recommended by the Executive. Mr. Calhoun mainly opposed the allusion made as to the probability or possibility of war.—Mr. Preston mildly protested against the apparent excited feelings indulged in by some Senators. But if necessity demanded and war should be unfortunately necessary, South Carolina would freely spend her blood and her treasure in defence of Maine.

Mr. Davis defended the exact condition of things. Great Britain had again and again refused to run a line, agreeably with the treaty of '83. The United States had again and again importuned, but in vain. Maine refused to run a Conventional line, and the Government could not without her consent, in the present irritated state of feeling, on the N. E. frontier. Maine could endure no longer. The hope was delusive that the matter could end where it was. The conflict must come, and would come, and that speedily, if prompt and decisive measures were not taken by the Government. Such an arrangement as that recommended by the President could not give peace to Maine.

Mr. Webster spoke with some feeling. He does not approve of the President's course, and demands why it is that after the unanimous move in Congress, the President has not acted more efficiently. For the year past, the Government has done absolutely nothing.

The question at issue, Mr. Webster says, is not one of property, but of political right. Maine, no more than the Union, is interested; and I condemn, said Mr. Webster, the disposition manifested by the General Government to shrink from responsibility, and to place the heat and burthen of the fight upon Maine. There has been a want of nerve, Mr. Webster says, upon the part of the Administration, and a bolder stand should be taken, and a higher tone assumed. In conclusion, Mr. Webster said he was for prompt, energetic and decided action,—for action now,—for a determination in the Senate Chamber, and upon this very night. He wanted our Government to tell the British Government that it was time this question was settled, and to say to her, that if she refused to enter upon negotiations, to the treaty of 1783, the United States, would on the FOURTH OF JULY NEXT, TAKE POSSESSION HERSELF!!! [Applause in the Galleries.] Mr. King in the Chair, much excited, threatened to clear the Galleries, if the applause was continued.

The debate in the Senate closed by referring to the Committee on Foreign Affairs, and in the House also, after some remarks from Mr. Evans, of Maine.

These Committees have been in session through the day, and I am told, will make their reports to-morrow. The measures most likely to be agreed upon are the following:—

Power given to the President to raise a provisional army during the Congressional recess. Appropriations made for Fortifications and for the repair and building vessels of war forthwith.

The President instructed to repel any invasion of our territory in Maine.

Invasion to be considered the possession and jurisdiction of the territory bordering on the Restook, over which Sir John Harvey claims exclusive jurisdiction.

A special Minister forthwith to be sent to England to demand explanation of the British Government as to the claim of exclusive jurisdiction made by Sir John Harvey and the British Minister. This to be the prior and the pacific measure.

Congress to supply the deficiency in the Treasury by raising a loan instead of the Treasury.

These are considered the last measures by the President, the Cabinet, and I believe by the most of the members of the two Committees on Foreign affairs.

From the Boston Daily Advertiser and Patriot, March 5.

Sir John Harvey's claim of exclusive Jurisdiction.—It will be seen from the following resolves of the Legislature of Massachusetts, that the British claim of exclusive jurisdiction over the disputed territory, is not so novel as some persons have supposed it.

Resolves concerning the North Eastern Territory of the United States, claimed by Great Britain:

Whereas a large tract of the North Eastern Territory of the United States, belonging in common to the States of Maine and Massachusetts, and lying within the limits of the former State, has, for many years past, in consequence of a claim of Great Britain, been surrendered to the exclusive custody of the British Government; and whereas, it appears from the report of a committee appointed by the Legislature of this Commonwealth, to make personal examination into the state of our public lands, that great inconveniences and gross abuses have resulted, from so valuable a portion of our domain being left in the keeping of agents over whom we have no control:

Therefore, Resolved, by the Senate and House of Representatives, in General Court assembled, that in the opinion of this Legislature, it is due to the rights and interests of Massachusetts, that measures should be taken by the Executive of the United States, to secure a speedy settlement of this long protracted controversy, so that these States may be reinstated in the enjoyment of that property which was so long in their undisputed possession, and which is so indisputably theirs.

Resolved, that in case there be a prospect of further unavoidable delay in the settlement of this controversy, it is essential to the ends of justice that measures should be taken by the Executive of the United States, to obtain a representation of the interests and rights of Maine and Massachusetts in the agency and guardianship of the territory in question.

Resolved, That His Excellency the Governor is hereby requested to transmit a copy of these resolutions to the Executive of the United States, to our Senators and Representatives in Congress, and to the Governor of the State of Maine.

IN SENATE, March 1, 1836.

Passed—Sent down for concurrence. HORACE MANN, President.

It must not be inferred that the jurisdiction exercised over the disputed territory, has been exercised with the consent of Massachusetts or Maine. They have uniformly protested against it. But as to the fact of the actual exercise of jurisdiction and the denial of any concurrent jurisdiction on the part of Maine, there is ample testimony. In an able report, made to

the Governor of Maine by an agent appointed by him in 1827, in consequence of the imprisonment of John Baker, we find these statements: "It is now perfectly understood that the Government of New Brunswick claims to extend the laws of the Province over a large portion of the territory of Maine. The operation is not merely left to inference. The design is not affected to be concealed. The pretension is publicly announced in official papers and communications, speaking the unequivocal language of the Government." "No residents are entitled to acquire any rights in real estate, except British subjects. All other occupants of the soil are treated as trespassers and intruders. All other inhabitants are liable to the disabilities of aliens, and to the restrictions imposed upon their actions, intercourse, and industry, by the enactments of Provincial Legislation, and likewise in respect to the right of bearing arms. Every American citizen is required to report himself, within two months after his arrival, to a regimental quarter-master, and is subjected to an annual assessment for the maintenance of the Provincial Militia." "This description is to be understood as applying to a large portion of the State of Maine."

We do not mean to say that this state of things ought to exist. We make these quotations, and we might cite many other documents to the same purpose, to show what is the state of facts—that this is no new pretension of Sir John Harvey, and that the facts have been fully known not only to the governments of the United States immediately interested, but to the Government of the United States, for the last ten years, during which period nothing has been done to divest the British Governor of his actual exercise of jurisdiction. On the contrary, the letters of Mr. McLane, when Secretary of State, show that the Government of the United States recommended to the Governor of Maine, an acquiescence in it, and entered into an apologetical explanation with the British Minister, in a case of alleged interference with it, in the construction of the Aroostook road. Under these circumstances we maintain that the occupation of this territory without the authority or knowledge of the Government of the United States, by a military force, for the purpose of arresting trespassers, or for any other purpose—and still more the declared intention of a continued military occupation, under the authority of the Legislature and Executive of the State of Maine, was a usurpation of authority, which ought to be disavowed by the General Government.

The insupportable objection to the military occupation of the disputed territory by Great Britain, requires, in common fairness, that no attempt of the kind should be made by Maine of the United States. Having accomplished her intention of driving off or arresting the trespassers upon the Aroostook, and thus enforcing her laws, Maine will, it is not to be doubted, be satisfied with this vindication of her sovereignty, and withdraw the military force which is now in arms to sustain the civil authority and repel invasion. A contemporaneous cessation of measures by Maine and N. Brunswick will compromise the honor of neither; and times will thus be afforded for the British Government to select the position which it intends to occupy in the relations between it and the United States.

If we understand the "protocol" between Mr. Forsyth and Mr. Fox, it is a virtual admission on the part of our administration, that the government of New Brunswick is to exercise exclusive jurisdiction over the disputed territory, until the question shall be settled by negotiation, which, to use a vulgar phrase, will probably be "the next day after eternity." Her Majesty will not seek to expel by arbitrary force, the armed party of Maine, but the Government of Maine will withdraw this armed force from the disputed territory! What is this but commanding Maine to give up the territory in question to the entire control and possession of her arrogant and avaricious neighbour? Maine ought not to withdraw her armed force; and if the Union will not sustain her rights, she will be justified by patriotism, equity and common sense, in sustaining them herself. Having taken her stand, as she has, on ground that cannot be assailed by any decent argument, she will be false to herself if she retracts an inch, or withdraws a man from the boundary. If the administration choose to continue the non-committal policy, and play the servile coward to Great Britain, let her take her quarrel into her own hands; she will have at least the good wishes of a majority of her people; if Government should forbid their active interference, she will finally come off victorious, unless, like a "lily-livered dolt," she submits to be ejected and cheated by further negotiation.—[Boston Courier.]

[From the Augusta Journal, March 5.]

It will be seen that the President does not sustain Gov. Fairfield. He censures him solely for not having notified Governor Harvey of his design to drive off the trespassers, and he recommends that the force of Maine shall be disbanded while he and the British Government continue the negotiation! There is a great want of decision in the President's course. He is a little so and a little so so, and on the whole he thinks we had better keep cool, let the British trespassers carry off the best timber, and submit to further indignities when they are offered. We hope Gov. Fairfield will not withdraw the troops, but occupy and protect the territory up to the line run by Gov. Kent. Maine will stand by him in this, and we believe the nation will stand by him, whatever the President and Mr. Fox may agree to.

Resolutions have been introduced into the Legislature of New York, fully approving the conduct of Maine, and pledging the State, if a resort to military force is found necessary, to make common cause with Maine.—[Boston Atlas.]

Gen. Scott of the United States Army was in Boston on Saturday last, said to be on his way to Maine. He visited both Houses of the Legislature, and dined with Gov. Everett. Major Ripley, the Commander of the Arsenal in this town, was in company with General Scott.—[Augusta Journal, 1st March.]