

FREDERICTON, 12th March, 1839.

The following official documents were communicated by His Excellency the Lieutenant Governor, in answer to the Address of the House of Assembly, on the 9th instant, upon the subject of the Boundary question:—

Washington, February 23d, 1839.

SIR—I have this day received a Despatch from Major General Sir John Harvey, Lieutenant Governor of the Province of New Brunswick, containing the enclosed Proclamation issued by His Excellency on the 13th instant, and conveying to me the information of an unjustifiable incursion into a part of the disputed Territory, situated on the Restook River, by an armed Body of Militia from the State of Maine, acting to all appearance under the authority of the Government of that State.

The professed object of the incursion is stated to be, to capture or drive away a party of persons who are alleged to be trespassing and cutting timber on lands in the neighbourhood of the Restook River.

But it is well known that all that part of the Disputed Territory is placed under the exclusive jurisdiction of Her Majesty's authority, and that it is bound to remain so by explicit agreement between the Governments of Great Britain and the United States, until the final settlement of the question of the North Eastern Boundary.

Her Majesty's officers therefore cannot permit any act of authority, such as is now attempted by the State of Maine, to be exercised within the Territory in question, and it will become the bounden duty of the Lieutenant Governor of New Brunswick to resist the attempt, and to expel by force the Militia of Maine, if the present incursion be persisted in.

Under these circumstances, I invoke the immediate interference of the General Government of the United States, to prevent the threatened collision, by causing the authorities of Maine to withdraw voluntarily their Militia Force, and to desist, in obedience to the agreement subsisting between the two Nations, from their present unwarrantable proceeding.

I avail myself of this occasion, &c. &c.
(Signed) H. S. FOX.
The Honorable JOHN FORSYTH, &c. &c.

Department of State,
Washington, 25th February, 1839.

SIR—Your letter of the 23d instant, calling upon the General Government to interfere to prevent a collision between the Governments of New Brunswick and the State of Maine, which you apprehend will be the consequence of a recent attempt made by the State authorities to expel trespassers upon the public lands in the Territory in dispute between the Governments of the United States and Her Britannic Majesty, has been laid before the President, who, after a careful examination of the contents, has instructed me to reply, that your Note and the Proclamation of Sir John Harvey, the Lieutenant Governor of New Brunswick, which was sent with it, have been both prepared under erroneous impressions as to the facts of the transaction to which they relate. Communications from the Government of Maine enable me to state to you that the recent movement in the disputed Territory was founded upon a Resolution of the Legislature, a copy of which is herewith enclosed. You will perceive that no military occupation of the Territory was contemplated; the sole object having been to remove trespassers who, in violation of the right of property to whomsoever it may belong, and the declared intentions of both Governments, were gradually and hourly diminishing its value. From the authority given to the Agents of the State of Maine, and from information of undoubted authority, it is known that the persons engaged in this affair, although armed, from an apprehension of resistance from the large body of armed lawless aggressors on the public domain, were not detailed from the Militia of the State for that purpose, but were employed by the Land Agent of Maine, and one of her Sheriffs, who were to direct and controul all their movements. Had the sole and avowed object been accomplished the party would have immediately withdrawn, leaving the Territory in all other respects in the condition in which it was found by them. This termination of the enterprise has been thus far suspended by the unexpected seizure and detention of the Land Agent of Maine, who was arrested by the trespassers when in the act of putting himself in communication with the Agent of the Government of New Brunswick, appointed by that Government to watch the Trespassers he has himself been directed to arrest or drive off. Her Majesty's Government cannot be surprised however, much as it may regret, with the President, that Maine has thought herself compelled to adopt some decisive movement on the subject, when it is recollected that as long ago as the year 1829, Mr. Clay, then the Secretary of State, apprized the British Minister, Sir Charles R. Vaughan, on the occurrence of similar but less extensive violations of the property in question, alleged to have been authorised by the Colonial Government, that if such trespassers were authorised or countenanced on the Disputed Territory, it was not to be expected that the State of Maine would abstain from the adoption of preventive measures. It is true that in the present instance the trespassers were not believed to have been either countenanced or authorised by Her Majesty's Colonial Government; but that circumstance would itself lead to some surprise at the excitement produced by an act equally required by the interest of both Nations. Sir John Harvey has indeed subsequently taken measures which prove his own conviction of the necessity of interference on the part of one or both Governments to arrest a systematised plundering of the public domain. The President hopes, therefore, that as you will perceive that there was no military occupation attempted, that the object in view was perfectly lawful, the necessity of it being acknowledged by the act of Sir John Harvey; that as soon as the purpose is accomplished the Agent and his assistants will as heretofore on like occasions be withdrawn, that you will not find it difficult to satisfy Her Majesty's Colonial authorities, that there can be no occasion for collision with Maine, growing out of this renewed exercise on her part of an oft asserted right due to herself, and useful in this instance to Her Majes-

ty's Government, whatever may be the result of the pending negotiation, especially on the supposition that the territory in question should be hereafter found to belong to the British Provinces. In that event the President persuades himself from the known disposition and long tried forbearance of the State authorities, that he will find it easy to prevent any military array on the Territory on the part of Maine, or procure the voluntary disbandment of any militia that may have been brought together from the apprehension of a collision with the Colonial Government. The propriety of the prompt release on each side of the Agents of the State and Colonial Governments who have been arrested, as the President believes under a mutual misapprehension, is so obvious, that he takes it for granted they will be respectively set at liberty, if that has not been already done.

It would give me pleasure to be able to conclude this communication without further remark; but there is another error in your letter, of so grave a character that to avoid the possibility of a misapprehension, the President has made it incumbent on me to call to your especial notice:—It is the assertion that "it is well known that all that part of the disputed Territory is placed under the exclusive jurisdiction of Her Majesty's authority, and that it is bound to remain so by explicit agreement between the Governments of Great Britain and the United States until the final settlement of the question of the Northeastern Boundary." That Great Britain has sought on several occasions to prove argumentatively that the exclusive jurisdiction rested with her until the final settlement of the question, I shall not controvert; but the question of title and of the right of jurisdiction as consequent thereon, or as resulting from the previous exercise thereof has been a subject of continued controversy between the two Governments, in respect to which neither has released or waived its claims. So far from any relinquishment of right of jurisdiction having been made, or any agreement, either express or implied, entered into on the part of the Government of the United States, of the nature alleged by the Lieutenant Governor of New Brunswick, and affirmed also in your Note of the 25th instant, it will appear from the whole course of the correspondence between the two Governments, extending through a series of years, that that of the United States has throughout and on frequent occasions solemnly protested as well against the existence of the right to the exclusive possession and jurisdiction as to the exercise thereof; and has upon every proper occasion asserted that both belonged to Maine, and to the United States. The assertion now made therefore appears to be so extraordinary, that I am instructed to ask from you a full explanation of the ground upon which it is placed, as the President owes it in duty to the General and State Governments that the error may be traced to its source, and that the two Governments may know distinctly and without delay the true extent of their understanding on this point, that no unfortunate or fatal consequences shall spring from any misconception on either side in respect to it. In the present state of the intercourse between Great Britain and the American Continent, and the rapidity with which Her Majesty's Government can be consulted on all questions arising with this Government or in Her Majesty's Possessions, the President believes that this state of the question should of itself furnish an amply sufficient reason to prevent any hasty action on the part of the Colonial Government, which may lead to results fatal to the good understanding and eminently hurtful to the prosperity of the two Countries.

I cannot take leave of this subject without adverting to the delay of Her Majesty's Government in making some decisive proposition to advance the final settlement of the question of Boundary, thus exposing the two Governments, as the present condition of things on the frontier too clearly shews, to consequences which neither can look to without pain, and full of mortification to that one to whom any unnecessary procrastination may be attributable. I avail myself, &c. &c.
(Signed) JOHN FORSYTH.
HENRY S. FOX, Esquire, &c. &c.

Washington, February 25th, 1839.

SIR—I have the honor to acknowledge the receipt of your letter of this day's date, written in reply to a communication which I addressed to you on the 23d instant, upon the subject of the dispute that has arisen between the Governments of New Brunswick and Maine.

With reference to that portion of your letter which treats of the question of actual jurisdiction, pending the negotiation for the settlement of the disputed Boundary, I deeply regret to find that the Government of the United States is now placed directly at variance with the Government of Her Majesty in its understanding of that question, I shall lose no time in transmitting your letter to Her Majesty's Government, in order that I may be enabled to convey to you, if necessary, a full knowledge of the views and intentions of Great Britain upon this part of the subject.

I confine myself for the present to protesting in the most formal manner against the views set forth in that part of your letter to which I am now referring. I adopt this course in preference to entering at once into a detailed discussion of the matter, because, in the first place, I shall best be able to do so after direct communication with my Government, and, in the second place, because I entertain the hope that an early settlement of the general question of the disputed Boundary may render this superfluous point of difference of little moment.

I avail myself, &c. &c.
(Signed) H. S. FOX.
The Honorable JOHN FORSYTH, &c. &c.

Washington, February 27th, 1839.

SIR—I received on the 23d instant Your Excellency's letter of the 13th, containing your Proclamation of that day's date, and conveying to me information of an armed incursion by the people of Maine, into a part of the Disputed Territory, situated on the Restook River.

I herewith transmit to you copies of an official correspondence, which has since passed between the United States Secretary of State and myself.

You will perceive from this correspondence that the American Government is now prepared categorically to deny the existence of an agree-

ment to the extent as understood by us, respecting the exclusive exercise by Great Britain, of jurisdiction over the Disputed Territory, pending the negotiation for the settlement of the Boundary.

The two Governments are thus placed pointedly at issue upon this subordinate branch of the Boundary question. It is only by direct negotiation and free discussion between them, that a definite understanding upon the point at issue can be arrived at.

In this state of the affair, I think it best becomes us, as the servants of a Sovereign whose generous forbearance is unequalled in the History of Nations, to refrain from further action until the time shall have been afforded to Her Majesty's Government to attempt the adjustment of the difference by friendly means.

Governed by these feelings, I have this day signed with the Secretary of State, of the United States, the enclosed memorandum, containing terms of accommodation which we have agreed to recommend to the adoption respectively, of Your Excellency and the Governor of Maine.

I am aware, considering the nature of your instructions, of the grave responsibility which you will incur by acceding to the proposed terms of accommodation; but I think that in the present conjuncture, such responsibility ought to be fearlessly met; and any share thereof that may fall upon me for the advice which I am now giving, I will cheerfully accept.

We shall be making a large and generous concession to the pretensions of the people of Maine, by admitting the question of present jurisdiction to be in any way open and debatable; but I deem the concession worth making, if it enable us to preserve peace honorably between the two countries.

The question of present jurisdiction is after all, from its nature, subordinate and provisional; it will cease to be any question at all, as soon as the Boundary controversy is determined. Surely it would be a lamentable act of imprudence, if, while the two Governments are gravely and in a friendly spirit negotiating the general question of disputed Boundary, the Nations should rush to war in order to decide the inferior point, of which of them shall in the mean time exercise temporary jurisdiction within the district in dispute.

The duplicate of the enclosed memorandum if forwarded to the Governor of Maine, who I have no doubt, under the recommendation of the President, will comply with the terms proposed, if Your Excellency shall be willing equally to accede to them.

I have the honor to be,
with great respect and consideration,
Your Excellency's most obedient
and humble Servant,
(Signed) H. S. FOX.

His Excellency
Major General Sir JOHN HARVEY K. C. B.

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 North Eastern 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 on the contrary consider 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 tranquillity 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 Great Britain and the United States; and as it is confidently hoped that there will be an early settlement of the general question, this subordinate point of difference can be of but little moment.

In the mean time the Government of the Province of New Brunswick and the Government 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 upon the Restook 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 agreement 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 this 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 hereinafore 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.

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

JOHN FORSYTH,
Secretary of State to the United States of America
Washington, February 27th, 1839.

Government House, Fredericton N. B.
March 6th, 1839.

SIR,—Your Excellency's letter of the 27th

ultimo, with its enclosures, was this day delivered to me by Mr. Scott, a special Messenger.

Yielding to circumstances, which I admit with your Excellency to constitute a sufficient justification for a departure from the strict letter of the instructions from Her Majesty's Government, under which it is made my duty to act in reference to the Territory in dispute between Great Britain and the United States, on the South West Frontier of this Province, and I will add, to the anxious desire which I have always felt, that matters of obviously secondary and minor import connected with that great question, should not be allowed to involve this Province in border collision with the State of Maine, which might lead to a National War. I do not shrink from the responsibility imposed upon me by those instructions of deferring all offensive measures, as relates to the occupation by the Militia of the State of Maine of a certain portion of the Disputed Territory, for a period which may be sufficient to enable me or Your Excellency to receive the decision of Her Majesty's Government upon the subject. My measures shall accordingly be confined to the protection of the communication between this Province and Lower Canada, through the Valley of Saint John, and of Her Majesty's subjects of the Madawaska Settlement.

I cannot conclude this despatch without tendering to Your Excellency my best thanks for the frank and manly offer which you have made of sharing with me the responsibility of a deviation on my part, from the strict letter of my instructions:—That offer is in strict accordance with the whole tenor of the correspondence which I have had the honor and the pleasure of holding with Your Excellency upon this subject, during the short period of my administration of the Government of this Province; and I beg you to believe, and I know that your Excellency will not doubt, that I sincerely participate in the sentiments embodied in the paragraph immediately succeeding that conveying this tender.

I have the honor to be,
With the highest respect, &c. &c. &c.
(Signed) J. HARVEY.

His Excellency
The Right Honorable H. S. FOX, &c. &c. &c.
Government House, Fredericton, N. B.,
March 7th, 1839.

Major General Sir John Harvey, presents his compliments to Governor Fairfield, and with reference to a communication which he has just received from Her Majesty's Minister at Washington, transmitting a memorandum under the joint signatures of Mr. Forsyth, Secretary of State, and Mr. Fox, containing terms of accommodation recommended by the Secretary of State, and Her Majesty's Minister Plenipotentiary, to Governor Fairfield and himself respectively, begs to say, that he will be happy to enter into such amicable communication with His Excellency upon the subject, as may conduce to the attainment of the very desirable and important object thereby proposed to be effected.

Sir J. Harvey has answered Mr. Fox's communication, by expressing his entire readiness to give effect to the proposed agreement, so far as may be dependent upon him.

BOSTON, March 5.

The proceedings of Congress in relation to our difficulties with Great Britain do not appear to be deficient in spirit—but they seem to us lamentably wanting in discretion. The speeches of some of our gravest legislators men to whom we have been accustomed to look with reverence, as eminently qualified to guide correctly the helm of state, breathe the very concentrated essence of hostility, of hatred against the kingdom of Great Britain. They seem ready to

"Cry havoc—and let slip the dogs of war."

It is an easy thing to shake aloft the blood red torch—and stimulate the animal passions of man. Such a course may be well calculated for popular effect—but how much nobler does man appear, when he is striving to allay excitement—to rouse the moral and intellectual faculties to action—when, like a real patriot, he urges measures which will promote the happiness as well as honor of the people.

BANGOR, March 12.

Fitzherbert, at whose house Mr. McIntire was arrested on the 13th ult. was examined before the Municipal Court in that City on Saturday on a charge of having aided and abetted sundry of Her Majesty's subjects in the high misdemeanor of arresting our Land Agent and his assistants. He was bound over in the sum of £125 to appear at the Court of Common Pleas to be held in May, and for want of bail committed to prison.

CONSIGNMENT.

THE Subscriber has just received by the latest Steamers, a large quantity of TEAS; consisting of Gunpowder, Hyson, Twankey Young Hyson, Souchong, Congo of different kinds, and Bohea, part of the Clifton's and part of the Hon. East India Company's Teas, comprising an excellent assortment for family use or Retailers.

Also—Very superior WINES, Bottled in Cases and Barrels: put up for the Mess of the 65th Regiment.
Best Golden SHERRY, Best L. P. MADIERA Old CLARET, Old PORT, and Pale BRANDY.

One Bale 7, 9-4 and 10-4 BLANKETS; an assortment of FURS, consisting of Caps, Mitts, Boas, &c.

Likewise on hand—Lisbon and Sherry Wine, Bottled in Barrels, best Cognac BRANDY, wood, best Government Manilla SEGARS, with a variety of other articles.

MARK NEEDHAM.

Fredericton, Nov. 13, 1838.—tf.

NOTICE.

ALL Persons having any legal demands against the Estate of the late SETH GRISWOLD, deceased, of the Parish of Queensborough, in the County of York, are requested to render their Accounts, duly attested, within twelve Calendar months from the date hereof, and all Persons indebted to said Estate are required to make immediate payment to

DAVID MROBERTS, } Executors.
IRA INGRAHAM, SENIOR, }
LEWIS HUESTIS, SENIOR, }

Queensborough, Co. of York, Dec. 20, 1838.—3m

ROYAL GAZETTE.

FREDERICTON, MARCH 20, 1839.

Central Bank of New Brunswick.

WILLIAM J. BEDELL, President.
ROBERT GOWAN, Cashier.
Discount Days.....Tuesdays and Fridays.
Director this week.....CHARLES P. WETMORE.
Bills or Notes offered for discount must be left at the Bank, enclosed and directed to the Cashier before two o'clock on Mondays and Thursdays.

Commercial Bank of New Brunswick.

FREDERICTON BRANCH.
ASA COY, Chairman of Directors.
ARCHIBALD SCOTT, Cashier.
Discount Days.....Mondays and Thursdays.
Hours of business from 10 to 3.
Notes or Bills for discount are to be left at the Bank, enclosed and directed to the Cashier before 3 o'clock on Saturdays and Wednesdays.
Director this week.....W. D. HARTT.

Bank of British North America.

FREDERICTON BRANCH.
ALFRED SMITHERS, Manager.
Discount Days.....Wednesdays, and Saturdays.
Director this week.....JOHN F. TAYLOR.
Hours of business, from 10 to 3.
Notes and Bills for Discount to be left before 3 o'clock on the days preceding the Discount Days.

Saving's Bank.

Trustee for next week.....B. WOLHAUTER.

Central Fire Insurance Company.

Office open every day, at Mr. Minchin's Brick House opposite the Parade, (Sunday excepted,) from 11 to 2 o'clock.

B. WOLHAUTER, President.

Committee for the present month.

W. D. HARTT and THOMAS T. SMITH.

Alms House and Work House.

Commissioner for the week commencing to-morrow.

CHARLES LEE.



By Authority.

PROVINCIAL APPOINTMENT.

James Wallace, Junior, to be Supervisor of the Great Road from Hopewell to Salisbury, commencing at Isaac Derry's.

HEAD QUARTERS.

FREDERICTON, 15th MARCH, 1839.

MILITIA GENERAL ORDER.

Inconvenience having been experienced from the provisions of the Militia Law, not having been fully carried into effect, relative to the appointment of an officer to the general command of the Regiment composed of the Battalions of the City of Saint John Militia, with a view to the performance of certain duties pointed out by that Law. To meet this case, and to remedy this inconvenience, Lieutenant Colonel B. Peters was appointed by the Commander in Chief to that situation, viz.: To superintend the enrolling of the Men of these Battalions, in co-operation with the enrolling officer, and not with any view to any interference on his part with the interior economy or discipline of the City Rifle Battalion, under the command of Lieutenant Colonel Ward.

By Command.

GEORGE SHORE, A. G. M.

HEAD QUARTERS.

FREDERICTON, 19th March, 1839.

MILITIA GENERAL ORDERS.

In consequence of the County of Gloucester having been divided into two separate and distinct Counties, the Commander in Chief deems it proper to form that portion of the 1st Battalion Gloucester Militia, resident within the new County of Restigouche, into a separate Battalion, to be designated "Battalion of Restigouche Militia," and has been pleased to appoint thereto the following officers.

Robert Ferguson, Lieutenant Colonel.

TO BE MAJOR.

Captain Adam Ferguson, dated 19th March, 1839.

TO BE CAPTAINS.

John Douglas.
David McIntosh.
Dugald Stewart.
Alexander M'Pherson.
Robert Ferguson, Junior.
John Montgomery.
Alexander Ferguson.

TO BE LIEUTENANTS.

William Craig.
William Flemming.
Allan Fraser.
W. M'Pherson.
Andrew Barberie.
James Paul.
John M'Farlane.

TO BE ENSIGNS.

D. M'Nair.
Robt. Montgomery.
Robt. Jardine.
M. Ferguson.

TO BE ADJUTANT.

James M'Pherson, Captain.
Joseph Hunter, Quarter Master.
D. R. Carter, M. D. Surgeon.

1st Battalion York.

—Hartt, to be Assistant Surgeon.

2d Battalion Charlotte County.

TO BE CAPTAINS.

Lieutenant Hugh Mattheson, of a new com

pany.

do. Archd. M'Callum, do. do.

do. Duncan M'Farlane, do. do.

TO BE LIEUTENANTS.

Justus Wetmore, from the St. John Militia.