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STATE OF NEW YORK.

REPORT

OF THE

REGENTS OF THE UNIVERSITY

ON THE

BOUNDARIES

OF THE

STATE OF NEW YORK.

PREPARED BY

DANIEL J. PRATT, PH. D.,

ASSISTANT SECRETARY.



Volume II.

BEING A CONTINUATION OF SENATE DOCUMENT NO. 108 OF 1873, AND SENATE DOCUMENT NO. 61 OF 1877.

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SECOND REPORT

OF THE

REGENTS OF THE UNIVERSITY

ON THE

BOUNDARIES OF THE STATE OF NEW YORK.

UNIVERSITY OF THE STATE OF NEW YORK:

OFFICE OF THE REGENTS,

ALBANY, N. Y., *May 8, 1877.* }

To the Hon. WILLIAM DORSHEIMER,

President of the Senate:

SIR.—I have the honor to transmit, in continuation of the Report of the Regents of the University of May 28, 1873, on the Boundaries of the State, prepared under authority of a resolution of the Senate, adopted April 19, 1867, the annexed copies of Historical Documents,* with brief explanatory statements and notes.

By order of the Regents,

S. B. WOOLWORTH,

Secretary.

*The discovery of new material after the transmission of this report to the Legislature, and the time required for its collection and examination, have rendered an earlier issue of this report impossible. It is believed that few, if any important papers pertaining to these boundaries will be found to have been overlooked in this compilation.



REPORT.

To the Legislature of the State of New York:

The Regents of the University, in communicating this continuation of their Report of May 28, 1873 (Senate Document No. 108 of that year), take pleasure in referring to the recognized historical value of that document, which has already been of service in preparing to retrace the joint boundary line between this State and Pennsylvania, under the authority of chapter 424 of the Laws of 1875. Other parts of that Report, and of this continuation, will be equally serviceable, and even indispensable, in any future reconnoissance of the other boundary lines of the State. Probably few persons are aware of the nature and extent of the proceedings had in connection with the establishment of these boundary lines. Many of the official records on this subject have hitherto been accessible only in manuscript form, as preserved in the State archives, while such as have been printed are not fully reliable, on account of clerical and typographical errors. In this publication, the sources of information are fully cited, so that any question that may arise about the original text or collateral points, can be readily determined.

The preparation of this work, like that of 1873, has devolved upon Mr. Daniel J. Pratt, the Assistant Secretary of this Board, who has spared no pains to make an impartial and thorough examination of the whole subject.

All which is respectfully submitted,

By Order of the Regents,

JOHN V. L. PRUYN,

Chancellor of the University.

S. B. WOOLWORTH, *Secretary.*

ALBANY, *May 8, 1877.*

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COPIES OF HISTORICAL DOCUMENTS

RELATING TO THE

BOUNDARIES OF THE STATE OF NEW YORK

PART II.

FIELD WORK AND OTHER MATTERS RELATING TO THE
DETERMINATION OF THE SEVERAL BOUNDARY LINES,
AND TO THE ERECTION OF MONUMENTS THEREON.

(Continued from Senate Document No. 108, of 1873.)

DETERMINATION OF THE NEW YORK AND CANADA JOINT BOUNDARY LINE.

[GOVERNOR MOORE TO THE LORDS OF TRADE.]

New York, 12 August 1766.

* * * *

* From the Mohawk Country I propose to go to the north End of the lake Champlain, in order to ascertain the boundary line between Quebec and this Province, which by His Majesty's order is fix'd at the 45th degree. The great expence which has been occasioned to this Prov^{ce} by the neglect of so necessary a point, as that of fixing their boundaries, and the dispute still subsisting with the Provinces of Jersey and the Massachuset, have engaged me in this undertaking, and as the lands thereabout are intirely uncultivated, I shall have no disputes to encounter with, by the claims of persons, pretending to be proprietors of the soil, and a matter of this kind is of course much more easily settled than in a cultivated country, where the difference of the Quit rent and the other causes might give uneasiness, altho' the line should be settled with the greatest accuracy. I have wrote to the Gov^r of Quebec, to inform him of my intention, and desired to meet him at a place appointed, requesting at the same time, that in case, either health or business should prevent him, that he would send up some intelligent person, who might be a witness of our transactions there. I shall on this occasion endeavour to obviate any disputes which arise in futuro, and shall not trust to my own skill and judgment, but shall take with me the Mathematical professor¹ of the College here, and a very fine

¹This seems to have been Robert Harpur.—[P.]

instrument now in his possession, & every observation made, will be in the presence of several Gentlemen of Fortune in this Province who have promised to attend me in this troublesome expedition. Before I return from the Lakes I propose to take the opportunity of taking the lattitudes of several places between Albany and the boundaries, that I may be able from thence to form a more correct Map of those parts than what has hitherto been obtained. I have the honour to be with the greatest respect My Lords.

Your Lord^{pp}s most obedient
and humble servant

H. MOORE

—[*N. Y. Col. Doc.*, vii, 850.]

[GOVERNOR MOORE TO THE EARL OF SHELBURNE.]

Fort George, N York 11 Oct^r 1766.

My Lord

After my absence of some weeks from this City, during which time I have been employed in fixing the boundary Line between this Province and Quebec and in settling some uneasiness which had arose among the Mohawk Indians, I returned to New York about an hour before the Pacquet sail^d which gives me just time to acknowledge the honor of your Lordships letters of the 10th of July and 9th of August and at the same time to offer my most respectful congratulat^{ns} on your Lordships appointment to the office of Secretary of state ; By the next Pacquet I shall beg leave to lay before your Lordship some claims made by the inhabitants of Quebec on the Lands of this Province, which occasion great uneasiness here and hope to be able by that time to procure a map of that Part of the Country which may serve to put the dispute in a proper light; whatever else may occur in which his Majesty's Service may be promoted, shall be constantly laid upon your Lordship and I have the honor to be with the greatest respect

My Lord

Your Lordships

most obedient and humble Servant

H. MOORE

—[*N. Y. Col. Doc.*, vii, 873.]

[GOVERNOR MOORE TO THE LORDS OF TRADE.]

New York. 7. Nov^r 1766.

My Lords

I had the honor of informing your Lord^{pp}s in a former letter that I proposed to settle the Boundary line between this Province & Quebec as soon as I could conveniently leave this City, and it was not long

before I had an opportunity of doing it, for upon the arrival of Brigadier Carleton from England, I set out in company with him for lake Champlain, and after encountering with many difficulties occasioned by the badness of the weather, we fixed the limits on the River Sorrell about two miles and a half below windmill Point, which is further to the Northward than we imagined to find it from the observations which were said to be made there by the French some few years ago; Upon our arrival at Windmill Point, several French Gentlemen came to us, there from Quebec, as well to pay their compliments to Brig^r Carleton, as to request of me the confirmation of their Rights to those Seigneuries which on our observations should be found in the Southward of the 45th degree, and which were granted to them before the conquest of Canada.

* * * *

* Your Lord^{sh^{ps}} will see at one view how great a prejudice to the settlement of the Prov^{ce}, the present uncertain tenure must occasion, for several other persons who have obtained His Maj^{ty's} sign manual for large Tracts are desirous of taking them up on the sides of Lake Champlain, and have already gone so far, as to make actual Surveys of the lands, but are now discouraged from proceeding farther, lest after a great expence incurred they might be turned out of possession. I was in hopes that I should have been able to have sent over to Your Lord^{sh^{ps}} by this opportunity an actual Survey of the Lake taken by a skillful hand, in which all the French claims were to be distinguished, with the number of acres which each of them contained, and likewise the grants made to the Officers and Soldiers, under the great seal of this Prov^{ce} in consequence of His Maj^{ty's} Proclam^{tn} which would have shew'd at one view how far they interfere with each other. The Deputy Surveyor of Canada, who attended me the whole time I was employed in fixing the line of division between the Provinces, promised to furnish me with an exact draught of all the Seigneuries on the Lake, time enough to transmit to Your Lord^{sh^{ps}} by the Packet, but I have not heard from him since my return hither.

* * * *

I have the honor to be — etc.

H: MOORE.

—[*N. Y. Col. Doc.*, vii, 873.]

[GOVERNOR MOORE TO THE EARL OF SHELBURNE.]

Fort George New York Nov 8. 1766

* * * *

* I have now the honor to inform your Lordship that the line of Division between this Province and Quebec is fixed in the River Sorrell about Two miles and a half below Windmill Point, so that no part of

Lake Champlain is included in the Province of Quebec, except a small Portion of the Missicoui Bay; * * *

H. MOORE.

—[*N. Y. Col. Doc.*, vii, 375.]

[IN COUNCIL AND GENERAL ASSEMBLY.]

November 10, 1766.

* * * *

Gentlemen of the General Assembly,

The great Expence in which this Colony has been engaged for some time past, and the Difficulties which still subsist in regard to Limits between this and the Neighbouring Provinces of Massachusetts and the Jerseys, have engaged me to ascertain as soon as possible, the Line which his Majesty has been pleased to fix, by his Royal Proclamation, for the Boundary between this Province and Quebec. And after the necessary supplies of Government are raised, I must recommend it to the General Assembly to make Provision for the farther opening and continuing this Line, in which I flatter myself that the Province of Quebec, equally interested in it, will readily contribute, as a Mutual Benefit will be derived from it. I must at the same time earnestly request that proper measures may be taken to settle the Boundaries between the different Counties in this Province, and fix them by Authority. * * *

H: MOORE.

—[*N. Y. Legis. Council Journal*, p. 1598.]

[IN COUNCIL.]

November 14, 1766.

The humble ADDRESS of the Council of the Province of New York.

May it please your Excellency,

* * *

Sensible of the great Importance of having the Limits of the Province well established, we have great satisfaction in the early measures that your Excellency has taken to ascertain the Line, which his Majesty has been pleased, by his Royal Proclamation, to fix as the Boundary between this Colony and Quebec; and hope your Excellency's Recommendation to provide for the further opening and continuing that Line, will have the desired effect.

* * * *

By order of the Council

DAN HORSMANDEN, Speaker.

Council Chamber New York

14th November 1766.

—[*N. Y. Legis. Council Journal*, p. 1600.]

[GOVERNOR MOORE TO THE LORDS OF TRADE.]

New York. 19. Dec^r 1766.

* * * *

P. S. Brig^r Carleton, having told me, that he intended writing to your Lord^{sh} immediately upon his arrival at Quebec, to request on the Part of that Province, that the Boundary line which had been settled by us might be fixed by His Majesty's authority where we had mark'd it; I have the same request to make on the part of this Province, as it may be a means of preventing any Litigation hereafter, and quieting the minds of many who are going up early in the spring to settle in those parts.

—[*N. Y. Col. Doc.*, vii, 885.]

[GOVERNOR MOORE TO THE EARL OF SHELBURNE.]

Fort George, New York, 7th Decem^r 1767.

* * * *

* Last year I was employ'd for Six Weeks in settling the Boundary Line between this Province and Quebec, & in the Negotiation with the Indians, to whom I gave presents of considerable value before I left them, but on my return here no compensation was made to me for the monies laid out in these necessary services; not one shilling of it has been yet repaid although two Sessions of Assembly have been held since that time nor do I suppose it is ever intended, notwithstanding it is well known that my expences amounted to upwards of £500; By the Table of Fees sent home lately your Lordship will see how deep such a sum will sink into the scanty salary of £2000 allow'd to the Governor here, which without any Deductions together with the common Fees of Office are far from being sufficient to support him with that decency becoming the King's Representative here.

* * * *

H. MOORE.

—[*N. Y. Col. Doc.*, vii, 1003.]

[IN GENERAL ASSEMBLY.]

Die Mercurij, 3 ho. P. M. the 30th December, 1767.

* * * *

Mr. Speaker also laid before the house, an account of money expended by his Excellency Sir Henry Moore, on his journey to settle the line of jurisdiction between this colony and the province of Quebec, amounting to the sum of

£379 11 7

And also a memorandum of sundry services performed by Mr. Ratzer, at the request of his Excellency the Governor.

Ordered, That the several accounts [including others than the above]

be refered to the consideration of the committee to whom is refered the bill, entitled "an act for paying the salaries and services of the several officers of the government, etc., * * that they examine the same, and add proper clauses thereto, for as much as they shall find justly due thereon.

* * * *
 —[*N. Y. Col. Assem. Journal*, 1766–1776, p. 61.]

[IN PRIVY COUNCIL.]

At the Court at S^t James the 12th Day of August 1768.

* * * * *

Whereas there was this Day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation affairs dated the 9th of this Instant, upon considering a Report made by the Lords Commissioners for Trade and Plantations, upon an Extract from a Letter from Sir Henry Moore Governor of New York, to the Earl of Shelburne dated the 16th January last, relative to the settling the Boundary Line between that Province and Quebec: By which Report it appears, that it having been mutually agreed upon, between Sir Henry Moore and the Commander in Chief of the Province of Quebec, at a Meeting for that purpose appointed, that the Line of Division between these Provinces should be fixed at the forty fifth Degree of North Latitude, conformable to the Limits laid down in his Majesty's Proclamation of October 1763, and it having been ascertained and determined by proper Observations where the said Line would pass; it is therefore proposed that these Proceedings above stated should be confirmed by his Majesty. His Majesty taking the said Report into Consideration was pleased with the advice of his privy council to approve thereof, and doth hereby confirm the said Proceedings above stated, and order that the said Line of Division be run out and continued as far as each Province respectively extends. Provided that nothing herein before contained shall extend to affect the Properties of his Majesty's new Subjects, having Possessions under proper Titles, on those parts of the Lands on the South side of this Line, the Dominion of which was not disputed on the part of the Crown of Great Britain; and Provided also that this Determination shall not operate wholly to deprive his Majesty's new Subjects of such Concessions on the South side of the said Line, on which they may have made actual Settlement and Improvement, although the Lands may have been disputed by the Crown of Great Britain; but that such Possessors shall be entitled to so much of the said Concessions, as shall be proportioned to their Improvements, at the rate of fifty acres for every three acres of Improvement, provided they take out Grants for the same under the Seal of the Province of

New York, subject to the usual Quit Rents; and Provided also that the Grant to no one Person shall exceed twenty thousand acres: And the Governors or Commanders in Chief of his Majesty's said Provinces of New York and Quebec for the Time being, and all others whom it may concern, are to take Notice of his Majesty's Pleasure hereby signified and govern themselves accordingly.

STEPH: COTTRELL.

—[*N. Y. Col. MSS.*, xciv, 50; *N. Y. Council Minutes (MS.)* v. 26, p. 131.

[IN COUNCIL.]

February 8, 1771.

* * * * *

His Excellency communicated to the Board his Intentions of sending a Message to the General Assembly recommending a provision for the expence of running and ascertaining the Boundary Line between this province and Quebec, from the Station fixed by Sir Henry Moore at the 45th Degree of Northern Latatude to Connecticut River, of which the Board approved and advised a Message to be sent accordingly.

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 208.

By his Excellency the Right Honourable John Earl of Dunmore Captain General and Governor in Chief in and over the province of New York and the Seiniories depending thereon in America Chancelor and Vice Admiral of the same.

In Council the twenty ninth Day of May 1771.

Whereas the General assembly of the said province did on the 14th day of February last Resolve that provision be made for defraying one half of the Expenses of running and ascertaining the Boundary Line between this Colony and Quebec from the Station fixed by his late Excellency Sir Henry Moore at the 45th Degree of North Latitude to Connecticut River provided the said one half thereof does not exceed the sum of one hundred and fifty Pounds. You are therefore to pay unto Samuel Verplanck in Behalf and on account of Adolphus Benzel the Surveyor employed on the part of this Province for running and ascertaining the said Line the sum of one hundred pounds to be by the said Adolphus Benzel employed in the service aforesaid and for so doing this shall be your warrant. Given as above

To Abraham Lott Esq^r Treasurer
of the Colony of New York.

By ordered his Excellency in Council.

—[*N. Y. Col. MSS.*, xcvi, 55.

[CORRESPONDENCE.]

Crown Point, Augst 9th 1771

Sir.

The bearer of this, M^r Smith, I beg leave to recommend, as I am well persuaded he deserves your Friendship. I have appointed him one of my Deputys: and agreeable, I have authorised him to assist you, in the execution of this Important business, in running *the Latitude 45*, the expences, of consequence, between the two Provinces, will be equal, and, I am well perswaded, that M^r Smith, in all purposes, will answer my presence, as neither my health, nor other Public concerns, will allow me to be for such long time absent.

I shall be extreamly happy, of seeing you in Canada or at Crown Point, as then I expect to contract a more familiar acquaintance with you.

My Lord Dunmore arrived the day before yesterday, and it is not likely he will go further, than Otter Creek, as He proposes soon, to set of for Virginia. Should my Lord resolve, further than Lake Champlain, I shall infallibly attend Him to Canada.

I am with sincere esteem Sir

Your most obedient and Humble Servant

ADOLPHUS BENZEL.

To John Collins Esq^r:Aug^t 10th

P. S.

Sir

Since writing this M^r Smith has been attack'd with fever and ague and probably by his sickness it will be uncertain if he can proceed. I therefore cannot reconcile my self how to act without one person present representing this Province tho I am well persnaded and assured of all M^r Collins' merits. I therefore wish you two, would settle how to act with the best propriety.

* * * *

ADOLPHUS BENZEL.

—[*N. Y. Col. MSS.*, xcvi, 78.]

[IN COUNCIL.]

At a Council held at Fort George in the City of New York on Wednesday the twenty-first day of August 1771.

* * * *

A letter of the 30th July last was read from Adolphus Benzell Esquire, acquainting his Excellency that himself and M^r Collins Deputy Surveyor General of Quebec, had appointed the 10th or 12th of this Month to begin running the Line of partition between the two provinces.

Ordered that the Clerk of this Board acknowledge the Receipt of the above Letter; and acquaint M^r Benzell by Letter, that his Excellency recommends the marking and distinguishing the Line so as that it may be easily discovered and traced on future occasions; and that he accompany his Return to his Excellency with a Copy of his Field Book enriched with such Remarks as he shall think worthy of observation.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 244.

[CORRESPONDENCE.]

New York 26th August 1771

Sir

His Excellency communicated to the Council your Letter of the 30th July, advising that yourself and M^r Collins Deputy Surveyor General of Quebec had appointed the 10th or 12th of this Month to begin running the Line of Partition between the two provinces.

I have his Excellency's Directions to acquaint you that he doubts not you will perform this very necessary and essential Service in a Manner that will give the utmost satisfaction to both governments, by making and distinguishing the Line, so as to prevent as much as possible any Difficulty in discovering or tracing it on future Occasions; and that he desires you will be so obliging as to send with your Return to him a Copy of your Field Book enriched with such Observations and Remarks as you shall deem worthy his Notice.

I am Sir &c.

(*No signature.*)

To Adolphus Benzel Esq^r

[Endorsed] Draft — Letter to M^r Benzell relative to the Line between New York & Quebec.

—[*N. Y. Col. MSS.*, xcvi, 81.

[IN COUNCIL.]

At a Council held at Fort George in the City of New York on Wednesday the twenty seventh day of November 1771.

* * * *

An account of Adolphus Benzell Esq^r exhibited in his Behalf by Joseph Smith, of Charges and Disbursements in running about twenty two Miles of the Partition Line between this Colony and Quebec amounting in the whole to £80.18.0, was laid before the Board and Read, whereby it appears that there is a Balance in his Hands of £19.2.0 due to this Province — Whereupon it is ordered by his Excellency the Governor with the Advice of the Council, that the said

Adolphus Benzell do pay the said Sum of £19.2 to John Collins Esq^r Deputy Surveyor General of Quebec, taking his Receipt for the same.

And it appearing that M^r Benzel had not personally attended the said Service, The Council humbly advised his Excellency the Governor to appoint some other Person in the Room of M^r Benzel who will attend the Duty personally to Act in Conjunction with M^r Collins in completing the said Line as soon as may be.

An account of John Collins Esq^r Deputy Surveyor General of Quebec of Charges and Disbursements made by him for running so much of the Partition Line between the two Provinces as is yet marked and distinguished; amounting in the whole to £89.19.4 Halifax Currency, was laid before the Board and read; whereby it appears that he has received of Adolphus Benzel Esq^r on Account £19.4.0, and that after deducting £19.2.0 which he is still to receive of M^r Benzel, there will be a Balance due to the said M^r Collins of £33.13.6 New York Currency on the part of this Colony, and the said Account being examined and considered at the Board, a Warrant was Ordered to issue for the Balance.

The following Warrant on the Treasurer being Read was signed by his Excellency the Governor Viz^t

To John Collins Esquire (being with the Sum of £19.4.0 he has Received and £19.2.0 he is to Receive of Adolphus Benzel Esq ^r in full of his Account of Expences accrued on the Part of New York in running about 22 Miles of the Partition Line between this Province and the Colony of Quebec the Sum of	}	£33.13.6.

—[N. Y. *Council Minutes* (MS.), v. 26, p. 258.

1771. Provinces of Quebec & New York—To Johns Collins Esq^r Deputy Surveyor General of the Province of Quebec for Sundrys for Carring on the Boundary line between the said Provinces.

	£.	s.	d.
Tinmans Bills for Kettles &c.....	2	2	6
M ^r Bells Bill at the River la Cole for Masons & Horses &c.	15	10	0
M ^r J. Maureys Bill for Cartage &c of Provisions	4	18	0
M ^r Ermingtongers Bill for Axes and Grocery	16	16	0
M ^r Morrisons Bill for Rum & Wine.....	10	7	4
P ^d the Cooper for Kegs & Tub.....	1	1	4½
Freight of Stores from Quebec	0	8	0
Beef and Tongues	1	16	0
2 Quire of paper.....	0	3	2½
2 Black lead pencils.....	0	1	0

	£.	s.	d.
Cartage	0	2	4½
a Quarter Cask of Maderia.....	16	0	0
Paid the Cooper for Kegs and drawing off a Cask of Wine at Quebec.....	1	1	7
To 6 Gallons of French Brandy	2	8	0
To M ^{rs} Myers at the Isle aux Noix.....	4	0	0
To M ^r Arnold at the Montreal Coffee House	2	2	9
To Venelau at Mesesquea.....	0	4	0
To the Cooper for heading the Bread barrils	0	8	0
To Cartage of Provisions &c from La Preairie to S ^t Johns.	3	4	0
Two loaves of Sugar	1	12	0
To Thomas at Grand Isle for greens &c.....	0	4	9½
Tavern Bill at M ^r Robinsons, S ^t Johns.....	2	10	9
To Cartage and ferriage from S ^t Johns to Montreal	1	5	10½
To Four Stones and cutting the Inscriptions.....	6	0	0
To Cash paid for carring the Stones from S ^t Johns to the River la Cole.....	0	8	0
Paid for making 14 bags	0	8	0
Mens Wages	51	3	0
	<hr/>		
	146	6	6½

3060^{lb} of Flour 1040^{lb} of Pork & 84 Gall^s of Peas — To be settled between the two Provinces.

STORES remaining belonging to the two Provinces left in the care of
M^r Joseph Bell at the River la Cole.

- 5 Barrels of flour
- 5 D^o of Pork and part of a Broken Barrel
- 2¼ D^o of Peas
- 3 Kegs of Maderia Wine
- 1 D^o of French Brandy
- 8 Axes and 12 bags
- 1 Barrel of new England rum

At M^r Robinsons S^t Johns

- 3 Tin kettles
- 2 Copper D^o
- plates dishes & spoons &c
- N. 2 Axes, & 2 bags stole by Deserters

Endorsed — Rec^d 30th Octr. 1771.

[CORRESPONDENCE.]

Fort George, New York, 30th Dec^r 1771.

Sir

The Commissioners formerly appointed for runing the partition Line between this Government and the Province of Canada, having proceeded only Twenty miles of the Distance, and it being necessary that some other person should be appointed in the Room of M^r Benzell, that the same may be fully extended between the two Governments; the nature of your office, as Surveyor General of the Province, points You out to me as the properest person to be nominated on the part of this Government to perform that essential and important Service. I am therefore to desire You to attend at Col^o Cristy's on the River Cole on the first Day of March next with such assistants and attendants only as will be necessary for extending the divisional Line to the Western Banks of Connecticut River, in Conjunction with the Commissioner named by the Government of Canada, who has directions to meet you at Col^o Christy's House with Provisions and other necessaries for proceeding, without Delay, on the Survey, agreeable to His Majesty's pleasure concerning the limits of the two Governments.

I am Sir Your most obed^t Serv^t

WM. TRYON.

Alexander Colden Esquire Surveyor General.

—[*N. Y. Col. MSS.*, xcvi, 4.New York Jan^{ry} 4th 1772

Sir

I am Honour'd with your Excellency's letter of the 30th of last Month and much obliged to you for the favorable opinion your Excellency is pleased to entertain of my being a proper Person to be nominated on the part of this Government for the service you mention and should be happy in performing the same would my State of health Permit me to undertake it; but as I have had several attacks of the Gout not only in my feet but likewise in my Stomach and dayly feel simptoms of it hanging about me I have great reason to be apprehensive that travelling and laying in the woods in the cold months of February and March might bring a severe fit of that disorder again upon me which would not only retard the Service but would endanger my life. I therefore pray y^r Excellency will excuse me and nominate some other person.

I am with great respect

Y^{or} Ex^{ty}sMost obed^t &Most humble Ser^t[Endorsed] "To Gov^r Tryon."

(Not signed.)

—[*N. Y. Col. MSS.*, xcvi, 32.

[IN COUNCIL.]

At a Council held at Fort George in the City of New York
on Wednesday the Twenty second day of January,
1772.

* * * *

His Excellency laid before the Board the Draft of a Commission authorizing Alexander Colden Esquire Surveyor General of this Province, by himself or his sufficient Deputy, in Conjunction with the Surveyor already or which shall hereafter be appointed on the Part of the Colony of Quebec, to Run, Mark, ascertain and distinguish the Partition Line between the said two Provinces, as far as each respective Province extends. And the Draft being Read and a Clause added thereto, enjoining the Surveyor General or his Deputy to observe and perform such Instructions, as shall be given by the Governor or Commander in Chief for the Time being, The same was approved of, and ordered that the same Pass the Great Seal accordingly.

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 271.

[CORRESPONDENCE.]

Fort George New York

30th January 1772.

Copy
Sir

In Consequence of the Commission you have received from me for running the Partition Line between this Government and the Province of Quebec, You will please to observe that You are required by Yourself, or your sufficient Deputy, to repair by the First Day of March next to the house of Collonel Christy on the River Cole, about two Leagues to the northward of Point Moore, taking with you such assistants and attendants, as will be requisite for extending the said Line in Conjunction with the Surveyor, (or Commissioner,) and his attendants appointed by the Government of Quebec, who will meet you there, with provisions and necessaries for proceeding without Delay to the place where the Surveyors or Commissioners stopped the last Fall. From whence you are to continue the same Line untill you arrive at the western Banks of the main Branch of Connecticut River that Crosses the Forty Fifth Degree of northern Latitude, but if such main branch shall be found not to extend Northward, so far as the Latitude of Forty Five, then to run a perpendicular from the northermost part of the said Branch to the Line aforesaid; and in running the said Line care must be taken to blaze the Trees on the East and west Sides as you pass along Cutting down only such Trees as stand directly in the sight of the Compass, and at the Distance of every three miles laying together a large Heap

of Stones, and cutting a few notches on the Trees highest each pile of Stones. It is of the utmost Consequence that you should not stop at any water Course short of the aforementioned main Branch of Connecticut River, and it is only by adhering to these Instructions that You can answer the just Expectations of the Public, from whom you are to receive your Reward for performing this Important Service.

You are to return to me a map with a Field book of the Survey in which Book, You are to take notice of all Remarkable waters you cross minuting also the Courses and distances of the marked Trees near the monuments of Stones You shall erect, with such other observations as shall appear worthy of notice, to the Intent such map and Field Book may be lodged in the office of the Secretary of the Province.

I am

Sir

Your most obedient Servant

WM TRYON

Alex^r Colden Esquire Surveyor General.

—[*N. Y. Col. MSS.*, xcvi, 46.]

[THOMAS VALLENTINE TO ALEXANDER COLDEN.]

Sir

As Canada is bounded on the South by “a Line drawn from the South end of Lake Nipissim crossing the River S^t Lawrence and Lake Champlain in Forty five degrees of Northern Latitude and thence passing along the Highlands which divides the rivers that empty themselves into the said River S^t Lawrence, from those which fall into the Sea;” I am apprehensive that the Highlands aforesaid, have a different bearing from the course of the Line to be run for the Northern bounds of this Province; And that the Surveyor on the Part of Quebec Gov^t will not proceed farther than where he meets the Highlands, or comes to the Heads of the rivers above described. I therefore request that when my Instructions are making out for the running of the said Line that you may direct how I shall Act in that Case. Also whether the said Line shall be continued West from Point Moore to the River S^t Lawrence as 'tis highly¹ that the Government of Quebec want to have the Southern bounds of that part of their Province ascertained

I am

Sir

Your most obed^t

Humble Serv^t

THO VALLENTINE

New York Feb^r 3^d 1772.

—[*N. Y. Col. MSS.*, xcvi, 51.]

¹ So in the original. — [P.]

Recd from Alexander Colden Esq^r the sum One Hundred Pounds currency being the Sum he received from his Excellency William Tryon Esq^r towards Defraying the expence of running the Line from Point Moore on Lake Champlain to Connecticut River February 4th 1772

THO VALLENTINE

[Endorsement]

Feb^r 4 1772

Thomas Valentine's Rec^t for £100 for which I gave his Excellency W^m Tryon Esq a Rec^t on Acct for the Expences for running the Division line between the Provinces of Quebec & New York

—[*N. Y. Col. MSS.*, xeviii, 52.]

[ALEXANDER COLDEN TO JOHN COLLINS.]

New York Feb^r 6, 1772

Sir

His Ex^{ty} G^r Tryon having by a Commission under the great Seal of this Province, appointed me the Survey^r on the part of this Gov^t with power by myself, or Suffieient Deputy, in Conjunction with the Survey^r that is, or shall be appointed, on the part of the Province of Quebec, to run out, and ascertain, the Partition line between the two Provinces, Eastward from the Station already fixed on East branch of Lake Champlain at the forty fifth degree of Northern Latitude, as far as each of the said Provinces respectively Extend. I have Deputed M^r Thomas Valentine¹ to perform the same, and given him a Copy of my Commission, and Gov^r Tryons Instructions.

M^r Valentine is a person I dare say you will be pleased with, and find him Capable of Executing the trust reposed in him, and I flatter myself that the work will be Carried on by you two, with Satisfaction to both Gov^{ts}

The Gov^r has paid M^r Valentine one hundred Pounds this Currency for defraying the present Contingent Charges, and has assured me that the whole of the Expence of running that line, on the part of this Gov^t shall be punctually paid.

From the Gov^{ts} Instructions I find you Appointed to meet the Survey^r from this Province at Coll Christys House on the River Cole, the first of next month, with Provisions, and Necessaries, for proceeding without Delay. I have therefore Directed M^r Valentine to set out without loss of time so that he may be at Coll Christys by the Day appointed, which I hope he will be able to accomplish.

As I make not the least Doubt that you can procure properer Persons for Assistance, and Attendance, and on much better terms than M^r Val-

¹ It will be observed that Mr. Valentine uniformly subscribes himself "Valentine."—[P.]

entire, I have advised him to rely upon your procuring them, and take no other from hence, but one by way of a Serv^t

The Opinnion both the Gov^r and my self Intertain of you abilities and Integrity, is such, that we should have been Satisfied with your Sole running this line, but as that might not be so satisfactory to the Publick, I send a Deputy to Act in Conjunction with you, and desire you will use your best indeavours that this line be Continued to the Western banks of the main Branch of Connecticut River Agreeable to Gov^r Tryon's Instruction, and that if by Sickness, or any other unforeseen Accident M^r Valentine should be prevented from proceeding, you will be pleased to proceed without him.

When I last had the pleasure to see you, you promised me on y^r return home to send me a Map of the french Grants on Lake Champlain laid Down exactly by a large Scale. Such a plan is much wanted, and I shall esteem it as a particular favour to furnish me with one by the first safe Conveyance. It will come safe by the Post. M^{rs} Colden and all the family at the post office join in Sincere Complts to you. We wish to hear of your having got safe home. I shall be proud of a line from you before you set out on y^r Survey and while you are upon it, if any op^{ty} presents. Heartily wishing you health I am

S^ry^r most Obed^t humble Serv^{tt}

John Collins Esq

(No signature.)

—[*N. Y. Col. MSS.*, xcvi, 54.]

[THOMAS VALLENTINE TO ALEXANDER COLDEN.]

Sir

The Badness of the Roads and difficulty of Proenring a Sled hindered my arriving here 'till Saturday Night when I was informed that M^r Collins had staid here till about eight days ago, and as the Lakes were then open, and he travel'd in Company with a Sickly Gentleman, 'tis thought I may overtake him, as I set out with a very good Sled and Horses a few Hours hence, what will delay me most is a very heavy Snow that has fallen on Friday and Saturday last.

I beg the favour of you to send the enclosed Letter to my Wife who was very uneasy at my Departure, and will continue so 'till she hears from me. You may depend on My using every Means in My Power to accomplish the Business I have undertaken

I remain

Sir

Y^r Most Obed^t Hble Serv^t

THO VALLENTINE

Albany 17th Feb^{ry} 1772—[*N. Y. Col. MSS.*, xcvi, 61.]

Crown Point 26th Feb^r 1772

Sir

I wrote you from Albany that M^r Collins had set out but a few days before my arrival and that I had hopes of overtaking him here but he was more fortunate and passed the lake at the time he could have gone with any Degree of Safety, and even at that time they drowned some of their Horses going down and fell in six times coming back. They returned the morning after my arrival here and reported the Ice to be impassable and it has continued thawing almost ever since, so that at the time of My Writing this 'tis not safe to Pass from Crown to Chimney Point the Snow having Melted to a surprizing degree, it was very Bad when I came down, there was about a foot of water over the Ice on Lake George, and between Ticonderoga and Crown Point the water was in some places two feet deep so as to come into the Sled.

29th. Just this Instant a Sled and Horses belonging to Major Skein arrived from Montreal and altho' they fell once in report the Ice to be passable with care, they are the first that came over these six days, and they say that 4 or 5 more are expected up with Provisions for some Stone cutters who have been almost starving these eight or ten days — With them I expect to go to River la Cole and hope to get there in about a week

I am Sir your most Obed^tH^{ble} Serv^t

THO VALLENTINE.

—[*N. Y. Col. MSS.*, xcviij, 68.]

[JOHN COLLINS TO ALEXANDER COLDEN.]

River La Cole March 5th 1772

Dear Sir:

By Mr. Valentine who arrived this morning I am Favoured with Yours of the 6th Feb^r which Informs me that the Governour has appointed you on the Part of the Province of New York to run the Division Line Betwixt that Province and the Province of Qnebec with leave to appoint Your Deputy. this Gives me Great Pleasure as it Convinces me that You are Upon amicable Good Terms with the Governour whom I am Persuaded will Protect Every Officer in his right. Indeed it would be absurd to Suppose that this Business Could be Carried on through any other Channel Than that of Yourself I much approve of Your Deputy M^r Valentine and Believe him to be Every way Qualified and make no Doubt but he will Give You Satisfaction I observe the Money Paid by Government To Him as also the Governours Promise for the Expenses that May accrue Which There's no Doubt but May be faithfully relyd on. You mention my Having agreed With Gov^r Tryon to Meet the Surveyor appointed by Your Province with Provisions &c

for Carrying on the Survey. this agreem^t was Punctually Complied with on my Part as I had Ten Men Provi^o & Necessarys, waiting the arrival of M^r Valentine I am Extremely Sorry I had not the least Notice that Men would be wanted on the Part of Your Government as I could readily have Engaged any Number before I left Montreal on Much Better Terms than they can be Got in Your Gover^t. However I have Sent an Express to Montreal and Expect to have them here in Four Days. the Kind Opinion the Governour and You are Pleased to Entertain of my Poor Ability And Integrity is Truly flattering to me The More so as Coming from so Candid a Quarter For which Please to Accept of my Cordial Thanks and rest assured the Trust You are Pleased to repose in me Shall never be abused. I shall in Conjunction with Mr. Valentine use my Utmost Endeavours to Carry on this Business with as much Accuracy and Diligence as the Nature of the Season will admit and in Case any accident Happens to M^r Valentine I shall act agreeable to Your Directions I am Heartily sorry I have it not in my Power to Comply with my Promise in Sending you the Plan with the French Grants. Occasioned by the Winter Setting in So Severely Obliged me to Stop Nine Weeks at that Miserable Place Albany which left me Barely Time to go to Montreal & Collect my People and Meet here at the Time appointed without Going to Quebec If opportunity Should Present in the Course of our Survey I shall Trouble You with a line

* * * *

Your Most Obedient Humble Servant

JOHN COLLINS

P. S. The Distance by Cap Hollands Survey of Connecticut River is about One Hundred and Twenty Miles * *

—[*N. Y. Col. MSS.*, xcviij, 69.]

[THOMAS VALLENTINE TO ALEXANDER COLDEN.]

Sir

On my arrival at River l'cole the 4th Ins^t I had the Pleasure of meeting M^r Collins who had waited there two days, during which time he had employed his People Baking Biscuit and making other preparations. But had provided only ten men which were to be his own party, however as soon as he had Perused the Governor and your Letters a Messenger was dispatched to Montreal to Procure Nine men who with Young Slack were to be employed on behalf of Our Government (And as you may think 20 men a great number to be employed on this Occasion, I will give you an account of the manner we intend disposing of them Viz. 8 to carry Provisions, 4 to cut down such trees as happen to stand in the Line, 2 Blazing the trees that is to say one on each side of the Line, 2 Chainmen, 1 Man to carry Pickets, & 3 Men to

carry Our Instruments and Baggage) the messenger has not yet returned, yet there is no doubt but he can procure men enough

We reduced Captain Holland's Map of Connecticut river and Joined it to one of Metcalf's maps of that Country if both are right the whole distance is about 120 Miles. M^r Collins did not expect the distance to be near as much and therefore has not laid in near Provisions enough; But that wont delay us for we have as much as will serve us while we can keep the Woods which M^r Collins says will not be longer than the Middle of April at farthest, as the snow will then be near gone and the Waters so high as to render them Impassible after which he says we must lye by 'till the Middle of May or Beginning of June before we can proceed during which time we can provide provisions to supply us during the time it will take us to compleat the Work

We have also made the best calculation we were able of the Sum that Labourers hire and Provisions will come to and I believe four Hundred Pounds New York Currency the one half of which you will please to have remitted to M^r Drumond of Quebec in order to enable me to pay the men I employ and to discharge the Sum due to the Kings Contracter for Provisions &c. My reason for desiring A remittance to Quebec is because we at present imagine that S^t Francis River will be our best rout when we are obliged to leave the Woods as 'tis next to impossible by all accounts to return to Lake Champlain.

I hope we shall be ready to set out by the middle of the next week, and altho' M^r Collius is very uneasy to get to work in the Woods his Impatience is not equal to mine, for I shall lose the Seasons of Grafting and Inoculating my fruit trees and of Collecting many sorts of seeds, by which means I shall lose more than I shall get by the Survey. When I set out I thought to return by May, but to my Great Mortification find that if I stay to finish, it will be August before I shall see New York.

I expect you will please to Inform me whether the Assembly have provided for this expence, And who is the Proper person for me to draw on, as I expect my Wife may have Occasion for Some Cash before my return.

Give me leave to Assure you that no opportunity Shall be missed whereby an Account of what we shall have done can be forwarded to you, but at present there appears so many difficulties in the way that I fear it will be almost impossible to give you any intelligence from the time we enter the woods till we leave them.

I shall also beg leave to put you in mind of some little Concerns which I have in Lands, and make no doubt but you will suffer them to go forward as soon any Lands in their Situation are Patented by others.

I am Sir Your most

River la Cole 7th March 1772 —

Obed^t H^{ble} Serv^t

THO VALLENTINE.

P. S. I beg the favour that you may please to have the enclosed Letter sent to my Wife the Postage of which I will pay as my only Motive for enclosing it to you is that it may go

—[*N. Y. Col. MSS.*, xcvi, 70.]

[IN COUNCIL.]

At a Council held at Johnson Hall in the County of Tryon
on Wednesday the twenty ninth Day of July 1772.

* * * * *

His Excellency next laid before the Board a Letter he had received from Thomas Valentine dated the River Le Cole 11th July 1772 in the following Words.

May it please your Excellency.

We set out from Quebec the 20th of June, took the Stores we wanted from three Rivers, called at S^t Francois in our way with intent to send part of our Provisions up that River, but received Information that we could as easily transport them up Missishoi River, which we rather chose, as it is not safe to entrust them in the Hands of Savages.

We depart hence immediately, and hope to be able to compleat in two Months if no Accident happens: And if your Excellency proposes to have the Line continued to the River S^t Lawrence, it can be done this Fall at a much less Expence, than if postponed to another Season. I expect your Instructions by the Time We return, and am

Your Excellency's

most obed^t Humble Servant

THO^s VALLENTINE.

and desired the Opinion of the Council whether they thought it advisable to give Instructions to the said Vallentine, in Conjunction with the Surveyor from Quebec, after having run the Line Eastward to Connecticut River, to return to Point Moore the Place of Beginning, and extend the Division Line between the two Governments until it should intersect the River S^t Lawrence in the forty fifth degree of Northern Latitude. His Excellency at the same Time observing to the Board, that he considered the running of the Division Line to the Westward, as a very necessary and essential Service to Government; and that he was willing to advance the Money on the Faith of the Publick for carrying the same into Execution: Whereupon the Council humbly advised the running of the Partition Line to the River S^t Lawrence, as a Measure highly proper and necessary for ascertaining and establishing the Boundaries between this Government and that of Quebec.

—[*N. Y. Council Minutes (MS.)* v. 26, p. 314.]

[THOMAS VALLENTINE TO ALEXANDER COLDEN.]

Sir.

Having Occasion to send a man to Montreal I take that opportunity of informing you that we have continued the Line to the Eastward of Lake Mamraabagack and are now about Fifty six miles from Lake Champlain. The Part of the Country that the Line passes over is very Mountaneous, indeed it is the very Height of the Land, and the Weather for some time past has been uncommonly windy and wet, which together with the Difficulty of getting the Provisions forward has retarded us a great deal. But let what Difficulties or Hardships soever attend it I on my part am Determined (tho I have never been able to recover from a violent cold I took on my first passing Lake Champlain) not to leave the Woods till the Survey is completed. I request you may please to inform the Governor what I have wrote you, as we have not as much Paper fit to use as would contain a few lines to his Excellency.

I am Sir with the most unfeigned respect

Aug^t 16th 1772.Y^r most Obedient Humble Serv^t

THO VALLENTINE.

—[*N. Y. Col. MSS.*, xcviü, 128.]

[IN COUNCIL.]

At a Council held at Fort George in the City of New York
on Friday the twenty first Day of August 1772.

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The Minutes of the Council held by his Excellency at Johnson Hall in the County of Tryon on the 29th of July last, being Read. The Board concurs in Opinion that it will be a proper Measure as soon as the Line of Partition between this Province and Quebec, shall be run from Lake Champlain to Connecticut River, for his Excellency to direct the Surveyors on the Part of both Provinces, to return to Point Moore, the Station fixed on the East side of Lake Champlain, and to extend the Division Line between the two Governments, until it shall intersect the River S^t Lawrence in the forty fifth Degree of Northern Latitude.

—[*N. Y. Council Minutes*, v. 26, p. 315.]

[JOHN COLLINS TO ALEXANDER COLDEN.]

Boundary on Connecticut River October 1st 1772.

Dear Sir.

I have the pleasure to acquainte you that the Division line Betwen your Province and that of Quebec Terminates Two mile and five

Eighth of a mile upon a Direct line above the mouth of Halls Brook, Distance ninety mile and one fourth of a mile from the Boundary fixed on Lake Champlain time will not permit me to say more But that I am with great Esteem

D^r Sir your most faith and most Obedient Humble Servant

JOHN COLLINS.

To Alex^r Colding Esq^r

—[*N. Y. Col. MSS.*, xcix, 6.

[THOMAS VALLENTINE TO ALEXANDER COLDEN.]

Sir

I take the earliest opportunity of informing you that we reached the Main branch of Connecticut river on the last day of September, the whole distance from where the Survey began is $90\frac{1}{2}$ miles. On the west bank of the river we Put up a Squared Post and laid a quantity of Stones about it and had all the Trees and bushes for some distance around it cleared away to render it more conspicuous; We returned by the river S^t Francois and arrived here on Sunday last, all possible expedition shall be used to prepare a map, copy our field Book and settle the Accounts, and I hope to be ready to return before the severe weather sets in.

The Abenaku Savages are much displeas'd with the course of the Line, say their Hunting Grounds are encroached on, and pull'd down a Post that we erected on the East Bank of Lake Mamraabagak, the offenders remain undiscover'd or I would have them Punished, and will use my utmost industry to find them out, as it may have bad consequences if sufferd to Pass unnoticed.

I am

Sir

Your most Obed^t

Humble Serv^t

THO VALLENTINE

Quebec 22^d Oct^r 1772

Alex^r Colden, Esq

—[*N. Y. Col. MSS.*, xcix, 22.

[IN COUNCIL.]

At a Council held at Fort George in the City of New York on Wednesday the sixteenth Day of December 1772.

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His Excellency communicated to the Board a Letter of the 12th November last from M^r Thomas Valentine, employed as a Surveyor on the part of this Province for running the Partition Line between this Colony and Quebec, from Lake Champlain to Connecticut River; informing his Excellency that the Surveyors of the two Provinces finished the

Survey on the 30th of September: That they found the Distance from Lake Champlain to the Place where the Line terminates on Connecticut River, to be about ninety Miles and a quarter: That he Arrived at Quebec the 18th of October, and that as he is of Opinion the continuing the Line Westward will be effected with far less Expence during the Winter or early in the Spring, than in the Summer Season, he intends not to risque the Passage on the Lake, but to remain at Quebec for his Excellency's farther Directions.

Whereupon the Board humbly advised his Excellency to signify to Governor Cramahi the Opinion of this Government, that it will be for the mutual Interest of both Provinces to complete their Boundary Line as soon as the Season will permit, by extending the Line already Run, from Lake Champlain Westward, until it shall intersect the River S^t Lawrence in the forty fifth Degree of Northern Latitude — That if this Proposal meets with his Approbation, it is conceived the Service will be best performed by the same Surveyors, but that if any thing should prevent M^r Collins from attending; M^r Valentine has Instructions to proceed in Conjunction with such other Surveyor as shall be appointed on the part of Quebec: And that this Province will cheerfully defray its proportionable part of this necessary Expence.

His Excellency also communicated to the Board a Letter from John Collins Esquire Deputy Surveyor of the Province of Quebec, dated on Connecticut River the 1st of October last, acquainting his Excellency that they had on that Day fixed the Boundary of the Division Line between this Province and that of Quebec on the West Bank of Connecticut River, two Miles and fifty Chains on a direct Line above the Mouth of a small River falling in on the West side of Connecticut River, known by the Name of Halls Brook, and called by the Indians Kenebimosikek at the distance of ninety Miles and Twenty Chains from the Eastern Bank of Lake Champlain: And signifying that his Excellency may depend the greatest Accuracy and Care had been observed through the Course of this Survey.

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 330.

At a Council held at the City Hall in the City of New York on Wednesday the sixth Day of January, 1773.

* * * *

His Excellency communicated to the Council a Letter from M^r Thomas Valentine of the 17th Ultimo,¹ inclosing the Accounts of the Expences incurred in Surveying running and distinguishing the Partition Line between this Colony and the Government of Quebec; amounting as appears by the said Accounts to £458..15..5 Halifax Currency; and

¹ This letter has not been found. — [P.]

acquainting his Excellency that there are several Sums not included in the said Account, which were objected to by M^r Collins Surveyor on the part of Quebec, particularly M^r Valentine's Expences from New York to River La Cole, and from the Spring to the Commencement of the Summer Survey, M^r Collins having made no Charge of his Expence on those Occasions against the Government of New York, but left each Province to pay its own Proportion of such Charges.

And the said accounts being Read the Council advised his Excellency to lay the same before the General Assembly, and to recommend to the House to make provision for the Payment thereof.

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 333.

[IN COUNCIL AND GENERAL ASSEMBLY.]

Wednesday, the sixth day of January, 1773.

* * * *

Gentlemen of the Council and Gentlemen of the General Assembly,

* * * *

I have the Satisfaction to inform you the dividing Line between this Province and the Government of Quebec has been run from Lake Champlain in the forty fifth Degree of North Latitude to Connecticut River. As the Commissioners who perform that Business winter in Quebec, that they may be ready early in the spring to continue that Line from the Lake westward to S^t Lawrence River, I am to apply to you for a further aid for that most essential service.

* * * *

W^m TRYON.

Fort George New York

6th January 1773.

—[*N. Y. Legis. Council Journal*, p. 1854.

Monday, the eleventh day of January, 1773.

To his Excellency WILLIAM TRYON Esquire * *

May it please your Excellency,

* * * *

The pernicious Effects of a doubtful Jurisdiction in the Districts affected by the uncertain Extent of the province, are so manifest, that your Endeavours to extinguish these destructive Controversies merit our grateful Acknowledgments, and animated by the same laudable Motives with your Excellency of promoting Industry, the security of Property and the general Tranquility, you may be assured Sir of our

cheerful Concurrence in every Measure, tending to give the Limits of the Province a certain and permanent establishment. ¹

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By order of the Council.

JOHN WATTS, Speaker.

—[*N. Y. Legis. Council Journal*, p. 1856.

At a Council held at Fort George in the City of New York
on Monday the fifth Day of April 1773.

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His Excellency also communicated a Letter of the 10th March last from Lieutenant Governor Cramahé of Quebec, acquainting his Excellency that his Majesty's Council of that Government were unanimously of Opinion that the Boundary Line between the two Governments should be run and distinguished from Lake Champlain to the River St. Lawrence as had been proposed by this Province. And that the Surveyors were accordingly to proceed on that Work the Beginning of June.

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 349.

[THOMAS VALLENTINE TO LT.-GOV. CRAMAHE.]

Sir

M^r Collins has informed me, that you desire I should communicate to you in writing, the reason I do not proceed with him on the Survey at the time we appointed viz. the first of June.

I have to inform your Honor, that I was some time ago afflicted with a Bilious Complaint, attended with a Cholic in my Bowels, and a Lax, which in a few days reduced me to a very weakly Situation. By the assistance of D^r Hope I have been relieved from the Cholic for a Fort-night past, and tho' the Lax still continues I find myself gather strength and have reason to hope that three weeks or a month will reinstate my Health, so as to enable me to proceed on that business. And we have sufficient time to compleat the work we have to do after the beginning of July as may be seen by our Field Book for last Summer, it was the 21st July before we arrived where we were to begin our Work, and notwithstanding the many difficulties we had to surmount, surveyed about the same distance we have to run this Summer by the first of October.

I propose setting out for Montreal in a few days to be ready to join M^r Collins the moment my health will permit, and beg leave to assure your Honor it gives me the greatest Concern to be obliged to defer run-

¹Similar Sentiments were expressed in the General Assembly's Address.—[P.

ning the Line one day, as I have the compleating of that Business much at Heart.

I am

Your Honor's

Most Obedient

Humble Servant

(Signed) THO^s VALLENTINE.

Quebec, 19th May, 1773.

Honble H. T. Cramahe Esq^r &c.

—[*N. Y. Col. MSS.*, xcix, 129.

I do hereby Certify that M^r Valentine is in a Consumption, and consequently is totally incapable of going on the Survey, and he has a very small prospect of being better.

(Signed) R^d HOPE Surgeon

to the 52^d Reg^{mt}

[Endorsement. Copy of M^r Hope's Certificate in regard to M^r Valentine's Health 22^d May 1773.

—[*N. Y. Col. MSS.*, xcix, 136.

[LT.-GOV. CRAMAHE TO GOVERNOR TRYON.]

Montreal 5th June 1773.

Sir.

Just as I was upon my Departure for this Place M^r Valentine sent me the Letter, of which a Copy is herewith Inclosed; at the same time I transmit you a Copy of the Certificate required of the Gentleman who attends him, in Regard to his Health, which, by Advices received since my arrival here, appears to be still in a very declining State.

The Provisions are all prepared, and M^r Collins came so far upon his way, but as there is not the least chance of M^r Valentine's being in a Condition to accompany him this Season, I judged it best to suspend the Survey, for tho' I have a great opinion of M^r Collins's Skill & Integrity, and that by the Confidence you was pleased to repose in him last year, you seem to entertain the same Idea of him, I thought it a matter of much too delicate a Nature, and possibly subject to future Cavil, to suffer him to set out alone upon this Service.

As M^r Collins will have this Fall Business of great Consequence to transact for the Province, the Survey of course must be deferred untill the next year; the Delay is unavoidable, and will be attended with some loss in disposing of the Provisions, as well as the Advances made to the People, who were to accompany them, for they were all engaged, of

which I shall order M^r Collins to state and transmit a fair Account, that your Province may support their Proportion of it.

I have the Honor to be with great respect

Sir

Your Excellency's

Most Obedient and

Most Humble Serv^t

(Signed) H. T. CRAMAHE.

—[*N. Y. Col. MSS.*, xcix., 130.

[IN COUNCIL.]

At a Council held at Fort George in the City of New York on Saturday the twenty sixth day of June 1773

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His Excellency laid before the Board Lieutenant Governor Cramahe's Letter of the 5th Instant with Lieutenant Hope's Certificate showing that M^r Valentine's Indisposition will probably prevent the running of the Line between this and the Province of Quebec, on the Westerly side of Lake Champlain, and required the Opinion of the Council as to the Steps proper to prevent a Disappointment in this service, and all unnecessary Expence; And thereupon the Council advised his Excellency to certify the Surveyor General of M^r Valentine's Indisposition, that he may make immediate Provision for the Supply of M^r Valentine's Place either by his own Attendance or by some able Deputy to be approved by his Excellency and were also further of Opinion that his Excellency write to M^r Cramahe earnestly urging the finishing of this Work without further delay by M^r Collins and such Surveyor as may attend on the Part of this Province or by any other Person to be appointed in M^r Collins's stead if his other Engagements prevent his assisting in this Work and the rather because it may be doubted if it is unfinished this Year whether the Assembly of this Province can be persuaded to make any farther Provision for a Service which has already been so expensive.

A True Copy.

Attes^t W^m Banyar D Cl of the Council Pro Tem:

—[*N. Y. Col. MSS.*, xcix., 135; *N. Y. Council Minutes*, v. 26, p. 360.

APPOINTMENT OF A DEPUTY SURVEYOR.

Whereas by Virtue of the Power Granted me in a Commission under the great Seal of the Province of New York, bearing Date the twenty third Day of January 1772 I Deputed M^r Thomas Valentine to Act as Surveyor on the Part of the Province of New York in Conjunction with the Surveyor that was, or should be appointed, on the part of the

Province of Quebec, for running, marking, ascertaining, and Distinguishing, the Devision Line between the Said Provinces

His Excellency Governor Tryon, on the 26th Day of last Month, laid before his Majesty's Council for the Province of New York, a letter from Lieut Governor Cramahe and a Certificate from L^t Hope Surgeon of the 52^d Reg^t, shewing that the said Thomas Valentine's Indisposition would probably prevent the running of the line between this, and the Province of Quebec on the Westerly Side of Lake Champlain. That Honorable Board, to prevent a Dissapointment in this Service, and all unnecessary Expence, advised his Excellency to Certify to me M^r Valentine's Indisposition, that I might make immediate Provision for the Suply of M^r Valentines place, either by my own attendance, or by some able Deputy, to be approved of by his Excellency.

I Have therefore with the Aprobation of his Excellency Constituted and Appointed And by these Present Do Constitute and Appoint M^r Claude Joseph Sauthier my Deputy in the Stead and place of the said Thomas Valentine, to act as Surveyor on the part of the Province of New York, in Conjunction with the Surveyor that is or shall be appointed on the part of the Province of Quebec, to run, mark out, ascertain, and Distinguish, the said Devision line on the Westerly Side of Lake Champlain, Pursuant to such Instructions as he my said Deputy M^r Claude Joseph Sauthier shall Receive from his Excellency Gov^r Tryon or from the Gov^r or Commander in Chief of the Province of New York for the time being

Given under my Hand and Seal at New York this Second Day of July 1773

ALEX^N COLDEN
Survey^r Gen^l

[Endorsement. A Deputation to M^r Claude Joseph Sauthier Appointing him my Deputy in the place of Thomas Valentine.

—[*N. Y. Col. MSS.*, xcix., 136.

[CERTIFICATE.]

I do hereby certify that Mr. Valentine is in a Consumption, and consequently is totally incapable of going on the Survey, and he has a very small prospect of being better.

(Signed) R^d HOPE Surgeon
to the 52^d Reg^{nt}

—[*N. Y. Col. MSS.*, xcix., 136.

[ALEXANDER COLDEN TO THOMAS VALENTINE.]

New York July 3^d 1773

Sir

His Excellency Gov^r Tryon having rec^d a letter from Gov^r Cramahe, and a Certificate from Doct^r Hope, Shewing your Indisposition would probably prevent the running of the line, between this and the Province of Quebec, on the Westerly Side of Lake Champlain. His Excell^y laid the letter and Certificate the 26th of last Month before his Majesty's Council, requiring the Opinion of that Honorable Board, as to the Steps proper to prevent a Disappointment in this Service, and all unnecessary Expence: The Council thereupon advised his Excell^y to Certify to me, y^r Indisposition, that I might make immediate provision to Suply your place, either by my own Attendance, or by some able Deputy, to be approved of by the Gov^r. I have therefore Deputed M^r Claude Joseph Sauthier, to act in your Stead and place.

I am truly Concerned your Indisposition makes it necessary to take this Step, in order that the work may be finished without further Delay.

M^r Sauthier will Set out in a few Days with his Excellency who is going himself to Montreal to forward the Compleating the line as Expeditionly as possible.

His Excellency will give the Necessary Orders either for your continuing to Act as my Deputy or for M^r Sauthier to act in your Stead. Herein you are to Govern yourself by his Excellency's Orders and to Act Accordingly.

Its now nine months Since you finished the line on the East Side of Lake Champlain, & I have received only two letters in that Time. The one Dated at Connecticut River Oc^r 5th,¹ the other at Quebec the 22^d of the Same Month. In this last letter you mentioned you would with all possible Expedition prepare a Map, Copy of your Field book and Settle the Accts.

These papers I expected would have been transmitted to me long Since, in order that I might have laid them before his Excellency. Why they have not, I am at a loss to Conjecture what Excuse you can have to offer in Vindication of this Neglect, and of that in not giving me the least Information of your proceedings, Since the 22^d last Oct^r.

You are my Deputy and Acting by my Appointment therefore I think I have very Just Cause to be Displeas'd with your Conduct herein, having an Undoubted right to expect the Earliest, and every information, you could give me of your Proceedings by Virtue of my Deputation.

This letter has not been found. — [P.]

It will give me pleasure if you can herein acquit yourself to my satisfaction.

Sincerely wishing you may be Reinstated in Such a State of health that the Gov^r may not find it necessary for M^r Sauthier to act in y^r place, but Suffer you to compleat the Work I Deputed you to perform This I truly wish & am Sir

Y^r Assured friend
& humble ser^t

ALEX^R COLDEN.

M^r Thomas Valentine

—[*N. Y. Col. MSS.*, xcix, 137.

[ALEXANDER COLDEN TO JOHN COLLINS.]

New York July 3^d 1773.

D^r Sir

I am truly Concern'd for M^r Valentine who I find has been Indisposed for some time past and that it is apprehended he is in a Declining State of health. Gov^r Cramahe having informed our Gov^r of M^r Valentines Indisposition, His Majesty's Council advised his Excellency, that I should (to prevent Disapointment in running the line between this and the Province of Quebec, on the Westerly Side of Lake Champlain, and all unnecessary Expence) make immediate Provision for the Suply of M^r Valentine's place by appointing some other able Deputy I have accordingly with the Aprobation of His Excelency Gov^r Tryon, Deputed M^r Sauthier ; A Gentⁿ well Qualified for that Service, & one who I dare Say you will be happy in acting with, if M^r Valentines State of health will not admit of his Compleating the Work & therefore make it necessary M^r Suthier should Suply his place.

His Excellency being Anxious to have this Devission line Completed as expeditiously as possible, is Determined to take every Step that is in his power Conducive thereto ; and therefore has resolved to Sett out himself, in a few Days, for Montreal, to Consult with your Gov^r on proper Measures to be pursued, and prevent any further Delay in this work M^r Santhier will attend his Excellency and Act agreable to such orders & Instructions as the Gov^r may find it necessary to give him. As the Council advised my Deputing some other Able Deputy in the place of M^r Valentine only on Acet of his Indisposition, I make no Doubt should he be restored to such a State of health, that he will be able without further Delay to proceed and finish the business His Excellency will order him to continue in the Service notwithstanding of my Deputation to M^r Sauthier. However herein M^r Valentine must Govern himself by the orders he will receive from his Exc^l and Act accordingly.

Its a matter of very great Surprise to me that nine months have Elapsed Since the finishing of the line on the Easterly Side of Lake Champlain and in that time I have never rec^d but two letters from M^r Valentine, the one Dated first of Oct^r, and the other the 22^d of same Month nor any Acct of his proceedings, tho he in this last letter mentioned he would with all possible Expedition, prepare a Map, Copy of his Field book and Settle the Accts; from whence I coneluded these papers would have long Since been transmitted to me to lay before His Excellency. Why this has been neglected I am at a loss to Account for or how M^r Valentine can Justify himself in not having done it.

* * * *

That health, and every other Blessing may attend you are the hearty wishes of

D^r Sir

Y^r Sincere friend &
humble Ser^t

ALEX^R COLDEN.

Nothing I hope may happen to prevent y^r attending this work, as it must give great Satisfaction to both Provinces to have it accomplished with the assistance of a person of your known Integrity and Abilities. —[*N. Y. Col. MSS.*, xcix, 138.

[MR. COLDEN TO MR. SAUTHIER.]

Long Island July 9th 1773.

Sir

The Inclosed I should have forwarded by last post had not his Excellency desired they might be sent by you I therefore beg you will take the trouble of delivering them to the Gent^a to whom they are adressed; heartily wishing you an Agreeable Journey

I am S^r

Y^r Most obd^t

humble S^r

A C

[Endorsement. Copy. July 9, 1773 To M^r Sauthier Inclosing a letter to M^r Collins & one to M^r Valentine.]

—[*N. Y. Col. MSS.*, xcix., 140.

[IN COUNCIL.]

July 12, 1773.

* * * *

His Excellency¹ communicated to the Board his Intention of going to Quebec in order to expedite the finishing the Division Line between

¹ Governor Tryon. — [P.

this Province and the Government of Quebec, and recommended to the Gentlemen of the Council the Conservation of the Peace of the Province during his Absence.

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 361.

[GOV. TRYON TO LT.-GOV. CRAMAHE.]

Montreal 25th July 1773

Sir

Your Dispatch informing me of M^r Valentines incapacity to proceed on the Survey of the Partition Line between our Governments, and your intention to postpone that service untill next year, has been laid before His Majesty's Council of New York, and thereon having received the Advice of that Board that there was an urgent necessity for Running the said line this Season.

I took the resolution to wait on you in Person, that we might the more readily expedite the necessary preparations; Accordingly I arrived in your Government last night, in the expectation of meeting Your Honor here agreeable to my Request, communicated to you in my Letter Dated I think the 29th of last Month. As this dissappointment is accompanied with the additional one of finding no intelligence from You, and concluding my Letter, from the negligence or Delay of the Post, may not have reached You; To prevent farther loss of time in our concerting the measures for the immediate Execution of this Essential Service; I shall take a Water Passage for Quebec on Tuesday next, where I trust I shall experience your concurrence in a matter wherein His Majesty's Interest is so nearly concerned.

I am with much respect

Your Honor's

Most Obed^t &^o

Sign^d

WILL^m TRYON

L^t Governor Cramahe

—[*N. Y. Col. MSS.*, xcix., 153.

[IN COUNCIL.]

August 26th, 1773.

* * * *

His Excellency communicated to the Board Copies of the Minutes of his Majesty's Council at Quebec with several Letters which passed between him and the Lieutenant Governor of that Province, relative to the running the Line between the two Governments from Lake Champlain Westward to S^t Lawrence River in the Latitude of 45°, and acquainted the Board that the Surveyors of both Provinces were to proceed on that Service about the middle of the present Month.

On reading of which Papers it is ordered that the same be entered in the Minutes, and are as follow

At the Council Chamber in the Castle of Saint Louis in the City of Quebec on Monday the Second day of August 1773

Present

The Hon^{ble} Hector Theo^e Cramahe Esq^r Lieut Gov^r

William Hey C T.

Hugh Finlay

Tho^e Dunn

Colin Drummond

Fra^c Levesque

John Collins Esquires

Edw^d Harrison

Read a Letter from his Excellency the Governor of New York to the Lieutenant Governor of this Province dated Montreal the 20th July 1773, advising that he had transmitted a former Letter before he left New York proposing a meeting with the Lieutenant Governor at Montreal in order to concert Measures for expediting the immediate running of the Western Boundary Line between the two Provinces.

Ordered in Consequence that M^r Hey M^r Finlay M^r Dunn M^r Drummond, M^r Levesque and M^r Harrison be appointed a Committee to take the above Business into Consideration, and to report their Opinion thereon to this Board on Wednesday next.

A true Copy

Attest Geo Allsopp D C C

—[*N. Y. Council Minutes (MS)*, v. 26, p. 363.

At the Council Chamber in the Castle of Saint Louis in the City of Quebec on Wednesday the fourth day of August 1773.

Present

[Same as August 2d, and James Cuthbert.]

The Lieutenant Governor laid before the Board a Letter rece'd by this days Post from his Excellency the Governor of New York dated Fort George the 5th July 1773, inclosing the Minutes of his Majesty's Council for that Province of the 26th June last, earnestly recommending the immediate running of the Western Boundary or Partition Line between this Province and that of New York, to expedite which is the Object of his Excellency's Visit to this Province.

Which Letter and Minutes of Council being read together with the Report of the Committee appointed the 2^d Instant to consider the Expediency of carrying into immediate Execution a former Order of Council for running the said Boundary Line from the Western Side of Lake Champlain in the 45 degree of Northern Latitude, till the same shall intersect the River of Saint Lawrence.

Approved the said Report and ordered the same to be filed in the Office and entered in the Book, and that the Deputy Surveyor General of this Province be directed in Conjunction with the Surveyor on the Part of New York to run the said Boundary Line with all convenient Dispatch.

A true Copy · Attest Geo Allsopp D C C

Council Chamber Quebec August 4th 1773.

At a Committee appointed the 2^d Instant to take into Consideration the Expediency of carrying into immediate Execution an Order of Council of the 22^d of February last for running the Western Boundary Line between this Province and that of New York, which Service was Suspended by the inability of the Surveyor of New York to attend that Business on Account of his ill State of Health.

Present

Wm Hey C J
The Hon^{ble} H. Finlay
Tho^s Dunn

Col Drummond
Fra^s Levesque Esq^r
Edward Harrison

Who after taking the whole of the Proceedings with respect to this Matter into their Consideration are unanimous in reporting

That the Suspension of this Service by the illness of M^r Valentine and the Steps of Necessity taken in consequence of that Suspension, have created Difficulties in carrying that Work into immediate Execution, which they know not well how to reconcile, and made it not an easy Matter to determine upon either the Prudence or Propriety of recommending it; Difficulties arising from an accidental Circumstance as little expected as agreeable to us, who have treated and will continue to treat upon this Subject, with all good Faith and a Sincere Desire of perfecting what we think both an useful and necessary work, at the same Time that we must confess we do not discover the necessity of that precipitation with which it is urged on the Part of the Government of New York.

The Council well remember and the Government of New York will do us the Justice to acknowledge with what Readiness we embraced, and with what good Will we persisted in the Execution of the Measure originally proposed by them for running the Line of the Eastern Boundary tho' we did not look upon our Interest in that Business to be near so large as theirs, and we had neither Funds of our own to defray them nor particular Directions for charging Government at home with the Expences attending it.

With the same Sincerity and the same Desire of seeing it carried into Execution we gave the necessary Directions for running the present Line to the Westward this Spring, when M^r Valentine's ill State of Health not permitting him to attend the Service we considered it as of Necessity Suspended till another Year, and the Deputy Surveyor General was ordered as we understand upon another not less interesting and important Service, the surveying and marking out a Road through this Province to the Settlements upon the Kennebec River.

In this Situation we find ourselves called upon to renew our Operations and finish this Business in the Course of this year, by the personal Interposition of his Excellency the Governor of New York, to whose Station and Character We bear the highest Testimony of Esteem and Respect, and whose earnest solicitations upon this Subject we would cheerfully gratify at the Expence of every Thing but our Duty to the publick, but admitting that the many other Difficulties which the unavoidable Suspension of this Service has thrown in our Way could be as readily removed as it is our Wish they should, we must still beg leave to observe that we have good Reason to hope that his Majesty's Ministers may think this no unreasonable Opportunity for reconsidering

the whole of our boundary Line as settled by the Proclamation in 1763: We are not without Hopes that they may be induced by such Representations as have or may be made upon that Subject, to make other arrangements more favourable and better adapted to the Circumstances and Situation of this Province, and how far our taking such a Step as this which they may consider as decisive upon our Part may have an Influence to obstruct or wholly frustrate any such Measure deserves to be well considered, and we must for ever reproach ourselves if any inconsiderate Step of ours, under what respectable Recommendation Soever it is urged, should interrupt or prevent a Measure which We have reason to think will be adopted upon Principles either of publick Policy or private Right.

Yet we are upon the whole inclined to think that as this matter must finally remain for his Majesty's determination, and it must depend upon his Majesty's Pleasure to adopt this or direct the running of any other different Line of Division between the two Provinces, and considering also that the Provisions and all the other Necessaries are already purchased, and the People to be employed upon the Service ready at the Place where the Operations are to commence, your Honour may safely give the necessary Directions for going on with the Service immediately under the following Reservations, which we consider as the only expedient for resolving the many Difficulties which have occurred, and without which we must find ourselves under the necessity of deferring the Proceedings till another Year.

That every Thing shall remain between the two Provinces exactly in the same Situation as well with regard to Jurisdiction as Property after the Line is run, as it does now until his Majesty's Pleasure upon that Subject shall be known.

That his Excellency the Governor of New York, will engage not to pass any new Grant or Grants of Land to the Southward of the Line, the Property of which is now or has at any Time been claimed under any Title from the Crown of France.

That we do not by our Consent to the running of the Line give up or in any manner recede or depart from any Right or Claim to Lands to the Southward of the Line which have at any Time been or now are disputed between the two Provinces, but that the whole shall be submitted to his Majesty's Pleasure with Prejudice or Advantage of any kind to be taken of this Instance, which we are willing to show tho' at some Hazard, of our Desire of a good Correspondence at all Times with the Province of New York

Signed WM HEY P C

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 365.

Quebec 4th August 1773

Sir

Having laid your Letters of the 5th and 25th July together with the Minutes of the Council of New York inclosed in the former, before his Majesty's Council of this Province, I have the Honour to communicate the Result of their Deliberations upon the Subject Matter of said Letters and to acquaint you, that if you choose to accept the Terms proposed, Orders shall be given to M^r Collins in Conjunction with your Surveyor to proceed upon running of the Line, as soon as he has exe-

cuted some little Business he has in hand, and which cannot take up more than seven or eight days at most, I have the Honour to be with great Regard and Respect Sir your Excellency's most obed't and most humble Servt

H. T. CRAMAHE.

His Excellency William Tryon Esquire
Capt Gen' and Gov' in Chief of the
Province of New York

Quebec 4th August 1773

Sir

I am honoured with your Letter of this Day with the Report of the Council of your Government on the Subject Matter of any Letters to you of the 5th and 25th of July.

It is with Singular Pleasure I can inform you I accept of and assent to the Terms contained in the Reservations of the said Report at the same Time I assure you it never has been nor is my Wish or Design to take any Advantage either over the Jurisdiction of the Government of Quebec, or of French Claims lying within the Government of New York, but am determined to wait the declaration of the Royal Mind concerning the Premises: I own I do not apprehend Hazard in paying Obedience to the King's Proclamation of 1763, and carrying into Execution the reciprocal Obligations of both Governments.

That a Moments Time may not be lost in carrying the Survey of the Partition Line into Execution, I shall leave M^r Sauthier in this Town who succeeds M^r Valentine, to attend and act in Conjunction with M^r Collins on the Survey, as soon as the little Business you have for M^r Collins is executed, which I hope may take less than seven or eight Days. I am with much respect and esteem Sir

Your Honor's &c &c &c
Signed

W^m TRYON

L^t Gov^r Cramahe

—[*N. Y. Council Minutes (MS.)*, v. 26, p. 367.

At a Council held at Fort George in the City of New York
on Friday, the fifteenth day of October 1773.

* * * *

The following Warrant having been read as usual, was signed by his Excellency the Governor with the Advice of the Council.

N^o 2233.

To his Excellency the Governor for Monies advanced }
by him for completing the Boundary Line between } £107 16. 10.
the Colony and Quebec the sum of }

—[*N. Y. Council Minutes (MS.)*, vol. 26, p. 376.

[JOHN COLLINS TO GOV. TRYON.]

Montreal 22nd Oct^r 1773

Sir

I have the Honour of your Excellency's favour of the 9th of August, By which I observe you have paid M^r Valentine thirty Six pounds Halifax Currency and taken up my two Receipts which sum shall be placed to the Credit of your Government in my Acc^{ts} Current.

I am sorry to acquaint your Excellency that the Weit Season which Continued many Days prevented our Compleating the Survey, We had advanced fifty Miles West of Lake Champlain, When we found ourselves in want of provision, the Means we made use of to Obtain provision and the dissappointment we meat with, Will be made known to you by M^r Southier, It is a great pity we should meet with Such disappointments when in the Neighbourhood of Lake S^t Francois, I am of Opinion the distance does not exceed ten Miles, I wish I could let your Excellency know the Expence that will attend Compleating it, But I apprehend it cannot be very greate, as I imagine a Surveyor and twelve Men May finish the Business and Return within one Month—

Should your Excellency incline to have it finished either in the Spring or course of next Summer, And not think it an Object Worthy of sending a person on purpose, you May freely Command me on that Service, Provided it be agreeable to our Lieutⁿ Governor, I shall Endeavour to Execute it to the Satisfaction of both Governments. * * *

I have the Honour with greate Esteem
To be your Excellencys Most Obedient
and Humble Servant

JOHN COLLINS.

His Excellency Gov^r Tryon—[*N. Y. Col. MSS.*, vol. c, 26.]

[IN COUNCIL.]

November 17, 1773.

* * * * *

His Excellency laid before the Board a Letter of the 10th Instant from Thomas Valentine Surveyor on the Part of this Province for running the Boundary Line between the Provinces of New York and Quebec, inclosing his general Account for his Services in that Station which were read, together with a Letter of the 16th Instant to his Excellency from the Surveyor General and several other Letters from and to the said Thomas Valentine which were also read: And there-upon it is ordered by his Excellency the Governor with the Advice of the Council that the said Thomas Valentine do prepare a full Account

stating his Demand against the Province with the sums he has received and disbursed for the Service aforesaid. As also a Journal¹ of his Proceedings and a Map of the Survey and exhibit the whole to the General Assembly for the Consideration of the House at their next Meeting.

* * * *

—[*N. Y. Council Minutes*, (*MS.*), v. 26, p. 377.

December 1, 1773.

* * * *

His Excellency laid before the Board a Journal¹ of the Proceedings of John Collins Esquire Surveyor on the Part of the Province of Quebec, and Claude Joseph Sauthier Esquire Surveyor appointed on the Part of this Province, for running the Line between the Governments of New York and Quebec Westward from Lake Champlain in the Latitude of forty five North, to the River S^t Lawrence, with a Chart or Map of the said Line as far as the same is run. As also a Letter from M^r Collins dated at Montreal the 22^d October last, acquainting his Excellency that the wet Season which continued many Days, prevented their completing the Survey. That they had advanced fifty miles West of Lake Champlain when they found themselves in want of Provisions, and the Means they made use of to obtain fresh Supplies disappointed, and that he is of Opinion the Distance left unsurveyed does not exceed ten Miles.

* * * *

—[*N. Y. Council Minutes* (*MS.*), v. 26, p. 378.

[CORRESPONDENCE.]

Dear Sir

Waiting on the Governor this Morning on other Business, he desired I would signify his Request to you to attend the Council on Wednesday next at 11 o'Clock in the Forenoon, to inform the Council what passed between you and M^r Valentine as to the Terms or agreement under which he acted as your Deputy in running the Line between The Provinces of New York and Quebec.

I am D^r Sir

Your most obed^t Servant

G. W. BANYAR

New York 15 Novem. 1773.

Alexander Colden Esq^r

—[*N. Y. Col. MSS.*, c, 33.

¹No copy of this Journal has been found.—[P.]

New York Nov^r 16th 1773

Sir

I Received a letter from M^r Banyar yesterday, Signifying your Request that I would attend the Council tomorrow morning at Eleven o'Clock, to Inform them what passed between M^r Valentine and myself as to the Terms under which he acted as my deputy in Running the line between this Province and Quebec, but as my State of health will not permit me to attend, I am obliged to take this Method of Informing your Excellency that no agreement was made between M^r Valentine and myself Relative to the Wages that he was to Receive as my deputy upon that Survey neither do I know of any agreement that was made wth him, but we both understood that he [would] have the same allowance from the Government for that Service as the Surveyor acting on the part of the Province of Quebec — I am obliged to desire Mr. Antill to write this and Even Sign my name as I am not able to hold a pen Owing to the weakness of my nerves —

I am with Great Respect

Your Excellency's Most Obed^t

humble servant

ALEX^R COLDEN—[*N. Y. Col. MSS.*, c, 34.]

M^r Colden presents his most respectful Compliments To His Excellency and agreeable to His Request incloses attested Copys of the Commission of Deputation and Instructions given by him to his Deputy Thomas Valentine for Running the boundary Line between the provinces of New York and Quebec.

Colden-Knoll

Long Island Dec^r 9th 1773

His Excellency Governor Tryon

—[*N. Y. Col. MSS.*, c, 49.]

[IN COUNCIL AND GENERAL ASSEMBLY.]

January 12, 1774.

* * * *

Gentlemen of the Council and Gentlemen of the General Assembly,

* * * *

To remove the Difficulties which obstructed the Completion of the Line in part run between this Province and Quebec, I visited that Government the last Summer, and from the Measures concerted with Lieutenant Governor Cramahé, promised myself this Business would have been effected before the approach of Winter; but the Survey

being protracted from the low marshy soil through which the Line passes, and a Series of unfavourable Weather, the Provisions of the Party were exhausted and being disappointed in their Expectations of a seasonable Supply, the Surveyors were compelled to abandon the Work, leaving unfinished, as they report, a space not exceeding Ten Miles to Lake St. François, where the Survey was to have terminated.

* * * *

W^m TRYON.

—[*N. Y. Legis. Council Journal*, p. 1899.

[IN COUNCIL.]

January 15, 1774.

* * * *

To His Excellency WILLIAM TRYON Esquire * *

May it please your Excellency

* * * *

An Uncertainty of Jurisdiction being inevitably productive of Discord and Violence, and involving the Inhabitants of the contested Districts in all the numberless and complicated Miseries of a lawless State, with pleasure we bear Testimony to your Zeal and Assiduity in pursuing the great and necessary Object of ascertaining the Boundaries of the Province; and We hope your unwearied Endeavours in that laudable Service will be crowned with the desired Success.

* * * *

By Order of the Council.

JN^o WATTS Speaker.

—[*N. Y. Legis. Council Journal*, p. 1901.

[IN GENERAL ASSEMBLY.]

January 18, 1774.

* * * *

To his Excellency William Tryon * *

May it please your Excellency,

* * * *

We flattered ourselves that the running the line between this colony and the province of Quebec, would have been finally completed last summer; but are disappointed to find that the surveyors were compelled from the want of provisions, to leave the work unfinished, after the trouble your Excellency has taken on this occasion, in visiting that government, and the liberal grants of this colony for that purpose.

* * * *

By order of the General Assembly,

JOHN CRUGER, *Speaker.*

—[*N. Y. Gen. Assembly Journal*, 1774, p. 13.

[IN GENERAL ASSEMBLY.]

February 9th, 1774.

* * * *

A petition of Mary Valentine, relict of Thomas Valentine deceased, was presented to the house and read praying that provision may be made for the payment of her account, for the services of her said deceased husband, late surveyor, authorised by the Government of New-York, in ascertaining the boundary line between this colony and the province of Quebec.

Ordered,

That the said petition be referred to the consideration of the committee to whom his Excellency's speech is committed.

* * * *

—[*Idem*, p. 44.

February 14, 1774.

* * * *

A message from his Excellency the Governor, by Col. Edmund Fanning, his Private Secretary :

GENTLEMEN,

The running of the boundary line between this province and Quebec, being undertaken at the mutual expense of both Governments, Mr. Collins and Mr. Sauthier, the surveyors last employed on that service, have furnished me with a signed account of the several disbursements, (leaving the pay of their own services to the respective provinces) whereby I am enabled to send you the amount of what is due to each of those gentlemen, which I recommend to your consideration and allowance. The field book and plan¹ of the survey, I also send for your inspection, that you may have the fullest information of the nature of this service.

W^m TRYON.

—[*Idem*, p. 49.

¹This "field book" has not been found. The "plan" may have been a preliminary draft of the one completed October 20, 1774, on file in the office of the Secretary of State (Portfolio Map No. 175), bearing the following inscription:

" A Plan
of the
Boundary Line Between
the Provinces of
Quebec and New York
Latt^e 45° Vari^a of the Compass 9° Wt.
Surveyed, and Completed the 20th October 1774.
by John Collins, D. S. G.
Scale of two Miles to an inch."

This "Plan" includes the whole line from Connecticut River to St. Regis.—[P.

February 17th, 1774.

* * * * *

A message from his Excellency the Governor, * * *

GENTLEMEN,

Since my last message to you, I have received a letter from Mr. Collins, the surveyor on the part of Quebec, for running the partition line between that province and New York; with copies of the accounts of that service, as settled by the government of Quebec; whereby it appears that he has made a claim against this province for only ten pounds, eighteen shillings and six pence, Hallifax money: You will perceive, however, that Mr. Collins has credited this government with a larger sum, by Mr. Sauthier, than what was actually advanced by him; consequently there must be an error in that article of Mr. Collin's account.

The overture made by Mr. Collins, to complete the Extension of the boundary line, to Lake St. Francois, as the surveyor for both provinces, for the sum of one hundred pounds sterling, is thought a reasonable proposition by the government of Quebec, and I esteem it worthy of your consideration, Mr. Collins being, in my opinion, a gentleman in the integrity of whose conduct in the faithful performance of that service an entire confidence may be placed. The accomplishment of it would effectually prevent all further trouble or controversy about the boundary between the two governments.

W^m TRYON.—[*Idem*, p. 56.

—————

An Act for the Payment of the Salaries of the several Officers of this Colony, and other Purposes therein mentioned.

Passed the 19th of *March*, 1774.

1. BE IT ENACTED * * * That the Treasurer of this Colony shall, and hereby is directed and required to pay,

* * * * *

Unto *Mary Valentine*, Relict and Executrix of *Thomas Valentine*, Surveyor, deceased, in full for his Services and Expences, in running in Part the Partition Line between this Colony and the Colony of *Quebec*, the Sum of *Three Hundred Pounds*.

Unto *Claude J. Sauthiers*, Surveyor, for the Balance of his Account of Days Wages and Expences, in running and marking Part of the Line of Partition between this Colony and the Colony of *Quebec*, the Sum of *Seventy-seven Pounds Four Shillings*.

Unto *John Collins*, of *Quebec*, Surveyor, a Balance due to him, as per

his Account of Expences accrued in running the *Quebec* Line, the Sum of *Seven Pounds Thirteen Shillings and Six-pence*.

* * * *

—[*N. Y. Colony Laws*, 1774, 1775, pp. 56, 59.

[IN GENERAL ASSEMBLY.]

March 28, 1775.

* * * *

A message from his Honor the Lieutenant Governor * *

GENTLEMEN,

By desire of Governor Tryon, I last spring sent Mr. Collins, the Deputy Surveyor General of the province of Quebec, a copy of the resolve of your house, that you would make provision for paying fifty pounds sterling, for completing the line between this province and the province of Quebec. Mr. Collins, by his letter of the 24th of November last, informed me that he had completed the work; that the distance being greater than was expected, had occasioned a greater expense than was foreseen; and that of consequence he was liable to be a considerable loser by the service which he had undertaken for the government, unless some further allowance was made for his disbursements. With his letter of the 28th of February, Mr. Collins has sent me an account of his disbursements; and has drawn upon me for the fifty pounds sterling, which cannot be paid till an act is passed for the purpose. I send to you the letters and account, that you may make the necessary provision.

CADWALLADER COLDEN.

—[*N. Y. Gen. Assembly Journal*, 1775, p. 94.

An ACT for the Payment of Salaries [etc.] * * *

Passed the 1st April, 1775.

* * * *

Unto *John Collins*, for completing the Extention of the Boundary Line between this Colony and the Province of *Quebec*, to *Lake St. Francois*, agreeable to a Resolution of this House the Sixteenth of *March* last, the sum of *Eighty-five Pounds*.

—[*N. Y. Colony Laws*, 1774, 1775, p. 92.

[STATE OF VERMONT.]

AN ACT empowering the Governor of this state to ascertain the Northern Boundary of this state.

SECTION I.

It is hereby enacted by the General Assembly of the State of Vermont, That the Governor of this State for the time being, be, and he is hereby

authorised and empowered, to employ some person of competent knowledge, together with such assistants as he may deem necessary, to ascertain by celestial observation, where the forty fifth degree of north latitude crosses Lake Memphrimagog, and where the same intersects Connecticut-River, and how far a pallel of latitude extended east and west from said points, will deviate from the present boundary line.

SEC. 2. *And it is hereby further enacted*, That for the purposes aforesaid, there be, and there is hereby appropriated a sum not exceeding three hundred dollars; and the treasurer is hereby directed to pay the same, or any part thereof, to the order of the Governor.

Passed November 8, 1805.

—[*Acts and Laws of Vt., 1805, chapter cxvi.*

[GOVERNOR OF VERMONT TO SAMUEL WILLIAMS, LL. D.]

Bennington, April 25, 1806.

Rev. Samuel Williams, LL. D., *Rutland*:

Sir.

I received your letter of the 19th Instant, and am well pleased that you agree to undertake the business of ascertaining the latitude 45. Your experience and practical knowledge in the Science of Astronomy, will create confidence in whatever you do. The act which empowers me to employ you in this business must be strictly pursued.

The Legislature was induced to pass this act upon the representations of a number of respectable persons, who were of opinion, that although the point of Latitude 45 near Lake Champlain, has been correctly ascertained in the year 1767 by commissioners duly authorized for that purpose, yet the person who was afterwards appointed to extend a line on this point of Latitude to Connecticut River for the boundary between the three Provinces of New York and Canada, was incorrect, in his survey — that this line uniformly inclined to the Equator — that the place where it intersects Connecticut River would be found at least three miles South of the true point of Latitude 45 — To ascertain the truth of this representation, and in order to enable the Legislature to decide whether the variation from the true line was such, as to make it an object, for an application to the General Government, the act in question was passed and is explicit in pointing out the duties of the person employed in its execution.

The Committee who reported the bill were of opinion that by ascertaining the point of Latitude 45 on Connecticut River and also the same point of Latitude on Lake Memphremagog, and by measuring the distance from each point to the line now considered as the boundary, we should be able to ascertain every necessary information.

I have been thus particular in my opinion of the act, which must be our guide, from an apprehension that we differ in our construction of it. In one paragraph of your letter you consider it necessary to ascertain the situation of the line from Connecticut River to Lake Champlain, and that the act requires an account of the land gained or lost by the State. I wish the act had left this at discretion, but it has not. Of any business that may be done beyond the act mentions, the responsibility must be upon us.

Should you find the old line where it intersects Connecticut River to be on the true point of Latitude 45 or not far distant from it and at Lake Memphremagog, you should find the line equally correct, I am persuaded our Legislature would acquiesce in the line as it now is without any further trouble or expence.

The marking out the line anew, ascertaining its situation and erecting suitable monuments would in that case, depend upon some future act of our Government in concurrence with the Government of Canada, and not upon the act now before us.

As you will be on the line, and in a situation, from a personal view and from the information of others, to ascertain in general, its style, course and correctness and the propriety of erecting monuments on any part, any observations on these points will be useful, and I am persuaded will be gratefully received by the Legislature in case the old line should prove to be our boundary.

The Almanac I have not yet read. You will advise me the next mail, whether your first observations will be made at the N. E. corner of the State or at Derby, and to what place I must send the Almanac. I can be at Derby the 15th May.

I shall direct Mr. Page to make out your appointment in due form. He will also deliver to you an order upon the Treasurer for one hundred dollars. If it should be more convenient your collector will answer this order. In our good Republican Government I need not mention to you, who have given so many excellent lessons on the virtue of economy, the necessity of observing it in the business committed to our management.

With sincere esteem and the best wishes for the continuance of your health

I am Dear Sir your Ob't Servant

ISAAC TICHENOR.¹

Copied and the original delivered by

WM. PAGE, 2.

¹ This name is misspelled in some of the MSS. hereafter quoted. —[P.

Copy

Bennington 24 April 1806.

To Benjamin Swan Esq Treasurer
of the State of Vermont.

Please to pay the Rev. Samuel Williams one hundred dollars for services to be performed by him in ascertaining the Latitude 45.

Signed ISAAC TECHENER.

Received Rutland 26 April 1806 by the hand of William Page 2 the order of which, the above is a copy.

SAMUEL WILLIAMS.

—[*Stevens MSS., in N. Y. State Library.*]

ASTRONOMICAL OBSERVATIONS

MADE BY ORDER OF HIS EXCELLENCY GOVERNOR TICHNER TO ASCERTAIN THE LATITUDE OF THE NORTHERN BOUNDARY OF THE STATE OF VERMONT.

BY SAMUEL WILLIAMS, LL. D.

On Connecticut River.

The original Monument is yet standing. It is a square piece of timber, about eight inches in diameter and seven feet high. It stands on the bank of the Connecticut River, and is covered with woods, which extends for nearly two miles. On this monument are the following inscriptions:

On the North side.

H. CARDEN J. COLLINS QUEBEC.

On the South side.

NEW YORK.

On the East side.

Oct. 1st 1772 — 90 $\frac{1}{4}$.

There are some other marks and letters which appear to have been of a later date, and are nearly obliterated. The timber is nearly rotten at the bottom, and will probably fall down in a few years, unless something shall be done to preserve it.

May 12, 1806.

Meridian Altitude of the Sun's upper limb by observation,	63	9	5
Sun's parallax		+	4
Refraction		—	29
Sun's semidiameter			15 52
Meridian Altitude of the Sun's centre	62	52	48

¹Not yet arranged, and not accessible at time of reading this proof. — [P.]

	°	'	"
Sun's declination North	18	5	5
Latitude of the place.....	44	47	43

May 13.

Meridian Altitude of the Sun's upper limb by observation,	64	24	27
Sun's parallax	+		4
Refraction	-		29
Sun's semidiameter	-	15	52
Meridian Altitude of the Sun's center.....	63	8	10
Sun's declination North	-	18	20 7
Latitude.....	44	48	3

The variation of the Magnetic Needle, by a good observation, was this day found to be 9 degrees West.

May 15.

	°	'	"
Meridian Altitude of the Sun's upper limb by observation,	63	53	43
Sun's parallax.....	+		4
Refraction	-		29
Sun's semidiameter.....	-	15	52
Meridian Altitude of the Sun's centre.....	63	37	26
Sun's declination North.....	-	18	49 16
Latitude	44	48	10
The mean of these observations is	44	47	59

which is the true latitude of the monument on the East Bank of Connecticut River. The Northern line of Vermont, at that place, is therefore 12' 1" South of the Latitude of 45 degrees.

By the most accurate measures and computations which have been made by Astronomers, one degree of Latitude is equal to 69½ miles. From the above observations then the result will be, that the Northern boundary of Vermont on Connecticut River, is thirteen miles, three quarters, and fifty-four rods more Southerly than it ought to be.

On Lake Memphremagog.

The ancient monument is a piece of timber about five feet high, and eleven inches diameter. It stands on the east bank of the Lake, and is surrounded and supported by stones. On the North side is this inscription:

STANSTEAD.

On the East side are these words and figures:

July 24, 1772.

May 22.

	°	'	"
Meridian Altitude of the Sun's upper limb by observation,	65	30	34
Sun's parallax	+		4

	°	'	"
Refraction	—		27
Sun's semidiameter	—	15	51
Meridian Altitude of the Sun's centre	65	14	20
Sun's declination North	—	20	21 1
Latitude of the place	44	53	19

May 23.

Meridian Altitude of the Sun's upper limb by observation,	65	42	27
Sun's parallax	+		4
Refraction	—		27
Sun's semidiameter	—	15	51
Meridian Altitude of the Sun's centre	65	26	33
Sun's declination North	20	32	44
Latitude	44	53	49

May 24

Meridian altitude of the Sun's upper limb by observation	65	54	32
Sun's parallax	+		4
Refraction	—		27
Sun's semidiameter		15	51
Meridian altitude of the Sun's centre	65	38	18
Sun's declination North	—	20	44 8
Latitude	44	54	10
The mean of these observations is	44	53	46

which is the true latitude of the Monument, on the East bank of Lake Memphremagog. The Northern line of Vermont, at this place is therefore 6' 14" South of the Latitude of 45 degrees.¹ By the customary methods of computation, this will amount to seven miles, and seventy one rods.

From these observations, compared with those made at Connecticut River, it does not appear, that the Monument made at Lake Champlain, is fixed exactly in the Latitude of 45 degrees, or that the line was actually run in a strait course. But admitting those to have been the case the direction of the line, instead of agreeing, with the parallel of latitude is in fact 8° 52' 19" south of that line.

The length of the Northern line of this State by measure is 94½ miles. On Connecticut River, this line is to the South of Latitude 45 degrees, thirteen miles, three quarters, and fifty four rods. These lines form a triangle, which contains 401,973½ acres of land. Computed by the customary method of laying out a Township six miles square, this will amount to 17 $\frac{44}{100}$ Townships, and so much land is actually lost to Vermont, by the error in running the Northern line of the State. To this

¹ A gross error, as will hereafter appear. —[P.]

it should be added that as Connecticut River lies, in a Northerly direction as it approaches this State, one or two Townships, would on that account, accrue to Vermont, if the Northerly line was actually run on the Latitude of 45 degrees and continued till it intersected Connecticut River.

Rutland, June 18, 1806.

—[*Stevens MSS., in N. Y. State Library.*]

TREATY OF PEACE AND AMITY,

Between his Britanic Majesty and the United States of America.

Dec. 24, 1814.

*

*

*

*

Article the Sixth.

Whereas, by the former treaty of peace that portion of the boundary of the United States from the point where the forty-fifth degree of north latitude strikes the river Iroquois or Cataraguy to the lake Superior, was declared to be “along the middle of said river into lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and lake Erie, thence along the middle of said communication into lake Erie, through the middle of said lake until it arrives at the water communication into the lake Huron, *

* And whereas doubts have arisen what was the middle of the said river, lakes and water communications, and whether certain islands lying in the same were within the dominions of his Brittanic Majesty or of the United States: In order, therefore, finally to decide these doubts, they shall be referred to two commissioners, to be appointed,

* * The said Commissioners shall, by a report or declaration, under their hands and seals, designate the boundary through the said river, lakes, and water communications, and decide to which of the two contracting parties the several islands lying within the said rivers, lakes and water communications, do respectively belong, in conformity with the true intent of the said treaty of one thousand seven hundred and eighty-three. And both parties agree to consider such designation as final and conclusive. * * * *

—[*U. S. Statutes at Large, viii, 218, 221.*]

DECISION OF THE COMMISSIONERS.

The undersigned Commissioners, appointed, sworn and authorized, in virtue of the 6th article of the treaty of peace and amity, between his Britannic Majesty and the United States of America, concluded at Ghent, on the 24th of December, 1814, impartially to examine, and, by a report or declaration, under their hands and seals, to designate, that portion of the boundary of the United States “from the point where

the 45th degree of north latitude strikes the river Iroquois, or Catarqui, along the middle of said river, into Lake Ontario; through the middle of said lake, until it strikes the communication by water between that lake and Lake Erie; thence, along the middle of said communication, into Lake Erie; through the middle of said lake, until it arrives at the water communication, into Lake Huron; thence, through the middle of said water communication, into Lake Huron; thence, through the middle of said lake, to the water communication between that lake and Lake Superior;" and to "decide to which of the two contracting parties the several islands lying within the said rivers, lakes, and water communications do respectively belong, in conformity with the true intent of the treaty of 1783," do decide and declare, that the following described line, (which is more clearly indicated on a series of maps accompanying this report, exhibiting correct surveys and delineations of all the rivers, lakes, water communications, and islands, embraced by the 6th article of the treaty of Ghent, by a black line, shaded on the British side with red, and on the American side with blue, and each sheet of which series of maps is identified by a certificate, subscribed by the commissioners, and by the two principal surveyors employed by them) is the true boundary intended by the two before mentioned treaties; that is to say:

Beginning at a stone monument, erected by Andrew Ellicott, Esq. in the year 1817, on the south bank or shore of the said river Iroquois, or Catarqui, (now called the St. Lawrence,) which monument bears south $74^{\circ} 45'$ west, and is eighteen hundred and forty yards distant from the stone church in the Indian village of St. Regis, and indicates the point at which the 45th parallel of north latitude strikes the said river; thence, running north $35^{\circ} 45'$, west into the river, on a line at right angles with the southern shore, to a point one hundred yards south of the opposite island, called Cornwall Island; thence, turning westerly, and passing around the southern and western sides of said island, keeping 100 yards distant therefrom, and following the curvatures of its shores, to a point opposite to the northwest corner or angle of said island; thence, to and along the middle of the main river, until it approaches the eastern extremity of Barnhart's Island; thence, northerly, along the channel which divides the last mentioned island from the Canada shore, keeping one hundred yards distant from the island, until it approaches Sheik's Island; thence, along the middle of the strait which divides Barnhart's and Sheik's Islands, to the channel called the Long Sault, which separates the two last mentioned islands from the lower Long Sault Island; thence, westerly, (crossing the center of the last mentioned channel,) until it approaches within one hundred yards of the north shore of the Lower Sault Island; thence, up the

north branch of the river, keeping to the north of and near the Lower Sault Island, and also north of and near the Upper Sault (sometimes called Baxter's) Island, and south of the two small islands, marked on the map A and B, to the western extremity of the Upper Sault or Baxter's Island; thence, passing between the two islands called the Cats, to the middle of the river above; thence, along the middle of the river, keeping to the north of the small islands marked C and D, and north, also, of Chrystler's Island, and of the small island next above it, marked E, until it approaches the northeast angle of Goose Neck Island; thence, along the passage which divides the last mentioned island from the Canada shore, keeping one hundred yards from the island, to the upper end of the same; thence, south of and near the two small islands called the Nut Islands; thence, north of and near the island marked F, and also of the island called Dry, or Smuggler's Island; thence, passing between the islands marked G and H, to the north of the island called Isle au Rapid Plat; thence, along the north side of the last mentioned island, keeping one hundred yards from the shore, to the upper end thereof; thence along the middle of the river, keeping to the south of and near the islands called Cousson, or Tussiu, and Presque Isle; thence, up the river, keeping north of and near the several Gallop Isles, numbered on the map, 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and also of Tick, Tibbet's and Chimney Islands, and south of and near the Gallop Isles, numbered 11, 12 and 13, and also of Duck, Drummond and Sheep Islands; thence, along the middle of the river, passing north of island No. 14, south of 15 and 16, north of 17, south of 18, 19, 20, 21, 22, 23, 24, 25 and 28, and north of 26 and 27; thence, along the middle of the river, north of Gull Island, and of the islands No. 29, 32, 33, 34, 35, Bluff Island and No. 39, 44, and 45, and to the south of No. 30, 31, 36, Grenadier Island, and No. 37, 38, 40, 41, 42, 43, 46, 47, and 48, until it approaches the east end of Wells' Island; thence, to the north of Wells' Island, and along the strait which divide it from Rowe's Island, keeping to the north of the small islands No. 51, 52, 54, 58, 59, and 61, and to the south of the small islands numbered and marked 49, 50, 53, 55, 57, 60, and X, until it approaches the northeast point of Grindstone Island; thence, to the north of Grindstone Island, and keeping to the north, also, of the small islands No. 63, 65, 67, 68, 70, 72, 73, 74, 75, 76, 77, and 78, and to the south of No. 62, 64, 66, 69 and 71, until it approaches the southern point of Hickory Island; thence, passing to the south of Hickory Island, and of the two small islands lying near its southern extremity, numbered 79 and 80; thence, to the south of Grand, or Long Island, keeping near its southern shore, and passing to the north of Carlton Island, until it arrives opposite to the southwestern point of said Grand Island,

in Lake Ontario ; thence, passing to the north of Grenadier, Fox, Stoney, and the Gallop Islands, in Lake Ontario, and to the south of and near the islands called the Ducks, to the middle of said lake ; thence, westerly, along the middle of said lake, to a point opposite to the mouth of the Niagara river ; thence, to and up the middle of the said river to the Great Falls ; thence, up the falls, through the point of the Horse Shoe, keeping to the west of Iris, or Goat Island, and of the group of islands at its head, and following the bends of the river so as to enter the strait between Navy and Grand Islands ; thence, along the middle of said strait, to the head of Navy Island ; thence, to the west and south of, and near to, Grand and Beaver Islands, and to the west of Strawberry, Squaw, and Bird Islands, to Lake Erie ; thence, southerly and westerly, along the middle of Lake Erie, in a direction to enter the passage immediately south of Middle Island, being one of the easternmost of the groupe of islands lying in the western part of said lake.

* * * *

In faith whereof, we, the Commissioners aforesaid, have signed this declaration, and thereunto affixed our seals. [June 18, 1822.]

* * * *

PETER B. PORTER, [L. S.]

ANTH. BARCLAY, [L. S.]

—[*U. S. State Papers*, 2d Sess., 17th Cong., vi, No. 91.]

A TREATY

To settle and define the boundaries between the territories of the United States and the possessions of Her Britannic Majesty in North America ; * * * Aug. 9, 1842.

* * * *

Article VI.

It is furthermore understood and agreed, that for the purpose of running and tracing those parts of the line between the source of the St Croix and the St Lawrence river which will require to be run and ascertained, and for marking the residue of said line by proper Monuments on the land, two Commissioners shall be appointed one by the President of the United States, by and with the advice and consent of the Senate thereof, and one by Her Britannic Majesty : * * and the said Commissioners shall make to each of their respective Governments a joint report or declaration, under their hands and seals, designating such line of boundary, and shall accompany such report or declaration with maps, certified by them to be true maps of the new boundary.

—[*U. S. Statutes at Large*, viii, 572, 575.]

[CORRESPONDENCE.]

DEPARTMENT OF STATE,

WASHINGTON, Nov. 14th, 1874.

D. J. PRATT, Esq^r,

Assistant Secretary,

University of the State of New York, Albany.

SIR :

I have to acknowledge the receipt of your letter of the 23d ultimo, and in reply to inform you that the Report of the United States Commissioner, Albert Smith, appointed to carry into effect the 6th Article of the Treaty with Great Britain of 1842, is to be found in print in House Doc. No. 169, 28th Congress, 1st Session, under date January 23d, 1844. It was read and laid on table March 9, 1844 ;

That the Joint Report of the Commissioners appears in Senate Executive Doc. No. 71, 30th Congress, 1st Session.

That the details and data upon which the maps were based, are not published ; and that the original notes were burnt with the uncompleted maps while Col. Graham was preparing them, but were replaced from the British notes, and the maps were then reconstructed.

I am, Sir, Your obedient servant,

HAMILTON FISH.

[IN U. S. SENATE.]

SATURDAY, July 29, 1848.

* * * *

Resolved, That the Secretary of State be requested to send to the Senate a copy of the joint report of the commissioners under the treaty of Washington, of August 9, 1842, together with a copy of the report of the American commissioner, transmitting the same to the State Department.

* * * *

30th CONGRESS,
1st Session.

[SENATE.]

EXECUTIVE,
No. 71.

R E P O R T

OF THE

S E C R E T A R Y O F S T A T E ,

TRANSMITTING

IN COMPLIANCE WITH A RESOLUTION OF THE SENATE, REPORTS OF THE COMMISSIONERS UNDER THE TREATY OF WASHINGTON, OF AUGUST 9, 1842.

To the Senate of the United States :

The Secretary of State has the honor to transmit to the Senate, in compliance with a resolution adopted by it on the 29th ultimo, " a copy

of the *joint report* of the commissioners under the treaty of Washington, of August 9, 1842, together with a copy of the report of the American commissioner, transmitting the same to the State Department."

JAMES BUCHANAN.

DEPARTMENT OF STATE,

Washington, August 3, 1848.

Mr. Smith to Mr. Buchanan.

WASHINGTON, *April 20, 1848.*

SIR: In presenting to you the joint report of the commissioners, appointed under the treaty of Washington, of August 9, 1842, to survey and mark the line of boundary between the United States and the British provinces, which I have the honor herewith, most respectfully, to submit, I have to perform the painful duty of informing you that the maps of that line, and of the adjacent country, which had been elaborately constructed by the scientific corps on the part of the United States, and contained upon one hundred sheets of drawing paper, of the largest size, together with the tables of the survey, have been destroyed by the conflagration of the building in which they were contained. This house had been occupied by Major James D. Graham, the head of the scientific corps, and principal astronomer of the American commission, as his office, until his departure for Mexico. All the maps, drawings, and tables had been completed and duly authenticated by the joint commissioners, and were ready to be deposited with their joint report under their hands and seals, in the archives of this government. Of this, I had the honor to inform you in my letter of the 24th ultimo.

I can hardly express the pain which this unfortunate event has occasioned me. But I cannot perceive that any imputation of blame can properly be attached to any officer of the commission. The care and custody of all the work of the United States scientific corps were properly placed in charge of Major Graham, as the head of that corps, who had had the immediate direction and superintendence of it from the first organization of the commission. He required the maps and tables at his office, for reference and revision in the progress of the astronomical work. Upon his departure for Mexico, he placed Lieutenant A. W. Whipple in his rooms, with an injunction to guard, with the utmost care, the valuable property of the commission. On the day after he left the city, and when, for the first time, informed of the fact, I called upon Lieutenant Whipple, and requested him to have all the maps, drawings, and tables ready to be turned over to the State Depart-

ment on the following day. On the 24th ultimo, I acquainted you with that fact.

No censure can possibly be attributed to Lieutenant Whipple, whose great care and attention to all his duties, have been, on all occasions, highly distinguished. He escaped from the fire with scarcely an article of his dress, and his loss in money and clothing is at least one thousand dollars. Major Graham has lost his valuable library, together with personal effects to a large amount. The fire was communicated from the basement of the house, and by no effort could any thing be saved.

There are tracings of the maps upon "tissue paper," without the topography, in the State of Maine, but they are not signed by the commissioners.

The field books of the engineers were, fortunately, not in Major Graham's office, and are preserved.

Duplicates of the maps, duly authenticated, have been placed in the British archives at London, which, although they have not the topography of the country so fully laid down upon them as it was upon our own, represent with equal exactness the survey of the boundary itself. Should it be deemed expedient by this government to procure copies of them, access to those archives for that purpose would, undoubtedly, be permitted, and the object accomplished at small expense; and when completed, these copies could be authenticated by the joint commissioners, in accordance with the provisions of the treaty.

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

ALBERT SMITH.

—[*U. S. Senate Docs.*, 1848, v. 8, No. 71.]

Report of the joint commission of boundary, appointed under the treaty of Washington, of August 9, 1842.

The undersigned, commissioners appointed under the treaty of Washington, to trace and mark the boundary, as directed by that treaty, between the British possessions in North America and the United States; that is to say, James Bucknall Estcourt, lieutenant colonel in the British army, appointed commissioner by her Britannic Majesty, and Albert Smith, appointed commissioner by the President of the United States, having accomplished the duty assigned to them, do now, in accordance with the directions of the said treaty, submit the following report and the accompanying maps, jointly signed, to their respective governments.

In obedience to the terms of the treaty, they met at Bangor in the State of Maine, on the 1st day of May, 1843, where they produced and verified the authority under which they each were respectively to act.

They then adjourned, because the weather was not sufficiently open to take the field, to the first of the following month, June, and agreed to meet again at that time at Houlton.

Accordingly, they did meet at that place and began their operations.

It may be desirable to state, at the outset, that, for the sake of convenience, the whole line of boundary marked by the undersigned has been divided, in the mention made of the different portions, into the following grand divisions, viz :

North line, from the source of the St. Croix to the intersection of the St. John.

River St. John, from the intersection of the north line to the mouth of the St. Francis.

River St. Francis, from its mouth to the outlet of Lake Pohenagamook.

Southwest line, from the outlet of Lake Pohenagamook to the northwest branch of the St. John.

South line, from the northwest branch to the parallel of latitude $46^{\circ} 25'$ on the southwest branch.

Southwest branch, from the parallel $46^{\circ} 25'$ to its source.

Highlands, from the source of the southwest branch of the St. John to the source of Hall's stream.

Hall's stream, from its source to the intersection of the line of Valentine and Collins.

West line, from Hall's stream to the St. Lawrence, near St. Regis, along the line of Valentine and Collins.

To return to the narrative of operations :

The exploring line of Colonel Bouchette and Mr. Johnson, as directed by the treaty, was traced from the monument at the source of the St. Croix to the intersection of the St. John.

The monument found at the source of the St. Croix, as described in the report of Colonel Bouchette and Mr. Johnson, and the course of their exploring line, was traced by blazes or marks upon the trees.

An old line, cut out by the assistant surveyors of Colonel Bouchette and Mr. Johnson, was also found, which terminated about half a mile north of the south branch of the Meduxnekeag, where, by records to which the undersigned referred, they ascertained that it had been abandoned, because of its deviation from the exploring line of Colonel Bouchette and Mr. Johnson.

After the exploration and re-marking of the north line, it was cut out thirty feet wide. The same was afterwards done in all parts where the boundary passed through woodland. After thus opening the north line, it was surveyed ; and iron posts were erected at intervals to mark it.

The general bearing of the line was rather to the west of the meridian of the monument at the source of the St. Croix. The precise line

laid down by the undersigned was determined by successive courses, of which each was made to be as long as was convenient, provided it did not pass out of the opening of thirty feet.

At each angle of deflection an iron monument was erected, and placed anglewise with the line. Other monuments were erected at the crossing of roads, rivers, and at every mile, commencing from the source of the St. Croix. Those which were not intended to mark angles of deflection were placed square with the line.

At the intersection of the St. John by the north line, the river is deep and broad. The boundary runs up the middle channel of the river, as indicated by the maps, dividing the islands as follows :

No. 1.	Ryan's island.....	United States.
No. 2.	King's island.....	United States.
No. 3.	Des Trois isles.....	United States.
No. 4.	La Septieme isle.....	United States
No. 5.	Quissibis.....	Great Britain.
No. 6.	La Grand isle.....	United States.
No. 7.	Thibideau's islands.....	United States.
No. 8.	Madawaska islands.....	Great Britain.
No. 9.	Joseph Michaud's three islands.....	United States.
No. 10.	Pine island.....	Great Britain.
No. 11.	Baker's Turtle Dagle's Fourth Fifth } islands.....	Great Britain.
No. 12.	Kennedy's island.....	Great Britain.
No. 13.	Crock's Cranberry Gooseberry } islands.....	Great Britain.
No. 14.	Savage's island.....	United States.
No. 15.	Wheelock's island.....	United States.
No. 16.	Caton's island.....	United States.
No. 17.	Honeywell's island.....	United States.
No. 18.	Savage and Johnson's island.....	United States.
No. 19.	Grew's island.....	United States.
No. 20.	Kendall's island.....	Great Britain.

The islands were distributed to Great Britain or to the United States, as they were found to be on the right or left of the deep channel. There was but one doubtful case, La Septieme isle, and that was apportioned to the United States, because the majority of the owners were ascertained to reside on the United States side of the river.

Monuments were erected upon the islands, marking them for Great Britain or the United States, as the case may have been.

After leaving the St. John, the boundary enters the St. Francis, dividing the islands at the mouth of that river in the manner shown in the maps. It then runs up the St. Francis, through the middle of the lakes upon it, to the outlet of Lake Pohenagamook, the third large lake from the mouth of the river. At the outlet, a large monument has been erected.

In order to determine the point on the northwest branch to which the treaty directed that a straight line should be run from the outlet of Lake Pohenagamook, a survey of that stream was made, and also of the main St. John, in the neighborhood of the mouth of the northwest branch; and a line was cut between the St. John and the point on the northwest branch, ascertained by the survey to be ten miles in the nearest direction from it, and the distance was afterwards verified by chaining.

It was ascertained, also, in accordance with the provisions of the treaty, by a triangulation of the country towards the Highlands dividing the waters of the St. Lawrence and of the St. John, that more than seven miles intervened between the point selected on the northwest branch and the crest of the dividing ridge. A large iron monument was afterwards erected on the point thus selected, and the space around was cleared and sown with grass-seed. It is a short distance below the outlet of Lake Ishaganalshegeck.

The outlet of Lake Pohenagamook and the point on the northwest branch, designated by the treaty, having been thus ascertained and marked, in the spring of 1844, a straight line was run between them. Along that line, which passes entirely through forest, monuments were erected at every mile, at the crossings of the principal streams and rivers, and at the tops of those hills where a transit instrument had been set up to test the straightness of the line.

As soon as the parallel of latitude $46^{\circ} 25'$ had been determined on the southwest branch, in the early part of the summer of 1844, a straight line was drawn from the boundary point on the northwest branch to a large monument erected on the left bank of the southwest branch, where it is intersected by the parallel of latitude $46^{\circ} 25'$. The line so drawn crosses the southwest branch once before it reaches the parallel of latitude $46^{\circ} 25'$, and at about half a mile distance from that parallel. There, also, a large monument had been set up on the left bank.

From the intersection of the parallel $46^{\circ} 25'$, the boundary ascends the southwest branch, passes through a lake near its head, and so up a small stream which falls into the lake from the west, to the source of

that stream, which has been selected as the source of the southwest branch.

On the southwest branch there are two principal forks, at each of which two monuments have been erected; one on each bank of the river, immediately above the forks, and upon the branch established as the boundary. The maps point out their positions. At the mouth of the small stream selected as the source of the southwest branch, a monument has been erected upon a delta formed by two small outlets. Above these outlets three other monuments have been placed, at intervals, upon the same stream.

Upon the crest of the dividing ridge, very close to the source of the southwest branch, a monument has been erected. It is the first point in the Highlands, and from it the boundary runs along the crest, in a southerly direction, passing near the southeastern shore of the Portage lake, and so on to a large monument erected on a small eminence on the east side of the Kenebec road. Thence it passes through a dwelling-house called Tachereau's, which was standing there at the time the line was run; so, by a tortuous course, it runs to the top of the Sandy Stream mountain; thence, inclining to the southwest, it runs over Hog's Back the first, as shown in the map; thence towards Hog's Back the second, which it leaves on the north side. Further on, at the head of Leech lake, there is a stream which divides its waters and flows both into Canada and into the United States. The boundary has been made to run up that stream a short distance from the fork, where the waters divide to a second fork; thence between the streams which unite to form that fork, and then to ascend again the dividing ridge. A monument has been erected at the fork first mentioned, where the waters divide.

As the boundary approaches the valley of Spider river, it bends to the southeast, and, by a wide circuit over high and steep hills, it turns the head of Spider river; thence it bends to the northwest, until it approaches within about four miles of Lake Megantic; thence it turns again south, having the valley of Arnold's river on the right, and of Dead river on the left. It leaves Gasford Mountain in Canada, threads its way over very high ground between the head of Arnold's river and the tributaries of the Magalloway; inclines thence to the north, to the west, over very rocky, mountainous, and difficult country, leaving Gipp's Peak in the United States, and turns, by a sharp angle at Saddle Back, to the south. After that it again inclines to the west, and then to the south, and again to the west, and passes the head of the Connecticut. About three miles and a half east of the head of the Connecticut, there is a division of waters similar to that described near Leech lake. The boundary runs down a stream from near its source to the fork

where it divides, and then again follows the dividing ridge. The spot is noted on the map.

After the boundary has passed the head of the Connecticut, it runs to the northwest, descending into very low, swampy ground, between the heads of Indian stream and the tributaries of the St. Francis. Thus it passes on, bending again to the south of west, over a high hill, to the source of Hall's stream.

Iron monuments have been erected at intervals along the Highlands, from the source of the southwest branch of the St. John to the source of Hall's stream; the position of each of which is shown upon the maps.

From the source of Hall's stream the boundary descends that river, dividing the islands, which are, however, merely unimportant alluvial deposits, in the manner indicated by the maps, until it reaches the intersection of that stream by the line formerly run by Valentine and Collins as the 45° of north latitude.

At that point a large monument has been erected on the right, and a small one on the left bank of the stream. Monuments have also been erected along the bank of this stream, as indicated on the maps.

The line of Valentine and Collins was explored and found by the blazes still remaining in the original forest.

Upon cutting into those blazes, it was seen, that, deep seated in the tree, there was a scar; the surface of the original blaze slightly decayed; and, upon counting the rings, (which indicate each year's growth of the tree,) it was found that the blazes dated back to 1772-'3 and '4. The line of Valentine and Collins was run in 1771, -'2, -'3, and 4. The coincidence of the dates of the blazes with those of the above line, confirmed by the testimony of the people of the country, satisfied the undersigned that the line they had found was that mentioned in the treaty. Along this portion of the boundary, which is known as the 45th° of Valentine and Collins, and which extends from Hall's stream to St. Regis, there are several interruptions to the blazes, in those parts where clearings have been made; and there the authentic marks of the precise situation of the old line have been lost. In those cases, the undersigned have drawn the boundary line straight from the original blazes on the one side of a clearing to the original blazes on the other side of the same clearing.

It cannot be positively stated that the line, as it has been traced through those clearings, precisely coincides with the old line; but the undersigned believe that it does not differ materially from it; nor have they had the means of determining a nearer or a surer approximation.

Along this line, at every point of deflection, an iron monument has been erected; also, at the crossing of rivers, lakes and roads. Those

which mark deflections are placed, as on the "north line," anglewise with the line; all the others are placed square with it. The maps show the position of each.

On the eastern shore of Lake Memphremagog, an astronomical station was established; and, on a large flat rock of granite, which happened to lie between the astronomical station and the boundary, was cut the following inscription:

British Boundary Commission.

Capt. Robinson.

Astronomical Station

422 feet north.

Meridian line.

Boundary line

595 feet south.

August, 1845.

A mark was cut upon the stone, as indicated by the dot upon the meridian line above, from which these measurements were made.

At Rouse's Point, a monument of wrought stone was set up, at the intersection of the boundary by the meridian of the transit instrument used there by Major Graham; and an inscription was cut upon it, stating the latitude and longitude, the name of the observer and his assistant, the names of the commissioners, and the territories divided.

To mark the positions of the instruments used at the following astronomical stations along the west line, two monuments, within a few feet of each other, have been erected at each station, and they have been placed on the boundary line due north or south of the instrument, as the case may have been.

The stations are —

Lake Memphremagog,
Richford,
John McCoy's,
Trout river.

The boundary along the west line, though very far from being a straight line, is generally about half a mile north of the true parallel of latitude 45° , from Hall's stream to Rouse's Point. At about twenty-eight miles west of Rouse's Point it, however, crosses that parallel to the south, until it reaches Chateaugay river, where it bends northwards, and, crossing the parallel again, about four miles east of St. Regis, it strikes the St. Lawrence one hundred and fifty-one feet north of 45° . At that point, a large monument has been erected, on the bank of the

St. Lawrence. Two large monuments have also been erected — one on either side of the river Richelieu, near Rouse's Point.

No marks of the old line were to be found about St. Regis. It was, therefore, agreed to run a line due west from the last blaze which should be found in the woods, on the east side of St. Regis. That blaze occurred about one mile east of the St. Regis river.

The maps, which exhibit the boundary on a scale of four inches to one statute mile, consist of sixty-two consecutive sheets of antiquarian paper, as constructed by the British, and of sixty-one, as constructed by the American commission. A general map has also been constructed on a scale of eight miles to one inch, by the British, and of ten miles to one inch by the American commission, upon which the before mentioned sheets are represented.

The following portions of the boundary have been laid down by the British commission, on detached maps, on a scale of twelve inches to one mile, which have been signed by both commissioners:

Grand falls of the St. John, including the intersection of that river by the north line.

Islands of the St. John.

The outlet of Lake Pohenagamook.

The turning point of the boundary on the northwest branch of the St. John.

The intersection of the southwest branch by the parallel of latitude $46^{\circ} 25'$.

The source of the southwest branch.

The source of Hall's stream.

The intersection of Hall's stream by the west line.

Rouse's Point.

St. Regis.

Derby.

But similar maps have not been prepared by the American commission, because, during the interval between the finishing of the maps of the British commission and those of the American, it was thought that the maps already constructed, upon a scale of four inches to one mile, represented the boundary with sufficient clearness and accuracy.

The astronomical observations were begun at the Grand Falls, early in June, 1843, and were carried up the St. John river to the northwest branch by a chain of stations, which, together with the results obtained, are tabulated in the appendix accompanying this report.

From the valley of the St. John, an astronomical connection was made with Quebec, and thence to Montreal, and so to Rouse's point. From Rouse's point, a connection was obtained with Cambridge University; near Boston.

The astronomical stations on the west line were —

Intersection of Hall's stream by the west line,

Lake Memphremagog,

Richford,

Rouse's Point,

John McCoy's,

Trout river,

St. Regis.

Latitude was also obtained at an astronomical station, established for the purpose, at the head of the Connecticut.

Volumes containing the astronomical observations of both commissioners are herewith submitted. From them, it will be observed, that the results for absolute longitude, obtained by the British and American astronomers, do not agree. It being a difference in no way affecting the survey of the boundary line, the undersigned do not feel called upon to attempt to reconcile it. The data upon which these results are based, may be seen in the volumes of observations accompanying this report.

In the appendix will be found, in a tabular form, the following:

An abstract of the survey of the boundary along the north line.

Do.	do.	do.	do.	S. W. line.
Do.	do.	do.	do.	South line.
Do.	do.	do.	do.	Highlands.
Do.	do.	do.	do.	west line.

The position of the monuments erected on the southwest branch of the St. John, and on Hall's stream.

The distribution of the islands of the St. John, and the monuments on them.

The guide lines and offsets run by each commission for the survey of the Highlands.

The azimuths of verification for the survey of the Highlands.

The latitudes and longitudes obtained from the astronomical observations.

The comparative longitudes obtained, and the methods used for the purpose.

Upon comparing the maps of the two commissions, it will be seen that the American commission numbers two monuments more than the British. Those are to be found, one on the "Fourth island," in the River St. John, and the other on the Highlands, between the source of the S. W. branch of the river St. John and the Kennebec road.

On the maps of the British commission, representing the "West line," the name of the town of "Derby" has been improperly placed north of the line, instead of south of it. Also, on the same maps, the direction of

Salmon river, near the western extremity of the "West line," has been incorrectly laid down from the boundary line northwards. A direction has been given to it northeasterly, instead of northwesterly.

The above two corrections the British commissioner is authorized to make on his maps, after his return to England.

To avoid unnecessary delay in making their joint report, the undersigned have attached their signatures to the maps, although the lettering of some of the astronomical stations upon the maps of the American commission, as well as the alterations before mentioned in the maps of the British commission, are yet to be made. But in the maps of both, the boundary has been laid down accurately and definitively; and the undersigned engage that it shall not be altered in any respect.

In conclusion, the undersigned have the honor to report, that the line of boundary described in the foregoing statement has been run, marked, and surveyed, and the accompanying maps faithfully constructed from the survey.¹

The undersigned take leave to add, that the most perfect harmony has subsisted between the two commissions, from first to last, and that no differences have arisen between the undersigned in the execution of the duties entrusted to them.

Signed and sealed in duplicate, at the city of Washington, this twenty-eighth day of June, in the year of our Lord one thousand eight hundred and forty-seven.

J. B. BUCKNALL ESTCOURT, *Lt. Col.* [SEAL.]

H. B. M. Commissioner.

ALBERT SMITH, [SEAL.]

United States Commissioner.

NOTE.—The astronomical computations of the American commission not being completed, and it being unnecessary to defer the signing of the report on that account, the American commissioner engages to transmit them, with any other papers or tables not yet finished, as soon as they shall be so, to the British commissioner, through the American minister resident in London, to whom, upon delivery of the documents, the British commissioner will give a receipt, to be transmitted to the American commissioner.²

J. B. BUCKNALL ESTCOURT, *Lt. Col.* [SEAL.]

H. B. M. Commissioner of Boundary.

ALBERT SMITH, [SEAL.]

United States Commissioner.

—[*U. S. Senate Docs.*, 1848, v. 8. No. 71.]

¹A set of these maps, as officially published, in thirty-nine large sheets, is on file in the office of the Secretary of State, as portfolio 368, and another set in the State Library, Albany.—[P.]

²These papers were subsequently destroyed by fire, and have not been published. See Commissioner Smith's note of April 20, 1848, on page 53, and Assist. Sec'y Seward's, of July 26, 1879, in Appendix.—[P.]

VIEWS OF RECENT WRITERS.

OUR BOUNDARIES.

The Dominion of Canada is the legitimate heir to the old French Empire in North America, and although the inheritance has come down to us sadly diminished in extent, we may indulge ourselves in a condensed review of its ancient limits.

In 1540, Roberval was declared by Francis I. to be Lord of Norembéque, *i. e.*, of the lands on the Penobscot. In 1603, De Monts received letters patent to trade from Cape De Roze to the 40th degree N. latitude. Under this authority he wintered on St. Croix Island in 1604, sailing, in 1605, to Norembéque, Kennebec, Casco, Saco, and even Cape Cod. In 1627, "La Nouvelle France, called Canada," is declared in the charter of the Hundred Associates to extend from Florida to the Arctic Circle, and from Newfoundland to the furthest affluent of the St. Lawrence, but this excessive claim was never seriously maintained, and when Acadia was divided from Canada, it was defined as being bounded N. by the Gulf of St. Lawrence, E. by the Atlantic, S. by the River Kennebec, W. by the Province of Canada. Even this boundary was indeed disputed. In 1613, Capt. Argal came northwards from Virginia, convoying fishing craft, and finding the French clearing lands on the Penobscot, attacked them, saying the territory was part of Virginia, which owned all to 46° N. lat. In 1655, by the treaty of Westminster, the conflicting claims were referred to a commission, but though the commissaries were appointed in 1662, nothing was done. In 1656, Cromwell's grant of Acadie to Latour, Temple and Crowne, defined the territory to be "along the Bay to Fort St. John, and thence following "all the coast as far as Pentagoet and the River St. George in Mesconrus, situate on the borders of New England, and further on to the "first habitation." The treaty of Breda, 1667, restored Acadia to France, and the French commission to Grand Fontaine, 1670, set the Quinebequi as the boundary of his government — a boundary asserted by Villebon, the French Governor of Acadia, against Lieut.-Governor Stoughton, of Massachusetts, in 1698. Charlevoix, pp. 348, 349, says that about this time the River St. George, about half-way between Pentagoet and the Kennebec, began to be spoken of as the boundary. In 1700, after the peace of Ryswick, it appears by a letter from de Beauharnois and Hocquart, respectively Governor and Intendant of Canada, "a post was planted on an island at the mouth of the St. George, with the arms of England on the west side and those of France on the east side, to serve as bounds to the lands of the two crowns, and to distinguish them;" and in 1703 a judgment of the King's Council of State grants to le Borgne, "Pentagoet, &c., with ten leagues on each side of

“the river, to the River St. George, the boundary of New England.” Just after the treaty of Paris, 1712, the French king offered numerous concessions if the English would give him back Acadia, and “in this case his Majesty would consent that the River of St. George should be the limit of Acadia, as England desired.” In 1720, Col. Philipps, Governor of Nova Scotia, complained that “the bounds between the government of Nova Scotia and New England are not declared,” and enclosed to the Lords of Trade a petition from persons who had lands between the Kennebec and St. George, for confirmation of title. In 1762, Governor Bernard, of Massachusetts, and Governor Belcher, of Nova Scotia, had a correspondence which was ended by Mr. Belcher as follows: “I must, nevertheless, with much satisfaction, accept the assurance you give me that you shall not make any grants of any of the lands westward of the River St. Croix * * * and I shall on my part not consent to any further grants from this Province until the question is determined at home.” It was not determined until settled by treaty with the rebellious colonies, now the United States, and then the St. Croix was made the boundary. From all which it is clearly to be seen that the stronger British colonies, backed up by the stronger British power, forced back the weaker French from one boundary to another; from about Cape Cod to the Kennebec, from the Kennebec to the St. George, from the St. George to the Penobscot. While at the establishment of their independence they further encroached upon the territory of the parent country, from the Penobscot to the St. Croix.

In the interior of the continent, the French explorers had a magnificent field before them, which they cultivated with equal bravery and energy. The Edict of 1712, establishing Louisiana as a Lieut-Governorship, dependent upon that of Quebec, recites that in 1683 the King had ordered the exploration of the regions between New France and New Mexico; that La Salle had sufficiently succeeded in the enterprise to make it certain that communication could be maintained between the St. Lawrence and the Gulf of Mexico by way of important rivers; that immediately after the peace of Ryswick, His Majesty had sent out a colony, but that in consequence of the wars he had done nothing more;¹ that now, however, he had decided to authorise the Sieur Crozart to trade in the country bounded by the English settlements in Carolina on one hand, and by New Mexico on the other, and principally in the port and harbor of Ile Dauphine, in the valleys of the Mississippi from the sea to the Illinois, of the Missouri, and of the Wabash. The first serious attempt to interfere with the French in this part of the continent was made in 1749, when a company, called the Ohio Company, was chartered,

¹By an arrêt of 1690, the King endows Sieurs de la Forest and Touty, with the establishment made at St. Louis by de la Salle.

and obtained from the British Crown a grant of 600,000 acres on the River Ohio. In 1750 the French heard of this, and the Governor of Canada wrote to the Governors of Pennsylvania and New York to complain, but complaints being useless they seized, in 1751, some American traders found West of the Ohio, and built two forts, one on the south side of Lake Erie and one on Beef River. In 1753, Major (afterwards the celebrated General) Washington was sent by Virginia to M. de Contrecoeur, the French Governor of these two forts, to summon him to retire, who replied "that the country belonged to the King of France, "and that therefore he would according to orders, seize and send "prisoner to Canada every Englishman that should attempt to trade "upon the Ohio or any of its branches." In 1754, a battle took place in that vicinity, and Washington, attacked in his entrenchments at Fort Necessity, capitulated.

The course taken by Canada and Nova Scotia during the American Revolutionary war is a matter of general history, which we need not dilate upon in this place. Suffice it to remark, that their loyalty deserved a better reward than the indifference subsequently shewn by Britain in the fixing of their boundaries. Young remarks, in his "North American Colonies," that: "Language cannot be found too condensed and "too severe to characterize the terms of the first Provincial Treaty of "Peace in 1782. Mr. Oswald, our Plenipotentiary, who adjusted it with "Franklin and Jay, after his return to England, when waited upon by "the Merchants of London, that they might inform him of the conces- "sions and sacrifices he had made, both confessed his ignorance and "wept, it is said, over his own simplicity." Lord Stormont, in the year of the Treaty, spoke of Mr. Oswald as "that, extraordinary Geographer," and said on the other hand of the American Commissioners, in language of which we now, on close acquaintance with such agents, can fully recognize the biting truth, that "they have enriched the English Dic- "tionary with new terms and phrases—reciprocal advantage, for "instance, means the advantage of one of the parties; and a regulation "of boundaries, accession of territory."

The provisional arrangement made by Mr. Oswald was that the eastern boundary of the States should run along the St. John river, from its source to its mouth in the Bay of Fundy, and that the northern boundary should be a line drawn from the northwest angle of Nova Scotia, along the highlands which divide these rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic, to the north-westernmost head of Connecticut river; thence down along the middle of that river to the 45th degree of north latitude, and thence due west to the north-westernmost side of the River St. Lawrence; thence straight to the Lake Nipissing, and thence straight to the River Mississippi.

This agreement was too absurd to be made part of the Definitive Treaty, for it would have given up nearly half of New Brunswick, and almost all of Upper Canada. The Treaty itself (1783) was, however, sufficiently disgraceful in its terms. It established the boundary in the following language:

Art. II. And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared that the following shall be their boundaries, viz.: from the north-west 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 north-westernmost head of Connecticut river; thence down along the middle of that river to the 45th degree of north latitude; from thence by a line due west on said latitude, until it strikes the River Iroquois or Catarquy; thence along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior northward of the Isles Royal and Phelipeaux to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; *

* * * *

Now the region between the sources of the St. Croix and the Connecticut rivers, as well as that to the westward of Lake Superior, were then uninhabited, and the physical features of the interior of the continent were but imperfectly known. Some ambiguity in the terms of the treaty might on these accounts have been expected, yet not so much as actually existed. British statesmen, usually slow to impute improper motives to any public men, have therefore not hesitated to say that the American plenipotentiaries contrived to have the wording of the treaty as loose as possible. Its ambiguity consisted chiefly in these points:—The proprietorship of the islands in the Bay of Fundy was not defined; the position of the north-west angle of Nova Scotia was not fixed; the islands in the St. Lawrence were not apportioned, or those in the Detroit river.

Difficulties arose almost at once on all these points. It was even attempted to envelop in mist the River St. Croix itself, and when Commissioners met at St. Andrews, in 1796, to decide the matter, the Americans claimed the Maguadavie to be the St. Croix, and an adjournment

for a year was the result. This point was finally settled in 1798; but the north-west angle was destined to remain undecided for another generation.

At the Treaty of Ghent, 1814, the other boundary questions were dealt with one by one, and we will follow them in order. Our south-eastern boundary is settled by Art. IV, as follows:—

Whereas it was stipulated by the second article in the treaty of Peace of 1783, * * * that the boundary of the United States should comprehend all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the point where the aforesaid boundaries between Nova Scotia on the one part and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are, or heretofore have been, within the limits of Nova Scotia; and whereas the several islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, are claimed by the United States as being comprehended within their aforesaid boundaries, which said islands are claimed as belonging to His Britannic Majesty, as having been at the time of and previous to the aforesaid Treaty of 1783 within the limits of the Province of Nova Scotia; in order, therefore, finally to decide upon these claims, it is agreed that they shall be referred to two Commissioners, to be appointed in the following manner, viz: one Commissioner shall be appointed by His Britannic Majesty, and one by the President of the United States by and with the advice and consent of the Senate thereof, and the said two Commissioners so appointed shall be sworn impartially to examine and decide upon the said claims, according to such evidence as shall be laid before them on the part of His Britannic Majesty, and of the United States respectively. The said Commissioners shall meet at St. Andrews, in the Province of New Brunswick, and shall have power to adjourn to such other place or places, as they shall think fit. The said Commissioners shall, by a declaration or report under their hands and seals, decide to which of the two contracting parties the several islands aforesaid do respectively belong, in conformity with the true intent of the said Treaty of Peace of 1783. And if the said Commissioners shall agree in their decision, both parties shall consider such decision as final and conclusive. It is further agreed, that in the event of the two Commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said Commissioners refusing or declining or wilfully omitting to act as such, they shall make jointly or separately a report or reports, as well to the Government of His Britannic Majesty as to that of the United States, stating in detail the points on which they differ, and the grounds upon which their respective opinions have been formed, or the grounds upon which they or either of them have so refused, declined or omitted to act. And His Britannic Majesty, and the Government of the United States, hereby agree to refer the report or reports of the said Commissioners to some friendly Sovereign or State, to be then named for that purpose, and who shall be requested to decide on the differences which may be stated in the said report or reports, or upon the report of one Commissioner, together with the grounds upon which the other Commissioner shall have refused, declined or omitted to act, as the case may be. And if

the Commissioner so refusing, declining or omitting to act shall also wilfully omit to state the grounds upon which he has so done, in such manner that the said statement may be referred to such friendly Sovereign or State, together with the report of such other Commissioner, then such Sovereign or State shall decide *ex parte* upon the said report alone. And His Britannic Majesty and the Government of the United States engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters so referred.

The decision of the Commissioners in this case was given as follows, in 1817:

By Thomas Barclay and John Holmes, Esquires, Commissioners, &c., &c.

We * * * decide that Moose Island, Dudley Island and Frederick Island in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do, and each of them does, belong to the United States of America, and we have also decided and do decide that all the other Islands, and each and every of them, in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to His Britannic Majesty, in conformity with the true interest¹ of the second article of the Treaty of 1783.

The next question dealt with by the Treaty of Ghent, was the boundary between the St. Croix and the St. Lawrence. This was sought to be settled by Art. V. which declares that:—

Whereas neither that point of the highlands lying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two powers as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut river has yet been ascertained; and whereas that part of the boundary line between the dominions of the two powers which extends from the source of the river St. Croix directly north to the above mentioned north-west angle of Nova Scotia, thence along the said highlands which divide these rivers that empty themselves into the River St. Lawrence, from these which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river, thence down along the middle of that river to the 45th degree of north latitude, until it strikes the River Iroquois or Cataraquy, has not been surveyed; it is agreed, that for these several purposes, two Commissioners shall be appointed, sworn, and authorized to act exactly in the manner directed, with respect to these mentioned in the next preceding article. * * *

Commissioners were duly appointed under this article. They met. A due north line was run with care, throughout the disputed tract, to find out where the highlands really were, but to no purpose. Britain was too incurious as to colonial matters, and the States were too astute to press for any immediate arbitration, and it was not until 1829 that the contemplated documents were placed in the hands of the King of Holland, the selected arbitrator. The merits of the controversy are

¹ So quoted; should be "intent."—[P.]

impartially stated by Col. Bouchette, in his Topography of British North America. He speaks as follows of the country between the St. Lawrence and the highlands south of the St. John: — “The face of the country, though abounding with extensive valleys and flats, is decidedly hilly; but it is neither so bold or so mountainous as the country on the opposite banks of the St. Lawrence. The land generally rises in irregular ridges from the borders of the river towards the rear, and attains in general a considerable elevation at the distance of 10, 15, and 20 miles from the front, forming at its height the verge of a broad and extended tract of table land of gentle descent towards the River St. John, beyond which it re-ascends again and *acquires a superior degree of altitude* towards the sources of the Allegash, merging in the range of highlands that are a continuation of the Connecticut range, stretching eastwardly and winding round the sources of the rivers falling into the Atlantic, and those flowing into the St. Lawrence and the St. John in the opposite direction.” This description would be enough to indicate the natural boundary, viz.: the Connecticut range and the connecting highlands, which was evidently that on which the plenipotentiaries wished to agree. It seems but reasonable that the whole valley of the St. John was intended to belong to the British Possessions, for it is contrary to the spirit of the treaty to leave one part of a river in the exclusive possession of one power, and another part in the possession of another. Accordingly, the British Commissioner contended that Mars Hill was the point where the due north from St. Croix struck the highlands; the American said it crossed the St. John to the highlands which divided that river from the St. Lawrence. Moreover, again quoting from Bouchette, “In determining the geographical boundaries between St. Regis and the Connecticut river, it was soon discovered that the original demarcation of the 45th parallel of north latitude widely deviated from the true course of that parallel, the position of which was carefully ascertained by the joint observations of the British and American astronomers employed in that service in 1818. It was found that the pre-existing line was drawn almost wholly north of the true geographical bearing of that circle of latitude. The astronomical observations taken at different stations have yielded the following results: They prove that at St. Regis the old line was actually 1,375 feet, statute measure, north of the 45° of N. latitude, and that Ellicott’s line was 30 feet too far north of the true parallel. At French mills the observation of the old from the new line was found to be 154 feet, the former lying north of the latter: two miles and a half from thence the new line intersected the old, and traversed to the south until it reached Chateauguay river, where its greatest southering measured 975 feet. At Rouse’s Point, on the

“shores of Lake Champlain, a considerable difference was discovered; “the new boundary passing 4,576 feet south of the former, and involving on the relinquishment of the triangular tract of territory thus “formed, an American fort, which has been neglected since, and is now “in ruins. From the shores of Missisquoi Bay to the Connecticut river, “the old line lies universally to the north of the true boundary, forming “an elongated gore of land, stretching along the whole extent of the “frontier townships, from St. Armand to Hereford.” The main portion of the territory in dispute, that between Canada and Maine, was then valued at \$15,000,000, an absurdly low figure, covered eleven millions of acres, and completely intercepted the communication between Canada and the Maritime Provinces. It was in the occupation and under the jurisdiction of Great Britain.

In 1831, the King of Holland communicated his decision to the Plenipotentiaries. It was as follows:—

We are of opinion that it will be expedient to adopt as the boundary of the two States a line drawn due north from the source of the River St. Croix to the point where it intersects the middle of the thalweg of the River St. John, thence the middle of the thalweg of that river, ascending it, to the point where the River St. Francis empties itself into the River St. John, thence the middle of the thalweg of the River St. Francis, ascending it, to the source of its south-westernmost branch, which source we indicated on the map A by the letter X, authenticated by the signature of our Minister of Foreign Affairs, thence a line drawn due west to the point where it unites with the line claimed by the United States of America, and delineated on the map A. Thence said line to the point at which, according to the said map, it coincides with that claimed by Great Britain, and hence the line traced on the map by the two powers to the north-westernmost source of Connecticut river. * * * *

We are of opinion that it will be expedient to proceed to fresh operations to measure the observed latitude in order to mark out the boundary from the River Connecticut along the parallel of the 45th degree of north latitude to the River St. Lawrence—named in the treaties Iroquois and Cataraqui—in such a manner, however, that in all cases at the place called Rouse’s Point, the territory of the United States of America shall extend to the fort erected at that place, and shall include said fort and its kilometrical radius.

The American Commissioner, not satisfied with obtaining three-fourths of the disputed territory, at once protested. He asserted that the King ought to have decided that either one or the other party was in the right, and that he had not been authorized to make a compromise. Eighteen months afterwards, the United States Government refused its assent to the award. The British Government, who had at first accepted it in good faith, then withdrew theirs, and proposed a partition of the disputed territory by a new conventional line. The United States refused, again proposing the River St. John as the boundary. Finally,

the dispute became so serious that a new Treaty was negotiated in 1842, known by the name of Lord Ashburton, its negotiator, which, by Canadians, should ever be held infamous. Its first article declares :—

That the line of boundary shall be as follows: Beginning at the monument at the source of the St. Croix, as designated and agreed to by the Commissioners under the fifth article of the Treaty of 1794, between the Governments of the United States and Great Britain; thence north, following the exploring line run and marked by the Surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the Treaty of Ghent, to its intersection with the River St. John and to the middle of the channel thereof; thence, up the middle of the main channel of the said River St. John, to the mouth of the River St. Francis; thence up the middle of the channel of the River St. Francis, and of the lakes through which it flows to the outlet of Lake Pohenagamook; thence, south-westerly, in a straight line to a point on the north-west branch of the River St. John, which point shall be ten miles distant from the main branch of the St. John in a straight line, and in the nearest direction—but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the St. John, then the said point shall be made to recede down the said north-west branch of the River St. John to a point seven miles in a straight line from the said summit or crest; thence, in a straight line in a course about south, eight degrees west to the point where the parallel of latitude of $46^{\circ} 25'$ north, intersects the south-west branch of the St. John's; thence, southerly by the said branch to the source thereof in the highlands at the Metjarmette portage, thence down along the said highlands which divide the waters which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the head of Hall's stream; thence down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins, previous to the year 1774, as the 45th degree of N. latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side and the British Province of Canada on the other; and from said point of intersection, west, along the said dividing line as heretofore known and understood to the Iroquois or St. Lawrence river.

Two tracts of great importance were thus surrendered. *First*, the most fertile portion of the valley of the St. John, including the region watered by its tributaries, the Aroostook, the Fish River, the Allegash, &c.; covering some 8,000,000 acres, the possession of which by a foreign power impedes direct communication between Quebec and the chief cities of the lower Provinces by rail as well as by internal navigation. *Secondly*, the tract between the true line of 45° and the old line, which gave the Americans possession of Rouse's Point. Of this Daniel Webster said, in an address to the New York Historical Society:—
“If we can trust the highest military judgment in the country—if we can trust the general sense of intelligent persons acquainted with the subject—if we can trust our own common sense on looking to the

“map — an object of great importance has been attained for the United States and the State of New York.” Since then, the fort at Rouse’s Point, which Bouchette describes as “neglected and in ruins,” has been enlarged to the standard of a first-class fortress, and is to us a more obnoxious object than Luxemburg can possibly have been to France, or Napoleon’s fleet at Boulogne to England, constructed as it is to hold an army, and situated almost within cannon shot of Montreal, the very heart of the country. In a few years we may perhaps expect to find another fort built on the head waters of the St. John, to which the States have no more equitable right than they have to Rouse’s Point, as menacing to Quebec as the existing fortress is to Montreal. Possibly, however, events may take another turn. Injustice, arrogance and fraud¹ do not always prosper long.

It would be hard to tell how it may be brought about, but the writer entertains the hope that some day, by purchase, by the vote of the people of the districts in question, by voluntary or perhaps even by involuntary cession on the part of the United States, these districts, as well as the country between the Kennebec and the St. Croix, all parts of our home farm, will be re-united to the Dominion.

Art. VI. of the Treaty of Ghent dealt with the boundary from the intersection of line 45° north latitude with the St. Lawrence, to the water communication into the Lake Huron. It provided as follows: —

And whereas doubts have arisen what was the middle of the said river, lakes and water communications, and whether certain islands lying in the same, were within the dominions of His Britannic Majesty or of the United States; in order therefore finally to decide these doubts,

¹The map submitted to the King of Holland, as that which was before the framers of the Treaty of 1783, was Mitchell’s map, a very incorrect one, on which the line running from the head waters of the St. Croix due north to the St. Lawrence is shewn as the boundary between Nova Scotia on one side and Sagadahoc and Canada on the other. The northwest angle of Nova Scotia would then be on the St. Lawrence, not on the highlands. Thus this could not have been the map in use in 1783. It became known too, soon after the Ashburton Treaty was signed, that the U. S. authorities were not unaware of the existence of the identical map which was then used, and they carefully kept it from the knowledge of Lord Ashburton. It appears that Count De Vergennes, on the 5th of December, 1782, sent a map to Dr. Franklin with the request that he would delineate on it the limits of the United States as settled in the preliminaries between the British and American plenipotentiaries, and that the map was returned by Dr. Franklin the next day, with a note, stating that he had marked with a strong red line the aforesaid limits. The map still exists in the geographical department of the French Archives of Foreign Affairs, and the line runs wholly south of the St. John and between the head waters of that river and those of the Penobscot and Kennebec. It is the line contended for by Great Britain, excepting that it allows, what Britain never afterwards insisted on, that the valleys of all the rivers intersected by the due north line from the St. Croix to Mars Hill should be British territory.

they shall be referred to two Commissioners * * * , to meet, in the first instance, at Albany, in the State of New York.

* * * *

The Commissioners, Peter B. Porter and Anthony Barclay, made their decision in 1822, as follows:—[Decision already quoted on pages 49–52, which see.]

—[*Year Book and Almanac of Canada for 1868*, p. 41.]

In determining the geographical boundary between St. Regis and the Connecticut river, it was soon discovered that the original demarcation of the 45th parallel of north latitude widely deviated from the true course of that parallel, the position of which was carefully ascertained by the joint observations of the British and American astronomers employed on that service in 1818. It was found that the pre-existing line was drawn almost wholly north of the true geographical bearing of that circle of latitude. The astronomical observations taken at different stations have yielded the following results: They proved that at St Regis the old line was actually 1375 feet, statute measure, north of the 45° of north latitude, and that Ellicott's line¹ was 30 feet too far north of the true parallel.

* * *

—[*Bouchette's British Dominions in North America*, i, 17.]

* * * *

Canada Boundary. By royal proclamation, issued in Oct. 1763, the line 45° N. was fixed as the boundary between the provinces of Quebec and New York, and this was confirmed in council Aug. 12, 1768. The line was surveyed by Valentine and Collins, Oct. 20, 1774. By the treaty of 1783, the 45th parallel was recognized as the N. boundary of the State from Lake Champlain to the St. Lawrence. By the treaty of Ghent the same line was recognized as the boundary, and provisions were made for a re-survey.

—[*Hough's Gazetteer* (1872), p. 25.]

* * * *

The lines of territory recited in the treaty of peace of 1783, were never actually drawn upon the land, but were described from the best maps then existing, but now known to be very inaccurate. To explore the frontiers together, and to fix muniments of boundary by common consent, had become a very necessary duty, in order to prevent conflict-

¹ "Beginning at a stone monument erected by Andrew Ellicott Esq., in the year 1817, on the south bank or shore of, the river St. Lawrence, to indicate the point at which the 45th parallel of north latitude strikes that river." *Bouchette*, i. 16.—[P

ing grants and unintentional trespass. Accordingly this duty was divided into two parts. The commission established by the fifth article of the treaty of Ghent was to run the boundary line * * to the north westernmost head of Connecticut river, thence down along the middle of that river to the 45° of north latitude, thence by a line due west on said latitude until it strikes the river Iroquois or Cataraqua — to make a map of said boundary —

* * * *

Under this article the British Government appointed the same commissioner as in the former, and appointed the same agent jointly with his son, Ward Chipman jun. Esq. a counsellor at law in New Brunswick. The American government appointed Cornelius P. Van Ness, Esq. of Vermont, commissioner, and William C. Bradley, late member of congress from the same State, as their agent. * *

* * * *

The remaining board of commissioners established by the treaty of Ghent, were directed to run the boundary line from the point where the 45° north latitude strikes the Iroquois or Cataraqua, to lake Superior, as it was declared by the treaty of peace of 1783, and to decide to whom the islands in the lakes and rivers, through which the line passes, do severally belong.

General Peter B. Porter was appointed commissioner, and Samuel Hawkins, Esq. agent for the United States; and John Ogilvie, Esq. commissioner on the part of Great Britain. They met at St. Regis, and established by accurate astronomical observation the point of the 45° north latitude, and afterwards, by careful admeasurement and surveys, described the boundary towards lake Ontario. It is understood that no material alteration has been made in the line heretofore considered as the true boundary. * * *

—[*N. A. Review*, vi, 401, 404.

* * * *

By the royal proclamation of October, 1763, establishing the province of Quebec, that province was described as bounded on the south by the forty-fifth parallel of latitude, from the St. Lawrence to the Connecticut river. Subsequently to this date, Governor Moore of New York, which province then extended its jurisdiction to Connecticut river, and Governor Carleton of the province of Quebec, having ascertained by astronomical observations, the points through which the forty-fifth parallel of latitude would pass, made a report thereof to the British Government, and on the 12th of August, 1768, an order was issued by the king in council, confirming these proceedings, and directing that 'the line of division should be run out, and continued as far as each province

respectively extends'. Instructions were given to the provincial authorities for carrying this order into effect, and a line was accordingly surveyed and marked along the supposed forty-fifth parallel of latitude, from the east side of Lake Champlain, where the observations for determining the latitude had been previously made, to the Connecticut river, by Thomas Valentine, deputy-surveyor on the part of the Province of New York, and John Collins, deputy-surveyor of the Province of Quebec, in the years 1771 and 1772. They terminated their line on Connecticut river, two miles and five-eighths of a mile above the mouth of Hall's Brook, following the course of the river, and ninety and a quarter miles due east from the boundary fixed on Lake Champlain. In 1773, the line was run west from Lake Champlain, by the surveyors of the two provinces, fifty miles, and in 1774, it was completed to the river St. Lawrence, by John Collins alone, duly appointed to act for both provinces. A plan of the line, surveyed and completed, October 20, 1774, was returned by John Collins to the office of the Secretary of New York, where it still remains'; and the Legislative Assembly of New York, by two acts, appropriated eight hundred pounds for the share of the expenses of the province, in running out, marking and completing this line. The line thus established was made the limit of the grants of the adjoining lands, by the governors of the two provinces, and it has to this day been the limit of the jurisdiction of the two Governments.

There seems to have been no good reason for disturbing a line of boundary thus established, and so long acquiesced in. In the fifth article of the treaty of Ghent, however, it is declared that the part of the boundary between the two countries, from the source of the St. Croix to the St. Lawrence, including, by a definite description, that part which extends along the forty-fifth degree of latitude, 'has not yet been surveyed;' and it is expressly provided, that it shall be surveyed and marked, according to the provisions of the treaty of 1783. It appears that the Government of the United States were led into this error, and into a belief that the actual limit of jurisdiction between the two Governments was too far south, by some proceedings had several years ago, under authority of the State of Vermont. Dr. Williams, in his history of Vermont, says: 'Much pains were taken by the provinces of New York and Canada, to ascertain the latitude of forty-five, by astronomical observations. This was done by Commissioners from both provinces, in the month of September, 1767. At the place where the line crosses Lake Champlain, they erected a monument of stone, which is yet standing. The line was afterwards run in the year 1772, by J. Carden and J. Collins of Quebec, but with great error. By order of Governor Tichenor, in 1806, I examined the situation of this line in the

¹ Portfolio Map No. 227.—[P.

eastern part of the State. By astronomical observations, I found the monument they had erected on the eastern bank of Lake Memphremagog, was in the latitude of forty-four degrees, fifty-three minutes, forty-six seconds; and at Connecticut river, their monument was in the latitude of forty-four degrees, forty-seven minutes, fifty-nine seconds. Admitting their line to have been run in a straight course, this would imply an error of eight degrees, fifty-two minutes, nineteen seconds in the direction, and occasions the loss to Vermont of $401,973\frac{1}{2}$ acres of land; equal to 17 $\frac{44}{100}$ townships'. A similar statement was made by the Governor of Vermont, in his speech to the Legislature, in October, 1806, and he intimated the propriety of making an application on the subject to the national Government. The gross error into which Dr. Williams fell, must be attributed to his want of the proper instruments for making accurate observations, and his want of practical experience, which would have enabled him to detect their inaccuracy. On the other hand, several communications were made to the provincial Government of Lower Canada, which led them to the belief that the existing boundary was too far north. The surveyor-general of Lower Canada in 1807, made a report to the administrator of the Government, in which he stated that the line was evidently crooked, and assigned grounds for believing that it encroached on the province as much as three geographical miles at the Connecticut river, and one mile on the meridian of Montreal. In this state of the impressions of the two parties, it is not remarkable that both Governments were ready to accede to a proposition for a re-survey and rectification of the boundary, and that a provision for that object was made in the treaty of Ghent.

—[*N. A. Review*, xxxiii, 280.

The fortification¹ thus reserved to us, was erected by our Government on the western bank of lake Champlain, soon after the date of the treaty of Ghent. It was intended to be a work competent to withstand a siege, and to mount about three hundred cannon. It is situated between the old boundary and the ascertained forty-fifth degree of latitude. The reservation of a circuit of a *kilometre*, which is equal to about two hundred rods, will probably extend our frontier at that point to the old boundary.

—[*N. A. Review*, xxxiii, 284.

* * * *

The Annual Register, for 1763, contained a new map of the British

¹ At Rouse's Point.—[P.

dominions in North America, with the limits of the Governments annexed thereto, by the treaty of peace, and settled by the proclamation.

* * * *

The Quebec Act of 1774 only transposes the description of the proclamation of 1763, beginning at the other extremity. * * This well-remembered act of Parliament followed the forty-fifth parallel of latitude to the river St. Lawrence, and through Lake Ontario, and upon the south-eastern bank of Lake Erie to the boundary of Pennsylvania, and by the western boundary of that Province to the river Ohio, and along the Ohio to the Mississippi. All the territory to the north of this line and south of the Hudson's Bay Company's limits, was incorporated, as belonging to the crown of Great Britain, into the Province of Quebec. This was a more absolute and decisive demarkation throughout its extent, than that which was traced by the proclamation of 1763, but it was a result of the same policy. There can be no question, we suppose, that both the royal proclamation of 1763, and the parliamentary act of 1774, were innovations upon the Province charter of Massachusetts.

* * * *

The identical Mitchell's Map which was used at Paris in making the treaty (of 1783) is still preserved.¹

—[*N. A. Review*, xxxiv, 526, 528, 552.

For notices of various Maps, see *N. A. Review*, vi, 402; xxvi, 434, 435; xxxiv, 519, 526, 530, 531, 533, 553; lii, 440-442, 444; lvi, 468, 471-476; also, *Gallatin & Webster on N. E. Boundary*, pp. 13, 46, 76, 77, 80, 178.

The Senate of the United States refused, in July, 1832, to subscribe to the award (of the King of the Netherlands). * *

—[*N. A. Review*, xliii, 440.

* * It would be expedient, while negotiating for a new line of boundary on equitable terms, that an arrangement should be made, by which the existing boundary between Vermont and Lower Canada shall be preserved, instead of rectifying it by running the line of the 45th degree of latitude anew. By such an arrangement we should retain not only Rouse's Point, but a tract of territory along the whole northern border of Vermont, of nearly a mile in width, and it would afford a

¹ In the geographical department of the French Archives of Foreign Affairs. See foot note on page 74.—[P.

further reason for offering an indemnity to the State of Maine for the loss of territory.

—[*N. A. Review*, xliii, 444.

DETERMINATION OF THE NEW YORK AND VERMONT JOINT BOUNDARY LINE.

An ACT to designate and establish the Boundary Line between this State and the State of Vermont.

Passed June 8, 1812.

Whereas it is represented to the legislature that the boundary line between this state and the state of Vermont has not been designated by permanent marks or monuments : And whereas it is necessary, in order to prevent litigation between the citizens of the said states, that the said line should be plainly designated and finally established: Therefore,

I. *Be it enacted by the people of the state of New York, represented in Senate and Assembly*, That Smith Thompson, Simeon De Witt and George Tibbits, Esquires, be and they are hereby appointed commissioners on the part of this state, to meet such commissioners as may be appointed by or on the part of the state of Vermont, at any time and place which may be agreed on by the said commissioners jointly, and to designate by permanent monuments the said boundary line, as nearly as may be practicable, according to the description thereof, in an instrument bearing date the seventh day of October, in the year of our Lord one thousand seven hundred and ninety, executed by the commissioners empowered to declare the consent of the legislature of this state to the formation of the territory therein described into a new state, by the name of the state of Vermont; and that the line which shall be so designated shall be the permanent boundary line between this state and the said state of Vermont.

II. *And be it further enacted*, That the person administering the government of this state shall without delay transmit an authentic copy of this act to the governor of the said state of Vermont, to be submitted to the legislature thereof; and solicit the appointment of commissioners on the part of that state for the purposes herein above expressed.

III. *And be it further enacted*, That the said commissioners shall respectively certify, and return under their hands and seals, a correct description of the line which they shall designate and establish as aforesaid, to the secretary of this state, to be entered of record in his office.
—[*Laws of New York*, 1812, ch. xc.

By a similar act, passed by the Legislature of the State of Vermont, on the 6th day of November, 1812, "Joseph Beman, Jun. of Fairfax, Henry Olin, of Leicester, and Joel Pratt 2d, of Manchester," were appointed commissioners on the part of that State, for purposes recited in words almost identical with those of the New York act quoted above.

[REPORT OF THE COMMISSIONERS.]

To all to whom these presents shall come Be it known That in pursuance of an Act of the Legislature of the State of New York entitled "An Act to designate and establish the boundary line between this State and the State of Vermont" passed 8th June 1812 appointing Smith Thompson Simeon De Witt and George Tibbitts Commissioners for the purposes expressed in the said Act on the part of the State of New York and An Act of the Legislature of the State of Vermont entitled "An Act to designate and establish the boundary Line between this State and the State of New York" passed November 6th 1812 appointing Joseph Beeman Junior Henry Olin and Joel Pratt 2^d Commissioners for the purposes expressed in the last mentioned Act on the part of the State of Vermont, the said Commissioners so appointed respectively on the part of the State of New York and on the part of the State of Vermont, have, as hereinafter described, designated by permanent monuments the boundary line between the said States from the Southwest corner of the State of Vermont to Poultney River as nearly as is practicable according to the description thereof in an Instrument bearing date the seventh day of October in the year of our Lord one thousand seven hundred and ninety executed by the Commissioners empowered to declare the consent of the Legislature of the State of New York to the formation of the Territory therein described into a New State by the name of the State of Vermont, to wit, BEGINNING at a rough Stone set up and marked on the West side *N Y* and on the East side *V* supported by a heap of Stones on the brow of a high hill descending to the West and at the distance of fifty Chains on a Course North eighty two degrees and twenty minutes West from the North west corner of the State of Massachusetts and running thence Northerly

¹The course and distance here omitted is "N. 5° W., three miles and seventy-two chains. See Portfolio Map No. 227, in Office of Secretary of State. The same omission occurs in the description given in the Revised Statutes.—[P.

in a straight Line to a point which is distant ten Chains on a course south thirty five degrees West from the most westerly corner of a Lot of Land which is distinguished on the Records of the Town of Pownal in the State of Vermont dated 30th May 1780 as the fifth division of the right of Gamaliel Wallace and now owned by and in the Occupancy of Abraham Vosburgh, then North thirty five degrees East to said corner and along the westerly bounds of said Lot thirty Chains to a place on the Westerly bank of Hosick River where a Hemlock Tree heretofore stood and is noticed in said Records as the most Northerly corner of said Lot then North one degree and twenty minutes West six Chains to a hewn Marble Slate marked on the West side ^{NEW YORK}₁₈₁₃ and on the East side ^{VERMONT}₁₈₁₃ standing on the westerly side of Hosick River on the North side of the high way leading out of Hosick into Pownal and near the North-westerly corner of the Bridge crossing said River, then North twenty seven degrees and twenty minutes East thirty Chains through the bed of the said River to a large roundish Rock on the Northeasterly bank thereof then North twenty five degrees West sixteen Chains and seventy Links then North nine degrees West Eighteen Chains and sixty Links to a White Oak Tree at the Southwest corner of the Land Occupied by Thomas Wilsey then North eleven degrees East seventy seven Chains to the North side of a highway where it is met by a fence dividing the possessions of 'Thomas Wilsey Jun' and Emery Hunt, then north forty six degrees East six Chains then South sixty six degrees East twenty six Chains and twenty five Links then north nine degrees East twenty seven Chains and fifty Links to a blue Slate Stone anciently set up for the South west corner of Bennington and 1813 lately cut on it then from the South west corner of Bennington North seven degrees and thirty minutes East. At one mile a Chestnut Oak Sapling in woods marked *M. 1* on ground descending northwest. At two miles a red Oak stake marked on the East side *M. 2.* about ten links east from an Apple Tree, at two miles forty three Chains and Eighty Links a hewn Marble Stone marked on the West side ^{NEW YORK}₁₈₁₃ and on the East side ^{VERMONT}₁₈₁₃ and set up on the South side of the highway leading from Hosick four corners to Bennington Village and on the northerly side of a hard Maple tree. At three miles a Maple Stake marked *M. 3.* standing thirteen Links west of a marked Beach tree. At four miles an Iron Wood stake marked *M. 4.* standing on a Limestone Ridge. At four miles and Eight Chains a hewn Marble Stone marked on the West side ^{NEW YORK}₁₈₁₃ and on the East side ^{VERMONT}₁₈₁₃ and set up on the South west side of a highway leading from Hosick four corners to shaftsbury at five miles a hornbeam stake marked *M 5* set up on the North Bank of a stream of water running easterly and twenty Links East of a marked hornbeam

Sapling. At six miles a Butternut tree about one Chain West of the West side of Walloomsack River and marked on the South side *M. 6* and on the West side 1813 At six miles and fifty Two Chains a White marble Stone erected on an intervale at the North west corner of the Town of Bennington and the south west corner of the Town of Shaftsbury and lettered on the East side *Ben.th N. W. Corner.* then along the west bounds of Shaftsbury North Eight-degrees and twenty minutes East. At seven miles a Pine Stake in a Meadow marked *M. 7.* At seven miles and five Chains a hewn Marble Stone marked on the west side NEW YORK
1813 and on the east side VERMONT
1813 and set up on the South side of a high way leading out of Hosick into Shaftsbury one Chain South Eight degrees & twenty minutes West from the middle of the front door of the dwelling house of John Matthews. At eight miles a white Oak Stake marked *M 8* on the East side of a high way at the North west Corner of Elihu Cross's Orchard At eight miles and fifty two Chains a hewn marble stone marked *New York & Vermont State Line* 75 rods to *Elias Huntington's Stone Factory* and set up on the North side of the high way leading from the Meeting house in Shaftsbury to the Meeting house in Little White Creek At nine miles a Chesnut post or Penstock marked *M. 9.* twenty five links east of a small marked maple tree At nine Miles seventy one Chains and sixty seven Links a hewn Marble stone marked on the west side NEW YORK
1813 and on the East side VERMONT
1813 and set up at the South side of a high way running out of Cambridge into Shaftsbury At Ten miles about twenty Links east of a Sumack stake marked *M. 10* At ten miles and fifty nine Chains a hewn marble stone marked on the West side NEW YORK
1814 and on the East side VERMONT
1814 and set up on the north side of a high way leading from Shaftsbury West hollow into Cambridge At eleven miles a Chesnut Stake marked *M. 11.* At twelve miles the middle of three hard maple saplings marked *M. 12.* on a steep easterly descent At thirteen miles a small beach tree marked *M. 13* — At thirteen miles sixteen Chains and fifty Links an old marked Beach sapling at the North west corner of the Town of Shaftsbury and South west corner of the Town of Arlington and also marked 1813. Then North Nine degrees East At fourteen miles a Bass wood tree marked *M. 14* standing on the north side of a mountain At fourteen miles thirty seven Chains and seventy Links a hewn Marble stone marked on the west side NEW YORK
1814 and on the East side VERMONT
1814 and set up on the North side of a high way leading out Cambridge into Arlington At fifteen miles a Red Oak stump marked *M. 15.* At sixteen miles a Poplar Sapling marked *M. 16* At sixteen miles and fifty Chains a common stone marked on the west side *N* and on the East side *V* set up on the northwest side of a high way leading out of

Cambridge into Arlington At seventeen Miles a red Oak Stake marked *M. 17* set up at the North end of a Stone wall of William Nicholson At seventeen miles fourteen Chains and thirty Links a hewn marble stone marked on the west side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North side of a high way leading out of Cambridge into Arlington At eighteen miles a Chesnut Oak stake marked *M. 18* standing two Chains north of a hard maple tree in this Line, marked 1813 which tree is thirty Links north of a Spring of water running West At eighteen miles forty eight Chains and fifty Links a hewn marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North side of a high way leading from Arlington to the Turnpike Road in Cambridge At nineteen miles a Red Oak tree marked *M. 19* At nineteen miles & fifty one Chains a large pile of Stones about one Chain west of the summit of a very high mountain at the north west corner of the town of Arlington and the South west corner of the Town of Sandgate Then North nine degrees East At twenty miles a large red Oak Tree marked *M. 20* At twenty one miles a Chesnut Oak Stake marked *M. 21*, at twenty one miles and sixty nine Chains a hewn Marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North side of a high way leading out of Sandgate into Salem at twenty two Miles a Red Oak Stake marked *M. 22.* at twenty three miles a White Ash Sapling marked *M. 23* At twenty-four miles a hard maple tree marked *M. 24* At twenty-five miles a White Ash Stake marked *M. 25* At twenty five miles and five Chains a Hewn Marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North side of a highway leading out of Sandgate into Salem At twenty five miles forty seven Chains and ten Links a hewn Marble Stone marked on the west side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North west side of a high way leading Southwesterly out of Sandgate into Salem At twenty six miles a small White Oak Tree on a Mountain marked *M. 26.* At twenty six miles and nineteen Chains a Maple Stake and heap of Stones at the North west Corner of the Town of Sandgate and South West Corner of the Town of Rupert about ten Links South west from a Beech tree marked on the West side 1813. On the North side *I. Beeman* and on the East side *W. M. M.* Then North Eight degrees East At twenty six Miles and seventy eight Chains a hewn Marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North West side of a high way called the Vermont Turnpike Road leading from Rutland South westerly to Salem Village At twenty seven Miles a Pine board Stake marked *M. 27.* At twenty seven miles and sixty Chains to the top

point of a small Rock on high ground South twenty five Degrees West twenty two Links from a wild Cherry tree marked 1813 Then North ten degrees and fifteen minutes East - At twenty Eight Miles a point ten links West of a Walnut Sapling marked XXVIII At twenty eight miles and ten Chains a hewn Marble Stone marked on the West side NEW YORK 1814 and on the East side VERMONT 1814 and set up on the South west side of a high Way leading North west out of Rupert into Hebron. At twenty eight Miles thirty five Chains and fifty Links an old marked hard maple Tree. Then North nine degrees and fifteen minutes East At twenty Eight Miles fifty five Chains and twenty Links a large hollow black Oak Stump then North Eight degrees and forty five minutes East At twenty nine Miles a red Oak Stake marked *M.* 29. At thirty miles a point twelve Links west of a small red Oak tree marked *M* 30 At thirty miles sixty six Chains and sixty Links a hewn Marble Stone marked on the West side NEW YORK 1814 and on the East side VERMONT 1814 & set up on the South side of a high way leading out of Rupert into Hebron At thirty one miles a red oak Stake marked *M.* 31 At thirty two miles a Shagbark Walnut Sapling marked *M.* 32 At thirty two miles seventy three Chains and sixty Links a Stake and Stones at the Northwest corner of the Town of Rupert and the Southwest corner of the Town of Pawlet six links south of a Beech tree marked on the West side *New York* and on the East side *Vermont* Then North Eight degrees East At thirty three Miles a Cherry Birch Tree marked *M.* 33. At thirty three miles forty two Chains and Eighty Links a common Stone marked *N* on the West side and *V* on the East side and set up on the North west side of a high way leading out of Pawlet into Hebron At thirty four miles a Sumack Stake marked *M.* 34 on the top of a Rocky Ridge At thirty five miles a soft Maple Sapling Stump marked *M.* 35 having sprouts growing out of it at the Top At thirty five miles forty three Chains and twenty Links a hewn marble Stone marked on the West side NEW YORK 1814 and on the East side VERMONT 1814 & set up on the North west side of a high way leading south west out of Pawlet into Hebron At thirty five miles fifty three Chains and fifteen Links a hewn Marble Stone marked on the west NEW YORK STATE LINE 1813 and on the East side VERMONT STATE LINE 1813 and set up on the South west side of a high way leading Northwest out of Pawlet into Granville At thirty six miles a wild Cherry Tree marked *M.* 36. At thirty seven miles an Iron wood Stake marked *M.* 37. At thirty seven miles thirty seven Chains and fifty Links a hewn Marble Stone marked on the West side NEW YORK 1814 and on the East side VERMONT 1814 and set up on the North side of a highway leading out of Pawlet westerly into Granville At thirty eight miles a Walnut Sapling marked *M* 38 At thirty nine miles a point twenty

Links West of three small Elm Trees branching from one trunk about one foot above the ground the Southernmost of which is marked *M.* 39 At thirty nine miles Eleven Chains and forty Links a hewn marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North side of a high way leading from Pawlet to North Granville Village At thirty nine miles twenty four Chains and seventy five Links a White Oak Stake and Stones on the East side of a Stone wall at the North West corner of the Town of Pawlet and the South west corner of the town of Wells five Links West of a large flat stone laid on other Stones sunk in the ground and inscribed on both sides with the Letters *W. P.* Then North seven degrees and thirty minutes East — At forty miles a soft maple stake marked *M.* 40 At forty one miles a large flat stone set in the ground and marked *M.* 41 At forty one miles twenty five Chains and fifty Links a hewn marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the North West side of the Turnpike Road leading from Granville to Hubberton At forty two miles a point fourteen Links east of a black Ash Sapling in a Swamp and marked *M.* 42 At forty three miles a red Elm stake marked *M.* 43. South of a Hemlock Tree marked in like manner At forty-four miles a point four Links West of a small black Birch Tree standing on level ground in woods and marked *M.* 44 At forty five miles a black Ash Tree standing in a swamp and marked on the South side *M.* 45 on the West side *N. Y.* and on the East side *V.* At forty five miles and thirty one Chains a large White Pine Tree marked on the South side *O. M.* — *A. H.* — *E. M.* — *Wills* and on the North side *S. B. Poultney October.* 1764 and standing at the Northwest corner of the Town of Wells and the Southwest corner of the Town of Poultney & Then North seven degrees East At forty six miles a point fifteen Links West of a small Elm Tree marked *M.* 46 At forty six miles five Chains and Eighty Links a hewn Marble Stone marked on the West side ^{NEW YORK} 1814 and on the East side ^{VERMONT} 1814 and set up on the Side of a high way leading out of Poultney into Hampton And at forty six miles forty three Chains and fifty Links a bunch of Hornbeam Saplings on the South bank of Poultney River the Northernmost of which is marked on the West side 1813 and the next on the East side *I. B.* and on the West side *W. M. M.* Whence a large Butternut Tree bears North seventy degrees West thirty Links a large hard Maple Tree South two Chains and Eighty six Links and a White Ash Tree on the North side of said River North Seventy seven degrees East All which courses are according to the present Magnetic Meridian *In Testimony* whereof the said Commissioners have hereunto set their hands and affixed their Seals on

the twenty-fifth day of October in the year of our Lord one thousand Eight hundred and fourteen

SMITH THOMPSON L. S.
SIMEON DE WITT L. S.

Signed and sealed
by Simeon De Witt
Joseph Beeman Jun^r
and Joel Pratt 2^d in
the presence of
W^m. M^c. MANUS
ISAAC LOOMIS

GEORGE TIBBITS L. S.
JOSEPH BEEMAN JR L. S.

Signed and sealed by
Henry Olin in the
presence of
WILLIAM RHODES
WILLIAM STIMSTON

HENRY OLIN L. S.

By Smith Thompson and
George Tibbitts In presence of
FARRAND STRANAHAN
M. V. BUREN

JOEL PRATT 2^d L. S.

— [*Miscellaneous Files*, v. 4, p. 1 (in office of N. Y. Se'cy of State);
Deeds, v. 39, p. 124; Portfolio Map, No. 227.

[STATE OF VERMONT.]

No. 201 — An Act annexing that portion of the town of Fair Haven lying west of Poultney River to the State of New York.

It is hereby enacted by the General Assembly of the State of Vermont:

SEC. 1. All that portion of the town of Fair Haven, in the county of Rutland, and State of Vermont, lying westerly from the middle of the deepest channel of Poultney river as it now runs, and between the middle of the deepest channel of said river and the west line of the State of Vermont, as at present established, is hereby ceded and relinquished to the State of New York in full and absolute right and jurisdiction.

SEC. 2. This act shall not take effect until the State of New York shall have assented to the same, nor until the same shall have been approved by an act of the Congress of the United States.

Approved, November 27, 1876.

Full effect was given to the foregoing cession by Ch. 93 of Laws of New York, passed March 20, 1879, and by Ch. 49 of the Statutes of the 46th Congress, 2d Session, approved April 7, 1880.

DETERMINATION OF THE MASSACHUSETTS AND NEW
YORK JOINT BOUNDARY LINE.

[IN MASSACHUSETTS GENERAL COURT.]

[November 19, 1719.]

In the House of Represent^{ts}: Whereas the divisional Line and Boundary between this Province & the Province of New York have never been run, marked out & stated; And new Plantations are issuing forth from that Governm^t, as well as this:

Ordered, that Samuel Thaxter, William Dudley & John Stoddard Esq^{rs} be a Committee to join with such as the Governm^t of New York shall appoint to run and settle the Divisional Line and Boundary between the s^d Provinces, Pursuant to their respective legal grants.

In Council; Read & Concurred,

Consented to.

(Signed) SAM'L SHUTE.

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Department,
Boston, July 18, 1878.

I hereby certify that the foregoing is a true copy from the Records of the General Court of the Province of the Massachusetts Bay of the vote passed Nov. 19th 1719 in relation to the New York boundary line.

HENRY B. PEIRCE,
Secretary of the Commonwealth.

S^r:

The General Assembly of this Province have past a Vote that the Divisional line between this Government and New York Shall be run according to their respective Legal Grants that so there be no Trespassing from or on either Government, and have appointed a Committee to join with a Committee of your Province for that Purpose; They have likewise requested me to acquaint your Government with the said Vote and to desire you to empower and Send Comissioners to proceed in and proform the abovesaid Service as soon as may be with Convenience. I must therefore pray you to informe me wither your Government think proper to join with us and what Time you think will be Suitable for the Performing the Said Business. I am

S^r: Your Humble Servant

BOSTON *Novr.* 23: 1719.

SAMLL SHUTE

[Endorsement.]—3d Dec. 1719 Recd and Referred to the Consideration of the Court of this Board or any five of them.

—[*N. Y. Col. MSS.*, lxii. 33 ; *N. Y. Council Minutes (MS.)*, v. 12, p. 77.

Saturday, Novem^r: 26, 1726.

In Council Ordered; That a Message be sent down to the Hon^{ble} House of Representatives, To inform them that in y^e Recess of the Court His Honour the Lieut. Govern^r: receiv^d from His Excell^{ty} William Burnet Esq^r: Govern^r: of New York a Copy of a Memorial presented to him by Divers Inhabitants of the said Province complaining of Settlements made on some Land of which they claim the Property, by some persons belonging to this Province with a Proposal (which he makes) That no Innovations be made on the Boundaries of the Provinces till they be settled either by Agreement or by Order from Home.

And that his Honour had by Advice of the Board acquainted Govern^r: Burnet, That upon meeting of the General Assembly he would lay the said Memorial and proposal before them.

Wednesday, Decem^r: 28, 1726.

The Committee of the Board appointed to confer with a Committee of the House on the Subject Matter of the several Votes respecting the Line between this Govern^t: & the Govern^t: of New York informed the Board that they had attended the said Conference & that they had proposed an Expedient in the Matter, in which they supposed the two Houses would agree, and soon after the Committees Report was sent up with the Vote of the House thereon; To which the Board agreed: And the said Report and Vote of both Houses thereon are as follows; viz,

The Committee are of Opinion that Commissioners be appointed on the Part of this Govern^t: & impowered to confer with such Commissioners as shall be appointed by the Govern^t: of New York concerning the Claims of Land which may be made by either Govern^t: in order to have the Line or Boundary settled between the Provinces, and that the meeting of the Commissioners may not prove ineffectual, that they come furnished to the Conference & fully prepared & produce their respective Grants, Patents or any other papers which may be thought proper then to be produced and that the said Commissioners be directed to report their doings to the Governments respectively in Order for the settling of the Boundaries of the Provinces as aforesaid.

By order of the Committee.

NATH^l BYFIELD.

Dec. 12, 1726.

Read and Ordered that this Report be accepted, & that all Persons belonging to this Province be prohibited from making any further settlements near the Dividing Line between the two Provinces till the further Order of this Court, and that all actions already commenced against the People residing at Housatannuck cease, & they be put to no further Trouble in the Law till this Affair be settled, Provided the Govern^t of New York give the like Orders to the Inhabitants of that Province, and that His Honour the Lieuten^t Govern^r be desired to agree with His Excellency Governor Burnet as to the Place of the Commission^r's Meeting; the number of the Commissioners to be three.

Consented to, W^m DUMMER.

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Department,
Boston, Aug. 16, 1878.

I certify the foregoing to be true extracts from the Records of the General Court of Massachusetts.

HENRY J. COOLIDGE,
Deputy Secretary of the Commonwealth.

[IN N. Y. COUNCIL.]

March 2, 1726/7

* * * *

HIS EXCELLENCY communicated to the Board the paragraph of a Letter from the Lieutenant Governour of Boston to his Excellency dated the ninth of January last in answer to his Excellency's Letter to the said Governour and the petition of some of the Inhabitants of New York to his Excellency respecting their Lands at Westenhook.

HIS EXCELLENCY Likewise communicated to the Board the Resolutions of the Assembly of the Massachusetts Bay thereupon in order to have the Lines run between this Province and that Colony.

WHEREUPON it is the Opinion of this Board that a Copy of the said Resolutions be sent to some of the patentees of Westenhook residing at Albany in order for their observations thereon.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 15, p. 135.]

April 13, 1727.

* * * *

UPON his Excellency Laying before the Board the answer of the patentees of Westenhook to the Resolutions of the Assembly of the

Massachusetts Bay of the 23^d of November Last transmitted to them the 2^d of March with the minute of this Board thereupon, AND the said Patentees having not made any Objections against the said Resolutions,—

IT IS ORDERED by this Board that all Persons concern'd belonging to this Government be prohibited from making any further Settlements near the Dividing Lines between the two Provinces, and that all actions already Commenced against any of the people residing at Westenhook cease and they be put to no further trouble in the Law untill the further order of this Government.

ORDERED that the Patentees of Westenhook be served with a Copy of this Order.

IT IS the Opinion of this Board that the Settling the boundarys between the two Provinces and naming Commission^r be deferred till the Siting of the Assembly of this province that provision may be made for that Service

IT IS the desire of this Board that his Excellency acquaint his honour the Lieutenant Governour of Boston that this Government has made the aforesaid order

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—[*N. Y. Council Minutes (MS.)*, v. 15, p. 139.

[IN GENERAL ASSEMBLY.]

October 4, 1727.

* * * *

Mr. *Bobin*, by his Excellency's Order, laid before this House, * *

A Copy of the Resolves of the Assembly of the Colony of the *Massachusetts-Bay*, concerning the Division Line between the Province of *New York* and that Colony; dated the 23^d of *November* 1726, which were read.

Ordered, That the said Copies be referred to the Committee of the Whole House, when those Matters of his Excellency's Speech, are by them taken into Consideration.

* * * *

—[*N. Y. Gen. Assembly Journal*, p. 559.

November 24, 1727.

Mr. *Livingston*, from the Committee of the Whole House, to consider of his Excellency's Speech, reported, that they had come to the following Resolutions and Opinions upon the remaining Part thereof; which being read, were agreed unto by the House, and are as follows, *to wit*.

As to the settling of the Partition and Division Limits, between this and the neighbouring Colonies; Resolved, That the same shall be taken into Consideration, at the next Meeting of this House,¹ though they are in the mean while of Opinion, that particular Directions and Instructions, ought to be had from his Majesty, before we adventure to settle the Partition Line, betwixt this Colony and that of the Massachusetts, because the Concessions made to Connecticut, cannot be held as a Rule, for as much as Massachusetts is vastly broader where they border upon us.

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—[*N. Y. Gen. Assem. Journal*, p. 571.

[MASSACHUSETTS GENERAL COURT RECORDS.]

Wednesday

March 10. 1730. [O. S.] } In the House of Represent^{iv^{es}} Whereas
 sundry Disputes & Differences have of late risen between some of the
 Inhabitants of this Province & of the Province of New York respecting
 the Boundary between this Province & that (near Housatanuck or
 Wesson Hook so called) the settle^{mt} whereof is necessary. Ordered
 that the Hon^{ble} Elisha Cook & John Stoddard Esq^r & M^r Samuel
 Welles with such as shall be joined by the Hon^{ble} Board be & hereby
 are appointed Commissioners in behalf of this Government to meet
 Commissioners from the Govern^{mt} of New York for compromising the
 said Affair, & with them to agree upon finally settle the said Boundary
 or dividing Line: and their Conclusions & Agreem^{ts} signed, sealed and
 perfected with the said Commiss^{rs} of the Province of New York, shall
 be for ever deemed & held good & valid by this Govern^{mt} Provided
 the said Power be given by the Province of New York to their Com-
 missioners. And that all Processes in the Law against any Person or
 Persons that border on the said Line for Rates & Taxes to either Gov-
 ern^{mt} be suspended in the meantime; Provided that the Govern^{mt} of
 New York give the like Order on their part; Report to be made of the
 Proceedings herein to this Court.

In Council; Read & Concurred; & Samuel Thaxter & John Chandler
 Esq^r are joined in the Affair: Consented to J. BELCHER.

—[*N. Y. Col. MSS.*, lxix, 116.

COMMONWEALTH OF MASSACHUSETTS,
 Secretary's Department,

Boston, August 20, 1878.

A true extract from the General Court Records of Massachusetts.

HENRY J. COOLIDGE,
 Deputy Secretary of the Commonwealth.

¹No attention seems to have been given to this subject at the next Session of the General Assembly. — [P.]

[IN N. Y. COUNCIL.]

September 3, 1731.

* * * *

His Honour the President [Rip Van Dam] Communicated to the Board a Letter from the Governour of Boston dated the 5th of July last & directed to his late Excellency Gouvernour Montgomerie Deceased Setting forth his having transmitted to his Said late Excellency An Act of Assembly of that Province for Settling the Line betwixt that Government and this

Which Letter having been read It is

Ordered, that the Same be laid before the Assembly

—[*N. Y. Legis. Council Journal*, p. 604.

[IN GENERAL ASSEMBLY.]

Sept. 8, 1731.

* * * *

The Deputy Clerk of the Council brought from the President and Council a Letter from his Excellency *Jonathan Belcher*, Esq; Governor of the Massachusetts, to our late Governor *John Montgomerie*, Esq; dated in Boston, the 5th of July last, relating to the settling of a Partition Line between that Government, and this, which being read;

Ordered, That the same lie on the Table for the Members to peruse.

* * * *

[IN MASSACHUSETTS GENERAL COURT.]

[December 9, 1732.]

In Council; Whereas, sundry Disputes and Differences have arisen between this Province and the Province of New York, respecting the boundary or dividing Line between us: a settlement whereof is necessary: Ordered that Sam'l Thaxter and William Dudley Esq^r with such as shall be joined by the Hon^{ble} House of Represent^{ves} be & hereby are appointed Commission^{rs} on behalf of this Governm^t to meet Commission^{rs} from the Governm^t of New York for compromising in s^d affair & with them to agree upon & finally settle the s^d boundaries & to appoint suitable persons for running & marking the same & their Conclusion signed sealed and perfected with the s^d Commissioners of the province of New York shall be forever deemed and held good & valid by this Governm^t provided the like power be given by the s^d Governm^t of New York to their Commission^{rs} & that the s^d Conclusions of the s^d

Boundary be made within the Term of eighteen months from this Date. Report to be made of the proceedings therein as soon as may be.

In the House of Represent^{ees} Read & Concurred, & Elisha Cooke, John Wainwright & John Stoddard Esq^s are joined in the affair.

Consented to — J. BELCHER.

Tuesday, March 18, 1739.

In the House of Represent^{ees} Ordered that Ebenezer Pomroy, Joseph Dwight and William Pynchon Esq^s with such as shall be joined by the Hon^{ble} Board, be and hereby are appointed Commissioners on behalf of this Province to meet Commissioners from the Government of New York for compromising the affair of the Boundary Line between the two Governments, and with them to agree upon Preliminaries, and finally to settle the said Boundaries and to appoint suitable persons for running and marking the same; and the Determination of the said Commissioners or the major part of them, signed, sealed and perfected with the said Commissioners of the Province of New York or the major part of them, shall be forever deemed and held good and valid by this Government: Provided the like power be given by the said Government of New York to their commissioners, and the determination of the said Boundaries be made within the term of eighteen months from this date. Report to be made of the proceedings herein as soon as may be.

In Council: Read and Concur'd and John Stoddard, William Dudley and Jacob Wendell Esq^s are joined in the affair.

Consented to

J. BELCHER.

COMMONWEALTH OF MASSACHUSETTS,
Secretary's Department,
Boston, Aug. 15, 1878.

I certify the foregoing to be true extracts from the Records of the General Court of Massachusetts.

HENRY B. PEIRCE,
Secretary of the Commonwealth.

[LIEUT.-GOV. CLARKE TO THE LORDS OF TRADE.]

New York May 24, 1739.

My Lords

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I lately received a letter from Mr. Belcher the Governor of the Massachusetts with a resolve of their Assembly concerning the ascertaining the boundaries between the two Provinces with my answer thereto all which I inclose that being as much as the Council thought I could say at pre-

sent and I expected M^r. Belcher would wait till I had laid it before the Assembly and that they had provided for the expence on our part and hoped to have heard from him in answer to my letter, but I have as yet received none, on the contrary without staying for the sitting of our Assembly several people of their Colony have gone within 16 miles of Hudsons river near Albany with a Surveyor to lay out some lands (for one or more Townships) as I am informed some of which were granted by the Governor of this Province in the year 1688 and some of them purchased of the Indians by lycence from Gov^r Montgomery and now too granted, the owners of those lands hearing what the New England people were doing went on the spot and forbad them. The Indians who had sold the lands to our people drove the Surveyor and those who were with him away being exasperated at the New England men who without any purchase pretended to survey those lands. If the New England people have formerly taken such steps I am not surprized that they have drāwn upon themselves bloody and Indian Warrs, our method is very different from that we never grant lands until they have been bought of the Indians and until deeds are executed by them and those deeds laid before the Gov^r and Council

I wish with all my heart that our boundaries were settled, but in order to do that I conceive I must not only be assisted with money by the Assembly but I must have an instruction from his Majesty for that purpose and untill the boundaries are settled I presume to hope your Lordships will think it proper to obtain his Maj^{ty}'s order forbidding any future surveys or settlements to be made by the New England people on their frontiers towards this Province for if they go on to settle it will be more difficult on a treaty to throw them back to their proper bounds, and the more they encroach the more quite rents will the King lose in this Province and in truth my Lords I doubt whether the New Engand people really desire to have their limitts ascertained since they serve them selves in this manner without it, for this is not the first time they have made the same request as the Gov^{rs} of this Province and then without waiting have made out lands and settled them I mean some lands which many years before been granted here, besides they well know too that the Assemblys of this Province are averse to the giving of money for such purposes as the lands are the Kings and not theirs, and therefore think they may safely go on without fearing to be disturbed by our and their fixing the boundaries however they ought to beware of provoking the Indians by taking their lands either by fraud or force lest they begett a new warr with them which in its consequences may effect us.

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GEO: CLARK.

[IN N. Y. COUNCIL AND GENERAL ASSEMBLY.]

August 29, 1739.

Gentlemen.

* * * *

The Governor of the Province of the Massachusetts Bay having sent me a vote of the Assembly of that Province and wrote to me himself Signifying his and their Desire to have the boundarys of the two provinces Settled by Commissioners I now lay those papers before you Hoping that you will enable me to defray the Expence of that work on the part of this province That the people of the Massachusetts may be confined within their proper Bounds The Peace on the frontiers preserved and the Inhabitants of those parts know more precisely to whom they owe their obedience, If you do this it will be necessary that a Law be past in each province to make the agreement of the Commissioners conclusive to both and when I know your Resolutions I will write to the Governor of the Massachusetts upon it

* * * *

GEO CLARKE

Ordered, [In Council] That His Honour's Speech be taken into Consideration at the next meeting¹ * * *

—[*N. Y. Legis. Council Journal*, p. 732.]

[LORDS OF TRADE TO LIEUT.-GOV. CLARKE.]

To Geo. Clarke Esq:

Sir,

* * * *

We have under our consideration what you mention in Your last of May 24th 1739 concerning the Boundaries of Your province, and as it is our Opinion that the people of the Massachusetts Bay have been too hasty in this affair, We have wrote to the Governor to have it adjusted in an amicable way by Commiss^{rs} agreeable to his own proposals and in the mean time to take care to prevent any inconveniences that might arise to either of the Colonies by any Disputes about it.

* * * *

Whitehall

Sep^{br} y^e 7th 1739.—[*N. Y. Col. Docs.*, vi, 149.]

¹This, however, was not done, and the Session was soon thereafter brought to an end. —[P.]

[IN GENERAL ASSEMBLY.]

Oct. 2, 1739.

Mr. Speaker, by the Recommendation of the Lieutenant Governor, communicated to the House, a Letter from *Jonathan Belcher*, Esq^r Governor of the *Massachusetts*, to his Honour, dated the 17th of *September* last; which being read,

Ordered, That the same be entered at large in the Journal of this House, and then returned to his Honour, being in the Words following, *viz.*

SIR,

This Post favours me with Your's of the 10th Instant, where I find your Honour had recommended the Affair of the Boundaries between this Province and *New-York*, to your Assembly; and that you hoped, they would enable you to defray the Expences of it, and you would then appoint Commissioners; But that you thought they would give their first Attention, to the putting your Province into a Posture of Defence; as what I have now wrote your Honour is not a new Thing, but what I have in the Course of nine Years past, been urging on one Governor and another at *New-York*, I hope your Assembly will not rise, without coming into what this Province, have so reasonably and so long requested of your Government; as I would by no Means countenance any Intrusions on the King's Lands, so neither would I discourage any of his Majesty's good Subjesty's of this Province, from settling the Land granted them by the Crown, for more than a Century past; and if after so many Applications from this Government, to that of *New-York*, for an Amicable Adjustment of the Boundaries betwixt them, they will not be persuaded to do what is so reasonable, and to preserve Peace and good Neighborhood; your People must be answerable, if any Inconveniences issue upon this Governments proceeding to settle such Lands, as they judge they have a just Right to; the Assembly of this Province is to sit the 19th Instant, and may so continue, while I may have your Answer; I would therefore again, desire your Honour to press your Assembly to comply with what you have moved to them upon this Head.

I am, Sir,

Your Honour's most obedient
Most humble Servant,

J. BELCHER.

Boston, Sept. 17, 1739.

—[*N. Y. Gen. Assem. Journal*, p. 762.

[IN COUNCIL.]

December 17, 1739.

* * * *

His Honour laid before the Board a Letter to him from Governor Belcher of the third December instant, which he wrote at the request of the Assembly there, respecting an adjustment to be made of the Boundaries betwixt that Province and this; which having been read & considered of, The Council advised his Honour to return for Answer, That he had laid that Affair before the Assembly but they have done nothing in it; The Council were of Opinion that his Honour do write to the Governor of Boston to appoint Commissioners for that Province to meet those whom his Honour should appoint on the part of this Province for the adjusting and finally settling the Limitts and Boundaries of both Provinces. And that the meeting of the Commissioners for both Provinces be about the middle of June next at Albany as a Place being the most Convenient & most equidistant from both.

—[*N. Y. Council Minutes (MS.)*, v. 19, p. 54.

[LIEUT.-GOV. CLARKE TO THE LORDS OF TRADE.]

New York Jan: 28. 17³⁹/₄₀

My Lords

* * * *

I have writ to the Governour of the Massathusets Bay about appointing Commissioners to settle Preliminarys for before we proceed to the actual running of the lines, if any are to be run, their pretensions ought to be examined, I have named Albany for the place of meeting as being near equal distance from Boston and New York, and have proposed the middle of next June to be the time, this I did not only as the Commissioners whom I shall appoint¹ will act on the behalf of His Majesty, theirs for the proprietors of the Soil of that Colony but like wise because their is no provision yet made by the Assembly of this Province for the expence now at the time of meeting which I have proposed two of them I shall appoint being Judges of the Supreme Court must be at Albany on their Circuit, and are willing to act in this affair without any reward, as yet I have not heard from Mr. Belcher tho it is above five weeks since I writ to him.

* * * *

GEO: CLARKE.

—[*N. Y. Col. Docs.*, vi, 159.

¹ We find no evidence that such Commissioners were actually appointed. — [P.

[IN COUNCIL.]

April 24, 1740.

* * * *

His Honor laid before the Board a Vote of the House of Representatives of the province of the Massachusetts Bay, appointing Commissioners on the part of that province to meet Commissioners on the part of this for compromising the affair of the boundary line between the two Governments and the Determination of the said Commissioners or the Major part of them signed, sealed and perfected with the Commissioners of the province of New York or the Major part of them should be for ever deemed & held good and valid by that Government provided the like power be given by the Governm^t of New York to their Commissioners

which having been read The Council are of opinion that as the Soil of this province belongs to his Majesty His Honor cannot grant any power to the Commissioners of this province to make any agree^{nt} the Comm^{rs} shall enter into conclusive untill the same shall have first reced his Majesties approbation.

* * * *

—[*N. Y. Council Minutes (MS)*, v. 19, p. 67.

May 4, 1752.

* * * *

The petition of Robert Livingston Jun^r Esq^t Owner and proprietor of the Manor of Livingston, lying in the County of Albany within this province, Setting forth (among other things) that he has lately met with several Disturbances by person's belonging to the province of Massachusetts Bay, surveying and locating part of his said Manor, by order of a Comittee of the General Court of that Colony, under pretence of its lying within the said Colony. And praying his Excellency to cause Application to be made to the said General Court, that they may not agree to the Transactions of the said Committee, and that all further proceedings in the premisses be stayed, until the true division Line be settled between the two Colonies. And that his Excellency would issue his Orders to the Justices of the peace in and near the said Manor, to cause such person or persons as shall (till such Settlement) under the pretence aforesaid, disturb the petitioner in his said possession, to be apprehended and committed, and to give such other Relief in the premises as shall be thought meet.

Ordered that Copies of the said petition be served on the Surveyor General and the Attorney General of this province, and that they

seperately make Report to his Excellency what they think Expedient to be done thereupon. * * *

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 25.

July 3, 1752.

* * * *

The Surveyor General's and the Attorney General's Reports¹ in pursuance of the Order of Council the 4th May last referring to them the Consideration of the petition of Robert Livingston Jun^r. Esq^r. were Read.

Also a Petition of the Owners and proprietors of a Tract of Land called Westenhook, granted by Letter Patent under the Seal of this province, bearing date the 6th day of March 1705, Setting forth, That in the year 1726 after several Letters had passed between the then Governour of this province, and the Colony of Massachusetts Bay, It was ordered and agreed by both Governments, That all persons belonging to either Government, should be prohibited from any further Settlement near the dividing Line between the two provinces, and that all Actions then commenced against any of the people residing at Westenhook or Housatannuck, should cease, and they be put to no further Trouble in the Law until the said Affair should be settled. That the Petitioners had accordingly complied with the said Injunction, But that the Inhabitants of the Massachusetts Bay, did, not long after, settle in great numbers at Westenhook, and have since continued in Possession thereof, without any disturbance from the petitioners, or those under whom they claim. That no further Steps have been taken since towards settling the said division Line. And therefore praying that such Measures may be concerted for the final Settlement thereof and such Relief granted to the Petitioners as may be thought meet.

Ordered that the said two Reports and Petitions be referred to a Committee of this Board and that they make Report with all convenient speed what they think expedient to be done thereupon.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 34.

March 2, 1753.

* * * *

M^r Chief Justice De Lancey Chairman of the Committee to whom was referred the Petitions of Robert Livingston Jun^r. Esq^r. and the Partners of Westenhook, and the Surveyor General's and Attorney

¹For a copy of these reports, see *N. Y. Doc. Hist.*, lii, 437 (4^o ed.); 730 (8^o). Other papers relating to Livingston Manor, and the serious disturbances often referred to in these records, may be consulted in that volume.—[P.

General's Reports thereupon: Presented to his Excellency the Committee's Report on the Matters referred to them, Which was read at the Board, and on the question being put, agreed to and approved of And ordered to be Entered in the Minutes Which Report is as follows: viz:

May it please your Excellency

In obedience to your Excellency's Order in Council of the 3^d day of July last, referring to a Committee thereof, the Petitions of Robert Livingston Jun^r Esq^r, and of the Owners of a certain Tract of Land called Westenhooke, complaining of new Claims and Encroachments made upon their Lands, by the Inhabitants of the Massachusetts-Bay; And also the Surveyor General's and the Attorney General's Reports on the said two Petitions, The Committee having maturely weighed and considered of the same, humbly beg leave to report to your Excellency.

1st That they apprehend the Claims of the Massachusetts Bay, to the Manor of Livingston or the said Tract of Land called Westenhooke, cannot be well founded, Because they find That the Dutch claimed the Colony of New Netherland as extending from Cape Cod to Cape Cornelius now called Cape Henlopen Westward of Delaware Bay along the Sea Coast, and as far back into the Country as any of the Rivers within those Limits extend: And that they were actually possessed of Connecticut River, long before any other European People knew any thing of the Existence of such a River, and were not only possessed of the Mouth of it, where they had a Fort and Garrison, but discovered the River above a hundred miles up, had their People trading there, And purchased of the Natives almost all the Lands on both sides of the said River.

2^d That Governour Stuyvesant the Dutch Governour of the said Province, by his Letter dated the 2^d of September 1664 New Stile, In answer to a Letter from Governour Richard Nicholls of the 20th August preceding, demanding the surrender of all the Forts and Places of Strength possessed by the Dutch, under his (Governour Stuyvesant's) Command, Writes as follows. —

“Moreover it's without dispute, and acknowledged by all the World, that our Predecessors by virtue of the Commission and Patent of the said Lords the States General, have without controul and peaceably (the contrary never coming to our Knowledge) enjoyed Fort Orange about 48 or 50 years; and Manhatans about 41 or 42 years; the South River 40 years; and the fresh River about 36 years.” Which last mentioned River, the Committee find to be the same that is now called Connecticut River.

3^d That the said Governour Stuyvesant did in the year 1664, surrender all the Country, which the Dutch did then possess, to King Charles the second; and that the States General made a Cession thereof by the Treaty of Breda in the year 1667. That the Dutch reconquered part of this Province in 1673, and surrendered and absolutely yielded it to King Charles the Second in 1673/4 by the Treaty of London; And that in the year 1674 King Charles granted to the Duke of York All the Land between Connecticut River and Delaware Bay, the whole of those Lands, being part of the then former Colony of New Netherland.

4th That the Duke of York in his several Commissions to Major Edmond Andross on the 1st of July 1674, and to Governour Dongan on the 30th September 1682, among other Descriptions of the Boundaries of this Province, mentions, All the Land from the West side of Connecticut River to the East side of Delaware Bay. That their Majesty's King William and Queen Mary, by their Commission bearing date the fourth day of January in the first year of their Majesty's Reign, appointed Henry Sloughter to be Governour of the Province of New York and Territories depending thereon; the Boundaries whereof to Connecticut River on the East, were notorious by the Grant and other Commissions aforesaid, and many other Grants and Commissions relating to the same.

5th That the Committee apprehend Connecticut River continued the East Bounds of this Province, until the 28th of March 1700, when by King William's Confirmation of an Agreement between this Province and Connecticut, the Western Bounds of that Colony were settled at twenty miles from Hudson's River; And they cannot find any other Alteration in the Eastern Bounds of this Province and have no reason to believe any other was made before or since that Time.

6th That King James the first by Letters Patent bearing date the 3^d of November in the 18th year of his Reign, granted unto the Council of Plymouth from forty to forty eight degrees of North Latitude inclusive In which there is a recital to this purpose "Now forasmuch "as the King has been certainly given to understand, by divers good "Subjects that have for these many years frequented these Coasts and "Territories, between the degrees of 40 and 48, that there is no other "Subjects of any Christian King or State, or by any Authority from "their Sovereign's Lords or Princes, actually in Possession of any the "said Lands or Precincts, whereby any Right Claim Interest or Title, "may or ought by that meane to accrue or belong to them &c" And also a Provisoe in these Words.

"Provided always that the said Lands Islands or any of the Premises "by the said Letters Patent intended or meant to be granted, were not "then actually possessed or inhabited by any other Christian Power or

“State.” Which Patent the Committee conceive could not vest any thing in the Grantees, by reason of the said recital and Condition upon which it was granted, part of the Premises being then actually possessed by the Dutch, and most of the said Colony of New Netherland being within the Bounds thereof.

7th That the Council of Plymouth by their Deed dated the 19th of March in the third year of King Charles the first, granted to Sir Henry Roswell and others, part of what was supposed to be granted by the said Letters Patent; which Grant from the said Council of Plymouth, the Committee take to be void, as founded on the said void Patent.

8th That the said Sir Henry Roswell and others, obtained a Grant and Confirmation thereof, from the Crown, under the great Seal of England, dated the 4th of March in the fourth year of King Charles the first, within which Grant and Confirmation, the Province of Massachusetts-Bay is included; which Grant and Confirmation was adjudged void in the High Court of Chancery of England in the year 1684: And the Committee are of opinion that nothing to the Westward of Connecticut River could pass by that Grant and Confirmation for that his Majesty could not have had an Intention to grant the same, it being then possessed by the Dutch as before mentioned.

9th That the Committee conceive the Inhabitants of Massachusetts-Bay, can claim nothing at present but what is granted them by their Charter in 1691: All their other Grants and Charters being either void of themselves, or declared so in the Chancery of England.

10th That the Bounds granted by this Charter, are Westward as far as the Colonies of Rhode Island, Connecticut and the Narraganset Country; which words being in the Case of a Grant from the Crown, the Committee conceive cannot extend their Bounds farther than to Connecticut Colony, and therefore not to Connecticut River; And much less to the Westward of it, because Connecticut itself at the time of that Charter, did not in the Knowledge of the Crown extend Westward of that River, nor did till nine years after, when, by the Royal Approbation, the Agreement between this Province and that Colony, taking place, (which was not to be in force till such Approbation) the Bounds of that Colony were settled as is before mentioned; And the Committee conceive it to be against Reason to suppose that the Crown intended by the said Charter to grant any part of the Province of New York, under the then immediate Government of the Crown, without express mention thereof in the Charter, and without Notification to Henry Sloughter then Governour of this Province, that the Crown had granted such a part of what was before within his Jurisdiction, by their Majesty's Commission aforesaid to him.

11th That both the Patents under which the Petitioners claim the

Committee find were granted under the Great Seal of this Province, that of the Manor of Livingston in 1686, and that of Westenhook in 1705: And that the Lands contained in the said Grants, are, the Committee apprehend, within the Jurisdiction of this Province, they being both West of Connecticut River.

12th That the Committee are of opinion, the Attempts of the Inhabitants of the Massachusetts-Bay, to make Encroachments upon any Lands granted by Letters Patent under the Great Seal of New York, or upon any Lands within the Jurisdiction of this Province, are disrespectful to his Majesty's Authority, tend to the Disturbance of his Subjects of this Province, and may be the Cause of great Mischiefs and Disorders.

13th That the Steps taken by the said Inhabitants, even were the Bounds doubtful and unsettled, are Intrusions and disrespectful to his Majesty's Authority.

AND LASTLY the Committee are of opinion, that a Copy of so much of this Report, as shall be approved by your Excellency and the Council, be transmitted to the Lieutenant Governour of the Province of Massachusetts Bay, requesting that he would take effectual Measures, that all Encroachments and Disturbances by the People of that Colony on his Majesty's Subjects of this Province, be stayed, and that he would lay this Matter before the next General Court, that they may inform your Excellency by what Warrant they claim or exercise any Right to Soil or Jurisdiction, Westward of Connecticut River, that the same may be considered and such Steps taken towards removing all Causes of Encroachment, or Disturbances for the future, as may be agreeable to Equity and Justice: To the End that good Understanding may be preserved, which ought to subsist between fellow-Subjects and Neighbouring Provinces.

All which is nevertheless humbly submitted

By Order of the Committee

JAMES DE LANCEY Chairman

New York 28th February 1753.

The Council advised his Excellency to send a Copy of the said Report and the Petition of Robert Livingston Jun^r Esq^r to his Honour the Lieutenant Governour of Boston.

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—[*N. Y. Council Minutes (MS.)*, v. 23, p. 55.]

[GOVERNOR PHIPS TO GOVERNOR CLINTON.]

Boston April 13, 1753

Sir,

Your Excellency's Letter of the 6th of March last, with the Papers accompanying it, I laid before the General Assembly of this Province at the beginning of the Session: And the Affair having been referred to a Committee of both Houses, they have given in their Report thereon, Which has been accepted by both Houses, & Consented to by me, Which makes it a compleat Act of this Governm^t: A Copy of this Report I herewith inclose.

By which your Excellency will perceive that we are ready to join with your Governm^t in the most suitable Methods for an amicable adjustment of all Differences between the two Provinces, & the Borderers on the Boundaries thereof, by settling and stating the s^d Boundary in such manner as may be mutually agreed. Our Assembly will meet again at the latter End of the next Month; And if this proposal be complied with they will proceed to the Appointm^t of Commissioners and to agree with your Government as to the time and Place of Commiss^{rs} Meeting, And it seems best to have such Meeting as soon as may be with Convenience to prevent further Disputes & Controversies that may otherwise arise, and to settle those that are now subsisting.

I am (with great Respect)

Sir

Your Excellency most humble
& most Obedient Servant

S. PHIPS

[Endorsement.] 30 April 1753 — Read in Council — and with the Report mentioned to be inclosed referred to a Committee.

—[*N. Y. Col. MSS.* lxxvii; 78.

[IN MASSACHUSETTS GENERAL COURT.]

The Committee appointed to take under Consideration a Letter from his Excellency Gov^r Clinton of 6 March last, & the Papers accompanying the same, have attended that Service, and particularly considered the "Report of a Committee of the Council of New York on two Petitions complaining of new Claims and Encroachments by the Inhabitants of Massachusetts Bay on the Province of New York; by which Report an extraordinary Title is set up in favour of New York to a valuable Part of this Province. The Committee are upon the whole humbly of Opinion, that Commissioners be appointed to meet at some convenient Time and Place, which this Court may appoint to confer

with Commissioners who may be appointed by the Governm^t of New York; and with them to agree upon Measures for settling the Bounds of the two Provinces in an amicable Manner, & to settle the same accordingly, “to the End that good Understanding may be preserved, “which ought to subsist between fellow subjects & neighbouring Provinces — And that a Letter be wrote to Excy Gov^r Clinton, desiring that Commissioners (on behalf of the Governm^t of New York) may be appointed & fully authorized for the Purposes aforesaid.

Order of the Comm^o

J CHANDLER

In Council April 11, 1753, Read & Accepted

Sent down for Concurrence, Tho^s Clarke Dep^{ty} Sec^{ry}

In the House of Representatives April 12, 1753, Read & Concur^d

T. HUBBARD Spk^r

Consented to S. Phips

Copy examined Tho^s Clarke Dp^{ty} Seery.

[Endorsement] 30 April 1753: Referred to a Committee.

—[*N. Y. Col. MSS.*, lxxvii, 79.

[IN N. Y. COUNCIL.]

April 16, 1753.

* * * *

His Excellency communicated a Letter from the Lieutenant Governor of Boston of the 23^d ult^o acknowledging the Reccit of his Excellency's of the 6th of the same Month with the Papers accompanying it “referring to the challenges this Government makes to Lands claimed by that Province,” and acquainting his Excellency that he thinks the Affair is of great moment, and that he shall lay it before the General Assembly of that Province which will meet the 28th of the same Month.

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—[*N. Y. Council Minutes*, (*MS.*), v. 23, p. 63.

April 30, 1753.

* * * *

His Excellency laid before the Board a Letter of the 13th Instant from the Lieutenant Governour of Boston inclosing a Report of the Committee of that Government of the 11th Instant whereby it appears, That that Government have agreed to appoint Commissioners to confer with Commissioners who may be appointed by this Government, and with them to agree upon Measures for settling the Bounds of the two Provinces, in an amicable manner, and to settle the same accordingly: And

desire that this Government will appoint and fully authorize Commissioners for the purposes aforesaid.

Ordered that the said Letter and Report be referred to the Gentlemen of the Council or any three of them, to consider thereof and make their Report with all convenient speed.

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—[*N. Y. Council Minutes, (MS.), v. 23, p. 65.*

May 1, 1753.

* * * *

Mr. Alexander Chairman of the Committee to whom the Letter from the Governor of Boston of the 13th ult^o, and the Report accompanying it, were referred by Order yesterday, Read and presented the Committee's Report thereupon to his Excellency; Which was read at the Board, — and on the question being put, was agreed to and approved of, and ordered to be entered in the Minutes, which is as follows, viz:

May it please your Excellency

In obedience to your Excellency's Order in Council of yesterday, referring to a Committee thereof, a Letter to your Excellency, from his Honour the Lieutenant Governor of the Province of Massachusetts-Bay, of the 13th April last, and the Report inclosed therein from that Government, proposing the Appointment of Commissioners, on the part of both Governments, to agree upon Measures for settling the Bounds of the two Provinces — The committee have duely weighed and considered of the same, and are humbly of opinion that the said Report of the Government of the Massachusetts-Bay, contains no Answer to the Papers transmitted to them by your Excellency. Those papers did in the opinion of this Committee, shew that Connecticut River was the Boundary of this Province, and the purport of them was to desire that Government "to inform your Excellency what Warrant they had to claim or exercise any Right to Soil or Jurisdiction, Westward of Connecticut River."

This Committee humbly conceives that that Request was short, plain, and not liable to be mistaken, and reasonable in itself to be complied with; as your Excellency had in the most plain and candid manner, laid before that Government, the Title of this Province to that Boundary: But instead of complying with that reasonable Request, they propose the appointment of Commissioners mutually for settling the Bounds of the two Provinces. As to which; it seems to this Committee, that if your Excellency should comply with that Proposal, it would be a tacit Concession, that Connecticut River, (which by those Papers was clearly shown to be the Boundary of this Province) was not the Boundary thereof.

As to Lands West of Connecticut River, making a valuable part of the Massachusetts Bay, as they alledge : This Committee says that for some years they have heard that several People of the Massachusetts-Bay, had intruded upon his Majesty's Lands, lying to the West of Connecticut River, within the Jurisdiction of this Province: But that the People of the Massachusetts-Bay, had usurped and exercised any jurisdiction over that part of this Province, this Committee believes, has not come to the Knowledge of his Majesty's Council of this Province, til very lately, And this Committee believes that the Council of this Province, had they known sooner of that usurpation, would according to their Duty, before this time, have advised your Excellency, pursuant to the Trust reposed in you by his Majesty, to have taken effectual measures to have redressed the same, but before any Measures were taken that Way, were desirous to give the Government of the Massachusetts-Bay the opportunity of pointing out what Warrant, if any, that Government had, to claim Right to Soil and Jurisdiction, West of Connecticut River, that it might be in the most amicable manner discussed.

Tho' the General Court of the Massachusetts-Bay have neglected one opportunity of doing this, Yet as Mr Phips acquaints your Excellency, that another Assembly will meet the latter End of this Month: This Committee are humbly of opinion, that your Excellency should stay the entering on any such Measures as are before mentioned, until that General Court have one other Opportunity of complying with what this Committee conceives is incumbent on them to do, and your Excellency hath the Opportunity of considering their Answer, and doing thereon what shall be agreeable to Reason and Justice.

All which is nevertheless most humbly submitted to your Excellency: By order of the Committee.

JA: ALEXANDER Chairman.

New York 1st May 1753.

The Council advised his Excellency to send a Copy of the said Report to the Lieutenant Governor of Boston desiring him to lay the same before his Assembly at their next meeting —And that his Excellency do lay all the Papers relating to this Matter before the General Assembly of this Province.

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—[*N. Y. Council Minutes (MS.)*, v. 23, p. 67.

[IN N. Y. COUNCIL AND GENERAL ASSEMBLY.]

May 30, 1753

* * * *

Gentlemen of the Council and General Assembly,

Some Intrusions have lately been made on the Lands of his Majesty and his Subjects of this Province, whereof sundry Complaints have been made to me, Copies of those Complaints, and of what I have done thereon, shall be laid before you, being well assured, you will use your best Endeavours for the Preservation of his Majesty's Authority and Jurisdiction, to the Extent of the Bounds of this Province, and for the Protection of the Properties of his Majesty and his Subjects within it; and I leave it to you, to consider, whether it may not be expedient that Committees of both Houses should be appointed to meet and concert the most proper Measures to be taken in this Affair, wherein I shall give my best Assistance.

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G. CLINTON

—[*N. Y. Legis. Council Journal*, p. 1111.]

[IN COUNCIL.]

May 31, 1753.

* * * *

To His Excellency the Honorable GEORGE CLINTON

May it please your Excellency

* * * *

The Intrusions made on the Lands of his Majesty and his Subjects in this Province, of which several complaints have been made to your Excellency may in their consequences greatly endanger the interest and peace of this Colony, * * We shall be ready to join in concerting the most prudent measures to be taken in this affair.

* * * *

JAMES ALEXANDER *Speaker*

—[*N. Y. Legis. Council Journal*, p. 1112.]

June 4, 1753.

* * * *

His Excellency laid before the Board a Memorial of Robert Livingston Jun^r Esq^r dated the 31st ult^o touching the late Proceedings of a Committee of the Massachusetts Bay, sent to lay out a Township, within the Manor of Livingston.

Also a Petition of John Van Renselaer complaining of Encroach-

ments on his Manor by People of the Massachusetts-Bay and praying Redress—Which were read And the Council advised his Excellency to lay them before the General Assembly.

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—[*N. Y. Council Minutes (MS.)*, v. 23, p. 72.

June 4, 1753.

* * * *

A Message from the General Assembly by M^r Livingston to M^r Renselaer desiring the Council will appoint a Committee to meet and join a Committee of the General Assembly, to consider of that part of his Excellency Speech which relates to certain Intrusions being made on this Colony by the neighbouring Colonies, and acquainting the Council that on notice of such an appointment by the Council, that House will appoint a Committee accordingly.

Ordered, that the Honourable Archibald Kennedy and Edward Holland Esq^r be a Committee to join the Committee to be appointed by the General Assembly for the purpose mentioned in the above Message, And the Speaker of the Council is also desired to assist at the said Committee.

Ordered, that the said Committees meet at the House of George Burns in the City of New York on Thursday the 7th Instant at 5 o'clock in the afternoon.

* * * *

—[*N. Y. Legis. Council Journal*, p. 1112.

[IN GENERAL ASSEMBLY.]

June 5, 1753.

* * * *

A Message from the Council by the Honourable Edward Holland, Esq. * *

Ordered, That Capt. Richard, Mr. Cruger, Capt. Walton, and Mr. Watts be a Committee to join a Committee of the Council to consider that Part of his Excellency's Speech, which relates to certain Intrusions being made on this Colony. * * *

This joint Committee finally reported the Draft of Act of July 4th, 1753, hereafter given in its chronological order.

[IN MASSACHUSETTS GENERAL COURT.]

The Committee appointed the 9th of June Currant to take under Consideration the Report of a Committee directed to repair to the Lands lying within this Province West of Sheffield &c^a. And also to

take under Consideration the Papers received from the Gouvernour of New York, have attended that Service so far as relates to the s^d Papers, & report as follows.

That it appears by said Papers that the Proposal made by this Court to the Governm^t of New York of appointing Commissioners to settle the Line between the two Provinces has been rejected.

That there does not appear by any Evidence whatsoever to have been any ancient Jurisdiction exercised, nor any ancient Grants made by any States or Powers in Europe, nor any ancient Possession in any other than this Governm^t of any of the Lands now held or claim'd by this Province.

That the Right of this Province appears to be founded upon Grants as ancient as the Year 1620, & their Possession & actual Improvement of a considerable Part of the Lands to the Westward of Connecticut River is of more than an hundred Years standing, & must have been known to every Governm^t on the Continent, & therefore it is surprizing that the Government of New York now seem to be unacquainted with it. That therefore it can by no means be adviseable for this Governm^t now to suspend the Exercise of their Jurisdiction, but on the contrary it behoves them to go on in settling the Lands & regulating and governing the Inhabitants according to the Right given them by Charter.

The Comm^{rs} desire leave to sit again to consider the Report of the aforementioned Committee &c^s.

JACOB WENDELL by order

In Council June 12, 1753. Read & Accepted, And that the Committee sit again & make further Report on the Affairs refer'd to them. Sent down for Concurrence. J. Willard Sec^y

In the House of Repres^{tes} June 12, 1753 Read & Concur'd

T. HUBBARD Spk^r

Consented to, S. PHIPS.

Copy examined  THO^s CLARKE Dpty Sec^y.

[Endorsement.] 3^d July. Read in Council & referred to a Commee.
—[*N. Y. Col. MSS.*, lxxvii, 110.]

[LIEUT.-GOVERNOR PHIPS TO GOVERNOR CLINTON.]

Boston June 21st 1753.

Sir,

When I had last the Honour to write to Your Excellency I acquainted you with my receiving your Letter and the inclos'd Report of a Committee of the Council of Your Province upon our General

Assemblies proposal of having Commissioners appointed by both Governments to adjust the disputes between the two Provinces respecting their Boundaries; Since that I have laid those Papers before our Assembly; and they have had consideration of them, and have express'd their sentiments upon those matters in the Report of a Committee accepted by the whole Court, a Copy whereof I now inclose: Your Excellency may observe by the Conclusion of the Report & the Vote thereon that the Committee was to meet again but that was upon other affairs than what related to the settling the Boundaries of the two Provinces by Commissioners.

I am,

Your Excellencies most Obedient &
most humble Servant,

S. PHIPS.

His Excellency GEORGE CLINTON Esq^r.

[Endorsement] 3^d July — Read and wth the Report referred to a Committee.

—[*N. Y. Col. MSS.* lxxvii, 109.

[IN COUNCIL.]

July 3, 1753.

* * * *

His Excellency laid before the Council a Letter from the Lieut^t Governour of Boston of the 21st ult^o, inclosing a Report of a Committee accepted by the whole Court of the Massachusetts Bay, on the 12th of the same Month, Wherein among other things It is declared "That the Right to the Lands claimed by that Province, appears to be founded upon Grants as ancient as the year 1620, and their Possession and actual Improvement of a considerable part of the Lands Westward of Connecticut River, is of more than an hundred years standing. And that therefore it can by no means be adviseable for that Government, now to suspend the Exercise of their Jurisdiction, but on the Contrary it behoves them to go on in settling the Lands and regulating and governing the Inhabitants according to the Right given them by Charter.

Ordered that the said Letter and Report be referred to the Gentlemen of the Council or any three of them, and that they make Report thereupon with all convenient Speed.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 86.

[COLONY OF NEW YORK.]

An ACT to appoint Commissioners to examine into the Eastern Boundaries of this Colony, and to empower and require the Secretary of this Colony, or his Deputy, to deliver certain ancient Records, written in the Dutch Language, to such Person or Persons as the said Commissioners shall appoint, to be translated into English, and other the Purposes therein mentioned. Pass'd the 4th July, 1753.

WHEREAS Incroachments and Settlements have been made, not only in former Years, by the Inhabitants of the *New-Hampshire* and *Massachusetts-Bay* Colonies, upon sundry Tracts of Land included within the Boundaries of this Province; but also such Incroachments have lately been renewed by the Inhabitants of the said Colonies upon the Lands and Possessions of diverse of his Majesty's Subjects (holding the same under the Government of this Province, by Letters Patent from his present Majesty, or his Royal Predecessors) on Pretence that the said Lands are included within the said Colonies. And forasmuch as sundry Records, which are good Evidences of the Eastern Boundaries of this Province, are written in the Dutch Language, and by thes Means are rendered less useful for the Purpose aforesaid, than if the same were translated into English: And as the said Records, if delivered up into the Hands of some Person or Persons lawfully authorized and appointed thereunto, may be more easily and perfectly translated into English: In order to serve the Purpose aforesaid,

I. BE IT THEREFORE ENACTED by his Excellency the Governor, the Council, and General Assembly, and it is hereby Enacted by the Authority of the same, That *David Jones, John Thomas, Paul Richard, William Walton, Henry Cruger, and John Watts*, Esquires, be, and hereby are appointed Commissioners, to examine and consider of the Incroachments made upon this Province by the Neighbouring Colonies; which said Commissioners are hereby authorized and empowered to join with a Committee of his Majesty's Council, appointed, or to be appointed for the Purpose aforesaid, in such Measures as by the said Committee of Council and Commissioners shall be thought necessary and expedient, in order to make due Enquiry into the said Encroachments; and also, that the said Committee of the Council and Commissioners shall be, and hereby are empowered for all and singular the Purposes hereinbefore and after mentioned.

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VI. AND BE IT ENACTED by the Authority aforesaid, That the said Committee and Commissioners shall make all due and necessary Enquiry and Examination into the true Eastern Boundaries of this Province, and the Incroachments and Settlements made within the same by the

Neighbouring Colonies; and shall and are hereby impowered to pursue all such Steps and Methods as to them shall seem most adviseable, in Order, if possible, to procure a speedy and legal Settlement of the Eastern Boundaries of this Province, with the Neighbouring Colonies. PROVIDED ALWAYS, That no such Settlement shall actually be made by the said Committee and Commissioners, but only proposed by them to the Neighbouring Colonies, and reported by them to the Governor, Council and General Assembly for the Time being.

* * * *

VIII. AND BE IT ENACTED *by the Authority* aforesaid, That all and singular the Doings and Transactions of the said Committee and Commissioners, and of every other Person and Persons by their Order and Direction, shall from Time to Time, be laid before his Excellency in Council, and before the General Assembly, at their next, or any succeeding Sessions.

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—[*N. Y. Laws (Van Schaack)*, p. 313.

[IN COUNCIL.]

JAMAICA, July 28, 1753.

* * * *

M^r Chambers from the Committee appointed on the 3^d Instant read and presented to his Excellency the Committee's Report on the Matters referred to them. Which on the question being put was agreed to and approved of and ordered to be entered in the Minutes and is as follows viz:

May it please your Excellency

In obedience to your Excellency's Order in Council of the 3^d Instant: The Committee appointed by the said Order, have considered the Letter from Lieutenant Governor Phips of the 21st June last, and the Report of a Committee accepted by the whole Court of the Massachusetts-Bay on the 12th of the same Month: And observe, That the said Court have again declined giving a direct Answer to the short and plain question, twice laid before them, viz: "to inform your Excellency "what Warrant they had to claim or exercise any Right to Soil or "Jurisdiction, Westward of Connecticut River." And in general terms only set forth "That there does not appear by any Evidence whatsoever, to have been any ancient Jurisdiction exercised, nor any ancient Grants made, by any States or Powers in Europe, nor any ancient Possession, in any other than that Government, of any of the Lands now held or claimed by that Province," and "That the Right of that

Province, appears to be founded upon Grants, as ancient as the year 1620; and their Possession and actual Improvement of a considerable part of the Lands to the Westward of Connecticut River, is of more than an hundred years standing” Upon which the Committee observe, That it does not appear from thence, by whom, and to whom, those ancient Grants were made; or how far they extend to the Westward of Connecticut River; nor in what Place or Places their Possession and actual Improvement of Lands, Westward of that River, were made; or how far extended; whereas this Committee humbly conceives his Majesty’s Right to all the Lands and Soil Westward of Connecticut River, is fully and clearly set forth in the Report made to your Excellency on the 28th February last, a Copy of which has been laid before them. And therefore the Resolution of that Government “to go on in settling the Lands, and regulating and governing the Inhabitants according to the Rights given them by Charter,” appears to this Committee to be of a very extraordinary nature, and should they persist therein would be unjust and unwarrantable, and a Contempt of the Rights Authority and Government of the Crown of Great Britain; more especially, if it be considered, that the Manor of Livingston, upon which that Government have already made Ineroachments, was granted after the vacation of their former, and before the Grant of their present Charter; and that the Lands called Claverack which the said Government have also ineroached upon, have been in the Possession of the Renselaer Family, (being part of the Manor of Renselaerswyck) under Grants made upwards of one hundred years since, even very early in the Dutch times. And this Committee cannot help being stil of opinion, that upon this Matter being again laid before the Government of the Massachusets-Bay, they will think it more eligible to desist from any Ineroachments on Lands granted under the Seal of this Province, till it be legally determined whether this Government had a Right to make the same or not; Than to assume to themselves the Power of judging therein; which would be in Contempt of his Majesty, and his Courts of Justice, from whence only such legal Determination can proceed.

The Committee are further of opinion, it may be also proper for your Excellency to lay before the said Government, a Copy of the Act lately passed here, to appoint Commissioners to examine into the Eastern Boundaries of this Colony; that they may see the Intention of this Government to have the same speedily settled. And if the Government of the Massachusets-Bay shall desist from any such Ineroachments, that then for the Preservation of Peace between both Governments, this Province should delay the Exercise of any Jurisdiction, Eastward of the Grants made by the same, until such legal Determination of the

Matter in Controversy be had, or his Majesty's Pleasure signified therein. But that on the Contrary should the said Incroachments be continued, that it will be the indispensable Duty of this Government to defend and protect his Majesty's Subjects settled under Grants of this Province, Westward of Connecticut River, and to cause all Intruders on the same, by Colour of Right or Authority from the Massachusetts-Bay, to be apprehended and brought to condign Punishment, by all such proper and legal Measures, as the nature and Emergency of the Case may require. And that in this Case, it may be adviseable for your Excellency, to issue a Proclamation, notifying the Premises, and requiring all his Majesty's Subjects of this Province, to give due Assistance to the Officers and Ministers thereof, and pay due obedience to the Government of this Province and no other. All which is Nevertheless humbly submitted.

By order of the Committee

New York 19th July 1753

JN^o. CHAMBERS Chairman

The Council advised his Excellency to send a copy of the said Report to Governor Phips, and to desire he will be pleased to lay the same before the General Court of the Massachusetts-Bay at their next Meeting; and least the said Court should not meet shortly, that he would be pleased in the mean time to give effectual Orders, that all Proceedings in Consequence of their late Resolution may be stayed, until the Affair can be again laid before the said General Court.

Upon reading the Affidavit of Mathew Vanduersen sworn to on the 20th Instant, whereby it appears that on the 19th Instant, an officer or officers of the Massachusetts Bay and divers other persons, went to the House of Robert Vanduersen, about 14 or 15 miles from Hudson River, and by force and violence took bound and carried away him and his Son Johannes, in order to confine them in some Goal of the said Government, pretending that they acted under a Warrant from that Government, for a trespass committed on Lands lying within the Manor of Livingston: And also upon reading a Letter of the 19th Instant from the said Robert Vanduersen, signifying that they are in custody at Sheldon, expecting to be sent to Springfield Goal unless they can give Bail by Monday then next, the time allowed them for that purpose. It is ordered that a Proclamation be forthwith prepared and issued, directing the Sherifs and Officers of the Counties of Albany and Dutches, to apprehend the Persons concerned in the said Riot, and also all others who may hereafter under Colour or pretence of Title or authority from the Governments of Massachusetts Bay or New Hampshire, enter upon and take Possession of any Lands granted under the Great Seal of this Province, and to commit them to the

Goals of the said Counties, there to remain until thence delivered by due Course of Law, and if need be to summon the aid of the Posse of the said Counties.

The Council advised his Excellency to send a Copy of the said Proclamation, when issued, to Lieutenant Governor Phips, and to demand that he cause strict Inquiry to be made, who the said Officers or Persons were, and to cause them to be apprehended, and sent to this Government, in order for their Tryal.

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GW BANYAR DC Con.

— [N. Y. Council Minutes (MS.), v. 23, p. 88.

[GOVERNOR CLINTON TO LIEUT. GOV. PHIPS.]

New York 28th July 1753.

Sir.

I am to acknowledge the Receipt of your Letter of the 21st Ult^o. and the Report and Resolution of your Government of the 12th which I laid before his Majesty's Council whose further Sentiments on the Matter appear in their Report to me of the 19th Instant which I now inclose — together with a Copy of the Act mentioned therein and desire you will be pleased to lay the same before the General Court at their next meeting that such measures may be taken on the part of your Government as may prevent the mischiefs both are threatened with and which must unavoidably happen should your province act in Conformity to their late Resolution for it cannot with any appearance of Reason be imagined that this Government will tamely suffer yours to go on in settling the Lands claimed on both sides but on the Contrary it behoves us to take every measure necessary and expedient to prevent so extraordinary a proceeding This Government desires as earnestly as yours can possibly that the matter may be Speedily determined but as this determination cannot proceed from the authority of either governm^t we cou'd wish that in the mean time all proceedings be suspended. a proposal so reasonable and equitable in itself and so much more for the Honour and Interest of both Provinces that I cannot in the least doubt you will heartily acquiesce therein and place the matter in such a light to your government as may induce them readily to agree to it. And least the General Court should not meet shortly I must desire your Honour in the mean time to give effectual orders that all proceedings in consequence of their late Resolution may be stayed until the Affair can be again laid before them.

This government had determined to delay doing any thing in the matter until they could know yours and the further Sentiments of your

Government upon it But upon proof being laid before them of a Riot committed in the Manor of Livingston thought themselves obliged to order the persons concerned in it to be apprehended in order to be put on their Tryal for so daring a procedure and contempt of the Governm^t of this Province of which I thought proper to give you notice by sending you the inclosed Proclamation that you might not from any misrepresentation of the matter have a different opinion of our peaceable intention. And as We think it must be agreed on all hands that the Officers of your Govm^t exceeded any authority that could be given them from thence We demand and expect you will order strict inquiry to be made who the Officers or Persons were and cause them to be apprehended and sent to this Government in order for their Tryal.

I am &c

To the Hono^{le} Spencer Phips Esq^r

G. CLINTON

The above was Copied & signed by his Excy & sent to Mr Phips with the Papers referred to — this 30 July 1753.

GW BANYAR

—[*N. Y. Col. MSS.*; lxxvii, 145.

[IN COUNCIL.]

August 31, 1753.

* * * *

His Excellency laid before the Board * * * a Letter of the 11th Instant from Governor Shirley, acquainting his Excellency of his arrival at Boston, and that upon an Enquiry into the Affairs of that Government, he found a Letter from his Excellency of the 28th ult^o; to Lieutenant Governor Phips, concerning the Differences which have unhappily arisen between the two Provinces with respect to their Boundary Line. That at present he is unable to give any Answer to the said Letter, being unacquainted with the Matters complained of, but will take the first opportunity to examine into them, and, when the General Court of that Province shall meet, he will lay the Affair before them, and promote as far as he can a friendly adjustment of all Matters, in dispute, and in the mean time do every thing in his Power to keep the Borders in Peace and good Order, depending that his Excellency will do the like on his part. And then his Excellency acquainted the Council, that he had wrote an answer to the said Letter from Governor Shirley, assuring him, that he would on his part, do every thing in his Power to preserve the Peace, and good Order, on the Borders of this Government.

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—[*N. Y. Council Minutes (MS.)*, v. 23, p. 98.

[IN MASSACHUSETTS GENERAL ASSEMBLY.]

May it please your Excellency,

The Two Houses have carefully Considered the Letter from his Excellency Governor Clinton to Lieutenant Governor Phips of July 28th last, which your Excellency was pleas'd to lay before us, together with the Report of a Committee of his Majesty's Council at New York, as also an Act of New York General Assembly empowering Commissioners to make proposals for amicably settling the Controversy concerning the Line between this Government and that.

On this Affair, We beg leave to observe to your Excellency, that the present warmth and disorders arose upon, or at least quickly after, the Petition of some persons (who had encroach'd on this Province's ungranted Lands West of Sheffield) that the General Court of this Province would sell or dispose of to them, the Lands they thus possess; not long after this, a Number of persons in the Employ of Robert Livingston j; Esq; burnt down the Dwelling house of George Robinson one of these Petitioners, and M^r Livingston caused his Body to be attached & Committed to Albany Goal, by a Warrant from Authority in New York Province, who was afterwards Bail'd by Order of this Government, upon which the General Court of this Province, from a sincere desire of Peace and good Order, and to preserve a good understanding with New York Government, propos'd to that Government the mutual appointment of Commissioners for settling the Boundary Line between the two Provinces; this, New York Government did not agree to, but on the Advice of the Council there, in a very Majesterial manner, It was Demanded of this Government — What Right they had to Soil or Jurisdiction West of Connecticut River? Suggesting that it was but very lately, they knew we had any possessions West of that River, this proceeding of the Gentlemen of New York appear'd indeed extraordinary, as diverse of our ancient and best Towns Had been settled West of this River about an hundred years, and the Shire Town of Springfield near a hundred & Twenty Years.

The Government in New York thus declining to Join in settling the Line, and affecting to appear such great Strangers to our Affairs and Circumstances in those Parts of this Province, the General Court here Judg'd it vain to attempt any thing by way of Treaty in the Controversy, and therefore concluded to proceed in the best manner they could by themselves, and that they might be well inform'd of all Circumstances, last April sent a Committee to View the Lands West of Sheffield and Stockbridge, and report the Exact state of Affairs, which Committee went accordingly and on the spot Robert Livingston Esq; aforesaid, agreed with them, and they with him, that all proceedings should be stopt, till further Orders were taken by the two Governments,

notwithstanding which in July last, M^r: Livingston with above sixty men arm'd with Guns, Swords, and Cutlasses, in a very hostile and riotous manner, entered upon part of said Lands in the possession of Josiah Lomis, Cut down his Wheat, and carried it away in his Wagons, and destroy'd above five acres of Indian Corn, then growing on Lands possess't by said Lomis; complaint being made of these Violent proceedings to the Authority in the County of Hampshire, Warrants were granted, and two of the Rioters apprehended, Who enter'd into Bonds for appearance things being thus very much perplex'd, and likely to grow worse, and New York Government still declining to do any thing, the General Court of this Province in their last Session appointed a Committee to repair to the place in Controversy, & dispose of the Land thus inroach't on, or some way or other quiet the persons contending, which Committee propos'd soon to proceed in said Affair; but have not as yet, and as New York Government have appointed Commissioners it is tho't best to Join them, and meet sometime in the month of November next at Middleton in the Colony of Connecticut, being a neutral place and about midway between the Capitol of this and that Government.

We beg leave further to observe that notwithstanding the lenity of our Authority's proceedings and readiness to take Bond of the two Rioters apprehended, yet Michael Halenbeck a Dutchman, whom they supposed to favour the taking Van Dusars, has been apprehended and closely confin'd in Dutchess County Goal (it is said to be in a Dungeon) and the most unexceptionable Bail refus'd.

We would further observe to your Excellency, that We apprehend his Excellency Governor Clinton, and his Majesty's Council of New York were not truly inform'd of the proceeding of the said Livingston and others, upon said Controverted Land, which if they had been, we have reason to think the Proclamation accompanying Governor Clinton's Letter had never been issued, neither would Governor Clinton have made such a very Extraordinary and unprecedented demand, that the Officers of this Government should be sent to New York for a Trial.

In Council Sept^r: 11th 1753. Read and Accepted.

Sent down for Concurrence

J. WILLARD Secry

In the House of Rep^{tes}: Sept^r: 11th 1753, Read & Concurr'd & Voted that M^r: Welles, M^r: James Bowdoin, Col^o: Winslow, Cap^t: Chandler & M^r: Fletcher, with such as the Hon^{ble}: Board shall Join, be a Committee to wait upon his Excellency the Governor with the message that has pass'd the two Houses this Day.

Sent up for Concurrence

T. HUBBARD Spk^r:

In Council Sept: 11th 1753; Read and Concurr'd, and Andrew Oliver, Isaac Royal and Eleazer Porter Esq^r: are Joined in the Affair.

J. WILLARD Secry

A True Copy Examined

Þ THO^s CLARKE Dp^r: Secry.

[Endorsement.] Sept: 29. Read in [N. Y.] Council & referred to the Committee and Comm^r: appointed by Act of Assembly.

—[*N. Y. Col. MSS.*, lxxvii, 157; *N. Y. Doc. Hist.*, iii, 754 (8^o ed.).

[GOVERNOR SHIRLEY TO GOVERNOR CLINTON.]

Boston September 17, 1753

Sir

The General Assembly of this Province having met, since writing my former Letter to your Excellency; I acquainted them at the Opening of the Session, that one principal Cause of my Calling them together at this busy Season of the Year for their Husbandry Affairs, was the unhappy Differences, which had lately arrisen between the Government of New York and this Government respecting their Boundarys; And I earnestly recommended to them the taking such Measures, as may tend to an Amicable Settlement of them; And for this purpose I lay'd your Excellencys Letter to Lieutenant Governor Phips, and the Papers accompaning it before the two Houses, who have thereupon come into the Resolution of sending Commissioners to treat with the Commissioners of your Government upon this important affair; and Commissioners are accordingly Chosen and appointed, with power and directions to repair to the Town of Middletown in the Colony of Connecticut (that being a Neutral Place and computed to be about Midway between the two Provinces) upon the 15th day of November next then and there to treat with Commissioners appointed on the Part of your Excellency's Government for the same purpose, or at such other time and place in the Colony of Connecticut, as shall be Mutually agreed upon between the Commissioners of the two Governments.

The two Houses have likewise by their Message to me set forth the Proceedings of this Government in order to Vindicate it from any Mistaken Apprehensions, which the Government of New York may have of their Conduct in this Affair, with their desire that I would lay the same before your Excellency: And have represented to me the severe Treatment which one Michael Hallenbeck hath received from some Officers in your Excellency's Government (on Account of his being concerned in this Dispute) who refused sufficient Bail for his Appearance and Confined him in a Dungeon.

There are several Declarations taken upon Oath to support the Truth of this Representation; and the two Houses have desired that I would move your Excellency for this Mans Enlargement upon good Bail; And I cannot but hope that if your Excellency upon Inquiry shall find this matter as it is (in the Message to me) represented, you will think it reasonable to gratify us in this request; And the rather because the Persons belonging to your Government, who were apprehended by our Officers, were readily admitted to Bail.

Without mutual Condescensions on both sides there can be but little Prospect of any accomodation of these Differences; And I think the Assembly of this Province is well disposed to do every thing consistent with their Honour and with what they conceive to be the Right of this Government, to facilitate a peaceable Issue of this unhappy Controversy.

I herewith inclose Copies of the Act of the General Court also the Messages above refer'd to for your Excellency's Consideration, and desire you will be pleased to let me know the Determination of your Government upon these Matters as soon as may be Convenient.

I have the Honour to be with very great Regard

S^r Y^r Excellency's Most Humble
& Most Obedient Serv^t

W SHIRLEY.

To His Excellency the Hon^{ble} George Clinton Esq^r

[Endorsement.] Sep^r 29. Read in Council and Referred with the Papers inclosed to a Commee of Council & Commissioners appointed by Act of Assembly.

—[*N. Y. Col. MSS.*, lxxvii, 158.

Province of the }
Massachusetts Bay }

Anno Reigni Regis Georgii secundi &c^a; vicessimo septimo

AN ACT to appoint Commissioners to examine into the Boundary Line or Lines between this Government & New York, and to treat with the Commissioners appointed by the Colony of New York respecting the same.

WHEREAS Disputes of late have arisen with respect to the Right of Soil & Jurisdiction of the Lands which lye West of & Near to the Towns of Sheffield & Stockbridge, & Encroachments have been made upon the Lands of this Province.

BE IT ENACTED by the Govern^{rs} Council & House of Represent^{rs} that Samuel Welles Esq^r John Chandler Esq^r Thomas Hutchinson Esq^r James Otis Esq^r & Oliver Partridge Esq^r be and hereby are appointed Commissioners to examine into the Boundary Lines between this Pro-

vince & New York; And they are hereby authorized & directed to repair to the Town of Middletown in the Colony of Connecticut, upon the fifteenth day of November next, then & there to meet with Commissioners appointed by the Governm^t of New York for the same Purpose, or to meet at such other time or at such other Place in said Colony as shall be mutually agreed upon between the Commiss^{rs} aforesaid; And the said Samuel Welles Esq^r John Chandler Esq^r Thomas Hutchinson Esq^r James Otis Esq^r & Oliver Partridge Esq^r or the major Part of them, are hereby fully authorized & impowered to treat with the said Commissioners from New York, & to receive such Proposals as they shall make for setling the said Boundary Line, as likewise to pursue all such Steps & Methods, & to make such other Proposals to the said Commiss^{rs} from New York as to them the said Samuel Welles, John Chandler, Thomas Hutchinson, James Otis & Oliver Partridge or the major Part of them shall seem most advisable, in order to procure a speedy & legal Settlement of the Boundary aforesaid.

Provided always that no such proposed Settlement shall actually be made by the said Commiss^{rs} but the same shall be reported by them to the General Assembly of this Province.

Sept^r 13, 1753. This Bill having been read three several times in the House of Repres^{tes} — Pass'd to be enacted.

T. HUBBARD Spk^r

Sept^r 13, 1753. This Bill having been read three several times in Council — Pass'd to be Enacted.

J. WILLARD Secy.

Sept^r 13, 1753. By the Governour
I Consent to the Enacting of this Bill.

W. SHIRLEY

A True Copy Examined.

☞ THO^s CLARKE Dpty Secy.

[Endorsement. Sep^r 29.] Read in [N. Y.] Council & Referred to the Committee of Council and Commissioners appointed by Act of Assembly.

—[*N. Y. Col. MSS.*, lxxvii, 159.

Province of the }
Massachusetts Bay }

In the House of Repres^{tes} Sept^r 14, 1753.

It being represented that Michael Halenbeck lately dwelling on some Lands in Dispute between this Governm^t and that of New York, was some time past imprisoned in Dutchy's County Goal by Order or Warrant from the Authority in New York Province, & unexceptionable Bail refused by the Officer; is still continued in very close confinement & in

a very uncomfortable Place, notwithstanding the Offer of very sufficient Bail. — Wherefore

Voted that His Excy the Governour be desired as soon as may be to write very particularly on this Affair to his Excy the Governour of New York, the two Houses apprehending that the common Rights of any or all his Majesty's Subjects in such Circumstances are denied him.

Sent up for Concurrence.

T. HUBBARD Spk^r

In Council Sept^r 14, 1753, Read & Concur'd

THO^s CLARKE Dep^{ty} Secy.

A True Copy Examined.

THO^s CLARKE Dp^{ty} Secy.

[Endorsement.] Sep^r 29. Read in [N. Y.] Council and referred to y^e Committee of Council & Commissioners appointed by Act of Assembly.

—[*N. Y. Col. MSS.*, lxxvii, 160.

[IN COUNCIL.]

September 29, 1753.

* * * *

His Excellency laid before the Board a Letter from Governor Shirley of the 17th Instant, acquainting his Excellency, that having laid his Excellency's Letter of the 28th July to Lieutenant Governour Phips, and the Report of the 19th July Last, sent therewith, before the General Court of that Government, they had come to a Resolution to send Commissioners to treat with Commissioners of this Province respecting the Boundary Line or Lines between the two Provinces, and that Commissioners are appointed accordingly for that purpose, who are to repair to the Town of Middletown in Connecticut, on the 15th of November next, then and there to treat with Commissioners appointed by this Government for the same purpose, or at such other time and place in Connecticut as shall be mutually agreed upon by the said Commissioners — And also desiring the enlargement of one Michael Hallinbeck confined in the Goal of Dutches County in this Province, The Officers of this Government having as alledged in this Letter refused Sufficient Bail for his appearance.

Which Said Letter was read together with the following Papers inclosed therein viz^t:

A copy of a Report of the two Houses of the Province of Massachusetts-Bay of the 11th September last, relating to the said Matter in Controversy between the two Governments.

A Vote of the said two Houses desiring his Excellency the Governor of that Province to apply to this Government, respecting the said



Michael Hallinbeck's being confined in Goal in Dutches County, and stil continued there, notwithstanding the Offer of unexceptionable Bail.

And

A Copy of an Act to appoint Commissioners to examine into the Boundary Line or Lines between the Governments of Massachusetts-Bay and New York, and to treat with the Commissioners appointed by the Colony of New York respecting the same.

On reading whereof It is ordered by his Excellency with the advice of the Council, That the said Letter and papers be referred to the Committee of the Council, and the Commissioners appointed to Examine into the Eastern Boundaries of this Government, and that the said Committee and Commissioners do consider of the same, and make Report thereupon to this Board with all convenient speed.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 105.

November 19, 1753.

* * * *

His Honour communicated to the Board a Report of the Committee and Commissioners appointed to examine into the Eastern Boundaries of this Province, (dated the 16th Instant) on the papers referred to them by Order of this Board of the 29th September last, relateing to the dispute between this province and the Massachusetts-Bay as to the Extent of their Boundaries. And the said Report being read, was, on the question being put, approved of and confirmed; and the Council humbly advised his Honour to send the same to Governor Shirley, to be laid before the General Court of the Massachusetts-Bay at their next Meeting: And also to acquaint Governor Shirley with the Reasons why the same has been so long delayed.

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 128.

REPORT ON THE PAPERS FROM MASSACHUSETTS BAY.

May it please your Honor

In obedience to an Order in Council on the 29th day of September last referring to the Committee of Council and the Commissioners appointed to examine into the Eastern Boundaries of this province A Letter from his Excellency Governor Shirley to the late Governor Clinton of the 17th of September last [with other papers enumerated] * * We have duly weighed and considered of the same But before we proceed to Report our opinion thereon to your Honour beg leave briefly to recite the proceedings touching the said Matters as they appear in the papers laid before us which we find as follow.

That upon Complaints of Encroachments made by people of the Massachusetts Bay On Lands long since granted under the great seal of this province a Committee of the Council of the said province did in their report of the Twenty Eighth of February Last set in a clear light his Majesty's right To the Jurisdiction and soil of the Lands westward of Connecticut river and northward of the Colony of Connecticut as part of this his Majesty's province of New York and then pointed out and Considered all the Grants within their Knowledge, by which the Colony of the Massachusetts Bay have pretended To claim, and showed that they could not under any of them rightfully claim any soil or Jurisdiction west of Connecticut river and proposed that the Generall Court of the Massachusetts Bay should Inform this Government "By what Warrant they Claim or Exercise any right To soil or Jurisdiction west of Connecticut river" To which the Generall Court of the Massachusetts Bay after Considering the said report made no answer. But Instead thereof proposed the appointment of Commissioners by Both provinces for settling the Bounds between the said Colonies.

That the Council of this province on the first of May Last Exhibited Sufficient reasons why Commissioners ought not To be appointed on the part of this province for that purpose. But that the Colony of the Massachusetts Bay ought to answer the former plain request made Concerning their Warrant, to Claim Westward of Connecticut River.

That on the Twelfth of June Last the General Court of the Massachusetts Bay gave a Generall But no particular answer To the said Question Twice proposed to them But Instead thereof resolve to proceed in the matters first Complained of by this Government.

That the Council of this province on the 19th of July Last, particularly pointed out the defects and Insufficiencys of the answer of the Massachusetts Bay to said Question. AND the injustice of their Resolution to proceed and take upon themselves To be the judges, in Contempt of his Majesty's Sole right to Judge in this matter. and that the said Council propose the sending them a Cobby of the act of this province for appointing Commissioners to Examine into the Eastern Bounds of this Colony, and also propose the stay of Exercising the Jurisdiction of this province on any lands Eastward of our antient grants till the final Settlement of this Controversy or his Majesty's pleasure should be known, if the Massachusetts Bay would make no other Encroachments on the said antient Grants, But that should they Continue their Encroachments it would then be the Indispensable duty of this Government to protect his Majesty's Subjects thereof.

That some person or persons pretending To Be Officers of the Massachusetts Bay came into the manor of Livingston in this province (which manor has been in the quiet possession of Robert Livingston

Jun^r and his Ancestors about Sixty Years under grants of this province) and on or about the nineteenth day of July last with the aid and assistance of a great number of persons in a Riotous manner Entred the house of Robert Vanduesen in the said Mannor of Livingston, and by force took Bound and Carryed away the said Robert Vanduersen and his son Johannes out of the said Mannor of Livingston in Order to Confine them In some Goal of the Government of the Massachusetts Bay pretending they acted under a Warrant or Authority from that Government.

That on the Twenty Eighth day of July Last a proclamation was Issued by the Late Governour Clinton to apprehend the said Rioters and all who should for the future enter upon any Lands granted under the great seal of this province By Colour of any Authority from the Massachusetts Bay or New Hampshire and to Committ them to Goal to remain till delivered by due Course of Law. And That Michael Hallenbeck one of the said Rioters was by Vertue of the said proclamation, apprehended and Committed to the Goal of Dutchess County.

These things premised we shall beg leave to report our opinion on the Papers referred to us and first as to Michael Hallenbeck's confinement in Goal in this province we have seen a Coppy of a Letter from Governour Clinton to Governour Shirley of the first of October Last, acquainting him with Hallenbeck's Escape out of Goal and the mistakes of their Information Concerning him which renders any other answer in Our opinion needless Save that it has been proved to us that the Land on which the said Hallenbeck was settled at the time of the said Riot, has been held by him and Others before him under the said Robert Livingston and his ancestors as part of the Mannor of Livingston above Sixty Years upon annual rents.

We Conceive that the Massachusetts Bay could not with any propriety, Interfere in the matter of his Imprisonment even had his Bail been refused after proper application which however was not done.

As to the said Representation of the 11th of September

The two Houses of the Massachusetts Bay declare therein that "*they proposed the mutual appointment of Commissioners for Settling the Boundary Line [which] this New York Government did not agree to. But on the advice of the Councill there in a very Magisterial manner It was demanded of this Government what right they had to soil or Jurisdiction west of Connecticut river.*"

Upon which we Beg Leave to remark that when they made the proposal to appoint Commissioners which was on the 12th of Aprill they had the report, of the Councill of this province of the 28th of february under their Consideration In which the Question which they are pleased to term *Magisterial* was Contained and that it was a proper and the

only Rational Question that Could be put will appear upon Considering that report and in part from the purport of it herein Before set forth. 'Tis a question to which this Government had Intituled it self To a fair answer by the rule of Equality of *doing To us as we had done to them* by our haveing given a fair answer, in such manner as if the Like question had been put by the Massachusetts Bay to this Government, and 'Tis a question We suppose they would have answered, & thereby have set forth their right if any other they had than what by that report is pointed out and shown to be void.

We would further remark that they Omitt the reason given by the Council here on the first of May Last why it was improper to appoint Commissioners for the purpose Requested and are pleased to Introduce this which they call *Magisterial* as if it had Been the answer of this province to their request But why this representation of the matter is made by them, they can best account.

To the next paragraph wherein they Question What the Councill here had declared in their Report of the 1st of May Concerning their knowledge of this affair, We say the Council here are on their Oaths in all their Transactions as Coffncillors and it seems to stand in need of some Apology to call in question what they had so declared.

They are then pleased to Express themselves thus "As diverse of our ancient and best Towns had been settled West of this river about an hundred years and the Shire Town of Springfield near an hundred and Twenty years" with respect to Those things they might have been so and yet not have Come to the Knowledge of the Councill here, and if they are so (which we know not) Yet we do not apprehend that they will make a Title to any Lands against his Majesty.

On the first reading of the above paragraph few of us doubted but that the Shire Town of Springfield had been situated on the west side of Connecticut river Till we were informed that it is on the East side of the river & that M^r Poplis Large map Represents it so which Information some of us doubted and still doubts the Truth of, Because of the Difficulty of Reconciling it with what was Conceived the Obvious sense of the above paragraph.

We believe that their Committee did Last May Enter into the Manor of Livingston (quietly possessed under a grant of this province about Sixty years without any pretence of the Massachusetts Bay) and are Informed that notwithstanding the said Robert Livingston had then offered to shew them his Title and had actually shewn them a Copy of the said report of the 28th ffebruary and also the report of their Generall Court of the 12th of Aprill proposing To appoint Commissioners for the Settlement of the Boundarys in question and had represented to them the injustice of their proceedings and the undue means taken to

Corrupt his Tenants and to induce them to disown his title and pay him no more Rents and even after the said Committee of the Generall Court had appeared Satisfied of the Injustice which had been done to him and had in his presence recommended to his Tenants To pay their rents and agree with him as well as they Could till the line was settled Yet Several persons did about ten days after proceed by order of the said Comme as we are Informed to the Surveying and running a line within the said mannor and we believe that Instead of the said Committees agreeing with him "that all proceedings should be stop't till further Orders were taken by the Two Governments" They did Only recommend to his Tenants the Conduct above set forth. But that he agreed to give up his mannor or any part of it To them or to any of his Corrupted Tenants or to lay aside the Exercising his just right within his mannor as is in part Insinuated we think is against reason to Believe.

* * * *

No authority in the County of Hampshire had any Right To take Cognizance of any offence (if that was one) done in the manor of Livingston within this province and it was highly Criminal in any of their Officers to Execute any warrants there, and the demand of the Delivery up of those officers to be sent here for their Tryalls we do not apprehend was extraordinary or unprecedented but Rational and Just for suppose officers of this Province, by a Warrant from him, went to Boston, and Broke Open a house there, and brought away the people, and Committed them to Goal here, for an offence done in Boston, would it be very Extraordinary or unprecedented, to demand those officers from this Government for their tryalls in Boston, for that high Crime Committed there by them? But the Cases are alike for the Manor of Livingston we Conceive to be as clearly part of this province as Boston is part of Massachusetts-Bay, and while the said Report of the 28th of february Last, and what they call the Magisterial Question therein, stands unanswered, we Believe it will appear so to every Impartial man who reads it.

The Massachusetts Government have been pleased to appoint a time and place for the meeting of their Commissioners with those of this province: If they would have been pleased to have Recollected that the Government of this province is his Majesty's Immediate Government, which theirs is not, it would have been something more Decent to haue referred the nameing of those things to this Government.

And as his Majesty is Concerned in the Controversy, and no Settlement which can be made by any authority Derived from Both Governments without the Royal Direction participation and Concurrence, can be Binding on the Crown, we Conceive that the appointment of Commissioners for that purpose would not only be fruitless and Ineffectual to

the Determination of the Controversy but also Derogatory To the rights of the Crown and disrespectfull to his most Sacred Majesty.

Had the Government of the Massachusetts Bay giuen a full and perfect Answer to the Report of the 28th of ffebruary last and shown a Colour of Title they had by Grants of the Crown to Soil or Jurisdiction West of Connecticut River. And shown any reasonable Cause to doubt whether the Connecticut River was the Eastern Boundary of this province. It's possibly there might from thence have arisen some Cause for the meeting of Commissioners of Both sides to Come to a right understanding on the Doubtfull matters thereby arisen But while the Title of this Province to be Bounded by Connecticut River, does stand Clear in that Report and no Title appears For the Massachusetts Bay to any soil or Jurisdiction west of that River We cannot apprehend any use even for the *meeting* of Commissioners, nor that its in the power of this Government to give their Commissioners any other Instructions than to receive the answer of the Massachusetts Bay to the matters in the said report, To deliver which we see no need of the Charge of the meeting of Commissioners on either side, when it may be done by a Letter by the post.

There are some other facts set forth in the said Representation which we think are of very little or no Consequence to the matter in question, whether they be as set forth or not, for which reason we have declined Examining into them and takeing any other than this notice of them.

As To his Excellency Governour Shirley's said Letter we agree in opinion with him, that there ought to be Mutual Condescentions on both sides, and that there can be But Little prospect of any Accomodation of those differences without them, and whatever Condescension is reasonable to be granted by this Government, we doubt not will Be Complied with when requested, and as M^r Livingston has already been at very considerable charge concerning the apprehending of Vanduersent & his son and procuring Bail for them we beg Leave to recommend it to your honour to desire of Governour Shirley that the said Vanduersens and their Bail be discharged to save further Expence in that matter.

And lastly As this Controversy hath already subsisted a Long time and in the present Method of carrying it on is likely to be protracted to a very unreasonable length without the least Appearance of its determination We pray your Honour will be pleased to lay this Report before the Governm^t of the Massachusetts Bay to be communicated to the next General Court hoping that they will come to a Resolution to signify to this Government on what their Claim to Soil or Jurisdiction Westward of Connecticut River is founded, and how far the same extends: that this Government may Consider of the same, and do

therein what shall appear just and reasonable. But if that Government should still decline, or neglect to take this Step, we shall, agreeable to the Trust reposed in us, as soon as may be prepare, and lay before your Honour, a proper Representation of the several matters, which shall have come to our Knowledge, and may be thought material in this Controversey In order to be transmitted to his Majesty.

All which is nevertheless humbly submitted

By order of the Commee

JN^o CHAMBERS Chairman

New York }
16 Novem^r 1753 }

By order of the Commissioners

PAUL RICHARD Chairman.

—[*N. Y. Doc. Hist.*, iii, 454 (4^o ed.), 759 (8^o).

[GOVERNOR SHIRLEY TO LIEUT.-GOV. DELANCEY.]

Boston Jan. 21st 1754.

Sir,

Since my last Letter agreeable to what I therein mention'd, I have by my Message to y^e Council & Representatives of this Province recommended to them a Compliance wth what your Government insisted upon as a Condition previous to their joining with us in a Convention of Commissioners for, adjusting y^e Differences between y^e two Provinces concerning their Boundary Line, by setting forth in as explicit a Manner as may be, how far their Claim to the Lands to y^e westward of Connecticut River extend, & upon what they are founded.

The Result of this your Honour will find in their Report, a Copy of w^{ch} I inclose; as also that they still express great Readiness, notwithstanding y^e discouragement they have met wth, for adjusting all Differences between y^e two Provinces in an amicable Manner by Commissioners chosen on each Side: And as your Honour has expressed your good Disposition to settle & maintain a good Agreement between y^e two Governments to their mutual Advantage I can't but hope that you will use your Influence wth your Assembly for forwarding a Meeting of Commissioners accordingly: And I beg you would be pleas'd to let me know their final Determination therein.

As to what relates to M^r Livingston's Tenant's Bail for their Appearance at one of our Courts in y^e County of Hampshire, I think I Inform'd your Honour before that y^e Bonds are forfeit by their Non appearance; but I shall endeavour that no Writ of Sirefacias or other Process shall issue thereupon.

Besides what is mention'd in y^e inclos'd Report concerning y^e delivering up the Magistrates of this Government who have issu'd out their Warrants for apprehending Persons within the Limits of the Tract now

in Dispute between y^e two Provinces, as to y^e Matter of Jurisdiction, in order to be try'd as Trespassers for so doing by y^e Government of New York, one Reason of their Refusal, I believe, is, that they think such a Proceeding would be giving up their own Claim, the very Matter now in Dispute, & I am satisfy'd they will never consent to do it.

The inclos'd Intelligence of John Patten, was deliver'd me by Doctor Clark of this Place, a Man of good Sense and Veracity; And I understand by a Letter from Gov^r: Hamilton that he has employ'd this Patten to go to y^e River Ohio in search of what y^e French are now doing there.

I have sent up for Smith who wrote me y^e Letter, wth I likewise inclose your Honour an Extract of, in order to examine him further, & will communicate to You what further Information he may give me.

I am wth much Truth & Esteem

Sir,

Your Honour's most Humble & most
Obedient Servant

W SHIRLEY.

Lieu^t: Governour De Lancey.

[Endorsement.] 4 February Read in Council and Referred to the Committee and Commissioners.

—[*N. Y. Col. MSS.*, lxxviii, 52.]

[IN COUNCIL.]

February 4, 1754.

* * * *

His Honour laid before the Board a Letter from Governor Shirley of the 21 ult^o inclosing a copy of a Report of the General Court of the Massachusetts Bay, on the Subject of the Difference between this and that Province, touching their Extent of Boundary; In which, to shew the Title of that Province to the Lands in controversy, it is set forth "That they derive their Title from a Grant made by King James the First in 1606, and confirmed with additional Priviledges in 1620 to the Council of Plymouth. That this Council on the 19^o of March 1627 granted to their Predecessors their heirs and assigns all the Lands within their North and South lines from the Atlantick to the South Sea; and on the 4th March 1628 King Charles the first granted them the jurisdiction over these Lands, saving only such parts as were possessed or inhabited by any Christian Prince or state in 1620: and altho' this Grant of Jurisdiction was vacated by a Judgement in Chancery in 1684, yet all the Lands contained in their first Grant, were expressly made part of the New Province, by the Charter of 1691, the Rule for their

present Jurisdiction. That they lay no Claim to any Lands included in the above exception, and that as soon as the Government of New York, shall produce any Evidence of any such Possession of the Dutch or any Christian Prince or State, of any part of the Lands granted to them they will immediately relinquish all claim thereunto.

Ordered that the said Report and Letter be Referred to the consideration of the Committee and Commissioners appointed to examine into the Eastern Boundaries of this Colony, and that they Report their Opinion thereupon to this Board with all convenient speed.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 139.

[IN MASSACHUSETTS GENERAL COURT.]

May it please your Excellency,

Your Excellency's Message of the 26th December having been maturely considered by the two Houses, we beg leave in answer thereto to observe; that by the Report of a Committee of the Council and Assembly made in your Excellency's absence, we founded our Claim to the Lands of this Government controverted by New York, on Grants as ancient as the Year 1620, and this Report was transmitted to New York by Lieutenant Governor Phips, and laid before the Council and Assembly there, but it seems that it is thought not to be sufficiently declarative how far Westward our Claim extends. Your Excellency is sensible that we derive our Title from a Grant made by King James the first in 1606 and confirm'd with additional priviledges in 1620 to the Council of Plymouth: That this Council on the 19th March 1627 granted to our Predecessors their heirs & assigns all the Lands within our North and South Lines from the Atlantick to the South Sea, and on 4th March 1628 King Charles the first granted them the Jurisdiction over these Lands, saving only such parts as were possessed or inhabited by any Christian Prince or State in 1620, and although this Grant of Jurisdiction was vacated by a Judgment in Chancery in 1684, yet all the Lands contain'd in our first Grant were expressly made part of the New Province by the Charter of 1691 the Rule for our present Jurisdiction; that we lay no claim to any Lands included in the above exception, and we assure your Excellency that as soon as the Government of New York shall produce any Evidence of any such possession of the Dutch or any Christian Prince or State of any part of the Lands granted to us, we will immediately relinquish all claim thereunto.

We have never yet had any objections made to our Claim but What we apprehend may easily be removed. If the Government of New

York are as fully convinc'd of the strength of their Title to the Lands they challenge it seems strange to us that they should decline joining in a conference by Commissioners; Perhaps the evidences which may be offered on one side or the other may have so good an effect as to produce an accommodation.

But we cannot help observing, and this with great concern that in all the proceedings of the Government of New York relating to this affair they seem inclin'd to make as wide a breach as possible. Their setting up an extravagant Claim reaching as far as Connecticut River, a Claim never heard of until within these two Years, and which might with just as much reason been extended to Merrimack, could have no other effect than to alienate the affections of the Inhabitants of the two Governments: Their repeated refusal to treat, of the points in difference, by Commissioners: Their authoritative way of expressing themselves in their several Reports, and as a King's Province challenging a superiority over us, as a Charter Government, and charging us with indecency in proposing a time & place for the meeting of Commissioners: Their demanding that our Officers, who had executed the Orders receiv'd from Authority here, should be delivered up in consequence of a Proclamation from the Governor of New York, and sent thither to be punished, to say nothing more of such proceedings, all carry the same complexion.

We are sincerely desirous on our own part of avoiding every thing which may tend to keep up this difference, But it is impossible that we should bear, without some emotion, to have a new Claim set up to, & our Jurisdiction interrupted over, a large extent of Country, great part of it settled, and the whole defended at vast Expence for above an hundred Years together. The reasons offered for not appointing Commissioners do not appear to us to have any weight.

New Hampshire is a King's Province as well as New York and yet in our Controversy with that Government this method of settling it was recommended by his Majesty. We never supposed that New York had power to make a final settlement, and on our part we shall be ready to ratify by an Act of Government the agreement that may be made by our Commissioners, which Act by our Constitution must be laid before his Majesty for his Royal approbation.

We have no aim at any undue procedure, or superiority over our neighbours, but we never imagin'd that a Royal Charter a mark of favour from the Crown could have any tendency to degrade the subjects of it below others who have not obtained the like favour. We value ourselves on this, that no one Government has ever shown more Zeal to promote his Majesty's Service on every occasion, and that no part of his subjects have more dutifully demeaned ourselves than we have done.

When New York shall have done greater Service for the Crown than

the Massachusetts, and the Inhabitants of that Government shall have approved themselves more loyal & dutiful than his Majesty's Subjects in this, we shall then think they have some reason to resent our deeming ourselves on a Par with them.

We have no private views to serve in this Controversy.

We grant none of our Lands for Mannors and Borowhs But in convenient limits for Townships, under conditions of speedy settlement, in order to strengthen and increase his Majestys Dominions,

We are not attempting any new extent of Bounds. Our Claim has been uniform from the beginning & and as occasion has offered we have exercis'd jurisdiction.

We want no Strained Constructions of our Charter but are willing in order for an Accomodation to make reasonable Concessions as to Jurisdiction and Property rather than to maintain a Contention with a neighbour Government. But whilst our attempt to forward the Settlement of this Controversy are thus slighted, we think we must be justified by all the World in taking measures to prevent our Inhabitants, who implore our protection from being harrassed and oppressed, and we doubt not your Excellency will take effectual care that all his Majesty's Officers within the Province continue in the due exercise of their Authority without suffering themselves to be intimidated by any threats or molestations from the Inhabitants of any other Governments.

A True Copy

Attest.

J WILLARD Seery.

[Endorsement.] 4th February 1754. Read in [N. Y.] Council and Referred to the Committee and Commissioners.

—[*N. Y. Col. MSS.*, lxxviii, 64.

April 18, 1754.

Voted & Ordered that Samuel Welles, John Chandler, Tho^s Hutchinson, Oliver Partridge & John Worthington Esq^{rs} Commissioners appointed by this Court (they or any three of them) be authorized on behalf of this Province to meet Commiss^{rs} which are or may be appointed on the Part of the Province of New York, & with them to confer & agree upon the Partition Line between his Maj^{ty}'s Provinces of the Massachusetts Bay & New York, & to prepare a proper Account & State of the Line they shall agree upon, to be laid before their respective Principals for their Consideration & Acceptance, in order humbly to present the same, after their accepting it, to be approved & ratified by his Majesty; or otherwise to agree on a Line to be immediately submitted to his Majesty for his Royal Approbation & Confirmation as the Commiss^{rs} mutually chosen shall judge best.

The Gentlemen above named to be commissioned by his Excellency the Governour for the Purpose aforesaid under the Seal of the Province.

Sent down for Concurrence

J WILLARD Secry.

In the House of Repres^{ts} April 19. 1754

Read & Concur'd

T HUBBARD Spk^r

Consented to,

W SHIRLEY.

Copy examined

J WILLARD Secry

[Endorsement.] April 29. Read in [N. Y.] Council & referred to the Commee & Comm^{rs}

—[*N. Y. Col. MSS.*, lxxviii, 99.

[GOVERNOR SHIRLEY TO LIEUT-GOV. DE LANCEY.]

Boston April 22nd 1754.

Sir

Agreeable to the Proposal you made to me some time since, that the Meeting to be had between Commissioners of your Province and this for Deciding the Controversy concerning the Boundary Line should be held at Albany: The General Court of this Province have chosen Commissioners and impowered them to treat and agree upon it; And that you may understand the Power committed to them, I shall herewith inclose a Copy of the Vote for granting the same. And would beg the favour of you to acquaint me with what your Assembly shall determine in Consequence thereof, as soon as may be, that our Commissioners may have suitable time to prepare for the proposed Business.

As it may be of some use to you to know what our Assembly have done on the Affair of the Interview with the Indians of the six Nations, I likewise Inclose the Vote for Impowering the Commissioners to Act therein.

Pursuant to an Application made to me by the Council and House of Representatives of this Province occasioned by a Petition of one Payne I must desire of your Honour that Nothing may be done by the Government of New York or any particular Persons there, that shall tend to raise a Contention between the two Governments at a time when a strict Friendship and Union seems more than ever to be Necessary; and that such severe Proceedings as are said to be had against the said Payne may be prevented for the future, and that this poor Prisoner (if he has been hitherto debar'd) may be now allowed the Privilege of Law more especially in relation to the extraordinary Bail demanded of him; and that he may be set at Liberty upon reasonable Bail; And that as to the other People living on Lands in Dispute

between the two Governments, a Suspension may be had of all proceedings against them, and that they may be suffer'd quietly to improve their Possessions untill the Proposed Method for Adjusting the Differences between the two Governments shall have been attempted.

I thank you for giving me Intelligence of the Report at Albany concerning a French Fort's being lately finished at Coas; as also for that concerning the Strength of their Fort at Niagara.

The Assembly is upon the Point of rising and the Post of its departure; so I have only time to subscribe myself

Sir

Your Honour's most humble
and most Obedient Servant

W SHIRLEY.

The Hon^{ble} James De'Lancey

[Endorsement.] 29 April. Read in [N. Y.] Council & Referred to the Commee & Commissioners

—[*N. Y. Col. MSS.*, lxxviii, 98.

[IN COUNCIL.]

April 29, 1754.

* * * *

His Honour laid before the Board, a Letter from Governor Shirley of the 22^d Instant, inclosing a Report of the Council and Assembly of Massachusetts Bay of the 11th relating to the dispute between the two Provinces about their bounds; and a Note of the assembly of that province of the 18^o appointing and authorizing Commissioners of that, to meet Commissioners of this province, to confer and agree upon the settlement of the Partition Line.

Ordered that the said Letters and Papers be Referred to y^e Committee and Commissioners appointed to examine into the Eastern Boundaries of this Colony, and that they make Report thereon with all convenient speed.

Vote of the assembly of Massachusetts Bay of the 18^o April, appointing Commissioners to attend the interview at Albany on the 14th June next. Read.

* * * *

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 174.

[REPORT OF COMMITTEE AND COMMISSIONERS.]

May it please your Honour

We have lately had under Consideration two Letters from his Excellency Governor Shirley, one of the 21st of January and the other of the 22^d of April with two Reports of the Council and Assembly of the Mas-

sachusetts Bay the first without date and the second of the 11th of April and a vote of that Government of the 11th of April appointing Commissioners for settling (in conjunction with ours) the Line between the two Governments. Which were referred to the Committee and Commissioners appointed to examine into the Eastern Boundaries of this Colony, that they might Report to your Honour their Opinion thereupon.

We humbly conceive the principal Matters contained in the first mentioned Report are fully answered in that from this Government of the 28th of February 1753 and those subsequent to it: Or if a further answer should be necessary, as your Honour proposes to appoint Commissioners to meet the Commissioners of that Province, these with the other Points relating to the Controversy must fall under their Consideration, and for this Reason we decline to make any observations upon them.

As to what relates to the extravagant Bail demanded of one Pain and the Conduct of M^r Livingston in this and the other particulars complained of in the second Report. * * It appears M^r Livingstons Conduct in this Dispute has been confined within the limits of his own Manor, and therefore very justifiable in our Opinion,— * * we believe every one must think the People of the Massachusetts Bay highly unjustifiable in extending their Settlements on those Lands, or giving any interruption to ours, till such time as it should be known by the settlement of a true Division Line, within which of the Provinces the controverted Lands would fall.

We forbear to make any further observations on the matter though it is insinuated without any Reason we think, that this Province hath not shown the same good Disposition the province of Massachusetts Bay has towards an amicable Settlement of the Affair, * * A particular Discussion of this Point, we are fully perswaded would remove every prejudice of this nature, but as it might lengthen the Controversy we shall avoid entering into it being very desirous to see an end put to all Contention by a speedy and final settlement of the Line between the two Provinces: Which is humbly submitted to your

Honour

By Order:

City of New York }
4th May 1754 }

Jⁿ CHAMBERS Chairman

of y^e Committee

PAUL RICHARD Chairman of

Commissioners

May 9, 1754.

* * * *

His Honour laid before the Board the Report of the Committee and Commissioners dated the 4th Instant, on the papers referred to them by orders of this Board on the 4th of February, and the 29th April last, which was Read and ordered to be filed.

His Honour acquainted the Board, that as the Assembly had passed a Resolve to make good any reasonable expence that may attend the Settlement of temporary lines of Division between this Province and the Provinces of New Jersey and Massachusetts Bay, he proposed to appoint M^r Colden, M^r Murray, M^r Smith, M^r Benjamin Nicoll and M^r William Livingston, Commissioners for Meeting and agreeing with the Commissioners appointed by the Province of Massachusetts Bay, on the bounds of the two provinces: Which the Council approved of, and of the Persons nominated. And thereupon it is Referred to the Gentlemen of the Council or any three of them, to prepare Drafts of the Commission and Instructions to be given to the said Commissioners, and to Report the same to this Board: And then his Honour was pleased to recommend that the Gentlemen of the Committee and Commissioners appointed by, and in pursuance of, a late Act of Assembly, should meet and prepare everything relative to this matter, which they may think necessary to be laid before the Commissioners above named.

* * * *

— [N. Y. Council Minutes (MS.), v. 23, p. 177.

[INSTRUCTIONS TO COMMISSIONERS.]

By the Honorable James De Lancey Esq^r: his Majesty's Lieutenant Governour and Commander in Chief in and over the Province of New York and the Territories depending thereon in America.

INSTRUCTIONS to Cadwallader Colden, Joseph Murray, William Smith, Benjamin Nicoll and William Livingston Esquires Commissioners appointed on the part and behalf of the province of New York; in Conjunction with Commissioners on the part of the Province of Massachusetts Bay to settle agree upon fix and ascertain the bounds between the said two provinces, or Provisional or Temporary Bounds between the said Governments to be deemed the Line of Jurisdiction and Limits until the true bounds shall be finally Settled.

As with these Instructions you receive his Majesty's Commission to the purpose above mentioned, You are in the Execution thereof to pay due observance and conduct your selves accordingly in the following Particulars Viz^t

Whereas by the Letters Patents granted by King Charles the Second

to James Duke of York, the first bearing date the twelfth day of March 1663 and the second bearing date the Second day of April 1674, among other Lands, all the Lands from the West side of Connecticut River to the East side of Delaware Bay, are granted in fee to the said James Duke of York: And in Consequence of this Grant to the Duke of York all the Commissions that were granted by him to his Deputies or Lieutenant Governors, describe the Boundaries and Limits of this Governments as set forth in the said Grant to the Duke of York, until he became King, when it was and hath since in the Commissions to the several Governors from the Crown been described in these words *the Province of New York and the Territories thereon depending in America* from whence it is Evident that this contains all the Lands included within that Grant, except so much as was ceded to Connecticut by Agreement confirmed by the Crown and such parts as were before granted by the Crown, or by the said James Duke of York, none of which Grants can its conceived interfere with the Eastern Boundaries of this Govern^t for the Reasons set forth in a Report of a Committee of the Council of this Province, dated the 28 day of February 1753, a copy whereof will be delivered you herewith, for your information in this matter.

1st You are therefore in your debates with the Commissioners of the Massachusetts Bay to insist on Connecticut River as the only and true Eastern Boundary of this Province, and may come to an Agreement with the said Commissioners, and make such Settlement accordingly, either to be Reported to the Governor or Commander in Chief of this Province for the time being in Council for his approbation, in order to be Submitted to his Majesty, or to be immediately submitted to the King for his Royal Approbation or Disallowance thereof.

2^d If after your endeavours to bring the Commissioners of the Massachusetts Bay into an Agreement conformable to the first Article of these Instructions, you shall find the same to be impracticable, You are then to propose to, and may agree with the said Commissioners, in the fixing and running a Temporary or provisional Line between the said two Governments, to be deemed and esteemed the Limits and Jurisdiction of both provinces respectively, until his Majesty's pleasure be known herein, or the true bounds shall be settled. PROVIDED that such Line leave or include on this side thereof, All the Lands that have been heretofore granted by the Crown, or its Governors, under the Great Seal of this Province.

AND WHEREAS in the years 1726 and 1727 it was mutually agreed between the said two Governments, *That all Persons belonging thereto, be prohibited from making any further Settlements near the dividing Line between the two Provinces, and that all actions then Commenced against any of the people residing at Westenhook should cease and they*

be put to no further trouble in the Law until the further order of the said Governments respectively: As appears by the papers laid before you with these Instructions —

3^{dly} In case therefore you cannot agree in either of the Settlements aforesaid; and to put a stop to and remove all occasions of Contention among the Borderers, You shall and may treat, and if possible, agree with the Commissioners on the part of the Massachusetts Bay in the fixing and running a Temporary Line of Peace and Jurisdiction between the two Provinces to remain as their Respective Limits and bounds until his Majesty's Pleasure shall be known therein or the Controversy shall be finally determined So as that such Temporary Line of Peace and Jurisdiction do not include on the Massachusetts side thereof any Settlements or Possessions made under that Governm^t since the Agreement abovementioned in the years 1726 and 1727, and that such Line, except as to the Settlements made before the said Agreement, be run at the distance of Miles at least from Hudson's River the whole length thereof until it meets with the line of Connecticut Government and Provided that the said temporary line shall not take effect until the Settlement thereof be reported to and approved of by the Governor or Commander in Chief of this province for the time being in Council.

Given under my Hand and Seal at arms at Fort George in the City of New York by and with the advice & Consent of his Majesty's Council of the said province the thirtieth day of May 1754, in the twenty-seventh year of his Majesty's Reign.

—[*N. Y. Col. MSS.*, lxxviii, 125.

[COMMISSION.]

GEORGE THE SECOND by the Grace of God of Great Britain France and Ireland King, Defender of the faith, and so forth. To all to whom these Presents shall come GREETING WHEREAS the Bounds between Our Province of NEW YORK and Our Province of MASSACHUSETTS: BAY are contested and great disorders arise daily among our loving Subjects there, concerning the different Claims of the said Governments to Soil and Jurisdiction. We being therefore graciously inclined to put an end to, and prevent, all such animosities for the future. KNOW YE that we have constituted and appointed, and Do by these Presents constitute and appoint, Our Trusty and Welbeloved Cadwallader Colden Joseph Murray and William Smith Esq^{rs}, Members of Our Council of Our Province of New York, and Benjamin Nicol and William Livingston Esq^{rs}, Our Commissioners, for and on behalf of Our Province of

New York; And Do hereby Authorize and empower them, or any three or more of them, in Conjunction with Commissioners Nominated or to be nominated and appointed on the part of Massachusetts Bay, to settle agree upon fix and Ascertain the Bounds between our two said Provinces, and upon such Settlement to Report their proceedings thereupon to Our Lieu^t Governor or the Commander in Chief of Our Province of New York for the time being in Council for his approbation, In Order that the said Settlement when so reported to and approved of by Our said Governor or Comander in Chief in Council, may be Transmitted and laid before us for Our Royal Approbation or Disallowance thereof: And if Our said Commissioners and the Commissioners on the Part of Massachusetts: Bay should think it best to agree upon and settle certain Bounds between our said Provinces, to be *immediately* submitted to us for our Royal Approbation or Disallowance, without being first approved of by our said Lieu^t Governor or Commander in Chief in Council, and by the said Governm^t of Massachusetts: Bay, We fully empower and Authorize Our Commissioners above named or any three or more of them to settle and agree upon the same: *But for-as-much* as the said Commissioners may not agree in either of the Cases before mentioned, And that the good ends and purposes proposed by this Our Commission, may not be Wholly defeated, We have thought fit to Authorize and empower, and we do in such case Authorize and empower Our Commissioners above named or any three or more of them, in Conjunction with the Commissioners aforesaid on the part of the Massachusetts Bay, to settle provisional or temporary Bounds to be deemed and esteemed as the Line of Jurisdiction and Limits between our said Provinces, until the true Bounds shall be finally established and settled between these Our two Governments. IN TESTIMONY whereof we have caused these our Letters to be made Patent and the Great Seal of our province of New York to be hereunto affixed WITNESS our Trusty and Welbeloved James De Lancey Esq^r our Lieutenant Governor and Commander in Chief in and over our Province of New York and Territories depending thereon in America. GIVEN at our Fort in our City of New York by and with the advice and Consent of our Council of our said Province the thirtieth day of May one thousand seven hundred and fifty four in the twenty seventh year of our Reign.

[Endorsed.] 30th May 1754 Draft of Commission for Settling the Bounds between New York and Massachusetts Bay

—[*N. Y. Col. MSS.*, lxxviii. 127.]

[IN COUNCIL.]

July 10, 1754.

* * * *

M^r Murray and M^r Smith two of the Commissioners appointed on the part of this province to agree with the Commissioners of the Massachusetts-Bay in the Settlement of the Bounds between the two provinces, (M^r Nicoll and M^r Livingston the other two of the Commissioners for this Province being also present) informed the Board that they had proposed Connecticut River as the Eastern bounds of this Province, which the Massachusetts Commissioners would not agree to, but on their part proposed instead thereof a line twelve Miles Eastward of Hudson's River, which as the Commissioners of this Province could not agree to, they proposed to treat on a Settlement of a Temporary Line of Peace between the two Governments, until the controversy should be determined by his Majesty, to which the Massachusetts Commissioners replied that they had no authority to treat relating to a Temporary line and declared they would not confer thereupon. And therefore that they the Commissioners desired Instructions from this Board, what they should do further relating to the Execution of their Commission.

On which the Board, conceiving that any Settlement the Commissioners should make, would in its nature be only Temporary as to this province, since it must be subject to his Majesty's confirmation or disallowance; were of Opinion and it is accordingly Ordered by his Honour with the advice of the Council, that it be an Instruction to the Commissioners on the part of this Province.

To propose and agree with the Commissioners of the Massachusetts-Bay, in the Settlement of a Line, to run Northerly from the North bounds of Connecticut, so as equally to divide the Lands between Connecticut and Hudson's Rivers as the boundary Line between the two Governments.

—[*N. Y. Council Minutes (MS.)*, v. 23, p. 207.

Albany July 11, 1754.

* * * *

The Commissioners for settling the Boundaries between this and the province of Massachusetts-Bay being present informed the Board, that they had met the Commissioners of Massachusetts-Bay and proposed the Settlement of a Line agreeable to the Instructions and Opinion of this Board declared in Council yesterday; which they would not agree to, and seemed to decline any further Conference with them; and proposed that as the Commissioners could not agree in the Settlement of a Line, that they (the Commissioners of this province) should propose to this

Board, that the two Governments should refer the dispute to some Gentlemen of the neighbouring provinces to settle the matter as arbitrators, and to agree that what they concluded upon should be final.

Whereupon this Board not thinking it adviseable to leave the Matter to arbitration, but being willing to make a further Concession in order to preserve the peace and prevent Bloodshed among the Borderers, are of Opinion that it should be proposed finally on the part of this Government that the line be settled in the following manner Viz¹:

That Westenhook River¹ should be the bounds or line between the two Governments, from the north Line of Connecticut, as far as the place where the North line of the Patent of Westenhook crosses that River being about eighteen Miles, that from that place or point on the said River a line should be run Northerly so as to leave Fort Massachusetts one hundred yards Eastward of such Line.

—[*N. Y. Council Minutes*, (MS.), v. 23, p. 208.

City Hall, New York, February 19, 1755.

* * * *

His Honour laid before the Board sundry affidavits & other Papers by which it appears that the People of Massachusetts Bay, have lately taken the Sherif of Albany and several other Persons, and carried them to Springfield Goal, and obliged the Sherif to give Bail for his Appearance in the sum of £150 Lawful Money of that Province —

His Honour then Communicated to the Board a Draft of the Letter he had wrote & sent to M^r Shirley thereupon, and recommended to the Gentlemen Present who are of the Committee, to examine into the Eastern Boundaries of this Colony, to finish the Business before the Committee and Commissioners relating to that Matter.

* * * *

—[*N. Y. Council Minutes* (MS.), v. 23, p. 266.

[LT.-GOV. DE LANCEY TO GOV. SHIRLEY.]

New York 17 Febry 1755

* * the proposal of a temporary line the west side of Housatanik River to 100 yds West of Fort Massachusetts made by the Commissioners of this Province at Albany to your Commissioners is such as appears to me very reasonable to be embraced by Massachusetts Bay, it leaves your Government one third of Westenhook Patent which was granted under this Province in the year 1705 and purchased of the Indians in 1685, the rather as from the Records I have seen and the

¹The modern "Housatonic."—[P.

arguments used, it seems very evident, that his Majesty's rights extend eastward as far as Connecticut River, which is above thirty miles beyond the line proposed by this Province. * * *

Yours &c

Gov^r Shirley

—[*N. Y. Doc. Hist.*, iii, 465 (4^o ed.); 779 (8^o).

[GOVERNOR HARDY TO THE LORDS OF TRADE.]

Fort George New York

23^d Feb^r 1756

My Lords

* * I must therefore beg your Lordships will please to take such measures as you shall judge proper to oblige the Inhabitants of the Massachusetts Government to keep within their respective Limits till his Majesty shall please to determine the Line of jurisdiction between the two Provinces

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*

CHAS: HARDY.

—[*N. Y. Col. Docs.*, vii, 38.

[LORDS OF TRADE TO GOVERNOR HARDY.]

To Sir Cha^s Hardy Kn^t Gov^r of New York.

Sir,

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*

Another circumstance in your letter which gives us great uneasiness is, the refusal of the Assembly to make provision for the expence of a Commission for determining the controversies with New Jersey and Massachusetts Bay concerning their boundaries, the unsettled state of which has already been productive of so much mischief, and is an evil every day increasing. * * Upon the whole, we are of opinion, that the only proper and effectual method of determining these disputes will be by a Commission, * * *

13 April 1756.

—[*N. Y. Col. Docs.*, vii, 79, 80.

[GOVERNOR HARDY TO THE LORDS OF TRADE.]

Albany the 2^d of August 1756.

* * I shall not fail of recommending again to the Assembly to make Provision for defraying the charges of His Majesty's commission for determining the Line in dispute between this Province and New Jersey but I cannot flatter myself with much success. The

like dispute subsisting between this Government and the Massachusetts is attended with greater evils and until settled, we can not expect to preserve Peace and good order upon our own Borders. I have had a long conversation with Gen^t Shirley on this subject, and have often recommended to him to prevail on the General Court of that Province to make Provision for defraying there part of His Majesty's Commission for settling the line between our two Provinces. M^r Sherley has never been able to effect it with his Assembly who have always proposed expedients that could not answer the good end desired and to which I could not concur I shall endeavor to bring the Assembly of this Province into the measure and write to Lieut^t Gov^r Phips on the subject.

* * * *

—[*N. Y. Col. Doc.*, vii, 121.]

[GOVERNOR HARDY TO THE LORDS OF TRADE.]

Fort George, New York, 13 October 1756.

My Lords,

* * * *

I have not yet laid before the General Assembly His Majesty's directions, (signified to me by Your Lordships' letter of the 13th of April last,) for their making provision for determining the lines in dispute between this Province and that of the Massachusetts Bay, and New Jersey, as I judged the present business before them of more consequence to the public service, which when finished, I shall give all due attention to your Lordships' directions in this and every other particular.

* * * *

CHA^s HARDY.

—[*N. Y. Col. Docs.*, vii, 163.]

Fort George N York 22 Dec 1756

My Lords

In my letter to you of the 23rd Feb last I begged your Lordships Interposition with the Massachusetts Government to oblige their inhabitants to keep within proper Limits till His Majesty should please to determine the line of Jurisdiction between the two Provinces

* * * *

The difficultys I have found in bringing the Assembly to pass a Law for defraying a moiety of His Majestys commission for determining the Line of Jurisdiction between the two Provinces leaves me little encouragement to hope it may soon be effected, or even if it could be on our side, I have still more reason to doubt the General Court of Boston's concurring in passing the like Law on their part

In examining of Papers in the Secretarys office relating to this dispatch I find in the month of June 1754 commissions from New York and the Massachusetts Bay, mett at Albany to settle a Line of Peace or temporary jurisdiction between the two Provinces, an examined copy of the Report¹ of the Commissioners of New York to the Lieutenant Governor I now inclose by which your Lordships may more fully see the disposition of the Gov^{mt} of the Massachusetts with respect to this controversy — Also inclosed is a copy of a Plan shewing the Patents on the East Side of Hudsons River with the dates of the Grants under this Government, the only alteration or point in which this plan differs with that produced at the meeting of the Comm^{rs} is the red Lines marked H which is to show the Western Limits of the Massachusetts Government under their Grant of 1691 and refers to folio 5 in the Report, * * The Green line marked G shews the last temporary line proposed by the Commissioners of New York taken notice of in the Report Folio 10

* * * *

CHA^s HARDY

—[*N. Y. Col. Docs.*, vii, 206.]

[LORDS OF TRADE TO GOVERNOR HARDY.]

* * * *

It is a melancholy consideration, that in such times as these, the dispute between New York and the Massachusetts Bay concerning their Boundaries should have been carried to so indecent a length, as to have been the occasion of Riot and Bloodshed, and as that matter appears to us, to require some immediate remedy, We lost no time in taking it into our consideration, and shall think ourselves happy, if, in a Question so perplexed with difficulties as this appears to be, We can suggest any thing, which may have the effect to procure peace and quiet, until a final determination can be had. * *

10 March 1757

—[*N. Y. Col. Docs.*, vii, 221.]

Extract of the Journal of the Proceedings of the
Lords Commissioners for Trade and Plantations on
Tuesday the 29th of March 1757.

Their Lordships took into Consideration the Papers relating to the Dispute between the Provinces of New York and Massachusetts Bay concerning their Boundary Line, and the Agents attending as desired,

¹ We have not been able to find a copy of this Report. — [P.]

were called in, and their Lordships after having heard what they had to offer, and read and Considered the Grant to the Duke of York in 1663/4 and the Massachusetts Charter granted in 1691; and also a Letter from Colonel Nicholls Governor of New York to the Duke of York dated in Novem: 1665, and a Report of the Commissioners appointed in 1665 to hear and determine certain points in Dispute amongst the New England Governm^{ts}, which Papers are upon Record in this office, delivered it to be their Opinion, that a Streight line to be drawn Northerly from that point where the Boundary Line between New York and Connecticut Ends, at Twenty Miles distant from Hudsons River to another point at the same distance from the said River, on that line which divides the Provinces of New Hampshire and Massachusetts Bay, will be a Just and Equitable Line of division between the said Provinces of New York and the Massachusetts Bay, and M^r Bolland being asked if he had any Objection thereto, desired time to consider of it, and that he might have their Lordships Opinion in writing; And also Copies of those Authorities upon Record, on which that opinion was founded, which was agreed to by their Lordships; and that Copies should likewise be given to M^r Charles Agent for New York, and then the Agents withdrew.

—[*N. Y. Col. MSS.*, lxxxiv, 47.

[REPRESENTATION OF THE LORDS OF TRADE TO THE KING.]

To the KING'S MOST EXCELLENT MAJESTY.

May it please Your Majesty.

Sir Charles Hardy, your Maj^{ty}'s late Gov^r of the Province of New York, having, in several letters to us during his Administration, complained of the great prejudice which has arisen to your Maj^{ty}'s service and Interest from the disputes, that have for a great length of time subsisted between that province and the province of the Massachusetts Bay, concerning their true Boundary, or line of partition, on account whereof the settlement of that valuable part of your Maj^{ty}'s territories has been obstructed, and the peace and good order of Govern^t disturbed by many riots and outrages and even murder, committed on the Borders of the said provinces; We beg leave humbly to lay before your Maj^{ty} the annexed copies and extracts of the said letters and of the papers therewith transmitted.

These papers will inform your Maj^{ty} of every particular relative to this matter, and of the steps which have at different times been taken thereupon. It will appear to your Maj^{ty}, that endeavours have been used to bring the dispute to a proper determination and particularly

that in June 1754. Commissioners appointed, and authorized by each province, met and conferred in order to the settlement of a final Boundary. But each party stating his claim according to the descriptive words in the respective grant or Charter of each province, and the Commiss^{rs} of the Massachusetts Bay having no power to treat of a temporary line, they could not come to any sort of agreement; and if we may be allowed to judge of this transaction from events which have happened since, instead of operating as a Remedy to the evil, it has had a quite contrary effect.

Upon a full consideration of this matter and of the little probability there is, that the dispute can ever be determined by any amicable agreement between the two Govern^{ts}, it appeared to us, that the only effectual method of putting an end to it and preventing those further mischiefs which may be expected to follow, so long as the cause subsists, would be, by the interposition of your Maj^{ty}'s authority, to settle such a line of partition, as should, upon a consideration of the actual and ancient possession of both provinces, without regard to the exorbitant claims of either, appear to be just and equitable.

And We conceive it, the more necessary to rest the determination upon these principles, because We find, upon examining the Grant from King Charles the 2nd to the Duke of York in 166³/₄ and the Royal Charter granted to the Massachusetts Bay in 1691, that the description of the limits of those grants, is so inexplicit, and defective, that no conclusive Inference can be drawn from them with respect to the extent of territory originally intended to be granted by them. We have therefore had recourse to such papers on Record in our Office, as might shew the Actual and Ancient possession of the Provinces in question and as it appeared by several of them, of dates almost as old as the said Grant, that the Province of the Massachusetts Bay had in those times been understood to extend to within 20 miles of Hudson's River, and that many settlements had at different times been made so far to the Westward by the people of that province; and as that evidence coincides with the general principle of the agreement between the province of New York and the Colony of Connecticut in 1683, which has received the Royal confirmation; We were of opinion, that a line to be drawn Northerly from a point on the South boundary-line of the Massachusetts Bay, twenty miles distant due East from Hudson's River, to another point 20 miles distant due East from the said river, on that line which divides the Provinces of New Hampshire and the Massachusetts Bay, would be a just and equitable line division between Your Maj^{ty}'s provinces of New York and the Massachusetts Bay.

But as a doubt might arise, whether such boundary could be established without the concurrence of the Massachusetts Bay, the soil and

Jurisdiction of it being granted by Royal Charter, We thought proper to call before Us the Agents for the two provinces, in question, and to communicate to them such our opinion, and the authorities whereon it is founded. And the Agent for New York having signified to us, that he submits the settlement of the said boundary as a matter entirely in your Majesty's determination, and the Agent for the Massachusetts Bay, having acquainted us, that he, on behalf of his constituents, acquiesces in the above described line, We therefore beg leave humbly to propose to your Majesty, that you should be graciously pleased, by your order in Council, to establish the line herein before described, as a final boundary of property and Jurisdiction between the provinces of N. York and the Massachusetts Bay, and to direct the Gov^r of N. York, in conjunction with the Gov^r of the Massachusetts Bay, to settle the said boundary, agreeable to the aforesaid description, and to recommend it, each to the Assembly of his respective Gov^{mt} to provide jointly and equally for the expence which may attend such settlement — Which is most humbly submitted.

DUNK HALIFAX,
JAMES OSWALD,
SOAME JENYNS,
W. SLOPER.

25th May 1757.

—[*N. Y. Col. Docs.*, vii, 223.]

[LIEUT.-GOV. DELANCEY TO THE LORDS OF TRADE.]

New York. 30 July 1757

My Lords.

* * Your Lordships in the several papers which have been transmitted to you have a state of his Majesty's claim to the lands in controversy extending according to the grant to the Duke of York to Connecticut River; Your Lordships have also an account of the Offer of a line made by the Commissioners of this Province to those of Massachusetts Bay at Albany, by which a great part of a patent much above fifty years old was offered to be left within their Jurisdiction: this proposal though in my opinion highly advantagious to them was rejected, for my part I should be pleased with any line to fix the jurisdiction without prejudice to private property, even if it were fixed as far Westward towards Hudson's River as the present line of Connecticut; in short in these perilous times when we are contending with the common enemy for the whole, these fatal dissensions among ourselves should cease and harmony be restored, which I conceive may be effected by an order from His Majesty, in the nature of an Injunction to fix the line of

Jurisdiction till the Provinces can be better able or more willing to defray the expence of suing out a Commission to determine the rights of all concerned. But as the suing out such Commission in Great Britain, the carrying it into execution here and getting the merits finally determined upon appeal to His Majesty must inevitably take up much time, during which many disorders may be committed, it seems to me it would be a great and apparent defect in our constitution, if the King, who is the fountain of Justice & the Great conservator of the peace among his Subjects could not legally interpose in cases of this kind by fixing some temporary line of jurisdiction, so as the contending parties might in the mean time know where to resort for justice, & to what authority they were to submit. * * *

JAMES DELANCEY.

—[*N. Y. Col. Docs.*, vii, 273.]

New York 15 October 1757.

My Lords

* * * *

While Gov^r Pownall was here at New York I told him I had heard that Your Lordships had delivered it as Your Opinion that a straight line to be drawn Northerly from that point where the boundary line between New York and Connecticut ends at twenty miles distant from Hudson's River to another point at the same distance from the said River on that line which divides the Provinces of New Hampshire & Massachusetts Bay, will be a just and equitable line of division between the said Province of New York & Massachusetts Bay and we had some discourse how we should carry it into execution and I told him, if his Government would come into it I should make no difficulty to cooperate with him on the part of this Province, put an end to the disputes & adjust in friendship our division line according to Your Lordships opinion, which I am persuaded we shall do amicably * * *

JAMES DE LANCEY.

—[*N. Y. Col. Docs.*, vii, 334.]

[LIEUT.-GOV. COLDEN TO THE LORDS OF TRADE.]

New York 20 January 1764.

My Lords,

* * * *

Massachusetts Bay hath nothing I humbly conceive to urge in support of their claim to a twenty mile line east of Hudson's River, but a possession gained in opposition to the letter and spirit of their grants from the Crown, thro' the inattention of this Govern^t. This argument may

in equity entitle individuals to a confirmation from the Crown, of the lands they actually possess, rendering to His Majesty the usual quit rent reserved in this province, but cannot be offered as conclusive on the part of the Crown, * * neither can it with justice, I think be extended to the case of those Inhabitants of New York, who hold lands Eastward of a twenty mile line, the lands being at the time they obtained their grants, vested in the Crown within the express limits of the Province of New York, and not within the Grants on which the Massachusetts Bay found their Claim.

* * * *

CADWALLADER COLDEN.

—[*N. Y. Col. Docs.*, vii, 598.

[IN COUNCIL.]

September 25, 1764.

* * * *

Mr Banyar Deputy Secretary brought to the House a Message from his Honor the Lieutenant Governor * *

Gentlemen

* * * *

The desirable Effects which must result from this salutary Measure [an act relative to the New York and New Jersey Partition Line], call for the like Provision on your Part, in order finally to ascertain and determine the Boundary between this Colony and the Province of the Massachusetts Bay. A Matter long contested, and which has been productive of frequent Riots and Disorders, to the Disturbance of the publick Peace: and the Injury of private Property, I therefore earnestly recommend this as an Object highly deserving of your Consideration.

CADWALLADER COLDEN.

—[*N. Y. Legis. Council Journal*, p. 1543.

[LIEUT.-GOVERNOR COLDEN TO THE LORDS OF TRADE.]

My Lords,

New York. 7. Nov^r 1764.

* * * *

At present it may be proper to inform your Lord^{pp}s that, on my recommendation by Message, an Act is passed, for finally determining the disputes between this Prov^{oo} and Massachusetts Bay, respecting the Boundary between them. * * *

CADWALLADER COLDEN.

—[*N. Y. Col. Docs.*, vii, 676.

CHAP. MCCL.

An ACT for facilitating the Settlement of the Partition Line between the Colony of New-York and the Province of the Massachusetts-Bay.

Pass'd the 20th October, 1764.

WHEREAS it is highly necessary that the Boundaries between neighbouring Colonies should be ascertained, not only for their internal good Government, by the Establishment of their respective Jurisdictions, but for the Preservation of a mutual good Understanding and friendly Intercourse between them. And whereas a Controversy prejudicial to private Property, and productive of frequent Mischiefs and Disorders, hath long subsisted between this Colony, and the Province of the *Massachusetts-Bay*, with respect to their several Limits: To the End therefore, that the Boundary or Partition Line between them, may be finally adjusted and firmly established,

I. BE IT ENACTED by his Honour the Lieutenant Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That all and singular the Messuages, Lands, Tenements, and Hereditaments, and all Right, Title, Interest and Property, in and to the same, which are held or claimed by any of his Majesty's subjects by Virtue of any Grant or Grants, under the great Seal of this Colony, and are, can, shall, or may be in any wise affected by the said Controversy, concerning the Boundary or Partition Line between this Colony and the Province of the *Massachusetts-Bay*, are hereby fully and absolutely to all Intents, Constructions, and Purposes in the Law whatsoever, submitted, and made subject to such Method of Decision, as his most gracious Majesty shall think proper by his Royal Commission, or otherwise to institute and appoint for the final Settlement and Determination of the Boundary or Partition Line between the said Colony and Province;

* * *

AND to the End that sufficient Provision be made on the Part of this Colony, for Payment of the one equal half Part of the joint Expence to accrue on the final Settlement of the said Controversy, and the Boundary Line between the said Colony and Province, and also for paying the particular Expences that shall or may accrue on the Part of this Colony, in prosecuting the said Controversy to a final settlement;

II. BE IT ENACTED by the Authority aforesaid, That *Robert R. Livingston, Abraham Ten Broeck, Benjamin Seaman, Leonard Lispenard, William Smith, junior, William Livingston and Philip Schuyler*, Esquires, or the Majority of them, or the Majority of the Survivors of them, are hereby nominated and appointed, Agents to manage the said Controversy on the Part and Behalf of this Colony; and also that the said Managers, or

the major Part of them, and the major Part of the Survivors of them, shall, and are hereby authorized to pay, lay out, and expend from Time to Time, from and out of the Public Monies in the Treasury of this Colony, all of such Sum and Sums of Money as shall from Time to Time be necessary to defray, as well the One-half of the said joint Expence, as the particular Expences aforesaid: * * PROVIDED ALWAYS, That if his Excellency the Governor, or the Commander in Chief for the Time being, and the Council, and General Court or Assembly of the said Province of the *Massachusetts-Bay*, do not within one Year next after the Publication of this Act, pass an Act for submitting and subjecting all the Meffuages, Lands, Tenements and Hereditaments, and all the Rights, Titles, Interest, and Property thereof, held or claimed by any of his Majesty's Subjects, as being and lying within the said Province of the *Massachusetts-Bay*, to the same Method of Decision, and to be bound and determined in such Manner as in and by this Act is mentioned and directed, concerning Lands held or claimed by any of his Majesty's Subjects by Virtue of Grants under great Seal of this Colony; * * *

—[*N. Y. Laws (Van Schaack)*, p. 446.

[IN GENERAL ASSEMBLY.]

November 13th, 1766.

* * * *

May it please your Excellency.

* * * *

Your Excellency's care to settle the boundaries between this Colony and Quebec will probably prevent many mischievous consequences which might otherwise arise from the neglect of a thing of that importance. And for like reasons we shall be ready to contribute all the assistance in our power to enable your Excellency to settle at least a temporary line of jurisdiction between this Colony and the Province of the *Massachusetts Bay*.

The settlement of the Boundaries of the several Counties in this Colony, where they are in any manner uncertain, we look upon as an object deserving the most serious attention of the Legislature, and absolutely necessary to peace, order, and the due execution of the powers of government. * * *

—[*N. Y. Gen. Assem. Journal (MS.)*, in *N. Y. State Library* (volume procured from *Geo. H. Moore*, to complete the set).

[EARL OF SHELBURNE TO GOVERNOR MOORE.]

Whitehall Dec^r 11. 1766.

Sir

As information was received as well from you as from Major Gen^l Gage that the Insurrections in Albany and Dutchess County had been wholly quelled and several of the Delinquents brought to Justice, it was hoped that those disturbances had entirely ceased, and that all causes of future dissensions on this occasion had been removed, and particularly that the differences between the two Provinces of New York and Massachusetts Bay, had received an amicable adjustment, but late accounts from Boston give room to apprehend that an event which ought to be so desirable to both Provinces has not yet taken place

The disturbances which have arisen between the borderers of both Provinces are of a nature not to be suffered. It is to be hoped that the rights of the Parties were very well considered and ascertain^d before the Military Power was called in to the aid of the Civil. The Exigencies ought to be very pressing indeed which can justify such a kind of decision, it being very seldom that moderate measures are not more eligible as well as more effectual than Force.

The complaints of the Massachusetts Province on behalf of the Inhabitants lying to the Westward of the Line, reported by the Lords of Trade as the Boundary of the two Provinces are very urgent for redress, and there is room to apprehend the Sheriff of Albany may have exceeded if not his legal Powers at least the bounds of discretion

It is recommend that a speedy and amicable adjustment of this matter may soon take place, I have recommended it particularly to M^r Bernard, as I do to you, that the most effectual measures may be taken to settle every difference relative to the Boundaries of your respective Colonies by Commissioners appointed from each for that purpose, if men of sound understand^s and moderate Principles are chosen for that purpose, they will easily surmount any difficulties which may arise for equity and a regard as well to public tranquillity as to private Property, which will teach them to make concessions on both sides and remove by a generous manner of acting, the cause of any future dissensions between the two Provinces; If this can not be effected you will then, Sir, take care to transmitt to me for His Majesty's Information, a full and authentick narrative of the ground & Progresses of those differences, carrying your account as far back as you can procure proper vouchers to support it, that the whole of this affair may be considered and determined here In the mean time it will be your care that the Inhabitants lying Westward of the Line reported by the Lords of Trade as the Boundary of the two Provinces be not molested on account of the Territorial differences, or disputed Jurisdictions for whatever province the settlers may be

found to belong to, it should make no difference in their property, provided that their Titles to their Lands should be found good in other respects, or that they have been long in the uninterrupted possession of them

* * * * *

I am &c &c

Sir Henry Moore Bart.

SHELBURNE

—[*N. Y. Col. Docs.*, vii, 879.

CHAP. MCCCXXI.

An ACT to empower Commissaries to settle a Line of Jurisdiction between this Colony, and the Province of the Massachusetts-Bay.

Pass'd the 6th June, 1767.

WHEREAS a Controversy has long subsisted between this Colony, and the Province of the *Massachusetts-Bay*, concerning their Boundaries, and the Extent of their Jurisdiction, to the great Detriment of both; and the Contests arising therefrom, having already been attended with Bloodshed, are likely to be productive of the most mischievous Consequences; to prevent which, it appears necessary that a Line should be run for a Line of Jurisdiction between this Colony and the Province of the *Massachusetts-Bay*, by the mutual Consent and Authority of the Legislatures of both Governments: Therefore, and to further his Majesty's gracious Design signified to the General Assembly, by his Excellency the Governor, to put an End to these Disorders :

I. BE IT ENACTED by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That the Honourable *William Nicoll*, Speaker of the General Assembly, the Honourable *Robert R. Livingston*, and *William Smith*, junior, Esquires, shall be Commissioners on the Part of this Colony; who shall have full Power, and are hereby authorized to agree with the Commissaries appointed on the Part of the *Massachusetts-Bay*, on a Line to be run for a Line of Jurisdiction between the two Colonies, to which Line the Jurisdiction of this Colony shall extend, and no farther Eastward; providing that the Jurisdiction of the Province of the *Massachusetts-Bay*, be limited in like Manner: And after such a Line is agreed upon by the Commissaries on both Sides, the Commissaries appointed by this Act, are hereby empowered and authorized to employ such Surveyor or Surveyors, Chain-bearers, and such and so many other Persons that may be found necessary to perform the executive Part, to run, mark, and ascertain the said Line, in Conjunction with such as may be appointed for that Purpose on the Part of the Province of the *Massachusetts-Bay*.

II. AND BE IT FURTHER ENACTED *by the same Authority*, That Provision shall be made for paying the reasonable Expences that shall accrue on the Part of this Colony, in Performance of the Services aforesaid, when the Amount thereof shall be known, by some future Act or Acts to be passed for that Purpose.

—[*N. Y. Laws (Van Schaack)*, p. 495.

[LORDS OF TRADE TO LIEUT.-GOVERNOR DELANCEY.]

* * * *

As we had long since submitted to His Majesty our opinion upon the means of putting a stop to the disorders which have arisen in consequence of the disputes concerning the boundary-line, there remained nothing further for us to add upon the papers transmitted with your letters of the 30th of July, than to lay copies of them before His Majesty, which we have accordingly done.

* * * *

11 Nov^r 1757.

—[*N. Y. Col. Docs.*, vii, 335.

[IN COUNCIL AND GENERAL ASSEMBLY.]

November 18, 1767.

* * * *

His Excellency made a Speech to the Council and General Assembly.

* * * *

Gentlemen of the Council, and Gentlemen of the General Assembly,

The sanguine Expectations so lately raised here of seeing our Disputes with the Province of the Massachusetts Bay, in regard to Boundaries, brought to a speedy Determination, are hitherto disappointed; And notwithstanding the well Known abilities of the Commissaries employed in this service, it will appear from their Report, that a Negotiation of so much Consequence to both Provinces, and from which the advantages to be derived were mutual, had not been attended with the wish'd for success: But as their near approach to an Agreement seems to point out that the Difficulties still subsisting are by no means of such a nature as to preclude all Expectations of being removed, I must recommend it to you, that such steps may now be taken, as you shall think most conducive to so good a purpose; And that your ready concurrence may not be wanting in every just and reasonable measure for bringing this Matter to a desirable Issue.

In the mean time the particular situation of that part of the Country, chiefly interested in the event of this Dispute will require your serious

attention, and it is hoped that nothing will be omitted on your part to discourage and prevent the renewal of those Disputes, which so lately prevail'd there to the Ruin of Individuals and the Disgrace of Government.

* * * *

H : MOORE.

—[*N. Y. Legis. Council Journal*, p. 1623.

[IN GENERAL ASSEMBLY.]

November 25, 1767.

Mr. Justice Livingston, in behalf of the commissaries appointed on the part of this colony, to meet with the commissaries of the Massachusetts-bay, in order to form a settlement of a partition line of jurisdiction between the two provinces, laid before the house a journal of the proceedings of the said commissaries; which being read, is in the words following, viz. :

A journal of the proceedings of the commissaries of New-York, at a congress with the commissaries of the Massachusetts-bay, relating to the establishment of a partition line of jurisdiction between the two provinces.

The town of New-Haven, in Connecticut, being fixed by the Governors for the place of our meeting, we left New-York the 28th September, and arrived there on Wednesday the 30th. The Boston Commissaries, supposing that the 29th was the day, came there before us. We gave them immediate notice of our arrival, and proposed an interview that evening. About dusk we met them at tavern; but an unfavorable wind prevented Mr. Nicoll from crossing the Sound, we adjourned 'till the next morning. The commissaries for the Massachusetts-bay, were, Mr. Hutchinson, the lieutenant Governor, General Brattle, of the council, and Mr. Sheaffe, a member of their Assembly.

THURSDAY, the 1st October, 1767.

Though we heard nothing as yet concerning Mr. Nicoll, we met the Massachusetts-bay commissaries at ten this morning, and exchanged our credentials: Lieutenant Governor Hutchinson read the exemplification of the act of the province of New-York, to the rest. They all declared that our power was full, and unexceptionable. We then proceeded to read the two papers they had handed us. Their credentials were in these words,

IN COUNCIL, 13th March, 1767.

“The two houses according to agreement, proceeded to the choice of three persons, by joint ballot, to act in conjunction with such persons

as may be appointed by the government of New-York, in settling the boundary line between the two provinces : And the votes being collected and sorted, it appeared that the honorable Thomas Hutchinson and William Brattle, Esqrs. and Captain Edward Sheaffe, were chosen by a majority of votes.

Attest, A. OLIVER, Sec'y.

Consented to, FRA. BERNARD.

Copy examined, per JOHN COLTON, D. Sec'y.

“FRANCIS BERNARD, *Esq. Captain General and Governor in chief in and over his Majesty's province of the Massachusetts Bay, in New-England, and vice Admiral of the same.*

[L. S.]

FRA. BERNARD.

To Thomas Hutchinson, William Brattle and Edward Sheaffe, Esqrs.
Greeting.

Whereas the great and general court or Assembly, of the province of Massachusetts Bay aforesaid, did, at their session begun and held at Boston, in January last, make choice of Thomas Hutchinson, William Brattle and Edward Sheaffe, Esqrs. * * *

I do therefore, by these presents, commissionate and empower you the said * * * to meet and act in conjunction with such persons as may be appointed by the government of New-York, in settling the boundary line between the two provinces as aforesaid.

* * * *

Upon perusing these papers, we asked them, whether they considered the first as a law of their province? And expressed our discontent with the informality of it, and the defect of an explicit declaration, that our agreement should bind that province. They all declared it to be a complete act of legislation; adding, that though they were not so formal in business as they ought to be, this was agreeable to their usage, and intended to enable them to conclude a final agreement. * * * They heard our objections with uneasiness, and offered to engage for the sufficiency of their credentials. * * *

FRIDAY, *the 2d October.*

Mr. Nicholl, arriving last night from Saybrook, all the commissaries had a conference this morning. We proposed several questions for further information, as to the meaning and extent of the papers under which the Massachusetts commissaries were to act. * * *

Conceiving it to be safest to have their declarations in writing, previous to any further treaty, we proposed to state our remarks upon their credentials, and take their answers. * * *

After considerable correspondence, which appears in full in the Journal of the General Assembly from which these records are taken, the commissaries mutually agreed to proceed to consider the main subject before them.

SATURDAY, the 3d October.

* * When met, we observed that there were two things to be settled.

First—The manner of proceeding. And, Secondly—Who was to make the first offer. * * They severally declared their consent, that all the subsequent proceedings should be in writing; * * We declared a perfect indifference who made the first overture, and indeed left it to their choice. They accepted the offer, and promised us a proposal immediately. We parted after a further agreement, that the rejectors of one offer should tender another, and with mutual declarations of a disposition to peace, and promising to show it by moderate and equitable proposals. About 5 o'clock in the afternoon General Brattle brought us the following paper:

The Proposal of the Commissaries on the part of the Massachusetts, to the Commissaries on the part of New-York.

* * That a line being extended due west from the north corner of the colony of Connecticut, until it comes to the distance of twelve miles from Hudson's river: and another line being extended due west upon the north boundary of the Massachusetts province, according to the settlement thereof with New-Hampshire, until such line comes to the like distance of twelve miles from Hudson's river: a line shall be then run north and south from the two points or distances of twelve miles, as aforesaid. Which north and south line shall, at all times hereafter, be the eastern line or boundary of New-York, where it joins upon the Massachusetts: * * *

MONDAY, the 5th October.

At eight this morning, we sent this answer to their first offer.

An answer to the proposal of the commissaries of the Massachusetts Bay, made to us on Saturday last.

The introduction of the proposal with reasons, tends to protract the proceedings; which, at the last conference, both parties seemed inclined to avoid. This lays us under a necessity, in justification of our rejection of the proposal, and to shew the moderation of the one which we shall offer in its stead, to state several points, and to add sundry remarks, as material in the controversy between the two provinces. * *

For these reasons we must decline our concurrence with this first proposal. And, to shew that we are sincerely desirous of promoting the gracious design of the crown, and to manifest the readiness of the province of New-York, to prevent any further disorders, we propose,

That the general course of Hudson's river be found, by actual survey from the line between Massachusetts Bay and Connecticut, continued to that river; and the line between that province and New-Hampshire, continued in like manner; and that the line of partition be a line parallel to the line of the said course of Hudson's river, and at the distance of thirty miles therefrom.

And though this line will be much short of the right of the province of New-York, we the more readily yield to such a partition, because it will leave all the royal grants, under the great seal of the province of New-York, to the westward, prevent any disputes about a deduction of the King's quit rents, and not include any lands intruded upon by pretext of grants under the Massachusetts Bay, made since the years 1726 and 1727, when it was agreed by both provinces, that no further possession should be taken of the controverted lands.

The commissaries on the part of New York, hope the commissaries appointed by the Massachusetts Bay, will the more cheerfully concur with this proposal, because Mr. Shute, formerly governor of that province, on the 23d of November, 1719, intimated by letter to Mr. Schuyler, the commander in chief of New-York, that the general assembly of the Massachusetts Bay, had passed a vote, that the division line between the two governments should be run according to their then respective legal grants, that there might be no trespassing (as it is in that letter expressed) from or on either government. * * *

TUESDAY, *the 6th October.*

We received a reply to this paper about nine last night, in these words,

A reply to the answer of the commissaries of New-York.

The Massachusetts commissaries are and have been desirous of avoiding every measure which may protract the treaty: But when they were about to make such large concessions to New-York, they could not, in faithfulness to their constituents, omit a declaration of their just rights, that so no advantage might be taken in future times, of those concessions, if there should not at this treaty be a final settlement of the line between the two governments.

The same principle obliges the Massachusetts commissaries, briefly to reply to the observations of the commissaries from New-York.

* * * * *

The Massachusetts commissaries, aiming at brevity, only add, that as

they do not agree with the commissaries of New-York, in their observations upon which they found their result, it cannot be expected they should agree in the result itself; and therefore can by no means consent to the proposal of a line thirty miles east of Hudson's river, nor can they see any occasion of finding out the various windings of that river, being of opinion that a straight line from the north and south bounds of the Massachusetts province, will be much more convenient for the inhabitants of both governments, than a line with a variety of curves and different courses. As the commissaries of New-York conclude with observing, that Mr. Shute, the Governor of the Massachusetts-Bay, intimated in 1719, to the Commander in Chief of New-York, that the General Assembly of Massachusetts had passed a vote, that the division line between the two governments should be run according to their then respective legal grants; the Massachusetts commissaries cannot omit remarking, that no inference can be drawn from hence, that the Massachusetts Assembly had then in contemplation a line in any degree favorable to the present claim of New-York; but rather the contrary, as they had then, upon their records, grants of land and privileges in trade, and orders for actual surveys of land, both upon the east and west sides of Hudson's river, as ancient as the year 1660. Nor can it be supposed, that by legal grants, the assembly could intend large patents from the Governors of New-York, for lands upon which no improvement had been made by any English, and which were at that time supposed to be in actual possession of the Indian natives.

Upon the whole, the Massachusetts commissaries still conceive the twelve mile line to be very consistent with that friendly moderation which both sides profess; and the proposal of a thirty mile line, is so unexpected and extraordinary, that the Massachusetts commissaries can never accede to it. And if the commissaries of New-York intend to persist in it, there can be no prospect of success from any further treaty.

* * * *

To this we gave the following answer in the evening.

An Answer to the Reply of the Commissaries of the Massachusetts Bay, delivered last night.

The commissaries of New-York, still retaining their opinion, that the Massachusetts Bay hath no title to the lands comprehended in the patent to the Duke of York, and being willing to remove every objection that appears to the commissaries of the Massachusetts Bay, to have any weight in the controversy, we proceed with the utmost brevity, to a few remarks upon their reply.

* * * *

The New-York commissaries retain the opinion, that their proposal of a thirty mile line is moderate; and hope it appears so by this time to the commissaries of the Massachusetts Bay.

It was not the meaning of the commissaries of New-York to have a crooked line of partition between the provinces; and they are sorry they have expressed themselves so as to be misunderstood. A line of thirty miles from Hudson's river, parallel to one according to the general course of the river, was intended.

We cannot imagine Governor Shute by legal grants, intended to secure lands to the Massachusetts Bay that would infringe upon patents older than the charter in 1791: and it is still more improbable that he could entertain the most distant aim of obtaining the consent of the province of New-York to a partition that would have separated the northern and southern parts *three score* miles from each other, and between which there could be no communication, against the leave of the Massachusetts Bay.

When the mode of proceeding in this business, was settled at the conference of the commissaries on both sides last Saturday morning, the commissaries of New York understood it to be agreed, that they were to make offers alternately; and that the rejectors of one proposal should tender another. — The commissaries for Massachusetts Bay chose to make the first offer; when we declined a concurrence, we mentioned a proposal on our side. It surprises us much that their rejection concludes without another; and we beg to be informed, whether they mean to rescind the agreement as to the mode of this treaty, with their reasons therefor? or whether we are to consider their first offer, as the *ne plus ultra* on the side of the province of the Massachusetts Bay.

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WEDNESDAY, *the 7th October.*

Early this morning, we received a second proposal, and gave it an immediate answer.

The further proposal of the commissaries of Massachusetts Bay, to the commissaries of New-York.

The Massachusetts commissaries, although they are sensible that a full answer may be given to the paper received the last evening from the commissaries of New-York, yet as they are apprehensive that this argumentative method of proceeding, will prolong the treaty to an unreasonable length, and perhaps prevent a final accommodation; they therefore wave any further controversy in this way, and propose and concede to the commissaries of New-York, "that the eastern line of jurisdiction of the province or colony of New-York, where it joins to

the province of Massachusetts Bay, begin at a known heap of stones or station between Connecticut and Massachusetts, called Connecticut Old Corner, reputed twenty miles distant from Hudson's river, and extend upon a course due north, until it meets the north line or boundary of the said province of Massachusetts Bay."

This proposal is made with this caution, that if it be not agreed to by the commissaries of New-York, no improvement shall be made of it to the prejudice of the Massachusetts title or claim.

* * * *

The answer of the commissaries of New-York, to the further proposal of the commissaries of the Massachusetts Bay.

The commissaries of New-York can never agree to the proposal just now received from the commissaries of the Massachusetts Bay : It will answer no manner of purpose to make new proposals on either side, unless each yields something more than the former; but the last proposal made by the commissaries of the Massachusetts Bay, is not according to this rule, as it leaves much less to New-York than the former. It yields indeed eight miles more at the south end of the line, but crosses Hudson's river, and takes from the colony of New-York, about thirteen miles more at the north end.

As proposals of this sort do not, as we conceive, afford the most distant prospect of an amicable agreement, the commissaries of New-York, to testify their earnest desire to put an end to the contests between the two colonies, propose, that a line twenty-five miles east from Hudson's river, and parallel to its course, be the division line.

* * * *

This occasioned the following message, and a new conference at our lodgings about noon.

The Massachusetts commissaries had no intention to propose to the commissaries of New-York, a line less advantageous to them than the twelve mile line; and the line last proposed will not prove so, unless upon the course of the river being made certain, it should prove different from our apprehensions.

The Massachusetts commissaries propose a conference with the commissaries of New-York, as soon as may be, either at Beers's, or any other place more agreeable.

* * * *

At this interview, the commissaries for the Massachusetts Bay, declared their ignorance of the course of Hudson's river in the part affected by their claim.— We told them we had no complete survey, but were of opinion that it departed from the north, about twenty

degrees towards the east. They did not contest the fact; but Mr. Hutchinson then proposed, that henceforth the proceedings should be verbal: and that if the treaty did not end in an agreement, the offers on neither side should pass into a report. The reasons assigned for this alteration were, greater dispatch, and avoiding the meanness of trifling concessions in our approaches to each other. We instantly and absolutely declined our concurrence in a measure not necessary to prevent delays, as the treaty was evidently near its end, and tending to sink all that had passed, into oblivion: for if no agreement should happen to take place, nothing that had already been written, would shew the true cause. Upon this they retired, and sent us a new offer:

The Massachusetts commissaries desirous of a friendly accommodation, make a farther large concession to the commissaries of New-York, and propose a line to extend from a point distant from the river sixteen miles, due east, on the south line, unto a point from the river, the like course and distance on the north line of the Massachusetts province.

* * * *

We gave them this answer.

The New-York commissaries decline the last offer of the commissaries of the Massachusetts Bay; and are so desirous of peace, that they now propose, for a partition between the two provinces, one straight line, at the distance of twenty-four miles from Hudson's river, and parallel to its general course, between the north and south bounds of the Massachusetts Bay; which line will just save to New-York the right of the Rensselaer family, which accrued in the Dutch times, so early as the year 1630. The commissaries of the Massachusetts Bay will understand us to mean, that the distance is to be taken on lines perpendicular to the general course of Hudson's river, between the north and south boundary lines of the Massachusetts, extended to Hudson's river.

* * * *

They declined this offer, and proposed another.

The Massachusetts commissaries are not a little surprised at the last proposal of the commissaries of New-York, after the large concessions immediately before made by those of the Massachusetts. But being still desirous of taking every measure, even beyond what can, in equity, be required to settle every difference relative to the boundaries, and agreeable to the recommendation of the Right Honorable the Earl of Shelburne, by a generous manner of acting, to remove the cause of any further dissensions between the two provinces, make one proposal further.

They are well assured, that upon a rehearing of the controversy before the right honorable the lords commissioners of trade and planta-

tions, a report might be obtained more favorable than that made by their lordships, the 10th of May, 1757. But from the motives mentioned above, and that the Massachusetts government may incur no blame, if any ill consequence should follow the continuance of the controversy, they propose, in the words of their lordships' report, "That a straight line, to be drawn northerly from a point on the south boundary line of the Massachusetts Bay, twenty miles distant due east from Hudson's river, to another point twenty miles distant due east from the same river, on that line which divided the province of Massachusetts Bay from New-Hampshire, be the eastern boundary of the province of New-York." At the same time renewing the caution before made, that this concession, if not agreed to, be not improved to the disadvantage of the Massachusetts claim.

A line more disadvantageous than this, the Massachusetts commissaries say, peremptorily, they cannot consent to.

* * * *

In the Evening we sent them an answer.

The commissaries of New-York have a most sincere and anxious desire to put an end to all differences between the two provinces; and it is owing to that, and a respect to the opinion of the lords commissioners for trade and plantations, and above all to his Majesty's most gracious recommendation of peace, lately signified by the Right Honorable the Earl of Shelburne, that we have conceded so far as we have. We persuade ourselves, that whenever the merits of this important controversy are considered for a final adjudication, it will appear that the province of New-York hath right to extend as far as Connecticut river.

We are of opinion, that the lords of trade, in May, 1757, had no other design than to fix a division line at twenty miles distance from Hudson's river, and limit the province of the Massachusetts Bay, westward, by a line similar to that between New-York and Connecticut; and that their report would have been accordingly, had their lordships been informed, that the general course of Hudson's river, (in that part of it which would be between the north and south limits of the Massachusetts Bay extended, is greatly to the east of the north.

With these views, the commissaries of New-York cannot agree to a partition which will give the Massachusetts Bay, a jurisdiction within twenty miles of Hudson's river, measuring by lines at right angles therefrom; and we propose, instead of the line offered by the commissaries of the Massachusetts Bay,

That the two provinces be divided by a straight line from the southern to the northern boundary line of the Massachusetts Bay; to begin on the south, at the Northwest corner of the oblong, fixed by New

The above is a true account of the proceedings of the commissaries, and humbly submitted, this 14th October, 1767, by

W. NICOLL,
WM. SMITH, JUN.
ROBT. R. LIVINGSTON.

Ordered,

That the said journal be refered to the consideration of the committee to whom his Excellency's speech is committed.

* * * *

—[*N. Y. Gen. Assembly Journal*, 1766-1776, pp. 11-29.]

[IN GENERAL ASSEMBLY.]

November 27, 1767.

* * * *

The house (according to order) resolved itself into a committee of the whole * * particularly upon the report of the commissaries appointed on the part of this colony to meet with the commissaries of the Massachusetts Bay, in order to form a settlement of a partition line of jurisdiction between the two provinces: after some time spent therein, Mr. Speaker resumed the chair, and Mr. Justice Livingston reported the resolutions of the committee, which he read in his place, * * and are as follow, viz.

Resolved,

That it is the opinion of this committee, on a mature consideration of the report made by the commissaries for settling a line of jurisdiction between this colony and the Massachusetts Bay, that the true eastern bounds of this colony, where they are not limited by the agreement made with the colony of Connecticut, extend to Connecticut river.

That nevertheless, this committee approve of the last offer made by the commissaries appointed on the part of New-York, as it tended to put an immediate stop to the contentions, disorders and bloodshed, occasioned by the claims made on the part of the government of the Massachusetts Bay, to an extent of jurisdiction vastly beyond the true and legal bounds of their patent in the year 1691; which appears to this committee the only one whereon their right, to either soil or jurisdiction, can be founded.

It is also the opinion of this committee, that his excellency our governor be addressed, humbly intreating him to write to the governor of the Massachusetts Bay, for information, whether the said province will accede to the proposal made by the commissaries on the part of this colony; and that, if they think proper to conclude an amicable agreement, his excellency would be pleased to request that the powers to the

commissaries may be further explained by the legislative authority of the Massachusetts Bay, not only on account of the objections made by the commissaries on the part of this colony, but because, having the votes of the honorable house of representatives of the Massachusetts Bay before us, we do not find any on which the full powers, as explained by the commissaries on the part of the Massachusetts Bay, appear to be clearly founded. And one we find, by which they are expressly restricted from finally agreeing with the commissaries on the part of this colony : which vote was passed the 17th day of March last, and is in the following words, viz.

“Upon a motion made and seconded, *Ordered*, That the commissioners appointed to settle the boundary line between this province and New-York, be instructed to make report to the general court, before they consent to make a final determination thereon ; and that the committee appointed to prepare their instructions, be directed to draw in an instruction accordingly.”

And though this committee are clearly of opinion, from the declarations signed by the commissaries on the part of the Massachusetts Bay, that their instructions and powers were very different from what this vote directs; yet they conceive it very proper and necessary, that before a conclusive agreement, by some clear and express legislative act, similar to that passed for the like purpose in this colony, the power of the commissaries on the part of the Massachusetts Bay, finally to settle a jurisdiction line, should appear.

Resolved,

That it is the opinion of this committee, that if an amicable agreement between this colony, and that of the Massachusetts Bay, does not speedily take place, proper persons ought to be appointed to make a state of the whole controversy, with all the necessary proofs and vouchers annexed; and that his excellency our Governor should be requested humbly, to petition his most gracious Majesty, that this tedious and destructive controversy may be finally and speedily determined, in such manner as to his most gracious Majesty, in his great wisdom, shall seem meet.

And the said resolutions being read a second time,

Resolved,

That the house do agree with the committee in the foregoing resolutions.

Ordered,

That Mr. Justice Livingston and Mr. Ten Broeck, wait on his excellency, the Governor, with the aforesaid resolutions.

—[*N. Y. Gen. Assem. Journal*, 1766-1776, p. 32.

December 30, 1767.

* * * *

Mr Speaker laid before the house, the several following accounts relating to the settlement of the line of jurisdiction between this colony, and the province of Massachusetts Bay, viz.

An account of Mr. Gerard Banker, for expenses incurred by his attendance on the commissaries of this colony, to New Haven, amounting to £

An account of Rudolphus Ritzema, Esq. for sundry translations made by him from the Dutch records in the secretary's office, relative to the above line of jurisdiction, amounting to the sum of £21 1 0

And, an account of Mr. Abraham Lott, for sundry services by him performed, relating to the above line, amounting to the sum of £

* * * *

—[*Idem*, p. 61.

CHAP. MCCCXLVII.

An ACT to expedite the final Settlement of the Controversy relating to the Boundaries of this Colony, and the Province of the Massachusetts-Bay.

Pass'd the 3d February, 1768.

WHEREAS his most gracious Majesty, by a Letter from the Right Honourable Earl of *Shelburne*, one of his Majesty's Principal Secretaries of State, to his Excellency Sir *Henry Moore*, Baronet, was pleased to recommend a Settlement of the Differences relative to the Boundaries, between this Colony, and the Province of the *Massachusetts-Bay*, by Commissaries from each; and did thereby signify it to be his Royal Pleasure, that if the same could not be effected in that Way, that his Excellency should then transmit a full and authentick Narrative of the Grounds and Progress of these Differences, as far as he could procure proper Vouchers to support it, that the whole Affair might be considered and determined in *England*. And whereas Commissaries have been appointed, and did lately meet on the Business aforesaid; but no amicable Agreement is hitherto concluded: Therefore to prevent Delays, in Case such Agreement should not take effect; and, that his Excellency may be effectually enabled to comply with his Majesty's said most gracious Directions;

I. BE IT ENACTED by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That the Honourable *William Smith*, Junior, *John Morin Scott*, and *James Duane*, Esqrs, or the major Part of them, the Survivors or Survivor of them, be, and they are hereby authorized, in Case no amica-

ble Agreement shall take Place for settling the Boundary aforesaid, to prepare a full and authentic Narrative of the Grounds and Progress of the Differences, relative to the said contested Boundaries, and of all the Vouchers they can procure to support the same, and that they deliver a Copy thereof, when perfected, to his Excellency the Governor, or Commander in Chief for the Time being, and also to his Majesty's Council, and the General Assembly, if required. *And*, as it may be Expedient to have recourse in this Service to the *Dutch* Records, in the Secretary's Office; and as the Records in the *Dutch* Language are many, and difficult to be read by Persons not accustomed to the same; and *Abraham Lott*, Esq; is able and willing to make such Researches, Copies and Translations, as may be requisite, if the *Dutch* Records are deposited in his Hands for the Use aforesaid.

II. BE IT THEREFORE FURTHER ENACTED, That the Secretary of this Colony for the Time being, his Deputy, or Deputies shall, upon Demand of the said *Abraham Lott*, deliver to him all the said Books and Records, taking his Receipt for the same; which said Books and Records, so to be delivered, shall remain in his Hands, until the Persons appointed to make the said Narrative shall certify, that they have no further Occasion to use the same: and the said *Abraham Lott*, upon his Receipt of the same, shall make Oath, before one of the Judges of the Supreme Court, that he will return the same, and effectually take Care to prevent any Rasure, Interlineation, Alteration or Diminution, of the same Records, so by him received.

III. AND BE IT ENACTED *by the same Authority*, That the Persons above appointed to make the said Narrative, and every of them, shall have free Recourse, at their Discretion, to the said *Dutch* Records, or to any other Books, Papers and Records, in the Secretary's Office: And that Provision shall be made, by some future Act or Acts, for paying all such reasonable Expences as may accrue in the Execution of the Work, that may be performed by the Persons authorized to make the said Narrative, or any Clerk or other Persons, that may be employed under them, when their several Accounts shall be produced to the General Assembly of this Colony.

—[*Laws of New York* (*Van Schaack*), p. 508.

[IN GENERAL ASSEMBLY.]

February 3, 1768.

* * * *

Mr. Banyar brought to the house, from his Excellency the Governor, sundry resolutions of the great and general court of the province of the Massachusetts Bay, relating to the controversy about the boundary

line between this colony and the said province ; which Mr. Speaker reported to the house, and the same being read, is in the words following, viz.

The committee of both houses, to whom was refered the consideration of the report of the commissioners appointed by this court to settle the boundary line between this government and New-York, and of the resolves of the Assembly of New-York, relative to said boundary, have attended that service, and beg leave to report by way of resolves, viz.

Resolved,

1st. That the Massachusetts government have always claimed as their right, jurisdiction over the whole territory, within their north and south limits, from the Atlantic ocean to the South sea, saving only such part thereof as on the third day of November, in the eighteenth year of King James the First, was actually possessed or inhabited by any other Christian prince or state.

2d. Being willing to make the most ample concessions, even beyond the bounds of equity, in the settlement of the controversy, relative to said boundary; and in compliance with the recommendation of his Majesty, signified by the right hon. the Earl of Shelburne, by a generous way of acting, to remove the cause of any future dissentions between the two provinces: and that this government may incur no blame, if any ill-consequences should arise from the continuance of the controversy:

Resolved,

That this court will concede to, and confirm the last proposal made by their commissioners to the commissioners on the part of New-York, at their late conference, in the words of the report of the lords of trade and plantations in May, 1757, that a straight line to be drawn northerly from a point on the southern line of the Massachusetts Bay, twenty miles distant, due east from Hudson's river, to another point, twenty miles distant, due east, from the said river, on the line which divides the province of the Massachusetts Bay, from New-Hampshire, be the eastern boundary of New-York.

Provided, That this concession, if not agreed to by New-York, be not improved to the disadvantage of the Massachusetts claim ; *Provided also,* That nothing shall be understood to prejudice the right of this province to lands westward of the province of New-York. And this court, for the reasons above mentioned, doth further concede, that the aforementioned lines of distance from Hudson's river, shall be measured as horizontal lines, instead of lines measured according to the surface of the earth.

3dly. *And whereas,* at said conference, some doubts arose on the part of New-York, with respect to the powers granted by this government to their commissaries aforesaid :

Resolved,

That the several explanations by them given of their said powers, and of the practice of this court, with regard to such powers, were just; and that the instructions given them, contained a full and ample power for the settlement of the boundary line aforesaid; notwithstanding the vote of the house of representatives, passed here the 17th day of March last, and mentioned in the resolves of the assembly of New-York; the said vote not having been completed, as a vote of the whole court. But for the satisfaction of the government of New-York, if any further power should be necessary for the purpose aforesaid, it shall be given by an act, in solemn form: And in case of agreement, it is proposed to the government of New-York, that an act, in solemn form, should be passed by each government, declaring, in the fullest and clearest manner, the partition line between the two provinces.

4thly. If contrary to the hopes of this government, all its endeavors to settle the said partition line, by mutual agreement, should prove ineffectual;

Resolved,

That a full state of the controversy be drawn up and transmitted home, in order to be laid before his Majesty in council, for a speedy and final settlement of it.

In Council, January 23, 1768, read and accepted; and his Excellency is hereby desired to transmit a copy of the aforesaid resolves to Sir Henry Moore, Governor of New-York, to be laid before the Assembly of New York, for their consideration.

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— [N. Y. Gen. Assem. Journal, 1766-1776, p. 87.

February 5, 1768.

The house, according to order, proceeded to the consideration of the resolutions of the great and general court of the province of the Massachusetts Bay, relating to the controversy about the boundary line, between this colony and the said province, communicated to them by his Excellency Sir Henry Moore, Baronet, on the third instant, and thereon came to the following resolutions, viz.

Resolved,

That this house are sorry to find, that their hopes entertained of a friendly agreement between the colonies, will probably be frustrated by the immoderate claims of the Massachusetts Bay, it appearing from the said resolutions of the general court, that disputes may arise between that colony and this, as well with respect to our western as our eastern boundary, there being a proviso inserted, that nothing in their resolu-

tions is to be understood to prejudice the right of that province to lands westward of this colony, which this house apprehend may prove a new and fruitful source of anxiety and confusion, not only to this colony and Pennsylvania, but to all the new colonies that his majesty may hereafter think proper to establish to the westward, as far as the South seas. And it is therefore with great surprise, that the house observes, that government, supposing their last resolutions to consist with that generous way of acting, said to be recommended by the right honorable the Earl of Shelburne, to remove the cause of future disputes. With respect to the eastern boundary of this province, the house conceive it clearly to extend to Connecticut river; and therefore, that as the tract between the lines, offered by the ultimate proposals of the commissaries on both sides, is comparatively small, and the claimants on one side, are the whole province of Massachusetts Bay, and particular private patentees under New-York, on the other, whose patents are by the concessions on our part, greatly abridged, the offers of the general court have not that moderation so strongly recommended; besides, the house are well satisfied, that the lords of trade when they made their report in May, 1757, were not fully informed of the true course of that part of Hudson's river, which will be intersected by a continuation of the north and south boundary lines of the Massachusetts Bay, but that their lordships presumed the said course to be nearly north and south, and consequently really meant to recommend the partition line at twenty miles from that river, which it will not be if fixed at the termination of twenty miles upon east lines, the general course of the river being greatly to the east of north.

The house agree in opinion with the government of the Massachusetts Bay, that if a partition line is established at any precise distance of miles from Hudson's river, short of Connecticut river, such distance ought to be measured as on a horizontal plain, and not according to the uneven superficies of the intermediate country.

The house observe, that on the 20th of October, 1764, an act was passed in this colony, and afterwards transmitted to the governor of the Massachusetts Bay, entitled "an act for facilitating the settlement of the partition line, between the colony of New-York, and the province of the Massachusetts Bay," providing for the reference of the controversy to commissioners to be appointed by the crown, which act became void by the refusal of the province of the Massachusetts Bay, to pass an act similar thereto. Had that colony at that time, fallen into the same measures with this, the line would probably long before now, have been settled, and this house cannot but be of opinion, that the Massachusetts Bay, declining that mode of settlement, and endeavouring to avail themselves of the report of the board of trade and plantations

of 1757, which was doubtless founded upon the supposition, that the course of Hudson's river, was nearly north and south, falls greatly short of the moderation professed.

Resolved upon the whole,

That if the province of the Massachusetts Bay will not recede from their last resolution, the house conceive that there is no prospect of a friendly accommodation of these differences, by any agreement between the two colonies; the house being of opinion, that even if the acceptance of the last offer of the Massachusetts Bay, should be agreeable to the private patentees under this province, by a farther cession of right for the sake of peace; yet as the crown is so deeply affected by these extravagant claims of the Massachusetts Bay, on the east side of Hudson's river, and their still more exorbitant pretensions to the westward of this province, no countenance should be given to the last resolutions of the general court, until his majesty shall be pleased to signify his royal pleasure on this head.

Ordered,

That Mr. Philip Livingston and Mr. Thomas wait on his Excellency the governor, with a copy of the foregoing resolutions.

* * * *

—[*N. Y. Gen. Assem. Journal*, 1766-1776, p. 90.

[EARL OF DARTMOUTH TO GOVERNOR TRYON.]

Whitehall, 8th December 1772.

* * * *

The settlement of the partition line between New York, and Massachusetts Bay, is, as you very properly observe, a business of very great importance, and when I reflect that it is now more than five years since the King was graciously pleased to refer the determination of it to Commiss^{rs} to be appointed by each province, I am at a loss to guess at the motives for delay in a matter the speedy decision of which, they are both equally interested in.

* * * *

—[*N. Y. Col. Doc.*, viii, 338.

We have already quoted, in vol. i, part i, of this *Report on Boundaries* (*Sen. Doc.*, 1873, p. 209),

“An ACT to appoint Commissaries to settle a Line or Lines of Jurisdiction between this Colony and the Province of the Massachusetts-Bay. Pass'd the 8th March, 1773.”

The *Calendar of N. Y. Historical Manuscripts* (English) contains, p. 817, this title,

"1773 May 5. Act passed by the General Assembly of Massachusetts, to appoint commissioners to settle a line of jurisdiction between that province and the province of New York," and refers to *N. Y. Col. MSS.* xcix, 118, for the act itself, — which, however, is missing from its place.¹

[GOVERNOR TRYON TO GOVERNOR HUTCHINSON.]

New York 27th August 1773.

Sir

I have communicated to his Majesty's Council your Letter of the 5th of July signifying the Resolution of your Government to join with this in running out and marking the Line between the two provinces agreed on by the Commissaries at Hartford — They entirely approve of the Measure and have advised me to appoint proper Persons on the part of this colony for carrying it into Execution.

Your Excellency having left it to me to fix the Time, I think the 11th of October will be a convenient Season to begin the Work — and shall desire M^r Nicoll one of our Commissaries to meet Major Hawley on the spott, either on that Day or any other most agreeable to you, to see the Survey duly performed; I propose appointing M^r Banker as our Surveyor who was present at Hartford and shall give him Directions to proceed on the Busin's in Conjunction with your Surveyor at the time agreed on

His Excelley Governor Hutchinson.

[Endorsement.] Draft Letter from Governor Tryon to Governor Hutchinson.

—[*N. Y. Col. MSS.*, c, 1.

New York 27 August 1773.

Sir

His Excellency the Governor having yesterday proposed in Council the appointment of proper Persons to run and mark out the Line agreed on by the Commissaries at Hartford; in Conjunction with those named in the inclosed Letter on the Part of the Government of Massachusetts Bay, the Board came to a Resolution that you should be requested to attend on the part of this province to see the Work duly performed, with which I was directed to acquaint you, and his Ex^{cy} hopes it will

¹ A copy of this act has been found in the *N. Y. Hist. Soc. Collections*, 1869, p. 319.—[P.]

not be inconvenient you to proceed on this Service and to meet Major Hawley upon the Spott on that Day I am

Sir

[In margin.] The time appointed to begin the Survey is the 11th of October next.

[Endorsement.] Draft Letter to Mr. Nicoll.

—[*N. Y. Col. MSS.*, c, 2.

[GOVERNOR HUTCHINSON TO GOVERNOR TRYON.]

Boston 10 Sep^r 1773.

Sir

On the 6th instant I sent by Post, the copy of your letter of the 26th of August, to Major Hawley. I have no reason to doubt of his attendance at time and Place and I have desired him to correspond with M^r; Nicoll. I suppose there is nothing further requisite from you or me in that affair until they make their return.

I am with very great esteem

Your Excellency's most
obedient humble Servant

THO HUTCHINSON

His Excellency Governor Tryon


[Endorsement.] 1773 Sep^r 20. Read in Council.

—[*N. Y. Col. MSS.*, c, 7.

[REPORT OF MESSRS. NICOLL AND BANCKER.]

The Report of William Nicoll appointed to Superintend the running out and marking the Boundary Line between the Colony of New York and Massachusetts Bay, and of Gerard Bancker Surveyor appointed to run out and mark the same, in conjunction with such persons as should be authorized for that purpose on the part of the Massachusetts Bay.

Monday the 11th October being the Day appointed by his Excellency Governor Tryon and Governor Hutchinson for the meeting to run the Line, we accordingly attended at the North West Corner of the Oblong, the Massachusetts Gentlemen were not there, but that Evening Major Hawley sent word, that he was to lodge about six Miles North of it, and would meet us on the Spot the next Morning. We accordingly met at the Monument put up for the North West Corner of the Oblong which was shewn by Cornelius Brusee of New York Government and Jacob Spoor of the Massachusetts Bay, who severally declared on Oath that they were present at the erecting it about the year 1731. it

was a small Heap of Stones and a Stake marked on the South and West Sides  we enlarged the Heap of Stones, and put up a Red Cedar Post with the old Stake and marked it $\begin{matrix} Y. & M. \\ \text{S} & \text{P} \end{matrix}$ Major Hawley brought with him David Ingersoll and Elijah, Dwight Esquires two Justices who swore the Surveyors Miller and Bancker as well as the Chainbearers to perform the Service without any Fraud, Deceit or Sinister Views whatever; this being done, we produced our Commissions, Major Hawley in return shewed us a Copy of a Minute of Council of the 17th June signed by his Excellency Governor Hutchinson, in which after thanking their Commissaries for settling the Line, they appoint Major Hawley to see it run and marked, and empower the Governor to appoint a Surveyor and the necessary Assistants; and a Letter from the Governor to Major Hawley acquainting him that he had appointed M^r. Miller to survey and run the Line.

The Surveying Instruments were then produced, and on comparing them it was found that the Massachusetts Instrument would run the Line considerably more East than our Instrument, whereupon Major Hawley proposed that the Mean of the Difference of the two Instruments should be taken and used, which was agreed to. The Massachusetts Gentlemen chose their Instrument should be used, we consented, and that Afternoon went about 25 Chains; the next Morning they chose to go back to the Oblong Corner and examine the Course that had been run, in doing which we discovered a Defect in their Instrument, on which they agreed that ours should be used in preference to it, the Survey went on with our Instrument for about six Miles, but finding the Needle frequently affected by Minerals, the Massachusetts Gentlemen expressed a Doubt whether we had continued on the true Course, it was here tryed on low Land, where we did not apprehend there was any Attraction, and after correcting a back Monument or two, and satisfying both Sides, it was agreed to run by Stakes and back Sights only, (as we found the Needle so often affected as not to be depended on) for this purpose we used the Telescope of their Instrument, and went on as far as the Kinderhook Road which is about eleven Miles from our beginning, it then occurred to them that a Line run thus by Stakes would incline more Easterly than a Line run by the Needle, as the Needle by an increase of the Variation in going on, would form a Curve Line inclining Westerly, but after considering the Difference that this would make, it was agreed that a Straight Line should be continued by Stakes, and that our Method of running the Line should be particularly described in the Report that was intended to be made at finishing the Business.

Upon this Major Hawley finding the Survey going on to his Satisfaction, left us and went home for six Days, but on the second Day after his Return, when we had gone about twenty Miles from the Oblong Corner, he objected to the Line as it had been run, alledging that the Course we had run was too much East, and that the Liné run by Stakes was not the Line intended by the Hartford Agreement,¹ and insisted on altering the Course from the beginning, he was put in mind that the difference between a Line run by Stakes and one run by the Needle had before been considered, and ought not to be raised as an Objection, but to no purpose: M^r Nicoll urged him to have the Line continued in the Manner it had been run thus far, and to report it to the Commissaries of both Governments, particularly describing the Manner of running it, on which they might hereafter determine, as the final Settlement of the Line after the Royal Approbation to the Hartford Agreement¹ was obtained, is left to them, but this was refused: It was then Offered to him to begin at the Kinderhook Road, about eleven Miles from our beginning, (where we had proved our Course was right by trying it with the Compass which M^r Yates used in making the Survey of Hudson's River which was laid before the Commissaries at Hartford.) and endeavor to Ascertain what a Line run by Stakes would differ from a Line run by the Needle, and from thence forward make the Offsets from our Monuments agreeable to their plan, but this was also refused and he would not agree to go on any further unless we would alter the Course and compute the Offsets from the Beginning, and here the Business stopped.

W. NICOLL

GERARD BANCKER.

New York 5th November 1773.

—[*N. Y. Col. MSS.*, c, 32; *N. Y. Hist. Soc. Coll'ns*, 1869, p. 325

[COMMONWEALTH OF MASSACHUSETTS.]

AN ACT for the appointing and empowering Commissioners, on the Part of this Commonwealth, in Conjunction with such as are or may be appointed by the State of *New-York*, to ascertain the boundary Line between the Commonwealth and State aforesaid, Eastward of *Hudson's-River*.

[Passed June 4, 1784.]

WHEREAS in the year One thousand seven hundred and seventy-three, a boundary line on the eastern extremity of the late Province, now State of *New-York*, and extending from the southern to the northern

¹For copy of said "Hartford Agreement," see vol. i, part i, of this *Report on Boundaries*, pp. 211-213 (*Sen. Doc.*, 1873, No. 108).—[P.]

boundary of the late Province, now Commonwealth of *Massachusetts*, was mutually agreed upon by Commissioners appointed and authorized for the said purpose, by the legislatures of the said Provinces respectively: And whereas it appears that the said line has never been ascertained pursuant to the said agreement:

Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, that Joseph Hawley, Caleb Strong, Timothy Edwards, and Theodore Sedgwick, Esquires be, and they hereby are appointed Commissioners on the part of this Commonwealth, for the ascertaining the line aforesaid; and the said Commissioners, or any three of them, are hereby authorized and empowered to meet such Commissioners as are or may be appointed, and vested with similar powers for the above purpose by the Legislature of New-York, and in conjunction with them to ascertain, run, and mark the said boundary line; which line, when so ascertained, shall forever afterwards be held and considered to be the true and just boundary line of jurisdiction between that part of this Commonwealth, and the State aforesaid.

And it is further enacted, by the authority aforesaid, That the Commissioners aforesaid on the part of this Commonwealth, or any three of them, are authorized and empowered to employ a surveyor or surveyors, and a sufficient number of chainbearers, to ascertain the said line as aforesaid; and in conjunction with such Commissioners as are or may be appointed by the legislature of New-York as aforesaid, to agree upon and confirm the titles of individuals to such lands as they may now respectively hold, in virtue of any grant or grants made by either of the said governments, upon such terms and in such manner as they may judge reasonable.

And it is further enacted, by the authority aforesaid, That the Commissioners aforesaid on the part of this Commonwealth, shall, prior to their proceeding on the business herein assigned them, receive a commission from the Governor with the seal of the Commonwealth thereto affixed, agreeable to the powers with which they are vested in and by this Act.

And be it further enacted by the authority aforesaid, That an act passed by the Legislature of this Commonwealth, on the eighteenth day of March last, bearing the same title with this act, be, and hereby is repealed and rendered null and void.¹

—[*Mass. Laws, 1783-89, i, 131.*

¹ This act of March 18th, nearly identical with the one quoted above, has an error of date in the preamble ("one thousand seven hundred and seventy-two," of which the word "two" should have been *three*),—and omits the words "by the authority aforesaid," in the second and third enacting clauses.—[P.

[IN U. S. CONGRESS.]

June 3, 1784.

* * * *

On the report of a committee, consisting of Mr. Stone, Mr. Read, Mr. Monroe, Mr. Williamson and Mr. Sherman, to whom was referred a petition from the legislature of the commonwealth of Massachusetts, praying that a federal court may be appointed by Congress, to decide a dispute between the said commonwealth and the state of New-York;

Resolved, That the first Monday in December next, be assigned for the appearance of the said states of Massachusetts and New-York, by their lawful agents, at the place in which Congress shall then be sitting,

Resolved, That the form of the notice be as follows, to be transmitted by the secretary, agreeably to the articles of confederation.

By the United States in Congress assembled, in the city of Annapolis, on the third day of June, in the year of our Lord 1784, and in the eighth year of the independence of the United States of America.

TO THE LEGISLATIVE AUTHORITY OF THE STATE OF NEW-YORK.

It is hereby made known, that pursuant to the 9th of the articles of confederation and perpetual union, the legislature of the commonwealth of Massachusetts, have presented a petition to Congress in the words following:

“To the United-States in Congress assembled, the petition of the legislature of the commonwealth of Massachusetts sheweth, That whereas James the first, late king of Great-Britain, by his letters patent, bearing date at Westminster, the 3d day of November, in the 18th year of his reign, granted unto the council established at Plimouth, in the county Devon, and kingdom of Great-Britain, commonly called the council for planting, ruling and ordering and governing of New-England in America, all that part of America, lying and being in breadth from 40 to 48 degrees of northerly latitude, and of length of and within all the breadth aforesaid, throughout the main lands, from sea to sea, to hold the same to themselves, their successors and assigns forever: And whereas the said council established at Plimouth, by their deed, indented under their seal, dated 19th day of March, in the 3d year of the reign of Charles the first, late king of Great-Britain, did bargain, sell, enfeoff, alien and confirm, unto sir Henry Roswell and his associates, and to their heirs and assigns, all that part of New-England, in America, which lieth and extendeth between a great river called Merrimac, and a certain other river there called Charles river, being the bottom of a bay there called Massachusetts-Bay, and also all those lands lying within three English miles to the southward of the southernmost part of the said bay, and extending thence northward, in latitude to the northward of every part of the said river Merrimac, and in breadth of latitude aforesaid, extending throughout all the main land, in longitude westwardly to the southern ocean. And the said legislature in their claim herein described, do aver, that

the point or place situate 3 miles south of the bay called Massachusetts-Bay, is a point or place situate in 42 degrees of northern latitude, 2 minutes north; and that the place, point or boundary aforesaid, of 3 miles to the northward of every part of the river Merrimac, is a place or point situate in 44 degrees northern latitude, 15 minutes north; and that by the grant aforesaid, the said sir Henry Roswell and his associates, became seized of all the lands before described and contained in the grant aforesaid, of the said council established at Plimouth; and that the same grant was confirmed to the said Henry Roswell and his associates, by the said king Charles, by his letters patent, dated in the 4th year of his reign; and that the said sir Henry Roswell and his associates, were, immediately upon making the grant aforesaid by the said council, in the actual seizen and possession of all the lands aforesaid, and for many years held the same, under the name and title of the governor and company of Massachusetts-Bay, in New England: And that such proceedings and possessions have been done and had respecting the territory aforesaid, granted to the said sir Henry Roswell and his associates, and such subsequent grants have been made of the same, that all the said territory is now the just and proper right of the commonwealth aforesaid. And all this the said legislature are ready to verify.

And whereas the state of New-York have set up a claim to some part of the land beforementioned, and it being highly necessary to have the same claims brought to an immediate decision, they do therefore, in behalf of the said commonwealth, most solemnly request the United States of America in Congress assembled, that Commissioners may be appointed for enquiring into and determining upon the claim aforesaid of the said legislature, and that such other proceedings respecting the premises may be had, as are by the federal government of the said United States in such cases made and provided.

And that the first Monday in December next, is assigned for the appearance of the said states of Massachusetts and New-York, by their lawful agents, at the place in which Congress shall then sit, to proceed in the premises as by the said articles of confederation and perpetual union is directed.

By order of Congress,

CHARLES THOMSON, *Secretary*

* * * *

—[*Journals of Congress*, iv, 444.]

[GERARD BANCER TO GOVERNOR CLINTON.]

Albany, October 22^d 1784.

Sir

On Sunday the 17th instant I arrived at Mr Spencers near the Oblong Corner, but finding none of the Commissioners there, I remained till the 21st, when I received a Letter from Mr Justice Yates informing me, that from the uncertainty whether any of the Judges would come up to hold the Court at Albany, he had been induced together with General Schuyler to request the Massachusetts Gentlemen to put off the Meet-

ing from the 18th to the 25th instant, and he informed me that General Schuyler was in a poor State of Health. Anxious to have this Line business in a proper Train, and tired with remaining inactive at Mr Spencer's, I immediately set off for this place. Judge Yates & myself will return so as to be at the Oblong on the 25th and perhaps General Schuyler will accompany us.

As the Court will not finish here this ten Days, I do not think there can be a Council of Revision in a fortnight, perhaps some person could by Concurrent Resolutions, be sent up to relieve me, whose informal Appointment can be easily confirmed by Law before the running of the Line can be completed.

I am respectfully

Sir

Your Very Humble Serv^t

GERARD BANCKER.

His Excellency

George Clinton. Esq^r Gov^r

—[*Clinton Papers (MS.)*, N. Y. State Library, No. 5517, vol. xix.

On the 18th of October, 1784, Governor Clinton, by message to the Legislature, called attention to "the necessity of appointing Agents to manage the controversy on the part of this State," in the Federal Congress. For a copy of his said message, see vol. i, part i of this *Report on Boundaries (Sen. Doc., 1873)*, p. 213.

An Act to amend an Act, entitled, An Act to appoint Commissioners to complete the running of a Jurisdiction Line between this State and the State or Commonwealth of Massachusetts, passed the 17th day of March, 1783. Passed the 11th of November, 1784.

WHEREAS by the Act, entitled, "An Act to appoint Commissioners to complete the running of a Jurisdiction Line, between this State, and the State or Commonwealth of Massachusetts," only three Persons, to wit, The Honorable Robert Yates and Philip Schuyler, Esquires, and Gerard Bancker, Esquire, are declared Commissioners on the Part of this State, who, or any two of whom, shall have full Power, and are thereby authorised to meet with Commissioners who are, or may be lawfully authorised and appointed by the said State or Commonwealth of Massachusetts, and in Conjunction with such Commissioners to be appointed on the Part and Behalf of the said State or Commonwealth of Massachusetts, to run out, and mark the said Jurisdiction Line, according to the true Intent and Meaning of certain Articles made and

entered into, on the eighteenth Day of May, in the Year One Thousand Seven Hundred and Seventy Three, between Commissioners appointed by an Act of the Legislature of the late Colony of New-York, and Commissioners appointed by an Act of the Legislature of the late Colony of Massachusetts-Bay, which Agreement is particularly set forth in the Act of the Legislature of this State, herein in Part recited.

And whereas it may prove inconvenient or impracticable, for two of the Commissioners so named in the said recited Act, to attend to the Discharge of the Trust reposed in them by the said Act; whereby the final running and marking the said Jurisdiction Line, may be procrastinated, and a great Expence be unnecessarily incurred :

Be it therefore enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the Authority of the same, That Simeon D'Witt, Esquire, Surveyor-General of this State, shall be, and is hereby declared to be one of the commissioners on the Part of this State, and who, together with the said Robert Yates, Philip Schuyler and Gerard Bancker, the Commissioners named in the said in Part recited Act, or any two or more of them the said Robert Yates, Philip Schuyler, Gerard Bancker and Simeon D'Witt, shall have full Power, and are hereby authorised to meet with Commissioners, who are, or may be lawfully authorised and appointed by the said State or Commonwealth of Massachusetts, and in Conjunction with such Commissioners to be appointed on the Part and Behalf of the said State or Commonwealth of Massachusetts, to run out, and mark the said Jurisdiction Line, according to the true Intent and Meaning of the said Articles of Agreement, as fully and effectually, to all Intents and Purposes, as if the said Simeon D'Witt had been expressly declared appointed and authorised, to be one of the said Commissioners on the Part of this State, in and by the said in Part recited act.

—[*Laws of N. Y.* 1784–1786, fol. ed.; p. 131 (MS. paging).

An Act to appoint Agents or Commissioners for vindicating the Right and Jurisdiction of this State, against the Claims of the Commonwealth of the Massachusetts, pursuant to the Articles of Confederation, and Perpetual Union of the United States. Passed the 12th of November, 1784.

Whereas the United States of America, in Congress assembled, at the City of Annapolis, on the third Day of June last, did make and publish a certain Act, in the Words following, that is to say, [See p. 181, *ante.*]

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I. *Be it therefore enacted by the People of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the Authority of the same,* That James Duane, John Jay, Robert R. Livingston, Egbert Benson and Walter Livingston, Esquires, shall be, and they hereby are declared to be Agents for this State, in the Controversy between this State and the said Commonwealth of Massachusetts, in the said recited Act of the United States in Congress assembled, mentioned; and the said James Duane, John Jay, Robert R. Livingston, Egbert Benson and Walter Livingston, Esquires, or any two or more of them, are hereby authorised and directed on the Day and Place for that Purpose in the said Act limited, and at such other Times and Places, as the Occasion shall require, in Behalf of this State, to appear before the said United States, in Congress assembled, in Order by the joint Consent of them the said Agents, or any two, or more of them, and the Agents, on the Part of the said Commonwealth of Massachusetts, to appoint Commissioners or Judges to constitute a federal Court for hearing and determining the Controversy aforesaid; and if it shall so happen, that the Agents of the said State of New-York and Commonwealth of the Massachusetts respectively, shall not agree by joint Consent in appointing Commissioners or Judges to constitute such Court, then it shall and may be lawful to and for the said Agents, on the Part of this State, or any two or more of them, and they, or any two or more of them, are hereby authorised and required to proceed in Behalf of this State to the Appointment of such Commissioners or Judges, in the Manner and Form directed and prescribed in and by the said Articles of Confederation and Perpetual Union; and also to appear before the said Commissioners or Judges, when lawfully constituted, and there to represent this State, and to manage, vindicate and defend the Rights and Jurisdiction thereof against the claim of the said Commonwealth of Massachusetts, by all lawful Ways and Means, with full Power and Authority to employ such Counsel learned in the Law, and such Solicitors as they shall think necessary, to enable them more effectually to discharge the Trust reposed in them by this Act.

II. *And be it further enacted by the Authority aforesaid,* That it shall and may be lawful to and for the Secretary of the State of New-York, and the Clerk of the City and County of Albany, or their respective Deputies, and for the respective Clerks of the Senate and Assembly of this State, to produce, on the Hearing of the Controversy aforesaid, and for that Purpose to convey out of the State, all such original Papers remaining in their respective Offices, as by the Agents herein appointed to manage the Controversy aforesaid, on the Part of this State, or any two or more of them, shall be judged necessary for the

better Manifestation of the Boundaries and Jurisdiction of the State.
Provided always,

III. *And be it further enacted by the Authority aforesaid,* That this Act, or any Article, Clause, Matter or Thing herein contained, shall not extend, or be deemed, construed, adjudged, or taken to annul, alter, or in any Wise affect certain Articles of Agreement, made and concluded upon the eighteenth Day of May, in the Year of our Lord, One Thousand Seven Hundred and Seventy-three, between Commissioners appointed by an Act of the Legislature of the late Colony of New-York, and Commissioners appointed by an Act of the Legislature of the late Colony of Massachusetts-Bay; not to annul, alter, or in any Wise affect a certain Instrument in Writing, bearing Date the eighteenth Day of May, in the Year last aforesaid, under the Hands and Seals of the then Governors of the said Colonies of New-York and Massachusetts-Bay respectively, signifying their Approbation of the said Agreement; nor any Act or Proceeding in Pursuance of the said Articles of Agreement, which have been done and performed since the Settlement of the said Jurisdiction Line, by Commissioners and Surveyors appointed, as well on the Part of this State while the Colony of New-York, as on the Part of the State or Commonwealth of Massachusetts, while the Colony of Massachusetts-Bay, respecting the running and marking in Part the Jurisdiction Line in the said Articles of Agreement described; nor any Act or Proceeding which is now doing and performing, or shall be done and performed by the Commissioners and Surveyors appointed on the Part of this State, and on the Part of the State or Commonwealth of Massachusetts, to complete the said Jurisdiction Line, according to the true Intent and Meaning of the said Articles of Agreement.

IV. *And be it further enacted by the Authority aforesaid,* That a certain Act of the Legislature of this State, entitled, "An Act to empower the Congress of the United States of America, to determine all Controversies relative to certain Lands in the Counties of Cumberland, Gloucester, Charlottee and Albany, commonly called the New-Hampshire Grants," passed the 21st Day of October, 1779, so far as the same Act respects Claims or Boundaries in Controversy between this State, and the State or Commonwealth of Massachusetts-Bay, be and the same hereby is repealed.

—[*Laws of N. Y.*, 1784-1786, fol. ed. ; p. 132 (MS. paging).]

[GERARD BANCKER TO GOVERNOR CLINTON.]

New York, Nov: 16th 1784.

Sir,

By a Law passed the 17th March 1783, The Honourable Philip Schuyler & Robert Yates Esq^{rs} and myself were appointed Commissioners for completing the running of a Jurisdiction Line between this State and the State or Commonwealth of Massachusetts: In pursuance of the said Law M^r Schuyler and myself met at the Oblong on the 25th Ultimo with four Gentlemen Commissioned on the part of the said Commonwealth; but after being ten Days together we parted without completing the Business committed to us: The cause of not agreeing will fully appear from a number of Letters that passed between us, which Letters M^r Schuyler took to Claverack to have copied immediately, and to enable him to prepare our Report, in order to lay before Your Excellency during the present sitting of the Legislature: But as the setting is near at an End I fear M^r Schuyler may, from the want of a proper Conveyance, be prevented from transmitting them in time; and therefore beg Your Excellency to accept of the following Sketch of our proceedings, which I put down from memory.

On the Evening of the said Day of Meeting, one of the Massachusetts Gentlemen proposed as preparatory to our running the Line, that the variation of the compass since the date of y^e Agreement in the year 1773, should be ascertained by having recourse to two Stakes which were set up 8 Chains apart at the beginning of the Line, when attempted to be run by Commissioners and Surveyors from both States in the said year 1773: This being agreed to; part of the next Day was spent in Comparing our Instruments (which agreed very well) and in ascertaining the Variation by those Stakes; after some time had been spent on the Ground, in comparing our Calculations with the Variation as then found, we proposed to them to run a course as the Needle then pointed N^o 20° 42' E. to which they immediately agreed, declaring it was the very Course they intended to have proposed to us, and we proceeded on the Survey some distance that afternoon: On returning to our Lodgings in the Evening, they proposed establishing the agreement of that Day by an Instrument in Writing to be executed by both Parties, to which we readily agreed; the Agreement was the next Morning accordingly drawn up in Writing by M^r Sedgwick one of the Massachusetts Gentlemen, and one fair Copy made by M^r Strong another of them: the second Copy was deferred 'till Evening that no time might be lost in carrying on the Survey; But to our surprise in the Evening they declined executing the said agreement declaring that the variation allowed was not sufficient: A Letter was then wrote to them reciting the previous transactions and demanding of them the execution of the

agreement respecting the course to be run; They by Letter declined it and proposed determining the variation by a Series of observations then in their possession, made by a M^r Winthrop . . Professor of Mathematics in Harvard College, and from taking his Calculations as a data, they insisted that the course we ought to run should be N^o 20° 37' E. Some Letters passed on the subject of M^r Professor Winthrop's Observations; but before we conceded to the Course N^o 20° 37' E. (which we afterwards did) they departed from it, and proposed determining what the true Variation was since 1773 by a Pine Tree which had been marked in that Year when the Line was in part run, which Pine Tree stood at about 130 Chains from the beginning, and being on this Survey, found to stand favorable to their demand of an extravagant allowance of Variation, they insisted should be the Standard, and they would not depart from.

After the first Days running and when the Massachusetts Gentlemen thought fit to decline executing the written agreement, they expressed a desire to proceed another Day to make further Observations; we consented and the Survey went on three Days longer, at the expiration of which time when we had advanced between 7 & 8 Miles over very high Mountains, they declined going any further; and proposed to return to the place of beginning to re-examine the Line run which we did, but after they had spent a considerable time in the examination, no discovery was made to induce an alteration of opinion respecting the course to be run and the Survey stopped.

I have the honor to be, With great Respect

Your Excellency's

Most Obedient and

Humble Servant

His Excellency

GERARD BANCKER.

Geo. Clinton Esq: Gov: of the State of New York.

—[*Clinton Papers (MS.), N. Y. State Library, No. 5530, vol. xix.*

[DRAFT.]

New York, Nov: 18th 1784.

Sir.

In conformity to concurrent Resolutions of the Senate and Assembly of the 17th instant, Copies whereof are inclosed, I have the honor to inform You of your appointment, & that the Legislature rely on your Service as a Counsellor and Agent, for managing the Controversy on the part of this State, against the claims of the Commonwealth of the Massachusetts — And That they expect you will accordingly repair to

Trenton by the first Day of December next to assist in appointing a Federal Court for determining the Controversy.

I am with great Respect,

Sir your most Obed^t Serv^t

The Hon^{ble} Robert R. Livingston Esq^r.

& Egbert Benson Esq^r.

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5533, vol. xix.

Albany November 28th 1784

Sir

We have the honor to transmit your Excellency copies of the letters that passed between the Commissioners appointed on the part of the State of Massachusetts to ascertain and run a partition line between that and this State, and us.

We have added a few explanatory notes persuaded that It was the wish of our respectable constituents to bring this business to a happy conclusion, we extended our concessions something beyond what we deemed they strictly ought to be.

We have reason to apprehend If the Commissioners should hereafter meet that difficulties will still arise to prevent a final close of the business. We therefore beg leave to suggest If It would not be most eligible to apply to Congress that commissioners might be appointed agreeably to the articles of confederation to carry into full effect the agreement of May 1773

We have the honor to be with great
Respect & Esteem

Sir Your Excellencys Most Obedient Servants.

PH: SCHUYLER.

GERARD BANCKER.

His Excellency George Clinton. Esq^r. &c.

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5534, vol. xix.

[IN U. S. CONGRESS.]

December 8, 1784.

* * * *

This being the day assigned for the appearance of the states of Massachusetts and New-York, agreeable to the resolution of the 6th instant, and the United States in Congress assembled being informed, that the agents for the said states are now attending,

Ordered, That they be admitted.

The agents appeared accordingly, and produced their credentials, which were read as follows:

CREDENTIALS OF THE AGENTS FOR THE STATE OF
MASSACHUSETTS.

Commonwealth of Massachusetts, in Senate, 11th November, 1784.

Whereas the legislature of this commonwealth, by their petition to Congress, on the 27th day of May last past, alleged that certain lands to which the state of New-York set up a claim, were the just and proper right of this commonwealth, and Congress having given notice thereof to the said state, and appointed the first Monday of December next, to proceed in the premises, as by the article of confederation and perpetual union is directed: *Resolved*, That the honorable John Lowell and James Sullivan, esqrs. with the delegates who shall actually represent this commonwealth in Congress, on the first day of December next, or the major part of the persons before mentioned, be, and they hereby are constituted the lawful agents of this state, and are authorized and empowered, with such agent or agents as are or may be empowered therefor, on the part and behalf of the state of New-York, to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the claim of the same state and of this commonwealth, to the lands mentioned and described in the petition aforesaid: and in case the said state of New-York shall neglect to attend by their agent or agents at the time appointed therefor by Congress; or if attending, the agent or agents of the said state and of this commonwealth, cannot agree to appoint by joint consent, commissioners or judge for the purpose aforesaid, then the said agents of this commonwealth, or the major part of them, are hereby authorized and empowered, to do and transact all matters and things whatsoever, which, by the said articles of confederation and perpetual union, are made necessary to be done and transacted on the part of this commonwealth, for the appointment of commissioners or judges for the purpose aforesaid.

Sent down for concurrence, SAMUEL ADAMS, *President*.

In the House of Representatives, November 11, 1784.

Read and concurred, SAMUEL A. OTIS, *Speaker*.

Approved, JOHN HANCOCK.

True Copy Attest: JOHN AVERY, jun, *Secretary*.

CREDENTIALS OF THE AGENTS FOR THE STATE OF NEW-
YORK.

The people of the state of New-York, by the grace of God, free and independent, to all to whom these presents shall come, send greeting: Know ye, That we having inspected the original acts of the legislature of our said state, remaining in our secretary's office, do find there a certain act passed the 12th day of November, 1784, in the words and figures following, to wit, "An act to appoint agents or commissioners for vindicating the right and jurisdiction of this state, against the claims of the commonwealth of Massachusetts," etc. * [See copy of said act before recited].

The credentials being read, the agents withdrew; Whereupon

Ordered, That the secretary furnish the agents of each party, with copies of the credentials of the other, and that they appear again on Friday next; and that they then inform the United States in Congress assembled, whether they have any, and what objections to the credentials produced.

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December 10, 1784.

According to order, the agents for the States of Massachusetts and New York, attended, and informed the United States in Congress assembled, that they have respectively been furnished with the credentials of the other party, and have no objections thereto; Whereupon,

Resolved, That the agents for the States of Massachusetts and New-York be, and they are hereby directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question, agreeable to the 9th of the articles of Confederation and perpetual Union.

—[*Journals of Congress*, iv, 450.

[STATE OF NEW YORK.]

An Act to authorize the United States in Congress assembled to appoint Commissioners to complete the running of a certain Line of Jurisdiction therein mentioned, between this State and the Commonwealth of Massachusetts. Passed the 7th day of March, 1785.

WHEREAS an Agreement was made and entered into on the eighteenth Day of May, in the Year of our Lord, One Thousand Seven Hundred and Seventy-three, between Commissioners appointed by an Act of the Legislature of the late Colony of New-York, and Commissioners appointed by an Act of the Legislature of the late Colony of Massachusetts-Bay, which Agreement is in the words following, to wit, [See vol. i, part i, of this *Report on Boundaries* (*Sen. Doc.*, 1873, No. 108), p. 211.]

And whereas the Governors of the said Colonies of New-York and Massachusetts-Bay, by an Instrument in Writing under their Hands and Seals respectively, bearing Date the eighteenth Day of May, in the Year One Thousand Seven Hundred and Seventy-three, signified their Approbation of the said Agreement, which said Instrument is in the Words following, to wit,

We, the Governors of the Provinces aforesaid, having been present at the Execution of the Agreement aforesaid, in Testimony of our Consent thereto and of our Approbation thereof, have hereunto set our Hands and Seals at Hartford aforesaid, this eighteenth Day of May, in

the year of our Lord One Thousand Seven Hundred and Seventy-three, and the thirteenth Year of his Majesty's Reign.

And whereas since the Settlement of the said jurisdiction Line in Manner aforesaid, Commissioners and Surveyors have been twice appointed on the Part of the said State of New-York and Commonwealth of Massachusetts respectively, to Run and Mark the said Line pursuant to the said Articles of Agreement; and although such Commissioners in both Instances proceeded in Part to Run the said Line, yet they could not agree so as to complete the same, *And whereas* the Borderers on the said Line now suffer great Inconvenience and Injustice by being exposed to Taxation under the Authority of both Governments, and a Regard to their Security and the public Tranquility require that some adequate Remedy should be provided.

I. BE IT ENACTED *by the People of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the Authority of the same,* That it shall and may be lawful to and for the United States of America in Congress assembled, and they are hereby fully authorized to appoint three skilful, judicious and disinterested Persons as Commissioners to Run out, Survey, Mark and Ascertain the said Line of Jurisdiction between this State and the Commonwealth of Massachusetts, according to the true Intent and Meaning of the Articles of Agreement herein before recited.

II. AND BE IT FURTHER ENACTED *by the Authority aforesaid,* That the Line so to be run, marked and ascertained by the said Commissioners, or any two of them, according to the true Intent and Meaning of the said Articles of Agreement, shall be and for ever hereafter remain a jurisdiction or Boundary Line as far as the same shall extend between the Commonwealth of Massachusetts and this State. *Provided always,* That the Commissioners so to be appointed shall before they proceed upon the Execution of their Trust, be respectively Sworn in the Presence of a Magistrate to perform the same Faithfully and Impartially, according to the best of their Skill and Judgment, and shall within two Years from the passing of this Act complete the said Survey, and make a true and exact Return thereof into the Secretary's Office of the United States in Congress assembled, in Order to be there filed as a perpetual Evidence of the said jurisdiction Line. *Provided also,* That the Legislature of the Commonwealth of Massachusetts shall Consent to such Appointment of Commissioners, and shall within nine months from the Publication of this Act, pass a Law for vesting the United States in Congress assembled with similar Powers and Authorities as are vested in them in and by this Act.

III. AND BE IT FURTHER ENACTED *by the Authority aforesaid,* that the Governor or Person Administring the Government of this State for

the Time being, shall be, and is hereby authorized to nominate and appoint one or more Person or Persons to furnish the said Commissioners which shall be appointed by Congress to Run the said jurisdiction Line, with the necessary Documents and Papers relative to the said Line, and to disburse and pay from Time to Time the one Half of the Expences attending the Survey, as well as to Pay the said Commissioners for the one Moiety of their Services, and the Person or Persons so nominated and appointed as aforesaid, or any one or more of them is and are hereby authorized to draw upon and receive from the Treasurer of this State, a Sum not exceeding Five Hundred Pounds for the Purposes aforesaid, and for which they shall be Accountable to this State.

—[*Laws of N. Y.*, 1784–1786, fol. ed., p. 174 (MS. paging).

[IN U. S. CONGRESS.]

June 9, 1785.

* * * * *

In further pursuance of the resolution of the 10th day of December last, the agents of the states of New-York and Massachusetts, made the following report:

To the honourable the United States in Congress assembled, the subscribers, agents of the state of New-York and Massachusetts, beg leave to represent, that they have agreed upon the hon. Samuel Johnson, esq. of North-Carolina, the hon. William Fleming, esq. of Virginia, and the hon. John Sitgreaves, esq. of North-Carolina, to be judges, instead of the hon. John Rutledge, Robert Hanson Harrison, and William Grayson, esqrs, who have declined their appointment to sit in the federal court, for a trial of a controversy between the said states of Massachusetts and New-York, which controversy is suggested in the petition of the former, now on the files of Congress; and thereupon the said agents do humbly request, that notice may be given to the said Samuel Johnson, William Fleming and John Sitgreaves, esqrs. and that upon their acceptance a commission may be issued to them, together with the hon. Thomas Johnson, George Wythe, George Reed, James Monroc, Isaac Smith and William Patterson, esqrs. constituting them a court according to the confederation, to meet at the city of Williamsburg, in the State of Virginia, on the 3d Tuesday of November next, to hear and determine the controversy aforesaid."

JOHN JAY,	}	Agents for New-York.	}	JOHN LOWELL,	}	Agents for Massachusetts
ROB. R. LIVINGSTON,				JAMES SULLIVAN,		
WALTER LIVINGSTON,				THEOP. PARSONS, RUFUS KING, S. HOLTON,		

—[*Journals of Congress*, iv, 536.

[STATE OF MASSACHUSETTS.]

An Act to authorize the United States in Congress assembled, to appoint Commissioners to compleat the running the Line of Jurisdiction between the Commonwealth of *Massachusetts* and the State of *New-York*, on the Easterly Part of the State of *New-York*.

[Passed June 29, 1785.]

WHEREAS an agreement was made and entered into, on the eighteenth day of May, in the year of our Lord, one thousand seven hundred and seventy-three, between Commissioners appointed by an act of the Legislature of the late province of Massachusetts-Bay, and Commissioners appointed by an act of the Legislature of the late colony of New-York, for the settlement of a partition line of jurisdiction between the said late province of Massachusetts-Bay, and the late colony of New-York, on the easterly part of the said colony of New-York: *And whereas*, since the agreement made as aforesaid, Commissioners and surveyors have been appointed on the part of the Commonwealth of Massachusetts and the State of New-York, respectively, to run and mark the said line, pursuant to the said agreement; which Commissioners, although attempts have been made for that purpose, have not been able to compleat the running the said line: And whereas the State of New-York, by an act of their Legislature, passed on the seventh day of March, one thousand seven hundred and eighty five, have on their part authorized the United States in Congress assembled, to appoint three skilful, judicious and disinterested persons, as Commissioners, to run out, survey, mark and ascertain the said line of jurisdiction, according to the true intent and meaning of the agreement above referred to:

I. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That it shall and may be lawful to and for the United States of America, in Congress assembled, and they are hereby fully authorized to appoint three skilful, judicious and disinterested persons, as Commissioners, to run out, survey, mark and ascertain the said line of jurisdiction, between this Commonwealth, and the State of New-York, according to the true intent and meaning of the agreement abovementioned.

II. *And be it further enacted by the authority aforesaid*, That the line so to be run, mark-ed and ascertained by the said Commissioners, or any two of them, according to the true intent and meaning of the said agreement, shall be, and forever hereafter remain a jurisdiction or boundary line, as far as the same shall extend, between this Commonwealth, and the easterly part of the State of New-York.

Provided always, That the Commissioners so to be appointed, shall before they proceed upon the execution of their trust, be sworn faith-

fully and impartially to perform the same, according to the best of their skill and judgment; and shall, within two years from the seventh day of March, one thousand seven hundred and eighty five, compleat the said survey, and make a true and exact return thereof into the Secretary's office of the United States in Congress assembled, to be there filed as a perpetual evidence of the said jurisdiction line.

III. *And be it further enacted by the authority aforesaid,* That the Governour, by and with the consent of the Council of this Commonwealth, is hereby authorized to appoint one or more person or persons to furnish the said Commissioners, which shall be appointed by Congress to run and ascertain the line aforesaid, with the necessary documents and papers relative to the said line, and to make his warrant on the Treasurer of this Commonwealth, in favour of the person or persons so to be appointed, for the sum of three hundred pounds, to be applied, if necessary, for the payment of one half of the expences attending the survey, and for which they shall be accountable to this Commonwealth.

—[*Mass. Perpetual Laws*, 1780–89, fol. ed., p. 389.

[IN CONGRESS.]

September 29, 1785.

* * * *

On motion of the State of Massachusetts, seconded by the State of New-York :

Whereas on the 7th day of March, 1785, the legislature of the State of New-York passed, and afterwards transmitted an attested copy of a law, in the words following : [See copy of said law before recited.]

* * * *

And whereas on the 29th day of June, 1785, the legislature of the Commonwealth of Massachusetts passed, and afterwards transmitted an attested copy of a law, in the words following : [See copy of said law before recited.]

* * * *

For the purpose of carrying into execution the object of the States aforesaid,

Resolved, That Monday next be assigned for the appointment of commissioners, conformable to the laws of the States aforesaid.

* * * *

—[*Journals of Congress*, iv, 592.

November 2, 1785.

* * * *

The agents for the States of Massachusetts and New-York, represented to Congress as follows:

To the honorable the United States in Congress assembled: The agents of the States of Massachusetts and New-York, whose names are subscribed, beg leave to represent: That such have been the difficulties and delays in obtaining answers from several of the judges, chosen to determine the controversy between the said states, that they are left in suspense even to this hour; a circumstance which hath hitherto prevented a hearing and renders farther procrastination unavoidable. Wherefore it is prayed, in behalf of the said states, that the hearing of the said controversy may be on such future day as the parties shall mutually agree upon, and hereafter certify to Congress, and at the place appointed for that purpose, by their act of the 9th day of June last.

Signed, JAMES DUANE, JOHN JAY, agents for New-York.

E. GERRY, RUFUS KING, S. HOLTEN, agents of
Massachusetts.

New-York, November 1, 1785.

Whereupon *Resolved*, That the court for determining the controversy aforesaid, be held at the city of Williamsburgh, in the state of Virginia, upon such future day as the parties, by their lawful agents, shall mutually agree upon and hereafter certify to Congress, or in case of their disagreement, upon such day as may be appointed by Congress, on the application of either party.

* * * *

—[*Journals of Congress*, iv, 603.

December 2, 1785.

* * * *

Pursuant to the resolution of the 29th September last, Congress proceeded to the appointment of three commissioners for running a line of jurisdiction between the states of Massachusetts and New-York, conformable to the laws of the said states, and, the ballots being taken, Mr. Thomas Hutchins, Mr. John Ewing, and Mr. David Rittenhouse, were elected and appointed.

—[*Journals of Congress*, iv, 607.

[U. S. COMMISSIONERS TO N. Y. AND MASS. DELEGATES.]

Philadelphia Jan^r 30th 1786

Gentlemen

When we had the honor of answering your letter announcing our appointment by Congress, to run a boundary line between the States of New York and Massachusetts, we signified our desire to know in what direction the Line was to be run. We have since seen by M^r Hutchins the Laws of the State of New York relative to that matter. Unless we have some other documents, concerning the variation of the Compass at the beginning of the line in the Year referred to in that Act, the thing required to be done is impracticable. There is no principle in Astronomy or natural Philosophy, which the world is yet in possession of, which would enable any Man to tell what was the variation of the Magnetic Meridian in the Year mentioned in the Act at that place.

The variation is different in different places; and also at different times in the same place, and without any known Law, which would enable an Astronomer to assign the Quantity of it, at any given time & place from any observations made at a different time and place. The Legislatures therefore of the respective States must furnish us with some observations of the variation of the needle, made at the time & place mentioned in their Act, before we can be of any service as the Law stands. But if they should respectively agree that the boundary line should make any given angle with the true meridian, instead of the magnetic Meridian, we can easily accomplish the business at the time proposed, or if the Quantity of the Variation were mutually agreed upon by them, at the time and place mentioned, it would then be practicable.

But we apprehend that it was not the intention of the Legislatures to submit such an agreement to us, as must depend upon an arbitrary determination formed from vague conjecture, and uncertain reports of inaccurate experiments and observations—

If upon enquiry therefore there are no observations on the quantity of the variation of the Needle at the time and place in Question in the possession of either of the States, which are allowed of by both, we are of opinion that the matter must be referred to the Legislatures, to make such an agreement, as can be executed, either by leaving out any mention of the Magnetic Meridian, or by substituting some other course for the boundary line, which may be mutually agreed upon, as equivalent to the course already fixed by their Legislatures, or any other way which they may chuse—

We would be glad to know as soon as convenient, whether there be any such observations amongst your records, or what course you intend

to pursue, to supply the want of them, that we may order our affairs accordingly —

In the mean time we are

Gentlemen with the greatest respect

Your Most Obed^t & very humble Serv^{ts}

(Signed)

JOHN EWING
DAVID RITTENHOUSE
THO^s HUTCHINS

The Hon.^{ble} The Delegates for }
Massachusetts & New York States. }

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5710, vol. xxi.

COMMONWEALTH OF MASSACHUSETTS,

In Senate March 14th, 1786.

RESOLVED That His Excellency the Governor be and he hereby is requested to transmit to the delegates in Congress from this State copies of the letters which passed between the Commissioners appointed on the part of this Commonwealth by an act of June 1784, and the Commissioners appointed on the part of the State of New York, to ascertain and run the boundary line between this Commonwealth and the State of New York, on the eastern extremity of the State of New York, and to inform the said delegates, that it was the opinion of the said Commissioners on the part of this State, that the variation of the Magnetic Meridian in the year 1773, at the beginning of the line above mentioned, might be ascertained with a sufficient degree of precision by means of the Observations and Minutes made by the Commissioners appointed on the part of each of the said States in the year 1773, which are referred to in the Letters above mentioned, and which are the only observations of the quantity of variation of needle at the time and place aforesaid in the possession of this State.

And it is further Resolved, that Timothy Edwards, Jahleel Woodbridge and Theodore Sedgwick Esqr,^s be and they are hereby appointed agents on the part of this Commonwealth, who or the major part of them are hereby vested with all the powers with which the Commissioners on the part of this Commonwealth were vested by the Act aforesaid passed the 4th of June 1784, and authority is hereby given to the said agents, or the major part of them to furnish the said Commissioners appointed by Congress with the documents papers and observations, necessary to ascertain the said line, and with the assistance of the Commissioners of Congress to agree with the agents of the State of New York how the said line shall be run, if such agreement can be

made on the principles of Justice: and in case such an agreement cannot be made it is the expectation of this Commonwealth, that the Commissioners appointed by Congress to run the said line of Jurisdiction do, and they or any two of them hereby are empowered on the part of this Commonwealth to proceed upon and accomplish that business, upon such principles and Observations as shall appear to them the least liable to error: and the said agents are hereby directed to make suitable provision for the accommodation of the said Commissioners during the time that they may be employed in the said Business — and the said agents are hereby authorised and empowered to employ such persons as they shall judge proper to attend them in the prosecution of the business before mentioned.

Sent down for Concurrence

(Signed) SAMUEL PHILLIPS Jun Pres^d
In the House of Representatives March 14th 1786
Read and Concurred.

(Signed) A WARD Speaker

Approved

(Signed) JAMES BOWDOIN

True Copy

Attest

(Signed) JOHN AVERY Jun^r Secretary.

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5727, B., vol. xxi.

[J. LAWRENCE AND M. SMITH TO GOV. CLINTON.]

New York April 12th 1786

Sir

We have the honor of transmitting to your Excellency a copy of Resolutions entered into by the Legislature of the Commonwealth of Massachusetts upon the subject of ascertaining the boundary line between that commonwealth and this State, on the eastern extremity of the State of New York — We were furnished with this Copy by the Delegates from Massachusetts, and conceive it our duty to communicate them for the information of the Legislature

We have the honor to be

Your Excellency Obed humble
Serv^{ts}

JOHN LAWRENCE
MELANCTON SMITH

His Excellency Gov Clinton

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5727, A., vol. xxi.

¹ Two of the N. Y. Delegates in Congress. —[P.

[STATE OF NEW YORK.]

An ACT supplementary to the Act, entitled, An Act to appoint Agents or Commissioners for vindicating the Right and Jurisdiction of this State, against the Claims of the Commonwealth of the Massachusetts, pursuant to the Articles of Confederation and perpetual Union of the United States.

Passed 28th April, 1786.

[For the text of the Act under the above title, see vol. i, part i, of this *Report on Boundaries (Sen. Doc., No. 108, 1873), p. 214.*]

[U. S. COMMISSIONERS TO N. Y. AND MASS. DELEGATES.]

Philadelphia June 7th 1786.

Gentlemen

When Congress honored us with a Commission for settling the boundary line between New York and Massachusetts, the time for executing the work was submitted to our Conveniency. We appointed the beginning of July as the only time in which Doctor Ewing could be spared from the University. But M^r Hutchins is ordered to the westward on the business of his department, so that there is no hope of his giving any assistance at that time, as he has appointed his deputies to meet him then at Pittsburgh. M^r Rittenhouse is also in a peculiar situation at that time, being obliged by an appointment of the State of Pensylvania to meet with Commissioners from the State of New York and Pensylvania to run the boundary Line between them and he must necessarily spend some time with them before he can give any assistance in the business to which he is appointed by Congress.

These circumstances render it necessary for Congress to appoint another Commissioner in the room of M^r Hutchins, who has it not in his power to attend to the business during this Summer; especially as the Laws of the above mentioned States require that at least two of the three Commissioners should be present at fixing the course of the line and extending it forward. In order to have the boundary line completed in the course of this summer, we would humbly propose to you, that Congress be moved to appoint M^r Robert Patterson professor of Mathematics in the university of Pensylvania, whose qualifications enable him to render the necessary assistance, and whose situation admits of his attendance at the time proposed: unless you should think of some other person, better qualified for the business, or more agreeable to the parties concerned, or unless you should be of Opinion that it would be better to defer the work till another season. We shall be obliged to you for the result of your determination on this subject as soon as you can convey it, together with what documents you may be

possessed of, for ascertaining the variation of the Magnetic Needle, at the time and place required. We have the honor to be

With the greatest respect

Gentlemen

Your Most Obedient and

Very humble Servants

(Signed) JOHN EWING
DAVID RITTENHOUSE
THOMAS HUTCHINS

The Honorable

The Delegates of

New York & Massachusetts.

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5741, vol. *xxi*.

[STATE OF MASSACHUSETTS.]

An Act empowering the Agents appointed by this Government, to defend the Territory on the West Side of *Hudson's* River, against the Claims of the State of *New-York*, to settle the Controversy relative thereto, otherwise than by a Federal Court, if they shall judge it Expedient.

[Passed *July 5*, 1786.]

WHEREAS it appears that the Legislature of New-York, have by their act empowered the Commissioners by them appointed for vindicating the right and jurisdiction of the State of New-York, against the claim of this Commonwealth, to settle the controversy, otherwise than by a Federal Court :

I. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the Agents or Commissioners appointed by this Government to defend the territory of this Commonwealth on the west side of *Hudson's* river against the claim of the State of *New-York*, or the major part of the said Agents or Commissioners, be, and they are hereby fully authorized and empowered to agree with the Agents or Commissioners of the State of *New-York*, and settle the controversy respecting the territory aforesaid, by a Federal Court, as appointed by virtue of the confederation, or otherwise, in such way and manner as they shall judge will comport with justice, and the interest of this Commonwealth.

—[*Mass. Perpetual Laws*, 1780-89, fo. ed., p. 391.

[STATES OF NEW YORK AND MASSACHUSETTS.]

Agreement entered into by the Commissioners appointed to settle the Controversy between the Commonwealth of *Massachusetts* and the State of *New-York*, respecting Lands lying westward of *Hudson's* River. [December 16, 1786.]

[For the text of the Agreement made under the above title, see vol. i, part i, of this *Report on Boundaries* (*Sen. Doc.*, No. 108, 1873), p. 216.

[STATE OF MASSACHUSETTS.]

An Act for granting further Time to the Commissioners, appointed by Congress, for completing the running of the Line of Jurisdiction, between the Commonwealth of *Massachusetts* and the State of *New-York*, on the Easterly Part of the State of *New-York*.

[Passed *March 1*, 1787.]

WHEREAS by virtue of an act, passed the twenty-ninth day of June, A. D. one thousand seven hundred and eighty-five, entitled "An Act, to authorize the United States in Congress assembled, to appoint Commissioners to compleat the running the line of jurisdiction between the Commonwealth of Massachusetts and the State of New-York, on the easterly part of the State of New York," the said United States in Congress assembled, did appoint Commissioners, "to run out, survey, mark and ascertain the said line of jurisdiction," who have not yet compleated the business of their appointment.

And whereas the time limited by the act aforesaid, for the Commissioners to compleat the said survey, and to make a return thereof into the Secretary's office, of the United States, will expire on the seventh day of March, 1787, and the business of their commission cannot be compleated within that time:

I. *Therefore be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the further term of one year from the seventh day of March A. D. one thousand seven hundred and eighty-seven, be, and hereby is allowed to the said Commissioners, to compleat the running the said line of jurisdiction between the Commonwealth of Massachusetts, and the State of New-York, on the easterly part of the State of New-York: And the said Commissioners shall, at or before the expiration of the said term, compleat the business of their commission, and make a true and exact return thereof into the Secretary's office of the United States, to be there filed, as a perpetual evidence of the said jurisdiction line.

—[*Mass. Perpetual Laws*, 1780-89, fo. ed., p. 390.

[GOVERNOR BOWDOIN TO GOVERNOR CLINTON.]

Boston, March 3^d 1787

Sir

I have the honour to enclose an Act of the Legislature of this State, by which your Excellency will observe, that the Commissioners appointed to compleat the running of the Jurisdiction-line between this Commonwealth & the State of New York, are allowed a further time for that purpose: viz^t a year from the seventh instant. If the Legislature of New York should think proper to pass a similar Act, the Massachusetts Delegates in Congress, in behalf of this Commonwealth will, in conjunction with any Gentlemen appointed on the part of New York, settle the necessary preliminaries; and write to the Commissioners at Philadelphia, requesting them to appoint a time for compleating that business.

Upon information of the time and place of meeting, I shall notify the Agents on our part to give a punctual attendance.

With the most perfect regard, I have the honour to be

Sir,

Your Excellency's

Most Obedient

Humble Servant

JAMES BOWDOIN

His Excellency

George Clinton Esq^r.—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5832, vol. xxi.

[JOINT RESOLUTIONS PASSED BY THE LEGISLATURE OF NEW YORK.]

February 19, 20, 1787.

Resolved, That in order to prevent any uneasiness which may arise in the minds of the Six Nations, from misrepresentations of the terms of the mutual agreement and act of cession lately executed between the Commissioners on the part of this State, and on the part of the Commonwealth of Massachusetts, relative to the land within this State, now held and occupied by the said Indians, it is necessary that the said agreement and act of cession be communicated and explained to them, as soon as may be.

Resolved, That his Excellency the Governor, make such communication and explanation in person, if necessary, or by such other person or persons as he shall appoint for the purpose; and that he transmit a copy of these resolutions to the Executive of the Commonwealth of Massachusetts, and express as the wish of this Legislature, that a similar communication should also be made on the part of the said Commonwealth, at such time and place, as shall be agreed on between their Excellencies

the Governor of this State, and the Governor of the Commonwealth of Massachusetts.

* * * *

—[*N. Y. Sen. Journal*, 1787, pp. 33, 35.

Boston March 15th 1787

Sir,

I am honoured by your Excellency's Letter of the 24th ultimo, which came to hand the seventh instant, accompanied with the Resolutions of the Legislature of the State of New York, for communicating to the six Nations the mutual cession of lands between this State and that.

I immediately by a message transmitted letter & resolutions to the Legislature of this State: But the pressure of other business, and their prior determination to close the Session within that week, occasioned them to refer the proposal of an interview with those Indians to the consideration of the next General Court: which will meet in the last week of May.

Had the Court thought proper at this time to have agreed to the proposal, and to request my attendauce upon the business, I should readily have undertaken it: and the more so, as in the transacting of it, I should have had the pleasure and advantage of being connected with your Excellency.

* * * *

I have the honour to be, with real esteem,
Sir, Your Excellency's

Most Obedient Humble Servant,

His Excellency George Clinton Esq^r

JAMES BOWDOIN.

—[*Clinton Papers (MS.)*, *N. Y. State Library*, No. 5840, vol. xxi.

1787.

NOTES ON THE MASSACHUSETTS LINE—EAST BOUNDS OF NEW YORK.

MASSACHUSETTS AND NEW YORK LINE.
By SIMEON DE WITT.

1787

15 July	Ferry Albany	0.. 0.. 9
	Moorus [?]	0.. 0.. 4
	Kinneys	0.. 2.. 6
16	Claverack	0.. 3.. 9
	Drink.....	0.. 1.. 2
		8.. 6

17 Compass Socket 0.. 2.. 6
 25 July rec^d of M^r Bancker for the Massachusetts Line business £ 178

In 1773 the Course N 21°. 10'. 30" E

The difference between the two Compasses 20' added = 20°. 50'. 30".

Variation since that time 2 ———

2

—11 July Set out from New York in Company with Mess^{rs} Rettenhouse Ewing Hutchins and Bancker on our way to run the Line between the States of New York & Massachusetts

— 13 — Landed at Redhook and took the Stage for Albany While the other gentlemen proceeded to the Oblong

— 15 — Left Albany on horseback.

— 16 — Arrived at Spencers which is about 6 mile Southerly from the N-W Corner of the Oblong and found the Gentlemen there —

In the afternoon M^r Edwards Joined

17 — Mess^{rs} Sedgwick and Williams arrived — —

18 Proceeded to the Corner of the Oblong

19 M^r Edwards and I went and fixed a flag at the Rock (Y) while M^r Sedgwick fixed one at the Pine Tree

General Schuyler arrives

The agents from Massachusetts insisted on deterring the variation from 1773 by the pine Tree which then pointed as they say N 20°. 30'. 30" E Which from observations now made they deduce a variation of more than 5' per year to which we object as contrary to all experiments — In consequence they propose to run 21' west of the Pine Tree and use N 20° 28'. 1787 July 20. Differing so widely the Commissioners objecting to the accuracy of M^r Banckers Compass recommend to run with the allowance of a variation at the rate of 3'. 05" per year and to

divide the difference between a great Circle and a curve arising from a supposed regular increase of Variation in proceeding northward. We propose to agree to this proposal and by a great circle to divide the space between a straight Line continued on such a Course and the magnetic Course. The proposal of the Massachusetts correspond on the same general principles. According to these proposals the matter stands thus. In the year 1773 the magnetic course was N 21° 10'.. 33" E 3'.. 5" per year for 14 & $\frac{2}{m}$ is..... 43. 41

The Course in July 1787..... 20.. 26.. 49

The observation on the Variation by Doctor Williams 1786,, 27 Sept 3 15' P M. N W Corner of Williamstown W near the supposed N W Corner of Massachusetts..... 5° 52' $\frac{1}{2}$
 1786, 30 Sept. 3,15 P M — N W Corner of Oblong..... 5. 03

Difference of Variation..... 0.. 49 $\frac{1}{2}$

July 21. On examining my Compass made by Benj. Rittenhouse we find that the Beginning of the Nonius on the North Limb is 12' too much to the West of consequence to Correct any Course between N & E or S & W a deduction of 12' must be made from the Expression of the Instrument & vice versa. This day we made observations on the variation of the needle in the morning at about 6 o Clock my compass gave a Corrected Variation of exactly 5°. and increased gradually as the heat of the day increased. And at 3 oClock gave 5°. 23' Doctor William's Variation Compass gave in the morning at the same time 4°. 51' and at 3 o Clock 5'.. 08" = Diff. 0.. 17' The difference in daily variation between the two Instruments is supposed to arise from the greater influence of heat on my Compass the needle of which is proportionately less. Observations were continued till 7 ° Clock P M when my Compass returned to 5°.. 11' and Doctor William's to 4°.. 56' —

Observations on the Variation by Doctor Williams M^r Bancker & myself 21 July 1787—

D ^r Williams Instrument		My Compass
h	Ther	Corrected
6	0—	4° 51' 5° 12 5.. 0
10	76	4.. 57
11	76	4.. 59
12	86	5.. 05½
1	83	5.. 6
3	78	5.. 8
4	77	5.. 4
5	74	5.. 1
6	72	5.. 57
7	68	5.. 56
10 50.. 04		
5.. 00½		5.. 15

The Latitude taken at the N W Corner of the Oblong by the Commissioners with a small Quadrant at two Observations— 42°. 03'

Latitude at Connecticut River observed by M^r. Wright on the North bounds of Massachusetts 42°.. 43'.. 59"

Difference 0°.. 41"

92

82

369

3772 Chains

15°. 26'.

9.4410222

3.5765717

3.0175939

[Erased in original MS., and rewritten with changes, as below.]

"C," "6," or "b." [?]

9.9840503

[MS. doubtful.]

3.5765717

80

3913 = 3.5925219¹ = 3913 Ch^a

48.. 73

83. miles & 73 Ch^a the Length of the Line from the Latitudes & Course supposing the Variation now 5°—

[The original MS. contains a diagram, consisting of sundry triangles, curves and courses.]

¹ There seems to be an error in this result. — [P.]

The Difference of Variation at the two extremes $49'. 30''$ to which add the inclination of the true meridians found — $11'. 30''$ gives $1^\circ. 01'$. the half of which $30'. 30''$ gives the angle to the extreme point of the magnetic curve $\frac{2}{3}$ of which i. e. $20'. 20''$ cuts of a space equivalent & $\frac{2}{3}$ of $5'. 45'' = 3'. 50''$ Cut of a space equivalent to the Rhumb. Wherefore $20'. 20'' - 3'. 50'' = 16. 30 =$ to the angle comprehending a space equal to that between the Rhumb & Magnetic Curve one half of which, $8'. 15'' + 5'. 45'' = 14'$ is the angle required —

The course in 1773.....	N 21. 10'. 30" E
Ded 3'. 5" per year for $14\frac{1}{8}$	43.. 41
	20.. 26.. 49
Deduct the equivalent angle	14..

Magnetic course to be run.....	N 20.. 12.. 49 E
as Rad	
to — sine $14'$ —	7.6098530
So is —	3772 3.5765717

$= 15.. 36 = 1.1864247$ The difference between a great circle on the Course agreed on in 1773 & the one agreed on finally

These calculations are $3'. 40''$ different from M^r Rittenhouse's & Ewing's owing to taking the distance different

γ Cephei 1780	
	var in 10 year
A : R	11.. 22. 36'.. 59".9 + 5'.. 54".2
Dec	76.. 24.. 7. 0 + 3.. 18. 7
Pol. Dist.	13.. 35.. 53. 0 — 2.. 29. for $7\frac{1}{2}$ years
	— 2.. 29
P. D —	13.. 33.. 24. 0 for July 1787
Aberr —	+ 14. for July 22
	13.. 33.. 38 Corrected
Nutation	— 6
P. D Corrected	13.. 33.. 32 [Small diagram in original MS.]
as Sine Colat.	$47^\circ. 57'$ — 9.8707319
To S. Pol. Dis	13.. 33. 32" 9.3701449
So is Rad	—————
To Sine	18° 24'.. 33" 9.4994130

The angle made by γ Cephei at its greatest elongation with the Meridian

July 21st Executed the agreement according to the recommendation from the Commissioners — M^r Edwards & Sedgwick Leave us —

July 22^d The Commissioners Employ themselves in Making Observations on the Present Variation and fix the Course on the following principles

Variation of M^r De Witt's Compass

at 7 A M.....	5° 1
10, 30'	5. 12
7 P M	5. 9

5. 7½ Mean

Same day by Doctor William's Var. Instrument

7. 10 A M.....	4.. 51
10. 50	5.. 5
7 P M	5.. 0

4.. 58⅔ Mean

Mean by M ^r De Witt's Compass	5° 7½
--	-------

Mean by Doctor Williams's	4.. 58⅔
---------------------------	---------

Mean of both adopted	<u>5.. 03</u>
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Var. for 14.7 2 ^m at 3' 5" per year	0° 43'.. 41"
--	--------------

	<u>5.. 46.. 41</u>
--	--------------------

Angle by agreement in 1773	21.. 10.. 30
----------------------------	--------------

Angle of the Rhumb at present	15.. 23.. 49
-------------------------------	--------------

Subt. for the Course of the great Circle to divide the Space between the Rhumb & a circle formed by the continual increasing variation as we proceed	0.. 11.. 40
--	-------------

Angle of the Course to be run.....	15.. 12.. 9
------------------------------------	-------------

[Another diagram in original MS.]

To find the proportion between the triangle A B C and the Contents between the Curve A B and Tangent A C — The series expressing the Contents of the Triangle A B C will be 1 + 3 + 5 + 7 + 9 &c and A E C three times that which is $\frac{3+9+15+21+27}{3+3+6+9+6+15} = 6 \times 1\frac{1}{2}$

The series expressing the contents of the Curve will be a series compounded of

$$1 + 3 + 5 + 7 + 9 + 11 + 13 \text{ \&c beginning at } A = A B C \text{ \&c}$$

$$2 + 6 + 10 + 14 + 18 + 22 = G D B \text{ \&c}$$

$$2 + 6 + 10 + 14 + 18 = H E D \text{ \&c}$$

$$2 + 6 + 10 + 14$$

$$2 + 6 + 10$$

$$2 + 6$$

$$2$$

$$1 + 5 + 13 + 25 + 41 + 61 + 85 = A G H E C$$

$$4.. \quad 8.. \quad 12.. \quad 16.. \quad 20.. \quad 24 \quad \text{\&c}$$

$$4 \quad 4 \quad 4 \quad 4 \quad 4 \quad \text{\&c}$$

July 24th fixed up the Transit Instrument on the Top of Elk Hill made a monument of a heap of Stones round the Instrument post and about 40 yards forward marked a Rock where it descends steep to the West \overline{W} fixed a flag on the view on Cedar Mountain and Removed $\overline{N Y}$

the Instrument — returned to M^r Spoor's to which we moved from Close's in the morning —

July 23 The Commissioners were employed in measuring off the angle from the Azimuth of γ Cephei — Doctor Ewing and I with Kline for a guide went to the Top of Elk Hill and fixed a Flag by Signals from the Telescope When we came to Raie's it showered very hard — for the next day see above

[In margin] a Stake & Stones on Cedar Hill by Klyn & young Williams

July 25 Went to the Top of the Hill next to Cedar Hill called dug-way Hill marked on a Rock just East of the Line \overline{W} and fixed a flagg on the next Hill — Rained all afternoon, General Schuyler left us in the Morn

July 26 Set up the Transit on the next Hill round the post a heap of Stones 18 y^ds forward marked a Rock $\frac{\overline{W}}{\overline{N Y}}$ 2 Ch west of a heap of Stones of 1773 & ordered a Monument back near the road by Klyne & others from a back sight

July 26 Set up the Instrument on the next High Hill called Gelder Mountain and some distance South of it marked a Rock \overline{Y} here we were fifty or forty yards East of the old Line run in 1773 Ewing and Edwards fix up a flag in Dan^l Loomis's Cornfield — Moved our quarters to David Ostrom s —

July 27 Fixed a flag in the field on the north side of a Road from Barrington to Kinderhook about 20 or thirty Chains from it. The Line

goes just East of John Whitten whom Mr Bancker in his notes calls Daniel Griffith's house 14^m 4^{ch} Fixed a flag up near Grippin's on the East side of the Road in a Wheat field about 15 $\frac{1}{4}$ miles — Mr Rittenhouse brought the Instrument from Gilder Mountain and fixed up here Doctor Ewing and Mr Edwards fix the flag on Indian Mount

July 28 Moved to Shirrils in Richmond Rained all day —

July 29 Went to Stockbridge ab^t 8 miles S. E. Doctor Ewing preached A & P M. Lodged at Mr Sedgwicks —

July 30 Went to the top of Indian Mountain fixed the Instrument 19^m 5 Ch by Banker's measure Cut a vista to See forward and fixed a flag at Joseph Rowley's about 3 or 4 miles forward on the East side of the Road by Doctor Ewing and Mr Edwards about 15 Ch East of Messengers — on the mountain we were about 15 yards East of Bankers Vista

July 31 took a ride with Capt - Lovel to the Springs — The Commissioners fix a Station on the High Hill at the N W Corner of Richmond and cut a Vista

Aug^t 1 Went with Mr Rittenhouse to the top of the Last mentioned hill Dr Ewing fixing a flag beyond Waddams Some distance north of the pool a Vista. Went with Mr Edwards to Round's Hill about 5 or 6 miles north of the Pool and fixed a flag — Lodge at the Pool

Aug^t 2 Moved to Gardners Tr. post on Round Hill

.... 3 Went to the next Hill about four mile forward cut a Vista From Here We saw the Vistas on Round Hill Richmond Hill and Indian Mountain

Aug 4 Moved to Sloans where we continued till the 15th and completed the Line to the north bounds of Massachusetts as shewn to us by the Inhabitants of Williams Town marked for a Corner a large Oak Tree with Stones round it on the west side N Y on the East ¹⁷⁸⁷ M

15 We all parted Doctor Ewing Mr Rittenhouse Edwards and Williams went back to Hutchins thence to proceed Homewards — I went on to Albany with the Instruments

16 Met Capt. Fleming on the Road and lodged with him at Tobias's Tavern

16 Arrived at Albany and put the Instruments on board of Lansings Sloop

[The following memoranda occur at the end of the above *Field Book*, No. 40:]

In May 1773 The Course Agreed upon for the Line between New York & Massachusetts — N 21° 10' 30"

Mr Bankers & Millers Compass differed 40.' The mean by Mr Bankers Compass was taken at 21° 30' 30." On which Course they run

The first proposition by N York in 1784 was 20° 42', which omitting

seconds was 28" in Eleven years This was 2' 21" &c This was deduced from Winthrops observations. And found from Examining the first monument with the Compass but adding the 20' allowed for the difference of the Compasses make 48" in Eleven Years *i. e.* 4' 21" but this differing too much from Common observation shews some alteration in the Instrument or in accuracy in the observations

*	*	*	*
Pole Stars greatest elongation at Spencer 6 mile Southerly from the Corner of the Oblong			
17 July 1787 —		8° 15'	
The bearing of the pole Star Lat 42° 2 28		5" 47	

Supposing the difference of the variation at the lower and upper end of the line to be 46' — — and the length 50 mile or 4000 ch.

4000 —	3.6020600
Tang. 23' —	7.8254604
Ch.	1.4275204
28. 76	

Several diagrams and computations also occur in addition to the foregoing memoranda.

—[*Field Book No. 40, in N. Y. State Engineer and Surveyor's Office, pp. 1-50.*

A PLAN OF

The Boundary Line between the States of Massachusetts and New York beginning at the N. W. corner of the oblong in or about Latitude $42^{\circ} 3'$, thence N. $15^{\circ} 12' 9''$ E, to the Northern boundary of the Massachusetts in about the Latitude $42^{\circ} 44'$.

(Signed)

THO HUTCHINS.

This copy was obtained by me from the original at Washington when I compiled the map of the State — at my own Expense

S. DEWITT

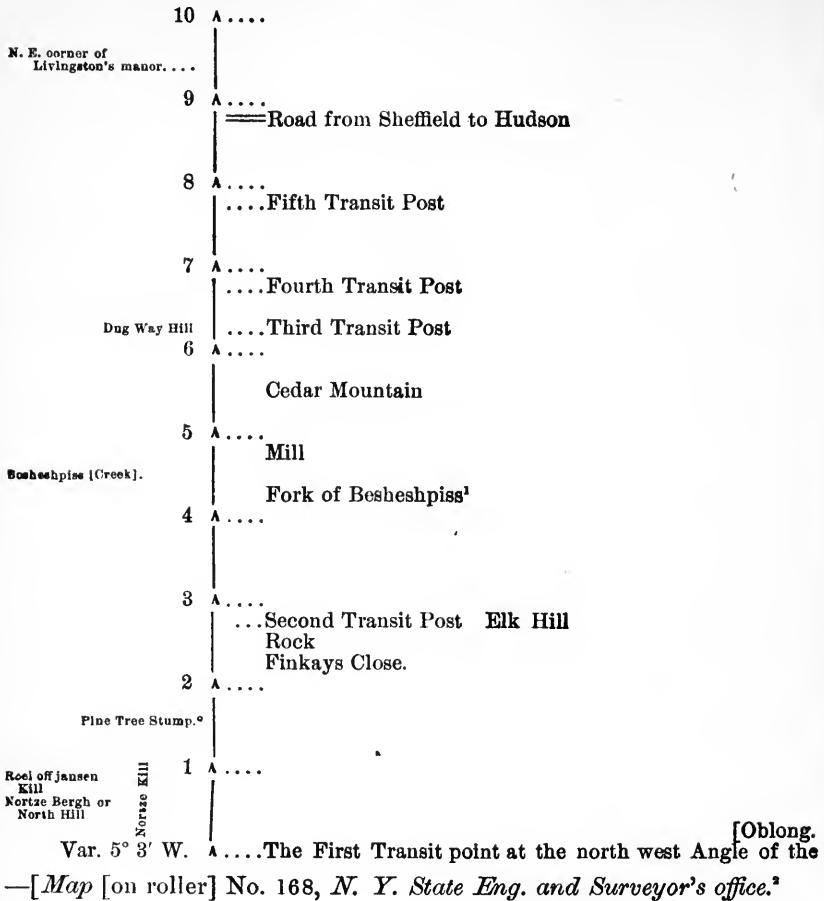
At the End of the Line which is 50 Miles 41 Chains and 79 Links from the N. W. angle of the Oblong or Equivalent land, is a Red or Black Oak Tree $3\frac{1}{2}$ feet diameter marked on the West Side N. Y. on the East Sid M. S. and on the Side next the Line 1787.

	[North End of Line.]	
	A	The Head of this Spring from its intersection with the
[Spring.]		line bears N. 60° W. 3 chains 50 links
[Miles.]	50 A	A Post and Stones on a descent from which a maple
		tree 2 feet 8 inches diameter *
	 17th Transit Post on the East Side of a small Eminence
	 16 Transit Post on the East Side of a Small Eminence
	49 A	A post and Stones on the East side of an Eminence, from
		this Post a maple Tree 10 Inches diameter blazed on
		the west Side bears N. 85° E 10 Links. there is a
		Spring in the same direction 9 links further.
	48 A	A Post near the bottom of the north descent of a Hill
		from which a Birch tree 3 feet Diameter blazed on the
		west Side bears N. 58° E. 30 Links
	47 A	A Post on a Steep part of the north descent of a Hill
		from which a Hemlock 2 feet thick blazed on the west
		bears N. 68° E 10 Links
	 15 Transit Post on the east Side of a gradual eminence
	46 A	A Post and Stones on the west side of a steep High
		Eminence
	45 A	A Post and Stones at the South foot of an Eminence
		from which a maple Tree 2 feet diameter blazed on
		the west side bears east 4 links.
	44 A	A Stake and Stones on the East side of an eminence
	 14 Transit Post on the top of a Hill supported by large
		Stones
	43 A	A Stake and Stones on the west side of an eminence
		from which a Beech tree 8 Diameter blazed on the
		west side bears S. 17° . E

* (Note by the copyist: this seems to be incompletely expressed.)

- [42] A . . . Thirteenth Transit Post on the East side of an eminence
- 41 A . . . A Beech Tree 9 inches diameter marked 41 & an m above it on the north side, two links west of the line . . . Twelfth Transit Post on mount misery
- 40 A . . . A Post on the East side of an Eminence the foot of which is about 5 chains east a Beech tree 20 inches diameter blazed on the east side bears n. 45° w. 16 links from the Post.
- 39 A . . . A Stake and Stones in William Keetch's field.
- [38] A . . . A Stake and Stones on the South Side of a high Steep Eminence in Thomas Eldredge's Field
 . . . Eleventh Transit Post on Round's mountain
- 37 A . . . Stake and Stones in the vista cut by the Commissioners
- 36 A . . . A Stake Stones in Daniel Brown's field
 A white Lime Stone rock on the east side of an eminence
- 35 A . . . A Post
- 34 A . . . Post on the west side of a Hill
 [Post and Stones
- 33 A . . . South East angle of Van Renselaer's manor, here fixed a
 A Post and Stones
 Noah Wheaton's.
 A Fence in the woods
- 32 A . . . A Post and Stones
 . . . Tenth Transit Post on the top of a Hill
 John Waddam's House & orchard
- 31 A . . . A Post and Stones on top of an ascent in a field
 Samuel Hand's
- Lebanon Spring
- 30 A . . . A Stake and Stones on a High eminence
 A Barn
- Presbyterian church
- Shaking Quaker's meeting House
- 29 A . . . A Stake and Stones on the S. W. descent of a Hill
- 28 A . . . A Stake on the north descent of a Hill
- 27 A . . . Ninth Transit Post on Richmond mountain

- 26 A A Stake & Stones in a Field
- A Dry oak Stump in the Line
- Dupee's Barn [the line
- A maple tree 15 inches diameter with the east side in
- 25 A A chesnut Post on level land covered with woods
- A mirey place.
- 24 A A Stake and Stones at the east foot of an ascent
- Eighth Transit Post in Joseph Rowley's field
- 23 A A Stake and Stones in Joseph Rowley's field
- A Barn 40 links east of the Line
- 22 A A Stake and stones on the west side of a Hill
- 21 A A Stake and Stones in a meadow
- Sam! Hartlewis's Hills Dale
- 20 A A Stake and Stones in Benjamin Newberrie's field
- Seventh Transit on Indian Mountain
- 19 A A Stake and Stones on the top of the steepest part of an ascent
- 18 A A Stake and Stones on the side of a Hill
- A Stake and Stones in Daniel Trimmonds field.
- 17 A A Stake and Stones
- 16 A A Stake & Stones
- Sixth Transit Post
- 15 A Stake and Stones in Crippens field
- Stake and Stones in Whitter's Field
- == The New Albany Road
- 14 A
- 18 A
- 13 A
- == Old Albany Road
- 11 A A pond



[GOVERNOR CLINTON TO THE LEGISLATURE.]

Poughkeepsie, 11th Jan, 1788.

Gentlemen of the Senate and Assembly,

* * * *

It gives me great pleasure to inform you that the jurisdiction line between the Commonwealth of Massachusetts and this State, which has been so long a subject of controversy, and attended with much inconvenience and distress to the borderers, is at length finally adjusted; and that the boundary line between this State and the Commonwealth of Pennsylvania, is also compleated. The reports of the Commissioners

¹ This seems to be the modern "Bashbish."

² This Map, in addition to the matter represented as above, indicates, by topographical signs, the prominent features of the country along the line.—[P.

employed in these respective transactions, accompanied with Maps of the Lines will be delivered to you in order that the proper directions may be given for their authentication and deposit, and for the final liquidation and settlement of the expences which have attended these services.

* * * *

GEORGE CLINTON.

[IN N. Y. SENATE.]

Ordered, That his Excellency's Speech, with the papers accompanying the same, be committed to a committee of the whole.

* * * *

—[*N. Y. Sen. Journal*, 11th Session, 1788, p. 4.

January 12, 1788,

* * * *

Mr. Haring, from the committee of the whole, to whom was referred his Excellency's Speech, with the papers accompanying the same, reported, that it was the opinion of the committee, that a committee be appointed on the part of the Senate, to join with such committee as the Honorable the Assembly may appoint, to attend to the authentication of, and to deposit in the office of the Secretary of this State, the reports and proceedings of the several boards of Commissioners, appointed to adjust and run out the boundary and jurisdiction lines between this State and the Commonwealth of Massachusetts, and between this State and the Commonwealth of Pennsylvania.

* * * *

Resolved, (If the Honorable the Assembly concur herein) that a committee be appointed on the part of the Senate, to join with such committee as the Honorable the Assembly may appoint, to attend to the authentication of, and to deposit in the office of the Secretary of this State, the reports and proceedings of the several boards of Commissioners, appointed to adjust and run out the boundary and jurisdiction lines between this State and the Commonwealth of Massachusetts, and between this State and the Commonwealth of Pennsylvania; and that in case of such concurrence, Mr. Haring and Vanderbilt, be a committee for this purpose on the part of the Senate.

* * * *

January 14, 1788.

* * * *

A message from the Honorable the Assembly, by Mr. Wynant, was received with a resolution, concurring with the Senate in their resolution

of the 12th instant, * * and appointing Mr. Tillotson, Mr. Verplanck and Mr. Jones, a committee for the purpose, on the part of that Honorable House.

* * * *

January 26, 1788.

* * * *

The answer of the Senate to his Excellency's Speech [of the 11th inst.]

* * * *

SIR,

* * * *

We contemplate with real pleasure the advantages which must necessarily result from a final adjustment of the jurisdiction lines between this State and the Commonwealths of Massachusetts and Pennsylvania. Measures have already been adopted for the authentication and deposit of the reports and proceedings of the Commissioners who have been engaged in that important transaction, and provision will be made for liquidating and discharging the expences which have accrued in those services.

* * * *

—[*Senate Journal*, 11th Sess., 1788, pp. 5, 6, 7, 15.]

[IN N. Y. ASSEMBLY.]

January 26, 1788.

* * * *

The respectful address of the Assembly, in answer to his Excellency's speech [of the 11th inst.]

* * * *

With peculiar pleasure we receive from your Excellency, the information that the several boundary lines between this State, and the respective Commonwealths of Massachusetts and Pennsylvania, are finally adjusted and completed. The communities interested, are now wholly relieved from apprehensions of the evils incident to controverted territory or jurisdiction: And we shall make the requisite provisions for authenticating and preserving the reports of the Commissioners, and other documents of these transactions, and for defraying whatever expences may have arisen in these beneficial services.

* * * *

—[*Assem. Journal*, 11th Session, 1788, p. 41.]

[IN U. S. CONGRESS.]

February 1, 1788.

* * * *

The commissioners appointed on the 2d December, 1785, to run a line of jurisdiction between the states of Massachusetts and New-York, reported that they have executed that business, accompanying their report with a draft of the line run, and their field notes.¹

—[*Journals of Congress*, iv, 807.

THE "BOSTON CORNER."

[COMMONWEALTH OF MASSACHUSETTS. 1853.]

Chap. 340 An Act relating to the Separation of the District of Boston Corner from this Commonwealth, and the cession of the same to the State of New York.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECT. 1. Sovereignty and jurisdiction over that portion of the territory of this commonwealth, known as the District of Boston Corner,—situate in the south-westerly corner of this commonwealth, and westerly of the south-west line of the town of Mount Washington, in the county of Berkshire,—is hereby ceded to the State of New York; with all the powers, privileges, rights and jurisdiction, now exercised over the same by this commonwealth; subject, however, to the provisions hereinafter expressed; and *provided*, this act shall not take effect until the congress of the United States shall consent to such cession and annexation, and until the State of New York shall, by an act for that purpose, accept the jurisdiction of the territory hereby proposed to be transferred, * * * *

SECT. 2. For the better defining the limits and extent of the territory above mentioned, his excellency, the governor of this commonwealth, shall appoint a suitable person to act in conjunction with proper

¹ After much search in the office of the N. Y. Secretary of State, no record appears of the final reports and proceedings relative to the Massachusetts line, mentioned in the foregoing joint resolution of January 12, 1788. As the U. S. Commissioners who established the Massachusetts line were to "make a true and exact return into the Secretary's office of the United States in Congress assembled," application has been made to the Department of State, at Washington, — to which it is presumed the official records of Congress at that period were subsequently transferred, — for a copy of such "return;" but up to the time of printing these pages, no response to the application has been received.—[P.

For Assist. Sec'y Hunter's subsequent answer (Nov. 16, 1878), see Appendix.—[P.

authorities of the State of New York, who shall forthwith cause an accurate survey and map to be made of the said territory, and shall cause sufficient monuments to be erected in and along the eastern boundary line of said territory, and shall cause the said map and survey to be duly authenticated and filed in the office of the secretary of this commonwealth, as record evidence of the extent and limits of said grant. But no part of the expense of such survey shall be borne by this commonwealth.

SECT. 3. Whenever the governor of this commonwealth for the time being, shall receive official notice of such consent of the congress of the United States, and the acceptance of the cession aforesaid by the legislature of the State of New York, he shall issue a proclamation declaring the said district of Boston Corner to be a part of the State of New York. [*Approved by the Governor, May 14, 1853.*]

— [*Mass. Acts and Resolves, 1853, p. 564.*]

[STATE OF NEW YORK.]

Chap. 586.

AN ACT *accepting the Sovereignty and jurisdiction over a certain portion of territory of the commonwealth of Massachusetts, ceded to the State of New-York upon certain conditions by said commonwealth in 1853.*

Passed July 21, 1853.

[For the text of the act bearing title as above, see vol. i, part i, of this *Report on Boundaries (Sen. Doc., 1873, No. 108), pp. 239, 240.*]

[COMMISSION.]

The People of the State of New York,

By the grace of God free and independent.

To all to Whom these Presents shall Come, GREETING:

KNOW YE, That WE have nominated, constituted and appointed, and by these presents DO nominate, constitute and appoint RUSSELL G. DORR, of Hillsdale, in our county of Columbia, a Commissioner on the part of this State, to carry out the provisions of an act passed July 21, 1853, entitled "An Act accepting the sovereignty and jurisdiction over a certain portion of territory of the Commonwealth of Massachusetts, ceded to the State of New York upon certain conditions by said Commonwealth in 1853," hereby giving and granting unto him all and singular the powers and authorities to the said office by law belonging or appertaining: TO HAVE AND TO HOLD the said office, together with the fees, profits and

advantages to the same belonging, for and during the time limited by the Constitution and Laws of our said State.

IN TESTIMONY WHEREOF, We have caused these our Letters to be made Patent, and the Great Seal of our said State to be hereunto
L. S. affixed. *Witness*, Horatio Seymour, Governor of our said State, at our City of Albany, the eleventh day of August, in the year of our Lord one thousand eight hundred and fifty-three.

HORATIO SEYMOUR.

Attested by

HENRY S. RANDALL, *Secretary of State*.

—[*Commissions by the Governor, in Office of Sec'y of State, ii, 339.*]

[RECORDS UPON "A MAP OF A SURVEY OF BOSTON CORNER."]

1853.

Made under the direction of John Z. Goodrich and Russell G. Dorr Commissioners appointed by the States of Massachusetts and New York respectively. And the said Commissioners hereby Certify to its correctness, and to the establishment of the lines as therein designated

J. Z. GOODRICH of Mass

R. G. DORR of New York

Beginning at a heap of stones piled about 4 feet high and about 5 feet in diameter at the base lying in a small valley at the western foot of one of the highest peaks of the Taconic mountains and N Westerly from two fish lakes lying in a greater valley in Salisbury (known as the Connecticut monument) standing in the South Boundary line of Massachusetts and the north west corner of Connecticut and north east corner of Dutchess county, which monument was established by Commissioners in 1731 — Run thence along the south bounds of Massachusetts in a direct line to the North West corner of the "Oblong" or "Equivalent Lands" and monument established by U. S. Commissioners in 1787, and at which stands a marble post. At the distance of 0.87 passed over the Eastern Edge of a small ledge, dist 9.10. passed centre of Ryan Bush Road, dist 16.83 passed 0.40 links south of a small knob or ledge at the foot of the eastern slope of Western mt Dist 25.60 came to eastern water edge of a small pond near the top of the West mt Dis 26.25 to Western Water Edge passing it near the N. end, Dis 29.92 passed through a cleft in a boulder lying on the top of the Mt about 5 feet high. Dis. 30.51 reached the extreme height of the Western Range. took observation and found this line to range by the magnetic needle N

81°. 44'. 56" W. At this point caused to be placed in the rock at a permanent depth an iron bar about $1\frac{1}{2}$ inches in diameter and one foot long. Iron pin on the Alandar Mt hereinafter referred to bears N 7°. 58'. 56" W. At the distance of 40 chains or "One hundred and Sixty Rods" established the S. E. corner of Boston corner and placed a marble post marked on the S & W sides "N Y" on the E side "MS" and on the N side "1853." Thence to the eastern line of New York in the direction of "the Grant line" by the true meridian N 12°. 57'. 16" W 207.49.¹ On this line Dist 199.98 reached the brow of the Alander Mt at the centre Knob and at the head of "Blancher Hollow" having the appearance from the South of a fortress and which from that circumstance has been named "Fort Division." Dist 200.19 on the top of the mountain caused to be placed an iron pin similar to the one before described. At the State line placed a marble Post marked on the East side "MS" on the west side "N. Y" and on the south side "1853." No certain Boundary is known on this line nearer than the one upon the brow of Cedar mountain erected by the U S. commissioners in 1787 about $2\frac{1}{2}$ miles northerly. This point in the State line was determined by running a direct line from that Monument to the one at the North West corner of the "Oblong" and South West corner of Massachusetts. Dist in the East line 93.60 southerly from this point at the "Roberts Road" placed a Marble post marked on the East side "MS" on the West "N Y" and on the south "J T H" thence on the old state line to N W corner of "oblong" S 15° 12' 09" W 207.95⁵. Dist 127.85 came to stone wall over the brook known as "Roberts Run" on the west side of road at the foot of the Mt. This point is the angle of fence and on line of fence in improved fields and known as the line since run in 1787 Thence to the place of beginning S 89°. 08'. 41" E 101.06 to the Marble Post at S. E angle. Dist 62.00 came to the foot of the Mt At the N W corner of the "Oblong" the Magnetic needle indicated the West line at N 22°. 51'. 09" E. and the South line at S. 81°. 29'. 41" E. The needle varies much at different points on the survey occasioned probably by large deposits of Iron ore in and along the sides of the mountain. — The same line run by the needle will be run in as many directions as the places selected for the location of the Compass. The angles in the above survey were taken with a Theodolite, and the variation given in the map is the one ascertained at the N W corner of the "Oblong."

¹ This course and distance is the new portion of the State boundary line, as established in connection with the cession of the Boston Corner. The point of intersection of this line with the original one of 1788, seems to be near the site of the second transit post, shown in the foregoing "Plan of the Line," p. 216, being 207.98⁵ chains, or a little more than $2\frac{1}{2}$ miles from the south end of the original line.—[P.

The measurements given are horizontal and those of the boundary lines were ascertained by careful angulation.

N B. The South line of survey and North line of Dutchess County is North of West and not South as recited in the "N Y Statutes." The East State line is given in the same Statute as the needle pointed in 1787, whereas it was given by the Commissioners according to the true Meridian. The survey of 1731 was doubtless affected by local attraction, and as no place was given at which the compass was placed, it is impossible to run the line except by the monuments then established
Dec 20th 1853

JN^o. T HOGEBOOM
Surveyor.

Filed Nov. 29, 1854.

E. W. LEAVENWORTH

Secretary of State

Area 1018. 134028 acres.

[Size of Map, 30 x 35 inches. No scale given.]

—[*Portfolio Map No. 376, in office of N. Y. Sec'y of State.*

[IN U. S. CONGRESS.]

January 3, 1855.

Whereas, * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the Congress of the United States be, and the same is hereby, given to said cession and annexation.

—[*U. S. Statutes at Large*, x, 602.

The concluding formality in the cession of the Boston Corner, was the proclamation by the Governor of Massachusetts, required by the statutes of both States, which was made January 11, 1855, as ascertained by reference to the records in the office of the Secretary of the Commonwealth of Massachusetts.

The STATE OF NEW YORK, In Account Current with GERARD BANCKER, Treasurer.

Dr.

	*	*	*	*
1785. To cash, paid the Commissioners for managing the Massachusetts controversy, respecting the Western territory				£ s. d. 880 10 6
1786. To ditto, paid [as above]				772 10 8
	*	*	*	*
To ditto, to the Pennsylvania line Commissioners				1,000 0 0
	*	*	*	*
To ditto, to the Pennsylvania line Commissioners,				924 8 1
	*	*	*	*
To ditto, to the Commissioners for running the Massachusetts line,				500 0 0
—[<i>Assembly Journal</i> , 11th session, 1788, pp. 18, 20, 22.				
1788. To Commissioners for running the Pennsylvania line,				£2,111 18 6
Commissioners for running the Massachusetts line,				275 10
—[<i>Idem</i> , 12th session, 1788–9, p. 56.				
1789. Paid Commissioners for managing the contro- versy with Massachusetts, respecting the western territory,				£1,357 16 10
—[<i>Idem</i> , 13th session, 2d meeting, 1790, p. 8.				

CHAP. 539.

AN ACT to provide for certain Expenses of Government.

Passed April 14, 1855.

	*	*	*	*
§ 1. The treasurer shall pay *				*
	*	*	*	*

To Russell G. Dorr, for his services, expenses, and disbursements, as commissioner of this State, pursuant to section three, chapter five hundred and eighty-six, laws of eighteen hundred and fifty-three, relating to Boston Corners, seven hundred and ninety-six dollars and eighty cents.

* * *

—[*N. Y. Laws*, 1855, p. 1015.

DETERMINATION OF THE NEW YORK AND CONNECTICUT
JOINT BOUNDARY LINE.

ARTICLES OF AGREEMENT

Made and concluded at Hartford, upon Conecticott, Sept. 19, 1650, betwixt the delegates of the Honored Commissioners of the United English Colonies, and the delegates of Peter Stuyvesant, Governor-general of New Netherland.

* * * *

Concerning the Bounds and Limits betwixt the English United Colonies and the Dutch Province of New Netherland, We agree and determine as followeth :—

Firstly, That upon Long Island a line run from the westernmost part of Oyster Bay, so, and in a straight and direct line, to the sea, shall be the bounds betwixt the English and Dutch there; the easterly part to belong to the English, the westernmost part to the Dutch.

Secondly, The bounds upon the main to begin at the west side of Greenwich Bay, being about four miles from Stamford, and so to run a northerly line twenty miles up into the country, and after as it shall be agreed by the two governments, of the Dutch and of New Haven, provided the said line come not within ten miles of Hudson River; and it is agreed that the Dutch shall not at any time hereafter build any house or habitation within six miles of the said line. The inhabitants of Greenwich to remain, till further consideration thereof be had, under the government of the Dutch.

Thirdly, That the Dutch shall hold and enjoy all the lands in Hartford that they are actually possessed of, known or set out by certain marks and bounds, and all the remainder of the said land on both sides Conecticott River to be and remain to the English there.

And it is agreed that the aforesaid bounds and limits, both upon the Island and Main, shall be observed and kept inviolate both by the English of the United Colonies, and all the nation, without any encroachment or molestation, until a full and final determination be agreed upon in Europe, by the mutual consent of the two States of England and Holland.

* * * *

And in testimony of our joynt consent to the several foregoing conclusions, we have hereunto set our hands this 19th day of September, Anno Dom. 1650.¹

SYMON BRADSTREET,
THOMAS PRINCE,

THOMAS WILLETT,
GEORGE BAXTER.

—[*O' Callaghan's New Netherland*, ii, 151, 153.

[SELECT MEN TO MR. VAN DER DONCK.]

November 26, 1650.

* * Instead of Dutchmen the Governor of New Netherland named Mr. Willet and George Baxter, two Englishmen. * *

—[*N. Y. Col. Doc.*, i, 460.

The Charter granted to the Colony of CONNECTICUT, by King CHARLES II., in the Fourteenth Year of his Reign.

CHARLES the Second, by the grace of God, &c.

* * * * *

And know ye further, that we, of our more abundant grace, certain knowledge, and mere motion, have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said governor and company, and their successors, all that part of our dominions in New-England in America, bounded on the East by the Narrogancett River, commonly called Narrogancett Bay, where the said river falleth into the sea, and on the North by the line of the Massachusetts plantation, and on the South by the sea, and in longitude, as the line of the Massachusetts colony running from East to West, (that is to say) from the said Narrogancett Bay, on the East, to the South Sea, on the West part, with the islands thereunto adjoining, together with all the firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines, minerals, precious stones, quarries, and all and singular commodities, jurisdictions, royalties, privileges, franchises, preeminencies, and hereditaments whatsoever, within the said tract, bounds, lands, and islands aforesaid, or to them, or any of them belonging. To have and to hold the same, unto the said governor and company, their successor, and assigns, for ever, upon trust, and for the use and benefit of themselves, and their associates, freemen of the

¹ In April and September, 1655, five years after the conclusion of the Hartford treaty, the Directors express their surprise, that they had never been furnished with a copy of that document, and their apprehensions that discussions only had passed instead of a contract. Alb. Rec., iv, 177, 198.

—[*O'Call. N. Neth.*, ii, 156.

said colony, their heirs and assigns; to be holden of us, our heirs and successors, as of our manor of East Greenwich, in free and common soccage, and not *in capite*, nor by knights service; Yielding and paying therefore to us, our heirs and successors, only the fifth part of all the ore of gold and silver, which from time to time and all times hereafter, shall be there gotten, had or obtained, in lieu of all services, duties and demands whatsoever, to be to us, our heirs or successors, therefore or thereout rendered, made, or paid. And lastly, we do for us, our heirs and successors, grant to the said governor and company, and their successors, by these presents, that these our letters patents shall be firm, good, and effectual in the law, to all intents, constructions and purposes whatsoever, according to our true intent and meaning herein before declared, as shall be construed, reputed, and adjudged most favourable on the behalf, and for the best benefit and behoof of the said governor and company, and their successors, although express mention, &c. In witness, &c. Witness the King, at Westminster, the three and twentieth day of April, [1662].

Per Breve de Privato Sigillo.

—[*Lucas' Amer. Charters*, pp. 47, 54.]

[IN CONN. GENERAL ASSEMBLY.]

May 12, 1664.

* * * * *

Whereas his Majesty hath been graciously pleased to confirm unto this Colony, by Charter, all that part of his dominions in New England bounded as in the said Charter is expressed, with the Islands adjoining, This Court doth declare, that they claim Long Island for one of those adjoining Islands expressed in the Charter, except a precedent right doth appear, approved by his Majesty.

* * * * *

—[*Conn. Public Records*, 1636–1665, p. 427.]

An Order of the Gen^{al} Court of Conecticut for the appointment of severall persons to accompany their Governour to New Yorke to Congratulate his Ma^{ties} Commissioners.

At a Session of the Gen^l Assembly, held at Hartford, October.
13th 1664

Mr Allyn Senior, or Junio^r Mr Gold, Mr Richards and Cap^t Winthrop, are desired to Accompany the Governour to new Yorke, to Congratulate his Majesties Hono^{ble} Commissioners, and if an Opportunity offer it

selfe, That they can Issue the Bounds betweene y^e Dukes Pattent and Ours, (so as in their Judgm^{ts} may be to the Satisfaccon of the Court,) they are Impowered to attend the same Service.

Extracted out of the Records of y^e Court this 24th of October 1664. by mee.

JOHN ALLYN Secretary of his Ma^{ties}
Colony of Conecticut.

—[*General Entries (MS.)* in office of N. Y. Sec'y of State, i, 69 ; *Conn. Pub. Rec.*, 1636-1665, p. 435.

Agreement between the Commissioners of the Duke of York and Delegates from Connecticut, November 30th, 1664.

(Not executed.)

NOTE. — The words in *italics* are erased in the original MS., those in small type are interlined. The letters within brackets are supplied where there are holes in the paper. — [*N. Y. Sen. Doc.*, 1857, No. 165, p. 100.

THIS AGREEMENT, made Indented and concluded [on] the Thirtieth day of November in the Sixteenth Yeare of the Raigne of [our] Sovereigne Lord Charles the Second by the Grace of God, King of England Scotland, [fran]ce and Ireland Defender of the ffaith &c. One Thousand Six hundred Sixty foure, W[here]as by an Order of the Gen^{all} Assembly, held at Hartford the Thirteenth day of October 16[64] M^r Allyn Senio^r, M^r Gold, M^r Richards, and Captain Winthrop were appointe[d] [by] the assembly held at Hartford 13 october 1664 [to] accompany John Winthrop Esq^r, (the Governor of his Ma^{ties} Colony of Conecticut,) to n[ew-Yor]ke & to agree upon the bounds of the sd Colony and M^r Howell and Cap^t Younge of long Island were to attend the same Service, exprest in the saide O[r]der, And Whereas amongst other things, the said Persons were therein impowered to Issue he Bounds betweene his Royall Highnesse the Duke of Yorkes Pattent, and the Pattent granted by his Ma^{ties} to the said Colony of Conecticut, a Copie of w^{ch} said Pattent of Conecticut, Colony bearing date the Thenty Third day of Aprill 1662—being viewed wherein is set forth That the Western Bounds or Limitts of the said Colony should extend to the South Sea, And Likewise the Duke of Yorkes Pattent, bearing date the Twelveth day of March, 1663 being read, wherein It is Granted, That his Royall Highnesse shall have all the Lands from the Westerne Part of Conecticut River, to the Easterne part of Delaware Bay, By w^{ch} said Pattents (through mistakes or otherwise) the s[aid] Lands are Granted to them both, Now to prevent any Debates or differences that may or might arise thereby, It is mutually Agreed and Consented unto, by the aforesaid John Winthrop Esq^r, Governo^r M^r Allyn Senio^r, M^r Gold, M^r Richards, Cap^t Winthrop, M^r Howell, and Cap^t Young on the

behalf of the Colony of C[onect]icutt, [and] [Co]lonell Ri[ch]^d Nicolls, on the behalfe of his Royall Highnesse, That [the bou]nds of Co[nec]ticut Patt[en]t, shall not from and after the date hereof, extend t[hem]se]lves unto any part of the Maine Land ^{farther} Westward,

than the head of a Creeke or River

at High water marke comonly

called by the Indian name Mame-

ronock and from thence by a direct

line to the North North west till it

meets with the Massachusetts Line

nearer then the distance of Twenty Miles, from any of the borders of the Maine River Commonly called Hudsons River, Provided that it shall and may be Lawfull to the Governour, of his Royall Highnesse the Duke of Yorkes Pattent, and the Governo^r of his Ma^{ties} Colony of Conecticut, to

determine a nearer Bound, bordering upon Hudsons River, to any Particular Person [or] Persons, or Plantacons, whose p^sent possession in any part under Conecticut Governm^t is wthin the Limitts of Twenty Miles from Hudsons River, in wth case it is, and shall be Lawfull for the said Governo^r to Allott to the said Person, Persons, or Plantacons, so Claiming five Miles of addicon to their p^sent possession, according to the good discrecon of the Governo^r and Councell, or Gen^{ll} Court of his Ma^{ties} Colony of Conecticut, And it is also Agreed on the behalfe of his Royall Highnesse the Duke of Yorkes Pattent, That by vertue of the said Pattent, from and after the date hereof, the bounds and Limitts thereof shall not extend, or Claime any Priviledge or Jurisdiction to the Eastward, beyond the distance of Tenty Miles, from the Borders of the said Hudsons Maine River, excepting according to the Provisoes aforesaid in the preecedent Article, To wth Mutuall Agreem^t, and the performance thereof fully and effectually, accor[di]ng to the true and plaine meaning of the p^rmisses, The Persons above written hav[e] hereunto Interchangeably sett their [ha]nds and Seales, the day and Yeare above said, at N[ew] Yorke on Manhatans Island.

Sealed and delived in the p^sence of.

—[N. Y. Col. MSS., lxix, 4.

The Bounds of Conecticut, Issued by his Ma^{ties} Com^rs and the Com^rs appointed by the said Colony.

By vertue of his Ma^{ties} Commission, Wee have heard the difference about the Bounds of the Pattents granted to his Royall Highnesse, the Duke of Yorke, and his Ma^{ties} Colony of Conecticut, and having deliberately considered all the Reasons alleadged by M^r Allyn Senior, M^r Gold, M^r Richards and Capt Winthrop, appointed by y^e Assembly, held at Hartford the 13th of October 1664, to accompany John Winthrop Esq^r (the Governo^r of his Ma^{ties} Colony of Conecticut) to New Yorke, and to Agree upon the Bounds of the said Colony, why the said Long Island should be under the Governm^t of Conecticut, (wth are too

long here to bee recited, Wee do declare and Order that the Southerne Bounds of his Ma^{ties} Colony of Conecticut, is the Sea, and that Long Island is to be under the Governm^t of his Royall Highnesse the Duke of Yorke, as is expressed by plaine words in the said Pattents respectively ; And also by vertue of his Ma^{ties} Commission, and by the Consent of both the Governo^r, and the Gentlemen above named, Wee also Order and declare, that the Creeke or River called Momoronock, w^{ch} is reputed to be about thirteene Miles, to the East of West-Chester, and a Line drawne from the East point or side, where the ffresh water falls into the Salt, at high water Marke, North North West to the Line of the Massachusetts, be the westerne bounds, of the said Colony of Conecticut, And all Plantacons lying Westwards of that Creeke & Line so drawne, to be under his Royall Highnesse Government, And all Plantacons lying Eastward of that Creeke and Line, to be under the Governm^t of Conecticott ;

Given under Our hands at James ffort in new Yorke, on the Island of Manhatans this 1st day of December 1664

RICHARD NICOLLS,
GEORGE CARTWRIGHT,
S. MAVERICKE.

Wee the Governo^r and Com^{rs} of the Gen^{all} Assembly of Conecticut, do give Our Consent to y^e Limitts and Bounds above menconed, as Wittness Our hands.

JOHN WINTHROP,
ALLYN Senio^r
RICHARDS
GOLD,
JOHN WINTHROP Jun^r

—[*General Entries (MS.)* in office of N. Y. Sec'y of State, i, 70; *N. Y. Col. MSS.*, xxii, 5; lxix, 5; Vol. i, part i, of this *Report on Boundaries*, p. 24.

[COLONEL NICOLLS, TO THE DUKE OF YORK, NOV: 1665.]

I have formerly rendered account of the Decision and Settlement of Bounds between your Royal Highness and the Patent of Connecticut made by his Majestys Commission^{rs} and the Governor and Council of Connecticut, wherein five towns were relinquished to Connecticut by virtue of their Precedent Grant from his Majesty although the same tracts of Land were given to your Royal Highness, to the utter ruin of that Colony, and a manifest Breach of their late Patent, which determination was a Leading case of equal Justice and of Great Good Conse-

quences in all the Colonies and therefore we were assured would be an acceptable service to your Royal Highness, though to the Diminution of your Bounds. So that to the East of New York and Hudson's River, nothing considerable remains to your Royal Highness, except Long Island and about twenty miles from any part of Hudson's River. I look therefore upon all the Rest as empty names and places possesst forty years by former Grants, and of no consequence to your Royal Highness except all New England could be brought to submitt to your Royal Highness's Patent.

—[*N. Y. Col. MSS.*, lxix, 6; *Col. Doc.*, iii, 106; *Sen. Doc.*, 1857, No. 165, p. 104.

[COLONEL NICHOLS TO MR. MAYHEW.]

Jan. the 3^d 1667. Fort James.

* * * *

I have not been forward in trivial cases to contest for my master's bounds, knowing however that all the Islands except Block Island from Cape Codd to Cape May, are included in my master's patent.¹ * * *

—[*N. Y. Col. Doc.*, iii, 170.

[IN CONN. GENERAL ASSEMBLY.]

October 8, 1668.

* * * *

This Court orders the Secretary to deliuer vnto Mr. Willys & Mr. Joanes the mortgage of Long Island,² for the use of those concerned.

* * * *

—[*Conn. Pub. Rec.*, 1665-77, p. 93.

¹Grant to the Duke of York.—[P.

²July 29th, 1641, James Farrett, the agent of the Earl of Stirling, "to provide as he may for that part of Long Island not possessed nor as he conceiveth claimed by the Dutch, before his departure for England," gave a mortgage deed of the whole of the Island and its dependencies, not previously disposed of, to Geo. Fenwick, of Saybrook, Edward Hopkins, of Hartford, and Theophilus Eaton, Steven Goodyear and Thomas Gregson, of New Haven. The condition of the deed was the repayment to the mortgagees, within three years, of £110 and charges; and in default of such payment, the title to the Island to vest in them and their assigns.

—[IDEM.

[IN CONN. GENERAL COURT.]

October 13, 1670.

* * * *

This Court leaues it with the Gouverno^r and Assistants on the Riuer to write to Col. Louelace, [Governor of New York] that there may be a committee appoynted by them and us, to runn the line between them and us.

* * * *

—[*Conn. Pub. Rec.*, 1665-77, p. 144.]

October 8, 1674.

* * * *

This Court appoynts Mr. John Bankes, L^{nt} Jonath: Sillick, L^{nt} Jonathan Lockwood and L^{nt} Joseph Orton, or any three of them, forthwith to runn the lyne between this Colony and the Colony of New York, from Momoronock Riuer to Hudson's Riuer.

* * * *

—[*Conn. Pub. Rec.*, 1665-77, p. 242.]

[DUKE OF YORK TO GOVERNOR ANDROS.]

Major Andros

* * * *

Touching y^o Boundryes of your governm^t towards Connectecut you are in y^o right y^t they were settled by Comm^{rs} in 1667. but truly y^o papers of those transactions not being now present wth me (perhaps you have entryes of y^m at New Yorke) I can only repeate to you what M^r Delavall hath told my Secretary viz^t y^t y^o bounds of those of Connecticut are to be on y^o edge next y^m of y^o river Marrinac northwards as far as they please, provided they leave y^t river where it inclines Westerly, soe as at noe-time to approach nearer y^a 20 miles to any part of Hudson's river (or New York River) And y^t (he sayth) was agreed y^a by y^o Com^{rs}. But whether it were or noe my opinion is 'tis best only to make accomôdations of y^r kind temporary, soe if possible to preserve y^o utmost limitts for me y^t my Patent gives me a title to.

* * * *

S^t James's 6 Aprill 1675

—[*N. Y. Col. Doc.*, iii, 230.]

[SIR JOHN WERDEN TO GOVERNOR ANDROS.]

St. James, Jan. 28, 1674.

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As for Connecticut Colony you may be assured we shall enter Caveats to prevent y^e passing to them any New grants or priviledges till His R^{ty} H^{ty} be heard. * * * That their Pattent was prior to the Dukes and soe confirmed in all their possession, the Duke at y^t time haveing noe pretence at all, and the latter Pattent not being of force to destroy the former, and that Com^{rs} appoynted by the King in (64) settled y^e Boundaries by vertue of an authority under the Great Seale, w^{ch} though never confirmed by the Duke, yett was assented to by his Leuit. Govern^r who sure would not have yielded to it, if His R^{ty} H^{ty} right had beene cleere in y^e poynt.

Upon the whole you will see that His Roy^{ty} H^{ty} is willing things should rest as they are at present but he is not sorry you have revived this clayme because possibly some good use may be hereafter made of it.

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—[*N. Y. Col. Doc.*, iii, 236.

[DUKE OF YORK TO GOVERNOR ANDROS.]

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I have considered of w^{ch} you have written by Capt. Salisbury touching yo^r demand of all the land on the West side of Conecticut River, as being comprized within my Patent, w^{ch} demand I approve well of in order to preserve that title entire, w^{ch} the King hath conveyed to me. But for the present for other reasons I am not willing you should proceed further in regard I hope for hereafter more convenient means of adjusting the Boundaries in those parts, and in the interim though the agreem^t by the Comm^{rs} in 1664 were never confirmed by me, I soe far approve of the prudence of Coll. Nicholls at that time, as to admitt by noe means of any neerer accesse of those of Connecticut then to the mouth of Marinac (or Mamaronocke) River and along the edge of it: provided they come to noe place within twenty miles distance of Hudsons River. But this I hint to you only for the present, not intending thereby to conclude my selfe as to the right of the Case.

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Whitehall the 28 Jan^y 1674.—[*N. Y. Col. Doc.*, iii, 235.

[SIR JOHN WERDEN TO GOVERNOR ANDROS.]

St. James, May 7, 1677.

* * * *

It is still his Royall H^c pleasure y^t you doe nothing further at y^r time touching your bounds towards Connecticut. But since soe many townes &° have beene soe lately disjoynd from them, and since they disclaymed y^t agreem^t of keeping 20 myles distant from Hudsons River (w^{ch} upon M^r Delavall's informacôn I apprehended might, if insisted on by them, have proved an equitable plea against us) I beleeve a time may come either upon a regulacôn of matters in New England wⁿ His Ma^{tie} shall please to take y^t into his consideracôn or some other way, wⁿ his Roy^{ll} High^{nes} may without scruple thinke it convenient to insist on all those rights y^t were intended him by his Patent from y^o crowne.

* * * *

—[*N. Y. Col. Doc.*, iii, 247.

[IN CONN. GENERAL COURT.]

October 17, 1677.

* * * *

This Court grants Mr. Andrew Leet liberty to purchass Falcon Island and Goose Island for himselfe and his heires, which sayd Islands lye before or neer Guilford.

* * * *

—[*Conn. Pub. Rec.*, 1665–77, p. 325.

[SIR EDMOND ANDROS TO GOVERNOR LEETE.]

Hon^{ble} Sr. Being advised of an Order or warrant from yourselfe and some of Assistants sent to Fisher's Island, I am much surprized at yo^r intrenching upon his Ma^{ties} Letters Patents to his Royall Highnesse, as well as the Graunt by Governo^r Nicolls to the Hon^{ble} John Winthrop Esq^r (late Governo^r of Connecticut), for said Island. Which Island and graunt, it is my duty to assert, as much as this or any other part of the Government; and therefore desire, that you will without delay recall said Warrant or Order, and forbear any the like proceedings for the future, to prevent greater inconveniences; and remaine

Yo^r affectionate Neighbour & humble
Servant,

E. ANDROSS.

New Yorke, 29th March, 1680.

To the Hon^{ble} William Leete Esq^r Governo^r of his Maj^{ties} Colony of Conecticut, These, at Hartford.For his Ma^{ties} speciall service. MATTHIAS NICOLLS. Sec^r.—[*Conn. Pub. Rec.*, 1678–1689, p. 283.

[IN CONN. GENERAL COURT.]

Hartford, May 20, 1680.

* * * *

Whereas this Court is informed that Sir Edmund Andross, Governo^r of his highness the Duke of Yorke his Territories in Americah, hath asserted that a certain Island called Fishers Island, belonging to the heirs of John Winthrop Esq^r deceased, is part of his sayd Royall Highness territories, which by charter from his Ma^{tie} Charles the Second, King of England &c. is indeed granted vnto this his Ma^{ties} colony of Conecticut and under the government [*thereof*], This Court for the p^rserving the just limits of his Ma^{ties} gracious grant to them, doe hereby publiquely assert that the sayd Island is a part and member of this colony of Conecticut and vnder the govern^t thereof, and that they have exercised and shall and will exercise government there as occasion shall require; and doe hereby declare and protest against the sayd S^r Edmund Andross and all other persons their claimes or exercise of any authority or government on or over the sayd Island, that all such acts are unjust as have or may be exerted by any authority from the sayd S^r Edmund Andross or any other then what hath been or shall be derived from the power given by his Ma^{tie} vnto this his colony, are and shall be voyd as to bind any person or persons to any obedience therevnto: and we doe hereby prohibit all and every person and persons that are or may be on the sayd Island from yeilding obedience to any authority whatsoever save the authority of his Ma^{tie} vested in the colony of Conecticut.

This to be published at New London by the constable there, and to be signed by the Secretary in the name of this Court.

* * * *

—[*Conn. Pub. Rec.*, 1678–1689, p. 64.

Answers to Queries propounded by Lords of Trade to Governor of Connecticut.

* * * *

10. *Ans.* Our Boundaries are expressed in our Charter. As to the number of acres setled or unsetled, or how much is manureable, we cannot guess; the country being a mountainous country, full of rocks, swamps, hills and vales. Most that is fitt for planting is taken up. What remaynes must be subdued, and gained out of the fire as it were, by hard blowes and for smal recompence.

* * * *

Hartford, July 15, 1680.

—[*Conn. Pub. Rec.*, 1678–1689, p. 296.

[IN CONN. GENERAL COURT.]

Hartford, May 11, 1682.

* * * * *

This Court being informed that some people of N. Yorke have settled within the limits of this colony, on the east side of Hudson's River, doe order a letter be sent in the name of this Court to the Governo^r of New Yorke, to signify o^r dislike of their so intrenching upon o^r charter limits, and to desire theire joyneing with us in markeing out the line according to agreement of his Ma^{ties} Commissioners with o^r Governo^r and committee, and allso another letter to those settled upon o^r land, that they should remove themselves off o^r lands speedily or apply to this Court for liberty of continuance there.

* * * * *

—[*Conn. Pub. Rec.*, 1678–1689, p. 100.]

Communication from the General Assembly of Connecticut to the Governor of New-York.

Hartford, May 11, 1682.

May it please your Hono^r,

We your friends & neighbours the Governo^r & Generall Assembly of his Ma^{ties} Colony of Connecticutt haveing at o^r present Session, had Information & complaint made unto us, that sundry persons under your jurisdiction, & particularly M^r Frederick Phillips have erected lately, & are erecting, certaine Mills, & other edifices, & making Improvements of lands, within the limitts of the township of Rye, & in the Bounds of this his Ma^{ties} Colony of Conecticut, Neere unto Hudson's River; alledging to such as have questioned with them thereabout, that they doe it by vertue of a pattent or pattents, or other allowances, from the Governo^r of his Highness Territory of New York; & not only so but some of the sayd Improvers, doe give out Threatening Speeches, that if any of our Colonys cattell, shall come there, that they will not suffer our people peaceably to have them away, & allso that others of your jurisdiction, are purchasing or have purchased large tracts of land, on the east side of Hudson's River, within our limitts, from the Indians in order to planting there, by patents or lycensse so to doe, from his Highness Governo^r at New-York. The consideration hereof, hath given us this occasion to signify hereby the same unto your Hono^r; a person with Home as with your predecesso^r, Gen^l Richard Niccols, and Col. Francis Lovelace, we never were so unhappy as to differ, & herewith to send to your Hon^r a cobby of the settlement of the line between this his Ma^{ties} Colony, & that his highness Territoryes which you have also the originall of, as we doubt not, which for the authority of it being done by his Ma^{ties} Commissioners, to that end

Impowered & by mutuall consent of the parties concerned, & for the perspicuity of it determining, that a north north west line from Mamorrock River to the Massachusetts lyne, shall be the bounds between us on that part, Is in our understanding so indisputable, as we would not doubt, but your Hono^r will desire to hold (as we do) the same inviolable, & farther & therewithall it may please your Hono^r to know that certaine persons of o^r colony, having runn the sayd line From Mamorrock River unto Hudson's River, have found it to come upon Hudson's River, to the southward & westward of the places, where the said edifices, mills, purchases, &c. are sayd to be, Also that a surveyo^r by s^r Edmun Androsse his order, running the said lyne, found it to fall somewhat nearer the sea, than it was run by some of ours, of which surveyor, M^r Robert Ryder, your Hono^r may especially enquire, If living with you, & we are willing and desireous If your Hono^r see cause at any time by you assigned to run the sayd line, to put it out of doubt. Wherefore we doe hereby desire of your Hono^r for the preventing of all Injury & strife between us, well to testify your selfe, in all the premises, & by your speedy & effectuall order to cause all further proceedings of that, or the like nature, first mentioned, to cease as farr as it is done under countenance of authority from his highness, the duke of yorke, his Gov^r, & that the sayd places within the line of this colony on the eastward side Hudson^s River may without obstruction from your Hono^r be regulated & ordered as other parts of this colony are by such as his Ma^{ty} of his especial Grace, hath betruusted with the dispose & Government thereof, the signification whereof by the bearer hereof, to o^r Gov^r & his Council, with our desire of your Hono^r happyness is all at present from

Your Hono^r's reall friends the Governor & Gen^l Assembly of his ma^{ty}'s Colony of Conecticut per their order. signed per me
JOHN ALLYN Secrety.

—[*N. Y. Col. MSS.*, lxix, 7; *Sen. Doc.*, 1857, No. 165, p. 105; *Conn. Pub. Rec.*, 1678-1689, p. 313.

Instructions for Governor Dongan.

* * * *

You are also wth all convenient speed after yo^r arrivall at New Yorke to endeavour to ascertain and agree y^e Boundaries of my territoryes towards Conecticut wth the Govern^{rs} and inhabitants of Conectecut, and you are to send over to me true and exact Mapps of my said Territoryes.

* * * *

Given under my hand at St. James's the 27th day of January, 168 $\frac{2}{3}$.

—[*N. Y. Col. Doc.*, iii, 333.

[GOVERNOR AND COUNCIL OF CONNECTICUT TO GOVERNOR DONGAN.]

Hartford, Octob^r 5th, 1683.

Hon^{ble} S^r. This being the first oppertunety we have had since your arrivall of meeting in councill, we could doe no less than congratulate your safe comeing into these western parts of the world and entrance into the Govern^t of his Royall Highness Territories, wishing you all prosperity and happyness therein, assureing you that we shall endeavoure amicably to deporte ourselves towards yourselfe and government; and if any thing should happen otherwise, upon the first intimation we shall endeavour a right understanding between us.

And by the way, we can do noe less then give your Honour advice of that which transiently is come to our cognizance, viz. a warrant s^d to be granted by Mr. John Pell, requireing the constables of Ry, Greenwich and Standford severally to appeare at N. Yorke on the 1st Wednesday in October instant, to make presentment at your grand assizes; notwth standing the s^d Townes are indubitably within the precincts and bounds of this his Ma^{ties} Colony of Conecticut, not onely by his Ma^{ties} gracious Charter grant but by agreement and settlement of bownds between his Royall Highness' province and this Collony, as your Hon^{ble} predecessors well knew; at which time and before, those Townes peaceably were, and ever since have continued, under this his Ma^{ties} Government: the which, for the mutuall weale and safety of all his Ma^{ties} good subjects concerned, we heartily desire may not be interrupted or molested by any such injunctions or impositions from any of o^r good neighbours.

Hon^{ble} S^r, we beg your pardon for this trouble, which, wth our best respects to your Hono^r, is all at p^rsent from, S^r,

Your affectionate neighbours & humble servants,

The Gov^r & Councill of his Ma^{ties} Colony of Conecticut,

℞ their order signed,

℞ JOHN ALLYN, Sec y.

For the Hon^{ble} Col. Tho. Dongan Esq^r., Gov^r of his Royall Highness Territories, at Forte James, in N. York this *ff*.

The Gov^r & Councill ordered the above written letter.

—[*Conn. Pub. Rec.*, 1678-1689, p. 326.]

[GOVERNOR DONGAN TO SECRETARY ALLYN.]

New York, Octob^r y^e 9th, 1683.

S^r. I am much obliged to your Governor and Councill for the complements they made me, and do really desire that a firm friendship may be established, assureing you that if there be not, it shall be none of my fault.

Itt is the usuall way, when one Government writes to another, for the Chief and Principall to signe it, but since the Gentlemen have not, tis to you, S^r, that I adresse this Answer.

Tis well known that his R^u Highness has a patent for all the lands on this side of Hudson's River, and if my predecessors, as you hint, haveing power to be kinder to you than some think you deserved, were pleased to quitt the rest of the lands within twenty miles of Hudson's River, I am not, as I think, obliged to confirm it.

For, instead of being contented with that, you have hindred the people which belong to this Goverment from coming hither; and not that only, but some of your Colony have come to settle within six or 8 miles of Hudson's River, and that without any leave of this province, as I am informed.

If it be so, I take it to be my Master's opinion that you have abused the former contract, if any such was, and therefore you cannot blame me to take notice of it, and make claime to the whole from Connecticut River.

Your pretence to Virginia, this place, and all other of the King's dominions as far as the South Sea, would be as good as the other.

I am obliged in his R. H. name to wish you to find out some course to make an end of this difference, whereby a foundation may be laid for a good correspondence, and I will not fail to acquaint the Duke with your resolutions.

Wishing your Governor and Councill all prosperity and happnesse, I do assure you that none shall endeavour to deport himself more amicably with them than, S^r,

Your servant,
THO. DONGAN.

For Mr. John Allyn,
Secretary of Connecticut.

—[*Conn. Pub. Rec.*, 1678-1689, p. 327.]

[THE GOVERNOR AND GENERAL COURT OF CONNECTICUT TO GOVERNOR DONGAN.]

Hartford, Octob^r 16, 1683.

Hon^{ble} S^r. Our Secret^y hath acquainted us with a letter he received from your Hono^r by Ens. John Miles, that was the post that conveyed a letter to your selfe from the Governo^r and Councill of this Colony, and doe return you our hearty thanks for those expressions in yours wherein you manifiast your reall desire that a firme friendship may be established, which we hope we shall not be wanting in contributing too, according to our ability.

And we must assure your Hono^r that the former letter you rece^d from

o^r Governo^r and Councill, signed by o^r Secretary was signed according to o^r usuall custome in such cases, wherein was no designe of disrespect to yourselfe, whom we honour in that quality and capacity wherein you stand, as Governour of his Royall Highness' Territories and our good neighbour, hoping our future converss may also speak the same.

As to his Royall Highness his just rights and interests, we would no way interrupt or molest, and cannot but hope to receive the like kindness from your Honour, and shall so endeavoure to deporte o^rselves that we may so deserve.

S^r, we doe judg that what seeming or reall differences were in his Royall Highness his Charter and his Ma^{ties} Charter granted to this Colony, is fully resolved and issued in that agreement that was made by his Ma^{ties} Hon^{ble} Commissioners, whoe were impowered and commissioned to setle differences of bownds between Charter and Charter, w^{ch} was fully stated and concluded at New Yorke, and well approved by his Ma^{ties} as his gracious letter to this Colony did fully manifest; coppyes of which we perswade o^rselves may be found amongst your records.

S^r, we have not to o^r knowledg acted any thing to violate or p^rjudice the agreement and issue made by his Ma^{ties} Hon^{ble} Commissioners. If any thing by us be done ignorantly, when we understand it we shall redress the same.

We have allwayes endeavoured to mayntaine a good correspondency between his Royall Highness his Government and this, and shall still be ready to joyne with your Honour in the laying a foundation for that end; and therefore desire that nothing by your Honour or ourselves may be acted otherwise.

S^r, it hath been and still is a time of great sorow with vs by reason of sickness that is still amongst us, whereby many are made very weake and low, that we have not oppertunety to wayt upon your Honour by such persons as we would gladly employ in such a service, and therefore desire your excuse therein.

Hon^{ble} Sir, we wish you all prosperity and happyness, wth your honourable Councill, and whole Colony, and subscribe ourselves, your most affectionate neighbours and humble servants,

The Governo^r & Generall Court of Conecticut.
In their name and by their order signed,

JOHN ALLYN, Sec^y.

For the Hon^{ble} Colonel Thomas Dongan Esq^r, Gov^r of his Royall Highness his Territories in Americah, at Forte James in New Yorke, this 4d.

[GOVERNOR DONGAN TO GOVERNOR TREAT.]

HONORED S^r. I am heartily sorry to hear that you have been so much indisposed; and I assure you, as gladd of your safe recovery.

It is my earnest desire to be in a right understanding with all my neighbours, and in particular with so good a person, as the world gives you the character to be; and if I must have any contention with you, I wish it might be who should do one another the better offices; but, S^r, I must be obedient to my Master and not unmindfull of his interest; therefore you cannot take it amiss from me if I claime twenty miles from Hudson's River eastward, as I am informed the agreement was between the King's Commissioners and your Colony. The King's Commissioners being strangers, and relying upon your people, were assured by them that the River Mamaranet was twenty miles every where from Hudson's River; as we have very creditable witnesses can testify, and that it was Coll^m Nicolls his intentions. Notwithstanding all that, you pretend to within 16 or 17 miles of this town and, for ought we know, to Esopus and Albany allso; which is argument sufficient it was none of Coll. Nicolls his intention.

If you do not submitt to let us have all the land within twenty miles of Hudson's River, I must claime as far as the Duke's Patent goes; which is to the River Connecticut. There is land enough for us all, and I love not to do my neighbors ill offices.

Since you are pleased to promise to do me the honour to see me, pray come with full power to treat with me; and I do assure you, whatsoever is concluded betwixt us, shall be confirmed by the King and his R^{ty} Highness, w^{ch} y^e other agreements, I heare, are not. If you like not of it, pray take it not ill that I proceed in a way that will bring all your patent in quaestion.

The Gentleman who brings you this letter is one of the Councell, and, as I find by him, a friend of your Colony; and will better cleare things to you.

I have no more but that I shall be very gladd to shake hands with you, and that we may lay a foundation that we may allways live like good neighbours.

I am, S^r, with all respect,

Y^r most affectionate & humble Serv^t,

[THO. DONGAN.]

New York, Novemb^r 5th, 1683.

For his Honoured Friend, Governor Treat.

—[*Conn. Pub. Rec.*, 1678–1689, p. 329.]

Commission of Delegates appointed by the General Assembly of Connecticut Nov. 14, 1683, to negotiate with Gov. Dongan of New-York respecting the boundary.

* * * *

To the Honor'd Robert Treat, Esq^r Gov., Maj. Nathan Gold, Capt. John Allyn Esq^r, assistants, & Mr. W^m Pitkin, Gentleman:

The General Assembly of his Majesties Colony of Connecticut at their present session the 14th day of Nov. 1683, do hereby nominate commissionate and fully empower as also desire you to take your first opportunity to travel to the city of New-York where you are to visit the Hon Thomas Dongan Esq Gov^r of his Royal highness the Duke of York his territories in America and to congratulate his honours safe arrival to New England and his highness territories and to manifest to him this courts grateful resentment of his honours professions by his letters of his desire to be in good amity with us, and to assure his honor that we shall study and endeavor as we may by all good ways and means to show ourselves as amicable and serviceable to his Royal highness and his honour as we are capable of, and to that end we shall endeavour to remove all obstructions and do what is in our compass to settle and maintain a good & neighbourly correspondence with him for our mutual advantages.

Also whereas his honour hath been pleased in his letter to signify to us that he is not satisfied with the former stated bounds between this colony and his Royal highness's territories and hath moved for a treaty and settlement of what is or may be matter of difference between his highnesses claims and ours in that respect, You or any three of you are hereby fully commissioned and empowered to treat with his honour thereabout or such as he shall please to appoint, And if you shall see just reason to vary anything from the former settlement of the bounds between his Royal highnesses territories and his majesties Colony, by his majesties commissioners thereunto, by his majesty especially appointed and a committee from this Colony farther towards the east than was agreed on and hath been since approved by his majesty you have hereby full power and authority to do and agree therein with the said Governor Dongan, or those he shall appoint for a final issue and settlement according to your best judgment, provided that his majesty and his Royal highness approve of and confirm the same.

—[*N. Y. Col. MSS.*, lxix, 8; as abridged in *Sen. Doc.*, 1857, No. 165, p. 107; *Conn. Col. Rec.*, 1678-1689, p. 134.

Instructions for the Hon. Robert Treat Esq., the worshipful Maj. Nathan Gold and Capt. John Allyn Assistants, and Mr. William Pitkin.

Gentlemen — You are to take by order of this court our commission given to yourselves to congratulate the Hon. Col Thomas Dongan, Esq., Gov. of his highness the Duke of Yorkes Territories his safe arrival into these parts and to treat with him as therein mentioned as also an attested copy of the former settlement of our Westward bounds by his Majesties Commissioners with a copy of Col. Nicholls commission empowering him and the others with him thereunto, and of the commission of our committee that concluded with them, as also of his majestys gracious letter, wherein the same was confirmed with what other papers you may think necessary and as soon as God give you opportunity to get to New-York and there to visit the honorable Gov. Thomas Dongan and to salute and congratulate him according to your commission which you may show him and deliver him a copy of it if you see cause.

2d. As to your treating and concluding with about settling the bounds between that territory and this colony you shall not exceed his demands of twenty miles eastward from Hudson's River but get him to take up with as little as may be. 3d you are to see his power to treat and conclude or if that appears not to your satisfaction then you must treat and conclude conditionally and with this proviso, that his majesty and the Dukes highness shall please to ratify it. 4th As to the rise of our line at Mamaroneck you are to declare there could be no mistake between the Commissioners about that and therefore endeavour to hold that bound. 5th If you grant any part of the lands within any of the townships of this Colony you are to endeavour to reserve those lands to the towns propriety though as to jurisdiction they belong to his highness 6th You are to endeavour that the former line concluded on in all places shall take place unless it be where it is nearer Hudson's River than such a distance as you can agree on. 7th. You are to remember all along to make his honour sensible how firm and legal the former settlement was, and that our varying from it is to oblige his honour and promote a perpetual good correspondence between this his majestys colony and his royal highnesses's territories and the successive Governors of them both.

—[*Idem.*

[IN N. Y. COUNCIL.]

November 25th 1683.

* * * *

The Governo^r of Connecticut M^r Robert Treat M^r John Allyn Secretary Major Nathan Gold & M^r Pitkin appearing to ascertain the Limitts of their Colony with this Government Cap^t M. Nicolls & M^r John Lawrence affirmed that Governo^r Nicolls said his Intention was when he treated wth Connecticut that the Line w^{ch} was to make the partition bounds was not to be within twenty Miles of Hudsons River & they had both often heard him say soe Cap^t Youngs said he had heard often say that the Line was to be twenty Miles from Hudsons River & had been so agreed on in their Writings but that it was objected that the River being Crooked it Could not be Done & So it was agreed on to run the Line by a Point of the Compasse w^{ch} he thinks is the reason of the Mistakes after some Debates — M^r Robert Treat, the Governor M^r Allen &c withdrew & Staying about an Hower returned wth Propositions that what they should Act Should be Confirmed by his Ma^{ty} & that there Should be consideration of the Settlements they had made.

I Certify the foregoing to be a true Copy of the Record remaining in the Secretary's Office of the State of New York Examined and Compared therewith October 6th 1785.

By me ROBT HARPUR D. Secr^y.—[*N. Y. Col. MSS.*, lxix, 9.

ARTICLES

Of Agreem^t, Concluded November the twenty eighth One thousand six hundred Eighty three Between the Right Honoble Coll^o Thomas Dongan Governour under his Roy^{al} High^{ness} James Duke of Yorke Albany etc of New Yorke and its Dependencyes and the Councill and Robert Treat Esq^r Governour of Connecticut Major Nathan Gold Cap^t John Allen Secretary and M^r William Pitkin, in Commission with him.

It is Agreed that the bounds Meares or Dividend between his Roy^{al} High^{ness} Territoryes or Province in America and the Collony of Connecticut forever hereafter shall begin att A Certaine Brook or Riv^{er} called Byram Brooke or River which River is between the Towns of Rye and Grenwich, that is to say att the Mouth of the said Brooke where it falleth into the Sound at A Point Called L[yon's] Pointe which is the Eastward Point of Byram River And from th[e] said Point to goe as the said River Runneth to the place where the Common Road or Wadeing place over the said River is and from the said Road or Wadeing

place to goe North North West into the Country soe farr as will be Eight English Miles from the Aforesaid Lyon's point and that A Line of twelve M[il]es being measured from the said Lyon's point according to the line or Gennerrall Course of the sound Eastward where the said tw[elv]e Miles Endeth Another line shall be runn from the Sound Eight Miles into the Country North North West And alsoe that a fourth line be Runn that is to say from the Northmost end of the line first menconed unto the northmost end of the Eight mile line being the third Menconed line which fourth line with the first menconed Line shall be the bounds where they shall fall to runn And that from the Eastward End of the fourth menconed Line (which is to be twelve miles in Length) A Line Parralell to Hudsons River in every place twenty Miles Distant from Hudsons River shall bee the bounds there between the Said Territory or Province of New York and the said Collony of Connecticut soe far as Connecticut Collony Doth Extend Northwards that is to the South line of the Massachusetts Collony.

Only it is Provided that in Case the Line from Byrams Brooks Mouth North North West Eight Mile And the line that is thence to runn twelve Miles to the end of the third foremenconed line of Eight Miles Doe Diminish or take away any Land within twenty Myles of Hudsons River that then soe much as is in Land Diminished of twenty Miles from Hudsons River thereby shall be Added out of Connecticut bounds unto the line aforementioned Paralell to Hudson's River And twenty Miles Distant from it the Addition to be made the whole Length of the said Parralell line And in Such breadth as will make upp Quantity for Quantity what shall be Deminished as Aforesaid.

That what Arrearages are Due from the Towne of Rye to the Collony of Connecticut for former yeares and the present yeares Rate shall be paid to Connecticut.

That two Surveyors be Appointed the one from New Yorke and the Other from Connecticut to make A Survey and Runn the beforemenconed Lines Partitions Limitts and bounds between his Roy^{tt} High^{ness} Province of New Yorke And the Collony of Connecticut and the Surveyors Are to meete att the towne of Standford on the first Wednesday of October next Ensueing And to be Directed by one of the Counsell and two more Commissionated from Each Govern^{tt}.

That if it shall Please the Kings Majesty And his Roy^{tt} High^{ness} to Accept and Confirme these Articles they Shall be good to all Intents for ever between his Roy^{tt} High^{ness} and his heires and Assignes And the Corporacon of Connecticut And their Successors and this Agreem^t is to be in full force Power and Virtue from the Day of the Date hereof, **IN WITNESSE** whereof the Parties Above menconed have to these Presents Interchangeably Sett their Hands and Seales at fforte James in New

Yorke the twenty eighth Day of November in the thirty-fifth [yeare] of his Ma^{ties} Reigne Annoq Domm 1683.:

Signed Sealed and Delivered	}	ROBERT TREAT	[L. s.]
in the presence off.		NATHAN GOLD	[L. L.]
JOHN SPRAGG Secy		JOHN ALLYN.	[L. s.]
MATTHIAS NICOLLS		WILLIAM PITKIN.	[L. s.]
GEO BREWERTON			

—[*N. Y. Col. MSS.*, lxix, 10; *Conn. Col. Rec.*, 1678–1689, p. 330.

[GOVERNOR OF CONNECTICUT TO INHABITANTS OF RYE.]

Fayrefeild December 3, 1683.

Loveing friends

We had purposed in our passage to Yorke to have called upon you but the badness of the weather and taking our passage by water we mist the opportunity of seeing you in our going theither and in our return and therefore we take this first opportunity to acquaint you that altho' we were loath to have parted with you and would have been glad to have continued you in this Government yet the providence of God hath so disposed That by our agreement with Govern^r Dongan we are forced to part with you and could not help it and the Gov^r promised us that he would not by his change alter any man's Property or Propriety and therefore we thought it necessary to acquaint you of this change and also to advise you speedily to apply to him to grant you confirmation of your bounds and proprieties which we doubt not but he will do also we must acquaint you that you must by our agreement pay to this Colony this years rate which the Treasurer will appoint you to whom you shall pay it speedily it is one penny half penny upon the pound according to the list presented to the Gen^l. Court Octo^r last by the agreement with the Governor Dongan the West bounds of our Colony is now Byram River, and it runns as the river till it comes to the road and from thence it runs north Northwest till it hath run eight miles from the East point of said Byrams River Gentlemen we do request you to be satisfied and content with this Change and to cary it suitably to the Government under which you are now stated and apply yourselves to the Honorable Governor who is a noble Gent^l. and will do what you shall desire in a regular Manner to promote your welfare which with best respects is all the needful from yo^r assured friends.

[Endorsed]	ROBERT TREATE	Governour
These for Lu ^t Joseph Horton	NATHAN GOLD	} assistants
the select Men Men of the Towne	JOHN ALLYN	
of Rye	these in Rye	

Copia vera

David Jamison Cl County

—[*N. Y. Col. MSS.*, lxix, 11; *Sen. Doc.*, 1857, No. 165, p. 112.

[REPORT OF COMMISSIONERS AND SURVEYORS, 1684.]

* * * *

BY Virtue and in Pursuance of a Commission bearing Date the Twenty Sixth of September 1684 from the Right Hon^{ble} Coll Thomas Dongan Governour Generall of all his Royall Highnesses Territories in America &c.

WEE Under Written did upon the first Wednesday of this Instant October Meet at Stanford Major Nathaniel Gold Captain Jonathan Selleck, Ensign Daniel Sheerman and M^r John Herriman, Surveyor Commissionated by a Generall Court held at Hertford as by the Commission Produced bearing Date May the Eighth 1684 doth fully Appear Wee Went to Lyons POINT on the East side of Byram River and from the Mouth of the said River where it falls into the Sea Wee Measured up the said River and found it to be One Mile and a half and Twenty Rodds bearing North half Easterly and so Came to a Great Stone at the Wading Place where the Road Cutts the said River thence Directed our Course North North West
C R Six Miles and an half, and there Marked Three White Oak Trees as in the Margent, then Directed our Course West and by North Seaven Miles and One Hundred and Twenty Rodds, which brought us to the Northermost end of a Reach of Hudsons River which Bears wee judge South and by West a Quarter Westerly, and North and by East a Quarter Easterly, which abovesaid Line falls upon the said Reach about Three Miles above frederick Phillips upper Mills over against Tapan and the said River bearing North as to its Generall Course upwards wee Concluded the above Mentioned West and by North Line to be the Shortest from said Three Marked Trees to Hudsons River, and having Unanimously Concluded that Part of the Sound from Lyons Point Easterly to bear East North East, wee did from said Trees at Eight Miles Distance runn a Parrallell to the Sound (viz) East North East Twelve Miles, and Still Continued said Twelve Mile Line East North East One Mile and Sixty ffour Rodds, which then gave us Twenty Miles from Hudsons River and is Eight Miles North North West from the Sound.

Then finding the Oblong of Twelve Miles East North East, and Eight Miles North North West did Diminish Sixty One Thousand ffour Hundred forty Acres from the Twenty Miles upon Hudsons River, wee Added to the abovesaid Twenty Miles upon the East North East Line Three Hundred and ffive Rodds more to Runn at the Additional Breadth Parrallell to Hudsons River till it Meet with the Massachusetts Line which Wee Deemed One Hundred Distant Miles from our Eight Mile Line, Which Several Courses with their Distances together with Three Hundred and ffive Rodds Added do Cleerly Appear in the Platt by the Surveyors Drawn and hereto Annexed which Addition of Three

Hundred and five Rodds wee Referr for its Confirmation and Ratification to the Two Governments from whence wee are Employed, and that the above Written is a true Report of our Proceedings wee have this Tenth Day of October in the Year above Written Subscribed our Names.

JOHN YOUNGS	}	Commissioners for New York
JOHN BELL		
PHILLIP WELLS		
ROBERT WORKLAIN		

NATH GOLD	}	Commrs for Connecticut.
JONATHAN SELICK		
DAN : SHERMAN		
JOHN HERRMAN		

—[*N. Y. Col. MSS.*, lxix, 14; *Council Minutes*, viii, 249; *N. Y. Sen. Doc.*, 1857, No. 195, p. 114.

[The foregoing "Articles of Agreement" and "Report" are included in the Royal "Confirmation," etc., of March 28, 1700, for a full copy of which, see vol. i, part i, of this *Report on Boundaries*, p. 58.]

[IN CONN. GENERAL COURT.]

Hartford, May 8, 1684.

* * * *

This Court having heard the agreement made by the committee appoynted by this Court, November last, about the settling of bownds between this colony and New York, they approved of what was done, and appoynted Major Nathan Gold, one of the Councill, to attend the same, with Mr. Jehu Bur and Capt. Jon: Silleck whoe are hereby commissioned to attend the service of layeing out the line between the province of New Yorke and Conecticut Colony, according to the agreement made the 28th of November, the 35 yeare of his Ma^{ties} Reigne, 1683, at Forte James in New Yorke, and Mr. Herryman Surveyo^r, with such other Gentlemen as shall be appoynted from New Yorke, and they are to meet at Standford on the first Wednesday in October next to attend the sayd service; and in case any of those appoynted by Providence should be disinabled to attend the service, the Governo^r is hereby desired to put and appoynt some suitable person or persons to supply and attend the service, in the room of him or them as shall be disinabled attendance.

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—[*Conn. Pub. Rec.*, 1678-1689, p. 141; *N. Y. Col. MSS.*, lxix, 12.

*Report and Order upon the Earl of Sterling's claim to Long Island.*¹

At the Court of Hampton Court the day of August 1689.

PRESENT — The KING'S MOST EXCELLENT MAT^r in Council

Upon reading this day at the Board a Report from the Right Honble the Lords of the Committee for Trade and Plantations in the words following

May it please Y^r Maty

We have been attended by the Earl of Sterling who laies claim to the Propriety of Long Island within your Mat^r's Province of New York in America and upon examination of the said Earls Pretensions we find that ab^t the year 1663 The Earl of Clarendon in behalf of the late King then Duke of York did treat with the Earl of Sterling for his Interest in Long Island for wh^{ch} his then Royall Highness did afterwards promise to pay to the said Earle 3500 ^l as the Lord Berkly informed him which the said E of Sterling not having rec^d In the year 1674 the said Duke of York in consideration of the Earle of Sterlings releasing all his pretence of Right and title to the Colony of New Yk in America (whereof Long Island is part) did grant unto the said Earle of Sterling a pension of 300 pounds P Ann: for the life of the said Earle out of the surplusage of the Neat Profitts of the Revenue arising out of the said Colony all manner of charges be it Civill or Military first deducted @ allowed, with a contract, That if in any year, there should not be sufficient out of the Neat Profitts, all charges allowed to pay the said Pension as aforesaid, the same and all the arrears thereof should be paid when there should be a sufficient Surplusage in any other year for the same, But there having not hitherto accrued any neat Profitts out of the said Pension of Three hundred Pounds p^r: Ann: is become above fourteen years in Arrear, We most humbly offer our opinion, That your Mat^r be graciously pleased to order the said Pension of Three hundred pounds pr Ann: to be paid to the said Earle with the said arrears out of the surplusage of the neat Profitts of the Revenue of the said Colony as the same shall arise, all manner of Charges Civill and Military within the said Colony being first deducted

¹ROYAL GRANT TO THE DUKE OF YORK, 1664, 1674.

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These grants embraced all the lands between the west bank of the Connecticut River and the east bank of Delaware Bay. The Duke of York had previously purchased, in 1663, the grant of Long Island and other islands on the New England coast, made in 1635 to the Earl of Stirling, and in 1664 he equipped an armed expedition, which took possession of New Amsterdam, which was thenceforth called New York. * *

pursuant to his Grant from the Duke of York as aforesaid, And that the said Earle may have free liberty by his Agent or officer at New York, yearly to inspect the publique acct^s and management of the Revenue of that Colony to the end his L^opp may be fully informed of the neat Profitts that may arise out of the said Revenue, to be satisfied and paid to his L^opp in such manner and under such conditions as is before exprest

All which is most humbly submitted

His Majesty in Councill was graciously pleased to approve of the said Report, and to order, as it is hereby ordered, That the Governor or Commander in Chief of New York for the time being do cause the said Pension of 300 ^l P Ann to be paid to the said Earle with the said Arrears out of the surplusage of the neat Profitts of the Revenue of the said Colony of New York, as the same shall arise, all manner of Charges Civill and Military within the said Colony being first deducted And it was further ordered that the said Governor or Commander in Chief do also permitt the said Earle to have free liberty by his Agent or officer at New York, yearly to inspect the Publick Accounts & Managem^t of the Revenue of that Colony, to the end his L^opp may be fully informed of the Neat Profitts that may arise out of the said Revenue, and also satisfied and paid in such manner and under such conditions as in the said Report is exprest.

—[*N. Y. Col. Doc.*, iii, 606.

[IN CONN. GENERAL COURT.]

January 19, 1696.

* * * *

Voted and ordered in Councill that a letter be sent to our agent in England, to signifie to him that we meet with trouble concerning the bounds of our Colonie both from the Province of the Massachusetts Bay and from Newyorke, and to desire him to improve his interest for the defence of our just rights according to charter against any that shall uniustly complain against us, and that we may enioy peaceably all the lands comprehended in our charter without molestation on the east from the Province of the Massachusetts, and on the west according to the aggreement between the comissioners appointed by his Majestie, and comissioners appointed by the Colonie of Connecticutt, bearing date Novemb^r y^e 30th, 1664, (a copie whereof should be sent to his honour) at least so farre as may be for the security of those townships as have been granted by this Colonie: and if his honour should return to this land that he would constitute some agent for us to defend our interest, according to our charter and the aggreement aforesaid. The Assistants

residing in Hartford, with the Secretary, are appointed by the Council to draw the letter, and to send it to his hon^r in y^o name of the Govern^r and Council.

—[*Conn. Pub. Rec.*, 1689–1706, p. 192.]

ORDER OF THE KING IN COUNCIL CONFIRMING THE AGREEMENT OF 1683,
FOR SETTLING THE BOUNDARY BETWEEN NEW YORK AND CONNECTI-
CUT. March 28, 1700.

[For a copy of the above, also referred to on page 247, see vol. i, part i, of this *Report on Boundaries* (*Sen. Doc.*, 1873, No. 108), p. 58; *N. Y. Col. MSS.*, xliii, 102.]

[IN CONN. GENERAL ASSEMBLY.]

October, 1700.

* * * *

This Assembly recieving an expresse from his Majestie that the line between Newyork Province and this Colonie be as the settlment or concession by our commissioners made November the 23, 1683, doe order that a signification thereof be sent to the inhabitants of Rye and Bedford, signed by the Secretary, that they are freed from duty to this govern^t and that they are under the govern^t of Newyorke.

In case the govern^t of Newyorke shall desire the line between their Province and this Colonie to be renewed by persons appointed by both govern^{ts}, this Assembly doth appoint and impower Captⁿ Jonathan Sellick, Lieu^t David Waterbury and Lieu^t Sam^l Peck, to joyn with those appointed by the govern^t of Newyork in runing said line and erecting boundmarks.

—[*Conn. Pub. Rec.*, 1689–1706, p. 335.]

[IN N. Y. COUNCIL.]

May 30, 1701.

* * * *

THE GOVERNOUR Produced to this Board an Order of his Majesty in Council of the Eight and Twentyeth Day of March 1700 with a Letter from his Majesty to his Late Excellency the Earl of Bellomont of the Nine and Twentyeth Ditto Relating to the Towns of Rye and Bedford wherein his Majesty and Council are Pleased to Declare the said Towns to be within this Government which were Read and Ordered to be Entred in the Council Book and follow in haec Verba [Here follows the order, for which see vol. i, part i, of this *Report on Boundaries*, p. 58.]

WILLIAM R.

RIGHT TRUSTY and Right Welbeloved Cozin Wee Greet you well having Considered the Reports of Commi[ssioners] Appointed by you in behalf of our Provi[nce of] New York on one side and of Commissioners from our Colony of Connecticut on the other side Relating to the Boundaries of the said Province and Colony and more Particularly in Order to the Terminating of a Dispute Lately risen about the Right of Government over the Towns of Rye and Bedford; Wee have thought fitt with the Advice of our Privy Councill to Approve of and Confirm an Agreement made between the Governments of New York and Connecticut in the Year 1683 and a Survey made in Pursuance thereof for the Settling and Fixing of the said Boundaries, by which the fore-said Towns of Rye and Bedford are Included within the Province of New York and are Accordingly forever hereafter to be and Remain under the Government of the said Province. Wee do therefore hereby Require You to take Care that our Royall Will and Pleasure herein be Punctually Observed According to our Order in Councill of the Twenty Eighth Instant which is herewith Transmitted to you so Wee bidd you heartily ffarewell. GIVEN at our Court at Kensington the Nine and Twentieth Day of March 1700 in the Twelfth Year of our Reigne.

By his Ma^{ties}. Command
JERSEY

Examined By

Ja: Alexander Dep^t Cl: Con:

[Endorsed]: Cobby of the Minutes [of] the Councill of Newyork relateing to that Part of the Division Line between the Provinces of Newyork & Connecticut run in October 1684

—[*N. Y. Col. MSS.*, lxi, 14.]

[IN CONN. GENERAL ASSEMBLY.]

October, 1710.

* * * *

It is ordered and enacted by this Assembly, That the Hon^{bl} Nathan Gold, Esq^r, Joseph Curtis, Esq^r, and Peter Burr, Esq^r, shall be commissioned, (any two of them to be a quorum,) with full power, under the seal of this corporation, to apply themselves to his Excellency Coll^o Robert Hunter, Governour and Commander in Chief in and over her Majesties Province of New York, &c., and in behalf of this corporation, to pray his Excellency to joyn with said commissioners, such and so many gentlemen as his Excellency shall think fit, with full power in behalf of the said Province of New York, to run the dividing line between the said Province and this Colony of Connecticut, according

to the establishment thereof made by his late Majestie King William the third, of happy memory, in Council, the 28th day of Mareh, Anno Dom., 1700, in the twelfth year of his said Majesties reign; and monuments and bound marks upon the said dividing line to erect and make, such and so frequent as the commissioners on both parties shall think necessary, for the perpetual limitation and bounding of the said Province and this Colony, in their common dividing line; as also interchangably with the commissioners of this corporation, to seal an agreement in behalf of said Province, to the line so to be run and marked out, as is above expressed; also taking with them a surveyor, and such other help as the Hon^{bl} the Governour shall think fit, to joyn with the commissioners of the said Province of New York to be appointed as aforesaid; and in behalf of this corporation with them to run and mark out the line abovementioned, and interchangably with the commissioners of the said Province, to seal the agreement abovementioned to be preserved in perpetuam rei memoriam, and prevent all such disputes and inconveniences as otherwise might haply arise.

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—[*Conn. Pub. Rec.*, 1706-1716, p. 184.

Lords of Trade to the Lord High Treasurer.

May 15, 1712.

To the most Hon^{ble} the Lord High Treasurer of Great Britain.

My Lord,

Pursuant to your Lordp^s desire, signified to us by M^r Lowndes, we have considered the Petition of Rob^t Lee Esq^r Executor in trust for the younger Children of the late Earl of Sterling, relating to a large tract of land in America comprehending part of New York and long Islnd conveyed by the said Earl to His Royal Highness the then Duke of York in or about the year 1663. and to the arrears of an annuity of £300 p^r annum due to the said Earl or his Executors, in compensation thereof, the whole with the interest amounting (as the Peti^{on} sets forth) to the sum of £9600, and take leave to inform your Lordship. That this affair has formerly been under the consideration of the Right Hon^{ble} the Lords of the privy Council, then a Com^{tee} for Trade & plant^s, that several reports have been made thereupon viz^t one in August 1689. another in May 1694. and one by this Board in March 170²/₃, all agreeing in substance, that the late Earl of Sterling did about the year 1663. assign and release unto his R^l Highness the then Duke of York all his interest in the said lands in consideration of £3500 to be paid him, which not being done His said Royal Highness did by Indenture, bearing date in Nov^r 1764 grant unto the said Earl of Sterling a pension of £300 p^r annum

during the life of the said Earl to be paid him out of the surplusage of the neat profits of the Revenue arising out of New York all manner of charges Civil and Military first deducted and allowed. In which Indenture there is another clause, declaring it to be the true interest of all the parties, that no other estate real or personal whatsoever of his said Royal Highness, shall be lyable to the payment of the said annuity or pension, other, than the surplusage of the neat profits of the said Colony all charges as aforesaid being first deducted.

But in regard, we are not possessed of the Accounts of the Revenue of New York, we do not know how the same has been expended and are not therefore able to inform your L^ôrdp. whether there has been any surplusage in the Revenue there, to compensate the petitⁿ for their pension and the Interest accruing thereon.

We are etc:

WINCHLSEA, PH. MEADOWS, ROB^t MONCKTON,
C. TURNER, G: BAILLIE, A. MOORE.

15. May 1712.

—[*N. Y. Col. Doc.*, v., 330.

[IN CONN. GENERAL COURT.]

October, 1713.

* * * *

It is ordered and enacted by this Assembly, That Jonathan Law, Esq^r, of Milford, and Capt. Joseph Wakeman of Fairfield, shall be commissioned by the Honourable the Governour, with full power on the part and behalf of this government to joyn with such commissioners on the part and behalf of the Province of New York as shall be thereunto authorized in like manner, to run the dividing line between the said Province and this Colony of Connecticut, according to the establishment thereof made by his late Majestie King William the third of happy memory, in Council, the 28th day of March anno Dom. 1700, in the twelfth year of his said Majesties reign; and monuments and bound marks upon the said dividing line to erect and make, such and so frequent as the commissioners on both parties shall think fit, necessary for the perpetual limitation and bounding of the said Province and this Colony, in their common dividing line; as also in the behalf of this Colony with the commissioners of the said Province interchangeably to seal an agreement to the line so to be run and marked out as above expressed; also taking with them a surveyor and such other help as the Honourable the Governour shall think fit.

* * * *

—[*Conn. Pub. Rec.*, 1706-1716, p. 401.

October, 1713.

* * * *

This Assembly do appoint the Worshipfull Peter Burr, Esq^r, to be commissioned by the Honourable the Governour, in addition to Mr. Jonathan Law and Capt. Joseph Wakeman, for settling the dividant line between the Province of New York and this Colony, and that those three gentlemen or any two of them agreeing shall have power to act therein, in conjunction with such as shall be appointed for that service in behalf of the said Province.

* * * *

—[*Conn. Pub. Rec.*, 1706–1716, p. 406.

[IN N. Y. COUNCIL.]

February 10, 1717.

* * * *

HIS EXCELLENCY communicated to the Board Two Letters he Received from Governour Saltonsall Governour of Connecticut containing the said Governours propositions in Relation to the Agreement to be made between that Colony and this for Runing the Division Between the Two Colony's¹

—[*N. Y. Council Minutes (MS.)*, xi, 466.

[COLONY OF NEW YORK.]

An ACT for * * raising * * several Quantities of Plate, to be applied to the publick and necessary Uses of this Colony, * *

Pass'd the 23d of December, 1717.

* * And whereas the Partition Lines between this Colony and the Colony of *Connecticut*, * * are necessary to be known and ascertained, * * And whereas there is not at this Time, any money * * but what is appropriated to particular Uses, * * for the answering any sudden Exigency of this Colony that may happen, * *

1. BE IT ENACTED * * That Bills of Credit * * be forth with printed and Signed, to wit. * * *

—[*N. Y. Laws (Livingston & Smith)*, 1, 124. 125.

¹ These letters have not been found.—[P.]

[COLONY OF CONNECTICUT.]

An Act for Perfecting the Running of the Line between this Colony and the Province of New York.

Passed May, 1718.

Whereas, by virtue of a commission from this government bearing date May 8th, 1684, Nathan Gold, Jonathan Seleck, Daniel Sherman, John Harriman, Esq'rs, commissioners for this government, together with John Youngs, John Bell, Phillip Wells, Robert Vortlain, commissioners for the Province of New York, did, on the 13th day of October, in the year aforesaid, sign to a survey, which, by consent and order of each of the governments aforesaid, they made of the line dividing between the said Colony and Province, according to an agreement made between the said governments, bearing date November 28th, 1683; whereby it appears they begun the said line at the mouth of Byram river, and carried it, as that river runs, to a great stone at the wading place, where the road cuts the said river, and thence north north-west six miles and a half, and there marked three white oak trees; and from the said trees, at eight miles distance, run a parallel line to the Sound, which was allowed to be east north-east, twelve miles, and further on the same course one mile and sixty-three rods, and then further on the same course, viz., east north-east, three hundred and five rods more: Whereas it remains that the said line be perfected by running a line from the last mentioned station to the south line of the Massachusetts Province, which line is to be run parallel to Hudson's River,

Be it therefore enacted by the Governour, Council and Representatives, in General Court assembled, and by the authority of the same, That William Pitkin, Jonathan Law, and Roger Wolcott, Esq'rs, and Capt. Joseph Wakeman, be Commissioners for and in behalf of this Colony, they or any three of them, taking with them such assistance as they shall think fit, to meet with such commissioners as are or shall be in like manner appointed for and in the behalf of the said Province of New York, and with them to proceed in carrying on the line parallel to Hudson's river, and erecting proper monuments thereon.

And it is enacted, That the said line so to be finished and completed, when it shall be perfected and finished in such manner, shall forever be and remain the dividend line between this Colony and that Province.

—[*Conn. Pub. Rec.*, 1717-1725, p. 56.]

[IN CONN. GENERAL ASSEMBLY.]

October, 1718.

* * * *

The Governour having represented that his Excellency Governour Hunter has desired a meeting of some commissioners from this Colony, with such as he shall appoint from that government, at Rye, or Westchester, to consider what method may be best taken to compleat the running of the line between that Province of New York and this Colony, according to agreement formerly made, and confirmed by his late Majesty, King William, in Council,

Ordered by this Assembly, That Peter Burr, Samuel Eells, and Jonathan Law, Esq's, or any two of them, be Commissioners on the part of this government, to attend at the aforesaid town of Rye to join with the gentlemen from New York, to perambulate the line where it has been already run, for the quieting the complaints and disorders of the borderers, and to consider what methods may be used for the proceeding with the dividant line between the Governments, according to the said agreement, and to conclude on some certain time for the performance of it.

* * * *

—[*Conn. Pub. Rec.*, 1717-1725, p. 71; *N. Y. Col. MSS.*, lxix, 17.

[IN N. Y. COUNCIL.]

October 28, 1718.

* * * *

Then was read a Commission granted by his Excellency to Adolph Phillipse Caleb: Heathcott George Clarke Isaac Hicks and William Willet Esq^r to meet Commissioners from the Colony of Connecticut on Wednesday next at Rye for Concerting measures to facilitate the Running the Division Line Betwixt the two Colonies according to the Tenure of the acts of assembly for that purpose which is approved of by this board & ordered to be recorded in the Book of Commissions

—[*N. Y. Council Minutes (MS.)*, xi, 551.

[COMMISSION.]

ROBERT HUNTER Esq^r Captain Generall and Gov^r in Chief of the provinces of New York New Jersey and Territories thereon Depending in America and Vice Admiral of the same &c In Council

To Adolph Phillips Caleb Heathcote George Clarke Isaak Hicks and William Willett Esq^r

REPOSING Especial Trust and Confidence in yo^r Knowledge and Integrity HAVE Nominated Constituted and Appointed, and I Doe hereby

Nominate Constitute and appoint you Commissioners for the Province of New York for Concerting Measures & Methods with Commissioners for the Colony of Connecticut To facilitate the Running the Division Line betwixt the Provinces of New York and Connecticut According to the Tenure of Acts of Assembly for that Purpose, You are therefore on Wednesday next to Repair to Rye and there to Concert Measures and Methods with the Commissioners of the Colony of Connecticut to facilitate the Running of the Division Line aforesaid According to the Tenure of the Acts of Assembly for that Purpose. You are to Carry with you a Cobby of such Part of the Act of Assembly of this Province as Concerns the Running of the said Division Line As Also an Extract from the Councill Books of this Province of his Late Majesty King Williams Order on the Report of the Comm^{rs} and Surveyors formerly named for Settling said Division Line. You are to Demand a Copy or a Sight of the Act of Assembly of the Colony of Connecticut past Lately for that Purpose, You are to Putt in Writeing on the spott whatever is Transacted by you and the Comm^{rs} of Connecticut and to Interchange Coppys of the Same when Examined, To Prevent Needless Disputes, Let anything that is Proposed by other side be Put in Writeing as also the Answer or Objection to it by the other Party if any such is offered or arises, You or any Two of you with M^r Faulconnier as Surveyor if you shall think it Necessary are to take a View of the Line so far as it was formerly Run from Byram River, So that you may be Able to Judge whether it was Run According to the Agreement upon which the Order Above Mentioned was founded And Report as you find it taking with you a Good Instrument and What Else maybe Requisite on that Occasion. In case what is Material be agreed upon by both sides You are to Condescend upon any Particular time within Twelve Months after the Date hereof for the Running of the Line or Remainder of that Line which is to be hereafter the Partition Line between the Two Colonies, for Doing of all which this shall be a sufficient Authority and Commission GIVEN under my hand and Seal at ffort George in New York this Twenty Eighth Day of October in the fifth Year of the Reign of our Sovereign Lord George by the Grace of God of Great Britain ffrence and Ireland King &c Annoq^{ua} Domini 1718

RO: HUNTER

—[*N. Y. Commissions*, in office of Sec'y of State, iii, 180; *N. Y. Col. MSS.* (Draft of Commission), lxix, 16.

[N. Y. COMMISSIONERS TO CONNECTICUT COMMISSIONERS.]

GENTLEMEN

At our meeting Yesterday morning wee Communicated to you the powers with which we came for concerting measures wth you to facilitate the Running the division line betwixt your province and ours according to the Tenor of Acts of Assembly for that purpose, esteeming our Selves very happy in having a trust of Such great consequence committed to us, it being our hearty intentions So to treat of those affairs as might bring all matters to Such an Equitable and friendly determination that the partition lines between your Government and ours might bee run and ascertained to the Mutual Satisfaction of both. but we cannot but Express our great surprise & concern to find you so Circumscribed by the powers given to you, as not to be at liberty to come to conclusion on any of those particulars which we yesterday debated and which will be found absolutely necessary to be determined before the lines can bee run, and we shall be very Sory, to have any occasion to remember you that fur want of sufficient powers from your Government the people inhabiting the borders of either Colony have been left in doubts to which they owe their obedience, and that from that uncertainty so Considerable number of his Maj^{ties} Subjects in the part of his Dominions on this Continent should take a pretence of living independent of all Government

However Gentlemen from the discourse we have had we hope you will indeavour to induce your Government to give you Such further powers for treating an determining all necessary preliminaries for Running the partition lines mention'd as Soon as may be that that affair may be brought to an happy Issue and that you will make your application to your Gov^t to get an Act past by your Assembly to the same Effect with that alreedy past by ours, and herewith delivered to you, that those lines when run may be Conclusive to your province as by that act they are declared to be to ours.

The ends proposed will be so advantagious to both Colonies and so highly necessary for the due administration of Justice that we do not doubt they will considered with all imaginable honor & Equity. We are with much respect
Gentlemen y^r most humble Servants

Rye october the 31st 1718
To Peter Burr Samuel Eels
and Jonathan Law Esq^r Comm^{rs}
on the part of Connecticut &c

CALEB HEATHCOTE
A. PHILIPSE
G^o: CLARCKE
ISAAC HICKS
W^m: WILLET.

[Endorsed]: Coppy of a Letter from the N. York Comiss^{rs} to the Commissioners of Conecticut. 31st: Octob^r: 1718.

—[N. Y. Col. MSS., lxix, 19.]

[CONNECTICUT COMMISSIONERS TO N. Y. COMMISSIONERS.]

Gentlemen

We think we are not mistaken when we suppose y^e special occasion of this meeting to be y^e Troubles and Disorders of y^e Borderers. Nor when we understand That a bear Concerting of measures for y^e Completing y^e whole Division Line or this part of it only will be a present or future Remedy. Nor when we are of y^e opinion, that a practical Runing of this part of y^e line viz: from y^e Rock to y^e Oak trees markt & described in y^e account of y^e Survey would be an effectual Salvo for that End. Neither do we mistake your Comision, Gentlemen, as we apprehend under Correction when we take your Comission to be exclusive of all practical Performances. Nor when we say y^e essential part of y^e Trust Comitted to us is y^e putting this matter (namely y^e runing of y^e line where this Difficulty on y^e Account of y^e Borderers ariseth) into practice immediately. and not y^e Consideration of any preliminary articles.

Whence we Conclude That however such a misunderstanding has happened. That y^e Disadvantage to our present Proceedings for removing y^e present Difficulties falls rather on your Commissioners (Gentlemen) than ours.

And further we would represent to you Gentlemen, as we imagine, you will easily believe That we are very sorry, that it has so happened. And we are of y^e same mind and Desire with your selves That such measures for y^e future might be taken That y^e Comissions on both sides might be mutually known and agreed to before any meeting of Comissioners be appointed. Thus Gentlemen we subscribe our selves

Your very humble Servants

Rye Octob^r 31st 1718

PETER BURR
SAM^L EELLS
JONTH LAW

—[*N. Y. Col. MSS.*, lxix, 20.

[N. Y. COMMISSIONERS TO GOVERNOR HUNTER.]

May it please your Excellency

In obedience to your Excellencie's commission, We went to Rye, and there met the Commis^s from the Colony of Connecticut, to Whom we communicated such part of our powers, as We Judged necessary, as They likewise did theirs to us, Whereupon we had several debates, concerning what we apprehended to be the principal end of our commission (viz^t) the concerting and fixing measures for running the partition lines between both colonies, but finding that their powers directed them chiefly to the perambulating the lines run in 1683, and gave them no

authority to agree on any measures for running all the lines, nor y^t they brought any act of assembly, obliging their Inhabitants, as ours are, We wrote them a letter, a copy of which we inclose to your Excellency, at the same time interchanging copys of our commissions, so farr as We judged necessary, and they having given us the inclosed answer to our letter, We took leave of Them recommending to them to obtaine ample powers from their Government, with an act of assembly to the purport above mentioned, and proposing to have those powers agreed on by both Governments, that a future meeting of Commis^{rs} may produce the end proposed. The Commis^{rs} of each province have promised to intercede with their respective Governments that the Borderers shal remain unmolested till it be seen whether this affair can be brought to a conclusion. We are with all possible honor

S^r

your Excellencys
 most obedient Servants
 CALEB HEATHCOTE
 AD PHILIPSE
 GEO. CLARKE
 ISAAC HICKS
 WILLIAM WILLETT

Rye october the 31st
 1718.

To his Excellency
 Brigadier Hunter

—[*N. Y. Col. MSS.*, lxix, 18.

[IN N. Y. COUNCIL.]

November 13, 1718.

* * * *

His Excellency communicated to this board a Letter from the Com^{rs} appointed by him to meet y^e Com^{rs} from Connecticut at Rye to Consert measures for Running the partition Lines betwen both Colony's Giving him an account of their proceedings with the Letters Interchanged by the Com^{rs} on both sides.

His Excellency acquainted the board that he has Given orders for putting a present stop to y^e prosecution agst the Borderers till it be seen whether thee Government of Connecticut will joyne in Running of said Lines

* * * *

—[*N. Y. Council Minutes (MS.)*, xi, 569.

[COLONY OF CONNECTICUT.]

At a Meeting of the Governour and Council in Saybrook, December
3d, 1718.

* * * *

Whereas there are several difficulties arisen, which have hitherto prevented the execution of the order of the Assembly, for running out the line of division between this government and the Province of New York :

For the removal thereof, it is ordered, that Jonathan Law and Joseph Wakeman, Esq's, two of the commissioners appointed by this government for running out the said line, do as soon as may be, taking a surveyor with them, and what other help shall be necessary, and particularly John Cross of Windsor, who was present at the running that part of the line already stated, and that they make tryal of the said line, as it was so run and stated by agreement of the said governments, from Lyons Point at the mouth of Biram River, to a great rock at the Wading Place, where the great path passes over the said river, and from thence to the three oak trees, at eight miles distance from the said Lyons Point, and from the said trees twelve miles east north east, together with the addition to that line of twelve miles of one mile and sixty four rods, and three hundred and five rods, according as is expressed in the said agreement and survey thereon; endeavouring to find out the trees and monuments of the said line that were made at the time of the said survey, and make report of what they shall find, to the Governour and Council.

—[*Conn. Pub. Rec.*, 1717-1725, p. 96.

New Haven, March 11, 1718³/₄.

* * * *

Whereas, by an order of Council of the third of December last, Jonathan Law, Esq., and Capt. Joseph Wakeman were appointed to proceed upon the business of the line between this government and the Province of New York, and the said Mr. Law being occasionally prevented from joyning with the said Wakeman in that service: It is now ordered, that the said Wakeman do proceed in the business without Mr. Law, according to the direction of the aforesaid order of Council.

The charge of the Governour and Council at this meeting is allowed to be £17 8s. 2d.

Ordered, That the above sum of seventeen pound eight shillings and two pence be paid to the respective persons to whom it is due, out of the countrys money paid in to the superiour court at their sessions in New Haven the 10th instant.

—[*Conn. Pub. Rec.*, 1717-1725, p. 102.

[COLONY OF CONNECTICUT.]

At a General Assembly Holden at Hartford in His Majestys Colony of Connecticut in New England on the 14th Day of May in the fifth Year of the Reign of our Sovereign Lord George of Great Britain, &c King Anno Domini 1719 —

WHEREAS the line between this Colony and his Majestys Province of New York which has been partly run and stated according to the agreement of the Government* of the said Colony and Province and approved by his late majesty King W^m the 3^d in council the 28th Day of March 1700 is not fully compleated and Whereas it is of great consequence to the Peace of His Majestys Subjects bordering on the said Line that the said Line be carried on fully run and stated according to the said agreement —

It is therefore Enacted by the Governour Council and Representatives in General Court Assembled and by The authority of the same That William Petkin, Peter Burr, Samuel Eell and Jonathan Law Esq^r and Mr. John Read or any three of them be Comm^{rs} on the part of this Government, and are hereby fully Impowered for and on the behalf of this Government to meet with such Comm^{rs} as are or shall be for the same End appointed on the part and behalf of the Government of New York, and to agree with them on such Preliminarys and Conclusions as shall be needfull for the carrying on Stating and compleating the said Line according to the said agreement and Erecting Monuments therein, and the said Commissioners on the part of this Governm^t or any three of them are hereby fully Impowered together with such Comm^{rs} on the part of the Province of New York as shall in like manner be fully Impowered to perfect the running of the said Line According to the said Agreement and to Erect Monuments therein.

—[*N. Y. Council Minutes (MS.)*, xiv, 128; *Conn. Pub. Rec.*, 1717-1725, p. 126.

[IN N. Y. COUNCIL.]

June 19, 1719.

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The account of the Charges of the five Commissioners & a Surveyor appointed to meet for this province those of Connecticut the Last fall, for fixing & running the Division Line between the two Governments was read and referred to any five or more of the Gentlemen of this board.

—[*N. Y. Council Minutes (MS.)*, xi, 633.

1718. THE COLONY OF NEW YORK IS D^r TO COLO W^m WILLETT &
COLO ISAAC HICKS.

To 4 Days meeting of the Commissioners of the Colony of Connecticut for running the Division Line be- tween the Colonys of York & Connecticut.	} 4 : — —
To their Expences for 4 Days	£4 : — : —
	8 — —

WILLIAM WILLETT
ISAAC HICKS

May it please yo^r Excellency

In Obedience to your Excellencys order in Council of the 3^d Instant Referring to us the within Acc^t of Colo William Willett and Colo Isaac Hicks Wee humbly Report that Wee have examined the Same and are of Opinion that your Excellency may Issue Warrant to the Treasurer for the Payment thereof out of the Money appropriated for the purpose in the said Acct^t mentioned being in full the sume of Eight pounds all wth is nevertheless humbly submitted by yo^r Excellencys

Most Obed^t humble servants

New York Nov

y^e 7th 1720

JOHN JOHNSTON

NA. HARISON

A D PEYSTER

B WALTER

GERARD BEEKMAN

T BYERLEY

— *N. Y. Col. MSS.*, lxiii, 8.

[The above report was confirmed in Council, Nov. 7/18, 1720.]

[COLONY OF NEW YORK.]

*An A C T for running and ascertaining the Lines of Partition and
Division between this Colony, and the Colony of Connecticut.*

Pass'd the 25th of June, 1719.

Confirm'd by the King in Council, 23d of Jan. 1723.

WHEREAS at a Council held at *Fort-James*, (now *Fort-George*) in this Colony of *New-York*, on the Twenty-third Day of *November*, One Thousand Six Hundred Eighty-three; at which Council, Col. THOMAS DONGAN, then Governor of this Province, and the Council of the same, on the one part; *Robert Treat*, Esq; then Governor of the Colony of *Connecticut*, Major *Nathan Gold*, Capt. *John Allen*, Secretary, and Mr. *William Pitkin*, Commissioners, jointly impowered by the Government of *Connecticut*, on the other Part; did conclude and agree, touching and

concerning the running and ascertaining the Lines of Partition and Division, between this Province, and the Colony of *Connecticut*; pursuant to which agreement, Commissioners and Surveyors were appointed and commissioned, *to wit*, *John Youngs*, *John Pell*, *Philip Wells*, and *Robert Vorklain*, on the Part and Behalf of the Province of *New-York*, and *Nathaniel Gold*, *Jonathan Selleck*, *Daniel Sherman*, and *John Hariman*, on the Part and Behalf of the Colony of *Connecticut*: Which Commissioners and Surveyors, appointed and commissioned on the Part and Behalf of Each of the Governments before mentioned, did repair to a certain Place lying on the East Side of the Mouth of *Byram* River, and known by the Name of *Lyon's-Point*, and by Virtue of the Powers and Authorities in them lodged, did agree, determine, and ascertain, the said lines of Partition and Division, between the Province of *New-York*, and Colony of *Connecticut* aforesaid; and did begin at *Lyon's-Point*, on the Mouth of the said *Byram* River, and did actually survey, run, distinguish, determine and mark out, such Part of the said Lines of Partition and Division, as did ascertain the most southerly Part of this Province, bordering on the Colony of *Connecticut*, and Part of the most easterly Part of this Province, bounding on the said Colony; and did also ascertain, determine, and fix a Point or Place at eight Miles Distance, on a North-North-West Course from the Sound; from whence a Line should run parallel to the Sound, so far easterly, until it brings *Hudson's* River from thence the Distance of Twenty Miles, together with an Addition allowed, as an Equivalent, in Lieu of a Concession then made on the part of this Province; and from thence a Line parallel to *Hudson's* River, until it came so far northerly, as the Line of Partition or Division, between the Colony of *Connecticut*, and the Colony of the *Massachusetts*: Which Line aforesaid, to be run parallel to *Hudson's* River, under the Line of the *Massachusetts* Colony, was to be the Line of Partition and Division between this Province, and the Colony of *Connecticut*. All which said Matters and Things agreed on, done, determined and fix'd, as aforesaid, was, by the said Commissioners and Surveyors, (appointed and commissioned as aforesaid) reported and submitted to the Governments of *New-York* and *Connecticut*, for their Allowance or Disapprobation of the same: And the Governors of both the Colonies, *to wit*, Col. THOMAS DONGAN, Governor of the Province of *New-York*, and *Robert Treat*, Esq; Governor of the Colony of *Connecticut*, did meet at the Town of *Milford*, in the said Colony of *Connecticut*, and there, on the Twenty-fourth Day of *February*, in the year One Thousand Six Hundred Eighty-four, both the said Governors did, in the Presence of *John Palmer*, *John Sprag*, and *John Youngs*, of the Province of *New-York*; and *Nathan Gold*, *William Jones*, *John Allen*, *John Nash*, and *William Pitkin*, of the

Colony of *Connecticut*; approve of, ratifie, confirm and agree, to what had been done by the Commissioners and Surveyors aforesaid, and ordered the same to be entered as of Record in the Publick Registers of the Province of *New-York*, and Colony of *Connecticut*; which was accordingly done, and appears of Record in the Secretary's-Office of this Province. All which said Matters and Things, done and agreed on by the Commissioners aforesaid, and ratified and agreed to by the Governors aforesaid, as well as the Articles of Agreement betwixt the said Governors was, by his Majesty King WILLIAM the Third, of glorious and immortal Memory, with the Advice of his most honourable Privy Council, on the Twenty-Eighth day of *March*, One Thousand Seven Hundred, approved of and Confirmed, as by the said Order of Council, and his said Majesty's Letter of the Twenty-ninth Day of *March*, to his Governor of *New-York*, entered in the Secretary's-Office of this Province, may more fully and at large appear.

AND whereas that Part of the Lines of Partition and Division, betwixt this Province, and the Colony of *Connecticut*, which were to run parallel to *Hudson's River*, as aforesaid, were never actually surveyed and mark'd out, nor the Places ascertained and distinguished, through which the said Lines should pass; and the Marks of such Part of the Lines of Partition or Division, as were by the Surveyors aforesaid, then run, mark'd out, and distinguished, are by Length of Time, worn out, or by the Contrivances and wicked Practices of evil disposed Persons, defaced, or altogether taken away; so that without running them a-new, the Places through which such Lines did or should run, are not, nor cannot be discovered and ascertained; * * * In order therefore to prevent the Confusions and Disturbances that will otherwise unavoidably follow; to encourage the further Settlement and Improvement of this Province; and that such Persons as are already settled near or adjacent to the Lines of Partition and Division, betwixt this Province, and the Colony of *Connecticut*, may peaceably and quietly enjoy the Fruits of their Labour and Industry, according to their several Rights;

I. BE IT ENACTED *by the Governor, Council, and General Assembly, and it is hereby Enacted by the Authority of the same*, That his Excellency the Governor of this Province, or the Governor and Commander in Chief of this Province, for the Time being, do, by Commission under the Great Seal of this Province, authorize and impower, two or more such Persons, as to the said Governor or Commander in Chief, with the Advice of his Majesty's Council, shall seem most convenient and fit, in Conjunction with the Surveyer General of this Province, or his Deputy, approved of by the Governor, or Commander in Chief for the Time being, with the Advice and consent of the Council, to run, mark out, distinguish and ascertain, the Lines of Partition and Division,

between this Province, and the Colony of *Connecticut*, according to the Agreements before-mentioned, which were approved and allowed of, by the late KING WILLIAM, and in no other Manner than it was agreed and approved of, as aforesaid; and the said Lines, when run, and the Places distinguished, through which they shall pass, are hereby DECLARED AND ENACTED, to be the Lines of Partition and Division, betwixt this Colony, and the Colony of *Connecticut*; and all Persons whatsoever, Bodies Corporate, and Politick, are hereby required to take Notice thereof, and govern themselves accordingly, any Law or Usage to the contrary hereof notwithstanding.

II. AND whereas it is the Design, Intention and earnest Desire of the Legislature of this Province, that the Lines of the Partition and Division, between the Colonies of *New-York* and *Connecticut* aforesaid, be not only run truly and fairly, but amicably, and in Conjunction with Commissioners and Surveyors to be legally and sufficiently impowered by the Government of *Connecticut*, if that Government shall so think fit; BE IT THEREFORE ENACTED by the Governor, Council and General Assembly of this Province of *New-York*, and it is hereby Enacted by the Authority of the same, That before the Commissioners and Surveyor General, (or Deputy approved of, as aforesaid) appointed and commissioned under the Great Seal of this Province, enter upon, and begin to run and ascertain the Lines of Partition and Division aforesaid, timely Notice (not less than nine Months before such beginning to run) shall be sent to the Governor of *Connecticut*, from the Governor, or Commander in Chief of this Province, by some credible Person, (who shall make Oath of the Delivery of the same) of the Time when the said Lines of Partition and Division, are appointed to be run and ascertained, in order that Commissioners and Surveyors may be appointed by the Government of *Connecticut*, if they think fit to act in Conjunction with the Commissioners and Surveyor General, * * * And in Case the Government of *Connecticut* shall not think fit to appoint, and legally and sufficiently impower and authorise, any Persons to act in Conjunction with the Commissioners appointed by the Province as aforesaid; it shall then be lawful for the Persons commissioned on the Part and Behalf of this Province, to run and ascertain the said Lines of Partition and Division, between this Province, and the Colony of *Connecticut*, and to put in Execution the several directions in their said Commission contained, according to the true Intent and Meaning of this Act.

III. PROVIDED ALWAYS, That this Act, nor any Part thereof, shall be in Force until his Majesty, his Heirs or Successors, shall be graciously pleased to give the Royal assent thereto.

—[*N. Y. Laws (Van Schaack)*, p. 115.

[GOVERNOR SALTONSTALL TO GOVERNOR HUNTER.]

You will see by the inclosed Act¹ the Sincere Desire of the Assembly here, to have y^e running of the Line compleated.

We have made some Alteration in our Commissioners, but the Act is as full as w^t I formerly sent you. I hope y^r Assembly will concur; Your Recommendation of It, which I make no doubt of, will have a good Effect, with such as may have the Care, during Your designed absence; And bring on that Condition which can't be of Service to both Governments.

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*

Y^r Excellencys

Most obedient

N London

humble servant

July. 9th 1719.

G: SALTONSTALL.

—[*N. Y. Col. MSS.*, lxix, 22.

[COLONY OF CONNECTICUT.]

At a Meeting of the Governour and Council in

New London, November 3d, 1719.

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Ordered, That any one or two of the commissioners appointed by the General Assembly, in May last, for settling the line between this Colony and the government of New York, do, as soon as they can conveniently, with a surveyor and suitable assistance begin at the eastermost known bounds between the said governments, which is commonly called and known by the name of Dukes Tree, and run a parallel line with Hudsons River, from the aforesaid tree, according to the map or chart of the said river which was produced in the said Assembly in May last, until they shall extend the said line above Ridgefield or the northermost towns on that side this government, and erect certain monuments which may be readily found and known.

—[*Conn. Pub. Rec.*, 1717-1725, p. 164.

April 2d, 1720.

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Whereas the gentlemen appointed by order of this board of the 3d of November last, to run the line between this Colony and the Province of New York, are indisposed, and uncapable to attend that service: It is now ordered, that Samuel Eells and Joseph Plat, Esq^{rs}, do with all convenient speed, with a surveyour and suitable assistance, begin at the

¹Probably that of May 14, 1719, for which, see page 263.—[P.]

eastermost known bounds between this government and the said Province, which is known by the name of Dukes Tree, and run a parallel line with Hudsons River from the aforesaid tree, according to the map or chart of the said river which was produced in the General Assembly held at Hartford in May last, until they shall extend the said line above Ridgefield, or the northermost towns on that side this government, and erect certain monuments, which may be readily found and known.
 —[*Conn. Pub. Rec.*, 1717-1725, p. 170.]

State of the British Plantations in America, in 1721.

Copy of a Representation of the Lords Commissioners for Trade and Plantations to the King * * dated September the 8th 1721.

[NEW ENGLAND.]

* * King James the First, did by his Letters patents of the third of November in the 18th year of his Reign, grant to the Duke of Lenox (under the name of the Council of Plymouth) “All that part & portion of that Country, now commonly called New England, which is situate, lying & being between the Latitude of 40 degrees & 48 of Northerly Latitude, together with the Seas & Islands lying within one hundred miles of any part of the said coast of the country aforesaid.”

[NEW HAMPSHIRE includes] “All that part of the main Land in New England, lying upon the Sea coast, * * together with all Islands & Islets within five Leagues distance of the premises, and abutting upon the same or any part or parcel thereof.”

MASSACHUSETTS BAY includes] * * all Lands * * lying within the said bounds, * * & also all Islands & Islets lying within ten leagues directly opposite to the main land, within the said bounds, * *”

RHODE ISLAND * * is bounded * * on the South by the Ocean ; & the charter for this Colony particularly grants the lands belonging unto the town of Providence [etc.] & the rest upon the main land in the tract aforesaid, together with Rhode Island, Block Island & all the rest of the Islands and Banks in the Narraganset's Bay, & bordering upon the coast of the tract aforesaid, Fisher's Island only excepted.

CONNECTICUT is bounded on the East by Narraganset River, commonly called Narraganset Bay, where the said River falleth into the sea, on the North by the line of the Massachusets plantation, & on the South by the sea.

* * NEW YORK, in which Long Island is included, is bounded on the South west by the province of New Jersey, North west by Delaware river, North by the french settlements on Canada river, East by the Colony of Connecticut, & South by the sea.

* * NEW JERSEY is bounded on the East by Manhattan's Island & Long Island, & part of the Sea, & part of Hudson's river, on the West by Delaware Bay or river, which parts it from Pennsylvania, & Southward to the main ocean, as far as Cape May, at the mouth of the said Delaware Bay ; * * *

—[*N. Y. Col. Doc.*, v, 594, 596, 599, 600, 602.]

[IN N. Y. COUNCIL]

March 21, 1722-3

* * * *

His Excellency communicated to this Board a Letter from Gordon Saltonstall, Esq^r Governour of the Colony of Connecticut and an Act passed the General Assembly of that Colony concerning the Partition Line between this Province and that colony which are as follows.—

Sir

The Assembly here having desired me to move to your Excellency that the Line between your Province and this Colony which has been in part run and Stated many Years since may be compleated, I have inclosed an Act which was passed here for that End in the year 1719, appointing Commissioners on our part, which is still in force.

The Commissioners of both Governments met on this service in Governour Hunters time, but towards the Close of it and did not go through it.

The work itself was so far Carried on before it was laid before his late Majesty King W^m in the year 1700 for his approbation which it then had that nothing remains but the perfecting of it, from the Last Station that was then Fixed (and known as it has been ever since by the name of the Dukes Tree) by running from thence a Line parallel to Hudsons River as far North as the South bounds of Massachusetts Province.

There seems but little necessary by way of Preliminary, but to know the Course of that River, and that Survey of it which was Antiently taken by some Gentlemen of your Province and which has been some times Shewn to the Commissioners of this Government (and thereof I think We have a Copy) is what I believe will well Content us, and save the Labour of a new Survey.

Whenever you please to appoint Commissioners, ours shall be directed to Join them upon that Service, I conclude Next month may be a fit Season for it and hope it will Soon be finished when they get about it which this Government is very Desirous may not any Longer be delayed Since its necessary for the Quiet of the Borders and Improvement of their Lands I am

Your Excellencys

Most Obedient humble

Servant

G. SALTONSTALL.

New London

March 11th 1722-3

Ordered that the said Letter and Act be referred to the Consideration of the Gentlemen of the Council or Any five of them and that they make Report thereon to this Board.

His Excellency withdrawing The Gentlemen of the Council Resolved into a Committee to Consider of the said Letter and Act and after some time Spent therein

His Excellency Returning to the Council Chamber took his place —

Then M^r Alexander Chairman of the committee to whom was referred the said Letter and Act in his place Reported, That in Obedience to his Excellency's order in Council of this Day, referring to them the Consideration of a Letter from Gordon Saltonstall Esq^r Governour of the Colony of Connecticut and an act passed the Gen^l assembly of that Colony concerning the Partition Line between this Province and that Colony, That they have Considered of the same and also of what has been done relating to that affair Since his Late Majesty King William what had been done by the first commissioners Of both Governments, That they find, that by an act of the General Assembly of this Province past in the year 1717, a Fund was raised to defray the Charge of Perfecting the Lines Limits and boundarys betwixt the two Colonys. That upon Brigad^r Hunter's giving an Account hereof to Gov^r Saltonstall The Brigad^r Desired that some Comm^{rs} on the part of Connecticutt might meet Some to be appointed by him on the part of this Province to the End aforesaid.

That in consequence of which Comm^{rs} met at Rye in October 1718. Those for this Province being fully Impowred to Treat of all matters on such Equitable measures as might Ascertain the whole Boundarys to the mutual Satisfaction of both, as may appear by their Commission a copy of which they then Delivered to the Comm^{rs} for the Colony of Connecticut, as Also a Copy of the said Act so far as it relates to these Lines, but the Comm^{rs} for the colony of Connecticut having little more in Charge than the Perambulating the Line where it had already been run as may appear by an Act or order of the General assembly of Connecticut dated at New Haven October the 9th 1718.

That that meeting had no other Effect than mutual promisses to interceed with their Respective Governments that the Borderers should remain unmolested till it was Seen whether that affair could be brought to a Conclusion

That no further advances in this affair being made by the Colony of Connecticutt, The General Assembly of this Province having at Heart the perfecting of the Partition Lines before more Improvements were made on the Borders and to quiet those that live on or neigh the same, Past an Other Act in the year 1719 whereby it was Enacted that if the Gov-

ernment of Connecticut did not Join in ascertaining the same Lines the same might be performed by this Government Ex parte, But the Legislature of this Province were so tender of the Interest of their Neighbours of Connecticut That a Clause was inserted in the same act Declaring it not to be in Force untill it had the Royal assent, and Even then that Power was not to be put in practice unless at least nine months previous notice was given to the Government of Connecticut.

That by both above mentioned Acts of the General assembly of this Province its in Express words Enacted that when the Lines Limits and boundarys betwixt the two Colonys Should be fixt and ascertained by Comm^{rs} and Surveyors of both the same should be Conclusive to all Bodys Politick and Corporate and all other Persons whatsoever.

That in the Act of the General Assembly of Connecticut past at Hertford the 14th May 1719 now Referred to their Consideration by his Excellency, They find that the Gentlemen therein named as Commiss^{rs} are only Impowered to agree with Comm^{rs} of this Province on such Preliminarys and Conclusions as shall be needfull for the carrying on Stateing & Compleating the said Lines and for Erecting monuments therein without the least Clause or Expression to bind the colony of Connecticut or its Inhabitants when ascertained in so Solemn a manner.

That the Subjects of the Colony of Connecticut should be Concluded after such proceedings as well as those of this Province, They are humbly of Opinion that the General Assembly of Connecticut ought to make such a Binding Clause as has been done by the General Assembly of this Province before another meeting of the Commissioners can be of any real use.

When such a Clause is past and transmitted to his Excellency, Comm^{rs} And a Surveyor pursuant to the acts of Assembly of this Province, may be appointed who in Conjunction with the Commissioners of Connecticut may settle such Equitable and necessary Preliminarys as are requisite before the actual Survey be set about, for these being agreed on there will remain then nothing to doe, but to follow the Rules and methods concerted in that manner, after which such monuments may be Erected and such Trees markt as to the Commissioners may Seem meet for perpetuating the partition Lines to be ascertained.

That it will in the meanwhile be needless to Inquire how Easy or Difficult this Work will prove because that Will naturally fall under the Consideration of the Commissioners when they meet to settle such Preliminarys to the actual Survey.

Which Report is approved of by this Board.

* * * *

[INSTRUCTIONS AS TO GRANTS OF LANDS IN THE PROVINCE OF NEW YORK.]

Representation of the Lords of Trade to the King.

* * * * *

* * From the first settling of the British Colony's in America, the Governors of such of them as were immediately under the Government of the Crown have been always impowered with the advice & Assent of their respective Councils to make grants of Lands there to such persons as should be willing to settle and cultivate the same, under the reservation of reasonable Quit Rents & Services which were left to the discretion of the said Governors and Council * *

My Lord Lovelace about this time [1708] being appointed Governor of New York, her Majesty's orders upon this head were reduced into the form of an instruction in the following terms.

“Whereas we have thought fit by our order in Council of the 26 of June 1708, to repeal an Act past at New York the 27 of Nov: 1702 Entituled an Act for repealing several Acts of Assembly and declaring other ordenances publish'd as Acts of Assembly to be void; and whereas by the said order; We have likewise thought fit to confirm and approve an Act past at New York the 2 of March 169³ entituled an Act for vacating breaking and annulling several extravagant Grants of Land made by Col: Benjamin Fletcher late Governor of this Province under his Majesty by the confirmation of which Act several large Tracts of Land (as by the said Act will more fully appear) are resumed to Us, and are in our disposal to regrant as we shall see occasion Our Will & pleasure therefore is, that you may regrant to the late Patentees of such resumed Grants a suitable number of Acres not exceeding two thousand to any one person, And that in such Grants as in all future Grants there be a reservation to us, Our Heirs & Successors of an yearly Quit Rent of two Shillings & Six pence for every hundred Acres with a Covenant to plant, settle and effectually cultivate at least three Acres of Land for every fifty Acres within three years after the same shall be so granted upon forfeiture of every such Grant

“And for the more convenient and equal setting out of all Lands to be Granted within our said Province of New York Our further Will and Pleasure is that you our Gov^r or Comander in Chief of Our said Province for y^e time being, the Collector of our customs, our Secretary & Surveyor General of New York for the time being (the Surveyor Gen^l always to be one) or any three or more of you & them do set out all lands to be hereafter granted, and that therein you have regard to the profitable & unprofitable Acres so that each Grantee may have a proportionable number of one sort and the other; As

“likewise that the length of Each tract of Land to be hereafter Granted
 “do not Extend along the banks of any River, but into the main land
 “that thereby the said Grantees may have Each a convenient share
 “of what accommodation the said Rivers may afford for Navigation or
 “otherwise

“And to prevent any impediment which the production of Naval
 “Stores in our said Province may receive from such Grants you are to
 “take care y^t in all Patents for Land there be inserted a clause to
 “restrain the Grantees from burning the woods to clear the Land, under
 “the penalty of forfeiting their Patent, And you are to use, your
 “endeavours to procure an Act to be pass’d in the Assembly of our
 “Province of New York for that purpose

“And lastly our pleasure is that in the said Patents there be likewise
 “a particular reservation to us, Our Heirs and Successors of all Trees
 “of y^e Diameter of twenty four inches & upwards at twelve inches from
 “y^e Ground for Masts for our Royal Navy as also of such other trees
 “as may be fit to make plank, Knees &^{ca} for the use of said Navy.

The same instruction hath been continued to the several Governors
 that succeeded my Lord Lovelace in that Province But we find by M^r
 Coldens mem[oria]^l that several exorbitant Grants formerly obtained
 without previous Survey are still remaining extended by great fraud &
 deceit and the bounds industriously concealed from the knowledge of
 your Majesty’s Officers * *

* * it is evident that this disorder cou’d never have happen’d
 had the lands been regularly survey’d before they were granted and
 the grants thereof duely registred in the proper offices¹ * *

All of which is most humbly submitted

J. CHETWYND
 T. PELHAM
 M. BEADEN

Whitehall Sept^r 26. 1722.

—[*N. Y. Col. Doc.*, v. 650, 652, 654.

¹The foregoing statement, though not directly relating to boundaries, is inserted, in its chronological order, on account of the connection of the general subject of Land Grants with certain grants of islands in Long Island Sound, the records of which will be found at p. 273. —[P.

[COLONY OF CONNECTICUT.]

CONNECTICUT ss. AN ACT for compleating & perfecting of the Line of Division between this His Majesties Colony of Connecticut
 L. s. and the Province of New York, which was begun, and in part fixed, and established in the years 1683 & 1684 ; the remaining part of which Line, (notwithstanding many endeavours to have it Run, and monuments therein erected, in Conjunction with the s^d Province, have been since used, and Acts passed by the Assembly of this Colony, and by vertue thereof Commissioners sent to attend that Service, with Such Commissioners, as should be appointed by the Government of that Province, for the same service,) continuing yet to be surveyed & fixed by monuments to be erected therein.

Whereas the Line of Division between this his Majesties Colony of Connecticut, and the Province of New York, was in the year 1683, by agreement between the Governments of this Colony, and the s^d Province of New York, removed from the Place where it was antiently esteemed, & known to be, and determined to be, & forever to remain in another certain Place, beginning at the mouth of a River famously known by the name of Byram River : By which alteration, several Towns Erected by, and belonging to the s^d Colony, were added to, and become part of the s^d Province of New York ; And whereas, pursuant to the s^d Agreement, Surveyours, and Commissioners appointed by the Government of this Colony, and that Province did in the month of October 1684 meet, and in Conjunction Survey, and make, and establish Good & Sufficient Monuments in Part of the s^d Line ; That is to say beginning at a Point called Lions Point, on the East Side of the s^d Byram River ; and continued the s^d Line, from thence, up the s^d River One Mile, and an halfe and twenty Rodds, to a great Stone at the wading Place, where the Road cuts the s^d River, and from thence on a North North West Course, six Miles, & an halfe, and there marked Three White Oak Trees with C R and some other marks, and Inscriptions, and from the s^d Trees, continued the s^d Line, upon an East North East Course twelve miles, (which Eastern End of the s^d twelve miles, is in the s^d Agreement appointed, to be the place from whence a Line run Paralell to Hudsons River and concluded to be at twenty miles distance from it, is to be run as far north, as the South Line of the Massachusetts Province,) should be the Line of Partition between the s^d Colony, and Province of New York ; and to the Eastern End of the s^d twelve mile Line the s^d Commissioners added on the same Course, viz: East North East, One mile and Sixty four Rods, where a white Oak tree was marked with the Letters C R, and a Crown, together with the Effigies of his then Royal Highness James Duke of York, to whom His Majestie King Charles the second,

was said to have Granted the afores^d. Province of New York; which Tree has ever since born the name of the Dukes Tree and is famously known by the s^d. name, and is by the s^d. Survey Considered, Stated and Esteemed to be twenty miles from Hudsons River; all which marks, and monuments have been ever since the s^d. Survey, fixing of them, famously known, as they are at this Day.

And whereas His most Excellent Majestie King William the Third of Glorious Memory, did with the advice of His most Honourable Privy Council on the 28th day of March 1700, approve of, and Confirm the s^d. Agreement, and Survey, and the Line thereby Settled and Concluded, to be the Dividend Line between this Colony and the s^d. Province, That is to say, did Ordain that the s^d. Line, so far agreed, Run and Fixed, and a Parallel Line to Hudsons River, to be Run, and Fixed according to the s^d. Agreement, should for ever be, and remain the Dividend Line, and Boundary between the s^d. Colony, and Province.

And whereas that part of the Line of Partition between this Colony and the Province of New York, which is to run Parallel to Hudsons River, has never yet been actually Surveyed, and fixed by Commissioners from Each Government, nor the Places through which the s^d. Line should Run discovered, and distinguished, by proper monuments Erected in them; which has been a great Prejudice to the Plantations, and Towns within this Colony bordering on that Line, Occasioned many Disorders, and discouraged the settlements & Improvement of the Land in those Parts; Great Quantities of which under Colour of belonging to the Province of New York have been, and are Claimod by Several Persons of that Province, by vertue of certain Pattents, which they declare will Extend to a much greater Distance from Hudsons River, than the afores^d. Parrallel Line to that River, as appointed to be Run and Fixed. And the Running, Stating and Erecting Monuments in the s^d. Parallel Line being of Great Necessity to be done as Speedily as may be.

For the Preventing of all Such Inconveniencies and Disorders, and that those that are or may be settled on or near the s^d. Line, either in this Colony, or that Province, may be Encouraged in their Settlements, and have no Occasion of any Difference, for want of having the s^d. Parallel Line of Boundary, between the Governments ascertained, and Sufficient monuments whereby It may be known Erected therein.

And whereas also many Applications made by the Government of this Colony, to the Government of that Province to obtain their Concurrence, in Runing and Stating the s^d. Parallel Line have not prevailed to obtain any Such Concurrence on their Part; But when Commissioners have been Authorized, on the Part & behalfe of this Colony, to attend the s^d. work in Conjunction with such Commissioners, as on the part and

behalf of s^d Province might be Impowered, to attend the s^d service; and when the Commissioners of this Colony, so Impowered have at Considerable Expence, Several times attended the same; The Commissioners appointed on the behalf of that Province have by Several Difficulties alledged, Objections raised, hitherto prevented the Runing & Stating the s^d Parallel Line.

And whereas by an Act lately passed by the Government of the Province of New York, Intituled "An Act for paying & Discharging several Debts due from this Colony to the persons therein named &c: There is a Paragraph in these Terms ["And whereas that Part of the "Lines of Partition and Division, betwixt this Province and the Colony "of Connecticut, which were to run Parallel to Hudsons River as "afores^d (Reference being therein had to the afores^d agreement, mentioned in a former Paragraph of the same Act) were never Actually "Surveyed and marked out, nor the places ascertained, or distinguished, "through which the s^d Lines should Pass; and the marks of such parts "of the s^d Lines of Partition and Division, as were by the Surveyours "afores^d then Run, marked out, and distinguished, are by length of time "worn out, and by the Contrivances, and Practices of Evil disposed "Persons defaced or altogether taken away, So that without ruing them "anew, the Places through which such Lines, did or should Run, are not, "nor cannot be discovered.]

By which it appears that the Government of the s^d Province is determined not only, not to Concurr in the Runing the afores^d Parallel Line, but also as much as in them lies, utterly to make void, and destroy that part of the s^d Division Line which according to the Agreement afores^d was Actually Run, and Fixed, and Confirmed by His late Majestie King William as afores^d under Colour that It cannot now be discovered, what Places the s^d Part of that Line of Division was stated to Run thorow, tho many of the s^d Places, are in their Nature Such that no Art or wickedness of men can Alter or Remove, and the Rest appear by Incontestible Proof, and Evidence to be and Remain, and are famously known to this Day.

And whereas by several other Clauses in the s^d Act it is Evident that the Government of the s^d Province is not willing to stand, & abide by the s^d Part of the Division Line, so Run & marked as afores^d according to the true Intent of the s^d Agreement, but are determined to Endeavour the Destruction of what has been already done Pursuant thereto, thô Confirmed by His Majestie King William as afores^d (in the year 1700).

And whereas, therefore It may well be thought that any farther Applications to thes^d Government to obtain their Joyning with us, in Causing the s^d Parallel Line from the s^d Dukes Tree, to be Run,

and monuments Erected therein, will be as the former utterly Fruitless.

Be It therefore Enacted by the Governour, Council & Representatives in General Court Assembled; That the Agent of this Colony Jeremiah Dummer, Esq: do in Our Name and behalfe Humbly Supplicate Our Sovereign Lord King George, that His Majestie would be Graciously pleased to Order the Government of the s^d Province of New York, that they should Joyn with us in the Runing, Stating and Fixing the s^d Parallel Line, according to the true Intent and meaning of the s^d Agreement and Survey; That is to say, from the s^d Tree at the End of the fourth Line concluded upon in the s^d Agreement, marked and known by the name of the Dukes Tree, 'till It shall Extend to the south Line of the Province of the Massachusets Bay, to be and remain in that Part the perpetual Boundary between this Colony & that Province; as in the other part the Line from Lyons Point to the s^d Dukes Tree, at the End of the fourth Line, mentioned in s^d Agreement is, and ought to be; and that a Copie of this Act be transmitted to the s^d Agent for the same End; And that It may nevertheless appear how desirous we are of an Amicable Composition of this matter with the Government of New York, before the transmitting of this Act to our Agent.

It is hereby further Enacted by the Authority afores^d that a Copie of this Act attested with the publick Seal of this Colony be forthwith transmitted by the Governour, to His Excellency William Burnet Esq: Governour of the s^d Province of New York, together with a Letter desiring if It may be, That Commissioners with a Surveyour on the Part of the Province of New York may be appointed to Joyn Commissioners with a Surveyour, to be appointed on the part of this Government, to Run and mark out the s^d Parallel Line.

And It is further Enacted that if the Government of the s^d Province shall thereupon at any time within two months after the last Day of this Instant May, think fit, and appoint Commissioners, and a Surveyour fully Impowered, in Conjunction with Commissioners, and a Surveyour in like manner to be appointed and Impowered on our Part, So to run & mark out the s^d Parallel Line of Division between the Governments, and give notice thereof to the Governour of this Colony. That then the Governour of this Colony for the time being, by and with the advice and Consent of the Council Shall appoint Commissioners with a Surveyour, on the part of this Government, and give them a Commission under the Seal of this Colony, fully enabling them in Conjunction with Commissioners & a Surveyour appointed and in like manner Impowered by the Government of the Province of New York, to run the s^d Parallel Line, and set up Marks and Monuments therein in all suitable Places thro' which the s^d Parallel Line shall Pass.

And the s^d Parallel Line So Run & Marked out as afores^d shall forever be and Remain in that Part the Line of Division or Boundary between this Colony and the Province of New York; as the Line already Stated and marked out in the other Part viz^t from Lyons Point to the Dukes Tree, is already appointed to be and Remain.

And It is further Enacted, that upon the neglect or Refusal of the Government of the Province of New York to agree with us, in the Runing & Fixing the s^d Parallel Line as is above Expressed, the Agent of this Colony shall have this Act transmitted to him without Delay, and be directed to use his utmost Endeavours to Obtain His Majesties most Gracious Order for the Runing & Fixing s^d Parallel Line, that the Improvement of the Lands bordering on the s^d Line may no longer remain under such Discouragement, and that His Majesties Subjects in those Borders of this Colony, and the Towns which we have settled there, may be quieted in their Just Properties and Improvements.

A True Copy of Record

Exam^d

THOS. WYLLYS Secret'y

Att a Generall Assembly
Holden at Hartford May
y^e 9th Anno Dom — 1723

—[*N. Y. Col. MSS.*, lxix, 24 ; *Conn. Pub. Rec.*, 1717–1725, p. 382.

[IN N. Y. GENERAL ASSEMBLY.]

June 28, 1723.

* * * * *

Upon reading an Act, passed in the Colony of *Connecticut*, the 9th Day of *May* last, relating to the Division Lines between that Colony and this, and finding not only Matters of Fact misrepresented, but also a Charge upon this Government, as if they had evaded the running and perfecting of the said Lines, though the contrary doth and may appear, as well by two several Acts of the General Assembly of this Colony, as by the Endeavours used on the Part of this Government, in Consequence of those Acts.

It is the Opinion of this House, That a Committee to be named by them, who in Conjunction with a Committee of the Council, should make their Observation upon the Act first mentioned, and lay the same before this House.

Ordered, That Mr. Speaker, Col. *Morris*, Mr. *Philipse*, Capt. *Jansen*, and Col. *Provoost*, or any 3 of them, be a Committee of this House, for that Purpose; and that the Speaker desire his Excellency, that he will

be pleased to appoint a Committee of the Council likewise, for the Purpose aforesaid.

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—[*N. Y. Legis. Assem. Journal*, i, 497.]

[IN COUNCIL]

New York, June 28, 1723.

* * * *

Ordered That Cap^t Walter M^r Clarke M^r Harison Doctor Colden and M^r Morris Jun^r or any three of them be a Committee to Join a Committee of the House of Representatives for the purposes in the said Message, and that the said Committee do meet to morrow at Three in the Afternoon at the House of Mr. Bonticow in this City.

—[*N. Y. Council Minutes (MS.)*, xiv, 188.]

August 15, 1723.

* * * *

HIS EXCELLENCY laid before this Board the Report of y^e Committee of Council and the Committee of the General Assembly directed to make their Observations upon An Act of the Colony of Connecticut past in their Assembly the Ninth day of May last for Compleating and perfecting the Line of Division between that Colony and the province of New York which being read was approved of by this Board and follows in these Words.

THE Committee of the Council, and the Committee, of the General Assembly (appointed to joine the said Committee of the Council during the adjournment of that House) being severally directed to make their observations upon an Act of the Colony of Connecticut past in their Assembly the ninth Day of May in this present year one thousand Seven hundred and twenty three Entituled “An Act for compleating
“and perfecting of the Line of Division between this his Majestys Colony
“of Connecticut and the Province of New York, which was begun, and
“in part fixed and Established in the year 1683, and 1684, the remaining
“part of which Line (notwithstanding many Endeavours to have it Run,
“and Monuments therein erected in Conjunction with the said Province
“have been since used, and Act^s passed by the Assembly of this Colony,
“and by vertue thereof Commissioners sent to attend that Service with
“Such Commissioners as should be appointed by the Government of that
“Province for the same service) continuing yet to be Surveyed and fixed
by Monuments to be Erected therein. Doe humbly Report that they have duly and Impartially Examined and Considered the same: and that

for their better Judgment therein they have also Examined and Considered not only the agreement mentioned in the said Act, but likewise all the proceedings and Transactions which have happened upon that head ever Since, as well on the part of that Colony as on the part of this Province.

The Committee being unwilling to swell their Report to a greater Length than is necessary to put the State of that Case in a true Light, will wave observing upon the Title of the said Act, as well as any other matters that are not Essentiall to the point in Question.

“We shall therefore proceed to observe upon the Act itself in the same order it appears before us under the Seal of that Colony beginning with “the Preamble wherein it is said “That the Line of Division between “this his Majestys Colony of Connecticut and the Province of New “York was in the year Sixteen hundred Eighty three by agreement “between the Governments of this Colony and the said Province of New “York removed from the place where it was antiently esteemed and “known to be and determined to be, and for ever to remain in another “certain place Beginning at the mouth of a River famously known by “the name of Byram River, by which alteration Several Towns Erected “by and belonging to the said Colony were added to and became part of “the said Province of New York.

By which (as we suppose) they would have the world believe, that they had for Peace and quiet or affection given up to the Province of New York part of their Antient and known right of Connecticut, and that they are sufferers in their Right and Property by the said agreement, But how properly can the bounds of that Colony be said to be antiently esteemed and known to be at any place when all the Right or Property which that Colony had within Sixteen miles of that place was only by Encroachment and Encroachment with a Witness.

This Province extends only twenty miles in Breadth Eastward from Hudsons River and they would take only Sixteen of them from us, which Encroachments were far from antient when the agreement in sixteen hundred Eighty three was made, For the first Setling of that part of the Country was within the memory of the Inhabitants then Living and these Encroachments were acknowledged by the Commissioners of that Colony as appears by the following Clause in the said Agreement — “only it is Provided that in Case the line from Byram “Brook mouth North North West Eight miles, and the Line that is then “to Run twelve miles to the End of the third forementioned Line of Eight “miles do diminish or take away Land within twenty Miles of Hudsons “River, that then so much as is in Land Diminished of twenty Miles of “Hudsons River thereby shall be added out of Connecticut Bounds unto

“the Line aforementioned Parallel to Hudsons River and twenty miles distant from it. By which they very plainly confess, that all the Lands within twenty miles of Hudsons River do of Right belong to the Province of New-York, and by the Survey which Succeeded that agreement and was approved of by the Colony of Connecticut, it was found that the Province of New-York lost by the said agreement Sixty one thousand four hundred and forty Acres of Land within twenty Miles of Hudsons River, so that the Colony of Connecticut did not Suffer by this agreement but the Province of New-York did. They did not yield anything of their Right, but the Province of New-York was contented for Peace and quietness to give up Sixty one thousand four hundred and forty Acres of Land, which Tract of Land is advantageously Scituated upon the sound where there are many Harbours and is well water'd with Rivers, and in lieu of it accepted the like quantity at a great distance within Land.

The Colony of Connecticut in their Act under our Consideration take no notice of this Equivalent (if that can be called an Equivalent which is not one quarter of the value) thô the same be by express words Provided for in the agreement and the quantity of Land computed in the survey which succeeded the agreement, and specified in what manner it was afterwards to be allowed. We say they have not only taken no notice of this Equivalent, but have by the Act now before us as much as in their Power Endeavoured for Ever to debar this Province from obtaining it, as appears by the Enacting part of the said Act, and the following words in the Recital “which Eastern End of the said twelve miles is in the said Agreement appointed to be the place from whence a Line parallel to Hudsons River and concluded to be at twenty miles distance from it, is to be run as far North as the South Line of the Massachusetts Province. which words are in direct Contradiction to the above mentioned Proviso, and the survey which was performed Pursuant to the said agreement where it is said, “Then finding The oblong of twelve miles East North East, and Eight miles North North West did Diminish Sixty one thousand four hundred and forty Acres from the twenty miles upon Hudsons River, we added to the above said twenty Miles upon the East North East line three hundred and five Rods more to Run at the Additional Breadth parallel to Hudsons River, till it meet with the Massachusetts Line which we deemed one hundred distant miles from our Eight Mile Line. We find likewise the following Paragraph in the Recital of their Act, (where at the End of the thirteen miles and Sixty four Rod) “a white Oak Tree was marked with the Letters C. R. and a Crown together with the Effigies of his then Royal Highness James Duke of York. We have carefully Examined both the agreement and

Survey, but cannot find any such Tree mentioned in either of them, there is indeed mention made in the survey of three white Oak Trees marked with C. R. at the End of the Eight mile Line from the Sound, but not a word of any Such Tree at the End of the Thirteen Mile Sixty four Rod East North East, It is very probable there never was any such Tree marked by the Commissioners or Surveyors for it appears from the Survey, that this Province was to extend three hundred five Rod beyond the place where this Dukes Tree is supposed to stand, and if such a Tree were by mistake marked, it ought to be neglected as it is in the Certificate of the survey under the hands of the Commissioners because the bounds of this Province do certainly extend beyond it.

We say it appears from that Survey that the bounds of this Province were to extend three hundred five Rod beyond the place where this Dukes Tree is supposed to stand, upon Supposition that the parallel Line to Hudsons River betwixt this Province and Connecticut be one hundred miles in length, but if it be shorter as we believe it is not above seventy miles, than a greater length must be added to the Line East north East thirteen miles and Sixty four Rods to make up Sixty one thousand four hundred and forty Acres of Land so that the Commissioners could not fix the Limits of either Colony till the Length of this parallel Line be known, which they confess they did not then know, and therefore that Tree nor no other Tree in that place could ever be designed by the Commissioners or Surveyors for the Limits of this Province.

The next Paragraph in their Act which we shall observe on is in these words "And whereas also many applications made by the Government of this Colony to the Government of that Province to obtain their Concurrence in runing and Stating the said Parallel Line have not prevailed to obtain any such Concurrence on their part. We are surprised to find matters of Fact of which those who have the Legislative Power in that Colony cannot be Ignorant so unfairly and untruly represented, They would have the world believe that they have been Assiduous and Earnest for Ascertaining the boundarys betwixt the Two Colonys, and that the province of NewYork has allways opposed it, We can name many times when this Government applied ineffectually to that Government, but we wish they would give us one Instance when they made any application to us that we were not forward to Join with them to compleat the Division Lines according to the agreement betwixt the two Colonys.

The Colony of Connecticut is certainly possesst of the Land which was to be allowed to this Province as an Equivalent of the Sixty one thousand four hundred and forty Acres, and we believe of a great deal more, but we know not of one Foot in the actual possession of

any Person in this Government, which Connecticut claims, Let the world Judge than who are most likely to forward the Division Line or obstruct it, We need not use arguments for proof of this the Publick actions of both Colonys Sufficiently Demonstrate it:

In the year Sixteen hundred and ninety seven which was but fourteen years after the said agreement, The Colony of Connecticut Encouraged the Towns of Rye and Bedford to Revolt from their obedience to this Government, and the same Governour that made this agreement wrote a Letter to the Government of New York Insisting upon their Right to those two Towns in direct Breach of the agreement he himself had so lately and Solemnly Sealed and Confirmed. This obliged the Government of New York to apply more assiduously for the King's approbation of the agreement between the two Colonys, and accordingly obtained the Royal approbation of the same.

In the year Seventeen hundred and Seventeen the Government of New York without any application from that of Connecticut by an Act Entituled An Act for paying and discharging Several Debts due from this Colony &^{ca} did Enact that the sum of seven hundred and "fifty ounces of Plate should be Issued to defray that part of the Charge "of running the Partition Limit and boundary between this Colony and "the Colony of Connecticut which will be requisite for this Colony to "pay when the Survey Ascertainig and runing of the said Line Limit "and boundary shall be begun and carryed on by mutual Consent and "agreement of his said Excellency and Council and the Governour and "Council of the said Province of Connecticut, which Lines being run "ascertained and agreed on by the Surveyors and Commissioners of "each Colony as aforesaid shall for Ever thereafter be deemed taken and "be and remain as the Partition Line Limit and boundary of this Colony "and all Bodys Politick and Corporate and all other Persons whatsoever "within this Province shall be for ever concluded thereby.

The Government of New York made application to that of Connecticut to send Commissioners to meet with ours for the End mentioned in this Act and Accordingly in the year one thousand Seven hundred and Eighteen they met, when Communicating their Powers to each other, it was found that the Commissioners from Connecticut had only Power "To Join with the Gentlemen from New-York to Perambulat the Line "where it has already been run and to consider what methods may be "used for the proceeding with the Dividend Line. And the Commissioners of Connecticut refusing to have the places examined through which they say'd the Line fixed by the Survey, which succeeded the Agreement do run, The Commissioners from New-York found that Connecticut was artfully Endeavouring, That New-York might be bound by the agreement of their Commissioners, but Connecticut only if

it were to their advantage and therefore the Commissioners of New York refused to Act with them till they were as fully Empowered finally to Conclude for Connecticut, as the Commissioners for New York were for their Province and till they consented to examin the Lines which had not been examined or perambulated by Commissioners from both Provinces since the first Setling of them which is now about forty Years, for they foresaw it would be a fruitless Expence of the Publick money and these are *The Difficulties alledged and objections raised* which Connecticut Complains of in their Act before us.

This Province waited till the Summer of the year one thousand seven hundred and nineteen in hopes the Colony of Connecticut would fully Empower Commissioners finally to Conclude on the boundarys between the two Colonys, but that Colony still declining to authorize Commissioners as was desired, It was Enacted by the Government of New York that Commissioners be Empowered "To Run mark out distinguish and ascertain the Lines of Partition and Division between this Province and the Colony of Connecticut according to the agreements before mentioned which were approved and allowed of by the late King William and in no other manner than it was agreed and approved of as aforesaid; and the said Lines when thus ascertain'd are by this Act declared to be finally binding on all Persons forever, it is there likewise declared to be the Intention and earnest Desire of the Legislature of this Province that the said Lines be not only run truly and fairly but amicably and in Conjunction with Connecticut, and that therefor notice be given to that Government at least nine months before the said Division be begun to be run that the Commissioners of that Colony may Join with the Commissioners of this, But if that Colony shall not then think fit to send Commissioners Sufficiently Empowered the Commissioners of New-York shall run and ascertain the boundarys exparte, From all which the world may Judge which of the Governments have made applications in good Earnest to the other, for Effectually compleating this work, and which of them by unreasonable objections raised and difficultys alledged have Endeavoured as much as in their Power to hinder it.

After the passing of this last Act in the Province of New York there was no Application on either side till march last. This Government waiting for his Majestys approbation of their last Act, it being Provided by the same, that it should not be in force till it received the Kings approbation. —

In march last the Governour of Connecticut wrote to the Governour of this Province desiring Commissioners might be sent to Join with theirs to compleat the Dividend Line and sent a Copy of a New Act Empowering their Commissioners for that End, which is the first and

only application from that Government to this for running the Partition Line between the two Colonys that we know of before their Sending the Act now under our Consideration, in all Probability there had been no more application from them at this time than was formerly, If they had not apprehended that there was too much reason for the Kings approving our Act to run the Line exparte, if they should refuse or delay to Join with us after the perusal of this Act Empowering their Commissioners, the Governour by advice of the Council of this Province answered as had been done before by our Commissioners, that he thought it would be fruitless to send Commissioners before it should be Enacted in Connecticut as it is in this Province, that all Persons be concluded by what shall be finally agreed upon by the Commissioners on both sides which had been artfully avoided in this Second Act as it had been more openly in their former.

This one application is the only Ground they have to say that the Government of New York has refused to Concur with them after many applications from them.

We shall next answer to their expostulations on a Paragraph in an Act of this Government Entituled "An Act for running and Ascertain-
"ing the Lines of Partition and Division betwixt this Colony and the
"colony of Connecticut. which by mistake they say, is in another
Act, which Paragraph contains these remarkable words which it seems
offend the Colony of Connecticut "And the marks of such part of
"the Lines of Partition and Division as were by the Surveyors aforesaid
"then run markt out and distinguished are by Length of time worn out
"or by the Contrivance of evil Disposed Persons defaced or altogether
"taken away. Why do these words offend the good People of Connec-
ticut more than the borderers on New York side. Might not these
wicked Evil disposed Persons surmised of by our Act have defaced and
taken away these Trees in prejudice to Connecticut as well as in preju-
dice to New York. We are sorry they impute it to themselves, but
seeing they do, we have the more reason to Suspect that such arts and
Contrivances have been used.

Indeed the People of this Province did not want reason to sus-
pect that such wicked Arts, and Contrivances had been practiced by
the People of Connecticut, for as we observed before they openly
and in an avowed manner broke through the agreement they had
Solemnly made with this Province, and Protected the People that
lived on this side of those marked Trees in their Revolt from this
Government. It is then unreasonable to suspect that at that time they
might Deface as much as in their Power, the memorials of an agree-
ment which they were Resolved to break through, But suppose there
were no arts or contrivances used to Deface these marks upon the

Trees, Yet all Men will allow, that Trees by Length of time decay or by other Accidents may be destroyed, and it being now forty years Since Commissioners on both sides Surveyed or Perambulated these boundarys, The Commissioners from New-York desired to use a Compass and a Chain in their Perambulation to discover if the Trees which are now at this Distance of time Supposed to be the same with those mentioned in the Survey that Succeeded the agreement do agree in the distance and Course, which by the said Survey they are said to have from other marks, which wee willingly allow to be well known, and may be as Famous as the Colony of Connecticut pleases to make them, No honest man can think, that the carrying a Compass and a Chain over the Land will do more hurt to either Colony or to any Private Person than walking or Rideing will do. But if there has been arts and Contrivances The Persons Conscious to themselves of being Guilty have reason to wish that no such Instruments had been Invented to discover their wickedness, and will do what they can to prevent their being made use of.

We come now to the Enacting part of their Act which begins in this manner "That the Agent of this Colony Jeremiah Dummer Esquire "do in our name and behalf humbly Supplicat our Sovereign Lord King "George, that his Majesty would be graciously pleased to order the "Government of the said Province of New York, that they should Join "with us in the runing, Stating and fixing the said Parellel Line accord- "ing to the true intent and meaning of the said agreement and survey, "That is to Say, from the said Tree at the End of the fourth Line con- "cluded upon in the said agreement marked and known by the name of "the Dukes Tree &c". which in Plain English would run thus That M: Dummer do in Our name and behalf Supplicat our Sovereign Lord King George (a Prince Famous all over the Christian world for his wisdom and Justice) to Enact that the Government of New York do Join with us in fixing the boundarys of that Province at a certain Tree because we think it advantageous to our Colony, and that the King would declare the boundarys so to be fixed and Ascertained to be Just and Equal according to the agreement betwixt the two Colonys confirmed by his Majestys Predecessor, tho' the same be Injurious to the said Province, and inconsistent with the words of the said agreement and directly contrary to the true intent and meaning of the same. We do not wonder that where there are so many false premisses an absurd Conclusion should follow, but we forbear to make such reflections on our Neighbours as will too readily Enter into the Heart of every man who Reads this Paragraph.

Now let all honest Men Judge which of us intend to keep the Covenant and stand by our agreement The Government of New York or that of Connecticut.

Connecticut after this agreement was Solemnly Seal'd and confirmed by them Encouraged the Inhabitants of New York bordering upon the Lines of this Government to Revolt, Received them with open arms after they had Revolted, and by a Publick Letter of their Governour to the Governour of New-York Claim'd them as of Right, the Government of New-York at the same time apply to the King to have the agreement approved and finally ratified by his Royal Authority After some years when the Government of New York had reason to Believe from the Complaints of the Borderers presented to the Governour of New York in Council that the Government of Connecticut again Encroach on the Lands of New York by attempting to Assess and fine the Inhabitants upon the Borders, The Government of New York to put an End to these differences in the most amicable and fair manner possible appoint Commissioners to Join with Commissioners to be appointed by that Government and in Conjunction with them to review the old Lines, and where by Length of time they became uncertain or were by any Art altered to renew them and refix them in their proper places, and perfect what was formerly left undone declaring what shall be done by their Commissioners in Conjunction with those of Connecticut shall be finally binding upon this Government, This Amicable and fair Act reduced the Government of Connecticut to Some Difficulty. If they refuse to appoint Commissioners The world will think y^t they have no mind to put an amicable End to these Differences, they are afraid the Injustice of their Demands and Actions will appear, If they do appoint there is an End put to the hopes they have of Extending their Colony by Encroachments upon his Majestys Province and Enriching some of their Inhabitants at the expence of the Inhabitants of this Province, They conclude therefor upon a Stratagem which shall have the appearance of Joining with us, but which in Effect shall Conclude Nothing.

The Government of New-York then Endeavours to force them to put a fair and Just End to these Differences by praying that it may be Enacted by the Kings Authority, That if the Government of Connecticut refuse to appoint and Sufficiently Empower Commissioners amicably and fairly to put an End to these Differences after nine months Notice, that then the Commissioners of New-York be Empowered by themselves to run and Ascertain the Lines of Partition between this Province and the Colony of Connecticut According to the agreement between the two Colonys and not otherwise, here are no Explanations of the Agreement in favour of this Province or Restrictions to our Commissioners, but an Open Declaration, That if it shall afterwards appear that our Commissioners have not observed the true Intent and meaning of the agreement what they shall have done shall be void, In

opposition to which Act of this Government, The Government of Connecticut passed the Act now under our consideration and how Just and fair it has already been Shewn.

The true Intent of this last Act of the Government of Connecticut we believe is this, They apprehend and apprehend Justly that the Act of New-York is so Just and so fair and Open in the Directions given to their Commissioners that the King will readily confirm the same, they Resolve therefore likewise to have a Law in Connecticut by which the Inhabitants of that Colony may under Colour of Law, as much as in their Power oppose the Just Effects of the Law of New-York, from the whole we Conclude that if the Public Acts of both Governments be sent over to the Agent of this Province but more especially, this Last Act of the Colony of Connecticut to be by him laid before the Lords of Trade and Plantations or Secretary of State as Evidence for the necessity of confirming the Act of this Province for runing and Ascertaining the Limits of Partition and Division betwixt this Colony and the Colony of Connecticut, the King will graciously confirm the same and Repeal this Law of the Colony of Connecticut, which is designed only to prevent the Justice of our Law. —

But to shew that this Province still continues their Disposition amicable to End the Differences betwixt this Government and Connecticut.

We are humbly of Opinion that his Excellency be addressed to send to the Government of Connecticut a State of the publick actions of this Province and of Connecticut relating to this affair that they may have all the Information we can give them, and to assure them that as Soon as that Government shall appoint and Sufficiently Impower Commissioners to run and Ascertain the Limits of Partition and Division between this Province and the Colony of Connecticut according to the agreement made in Sixteen hundred and Eighty three and the survey that followed upon that agreement to act without any Restrictions to their Commissioners, but as they in their own Consciences shall think their actions conformable to that agreement and Survey, this Government will appoint Commissioners accordingly on the part of this Province to put an amicable and fair End to all these differences.

All which is humbly Submitted to your Excellency by

Your Excellencys

most obedient humble servants

AD. PHILIPSE

R WALTER

JOH. JANSEN

FRA: HARISON

D. PROVOOST

CADWALLADER COLDEN

New York August y^e 13th 1723

—[*N. Y. Col. MSS.*, lxix, 25; *Council Minutes (MS.)*, xiv, 208; *Sen. Doc.*, 1857, No. 165, p. 115.

[IN N. Y. COUNCIL.]

August 15, 1723.

* * * *

This Board do advise his Excellency to send a Copy of the said Report to the Governour of Connecticut as likewise to send a Copy to one of his Majestys Principal Secretarys of State and the Lords of Trade and Plantations together with Copys of the Agreement between this Colony and that of Connecticut as Confirmed by his Majesty King William the third and the Copy of an act of Connecticut part of which is recited in the aforesaid Report.

Ordered that the Surveyor General do prepare a Map of that part of the Country where the Boundarys referred in the aforesaid Report do lye and that they be Sufficiently described for the better Explanations of the said Report.

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—[*N. Y. Council Minutes (MS.)*, xiv, 232.

[GOVERNOR BURNET TO THE LORDS OF TRADE.]

New York 16 Sept^r 1723

My Lords

• There was an Act passed in this Province in 1719 & transmitted by Brigadier Hunter for His Matys Royal approbation Intituled

An Act for running & ascertaining the Lines of Partition and Division betwixt this Colony and the Colony of Connecticut

Which Act was meerly to perform what had been agreed between the two Colonys in 1683 and confirmed by King Williams order in 1700 which Agreement & order had never taken its full effect, through the backwardness of the Colony of Connecticut who never could be brought to empower Commissioners sufficiently to run and ascertain the Lines according to that Agreement which were yet left unfinished

But since the aforesaid Act passed in this Province the Colony of Connecticut apprehending that their delaying and eluding to perform their part of the Agreement would turn to a reflection on them and that they could not hinder this Province from running the Lines of Division *ex parte* in case the before recited Act of this Province should obtain the Royall Assent, have pretended to take measures for running the s^d Lines by Consent, but upon their overture made to this Province on that subject, it has appeared that they seemed indeed in words to consent, but in fact made no effectual step towards it, & instead of empowering Surveyors and Commissioners to run and ascertain these Lines, they went no further than to empower them *to perambulate* them as they express it, which trifling having been represented to them from

hence, it has at last produced, the Act of that Colony passed in the month of May 1723 intituled

* * * * *

In which act they endeavour to throw the whole blame on this Province and yet in this very Act discover their true intention by contradicting flatly the Agreement and order before mentioned, & fixing the Line contrary to the same to the vast detriment and Injury of this Province

To make all which appear, The Council and Assembly of this Province have named a joint committee to report their opinion of the said Act of Connecticut which they have done and made report thereof to the Council Board, who have approved the said Report, by which it manifestly appears that the Act of the Colony of Connecticut is full of fallacies and misrepresentations, and does tend to defeat and elude their Agreement and King Williams order thereon and to the end that your Lordships may be satisfied thereof, I have herewith transmitted authentic Copys of the said report, original Agreement Order of King William and late act of the Colony of Connecticut with a map to explain them and the resolution of the council Board of this Province that the said should be laid before your Lordships in order that the whole matter may be set in a fair light before His Majesty and that thereby all obstructions intended by the Colony of Connecticut to prevent His Matys assent to the Act passed in this Province in 1719 may be effectually removed

I am with great respect

My Lords

Your Lordships

most dutiful & most

obliged humble Serv^t

W BURNET

—[*N. Y. Col. Doc.*, v, 698.

AT A GENERAL ASSEMBLY holden in New-Haven in Connecticut y^e 10th
Day of Octo: 1723

The Committee appointed by this Assembly having considered the report of a Committee of the Council and a Committee of the Assembly of his Majesties Province of New Yorke, relating to certain Observations made by those united Committees upon an Act passed by the General Assembly of this Colony in May last, for perfecting the line of Division between this Colony & that Province. Which report was approv'd by the Governour of s^d. Province in Council the 15th of July last. and being by him transmitted to the Governour of this Colony,

has been laid before this Assembly. Made thereupon the following Return.

Your Committee upon consideration of the Report, observe it to be chiefly taken up, in endeavours to shew, that that Province has been all along most forward and ready, to perfect the Line of Partition, between them and this Colony. and because this is considered in the Report as a matter of great consequence, your Committee thought it proper to enquire what might be fairly intended by It; and find, that the Sense of it, which the General drift of the Report puts upon it, is reconcileable enough to the act of this Assembly; which, nevertheless, the Committees seem to understand as having denied it. That act, when it speaks of the s^d Province as unwilling to perfect s^d line of Partition, considers it as a matter for the greatest part well done, and established, and only wanting a line from a certain well known Station called the Dukes tree, to be run parallel to Hudson's River; but, The Committees understand it in a sense which lays aside all that has been already done; So that Yo^r Committee thinks it needless to wade farther into this matter. For, as this Colony has always been most desirous, that this line of Partition, which has been in part surveyed, and Monuments erected therein, and upheld to this time, according to the Agreement between the Governments of that Province and this Colony, in the year 1683, and Confirmed by his Majesty King William the third, in Council, should be carried on and perfected according to that Agreement; which the Report does not deny. So it is also true, which the Report affirms, that the Government of that Province, has been most desirous of having the Partition line fixed & perfected; that is, to do the whole *de novo*: upon supposition, that all the antient marks and monuments are defaced & utterly lost, never to be recovered more

Having thus cleared the point, which the united Committees seemed to be most concerned about; your Committee is in hope, that a speedy end may be put to this controversy; For if those Monuments cannot possibly be known, your Committee thinks another survey ought to be made, and new monuments to be erected; But if this line already run in part, according to s^d Agreement, and confirmed by the King; and if the Marks and Monuments therein erected, are still well known; then nothing remains, but that from the last of these Monuments, the Line parallel to Hudson's River should be run, and so the whole perfected. Which Yo^r Committee cannot but think so reasonable, that the s^d Province, which has always been so desirous to have the Partition line perfected, can have no fair objection against it.

Your Committee hopes that the greatest part, if not the whole, of what is observed & objected against this Colony in the s^d Report is sufficiently answered, by what they have already offered in this Return

The united Committees, to make the supposition in the forecited Paragraph, to Wit, that those antient Marks are defaced and utterly lost, appear with some probability of truth, have thought it fit & proper for them, to publish the remarkable grounds they have for it, in these remarkable words [*“Indeed the people of this Province did not want reason to suspect that such wicked arts and contrivances had been practised by the people of Connecticut”*]

Your Committee cannot but observe thereupon, that this is a prodigious way of arguing, as well as disingenuous.

It is notoriously the Interest of this Colony, that those marks and monuments should be kept up, and well known; which they have accordingly endeavoured, and affirm to be so. On the other side the Province of New York, affirm they are utterly defaced; and wont believe any thing to the contrary; but would fain have all those Monuments to be lost without recovery.

And it seems to your Committee very unreasonable, & even monstrous, to think, that the people of Connecticut should be so wicked as to deface Marks and Monuments, which it's their interest to keep up. And the People of New York Province, who are so loth they should ever be found, so honest as not to do the least harm to them?

The united Committees are also deceived, in their supposing this Colony to be against the Government of New-York's trying by Chains & Compasses the s^d antient Survey; which is certainly a great mistake; for we are persuaded that their so doing, would be an excellent means to satisfy them, that those antient lines & monuments are not difficult to be found.

The united Committees have thought good towards the Close of y^r Report to make some reflections on the enacting part of y^e afores^d Act of this Assembly. And particularly, they have taken considerable pains to explain, the meaning of our humble desire, that his Majesty would order the Partition line to be perfected, according to y^e Agreement & Survey afores^d which pains We think might well have been spared; and believe that desire of ours is so plainly expressed, that his Majesty will need no explanation of it; or make any use of theirs.

Then the Committees assure us that they shall forbear making any more reflections upon us their Neighbours; which your Committee is of opinion is very fair. And that therefore that that follows after, in their Report, of the same kind, must not be look'd on, as new ones, but rather as repetitions of the old.

Your Committee observes with great satisfaction, the two remarkable things that shut up the Report. First, The appeal the s^d Committees make to all honest men, whether this Colony or that Province, design to keep most strictly to y^e afores^d agreement? Because we are pur-

sueded if they are hearty in this appeal, they will be well pleased with that which we have made to his Majesty; tho there are some hints in the Report, as if that Province would be offended at it.

Yet they think it not improper for them to take notice more particularly of some things which seem of weight to the united Committees.

It is taken notice of by the s^d Committees as wrong that this Colony should ever pretend to any right beyond Byram River Westward; or anywhere within twenty miles East of Hudson's River; because they say, That Province is by Grant of the Crown to extend twenty miles to y^e East of that River. But, if they consider that the Grant of the Crown which fixes the bounds of this Colony, is antienter than that of the Province; They will, we suppose, think there's no great matter in such an objection.

Again the Committees observe, that this Colony in the s^d act take no notice of an Equivalent which that Province is to have from this.

But your Committee takes this to be for want of due consideration. For it's evident, that act takes the same notice of that Equivalent, that the afores^d agreement does. Indeed that additional Equivalent, which the Surveyors presum'd to propose; and leave to the pleasure of the Government; is not taken notice of in that act; and to your Committee, it appears so unreasonable, that they think it ought not to be approved in any Act whatsoever.

The united Committees further observe, concerning the afores^d Act of this Colony, which speaks of An Act of that Province; wherein are these words, [*“and the marks of such part of the lines of Partition & Division, as were by the Surveyors afores^d then run, mark'd out & distinguish'd, are by length of time worn out, or by the contrivance of evil disposed persons, defaced, or altogether taken away.”*] that it mistakes in giving the Title of that Act, which has this Paragraph in it: which observation your Committee must own is true; there was such a mistake in writing the Title of the Act of that Province, in which this Paragraph was said to be;

But then, the Report owns, this Paragraph was in another Act of that Province, pass'd about the same time; which we think to be much the same thing; For it fully shows which ever act Its in that that Province was determined in all their endeavours to finish y^e Partition line, to have no respect to the Monuments which had been agreed & erected by the Governments of that Province and this Colony, & Confirmed by the King: For they would have it taken for granted, they were utterly lost; but intended to make a new survey, and not compleat the Old.

The united Committees also take exception to a letter of the Honourable Robert Treat Esq^r late Governour of this Colony, a Gentleman of the strictest Probity; as if he had insinuated the Right of this Colony to

the Towns of Rye & Bedford in opposition to this agreement, which he was concern'd in making. — Your Comittee Can't but observe thereon, that if this Letter could be produced, they dare say it would be found consistent every way with Justice & Honour.

Gouverneur Treat might well say this Colony had a Right to Rye & Bedford before New York had a being. But your Comittee can be confident, That y^e Gentleman of unstained Honour, never advanced any Right of this Colony in opposition to y^e afores^d Agreement; If he did, as well he might, Assert a Right prior to it.

The Second Thing & last of all in the Report; & which is indeed as your Comittee thinks better than all, that went before, is, A Proposal for that Province to Joyn with this Colony without any further delay, if we will appoint Commissioners & fully empower them, to run & ascertain the limits of Partition & Division between that Province and this Colony according to the afores^d Agreement made in 1683, & the survey that followed thereon, as in Conscience it ought to be.

Your Comittee are thereupon of Opinion, that this Assembly, make choice of Commissioners on their part to Joyn with such Commissioners as the Government of that Province shall appoint, so to perfect & accomplish that work, and that the Governour Grant them a Commission under the Seal of this Colony accordingly; and that the line which shall be so perfected and established by them, shall be forever taken to be the line of Partition between this Colony & that Province

JOHN HAMLIN	}	Com ^{tee}
J: WADSWORTH		
WILLIAM CLARK		
DAVID GOODRICH		

The above Report of the Comittee being read and considered, in General Assembly was accepted & approved, and it was thereupon

Enacted by the Governour Council and representatives in Generall Court assembled and by y^e authority of the same that Peter Burr Samuel Eells, Roger Wolcot and Jonathan Laws Esq^r, or any three of them be Commissioners on the part of this Colony for performing the s^d work and completing the afores^d line, in Conjunction with such Commissioners as shall be in like manner appointed and improved¹ by the Government of New-York, and that the Governour grant them a Commission accordingly.

And it is hereby further Enacted that whatsoever line shall be ascertained and Established, with monuments erected therein by the s^d Commissioners, according to the afores^d Agreement made in 1683, and the Survey that follow'd thereon, as in Conscience it ought to be, shall for-

¹ So in the original copy.—[P.]

ever after be & remain the line of Partition between this Colony and the Province of New York

A True Copy of Record

Exam^d

℞ HEZ: WYLLYS. Secret^r

—[*N. Y. Col. MSS.*, lxix, 26 ; *Sen. Doc.*, 1857, No. 165, p. 127 ; *Conn. Pub. Rec.*, 1717-1725, p. 418.]

October —, 1723.

* * * * *
Ordered, That the Commissioners appointed by this Assembly, for perfecting the line between this Colony and that Province of New York, follow such instructions in attending that service as they shall receive from the Governour and Council.

—[*Conn. Pub. Rec.*, 1717-1725, p. 422.]

[COMMISSION.]

Gurdon Saltonstall Esq^r Governour of his Majesties Colony of Connecticut. To Peter Burr, Samuel Eells, Roger Woolcot and Jonathan Law Esq^r Greeting.

Whereas the Partition Line between this Colony of Connecticut and the Province of New Yorke, which was agreed upon between the Governments, of the s^d Province, and this Colony by written Articles dated the 28th of November 1683. Which s^d Line was pursuant to s^d Agreement, in part Surveyed, and Monuments erected therein by Surveyours, and Commissioners thereunto Impowered by the s^d Province and this Colony, as appears by a Report under their hands dated October 10th 1684. which said Agreement & Survey, were approved, and confirmed by his late Majestie King William the third, in Council, the 28th day of May 1700.

And whereas by an Act of the Governour, Council and Representatives in General Assembly convened, at New Haven the 10th day of October last; You the s^d Peter Burr, Samuel Eells, Roger Woolcot, and Jonathan Law, or any three of You, were appointed, and Impowered to be Commissioners, on the part of this Colony, for finishing the s^d work, and compleating the afores^d Line of Partition, in Conjunction with such Commissioners, as shall be in like manner appointed, and impowered by the Government of New Yorke; And it was Enacted that the Governour should Execute you, a Commission accordingly. And also, that whatsoever Line shall be ascertained & established with Monuments, erected therein, by the Commissioners of both Governments according to the

afores^d Agreement, and Surveigh, shall for ever after be, and remain the Line of Partition, between this Colony, and the s^d Province.

You the s^d Peter Burr, Samuel Eells, Roger Woolcot and Jonathan Law Esq^{rs}, or any three of you, are hereby Authorized in His Majesties Name, to be Commissioners in the behalfe of this his Majesties Colonie, with full Power, together with such Commissioners, as are, or shall be appointed, and in like manner impowered, in behalfe of the s^d Province of New Yorke, to ascertain, and compleat the runing of the s^d Partition Line and erect need full Monuments therein. Which Line so fully compleated, and perfected, marked, and ascertained shall forever hereafter be deemed, and taken, to be, and remain the true and Sole Partition Line, and Boundary, between this Colonie, and the s^d Province, as by the before in part vested Act of this Colony, It is particularly enacted. In Testimony whereof I have hereunto Subscribed my hand, and caused the publick Seal of this his Majesties Colony to be affixed this 10th day of December In the tenth year of the Reign of Our Sovereign Lord George, of Great Brittain &c King. Annoq^e Domini 1723.

A True Copy Exam^d p C Christophers Cler. Con.

[Endorsed]: Copy of the Commission to Peter Burr Samuel Eells Roger Woolcot and Jonathan Law Esq^{rs} appointed Com^{rs} — or Surveyors for Compleating the Line of Partition between the Colony of Connecticut and this province

—[*N. Y. Col. MSS.*, lxix, 27.]

[IN N. Y. COUNCIL.]

December 13, 1723.

* * * *

The Report of the Committee to whom was Referred a Letter of the Eleventh of November last from Gordon Saltonstall Governour of Connecticut together with a Copy of a Resolve of the Committee of the General Assembly of Connecticut Was read and approved of by this Board and is as follows.

MAY IT PLEASE YOUR EXCELLENCY.

In Obedience to your Excellencys Order in Council of Yesterday referring to us a Letter of the 11th of November last from Gordon Saltonstall Governour of Connecticut together with a Copy of a Resolve of the Committee of the General Assembly of Conecticut Concerning the Division Line between this Province and that Colony, and having advised with the Gentlemen formerly Appointed by the Assembly of this Province to join with us. We do not think it proper to make any particular Observations in the Report of the Committee of the Assembly

of Connecticut, tho' there be Occasion Enough given in their Report for remarks until it appear whether the Governm^t of Connecticut be in Earnest to Settle and determine the Limits and Boundarys betwixt this Province and that Colony According to the Agreements in 1683 and the Survey that followed. And therefore are humbly of Opinion that your Excellency may Appoint Commissioners, According to the Act of Assembly of this Province to join with Commissioners from Connecticut for settling the Boundarys and Limits between both Colonys. But because of the Disappointments the Commissioners formerly Appointed met with by those of Connecticut not being fully Impowered that a Copy of the Commission to be granted to the Commissioners for this Province be sent to the Governour of Connecticut for his Perusal, And that the said Governour be desired to send a Copy of the Commission granted to their Commissioners to the Governour of this Province in order that this Government may be fully Satisfyed of their being fully Impowered and Preventing any fruitless meeting of the Commissioners.

The Committee is further of Opinion that it will be proper for both Commissioners to meet sometime before the Survey be begun in order to settle and Agree on the proper Methods for performing the same and Appointing such time for the performance of it as may be most Convenient for both sides Which is humbly Submitted to your Excellency by

Your Excellency's Most Obedient humble Servants

R WALTER

FRA: HARISON

CADWALLADER COLDEN

New York

Decemb^r y^e 13th, 1723.

—[*N. Y. Council Minutes (MS.)*, xiv, 248.

December 30, 1723.

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M^r Alexander Chairman of the Committee Appointed to prepare the Draft of a Commission for runing and Ascertaining the Line Limit and Boundary between this province and the Colony of Connecticut Reported that they had prepared the same and Accordingly laid it before the Board which being read was Approved of.

It is the Opinion of this Board that the first Tuesday in February next at the Town of Rye will be a Convenient Time and place for the Commissioners of this Province to have the first meeting with the Com-

missioners of Connecticut about runing the Division Line between this Province and that Colony in Case the Government of Connecticut shall Agree to the aforesaid Time and place.

—[*N. Y. Council Minutes (MS.)*, xiv, 256.

[COLONY OF CONNECTICUT.]

At a meeting of the Governour and Council in New London January
20th 1723/4.

* * * *

Resolved, That a Copy of the Commission prepared some time since for the Commissioners of this Government, be immediately sent to his Excellency the Governour, of New York. And that the Governour be desired to give Direction to the Commissioners of this Colony, to attend the meeting proposed at Rye, on the first Tuesday of February next, It being the 4th day of the s^d month.

Resolved, That M^r John Copp of Newark attend the Commissioners of this Colony, as a Surveyour, to Assist in runing the s^d Line.

—[*N. Y. Col. MSS.*, lxix, 30; *Conn. Pub. Rec.*, 1717–1725, p. 435.

[Seal]

AT THE COURT AT ST JAMES'S
the 23^d day of January 1723

Present

THE KINGS MOST EXCELLENT MAJESTY
[and others]

* * * *

WHEREAS by Commission under the Great Seale of Great Britain, the Governour Councill and Assembly of His Majesty's Colony of New York, Are Authorized and Empowered to Make, Constitute and Ordain, Laws, Statutes and Ordinances, for the Publick Peace, Welfare, and Good Government of the said Island; Which Laws, Statutes and Ordinances are to be, as near as conveniently may be Agreeable to the Laws and Statutes of this Kingdom, And are to be transmitted for His Majesty's Royall Approbation or Disallowance — And Whereas in Pursuance of the Said Powers, An Act was Past in the Said Colony in 1719, Which hath been Transmitted, Entitled as follows, Viz:

An ACT for Running and Ascertainning the Lines of Partition and Division betwixt this Colony and the Colony of Connecticut.

WHICH ACT having been Perused and Considered by the Lords Commiss^{rs} of Trade and Plantations, and afterwards by a Committee of the Privy Councill whose Reports thereon were this day read at the Board:— HIS MAJESTY in Councill taking the Same into Consideration,

Was graciously Pleased with the Advice of his Privy Council to Declare his Allowance and Approbation of the Said Act, And pursuant to His Majestys Royall Pleasure thereupon, the Said Act is hereby Confirmed, finally Enacted, and Ratified accordingly.

ROBERT HALES.

[Endorsed]: The King's Approbation of an Act past 1719 for runing the Partition Line between New York and Connecticut.

—[*N. Y. Col. MSS.*, lxi, 31.

[IN N. Y. COUNCIL.]

January 23, 1723/4.

* * * *

ORDERED that the Gentlemen of this Board or any five or more of them be a Committee to prepare Instructions for the Commissioners and Surveyor who are appointed to meet Commissioners from the Colony of Connecticut for Runing the Division Line between this Province and that Colony and that they make Report thereon on Monday next and that the said Committee do likewise then make Report to this Board of what Allowances they shall think proper to be given to the said Commissioners and Surveyor.

—[*N. Y. Council Minutes (MS.)*, xiv, 262.

January 24, 1723-4.

* * * *

The Committee being met in order to prepare Instructions for the Comm^{rs} and Surveyor appointed to meet Comm^{rs} and Surveyor appointed by the Colony of Connecticut for runing the partition Line between this province and that Colony. —

Then the Committee named M^r Alexander for their Chairman, and proceeded to Consider of proper Instructions for the purposes aforesaid Whereupon they came to the following Resolutions —

That the Commissioners and Surveyor do conform themselves as near as possible to the true jntent and meaning of the Articles of Agreement made in the Year 1683. between Coll. Thomas Dongan Governour of New-York, and the Council thereof on one side, and Robert Treat Esq^r Governour of the Colony of Connecticut and other Commissioners of that Colony on the other side, and of the Report of the Commissioners and Surveyors of this Province and the Colony of Connecticut which Ensued thereupon and which was approved of by his late Majesty King William, AND WHEREAS in the said Agreement a Line parallel to Hudsons River in every place twenty miles distant from

Hudsons River, was agreed to be the bounds between the said Colonys with some Provisions as therein are mentioned to comply exactly with which expression may bee difficult or impossible.

THEREFORE you may agree upon one or more streight Lines, nearly to the intention, tho' not Strictly according to the words of the said Agreement, You are to take a view of and run the Lines and marks say'd to be run and mark'd by the Commissioners and Surveyors in the Year 1684. pursuant to the said Agreement, and if you find Sufficient Cause to believe them to be the very Lines run and mark'd by the said Comm^{rs} and Surveyors, You are to agree to them and Cause them to be off new Distinguished and mark'd,—

In Case the Commissioners of Connecticut upon your meeting with them do absolutely Refuse to agree to view and run the Lines Run in 1684 and insist to continue the work from a Tree which they pretend is the Tree fixt by the Surveyors in 1684 as twenty Miles from Hudsons River and from thence to Lay off the Equivalent, You are rather than to break with them on that point to agree to begin from that Tree PROVIDED that upon your own view and runing of the former Lines you shall find it to be nearly Just, and if they will not Join in this your view you are to insist as much as possible that they do send one or more to be Witnesses to the Justness of your work—

ORDERED that M^r Alexander do Report the same Accordingly.—

By order of the Committee

JA: ALEXANDER Chairman

[Endorsed]: Resolve of a Committee of Council of proper Instructions for the Commissioners appointed in behalf of this Province to meet Commissioners from Connecticut for Runing the Partition Line —[*N. Y. Col. MSS.*, lxix, 32.

January 27, 1723/4.

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HIS EXCELLENCY laid before this Board a Letter from Gordon Saltonstall Esq^r Governour of Connecticut dated at New London the 20th Instant concerning the runing the Division Line between this Province and that Colony together with a Minute of the Council relating thereto and the Copy of a Commission appointing Commissioners and a Surveyor for that purpose.

M^r Alexander Chairman of the Committee appointed to prepare Instructions for the Commissioners and Surveyor who are appointed in behalf of this Province to meet Commissioners and Surveyor from the Colony of Connecticut for runing the Division Line between this Province and that Colony in his place Reported that the said Commit-

tee had prepared the Same which being read were approved of by this Board & are as follows viz:

That the Commissioners and Surveyors do Conform themselves as near as possible to the true Intent and meaning of the Articles of Agreement made in the year 1683, between Coll. Thomas Dongan Governour of New York and the Council thereof on one side and Robert Treat Esq: Governour of the Colony of Connecticut and other Commissioners of that Colony on the other side and of the Report of the Commissioners and Surveyors of this Colony and the Colony of Connecticut which Ensued thereupon and which was approved of by his late Majesty King William AND WHEREAS in the said Agreement a line Parrallel to Hudsons River in Every place Twenty miles Distant from Hudsons River was agreed to be y^e bounds between the said Colony with some Provisions as therein are mentioned to Comply Exactly with which Expression may be Difficult or Impossible.

THEREFORE you may agree upon one or more streight Lines near by to the Intention tho' not strictly according to the words of the said Agreement you are to take a View of and Run the Lines and marks said to be Run and marked by the Commissioners and Surveyors in the year 1684 pursuant to the said Agreement and if you find Sufficient Cause to believe them to be the very Lines run and marked by the said Comm^{rs} and Surveyors You are to Agree to them and Cause them to be of New Distinguished and marked In case the Commissioners of Connecticut do upon your meeting do absolutely Refuse to Agree to View and Run the Lines run in 1684, and Insist to Continue the Work from a Tree which they pretend is the Tree fixt by the surveyors in 1684. as Twenty Miles from Hudsons River and from thence to Lay of the Equivalent you are rather than to break with them on that point to Agree to begin from that Tree, Provided that upon your own View and Runing of the former Lines you shall find it to be nearly Just and if they will not Join in this your View you are to Insist as much as possible that they do send one or more to be Witnesses to the Justness of your Work.

Ordered that Instructions be prepared accordingly.

It is likewise Ordered that the Deputy Secretary do prepare Copys of such papers and Records as the said Commissioners and Surveyor shall Judge necessary for the Service aforesaid

This Board having taken into Consideration what may be a proper allowance for the Commissioners and Surveyor for meeting with the Commissioners and Surveyor of Connecticut on the first Tuesday of February next at Rye and there to Stay and Concert Measures for runing the Division Line between this Province and that of Connecticutt,

RESOLVED that Each of the four Comm^{rs} have fifteen pounds a peice

for that service and that Doctor Colden being one of the Commissioners have above the allowance aforesaid the Sum of five pounds as... Surveyor.

ORDERED that Warrants be prepared accordingly.

It is further Ordered that a Commission be prepared forthwith for the Commissioners and Surveyor aforesaid for Runing the Partition Line between this Province and Connecticut pursuant to the Draft prepared by a Committee of this Board for that purpose.¹

—[*N. Y. Council Minutes (MS.)*, xiv, 263. .

January 31, 1723/4.

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The following Warrants after being Read were Signed by his Excellency Viz:

To Francis Harison Esq^r: one of the Commissioners appointed for Runing the Division Line between this Province and the Colony of Connecticut the Sum of fifteen pounds as an allowance for meeting with the Commissioners and Surveyor of Connecticut on the first Tuesday of February next at Rye there to Concert Measures for Runing the said Line.

The Like to Cadwaller Colden Esq^r: for the sum of Twenty pounds for being Commissioner and Surveyor.

The Like to David Provoost Esq^r: for fifteen pounds.

The Like to Joannes Jansen Esq^r: for the same sum.

—[*N. Y. Council Minutes (MS.)*, xiv, 267.

March 19, 1723/4.

* * * *

Then M^r: Alexander took his place. The Commissioners appointed to agree upon and to run and Ascertain the partition Line Limit and Boundary between the province of New York and the Colony of Connecticut. Reported that they set out according to their appointment on Monday the third of February in order to meet the Commissioners from Connecticut at Rye and waited from Tuesday the Day appointed for that meeting till Saturday afternoon During which time a funeral passed from a place further in Connecticut than where Some of the Commissioners of that Colony lived and upon the same Road and Several other passingers at different times who say'd they had seen some of those Gentlemen at their Houses at last the Post past on Saturday without one word from them tho' he had passed by some of their Houses having waited this five days without hearing any thing the Comm^{rs}: of Connecticut they Returned to New York on the Monday

¹See *Commissions* (in Office of N. Y. Sec'y of State), iii, 247.—[P.]

following they wrote by the Post to the Comm^{rs} of Connecticut informing them that the Comm^{rs} of this province had kept the appointment punctually and that they had waited five Days without any Information of any accident which had hindred those of Connecticut tho' those Gentlemen had Several opportunitys of acquainting the Comm^{rs} of this Province with it if any had happened and desired them that if any accident had prevented them they would name some other time In answer to this the Commissioners of this Province Received a Letter excusing this Disappointment by Reason of the badness of the weather and one of the Comm^{rs} of that Colony being Sick but without naming any time when they would meet the Commissioners of this Province.

Upon this his Excellency acquainted the Board that he had wrote to Governour Saltonstall to Complain of this Disappointment and Received for Answer that the Weather had been Extreemly bad and some of y^e Ferrys Dangerous, That the Commissioners from Connecticut had proceeded on their Journey till the bad weather had prevented them, as they supposed it had done those from New York Governour Saltonstall did likewise Express his great Concern for the Disappointment and desired another day may be fixed, in Return to this his Excellency desired him to name the time and that when the Commissioners shall be arrived att New Rochel to send his Excellency notice upon which the Commissioners of New York shall Join them Governour Saltonstall in Answer has proposed the seventh of April next his words are — “Our Commissioners if Providence permit will be that day at New Rochel as you have been pleased to propose and from thence you shall be forthwith advised of it by an Express from them to make some amends for their failing the first appointment they shall come fully Empowered not only to agree upon the matter but also to proceed upon the matter and accomplish the thing it self.—

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—[*N. Y. Council Minutes (MS.)*, xiv, 268.

April 2, 1724.

* * * *

RESOLVED that when the agreement shall be finished in what manner to Run the Partition Line between this province and the Colony of Connecticut that the attendance of one of the Commissioner besides the Surveyor General shall be Sufficient at the actual Survey and that each Commissioner during the actual Survey besides the Surveyor General shall attend in the order that he is named in the Commission during one fortnight and then the next give his attendance for the like time untill the actual Survey is finished unless they can otherwise agree among themselves to Supply one anothers Room. —

It is further Resolved that each Comm^r be allowed during his attendance on the actual Survey Twenty Shillings p Diem and Reasonable Charges, That the Surveyor General besides his allowance as Commissioner be allowed fifteen Shillings p Diem with Such Reasonable Charges as the Survey will Require in Chain Bearers and other things. —

That there be allowed for an Assistant to the Surveyor General the Sum of fifteen Shillings p Diem and Reasonable Charges. —

That it be an Instruction to the Commissioners not to begin the actual Survey untill the manner and Term of performing the Said Survey and every part of it are entirely agreed and settled between the Comm^rs of this Province or any three of them and the Commissioners of Connecticut or any three of them under their hands and Seals in two Distinct writings one whereof is to be Delivered into the hands of the Commissioners for this province and the other into the hands of the Commissioners for Connecticut and that when the said agreement shall have been so Completed the Commissioners are hereby Instructed to do their utmost Endeavours that the actual Survey be gone upon without Loss of time. —

—[*N. Y. Council Minutes (MS.)*, xiv, 272.

[CONNECTICUT COMMISSIONERS TO NEW YORK COMMISSIONERS.]

[ENDORSEMENT.] 1st Proposal from y^e Com^rs of Conecticut dated at New Rochel April y^e 13th 1724

The Com^rs on y^e part of Conecticut, to y^e Gentlemen Com^rs for the Province of N. York, for a quiet and peaceable Ascertainning the Partition Line between the two Govern^{ts} — Propose

That its manifest That a Survey was begun in 1684 and by the Report y^e of under the hands of the Surveyers (which Report with y^e Agreement, y^e Rule of y^e Survey was after Confirmed by K: William in Council) It appears That Monuments were made in the first eight mile Line from Lions Point, And That a Mensuration was made for the finding out y^e fourth Line being y^e Second Line of Partition, thô they Report not of any Monuments erected by y^m therein, for want w^t of, their Doings amounted not to a Survey, but only the Inchoation y^e of; Yet in as much as there is certainly a Line of marked Trees ranging Eastward from three remarkable Trees at or near y^e end of the first Partition Line described by the agreem^t and famously known by comon Reputation to be the three Trees described in y^e Report of the Survey afores^d, and that at y^e Eastern End of y^e afores^d Range of marked, there is a remarkable Oak-Tree, with many Letters anciently made upon it and many Stones cast about it, by comon fframe Reputed to be the Duke's

Tree, and yet to be Evidenced at least by one living Testimony, present with the Surveyers at the marking of it for the Duke's most Eastern Boundary. Altho We are sensible That it extendeth further East upon Us than a true Survey according to y^e Agreem^t will extend, yet if you will take our Evidence Intire (i. e.) to prove That that is the Tree as well as to prove That the Surveyers did mark a Tree for a Monument, We will Agree to proceed from the s^d Tree to runn a paralell Line to Hudsons River, to that part of y^e River where y^e Reach below Sarah's Point or that above it will Strike y^e s^d Tree upon Rect Angles, or if it Shall happen That y^e s^d Tree be found to Stand in the intermediate Space between y^e place where Perpendicular Lines raised from either of those Reaches Shall carry Us That then We will begin y^e Paralell from the s^d Point and runn y^e Length of each Course of y^e River on y^e same Points wth y^e River till the paralell Line cutts the Massathussets Line and erect Monuments as We proceed.

Otherwayes We propose to Resurvey y^e first Line and then to measure the Second Line twelve miles from Lion's Point according to y^e comon Course of y^e Sound Eastward, and at the end y^e of to measure eight miles from y^e Sound on a N. N. West Course up into y^e Countrey and then to draw the fourth Line from the end of the third Line to the end of the first Line and from the Eastward End of y^e fourth to run a paralell to Hudson's River and to that part of it wth shall be found Regular by y^e above mention'd Rules, and then We will Compute y^e Land diminished by y^e first and fourth Lines according to y^e Agreem^t and erect Monuments as We proceed to remain as y^e Partion Lines between y^e Gov^{ts} That is to say y^e first fourth and y^e Paralell Line with y^e Addition

New Rochell April 13th 1724

SAM^{LL} EELLS
ROGER WOLCOTT
JONTH LAW

—[*N. Y. Col. MSS.*, lxix, 34.

[ENDORSEMENT.] 2^d proposal from the Comm^{rs} of Conecticut dated at New Rochel April y^e 14th 1724.

Gentlemen

The Questions you propose to Us, We are well assured you are farr better able to Resolve than We are, especially; That which relates to your own Comission Indeed we make no Doubt, but that its full and without Limitation left to your prudence, arbitrament and Discretion and whatsoever you shall do in that matter, without Restriction by any thing done by K. Ch: more anciently or by K: William since and without any Dependance upon any Condition expectant, Our Agreement to it only excepted, We Understand to be Confirm'd by Act of your Assembly forever

And as to that w^{ch} relates to Us, We shall remove the Supposition on which its founded by Deelaring to you, That by a ReSurvey of y^e. first Line, We dont Intend a Setting of it aside, but to abide by y^e. Monuments w^{ch} y^e. Surveyers Report they there erected, and if any Doubt were with you about them, to prove y^m by y^e. same Rules by which they were erected, which we are persuaded falls well within our Comission. Which if you Differ from Us in. We presume you will readily comply with our first proposal w^{ch} is to keep to keep y^e. Monuments in y^e. next Line as well as y^e. first.

Dated at New Rochell
April y^e 14th 1724

SAM^{LL} EELLS
ROGER WOLCOTT
JONTH LAW

To y^e Gentlemen Com^{rs}
for N. York

—[*N. Y. Col. MSS.*, lxix, 35.

[ENDORSEMENT.] 3^d paper of proposals from y^e Gent^{le} a Conecticut dat^d
y^e 14th April 1724 at New Rochel

Gent^lmen

We have well observed y^e Reply last made by you to Consist of two parts, y^e first represents to us, That y^e means, by which we would have Supply'd y^e Defects in the Report of y^e Survey, is looked upon by you, to be insufficient, and that which you Dare not trust to, yet We must retain our own opinion of y^e Sufficiency thereof, notwithstanding if your tho'ts are right therein, We must then acknowledge, That we look upon it in that part thereof to wholly fail, in which Opinion we take you to be full with Us, for certainly as We understand it, it cannot be otherways Supply'd by any thing that We can produce. and Conjecture That y^e Reason why they omitted the making monuments in that Line and putting them in their Report might proceed from a Sense they had of their Departure from y^e Rules prescribed in the agreement—

As to the Second thing you propose Its very agreeable to us only in that it terminates with y^e end of the first Line and dos not go on with us to y^e end of the Agreement as We proposed neither dos it exhibit to us any Exceptions taken by you against any part of the Residue thereof, Into which therefore We must delay our Coming till the whole be agreed.

New Rochel April 14th
1724 —
To the Gent^lmen Commission^{rs}
from New York —

SAM^{LL} EELLS
ROGER WOLCOTT
JONTH LAW.

—[*N. Y. Col. MSS.*, lxix, 36.

[ENDORSEMENT.] 4th Paper from Connecticut Com^{rs}

Gentlemen

You may Very well remember That in our verbal Conference It was Concluded between Us, That Proposals on both Sides being advanced at the Same Instant would be attended with Inconveniencies and That Since That was moved on our Side That therefore We should make the first Proposals and upon your non Compliance with them That then we should receive yours. Where upon we proposed That a Paralell to Hudsons River Should be runn from a Certain Tree fam'd amongst us for the Dukes Tree as the partition Line on that part between y^e Governments, or to runn and State all the Partition Lines Excepting only the first Line which We Supposed to have been well done by the former Survey, the Monuments in which if they were lost or uncertain should be Refreshed or Renewed by a Resurvey Begining at Lyons Point to measure the Twelve Mile and So to proceed enumerating the particular Steps as mentioned in the Agreement. The first of which you Rejected or Waved and proceeded to the Second and proposed a Compliance to the first article, and now you Signifie to us that you desire nothing but what is Right and because it is Right which We take notice of with a great deal of Satisfaction and Assure you that we are and will be actuated by the Same principles, and in Case you can Shew us that the articles which have been therein proposed or any one or more of them are not Just or Right to be the Rule for Regulating our Survey by We will readily Sett that or them aside and by a new Agreement Supply whatsoever can be discarded out of the agreement, or if you will Show us that we have Misunderstood and Misconstrued any part of the Agreement We shall be Ready to Correct our tho'ts there in, Other Wayes we think it regular that you should tell us plainly you will not Comply with Either of our afore s^d proposals, and We shall Stand ready to Receive your Proposals to us and our Answers Shall be Plain, full and Perspicuous in the Affirmative or Negative, and if we can consent to any Articles Contain'd in it we will Express it and Say distinctly which we Reject with Express Reasons that shall Govern our Resolutions to Deny it —

New Rochell April 14th 1724

To the Comission^{rs} from the
Province of New York

SAM^{LL} EELLS
ROGER WOLCOTT
JONTH LAW

—[*N. Y. Col. MSS.*, lxix, 37.]

[ENDORSEMENT.] 5th Paper from Connecticut Com^{rs}

Gentlemen

Whether We have been So distinct and Clear in what We have wrote as you have been, the Writings must Speak for themselves. We can only Assure you That wherein We have fallen short hath not proceeded from the Want of an Inclination to it (in which Respect we are Sure you cannot exceed us) but meerly and wholly for want of Ability. When you Signified to Us your Thot's That our second Proposal in our first Paper was inconsistant with your Comission because of King William's Confirmation and with ours for the same Reason and also by Reason of the Restrictions contain'd in it, We with all Submission Signified our Apprehension about your Comission, That this affair was left to your Discretion without any limitation our Concurrence only Excepted, And that in as much as the proposal was not to Sett aside y^e Survey but Closely to pursue it So farr as it was Completed by Erecting Monuments therein, And the Residue of their Report Contained no more than an Account of y^e Inchoation of a Survey. That Since You Rejected our Evidence to Supply that defect And that a third Sort of Evidence would not be assign'd as We tho't to Supply it, We firmly relying on that ancient Rule of the law viz Non apparentibus et non Existentibus eadem est Ratio, did Conclude We gave no Occasion for the Question, And that the Proposal did no way Contradict ye Survey and well pursued it so farr as it appeared Completed and that then we Should be remitted back to the Rules of the Agreement and not follow the Rules of the incompleated Survey wherein it departed from them so manifestly, haveing first proved the monuments which were Reported, by the Rules by which they were Erected.

Upon your Satisfaction wth our Explication you Say you gave us the Reasons why you Could not agree to our proposal; whereas the proposal, against your Compliance with which, you gave Your Reasons was our first Proposal about y^e Dukes Tree and the Explication we gave you of your Questions related intirely to our Second Proposal about Resurveying the first Line from Lions point to the three marked Trees Reported in the Survey & then to measure the Second Line mentioned in the Agreement from Lyons point and So on enumerating y^e particular Steps as rehearsed in the Agreement to the end thereof. We cant understand how you should take any Exception against us for our Concluding That it was regular for you to Signify unto us your Compliance or nonCompl=yance with the whole of our Second Proposal in Stead of Terminating your answer with the first Article in it, And then Shewing our Readiness when that was over to Receive your proposal & Promising that our Answers to your Proposal should be plainly in y^e Affirmative or Negative with our Express Reasons of

our Dissent to each Article with which we Could not Consent. We acknowledge we Scruple our authority to alter any part of y^e agreement, unless it were in Compliyance with the monuments erected by the Survey^r different from the Agreement, yet We look upon our Authority to be great^r than theirs. And to Close the whole matter We tell you plainly that our opinion is that there is nothing binding by y^e Report of the Survey any further than they Report the Monuments which is only in the first Eight Mile line and that the East N East Line measured by them doth no more ascertain that Line than a Declaration in their Chambers would have done and We no more holden by it, and shall not Comply with it your arguments against which Positions we are Ready to receive Gentlemen if you Desire it Either Orally or by Writing—

N Rochel - April 15th 1724
 To the Comission^r from
 the Province of New York
 —[*N. Y. Col. MSS.*, lxix, 38.]

SAM^{LL} EELLS
 ROGER WOLCOTT
 JONTH LAW

[ENDORSEMENT.] 6th Paper from Connecticut Com^r

New Rochel April 16th 1724.

Gentlemen

What you receive from M^r Woolcott by word of Mouth you might very well Conclude to be mistaken by your Selves or him when you Came to read under all our hands that our Positive Opinion about the East N E Line Reported by the Surveyors to have been measured by them, was not binding to us and that we should not be holden by it, being given to you, We declar'd our Readiness to Receive your arguments against our Opinion and present Resolution either in a Conference or by Writing, as should be most agreeable to you Gentlemen And the Question being thus fairly Stated, Whether the Survey were binding in the E N E Line mentioned in the Report on which you were in the affirmative and We in the Negative. And We expected as We well might to have Received your Arguments by Word of Mouth in a Conference or in writing. That instead thereof we Should have your four Questions offer'd to Us, is beyond our Expectation, We will not say to our Surprize. We think that there is is not one of them which by a candid Construction of your Questions we have not fully already delivered our understanding and Determinations of them —

Yet since you have required y^e Questions. We Say to y^e first of them (Spare us y^e repeating of them) as we have done That we are bound by the Survey performed by y^e Comiss^r & Survey^r in y^e year 1684, So farr as they ascertained y^e Lines by Erecting Monuments Evidenced by

their Report, which Extendeth to y^e End of y^e first Eight Mile Line and No further. As to y^e Second Question and y^e Third, We Say, That that which is positively agreed too on both Sides as these have been, Cant possibly be yet in Question between us, Yet we Again Declare ourselves in the Affirmative. And as to y^e fourth Question as we have heretofore and upon your first Question Declared our Selves in the Negative So we do now repeat it to you That by any thing Contained in y^e afores^d Survey, a Line runing East North East Thirteen Miles & Sixty four Rodds from y^e end of y^e North North West Line drawn from y^e great Rock at y^e Wadeing place of which you have Spoken So farr as the Said East North East line runs, is not become y^e Partition Line between the Province of New York and Connecticut. And if you please we will add that it never Can be without a Violation of y^e Agreement made by the Comission^{rs} in 1683 which Sais That a Line drawn from y^e End of y^e Third Line mentioned in the Agreement Shall be y^e Dividing Line, from y^e East End of which fourth Line the parallell Line to Hudsons River shall be runn &c which fourth Line will not Extend So farr Eastward as y^e E N E Line afores^d will Extend to. And thus Gentlemen in a Good Temper we Stand ready to Receive your Arguments as before, Tho^t the Question wherein we differ be be New Stated with the Reasons of our Opinion for our being in y^e Negative

To the Gentlemen
Comission^{rs} from the
Province of New York

SAM^{LL} EELLS
ROGER WOLCOTT
JONTH LAW

—[*N. Y. Col. MSS.*, lxix, 39.]

[ENDORSEMENT.] 7th Paper from Connecticut Com^{rs}
Gentlemen

To forbear making a Review of the management of this affair between us by the proposals and replys y^t have passed and repas'd and finally Centered on our Second proposal wherein we have Settled y^e State of that matter in a good Concurrence to the end of the first partion Line from Lyons point to the northerly end of that Line and Stated the Controversy about y^e Second partition Line about w^h We had different apprehensions Since you have tho^t best not to proceed therein but to Come into a new proposal pretty agreeable to our first as we take it with this difference only that whereas we proposed that y^e tree which we Call the Dukes tree Should be the place from whence the partition Line between the two governments parrell to Hudson River Should be drawn till it intersect the massachusetts Line that a Line draw from y^e northerly end of the first Line aforesaid to the Said tree

Should be y^e Second partition Line in Case it be found Standing near the place where a Line drawn on an East north East Course thirteen miles sixty four Rodds from the first mentioned Line shall terminate otherwise that a Line drawn from y^e northerly end of the first mentioned Line drawn from the grate Rock at the wading place in biram River Six miles & an half north north west to run from y^e northerly end of the sd Line on an East north East Course thirteen miles and Sixty four Rodds should be y^e Second partition Line unto the end thereof and that y^e partition Line from thence should be a paralell Line to Hudson River till it Intersect y^e massathussets Line In which proposal if we mistake you not we agree with you

New Rochell April 17th 1724

To the Gentlemen Com^{rs}
from New York

SAM^{LL} EELLS

ROGER WOLCOTT

JONTH LAW

—[*N. Y. Col. MSS.*, lxix, 40.

[ENDORSEMENT.] 8th Paper from Connecticut Com^{rs}

Gentlemen

Yesterday in y^e Afternoon after you had received our last and came to our Chamber and with so pleasant an Aspect invited Us to your Lodgings in y^e beginning of y^e Evening We Conceived our Selves even past y^e exercise of hopes and arriv'd in our Imagination to y^e very Enjoyment of a comfortable and good Agreement about y^e Partition Line between your Province and our Colony Some more minute Circumstances only remaining yet to be accomodated, which we trusted could never frustrate our proceeding to Use both Art and Information to find out the Lines agreed upon and by y^e best of Monuments to Ascertain the same. But when We waited upon you att your Chamber early in y^e last Evening, We must now say, to our very great Surprize We found our selves mistaken and disposess'd of that Satisfaction which with so much Contentment we had an afternoons Enjoyment.

And now Gentlemen We must Upon your last night's Questions tell you plainly, (as heretofore We have done) with some addition if We have left any Room for it) That by y^e Agreement the Second Line of Partition mentioned in y^e Agreement cannot be in Extent, longer than from y^e Northerly Ends of the two eight miles Line which We Conjecture to be about ten miles and an half.

That y^e Surveyors attended with a Comissioner had no authority given them to alter the Agreement or make a new One, but only to ascertain y^e Lines according to that Agreem^t

That y^e Surveyors did by y^e Report no wayes Ascertain that Line by

showing That they in y^e Execution of y^e Office did agree upon and fix any thing as Monuments thereon.

That y^e Confirmation by K. William in Council did Ratify and Confirm the Agreement as well as y^e Survey, of which two y^e Agreement was the principal, and could not be oversett, alter'd or chang'd by y^e lesser, and must give way to the formar wherein they differ, more especially wherein y^e Report is so imperfect as afores^d.

That y^e Act of our Assembly in May last, Declaring That y^e Agree^mt in 84 did fix y^e 20 miles from Hudson's River, att the end of the fourth Line as described in the Agree^mt. and That the mensuration of the Surveyers att y^e Duke's Tree at y^e end of 13 miles and 64 Rodds on a Line drawn E. North E: from the three Trees at the end of the first Line, and then Enacting That our Agent should move to his Maj^{ty} for an order, to runn y^e Partition Line between the Govern^{ts} from the s^d Tree paralell to Hudson's River. is no new Agreement with your Province, nor Decision of y^e Controversy, between Us, nor fixation and Settlement of y^e s^d E. N. E Line, nor Motion to have it separately Settled from or without y^e paralell Line from thence drawn as y^e Partition Line, which is the very thing we propos'd to you yesterday and expected you, in your hearts Compl'd with and entertain'd no suspicion after your Invitation, of ever failing of your full & frank Declaration of beyond w^{ch} We can by no means Comply with you, and unless you think you have some further Light to communicate to Us than you have heretofore favour'd Us with, We cannot at present Comply with any Motion you can make to Us of any plus ultra and Conclude it not convenient to Spinn out this Treaty any longer by keeping at a Distance from y^e very fountain of our Misunderstandings and so Gentlemen We wish you well

New Rochell

April 18th

To y^e Gentlemen

Comiss^{rs} from New York

SAM^{LL} EELLS

ROGER WOLCOTT

JON^{NS} LAW

— [N. Y. Col. MSS., lxix, 41.

[ENDORSEMENT.] Last paper from Connecticut Com^{rs}.

Gentlemen

In y^e Close of our last We signify'd to you That unless you should signify unto Us That unless you should think That you had any new Light to communicate unto Us, what We had rec^d from you had been so Considered by Us already, We should account this Treaty Closed, which We take leave to do, thô you have not thôt con-

venient to answer Us in those Points or any of them w^t in We understand y^e main Difficulties to ly, and We do therefore give you our Opinion That its proper for you and Us to Adjourn this Meeting till his Excellency your Gov^r and y^e hon^{ble} y^e Gov^r of Conecticut Do Order Us to meet again wⁿ and w^{re} we shall be ready to give you a loving and friendly meeting.

This is y^e needfull from Gentlemen

Your obliged Friends and thrice humble Servants

April 18th 1724

Saturday 3 of y^e Clock

P. M.

To y^e Gentlemen Comiss^{rs}
for y^e Province of N. York

— [N. Y. Col. MSS., lxix. 42.

SAM^{LL} EELLS

ROGER WOLCOTT

JONTH LAW.

A LIST OF PAPERS RELATING TO THE RUNNING OF THE DIVISION
LINE BETWEEN THIS PROVINCE AND THE COLONY OF
CONNECTICUT.

No.

1. Copy of King Charles y^e 2^d Letters Patents to the Duke of York for New England and other places in America.
2. Minutes of Council 1701. with a Copy of King William the 3^d Approbation of y^e proceedings of y^e Commissioners and Surveyor Appointed for Running the Line between New York and Connecticut Anno. 1683.
3. Minutes of the Governour and Council of New York in 1683. concerning y^e runing y^e said Line.
4. Copy of an Act of Assembly passed 1719. relating to the Runing the said Line.
5. An Act of Assembly of Connecticut for Runing the said Line pased May 1723.
6. The Report of a Select Committee Appointed to make their Observations upon the said Act.
7. The Resolve of the Assembly of Connecticut Octob^r 1723. Relating to y^e Runing said Line.
8. The Report of a Committee of Council upon the said Resolve.
9. An Act of y^e Colony of Connecticut passed at Hartford y^e 14th of May 1719. concerning y^e Runing of the aforesaid Line.
10. Copy of a Letter from the New York Commissioners to the Commissioners of Connecticut, 31st Octob^r 1718.
11. An Answer from the Commissioners of Connecticut to the aforesaid Letter.

No.

12. Copy of y^e powers to the Connecticut Commissioners Octob^r 1718.
13. Copy of Governour Hunters Letter to y^e Gov^r of Connecticut concerning Complaints made to him by the Inhabitants of Rye.
14. The Memorial of Coll Heathcote & al concerning the Limits of New York and Connecticut.
15. The Report of y^e Commissioners Appointed for runing y^e Line between New York and Connecticut Oct^r 1718.
16. The petition of y^e Inhabitants of y^e Town of Rye Complaining of Hardships from the people of Connecticut.
17. The petition of the said Inhabitants to the like purpose Aprill 1718.
18. Another petition of the said Inhabitants.
19. A proclamation of Grace to y^e Inhabitants of Rye and Bedford. 1697.
20. The Deposition of Thomas Daniel relating to the hardships the people of Rye Suffer from the Inhabitants of Connecticut.
21. Gov^r Burnets Letter to y^e Gov^r of Connecticut March y^e 25th 1723.
22. Gov^r Saltonsals Letter to Gov^r Burnet Jan^y 20th 1723/4.
23. Copy of y^e Commission to the Comm^{rs} and Surveyor of Connecticut Appointed for Runing y^e Division Line aforesaid dated y^e 10th of December 1723.

Secretary's Office

New York Febr^y 1st 1723/4Ex \mathcal{J} J. ROBIN D. Secry

[Appended.]

The Commission and Instructions to the Comm^{rs} and Surveyor appointed to run the Line between New York and Connecticut Delivered to the said M^r Harison being the Person first named therein

The following Papers delivered to Doctor Colden April 19th 1725.

His Excellency's Commission dat 3^d Inst.

Instructions to the Comm^{rs}.

Copy of the Act past 1719

Minutes of Council of Connecticut of January 1723/4.

Minutes of N. York of April y^e 3^d

Additional Instructions of the 2^d of Apr^l 1724

An Act of the Colony of Connecticut Octob^r 8th 1724. Nine Papers of proposals of New York Comm^{rs} and Connecticut Comm^{rs} upon last Meeting

—[*N. Y. Col. MSS.*, lxix, 43, 44.]

[REPORT OF N. Y. COMMISSIONERS.]

To His Excellency William Burnet Esq Captain General & Governour in Chief of the Provinces of New York New Jerseys and Territorys thereon depending in America & Vice Admiral of the same &c

May it please your Excellency

It being our Duty to lay before your Excellency a Distinct account of our Proceedings we now do it in such a manner that the Truth of our Narrative may be fully Justified from the Papers that passed between us & the Commissioners of Connecticut at New Rochel.

We had no dispute as to the Bounds from Lyon's Point to the great stone at the wadeing place & very litle in the Partition line running six miles & a half North north west from that stone Both sides haveing agreed That we shall go on to find out & prove the remaining monument mention'd in the Report of the Survey viz the three white oak trees marked C R by running the same course & distance which the Surveyors did from the great Stone at the wadeing place & then if the three white oak Trees which shall be shown us as the same with those marked by the Surveyors shall be found to Stand nearly in the same place with the extremity of that line to be run from the great Stone we will confirm & reestablish them as a Monument of the Boundary betwixt this Province & the Colony of Connecticut But if the three white oak trees are not now to be found or the Trees which may be supposed to be the same shall be at a greater distance from the Extremity of the s^d line than what we can think consistent with the Truth of that Survey we will erect a new Monument at the end of the s^d line as the Boundary aforesaid.

We differ'd in Opinion from the Commissioners of Connecticut as to the 2^d line, or the line running east north east thirteen miles & sixty four rod in the Report of the Survey. In this Dispute we adher'd closely to the Agreement & Survey as reported by the Commissioners of Both Colonys & confirmed by his late Majesty K. William. They in their first proposal were for our fixing the Tree which they call the Dukes Tree as the end of the line running East north east thirteen miles & sixty four rod without further Examination because they s^d their still remain'd a range of Mark Trees the whole course of that line & they could prove by the Testimony of one liveing Evidence that the Tree which they call the Dukes Tree was marked by the Com^{rs} & Surv^{rs} as a Monument of its Termination. Or else that we should take a new Methode which they propos'd entirely different from that which the Surveyors took in 1684 & establish that line by a New Survey without any regard to what was formerly done.

In our Answers to these we thought one Evidence could not at this

Distance of time & of a single Tree in the midst of the woods be sufficient proof that it was marked as a Monument of that line & therefor propos'd the running of the line East north east thirteen mile & sixty four rod without any regard to Monuments or mentioning of them as we had done in the former North north west line. But they refusing this tho in itself reasonable & just we at last condescended to admit of or reject that Dukes Tree in the same manner both sides had agreed concerning the three white oak Trees at the end of the North north west line which the Com^{rs} & Surv^{rs} did report they had marked & established as a Monument of the end of the s^d North north west line. We told them that we yielded to this only in regard to the Government of Connecticut who had in so solemn a manner affirmed that the Dukes Tree (as they call it) was marked by the Com^{rs} & Surv^{rs} as a Monument of the end of the Partition line running east north east thirteen miles and sixty four rod. To this we think they agreed & we believe your Excellency will be of the same opinion when you read their seventh paper. But as we well enough perceiv'd the Ambiguous manner of their Signifying that agreement we desir'd them to meet us that evening in a Conference. Which they did.

Then we told them that they had signified their agreeing to what we had propos'd in Different words from what the proposals were made in, & as that might Occasion some Dispute after both sides might think all Disputes over we propos'd jointly to agree on one form of words as a minute of what we had allready agreed to. After they had made some Scruples to the doing this we read to them the form of a minute which we had drawn up & after their makeing some objection to one part of it we told them that we would alter it as they desir'd. But they replying that they had only agreed to this on Condition that the Province of New York should not extend further to the Eastward than that Dukes Tree & that the Partition line between this Province & that Colony which is to run parallel to Hudson's River should begin at that tree. We answer'd that we had formerly declar'd we would never propose any thing to them upon Condition or in hopes to extort any thing from them but that whatever we should agree to we would do it because we thought it was right & for that reason only & that the Partition line beyond the end of this line had no ways as yet come under our Consideration. We told them likewise that as there were some words in what we had agre'd to of too loose a Signification we would determine them with their consent as soon as we had agreed to the general Heads Then we verbally propos'd to them the following Question

Whether you agree that a line running east north east thirteen miles & sixty four rod from the end of the North northwest line from the

great stone shall be so far the Partition line between this Province & Connecticut if a Tree commonly called in Connecticut the Dukes Tree be not found so near the end of the s^d east north east line that we shall have reason to believe that it was not marked by the Com^{rs} & Surv^{rs} in the year 1684 but if the s^d Tree stand so near the end of the s^d line that we shall have reason to believe that it was marked by the s^d Surv^{rs} & Com^{rs} that then a line running from the end of the s^d north north west line to the s^d Dukes Tree shall be so far the Partition line between this Province and Connecticut

They refusing to answer this Question we sent it to them in writing the same evening & the next day receiv'd for answer That by the Agreement the second line in the Partition mentioned in the Agreement cannot be in extent longer than from the Northerly ends of the two eight mile line which we conjecture to be about ten mile & an half. That the Surveyors attended with a Commissioner had no authority giv'n them to alter the Agreement or make a new one but only to ascertain the lines according to that agreement. That the Surveyors did by their report no ways ascertain that line by shewing that they in the Execution of their office did agree upon & fix anything as monuments thereon. That the Confirmation by K William in Council did ratifie and confirm the agreement as well as the Survey of which two the agreement was the principal & could not be overset altered or changed by the lesser & must give way to the former wherein they differ more especially wherein the Report is so imperfect as aforesaid

We did not enter into argument with the Com^{rs} from Connecticut in writing till we should distinctly settle the bounds wherein we did agree & those wherein we differ'd & your Excell^r may see by their two last papers that before we could do this they abruptly broke off & left us & as much as in their power undid whatever was formerly agreed at this meeting or by the Com^{rs} in 1683 & 84.

The Rules we laid down to our selves in the management of this Negotiation were, In the first place steadily to adhere to the Agreement & Survey both which have been equally confirmed by the Legislature in both Governments & have likewise receiv'd the Royal Approbation which give them the greatest Sanction any Law Act or Deed can have.

As the Survey was Posterior to the Agreement & so far as it went is more clear & Distinct we admitted it as an Explication of the Agreement & we believ'd it was Established as Such by the Sanction it had receiv'd in both Governments & by K William's Approbation

And therefore we did not dispute whether the end of the line running North north west six miles and an half from the great Stone be truly eight miles from the Sound nor whether the end of the line running east north east thirteen miles & sixty four rod be truly twenty

miles from Hudson's River Because that Survey had determin'd that they were so

It may seem not easy to tell by what Rules the Comissioners of Connecticut acted, they were so Contradictory to themselves & to the Publick acts of their own Government. They seem'd Steady in Nothing but in the Ambiguous manner of their Giveing Assent to any of our Proposals which had taken away all colour of Reason for dissenting or by giveing their assent upon Conditions slyly insinuated & entirely foreign to the matter in Question & highly injurious to this Province

At first they were for giveing the greatest Authority to the Survey that could be in so much that they propos'd our allowing of a Tree called by them the Dukes Tree as the end of that Survey without further Examination tho' there was no mention made of that Tree in the Report of the Surveyors. When they found that by their haveing agreed to the Examination & proveing of the three white oak trees by the same Rules the Surveyors had marked them, that they could not with any appearance of Reason refuse allowing the same proof as to the others which had no authority but what was giv'n them by Connecticut, they assented to it: but with a Condition (as they afterwards explain'd themselves) that the Boundary of this Province should not upon any consideration extend beyond the end of the line running east north east thirteen miles & sixty four rod which they had agreed to be so far the Partition line. And when they could no longer defend their insisting on this condition then they openly denied, tho' in their usual crafty manner, all that they had formerly asserted viz That the Surveyors had erected any monuments in the line running east northeast thirteen miles & sixty four rod that is they denied that the Surveyors had marked a line of Trees a long that line or that they had marked any Tree as a monument of the end of it ev'n that tree which the Government of Connecticut in a publick Act passed the 9th of May last had in such Pompous words established as the most remarkable monument of the whole Survey. The words of that Act are. *Which Tree has ever since born the Name of the Dukes Tree & is Famously known by the s^a name & is by the s^a Survey consider'd Stated & esteem'd to be twenty miles from Hudson's River All which Marks and Monuments have been ever since the s^a Survey fixing of them Famously known as they are at this day.*

Who ever looks over that Act will see that the Government of Connecticut had it in View to make the world believe that the Government of New York had a design to reject the former Survey as of no force while they endeavour'd to enforce every part of it by all means possible. And now when the Com^{rs} from New York declar'd to the Com^{rs}

from Connecticut that they were resolv'd to stand by & to be entirely bound by that Survey The Com^{rs} of Connecticut as positively rejected it as their Legislature had confirm'd it.

The rejecting of this Survey will be still more unaccountable, by looking into the Act of Assembly of that Colony which empowered the s^d Com^{rs} to meet & agree with us. For in it the Legislature not only declares their being bound by that Survey but say further that in Conscience they ought to be bound by it Their words are *And it is hereby further enacted that whatsoever line shall be ascertain'd & established with Monuments erected therein by the s^d Com^{rs} according to the afores^d agreement in 1683 & the Survey that followed thereon as in Conscience it ought to be shall for ever after be & remain the line of Partition between this Colony & the Province of New York.* What Strange Procedure May it please your Excell^y was this in those Gent^l they had no power to conclude anything with us but what should be exactly conformable to that Survey & yet they refus'd our Proposals because they said they were not bound by the Survey

It is true indeed that they advanced some show of Reason for their setting aside of the Survey (tho' as we have said they were entirely restrain'd by their Commission from doing so) And this was by asserting that the Survey ought to have been perform'd in a different method by which the Partition line running east north east would have been only ten miles & an half in lenth & they said that this method of theirs was more conformable to the Agreement than the method the Sur^{rs} & Com^{rs} in 1684 used. Let us suppose with them that the Agreement is of more force than the Survey & that by any other Method that line could be made only ten miles & an half in lenth Yet we positively assert that the end of that line of ten miles & an half could not be the place from which the line Parallel to Hudson's River is to begin according to the agreement For first the Agreement expressly says that this line is to be twelve miles in lenth. In the next place the agreement positively affirms that the line parallel to Hudson's River shall *in every place be twenty miles distant from Hudson's River* & therefor it cannot begin at a place which by their own Confession as well as by the Survey is little more than seventeen miles from Hudson's River In the last place if we should grant them that by any words in the Agreement the lenth of that line might be reduced to ten miles & an half & that the Parallel line to Hudson's River is to begin at the end of that line Yet the Partition line between the Colonys cannot begin there: for the Agreement has by Express words guarded against any such Interpretation by the following clause *Only it is provided that in case the line from Byram brook mouth North North west eight miles & the line that is to run twelve miles to the end of the third foremention'd line do dimin-*

ish or take away land within twenty miles of Hudson's River that then so much as is in land diminished of twenty miles of Hudson's River thereby shall be added out of Connecticut bounds And this the Com^{rs} & Surv^{rs} in 1684 understood perfectly well for they say We did from said trees at eight miles distance run a Parallel to the sound viz East north east twelve miles & still continued s^t twelve mile line east north east one mile & sixty four rod which then gave us twenty miles from Hudson's River.

We think it will be now plain to your Excellency that the Com^{rs} of Connecticut had really as little regard to the Agreement as to the Survey and that they did not meet us with real Intention to settle the Partition line between the two Colonys according to either the Agreement or Survey: but that they have acted in this affair without sincerity & and with an Intention to defeat the Just & amicable endeavours of this Government in settling these lines by consent or with design to settle them in such manner as should be injurious to the Crown or the People of this Province Proprietors of the Soil

As we think we have had distinct & cleer apprehensions of the true intent of the agreement between the two Colonys & of the Report of the Com^{rs} & Surv^{rs} that succeeded that agreement & as we are sure that we acted sincerely according to the Judgement we made of their true meaning we hope to receive your Excellencys Approbation. We likewise believe that if your Excellency shall think it proper to lay before the Governour of Connecticut a State of the Points contraverted by the Commissioners of that Colony the Government of Connecticut will not only disown their Com^{rs} in what they have done but likewise readily agree to the Proposals we made Which is humbly Submitted to your Excellency by

Your Excellency's

New York
April 20th
1724

Most Dutyfull & obedient Servants

FRA. HARISON
CADWALLADER COLDEN
D PROVOOST

—[*N. Y. Col. MSS.*, lxix, 33 ; *Council Minutes (MS.)*, xiv, 278 ; *Sen. Doc.*, 1857, No. 165, p. 133.

[IN COUNCIL.]

May 1, 1724.

* * *

His Excellency laid before this Board his Majestys Royall Approbation in Council of An Act for runing the Lines of Partition and Division betwixt this Province and the Colony of Connecticut which follows in Hæc Verba

* * *

His Excellency laid before the Board the Report of Francis Harrison

Cadwallader Colden, and David Provoost Esq^r three of the Comm^{rs} appointed to meet the Comm^{rs} from Connecticut concerning the Running the Partition Line between this Province and that Colony which Report was Read as likewise the several Letters which past between the Comm^{rs} during their meeting and upon the Consideration of the whole Transaction this Board are unanimously of Opinion that the Comm^{rs} for this Province have faithfully and Diligently discharged the Trust Committed to them for which they desire the thanks of this Board.

ORDERED that the aforesaid Report be Entred upon the Minutes of Council of this Day and that the Letters be filed in the Secretarys Office and that a Copy of the Several Letters as likewise of the said Report be prepared by the Clerk of the Council in order to be by him laid before the Assembly at their next meeting. —

—[*N. Y. Council Minutes (MS.)*, xiv, 275, 277.

[GOVERNOR BURNET TO THE GENERAL ASSEMBLY.]

May 15, 1724.

* * * *

Gentlemen,

* * * *

I have the Satisfaction to acquaint you, That his Majesty has given his royal Approbation, by an Order in Council, to

An Act, for running and ascertaining the Lines of Partition and Division between this Colony, and the Colony of Connecticut.

I must observe to you, That this has not been obtained without much Opposition from the Agent for the Colony of *Connecticut*; and after two Hearings, one before the Lords of Trade, and the other before a Committee of the Privy Council; who reported to his Majesty in Favour of the *Act*.

The Usefulness of having Agents constant at Home, appear very plainly to you upon this Occasion, and I wish I was not obliged to remind you to make good your Engagements for the Time past on that Account,

* * *

When I send you a Copy of his Majesty's Order in Council, I will at the same Time, send you Copies of all the Papers that passed at a late Meeting between Commissioners for this Province, and Commissioners for *Connecticut*; from whence the latter thought fit to withdraw unexpectedly; that you may consider what further Measures to take, to bring this Affair to a Conclusion.

* * * *

WILLIAM BURNET.

New York, May 15, 1724.

—[*N. Y. Gen. Assem. Journal*, i, 500.

[IN GENERAL ASSEMBLY.]

June 16, 1724.

* * * *

The House (according to Order) resolved into a Committee of the whole House, to consider further of his Excellency's Speech; and Col. *Provoost* reported from the Committee, That they had gone through that Part of the said Speech relating to running and ascertaining the Lines of Partition and Division between this Colony and the Colony of *Connecticut*, and what has been transacted by the respective Commissioners which lately met at *New-Rochelle*, for that Purpose; which they had directed him to report to the House; which he delivered in at the Table, and the same was read, and agreed unto by the House, and is as followeth, *viz.*

That from the several Memorials and written Messages which passed and repassed at the said Congress, it is evident, that the Commissioners of *Connecticut*, had really as little Regard to the original Agreement in 1683, as they had to the Survey which succeeded the same in 1684, though both of them were confirmed by his late Majesty King William, Anno 1700; and that they did not meet the Commissioners of this Colony, with any real Intention to settle and ascertain the Partition Lines betwixt the two Colonies, according to the said Agreement and Survey; but that they acted in this Affair, either with an Intention to defeat the just and amicable Endeavours of this Government to settle those Lines by Consent, or with a View to fix them in such Manner as would be different from the said Agreement and Survey, and injurious to the Crown, or to the People of this Province, Proprietors of the Soil; and this seems to be corroborated by a Letter which the Governor of *Connecticut* wrote to his Excellency, dated the 7th of *May* last.¹

It appears on the other Hand from the said Memorialists, that the Commissioners of this Colony, did not, during all that Congress, offer any one Thing but what was exactly agreeable to the Agreement and Survey above-mentioned.

Ordered, That Mr. Speaker give the Thanks of this House to the Gentlemen who acted in Behalf of this Colony, for their candid and prudent Proceedings at the said Congress.

Ordered, That Mr. Speaker do address his Excellency, that he will be pleased to desire the Governor of *Connecticut*, that the Partition Lines betwixt the two Colonies may be fixed and ascertained amicably, and in Conjunction, according to the Agreement and Survey aforesaid, and as of Right they ought to be. And this House is induced to believe, that Colony will the readier join in such just and equitable Measures, because this Government is vested with full Power to fix and ascertain

¹ This letter seems not to have been preserved.—[P.]

those Lines, *ex parte*, by an Act of our General Assembly, passed in the Year 1719, entitled, *An Act, for running and ascertaining the Lines of Partition and Division, betwixt this Colony and the Colony of Connecticut*; which was looked upon by his Majesty so just and reasonable in itself, that he has been graciously pleased, with the Advice of his privy Council, to ratify and confirm the same the 23d Day of *January* last.

* * * *

—[*N. Y. Gen. Assem. Journal*, i, 505.

[LORDS OF TRADE TO GOVERNOR BURNET.]

To W^m Burnet Esq:

Sir,

Since our letter to you of the 9 of July 1723, We have received yours of the 29 May, 25 June, 16 Sept^r and 16 Dec^r last, and thank you for the several accounts you have therein sent us

* * * *

We have considered the Act passed at New York in 1719, for rûning a division line between that Province & Connecticut and have reported the same as fit for his Majesty's Royal approbation and his Majesty has been graciously pleased to confirm the same, We hope this Act will have its desired effect.

* * * *

Whitehall

June 17. 1724.

—[*N. Y. Col. Doc.*, v, 706.

[IN N. Y. COUNCIL.]

June 24, 1724.

* * * *

RESOLVED that in pursuance of the Act of Assembly for runing and Ascertaining the Lines of Partition and Division between this Colony and the Colony of Connecticut, the Commissioners lately appointed to treat at Rye be now appointed Commissioners in Conjunction with the Surveyor General of this Province to begin to Run the Lines of Partition and Divisions between this Province and the Colony of Connecticut on the third Tuesday of April Seventeen Hundred and twenty five and that Notice hereof be given with all Convenient Dispatch to the Governour of Connecticut in order that Comm^{rs} and Surveyors may be appointed by that Government if they think fitt to Act in Conjunction with those of this Province; WHEREBY the full timely notice of Nine

Months required by the Act for Runing the said Lines will be given to that Government, And that at the Same time An Exemplification of the Said Act and his Majestys Royall Approbation thereof be sent to the Governour of Connecticut

Resolved that Ten pounds be allowed to such Credible person as his Excellency shall appoint, to carry the Said Notice.

* * * *

—[*N. Y. Council Minutes (MS.)*, xiv, 313.

July 16, 1724.

* * * *

Mr Haskolls affidavit of his carrying his Excellencys Pacquet with notice to the Governour of Connecticut of the time appointed by this Government for runing the Lines of Partition and Division between this Colony and the Colony of Connecticut. pursuant to an Act of Assembly for that purpose. Was read.

Then his Excellency Signed a Warrant for paying the Said Haskoll Ten pounds. for his Said Service.

* * * *

—[*N. Y. Council Minutes (MS.)*, xiv, 325.

[COLONY OF CONNECTICUT.]

Att a Generall Assembly holden at New Haven In His Majesties Colony of Connecticutt in New England on the 8th day of October In the Eleventh year of the Reign of Our Sovereign Lord George of Great Britain &c King Annoq: Dom — 1724.

The Hon^{ble} Joseph Talcott Esq^r Governour of this Colony Representing to this Assembly that His Excellency William Burnett Esq^r Governour of the Province of New York did in July Last past Transmitt to the Hon^{ble} Gurdon Saltonstall Esq^r then Governour of this Colony An Act of Councill held at Fort George in New York June 24th 1724 Wherein it was Resolved that in Pursuance of an Act of their Assembly in the fifth Year of King George for Running And Ascertaining the Line of Partition between that Colony and this Together with an Exemplification of that Act and His Majesties Approbation thereof Comissioners Were Appointed in Conjunction with their Surveyour Generall to begin to Run the Line of Partition between that Province and this Colony on the third Tuesday of Aprill next and that Notice thereof Should be given to this Government in Order to the Appointment of Comissioners and Surveyours by this Government to Act in Conjunction with them —

It is Resolved by this Assembly that the Same Comissioners Viz The Hon^{ble} Jonathan Law Peter Burr Samuel Eells Roger Wolcott Esq^r or any three of them and John Copp Surveyour Lately appointed to Treat at Rye and M^r Edmund Lewiss now added as a Surveyour to assist be appointed and are hereby Appointed and Authorized as Comissioners and Surveyours on behalf of this Colony at the Time afores^d viz: on the third Tuesday of Aprill next to Meet with the Gentlemen Comission^{rs} from New York to Treat with Settle agree Run ascertain and fix the Partition Lines between the Province of New York and this Colony of Connecticut from Lyons Point to the Massachusetts Line According to the Agreement made at New York on the 23^d day of November 1683, and the Survey made thereupon and after Confirmed by an Act of King William in Council on the 28th day of March 1700, and in the Said Lines of Partition So Run and Settled to Erect Marks and Monuments in the performance whereof the Said Comissioners and Surveyours are to attend the Instructions which the Governor and Council Shall give them and on the Compliance of the Comissioners of New York therewith Accordingly and the Lines of Partition Agreeable thereunto being Setled Ascertained and fixed with Suitable Marks and Monuments therein Shall be and Remain the dividend Lines between the Two Colonies forever.

A True Copy of Record

Exam^d  HEZ: WYLLYS Secret^{ry}

—[*N. Y. Col. MSS.*, lxix, 45 ; *Sen. Doc.*, 1857, No. 165, p. 140 ; *Conn. Pub. Rec.*, 1717-1725, p. 496.

[GOVERNOR BURNET TO JUSTICES OF WESTCHESTER.]

Gentlemen.

[October 8, 1724.]

Haveing lately Received a Letter from Gordon Saltonstall esq Gov^r of Connecticut with a petition & affid^t of y^e Constable & Collector of Greenwich Complaineing that they & divers of y^e Inhabitants of Connecticut have bee[n] arrested and Imprisoned & held to Bayle in large Sumes by process or Warrants from the Justices & Court of y^e County of West-Chester for Supposed Trespasses by them alleadged to be Committed in Leaveing of Taxes on y^e Inhabitants of Rye bordering ony Line betweene y^e two Colonies — which I have Communicated to his Majesties Council here And forasmuch as Gov^r Saltonstall assures me that he has got an Act passed there for Joyneing with this Colony in settleing the Devision Lines betweene them and persons are by them appointed for that purpose, and that untill it can be done he he assures me he will take all possible Care that nothing be done by any Court or person in his Government to Countenance any Disorders that may happen on y^e borders in their neighborhood. And desireing any Directions for y^e like orders to Justices and Courts iny County of WestChester

I thereupon ¹ / and with the Advice of his majesties Council here

doe hereby order and Direct that all further proceedings against the said Constables & Collector of Greenwich & other Inhabitants there be forthwith stayed in yo^r said Courts untill my further Orders therein

[Endorsed]: Copy of his Excellencies Letter to y^e Justices of WestChester

—[*N. Y. Col. MSS.*, lxix, 46.]

[ENDORSEMENT.] Comission^{rs} Appointed by Goven^r & Council of Connecticut.

Att A Meeting of y^e Gov^r and Council in Hartford March y^e 20th 1724/5—

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*

UPON CONSIDERATION that by one act of y^e gen^l Assembly of this Colony, holden at N-Haven October y^e 8th 1724; it was resolv'd by y^e Said Assembly, that y^e Hon^{ble} Jonathn Law, Peter Burr, Sam^l Eels, Roger Woolcott, Esq^{rs} or any Three of them, and M^r Cop Surveyer Lately appointed to Treat at Rye, and M^r Edmond Lewess Now Added as a Surveyer to Assist, be appointed, and are Hereby Appointed & Authorized as Com^{ers} and Surveyers on y^e Behalf of this Colony, on y^e third Tuesday in April next, to Meet with y^e Com^{ers} from N-York, to Treat with, Settle, Agree, run, ascertain and Fix y^e Partition Lines between y^e Provinces, and do all other Things, as in S^d Act they were Appointed to do Reference thereto being had: And This Board being Inform'd That by y^e holy Providence of God one of S^d Com^{ers} viz Major Peter Burr Esq^r is taken from us by Death, this Board do therefore Appoint Cap^t Joseph Wakeman Esq^r, and he y^e S^d Joseph Wakeman is hereby Appointed in y^e Room, Stead & Place of y^e S^d Maj^r Burr deceas'd, to be one of S^d Com^{ers} and in Conjunction With y^e rest of S^d Com^{ers} to do and Perform all Things committed to S^d Com^{ers} to have done in all Respects as ye S^d Maj^r Peter Burr might, or cou'd have done, had his Life been Spar'd, & he been Personally presant: And that what shall be by him Said Joseph Wakeman Esq^r in Conjunction with y^e S^d Com^{ers} Done and Performed according to y^e true Meaning, Intention and Construction of S^d Act (That is to Say any Three of them if S^d Wakeman be one of y^e Three) Shall be held firm, Good, and Effectuall to all Intents and Purposes as in S^d Act is intended or included:—And upon Consideration of y^e Mutable Estate of frail man, and for y^e more Certainty of having y^e AforeS^d Work carried on, it is Resolved by y^e Said Gov^r and Council, That if After y^e S^d Com^{ers} enter upon the Service, by y^e Providence of God or any extraordinary Occasion or Necessity any of y^e S^d Com^{ers} Shou'd be taken off, or Removed from y^e S^d Service, So that there Shou'd not be a Quorum, that is to Say 3, with, or without Cap^t Joseph Wakeman, Then then in any Matter of Judgement, Agreement or Determination, M^r Cop, one of y^e Surveyers Appointed in y^e

S^d Act of Assembly, Shall be one and he is hereby ordered, and Appointed to be one of the Com^{ers} on Behalf of this Government, to meet y^e Com^{ers} that are or Shall be Appointed from N-York on y^e Third Tuesday in April next, and to Treat with, Agree about & Settle the Division and Partition Line between y^e Provinces of Connecticut and New York, and that what shall be So Agreed, Done and Settled by Any Three of S^d Com^{ers}, S^d.D^r Cop being one of y^e Three that make y^e Quorum Shall be held good, valid and Binding to all Intents and Purposes, as fully and Effectually as it might or cou'd have Done had there been any there of S^d Com^{ers} Who were appointed by y^e Assembly of this Colony.—

A True Copy of the Act of Council

* * HEZ: WYLLYS Secret^r

—[*N. Y. Col. MSS.*, lxix, 47; *Conn. Pub. Rec.*, 1717-1725, p. 509.

[INSTRUCTIONS TO CONNECTICUT COMMISSIONERS.]

At a Meeting of y^e Govern^r & Council in Hartford March y^e 20th 1724/5.

INSTRUCTIONS to the Com^{ers} for and on y^e part of this Colony of Conecticut authoris'd to meet with such Com^{ers} as are or may be appointed for and on the behalf of y^e Province of New York, and Joyn with them in Running and Settling the Dividing Line between this Colony and the Provence of New York, According to an Agreement between the Governments, whereby the Said Line was to be Survey'd, affixt, approv'd of and Confirm'd by y^e Late King William of Blessed Memory, and S^d Com^{ers} appointed by Act of y^e Gen^l Assembly of Connecticut October 8th 1724: And to Meet on the Third Tuesday of April 1725.—

1st If you Can by any Means find out Such Monuments mad by the Surveyers in their Running y^e Line as are Satisfactory to you and the Com^{ers} of New York; And Especially if you Can find (to your Satisfaction) that Tree Called by the Name of the Dukis Tree, Tho it Comes farther in upon this Colony than by the Agreement y^e Most Easterly Bouds Bouds of N York ought to do, and Comprehends more by many Thousands of Acres, than the Just Aquivolent Agreed to be Added to y^e End of y^e fourth Line which was form'd and is there Declared to be 20 Miles from Hudsons River, Yet if that will Satisfie y^e Com^{ers} from N York you shall Consent thereto, And fix the Same as the Station from whence the parallell Line Comprehending the Aquivolent within the provence of New York shall Commence, And from thence runn to y^e Massachusetts Line

2^d If you Can't Satisfie your Selves about y^e Monuments erected by s^d Com^{ers} when the Survey was made, So as that y^e s^d Lines can be certainly

known, You are then to proceed with the Com^{rs} of New York to Run the Line De Novo according to y^e agreement—Beginning at Lyons point Fixing from thence the first 8 Miles Line to Run from the Wading place N N Wst untill it Extends 8 Miles from Lyons point into y^e Wilderness, then to Run the Second line in the agreement, and the Third and fourth according to your Discretion, always Comporting with the agreeme^{nt} and to run a line from y^e End of y^e fourth Line parallel to Hudsons River

3^d? You are then to Compute a quantity of Acres Comprehended by the 4th Line, and to add to y^e East End of y^e fourth Line So many Rods more on y^e Same Course as that a line drawn from the East End of y^e Rods So added up to the Massachusets Line which is Supposed to be 100 miles North and parallel to the afore s^d parallel Line, Comencing at the East End of the 4th Line

And if y^e Com^{rs} of New York Shall refuse to proceed in the affair according to the foregoing Instructions, as at present appearance to this Board it is Just and Right, or rather in favour to y^e Provence of New York: You are then to treat with them upon such other Termes as you Shall then (being upon the Spot) conclude to be Just and Consonant with the former agreement of y^e Governments, And Survey thereupon made, And that According to your best Skill, And as upon Consideration had on s^d Agreement you may think most Just and Conducive to the Good of both Governments

And if you can Agree you are to Write, Signe & Seal the Agreements by y^e Com^{rs} of both Governments to prevent Misunderstandings amongst y^e Com^{rs} of Each Province &c

Having So Agreed Written Sign'd and Sealed Your Agreement you are to proceed Joyntly with y^e Com^{rs} of New York in what you Can or do agree to with them as to particular Courses and Distances, always to be Sure to keep an exact account of y^e Courses & Distances of Every point and Measure So made

If you Can't Agree but y^e Com^{rs} from New York will proceed (in your Apprehension) Contrary to y^e Agreement &c You are Notwithstanding to appoint Some two of your Company who shall goe with them & make observations with them in their proceedings, and keep Accounts thereof and to make Return thereof to this Government, And the rest Either to Return back to this Government or to proceed on the Work by Your Selves, as you shall find to be most Conformable to y^e Agreement made by the Governments & Survey thereupon—

Given under My Hand in Hartford y^e 14th Day of April in y^e Eleventh Year of y^e Reign of our Sovereign Lord George of great Brittain, France &c King—

J TALCOTT

The above written is a true Copy of y^e Instructions given by y^e Governour and Council of Conecticut as Witness our hands this 21st day of April 1725

JONTH LAW
 SAM^{LL} EELLS
 ROGER WOLCOTT
 JOS: WAKEMAN

—[*N. Y. Col. MSS.*, lxix, 48.]

[COMMISSION.]

GEORGE by the grace of God of great Britain France and Ireland King Defender of the Faith etc WHEREAS an act of our Governour Council and Assembly of our Colony of New York was pass'd in the month of June in the fifth year of our Reign Entituled an act for Running and ascertaining the Lines of Partition and Division betwixt this Colony and the Colony of Connecticut WHEREAS we have been pleased to give our Royal assent to the said act as by our Letters to our Governour of New York to that Effect bearing date at St James's the Twenty-third Day of January in the Tenth year of our Reign may appear and WHEREAS timely notice has been sent to the Governour of Connecticut from our Governour of this Province that on the Third Tuesday of this Instant, the said Lines are to be begun to be run on the part of this Province pursuant to the said act AND WHEREAS it hath seemed to our said Governour with the advice of our Council most Convenient and fit that Francis Harison, Cadwallader Colden Johannes Jansen, and Isaac Hicks Esq^{rs} or or any two or more of them in Conjunction with the Surveyor General of this Province or his Deputy should pursuant to the said act be authorized and Impower'd to run Mark out Distinguish and ascertain the Lines of partition and Division between this province and the Colony of Connecticut NOW KNOW YE That pursuant to the aforesaid Act of Assembly we have authorized and Impower'd and we do by these presents authorize and Impower the said Francis Harison, Cadwallader Colden Johannes Jansen and Isaac Hicks or any two or more of them in Conjunction with Cadwallader Colden, now Surveyor General of this province or his Deputy approved of by the Governour or Commander in Chief for the time being with the advice and Consent of the Council to run mark out Distinguish and ascertain the Line of Partition and Division between this Province and the Colony of Connecticut According to the Agreements mentioned in the said act which were approved and allowed of by the Late King William and in no other manner than it was agreed and approved of as therein mentioned which Lines when run and the places Distinguished thro' which they shall pass are to be the Lines of Partition and Division betwixt this Colony and the Colony of Connecticut as by the said act they are declared and Enacted to be IN TESTIMONY whereof we have

Caused the great Seal of our province of New York to be thereunto affixed WITNESS our Trusty and wele beloved William Burnet Esq^r Captain General and Governour in Chief of our province of New York New Jersey and Territories thereon Depending in america and vice admiral of the same etc in Council at our Fort at New York the Third day of April In the Eleventh year of our Reign Annoque Domini 1725

JS: BOBIN D: Secr'y

—[*Commission (MS.)*, in office of N. Y. Sec'y of State, iii, 255.

[IN N. Y. COUNCIL.]

April 8, 1725

* * * *

HIS EXCELLENCY proposed to the Board that a Committee of this Board be appointed to prepare Instructions for the Comissioners and Surveyor appointed to run the Lines of Partition and Division between this province and the Colony of Connecticut

WHEREUPON is Ordered that the Gentlemen of this Board or any five of them be a Committee for that purpose Ordered that the said Committee do Consider Likewise what Sum shall be advanced to the Said Comm^{rs} and Surveyor that Shall go upon the Actuall Survey.—

Doctor Colden proposed to the Board that M^r James Livingston be his Deputy upon the said Survey which was approved of—

His Excellency withdrawing the Gentlemen resolved into a Committee

Then M^r Barberie Chairman of the Committee appointed to prepare Instructions for the aforesaid Comm^{rs} and Surveyor in his place Reported that they had agreed upon the following Instructions in Hac Verba —

[INSTRUCTIONS TO THE N. Y. COMMISSIONERS.]

WHEREAS by the Act or Resolve of the Assembly of Connecticut the Comm^{rs} of that Colony are Restrained and Confin'd to observe Such Instructions as the Gov^r and Council of that province Shall give them before you begin to Treat with them You shall Require a Copy of their Instructions as well as of their Commission and if they Shall refuse to give Such Copy or if you shall find that by their Instructions they are directed to Settle the boundarys Contrary to the true Intent and meaning of the Articles of Agreement and Survey you Shall not to proceed to Treat with them but you Shall immediatly begin your Survey in order to fix the boundarys and partition Line between the two Colonys Exparte or by your Selves as you are Impowered by your Commission and the Act of the General Assembly of this Province—

If you Shall find by their Commission and Instructions that they are Sufficiently Impowered in Conjunction with you to Settle the Boundarys and Limits of partition between this and that Colony You shall before

you begin the actual Survey Endeavour to agree and Settle between you and them the manner and Terms of performing the Survey and Every part of it as near as possible to the true Intent and meaning of the Articles of Agreement made in the year 1683 Between Colo Thomas Dongan of New York and the Council thereof of the one Side and Robert Treat Esq^r Governour of the Colony of Connecticut and other Comissioners of that Colony on the other side and of the Report of the Comissioners and Surveyors of this province and the Colony of Connecticut which Insued thereupon and was approved of by his Late majesty King William —

AND WHEREAS in the said Agreement a Line parrallell to Hudsons River in Every place Twenty miles distant from Hudsons River was agreed to be the bounds between the said Colonies with some provisions as therein are mentioned to Comply Exactly with which Expression may be difficult and vastly Expensive —

THEREFORE you may agree upon, one or more Streight Lines nearly to the Intention of the said Agreement

You are to take a view and Run the Lines and marks said to be run and markt by the Comissioners and Surveyors in the year 1684 pursuant to the said Agreement and if you find Sufficient Cause to believe them to be the very Lines run and markt by the said Comm^{rs} and Surveyors you are to agree to them and Cause them to be of New distinguished and marked

In Case the Comissioners of Connecticut upon your meeting with them do absolutely Refuse to view and run the Lines run in 1684 and Insist to Continue the work from a Tree which they pretend is the Tree fixed by the Surveyors in 1684 as Twenty from Hudsons River and from thence to Lay of the Equivalent

You are rather then to break with them on that point to agree to begin from that Tree provided that upon your own View and runing of the former Lines you Shall find it to be nearly Just and if they will not Join in this your View you are to Insist as much as possible that they do Send one or more to be Witnesses to the Justness of your work —

Before you Begin to Run the Line or Lines parrallell to Hudsons River you shall measure the distance between the End of the Line running East North East parrallell to the Sound begining Twenty miles from Hudsons River on the said Line and Ending in the Line of Massachusetts Bay at Twenty miles distance from Hudsons River in order to find the additional Breadth beyond Twenty miles from the said River at which the parrallell Line or Lines to the said River ought to be run. —

If you cannot agree with the Comissioners of Connecticut on the manner and Term of performing the whole or any parts or part thereof the

said Survey as before directed you shall perform the whole or any Such parts or part of the Same Ex parte or by your Selves according to the true Intent and meaning of the agreement and Survey —

You shall at the Ends or Extremitys of every Line Erect or fix Some Remarkable monument (if the same be not Remarkably Certain by Something naturally Scituated there) as memorials of your Survey and of the Boundarys of the two Colonys

In Case the Comissioners of Connecticut shall Refuse to Join with you in Surveying the partition Lines between the two Colonys or any part of them You shall desire their Comissioners to go along with you to be Witnesses of your Actions and work and to preserve the peace on the side of their Government that you meet with no opposition from any on their Side —

If they shall Refuse to go along with you — You Shall desire them to Send Some Persons in any authority to prevent any Opposition to you and to preserve the peace

And if at any time you shall meet with Opposition in your Survey and Setling the Lines You Shall immediately Send an Express to the Governour of Connecticut or in his absence to the L^t Governour acquainting him with the Opposition you shall have met and desiring the Interposition of his authority in order to remove the Same that you may go on peaceably with your Survey and the fixing of the boundarys between the two Colonys

If after all this the opposition Shall Continue you shall return to New York and Lay before me an account of your proceedings.—

In Case the Comissioners of Connecticut shall Refuse to Show their Instructions unless you Likewise shall Show yours you may rather than to break with them on that Score Shew your Instructions to them.—

WHICH Instructions were approved of by the Board with the following amendments viz^t (instead of the word [or Impossible] Insert the words [and Vastly Expensive] Leave out the words tho not Strictly accordingly to the words.¹

Ordered that the Instructions be Engrossed accordingly — M^r Barberie Likewise Reported that the said Committee had Considered of what Sum ought to be advanced to the said Comm^{rs} and Survey [or] that go upon the Actual Survey and were of Opinion that there be advanced to the Comm^{rs} that Shall go upon the Actual Survey Ten pounds Each that there be advanced to Doctor Colden as Comm^r and

¹The former of these amendments, which are incorporated in the above text, seems to have been made at the end of the Recitals or Preamble, and the other at the end of the next paragraph thereafter.—[P.]

Surveyor Twenty pounds and to his Deputy five pounds and that there Likewise be advanced Sixty pounds for necessary Charges upon the said Survey to be accounted for to this Board.—

Which was Likewise approved of by the Board Ordered that Warrants be prepared accordingly but that each Comissioner give his promissory note to the Treasurer to repay Twenty Shillings for each of the first days after their Setting out during which he shall not have attended the business of his Commission —

—[*N. Y. Council Minutes (MS.)*, xiv, 431 ; *Col. MSS.*, lxix, 49 ; *Sen. Doc.*, 1857, No. 165, p. 142.

[CONNECTICUT COMMISSIONERS TO N. Y. COMMISSIONERS.]

In addition to what we have already agreed to under our hands We offer to agree with you either according to your act approved by his present Majesty or if you think we may according to the Report of y^e Survey Confirm'd by King William Or according to the Agreement in 83 Confirm'd by King William in this remaining part of the agreement as not compris'd and delinated by your Act nor fix'd by the Survey — first — According to your act and then We offer to you to Agree agreeable to your act which We understand to the declare That part of the Most Easterly part of the Bounds of the Province of New York were ascertain'd by the Report of the Survey and approv'd by the Governer Dungan and Treat and Confirm'd by King William comprehending the Equivalent by the addition of 305 Rodds to the Easterly end of the E. N. E Line on the said E. N. E Course and from the end thereof a Line to be thence drawn paralell to Hudsons River till it intersect y^e Massathusets Line.

In the form following or any other that may be better drawn Viz^t:

The Boundaries between the two Colonies of New York and Conecticut being already agreed to between Us So farr as 13 miles 64 rods extends to from the Northerly end of the first 8 mile Line from Lions Point. We will proceed to add to the end there of 305 Rods on y^e same E N E Course and from the end there of We will run a Line paralell to Hudsons River till it Shall intersect the Line dividing between the Colonys of the Massathusett and Conecticut and erect proper Monuments therein which shall be a Divided Line between the two Colonies for Ever.

But if you shall choose to go by the Survey Confirmd by King William Supposing the Conditionall part y^e of Viz^t of the addition of 305 Rods Submitted to the Gov^{rs} for y^e approbation as not comply'd with and completed by the Agreements of y^e Gov^{rs} Dungan and Treat at

Milford then Understanding the Positive part of y^e Survey Confirm'd by King William positively and the Conditional part thereof Conditionall

We will agree with you in Such like from Viz^t The Boundaries between the two Colonies of New York & Conecticut being already agree'd to between Us So farr as the 13 miles & 64 Rods extends to from the Northerly end of the first 8 Mile Line from Lions We will proceed to run from thence a Line paralell to Hudsons River till it shall intersect the Line dividing between the Colonies of the Massathussets and Conecticut and erect proper Monuments y^ein and leave that part mentioned in y^e Survey to be Submitted to y^e approbation of both Governments untill each Govern^t shall Declare their approbation y^eof

And further if nither of y^e foregoing agreements proposed are agreeable to you and you shall choose to regulate this part remaining by y^e agreement made in 83 according to the true Intent and meaning thereof We Understanding it according to the following Construction Viz^t—

That a Line should be drawn from Lions Point so far Northward as will make 8 miles Viz^t as Biram River runs to the Wading place where y^e comon Rhoad cutts the River and from thence So farr on a N. N. W Course as to bring it to the end of y^e s^d 8 miles and that then a Line being drawn from Lions Point 12 Miles Eastward according to y^e Comon Course of the Sound and another Line being drawn from y^e Sound at y^e end of y^e Said 12 Mile line on a North North West Course 8 Miles and then a fourth Line being drawn from y^e Northerly end of y^e Last mentioned Line of eight miles 12 miles to y^e Northerly end of a Line drawn 8 miles on a N N W Course from Lions Point and that a Line paralell to Hudsons River being drawn from y^e end of y^e fourth mentioned Line of 12 Miles to the Massathussets Line That the Lands diminished by y^e Line of 8 miles drawn from Lions Point on a N. N. W Course and the Line that is then to run from the end thereof 12 Mile to the end of y^e 3^d forementioned Line of 8 Miles of y^e lands lying within 20 Miles of Hudsons River shall bee added out of y^e Bounds of Conecticut Quantity for Quantity at an equal breadth adjoining to the Said paralell Line.

We will agree in Such like form following

The Boundaries &c (as before exprest) We will proceed to runn from thence a Line paralell to Hudsons River till it shall Intersect y^e Line dividing between y^e Colonies of the Massathussets and Conecticut and In Case We shall find that y^e land diminished of the lands lying within 20 Miles of Hudsons River by a Line drawn N N. W. from Lions Point 8 Mile & y^e Line that shall thence be runn 12 Miles to the 3^d mentioned Line of 8 Miles shall not be found to be made up Quantity for Quantity out of the Bounds of Conecticut by the Lands lying between

a paralell Line to Hudsons River drawn from the end of the 4th line & a paralell Line drawn from y^e end of y^e 13 Miles & 64 Rods We will then proceed to Add out of y^e Lands adjoining to the last mentioned paralell Line So soon as We can find the length of it to the full Quantity thereof without exception —

A Coppia of a Paper Given from the Comm^{rs} of Conet: to the Comm^{rs} of New York April 26th 1725

—[*N. Y. Col. MSS.*, lxix, 50.

ARTICLES OF AGREEMENT

Made and concluded at Greenwich in y^e Colony of Connecticut (on the Twenty ninth day) of April in y^e Eleventh year of y^e Reign of our Sovereign Lord (George of Great) Britain, France & Ireland, KING Defender of y^e faith &c and (in the year of our Lord) one Thousand Seven hundred & twenty five between Francis Harison (Cadwallader Colden) Survey^r General of y^e Province of New York, and Isaac Hicks Esq^r (Authorized and appointed) by his Magesty^s Commission under the Great Seal of s^d Province (and dated at Fort) George in New York the Third day of this Instant Month in the Year (above written, to) run, mark out, distinguish, and Ascertain the Lines of Partition and Division (between the said) Province and the Colony of Conecticut, of the one Side and (Jonathan Law, Samuel Eels, Roger Wolcot Esq^{rs}, and John Copp & Edmond Lewis (Surveyors Commissione)rs Appointed and Authorised by the Colony of Connecticut to (meet with the Commisio)n^{rs} from New York, to treat with Settle, Agree, run, Ascertain (and fix the Partition) Lines between y^e Province of New York and Colony of Conectieutt on (the other Side.)¹

Imprimis it is herby Stipulated Covenanted and firmly agreed to, by, and between us the Comission^{rs} of the Province of New York afores^d and the Comission^{rs} & Survey^{rs} of the Colony of Connecticut afores^d respectively appointed for runing, Setling & Ascertaining the Lines of Partition and Division between y^e s^d Province & the s^d Colony That we the s^d Comission^{rs} & Survey^{rs} Shall begin at Lyons point and from thence run by the Compass a Line North half a point Easterly, one mile and an half & Twenty Rods, and from the end of the s^d Line we Shall run a Streight Line to y^e Rock at the Road or Wadeing place, and Observe the distance from the s^d Rock and the end of y^e s^d Line then we Shall run from y^e s^d Rock North North West Six Miles and an half, and if we Shall not find y^e Trees marked at y^e End thereof, which are Supposed to be the Same Marked by the Survey^{rs} in y^e year one Thousand Six hundred Eighty four, We Shall Run a Streight Line from

¹This portion of the original MS. is mutilated, and this copy cannot be fully verified thereby; but reference has been made to the transcript in Vol. 3, of *Commissions*, pp. 259-263. The missing words are in parentheses.—[P.

y^e End of y^e s^d North Nor' West line to y^e s^d Supposed trees, and if then we shall find that the distance between y^e End of y^e s^d North nor' West line and the Said Supposed Trees, is not greater than the distance between the line from Lyons point North half a point Easterly & y^e afores^d Rock in proportion as one Mile and a half and Twenty rods is to Six miles and an half, Then we do Agree that y^e s^d Supposed Trees are verily the Trees that were marked by y^e Comission^{rs} & Survey^{rs} in the yeare one Thousand Six hundred Eighty four, but if we Shall find that the distance between y^e End of the s^d North nor' West Line and the Suposed Trees is greater in proportion to y^e Distance between y^e end of the Line from Lyons point and y^e Rock than Six miles and an half is to y^e Distance of one Mile and an half and Twenty Rods, then we Shall erect a Monument at y^e End of y^e North North West line as y^e End of y^e s^d Division Line between y^e province of New York and y^e Colony of Connecticut Provided nevertheless that if Either y^e Comiss^{rs} & Survey^{rs} of y^e Province of New York or the Comiss^{rs} & Sūrvey^{rs} of the Colony of Connecticut Shall declare and insist that the lines run before mentioned have not to their Satisfaction Determined the true place of y^e end of y^e said North Nor' West line, that then we will run West & by North to Hudsons River, and then if y^e Distance of Seven Miles and one hundred & Twenty Rods Agree with y^e end of y^e said North, Nor' West line or with the Supposed trees marked in one Thousand Six hundred Eighty four we will Establish Either y^e s^d Trees or y^e End of y^e s^d North Nor' West Line which so ever of them Shall nearest agree with y^e Same Distance of Seven mile & one hundred & Twenty Rod, that is to Say if y^e Trees be nearer to y^e Distance of Seven miles and one hundred and Twenty Rods over or under than y^e End of y^e s^d North Nor' West line then we will Establish y^e s^d Trees as y^e Boundary & Limit between the Province of New York & Colony of Connecticut and a Streight line between y^e s^d Trees when So Confirmed and the great Rock at y^e Wadeing place Shall be So farr the line of Partition between the province of New York & y^e Colony of Connecticut. But if y^e End of the North Nor' West line to be Run as afores^d shall be nearer to y^e Distance of Seven Miles and one hundred and Twenty Rods from Hudsons river over or under than the s^d Trees, then we do Agree to Establish y^e s^d North North West line as the line of partition and Division So farr between the Provinc of New York & y^e Colony of Connecticut, and will Erect a Monument at y^e place So Agreed to. And after we Shall have Established Either y^e s^d Trees or the s^d North Nor West line, Then a Line paralell to the Sound run from s^d Trees or from the Northermost end of the s^d North north West line that is to Say from which so ever of them Shall be Established as the as the Limit and Boundary as afore s^d...And Runing East

North East Thirteen Miles and Sixty four Rods Shall be So far the Line of Partition and Division between the s^d Province of New York and y^e Colony of Connecticut And we will Erect a Monument at the end of the s^d East North East Line, which Monument Shall be deem'd and Esteem'd to be Twenty Miles from Hudsons River. In the next place after we Shall have Establish'd the End of the s^d East North East Line as Twenty Miles from Hudsons River, We Shall goe to a Point of Land on the East Side of Hudsons River comonly known by the name of Cortlands Point which is Nearly opposite to Stony point or to the begining of y^e high Lands and from y^e most Westerly part of y^e s^d Cortlands point we Shall Runn an East line According to y^e Compass Twenty Miles, at y^e end of which twenty miles we Shall Erect A Monument and then we Shall run a Streight line from y^e Monument at y^e End of the afor Said East North East line to the Monument at y^e End of the East line from Cortlands Point, which line Shall be deemed and Esteemed so far a paralell line to Hudsons River and Every where Twenty Miles from it, Then from y^e Monument at the end of the East line from Cortlands point, We shall run a Random line to y^e line of the Massachusetts Bay now Established between the Colonys of Connecticut and the Massachusetts Bay, which line Shall be run by one Course Except only where it Shall meet with large Ponds and large Swamps and Precipices and Rocks which Shall be very difficult to pass over, in which places it Shall be allowable to goe aside from the s^d Course in order to avoid the s^d Difficulty^s, Provided that as soon as y^e s^d Difficulty^s Shall be avoided, the Survey^r who shall run the s^d Line do Return to their first Course and run y^e s^d line nearly according to y^e Rules of Art, as if they had Continued in one line as they Should have done if no Such difficulty had interrupted them in their Course, then we Shall Continue y^e Line of y^e Massachusetts Bay to Hudsons River. And when this Shall be done we will Compute at what place a line runing East & by South according to y^e Compass, from Hudsons River and Twenty Miles in Length Shall Terminate in y^e afore s^d line of y^e Massachusetts Bay, and at that place we Shall Erect a Monument which Shall be Deem'd and Esteem'd to be Twenty Miles from Hudsons River, Then We Shall run a Streight line from y^e Monument at y^e End of the East line from Cortlands point to y^e afore s^d Monument, on the line of y^e Massachusetts Bay, which Streight line between the two last mentioned Monuments Shall be Deemed and Esteem'd a line paralell to Hudsons river and every where Twenty Miles from it, Then we Covenant and Muetually Agree that Sixty one Thousand four hundred and forty acres of Land Shall be added to the province of New York out of y^e Bounds of y^e Colony of Connecticutt, which adition Shall be made along the afore s^d lines paralell to Hudsons River, that is

to Say along the line runing from the monument at y^e End of y^e afore s^d East North East line to y^e Monument at y^e end of y^e East line from Cortlands point, and along the line running from the s^d last mentioned Monument to the monument in y^e line of y^e Massachusetts Bay, and Shall be Bounded to y^e Eastward and Divided from y^e Colony of Connecticut by two lines paralell to y^e s^d two lines a long which y^e s^d addition is made and at Such Breadth as that Sixty one Thousand, four hundred & forty Acres of Land May be Contained between y^e s^d paralell lines on the Sides of the s^d Addition & between y^e line of the Massachusetts Bay, and y^e afore s^d East North East line Continued So farr to the Eastward as the Breadth of y^e s^d addition Shall Extend on y^e End of the s^d addition. And wheras Severall poor English families have lay'd out their whole Substance and Spent their youth in clearing tilling and improveing with great hazard & hard Labour land which it is Supposed may ly near the paralell lines at Twenty miles Distance from Hudsons river, and where as if the improv'd land of y^e s^d poor people Should fall within y^e Equivelent of Sixty one Thousand four hundred & forty Acres to be added out of y^e Bounds of Connecticut the s^d poor famillys may hope for his Majesties favour in granting to them the Said Improvd Lands in Such maner as Lands are Usually granted within the province of New York It is further Agreed that in Measuring the line Runing East North East Thirteen Mile and Sixty four Rods from y^e End of y^e North North West line of Six miles & a half, and in Measureing y^e East line of Twenty Miles from Cortlands point we Shall only alow of Strict measure in y^e best maner the same can be Actually performed upon y^e Surface of y^e Land, Butt that in all Other lines to be Measured or to be Computed we Shall alow at y^e Rate of Twelve Rods to be added to Every Mile & that one Mile & Twelve Rods of Actual Measure Shall be Esteemed & Computed in all other places as one Mile of true Measure. And So proportionably for a great or less length, takeing y^e Rough & Smooth land, togather into y^e Computation as we Shall meet with them, it is provided Nevertheless that in Measuring the Breadth of the s^d additionall Land: y^e allowance Shall not be made at y^e rate of Twelve Rods to a Mile — but that what ever allowance Shall be made in Measureing the lines runing from Lyons point to y^e Rock at y^e Wadeing place and from the s^d Rock to the three Trees at y^e end of the North Nor'West line y^e Same allowance Shall be added to the breadth of the additional Land Joyn'd to y^e Loins paralell to Hudsons River, that is to Say after the s^d Trees or y^e end of y^e North Nor'West line Shall be Established by the rules already agreed to, it Shall be Computed how far the s^d Trees or y^e end of y^e s^d North Nor'West line Shall be distant from Lyons point on a Streight line without any allowance in Measure and if the s^d Distance Shall be found

greatr yⁿ eight miles whatever measure shall be found to be over the s^d Eight miles the s^d over pluss measure Shall be accompted an allowance to be added to y^e Bredth of y^e additionall Lands Containing Sixty one thousand four hundred & forty Acres in Such proportion as Eight miles Shall be to y^e Bredth of y^e s^d Additional lands, and when y^e Bredth of y^e s^d Lands to be added out of Connecticut Shall be Established as above Directed we Shall fix & ascertain the Bounds of y^e Same by Continuing on y^e South End of y^e s^d lands the East North East line and Erect a Monument on y^e end thereof when Continued y^e full Bredth of y^e s^d additional lands And from the said Monument run two lines paralell to y^e two lines which are paralell to Hudsons river. And there by fix and Ascertain the lines of partition and division between y^e province of New York & y^e Colony of Connecticut, from the last mentioned Monument to the line of y^e Massachusetts Bay, and erect Monuments in the s^d lines at all places which may be thought Necessary. It is Agreed by and between the Comission^{rs} and Survey^{rs}, afores^d that to avoid Confusion and Disputes from the Useing of Severall differing Instruments, We Shall Agree on one Compass to be Use'd on the Work at this time which Compass Shall appear to have Either no Error or the fewest of any and that we Shall have no regard to the Variation of y^e S^d Compass from y^e True Meridian in running y^e lines above Described, but that they Shall be runn by y^e s^d Compass without any allowance for the s^d Variation. And it is further Agreed that if at this our present Meeting we Shall not be able to goe through the whole Work According to the above Stipulations, that we will at any time hereafter meet and proceed there on at Such time as Shall be Agreed upon by his Excellencie, the Govern^r of New York or Conmander in Chief for y^e time being, and his Hon^r: the Governor of Connecticutt for y^e time being. And in Testimony that we whose Names are under Written do Mutually and Interchangeably firmly Agree and Consent to all the above Articles and Every Clause Matter and thing therein Contained We have here unto Sett our Hands and Seals at Greenwich in the Colony of Connecticutt the Day and Year above Written.

FRA. HARRISON	[L. s.]
CADWALLADER COLDEN	[L. s.]
ISAAC HICKS	[L. s.]
JONATHAN LAW	[L. s.]
SAM ^r EELLS	[L. s.]
ROGER WOLCOTT	[L. s.]
JOHN COPP	[L. s.]
EDMUND LEWIS	[L. s.]

[ENDORSEMENT.] Report of the Survey by the Commiss^r and Surveyors for the Colony of New York & Connecticut.

In Pursuance of our Agreement dated at Greenwich in the Colony of Connecticutt the Twenty ninth day of Aprill last we the subscribing commissioners & surveyors of the province of New York & Colony of Connecticutt have surveyed from Lyon's point to the great stone at the wading place in Biram River, & find that the s^d great stone bears north Twelve Deg^r & fourty five min: Easterly from the s^d point at the distance of five hundred & fifty rods, we have likewise survey'd from the s^d rock to the three white oak trees suppos'd to have been mark'd by the commissioners & surveyors in 1684. & from the s^d trees west & by north to Hudson's River, & we find that the s^d trees are two thousand two hundred ninety two rods from the s^d great stone on a line runing north twenty three deg^r & fourty five min: westerly; & that the s^d trees are Exactly seven miles & one hundred & twenty rods from Hudson's River & the said west & by north line; which line came to Hudsons River Opposite to Cornelius Cnylers house in Tapan: & about one mile above Mr Philip's's upper mills, we likewewise plainly perceiv'd on one of the s^d three white oak trees The Letters: C R & S [?] which appear'd to us to have been mark'd at some considerable distance of time, from all which & according to the rules we had lay'd down to ourselves we are fully convinc'd & Satisfy'd that the s^d trees are verily the same trees which were mark'd by the Commissioner's & surveyor's in the year 1684 & therefore we have Establish'd & we do hereby Establish the s^d line runing from the great stone att the wading place on Biram north twenty three deg^r & fourty five min: westerly to the s^d three white oak tree's, as the line of partition so far between the province of new york and Colony or Corporation of Connecticutt; & for perpetuating the memory of the s^d line & distinguishing it to the Inhabitants of y^e s^d province & the s^d corporation, we have Erect'd severall monuments in the said line in the following places viz where the s^d line from the great stone comes into the highway or street near John Purdy his house we rais'd a heap of stones round a Cherry tree standing in the highway & cut the letter Y on the West side of the s^d tree & the letter C: on the East side thereof, at two miles from the s^d rock upon the East side of the s^d highway close by the fence & near William Anderson's house we rais'd a heap of stones; at three miles from the great stone we rais'd a heap of stones in the field belonging to William Fowler on the west side of the s^d highway; at four miles we rais'd a heap of stones close by the fence on the west side of the s^d highway, All the houses on the west side of the s^d highway from the s^d heap of stones at four miles from the rock to the place Below John Purdy's where the line comes into the highway being & remaining in the

province of New york & Those on the East side of the s^d highway being in the Colony of Connecticut; att five miles from the s^d great stone we rais'd a heap of stones in John Clap's field which heap of stones are Thirty two rod's on a west south west line from the westernmost Chimney of the s^d Clap's house: att six miles we mark'd a large stone in the ground With :X: and rais'd a heap of stones round it; at six miles & a half we rais'd a heap of stones near the north side of a Meadow near John Hutchchin his house; & at the place where the s^d three white oak trees stand we bury'd some burnt wood in the ground & rais'd a heap of stones over it; We likewise Cut the letters C: R: on a great stone lying in the ground there & the letter's WB: Mayth 5. 1725. On the most Northerly of the s^d trees: & the Letters J. T. on the most Easterly of the s^d three trees, the third tree on which the letter: C: R: appear is now dead; We further certifie that the s^d three white oak trees are Eight miles & two hundred rod's distant from Lyon's point; and therefore we declare pursuant to our s^d agreement that in measureing the breadth of the additionall lands of sixty one Thousand four hundred & fourty acres to be added out of Connecticut along the lines parallal to Hudson river there shall be allow'd an additionall measure at the rate of twenty five Rod's to one mile so that in measuring the breadgth of the s^d land's one mile & twenty five Rod's of actuall measure on the surface of the Earth in the best manner the same can be perform'd shall be account'd & Esteemed to be one mile & not more & so in proportion for a longer or shorter length; Wee have likewise run a line from the s^d three White oak trees East north East Thirteen miles & sixty four Rods at the end of which we rais'd a heap of stones & mark'd a Black oak tree about half a rod to the westward of the s^d heap of stones, with the following figures & letters viz: 13 M: 64: R: & cutt a broad notch into severall trees round the s^d heap of Stones on the sides of the trees towards the s^d heap of stones; We likewise rais'd a heap of stones at the end of every mile from the s^d three White oak trees excepting the first mile which ending in a watery swamp or pond we rais'd a heap of stones on the west side of the s^d swamp att two hundred and Eighty rod's from the tree's & another heap on the East side at Three hundred & sixty rod's from the trees & we mark'd the trees standing in the said line with three notches on their west & East sides, which line running East north east Thirteen miles & sixty four rod's & mark'd & distinguish'd as aforesaid, we have and do here by Establish and fix as the line of partition so far between the province of New york & Colony of connecticut, & we do likewise declare that the s^d heap of stones at the End of the s^d East north East line of Thirteen miles & sixty four rod's is & shall be Esteem'd Twenty miles from Hudsons River According to the survey made: in the year: 1684. & is the place from whence

the additional land's of sixty one thousand four hundred & fourty acres to be taken out of Connecticut shall Commence on the s^d East north East line to be continued so far as to make up the s^d Sixty one Thousand four hundred fourty acres, with the allowance of measure before mentioned In Witness whereof we have hereunto set our hands & seals at Norwalk in the Colony of Connecticut This twelveth Day of May in the Eleventh year of the reign of our sovereign Lord George by the grace of God Great Brittain France & Ireland Defender of the Faith &c Annoq Domini:—1725

SAM ^{LL} EELLS	L. S.	} Commissioners and Surveys of Connecticut	FRA: HARRISON	L. S.	} Commissioners of the Province of New York
ROGER WOLCOTT	L. S.		CADWALLADER COLDEN	L. S.	
JOHN COPP	L. S.		Suv ^r Gl		
EDMOND LEWIS	L. S.		ISAAC HICKS	L. S.	

—[*N. Y. Col. MSS.*, lxi, 52 ; *Sen. Doc.*, 1857, No. 165, p. 151.

[IN N. Y. COUNCIL.]

May 20, 1725

HIS EXCELLENCY Laid before the Board the memorial of Francis Harison Esq^r Cadwallader Colden Esq^r Surveyor General and Isaac Hicks Esq^r Commissioners appointed to run and Ascertain the Lines of Partition and Division between this province and the Colony of Connecticut which was read and approved of by the Board and is as follows

To HIS EXCELLENCY William Burnet, Captain Generall and Governour in Chief of the Provinces of New York New Jersey and Vice Admirall of the Same

THE MEMORIAL of Francis Harison Cadwallader Colden, Surveyor Generall and Isaac Hicks Commissioners Appointed to run and Ascertain the lines of Partion between the Province of New York and the Colony of Cunnetcut.

MAY IT PLEASE YOUR EXCELLENCY

We think it our Duty now we are Delivering up to Your Excellency the Articles agreed to by the Commissioners of Connecticut and us to lay before your Excellency an Account of our Proceedings and the Matters which Enduced us to agree to them as they now Stand in our agreement Signed and Sealed by us and them. The Commissioners of Connecticut first proposed that we Should admit of the three white Oak trees at present Supposed to be the Same which were Marked in 1684 upon Such living Evidence as they Should produce, We refused to admitt Such Evidence because of the Interest the Witnesses had in the lands adjoining and therefore We Insisted that the said Trees Ought to be proved by a New Survey. To this they Objected that it is well

known that the severall Instruments used in Surveying do often vary one from another, And therefore any Variation that may be found at this time in Our Survey from what was reported to be done by the Surveyors in 1684 is not a Sufficient reason to Set a Side the Instruments of that Survey as being falsified. We therefore Mutually Agreed to Survey from Lyons Point to the Rock or Great Stone at the wadeing place which two places both of us believed had never been moved or altered in their Seituation with respect to Each Other and then if we Should find no greater Difference in proportion to the Distances **** Between the Rock and Three trees then Should be found between the Point and the Rock We agreed to Suppose that the Difference is Occasioned By the Instruments used then varying from those used now. But as the End of this Line from the Stone to the Trees might Shorten or lengthen the Distance of the End of the East north East Line from Hudson's River which According to the former Survey We were to Suppose to be twenty Miles from Hudson's River. We likewise agreed to run from the trees to Hudsons River on the Same Course the Surveyors formerly did to be assured that they were of Such Distance from the River as by the Report of the Surveyors they Ought to be After these trials were made we were fully Convinced that the three white Oak trees were the Same Trees which were marked by the Commissioners and Surveyors in 1684, We must further Inform Your Excellency that the Information We had from the Inhabitants of New York Living near that Line removed all Manner of Doubt of the truth of this for a line of Old marked trees from the Said Rock to the three trees is well known to them at this day Some of which were Shown to us by one Brondige of Rye who was Present at the Survey in 1684 and Says that he has known these trees from that time to the day he Showed them Some of which trees Stood in land which did belong to his father It appears likewise by the Records in the Secretarys Office in the year 1686 that Phillip Wells then Surveyor General of this Province who performed the said Survey in 1684 observed the Variation of the Magnetick Needle to be 8 Degrees and 45 Minutes westerly from the North Pole. The Variation of the Needle was last Summer Observed at New York to be 7 Degrees 20 Minutes Westerly Which Difference in the Variation at this time and 1684 very Nearly agrees with the Difference we found between the former Survey and Ours. For all which reason we thought our Selves in Conscience Obliged to Confirm the said trees now Supposed to be the Same which were marked in 1684. It has been usual for Surveyors to make Discretionall Allowances for the Obstructions which they Meet with in Measuring lands Covered with Timber and underwood or brush and for that reason We Agreed that whatever allowances we Should find to have been made by Measuring the Distance of the Said three

trees from the Sound the Same Allowance Should be made in measuring the Breadth of the Equivalent Lands to be given out of Cunecticut in Order to give us the Just Quantity of Land Agreed to be Given by the Agreement between the two Colonys in 1683 But as the Allowance made then was Discretionall in the Surveyors and might be owing likewise to the Carelessness of the Chain bearers we did not think it Safe for Either Governments to make that allowance the general Rule throughout before we knew what that allowance was and therefore we agreed on the Allowance of twelve Rods to Every mile as an Equitable Allowance Every where for what the Chain might loose by the brush or underwood or timber in the way.

After we had Spent Some time with them we found that the Chief Matter they had at heart was Securing the Property of the Lands which Some people of the Town of Ridgefield had Emproved & which they apprehended might fall into the Province of New York We foresaw Difficulties we Should be under in runing the Parallel line to Hudsons River Exparte by reason of the Doubtfull and uncertain words by which the Same was Exprest in the first agreement That is whether a parallel line to the General Course of Hudsons River was intended or a line Similar to the River as it Runs. If we Should run the Parallel we believe it would be Subject to a long Dispute between the two Colonys & prevent the Settling of the Country on both sides which we thought of more Consequence than the gaining or loosing of 2 or 3000 acres of Land The runing a Similar line appeared to us Impracticable or at lest that it would be attended with more Charge than ten times the value of what Could be gained by any Advantages to be had by our runing Exparte tho we Should take all the Advantages that the most favourable Interpretation might give us.

We therefore thought it most prudent to Yield or Seem to Yield at least some things in favour of those people who had Spent their Substance & their labour of the best part of their life in Emproving those lands in hopes to Obtain their Commissioners Consent more favourably and Equitably in the Other parts where their Settlements were not Concerned.

We were the More willing to Consider those people because they Showed no Aversion to Come under the Government of New York or to have their lands Subjected to his Majestys Quit rent but Seemed only affrayed of being made Tenants to Some of the Inhabitants of New York who now Claim those lands by Virtue of Some old Grants or to be under a Necessity of buying their Own Emprovements as they Apprehended at a Dear Rate. For those reasons we agreed to an Intrepretation of the agreement which Was favourable to these people by measuring the twenty Miles from Hudsons River without any allowance so far as they are Con-

sernded. We thought that we might the more readily agree to this because, We Doubted whether in law they Could be obliged to make allowances Seeing they Agreed that we Should measure these lines in the best Manner We could. The Yielding these Small things as a favour to their Setlers made them more willingly agree in Other things which has given this Province Twenty times the Quantity of Land which may be Supposed to be lost by the strect Measure in this part. We Considered the Good of our province in General & in soe doing it was Impossible for us to have the Same Regard to the Interest of Every particular Person in it, We Considered the great advantages our Province would have by an Amiable Agreement for thereby the People of both Colonies Would be Encouraged to settle & Emprove the lands on the borders whereas if Disputes remained both Sides would be affrayd & the lands would remain uncultivated by which we think our Province would Suffer Most for the people of Cunecticut who live neare these lines bring their produce to the Market of New York & their Supply themselves with all the Necessarys they want so that by Setling and Emproving the borders the benefit to the Trade of this place will be nearly Equally augmented whether it be by the people of New York or those of Cunecticut the lands adjoining by the Increase of people will become more Valuable & both Provinces better Secured against the Attacks of any Enemie But if Disputes Should remain the lands on the borders might for a long time remain useless to both Colonys besides many Other Inconveniencies which a Diffidence between two Neighbouring Governm^t might in time Create. We humbly hope that these reasons will be Satisfaction & our proceedings Approved of by your Excellency, We Promised to the Commissions of Cunecticut & to Several of the Inhabitants on their Borders that we would represent to your Excellency the hardships and Difficulties Several poor Families Settled their might be laid under if they Should loose the lands which they had Emproved with Great Expence & the labour of the best part of their lives we therefore humbly pray in their behalf that your Excellency may have favourable thoughts towards Such people who have allready fallen within the lines of this Province or may when the remaining part Shall be run For we are well Satisfyed that those who have allready fallen into this Government did Settle on the Faith of the Old lines without any Design to Encroach on the lauds of this Province and we believe that if any Shall fall into our Government where no lines ever were Settled it probably may be Occasioned by their Ignorance of the Scituation of Such Lands.

New York May 19th
1725

FRA HARISON
CADWALLADER COLDEN
ISAAC HICKS

His Excellency at the Same time laid before the Board Articles of agreement made and Concluded at Greenwich in the Colony of Connecticut the 29th day of April Last between the Commissioners and Surveyor of this province and the Commissioners and Surveyor of Connecticut appointed for runing the Lines aforesaid as likewise the Report of the Survey dated the 12th Instant which were read and approved of and ordered to be Entred on Record in the Secretarys Office of this province.—

Then Doctor Colden observed to his Excellency that he Conceived it would be Requisite that the following papers be likewise Entred on Record in the said Office viz¹

1st An Act of the Assembly of Connecticut of October the 8th 1724.

2^d. Instructions to the Commissioners of Connecticut

3^d An Act of Assembly of Connecticut May 14th 1719.

4th The Governour and Councils Commission to Cap^t Wakeman and Doctor Copp March the 20th 1724.

Which was agreed to by the Board and ordered accordingly.

His Excellency mentioning to M^r Harison and Doctor Colden that he had Something to propose to the Board Concerning them, They withdrew.—

Then his Excellency observed to the Board that Those Gentlemen with the others appointed in behalf of this province for runing the said Lines having gone a greater Length in that Work than Could have been Expected considering the difficultys they have met with and as the Same is a great Step towards the Compleating that affair it was his Excellencys Opinion that they deserved the thanks of this Board, to which the Board unanimously agreed and desired his Excellency to thank them accordingly.—

Whereupon M^r Harison and Doctor Colden were called in —

Then his Excellency gave them the thanks of the Board for their prudent proceeding upon the Said Survey

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—[*N. Y. Council Minutes (MS.)*, xiv, 446; *Col. MSS.*, lxix, 53 (Memorial of Comm^{'rs}); *Sen. Doc.*, 1857, No. 165, p. 154 (do).

¹ See *Commissions*, iii, 259-272.—[P.]

[COLONY OF NEW YORK.]

An Account of the Expenses of the Commissioners & others employed
in running & settling the lines of Partition & Division between the
Province of NewYork & Colony of Connecticut

1725

April 16	5 cheeses weighing 40 lb at 4 ^d	£- 13 : 4
	6 Gammons weighing 86 lb at 5 ^d	1 : 15 : 10
	12 small ps of smoak Beef w 42 lb at 4 ^d	: 14 : ..
	16½ Gall ^s of Rum at 2s7 ^d	2 : 2 : 8
	To the Sadler for straps to the Baggage Bell- strap & horse hoples.....	: 12 : ..
	Horse Bell.....	: 9 : ..
	6 Fathom of Roap.....	: 2 : 3
	Ginger Bread	: 6 : ..
	6 ps of smoak beef weighing 20 lb.....	: 6 : 8
	A Box for the Instruments	: 2 : ..
	4 Towels qt 4 yds white ozenbrigs.....	: 6 : ..
	6 lb Chocolate at 2s.....	: 12 : ..
	5¾ yds of Brown Ozenbrigs for Bags.....	: 8 : 6
	13 lb of loaf Sugar	1 : 7 : 7½
	1 Kettle weighing 10 lb 6 oz at 2s10.....	1 : 9 : 3¼
	7¼ yds of Ozenbrigs for Bags.....	: 10 : 10
	2 Skains of thred.....	: .. : 3
	1 [lb] of Cinnamon & 1 oz of Nutmegs.....	: 4 : ..
	2 oz Pepper & 1 lb of Castile soap	: 1 : 10½
	3 Pewter Potts.....	: 9 : 6
	1 frying pan & 6 pewter spoons.....	: 6 : 9
	6 Trenchers & 2 Bowls.....	: 3 : 9
	1 ladle & 1 paper of Ink powder	: 1 : 1½
	1 Bushel of Pease	: 5 : 6
	5 Caggs	: 8 : 9
	1½ Gall ^s Limejuice.....	: 6 : ..
	1 lb of Coffee	: 5 : 6
	6½ Gall ^s of Rum Brandy at 8s6	2 : 15 : 3
	Paper & sealing Wax.....	: 3 : 3
	3 Knives	: 3 : ..
	Axe & helve.....	: 8 : ..
	3½ hundred of limes.....	: 10 : 6
	8 Botles	: 2 : ..
	Qr Hundred Muscovado Sugar.....	: 10 : 6
	Powder & Shott.....	: 8 : 1
	2 Journal Books.....	: 6 : 6
	2 half Rods.....	: 2 : ..

April 16	Biscuit 1° 2 ^{grs} 20 lb at 14s6 & Cask.....	£1 : 9 : 8½
	¾ yds of Ozenbrigs for small bags	6¾
	Tobacco & Pipes	8 : 6
	Giv'n the men for their Expences to Rye.....	6 ..
	Hooks & lines.....	2 : 9
	Thread & Needles.....	1 : 1½
April 20	Expences at Kings bridge	8 ..
	at New Rochel.....	5 : 6
27	at Fowlers.....	13 : 1 ..
30	at Widow Anderson's.....	5 : 11 : 6
	Paid Boatmen for gents & Baggage.....	19 : 6
	Expenses at Lyons.....	1 : 2 : 6
May 3 ^d	Paid Jacob Phinney to Carry him home.....	6 ..
4	Paid for Cider	4 : 6
	for a guide in the woods.....	4 ..
7	Expences at John Claps.....	3 : 12 ..
10	at Bedford.....	1 : 6 : 8
13	at Norwalk	1 : 6 : 8
	at Rye.....	3 ..
14	at Fowlers	17 ..
	at New Rochel	6 ..
	at Kings bridge	7 : 6
	Giv'n the men to carry them home	10 ..
	Partridge & other small things.....	9 : 6
	a Hatchet omitted	3 : 6
	Three men chain bearers & Marker.....	9
	1 Baggage man 18 days at 3s.....	2 : 14 ..
	1 serv ^t	2 : 10 ..
	5 horses 24 ^{days} at 3s each.....	18
	1 D ^o at 2s6.....	3
		<hr/>
		88 : 17 ..
	of which Receiv'd	60
		<hr/>
	Remains due to us.....	28 : 17 ..
	Coll Hicks Ferrige & Paid for Copying our Report to his Ex ^y	12 : ..
		<hr/>
		29 : 9 ..
		<hr/>
	Francis Harison 24 days.....	£24 :
	Of which Receiv'd.....	10 :
		<hr/>
	Remains Due to him.....	14 :

Cadwallader Colden 24 days.....	£42 :.. :..	
Of which receiv'd	20 :.. :..	
		<hr/>
Remains Due to him.....	£22 :.. :..	
Isaac Hicks 25 days.....	£25 :.. :..	
of which paid	10 :.. :..	
		<hr/>
Remains due to him	15 :.. :..	
Robert Crooke 24 days.....	£18 :.. :..	
[Of w]hich pa[id]	5 :.. :.	
		<hr/>
Remains Due to him.....	13 :.. :..	

FRA: HARISON
CADWALLADER COLDEN
ISAAC HICKS

At a Committee of the Council held at the Council Chamber in New York May the 20th 1725 Present

Cap^t Walter
M: Van Dam
M: Barberie

M: Abrah. Vanhorn }
M: W^m Provoost }

May it Please yo^r Excellency

In Obedience to your Excellency's order in Council of this day referring to us the Within Account of the Commissioners and others Employed in runing the Lines of Partition and Division between this Province and Connecticut, We humbly Report that We have Examined the same and are of Opinion that your Excellency may Issue your Warrants for payment of the Same out of the Moneys appropriated for that purpose which is submitted [to] your Excellency by.

Your Excellency's

Most Obedient humble
Servants.

By order of the Committee
RIP VAN DAM

—[*N. Y. Col. MSS.*, lxi, 54; *Sen. Doc.* 1857, No. 165; p. 157.]

[IN CONN. GEN. ASSEMBLY.]

May, 1726.

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This Assembly, being sensible that the want of running the dividing line between the Colony of New York and this Colony is a great hindrance to the settling the north-west part of this Colony, and if longer

delayed may occasion much contention, do therefore desire his Honour the Governour to press his Excellency Governour Burnett, to joyn with him in sending forth the Commissioners to perfect the running said dividing line according to the late agreement of the commissioners, and that the same be done as soon as may be.

* * * *

—[Conn. Pub. Rec., 1726-1735, p. 45.]

September 1730.

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The reputed and known boundaries are: the Massachusetts on the north, Rhode Island Colony on the east, Long Island Sound on the south, and New York Province on the west. No points thereof are disputed, but all settled and ascertained, excepting some part of the dividing line betwixt this Colony and New York, *which they unjustly refuse to finish with us, notwithstanding firm and clear agreements by commissioners, under hand and seal, have been made, since they obtained the confirmation of their ex parte act, by the late King George in Council, in case of our non-agreement.*¹

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—[Conn. Pub. Rec., 1726-1735, p. 582.]

[IN N. Y. COUNCIL.]

September 3, 1730.

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The Petition of Thomas Henley Nathan S^r John Samuel Smith Benjamin Benedict Richard Olmsted Thomas Smith Ebenezar Smith Daniel Sherwood Benjamin Burt Thomas Hyatt Benjamin Willson Joseph Lee Joseph Keiler James Benedict Richard Osburn Samuel Smith Daniel Olmsted Timothy Keiler Jonah Keiler Matthew Seymour Joseph Northrup James Brown Adam Jurland John Thomas and Benjamin Birdsell in behalf of themselves & A Great Number of people their Associates as well Inhabitants of the Town of Ridgfeild as of the Eastern parts of this province Setting forth that they the Inhabitants of Ridgefeild have for A long time been settled upon certain Lands near the Eastern parts of this province by patent from the Colony of Connecticut that contrary to their Expectation A Great part of the Lands So patented being Supposed to have Layn within the Colony of Connecticut Now are thought to be within that part of the province of New York Commonly called the Equivalent Lands — that they and their Ancestors have many of them spent their

¹ The words in italics are struck out in the original draught.

whole Substance And great part of their Lives in Clearing tilling And improving with hard Labour the aforesaid Lands And that the pet^r Inhabitants of Ridgefield in the Late Agreement between the Commissioners of both Colonys are taken notice of as persons under very particular Circumstances of Hardship. And are thought deserving of his Majestys royal Favour in Granting to them the said improved Lands in Such manner as Lands are usually granted within the province of New York — — Otherwise they are utterly ruined and undone And that they are Willing to defray the Expence of Ascertainig the Lines of partition & division between this province and the Colony of Connecticut therefore pray his Excellency in tender Consideration of the premises & Circumstances of many of the pet^r To Grant his Majestys Letters Patents to the Petioners for fifty thousand Acres of the Equivalent Lands out of the bounds of Connecticut or So much of them in fee as Shall be found convenient for them in such manner & Such terms As have been Accustomed And that A Warrant may Issue to his Majestys Surveyor General to Survey And Lay out the Same According to the Agreement of the Commissioners of both Colonys. the twenty ninth of Aprill in the Eleventh Year of his Late Majestys reign And Confirmed by the Governour and Council of this province was read & referred to the Consideration of the Gentlemen of this board or Any five of them.

His Excellency withdrawing the Gentlemen of the Board resolved into A Committee

His Excellency returning to the Council Chamber took his place. Then Mr Van Dam in his place reported from the Committee to whom the foregoing petition was Referred That they had duly weighed And considered of the Same And are of Opinion that his Excellency may Grant his Majestys Letters patents for the Lands petitioned for by the Said petitioners

Then his Excellency put the Question whither the Board Agreed to the Said Report And the Same was agreed to & confirmed

Then his Excellency asked the Gentlemen of the Board whither they would advise him to Grant his Majestys Letters patents to the pet^r & their Associates pursuant thereto

Whereupon the board did advise his Excellency to grant his Majestys Letters patents to the pet^r Accordingly.

The Board desired his Excellency to write to the Governour of Connecticut Acquainting him with the Intentions of this Government to run the Lines of partition & division between that Colony And this province And that he will be pleased to Appoint Commissioners And A Surveyor to Act in conjunction with those of this province the 29th of this Instant at Horse Neck In order thereto.

Then his Excellency was pleased with the Advice of the Board to Appoint Cadwallader Colden Gilbert Willett And Vincent Matthews Esq^r: or any two or more of them to be Commissioners in Conjunction with the Surveyor General of this province or his Deputy Approved of by this board to Ascertain the Lines of partition & Division between this province And the Colony of Connecticut pursuant to the Act passed in the fifth Year of the reign of his Late Majesty for that purpose

Doctor Colden Surveyor General with the Approbation of the Board was pleased to Name Jacobus Bruyes Jun^r his Deputy upon that Occasion

—[*N. Y. Council Minutes (MS.)*, xvi, 37.

[IN CONN. GEN. ASSEMBLY.]

Att a Generall Assembly Holden att New haven in his Majesties Colony of Connecticutt in NewEngland on the 8th Day of October in the fourth Year of the Reign of our Sovereign Lord George the 2nd of Great Britain &c King Anno Dom 1730 An Act for the Confirmation of y^e Agreement Made Att Greenwich in y^e Colony of Connecticutt on y^e 29th of April Anno Dom 1725 by & between the Commissioners of the Province of New York and Colony of Connecticutt for Returning and Ascertaining the Partition Lines between the s^d Province and Colony, as also in Confirmation of the Survey in part made pursuant thereunto as Appears by their Report under their hands and Seals Dated att Norwalk in the Colony of Connecticut on the 12th Day of May in the 11th Year of y^e Reign of y^e late King George Anno Dom 1725 as also in Approbation of the present Meeting of the Comissioners and for Authorizing Commissioners to proceed and perfect and fully Ascertain the Partition Line Afores^d According to s^d Agreement

Whereas an Agreement was Made on the 28th of November Anno Dom 1683 Att Fort James in New York between y^e Right Honourable Thomas Dungan Governour under his then Royal Highness James Duke of York &ca of New York and his Council And Robert Treat Esq^r Governour of Connecticutt and Others in Commission with him, for the settling and fixing the Boundaries and Partition Line between y^e Province of New York and Colony of Connecticut, And Whereas a Survey thereof was Begun in 1684 and the Partition line in part Ascertaind. And whereas the s^d Agreement and Survey were Approved and Confirmed by the Late King William in Council, And Whereas an Act of the Governour Council and Assembly of New York was Passed in the Month of June in y^e fifth Year of y^e Reign of King George the first Entitled An Act for the Runing and Ascertaining the Lines of Partition

and Division betwixt the Colonies of New York and Connecticut, And Whereas King George afors^d was pleased to give the Royall Assent to the s^d Act And Whereas A Commission in pursuance of s^d Act Bearing Date the third Day of April 1725 was given to Diverse Gentlemen on y^e part of New York And Whereas by An Act of y^e Governour Councill and Representatives in Generall Court Assembled Att New haven on y^e 8th Day of October Anno Dom 1724 Diverse Gentlemen on the part of this Colony were fully Authorized and Impowered to Agree fix and ascertain the Partition Lines afor s^d—By Virtue of which Commissions and Authorities. An Agreement was Entered into between the s^d Colonies Concerning the s^d Lines, And part thereof was Actually Runn and Ascertained by proper Monuments as by the s^d Agreement and Report of y^e Commissioners and Surveyours Appointed by y^e s^d Acts and Commissioners May Appear—

And Whereas the S^d Agreement and Survey in 1725 hath been Approved of by the Late Governour of New York William Burnett Esq^r and Council— —

Be it Enacted and Ordained by the Governour Council and Representatives in Generall Court Assembled and by the Authority of y^e same. That y^e s^d Agreement and Survey Afore s^d in 1725 Recorded in the Records of this Colony and filed in the Secretarys Office be Approved of And they are hereby Approved of Ratified & Confirmed in all the parts thereof And it is hereby Declared that so farr as the s^d Commissioners and Surveyour have Runn And Ascertained the Lines as by their s^d Report Appears Shall be and Remain the Partition Lines Between this Colony and the Colony of New York forever— — —

And Further whereas the s^d Commissioners at their Meeting at Greenwich in 1725 Did Agree that in Case they Could not go through with their Work at that time that they would thereafter Meet & proceed there on at any time when y^e Governour of New York and the Governour of Connecticut Should Agree.—

And Whereas the Governour of New York Did propose to his Hon^r the Governour of Connecticut that the Commissioners should Meet for that End on the 29th of September Last, And Did Accordingly Meet at Greenwich, their s^d Meeting is by the Authority Afores^d Approved of— — —

And Whereas the Runing & Ascertaining the Remaining part of y^e Partition Lines Afores^d may not Require the Attendance of so many Commissioners as were before Appointed—

This Assembly Do hereby Order & Appoint That Samuel Eells, Roger Wolcott and Edmond Lewis Esq^r or any two of them Whereof Edmond Lewis Esq^r to be one shall have full Power and Authority in

Conjunction with the Commissioners of New York to proceed in Running the Remaining Lines agreed Upon as afores^d and to Ascertain the same by proper Meet Monuments and Boundaries in the Partition Lines and Every of them According to the afores^d Agreement in 1725 and Make Report thereof to this Assembly, which Lines when Runn and the places Distinguished through which they should pass According to the Afore s^d Agreement in 1725 shall be and Remain the Lines of Partition & Division Betwixt the Province of New York and this Colony forever—

And it is further Provided that in Case Either Edmond Lewis Esq^r Should not be Able to go through with the Work Afores^d as Surveyour and Commissioner or the other Commissioners shall fail so that there Cannot be one of the Gentlemen in Commission with him to attend the Service Then it shall be in the Power of y^e Governour for y^e time being with the Advice of his Council to Appoint and Commissionate Other Sutable Person or persons in their or his Room and Stead to Perform the Service afore s^d

A True Copy of Record

Exam^d p^r GEO WYLLYS. Secretary Pro Tem.

—[*N. Y. Col. MSS.*, lxi, 55; *Sen. Doc.*, 1857, No. 165, p. 163; *Conn. Pub. Rec.*, 1726-1735, p. 294.

[AGREEMENT.]

THIS INDENTURE made the ffourteenth Day of May in the ffourth Year of the Reigne of our Sovereigne Lord George the Second by the Grace of God of great Brittainne ffrance and Ireland King Defender of the ffaith &c And in the Year of our Lord one t[housand se]ven hundred and thirty one BETWEEN Cadwallader Colden Esq^r Surveyor Generall of the Province of New York, Gilbert Willet Esq^r and Vincent Mathews Esq^r. Commissioners Authorized and appointed by his Majesty Commission under his Great Seal of the Province of New York or any two or more of them in Conjunction with the said Surveyer Generall or his Deputy to run out mark Distinguish and Ascertaine the Lines of Division and Partition between the Province of New-York and Colony of Connecticut, as by the said Commission bearing Date at New York the third Day of September in the ffourth Year of his Majestys Reigne may more fully and at large appear And M^r Jacobus Bruyn Jun^r Deputy Surveyer approved of by the Governour and Councill of New York, of the One part; And Samuel Eells, Roger Wolcott and Edmond Lewis Esq^r Commissioners or any two of them whereof Edmond Lewis to be one, Appointed and Authorized by an Act of the Generall [Ass]embly of the Colony of Connecticut bearing Date at New haven the Eighth Day of [October in the fourth year] of the Reigne of [our Sovre]igne Lor[d

George] the Second, to Run and Ascertaine the Lines of Division and Partition aforesaid in Conjunction with the Commissioners of New York as by the said Act may more fully and at Large appear of the other part, WITNESSETH That the said Commissioners of the Province of New York and Colony of Connecticut in pursuance of the agreement made in the Year of our Lord One thousand Seven hundred and Twenty five and approved of by the Governour and Council of New York, and by the General Assembly of Connecticut HAVE Run marked Distinguished and Ascertained the Lines of Division and partition which were not Distinguished by the Commissioners in the Year one thousand Seven hundred and Twenty five and Remained to be Done pursuant to the said Agreement, in the manner and forme hereafter Expressed, That is to say, The said Commissioners of New York and Connecticut went to a Certaine point of Land on the East side of Hudsons River Commonly known by the name of Courtlandts point nearly opposite to Stony point or the begining of the highlands, and from the most westerly part of the said point Run an East line According to the Compass, Twenty Miles in length Strict Measure, and at the End of the said East line Set up a Stake and Raised a heap of stones Round it as a Monument of the place where the said line Ends;

Then the Commissioners aforesaid Run a Line from the Monument Erected by the Commissioners in the Year one thousand Seven hundred and Twenty five at the End of the East North East line of Thirteen Miles and Sixty ffour Rod, to the Monument at the End of the East line from Courtlandts point aforesaid, which Line runs nearly North twenty ffour Degrees and thirty Minutes West by the Compass and marked and Distinguished the same by Erecting of a Stake, and Raising a heap of stones round the Stake, at the End of the Second, ffourth, and Sixth Miles Strict Measure from the Monument or heap of Stones at the End of the East North East line aforesaid.

Then the Commissioners aforesaid Run a Randum Line from the Monument or heap of stones at the End of the East Line from Courtlandts point pursuant to the said Agreement [in th]e Year one thousand Seven hundred and twenty five untill it Intersected the Line between the Colony of the Masathusets Bay and the Colony of Connecticut, Which last Line the said Commissioners Extended Soe far for that Purpose, which Randum Line was Run North Twelve Degrees East According to the Compass, Then the Commissioners aforesaid Continued the said line of the Massathusets Bay, to Hudsons River, and likewise Surveyed the Bank of Hudsons River soe far upwards above the place where the said Massathusets line fell upon hudsons River as was necessary to Calculate and fix the place where a line Runing East and by South by the Compass and of twenty Miles in length from hudsons

River shall Terminate in the said Massathusets line and the said Commissioners found that the said line of twenty Miles in Length with the Allowance of twelve Rod Added to every Mile, Did Terminate at a place which is one hundred and Thirty two Rod Distant from the place where the said Randum line Intersected the Massathusets line Continued as aforesaid (the said one hundred and thirty two Rod being Measured Easterly from the said Intersection and upon the Massathusets line) at which place a Stake was Set up and a heap of stones raised round it, which heap of stones or Monument is Twenty Miles Distant from Hudsons River According to the agreement aforesaid in the Year one thousand Seven hundred and Twenty five,

Then the Commissioners aforesaid Did Run a Streight Line from the Monument at the End of the East Line from Courtlandts point to the said Monument in the Massathusets line Continued as aforesaid which line Runs nearly North Twelve Degrees and Thirty Minutes East by the Compass and mark'd and Distinguished the same by Setting up a Stake and Erecting a heap of stones at the Second, ffourth, Sixth, Eighth, Tenth, Twelfth, ffourteenth Sixteenth, Eighteenth, Twentieth, Twenty Second, Twenty ffourth, Twenty Sixth, Twenty Eighth, Thirtieth, Thirty third, thirty fifth, thirty Seventh, ffortyeth, ffortySecond, fforty ffourth, fforty Seventh and fiftyeth Miles Strict Measure from the said heap of stones at the end of the East line from Courtlandts point;

And the Commissioners aforesaid of the Province of New York and Colony of Connecticut Doe hereby Declare that the said lines Runing North Twenty ffour Degrees and thirty Minutes West from the Monument at the End of the East North East line to the Monument at the End of the twenty Mile line from Courtlandts point, and Runing nearly North Twelve Degrees and Thirty Minutes East from the said line from Courtlandts point to the Stake and heap of stones in the Massathusets line fix'd, marked and Distinguished as aforesaid are parrallel to Hudsons River and at Twenty Miles Distance from the same as the Lines of Partition between the said Province and said Collony According to the agreements Made in the Years one thousand Six hundred and Eighty three and one Thousand Seven hundred and Twenty five Ought to be,

The Commissioners aforesaid further Declare that the Length of the Line Runing parallel to Hudsons River from the End of the East North East line to the End of the East line from Courtlandts point is Seven Miles and one quarter of a Mile Strict Measure but with the Allowance of twelve Rod to every Mile the Length is Six Miles three quarters of a Mile and Seventy Six Rod, and that the Length of the Parallel Line Runing from the End of the twenty Miles from Courtlandts point to the Massathusets Line is ffifty two Miles one half Mile and Sixty Rod

Strict Measure, but with the Allowance of Twelve Rod to every Mile it is only fifty Miles three Quarters of a Mile Ten Rod and fifteen links in length and that the breadth of the additional Lands of Sixty one thousand, ffour hundred and fforty Acres to be Added out of the Colony of Conecticut to the Province of New York with the Allowance of twenty five Rod to a Mile According to the agreement in the Year One Thousand Seven hundred and Twenty five is one Mile three quarters of a Mile and Twenty Rod Strict Measure.

THEN the Commissioners aforesaid proceeded to Set off the said additional Land for which purpose They Set off East Nine Degrees Southerly along the Massathusets line One Mile three quarters of a Mile twenty-one Rod and ffive links, and there Erected a Stake with a heap of stones round it as a Monument of the North East Corner of the said additional Lands, and Set off ffrom the Monument at the End of the Twenty Miles from Courtlandts point North Eighty ffour Degrees East one Mile three quarters of a Mile and fifty two Rod and there Set up a Stake and Raised a heap of stones Round it as a Monument of the place where the Lines which are parrellel to the lines at Twenty Miles Distance from hudsons River and ffive hundred and Eighty Rod Distant Easterly from them Doe Intersect and Terminate in each other, And then Continued the East North East line of thirteen Miles and Sixty ffour Rod from the Monument Erected in the Year one thousand Seven hundred and twenty ffive, One Mile three quarters of a Mile and Twenty one Rod ffurther and there Set up a Stake and Raised a heap of stones round it as a Monument of the South East Corner of the said Additional Lands,

AND The Commissioners aforesaid ffurther Declare that the Line Runing Nearly North twenty ffour Degrees and thirty Minutes West from the last mentioned Monument to the Monument at the End of the Line Runing North Eighty ffour Degrees East from the Monument at the End of the Twenty Miles from Courtlandts point is mark'd and Distinguished and Set of in the ffollowing manner that is to say by Runing perpendicular lines from the Monuments at the Second ffourth and Sixth Miles in the line at twenty Miles Distance from hudsons River, Each of the said perpendiculars being ffive hundred and Eighty Rod long, And Raiseing a heap of stones round a Stake at the end of Each of the said perpendiculars as Monum^{ts} of the East bounds of said Additional Lands, In like manner the Line Runing Nearly North twelve Degrees and thirty Minutes East from the Monum^{ts} at the End of the Line runing North Eighty ffour Degrees East as aforesaid to the Monument at the North East Corner of the additional Lands of Sixty one thousand ffour hundred and fforty Acres, aforesaid was mark'd and Distinguished by runing perpendicular Lines to the line parallel to

Hudson's River from the Monument at the End of Twenty Miles from Courtlandts point to the Massathusets line, which perpendiculars were run off from the Monuments aforesaid At the Second, fourth, Sixth, Eighth, Tenth, Twelfth, fourteenth, Sixteenth, Eighteenth, Twentieth, Twenty Second, Twenty fourth, Twenty Sixth, Twenty eighth, Thirtyeth, Thirty third, Thirty fifth, Thirty Seventh, fortyeth, forty Second, forty fourth and forty Seventh Miles, and set up a Stake and Erected a heap of stones about it at the East End of Each of the said perpendiculars as monuments of the East bounds of said Additionall Lands,

The said Commissioners haveing Omitted to Run off the Perpendicular at the fiftyeth Mile because it would have Run into Tahkanick Mountaines,

THE Commissioners aforesaid Declare, That the Monument at the End of the East line from Cortlandts point stands upon a Ridge of Land and is one hundred and Seventy Seven Rod from the Long Pond Measured upon a line Runing from the said Monument North twelve Degrees East and is likewise one hundred and Seventy Six Rod from the brook that Issues from the said Pond being measured upon a Line Runing East from the said Monum^t

That the Monument in the Massathusets line Continued and at twenty Miles with the Allowance of twelve Rod to every Mile from hudson's River stands on the west side of a Ridge of Land and is forty Rod from a branch of Roeloffe Jansens Kill Called the Nortse Kill Measured on a Line runing Easterly from the said Monument along the Massathusets Line, That The Monument at the North East Corner of the Additionall Lands, in the Massathusets line aforesaid stands in a Valley in the Tahkanock Mountaines being one hundred and twenty one Rod Eastward from the Top or Ridge of the Most Westerly of the said Mountaines there being a great Stone with some others Set upon it on the Top of the said Westernmost Mountaine where the said Massathusets line Crosses it,

That the Monument where the two Eastermost parallel Lines Intersect and Terminate in Each other stands on the North side of a hill and is South-easterly from the Eastermost end of the Long Pond, and that the Monument at the South East Corner of the Additionall Lands being East North East from the Monument Erected in the Year one Thousand Seven hundred and Twenty five at five hundred and Eighty One Rod Distance, stands on the West side of a Stony Ridge about Six Rod East from the South End of a Swamp and is two hundred and Sixty three Rod Distant on an East North East Course from the West Branch of Norwalk River,

AND the aforesaid Commissioners of the Colony of Connecticut on

behalf of the Colony and Corporation of Connecticut HAVE Yielded Surrendered and Delivered up And by These presents Doe Yield, Surrender and Deliver up to the Commissioners of the Province of New York aforesaid, on behalf of the Province of New York All the said Additionall Lands, (the same in the Actual Possession of the said Corporation now being) Bounded Westerly by the aforesaid Lines runing North twenty four Degrees and thirty Minutes Westerly from the Monument at the End of the East North East line of thirteen Miles and Sixty ffour Rod to the Monument at the end of the line Runing twenty Miles from Courtlandts point and Runing from the said Monument at the end of the said line from Courtlandts point North Twelve Degrees & Thirty Minutes East, to the Monument in the Massathusets line at the Distance of twenty Miles with the Allowance In Measure from hudson's River Bounded Northerly by the said line of the Massathusets Bay Extended, from the Said Last mentioned Monument ffive hundred and Eighty one Rod and ffive Links to the Monument in Tackanock Mountaines aforesaid; Bonded Easterly by the Lines which Run from the last mentioned Monument to the Monument which is Six hundred and Twelve Rod Distant from the Monument at the End of the twenty Miles from Courtlandts point on a line Runing North eighty four Degrees East and from the said Monument at the End of the Six hundred and Twelve Rod aforesaid to the Monument on the Stony Ridge at the End of the Extended East North East line as the said Lines run through the Severall Monuments Erected as before mentioned, And Bounded Southerly by the aforesaid East North East line of ffive hundred and Eighty one Rod in length between the Monument at the end of the East North East line of thirteen Miles and Sixty ffour Rod and the Monument on the west side of the Stony Ridge afores^d. Containing Sixty one thousand ffour hundred and fforty Acres of Land with the allowance in Measure as afores^d. For the use of our Sovereigne Lord the King his heirs and Successors in as full and ample manner as the same ought to be Done by the agreements and Covenants entered into between the Commissioners of the said Province and Collony in the Years one thousand Six hundred and Eighty three and one thousand Seven hundred and twenty ffive, And the Commissioners aforesaid of the province of New York and Colony of Connecticut have Established and fixed and by These presents Doe Establish and fix the said Lines from the Monument Erected in the Year one thousand Seven hundred and Twenty ffive at the End of the East North East line parrallel to the sound of thirteen Miles and Sixty ffour Rod in Length runing East North East ffive hundred and Eighty one Rod to the Monument on the Stony Ridge aforesaid and from the last mentioned Monument Runing nearly North twenty ffour Degrees and thirty Minutes West to the

Monument aforesaid at Six hundred and Twelve Rod Distance from the Monument at the end of the twenty Mile line from Courtlands point and from the said Monument at Six hundred and twelve rod Distance runing North Twelve Degrees and thirty Minutes East to the Monument in the Massathusets line in Tackanock Mountaines as the said lines Run through the Severall Monuments above mentioned to have been Erected by the said Commissioners on the East side of the said Additional Lands to be and Remain from henceforth the lines of Partition and Division between the Province of New York and Colony of Connecticut for ever which lines Together with those that were fixed and Established in the Year one thousand Seven hundred and Twenty five Doe every where Compleatly and Entirely Seperate and Divide the said province from the said Colony from the Sound soe far as the Line of the Massathusets Bay aforesaid, And that the Monuments Erected and Establish'd by the Commissioners aforesaid may be the better perpetuated and had in remembrance they have made a Description in Writeing of the Severall places where they have Erected the Monuments aforesaid bearing the same Date with these presents and Signed with the hands of the said Commissioners—IN WITNESS Whereof the partys to these presents have hereunto put their hands and Seales at Dover in Dutches County in the Province of New York the Day and Year first above written —

CADWALLADER COLDEN	[L. s.]	SAMEL EELLS	[L. s.]
GILBERT WILLETT	[L. s.]	ROGER WOLCOTT	[L. s.]
VINCENT MATHEWS	[L. s.]	EDMUND LEWIS	[L. s.]
J. BRUYN Junr.	[L. s.]		

—[*N. Y. Col MSS.*, lxix, 57; *Sen Doc.*, 1857, No. 165, p. 166; *Do.*, 1860, No. 31, p. 31; *Conn. Private Laws*, ii, 1533.

[LOCATION OF MONUMENTS.]

A DESCRIPTION of the places in Which the Monuments were fixed or set up by the subscribing Commissioners of the Province of New York and Colony of Connecticut as Referred to in a Certain Indenture made between both partys bearing even Date with these presents viz^t.

In the line runing North 24°: 30' west from the monument Erected in the year 1725 at y^e End of the line runing East North East of thirteen miles and Sixty four rods in Length to the Monument Erected at the End of the twenty miles from Courtlands point, at the distance of two miles from the said first mentioned monument Raised a heap of stones for a monument at the root of a Maple tree marked with three Notches

on the S East and North West sides standing on the South west side of a run of Water in a Gulley Called Beaver pond brook and marked some trees on each side of the said Monument in a North $24^{\circ} 40'$ west Course.

Then at the Distance of four miles from the said first mentioned monument in the aforesd line we put up a stake on the East side of a hill and heaped some stones round it for a monument which we Esteemed to be about sixty rods Distance northrly from the Cross pond and marked some trees on each side of the said Monument in a North $24^{\circ} 30'$ west Course.

At the Distance of six miles from the sd first mentioned monument in the aforesd line we put up a stake and heaped some stones round it for a monument on the East side of a Large white oak tree standing in a valley and marked some trees on each side of said monument in a North $24^{\circ} 30'$ west Course.

And the Monuments that were fixed or sett up in the Eastern line of the Additionall Lands added out of the Colony of Connecticut to the province of New york runing paralell to the aforesd North $24^{\circ} 30'$ west line and unto which which Reference is made as aforesd we did fix up Corisponding to each of the aforesd Monuments fixed up in the western line as aforesd distant from the same in a North $65^{\circ} 30'$ East Course or at Right angles to the aforesd North $24^{\circ} 30'$ west line one mile three quarters and twenty rods and Were fixed and sett up in the places following viz^t

Corrisponding to the Monument fixed up at two miles distance we heaped up some stones for a Monument on the West brow of a stoney ridge of Land on the top of a Rock sticking out of the Ground and marked some trees on each side of said Monument in a North $24^{\circ} 30'$ west Course

Corisponding to the Monument fixed up at the distance of four mils as aforesaid we sett up a stake heaped some stones round it, for a monument being in a swamp and on the North West side of a brook which runs into the pond of a saw mill and marked some trees on each side of said Monument in a North $24^{\circ} 30'$ West Course

Corisponding to the sixth mile in in the western line as aforesd we sett up a stake in the midle of a bogie meadow

in the line runing Nearly North $12^{\circ} 30'$ East from the aforesd Monument erected at the End of twenty mils from Courtlands point to the Monument erected at the end of 20 miles from Hudsons river in the Massathussets line at the Distance of 2 miles from the monument at the end of 20 miles from Courtlands Point aforesd we sett up a stake and heaped some stones round it on the west side of a hill for a monument bearing from a Large pointed rock south 27° East one chain and Eighty

links and marked some trees on Each side of said Monument Nearly in a North $12^{\circ} 30'$ East Course.

At the distance of four miles in the said line as aforesd we sett up a stake on the south west side of a boggy Meadow near the Edge of the s^d boggy meadow and heaped some stones round it for a monument

at the Distance of six miles as aforesd we sett up a stake and heaped some stones round it on the top of a Ridge for a Monument which we Esteemed to be about thirty rods East of a seeder swamp and marked some trees on each side of said Monument in a Nearly North $12^{\circ} 30'$ East Course.

at the Distance of eight miles as aforesd we sett up a stake and heaped up some stones round it for a monument being between two rocky hills about four rods from the easternmost of them and marked some trees on each side of said Monument in a Nearly North $12^{\circ} 30'$ East Course

At the Distance of ten Miles we sett up a stake and heaped up some stones about it for a monument being on the west side of a Ridge of Land and 66 chains on the perpendicular west from Croton River and marked some trees on each side of said Monument in a Nearly North $12^{\circ} 30'$ East Course

At the Distance of 12 miles as afores^d we sett up a stake and heaped up some stones round it for a monument being at the east side of a hill near to a point of Rocks and to the West of a Great Swamp and boggy meadow in sd swamp in Croton River

at the Distance of 14 miles as aforesd we sett up a stake and heaped up some stones round it for a Monument Near on the top of a Mountain being on the East side of the aforesd Great Swamp and near the south west End of the sd Mountain:

At the distance of 16 mile as aforesaid we sett up a stake and heaped up some stones round it for a monument being on the North west side of a brushy hill and Marked some trees on each side of said monument on a Nearly North $12^{\circ} 30'$ East Course

At the distance of 18 miles in said line as aforesd we sett up a stake and heaped up some stones round it for a Monument being on the North side of a small run of water and in a Low piece of Land and Marked some trees on each side of said monument in a Nearly North $12^{\circ} 30'$ East Course

At the Distance of 20 miles as aforesd in said line we heaped up some stones for a Monument on the East side of a hill at the bottom of a Large Rock

at the Distance of 22 miles as aforesd in sd line we sett up a stake and heaped up some stones round it for a Monument on the West side of a hill Near to a run of water on the West side of said hill about 56 rods East $12\frac{1}{2}$ south from the East side of a Large pond and marked some

trees on Each side of s^d Monument on a Nearly North 12°: 30' East Course

At the Distance of 24 miles as aforesd in sd line we set up a stake and heaped up some stones round it being on a rock on the West side of a hill and on the East side of a Gulley and a run of Water runing West-erly into the Great Swamp about 5 rods from sd run in which run are some spruce trees standing and we marked some trees on each side of said monument in a Nearly North 12° 30' East Course

At the Distance of 26 miles as aforesaid in said line we sett up a stake and heaped some stones round it for a monument being in a swampy piece of Ground on the North side of a small run of Water and Near to a clift of Rocks being to the East of said Monument and is on the East side of the ten mile river about half a mile Northerly from the turn of said River

At the distance of 28 mile as afores^d in said line we sett up a stake and heaped up some stones round it for a monument being on the East side of a Rocky hill in a valley between the Mountains and we marked some trees on Each side of sd Monument in a Nearly North 12° 30' East Course

At the Distance of thirty miles as aforesd in s^d line we sett up a stake and heaped up some ston round it for a monu^t on the West side of a mountain near y^e top of said Mountain being about south East from the House of yacob Van Campons and Derrick Dutcheers and Marked some small saplings on each side of said monument in a Nearly North 12°: 30' E Course

At the Distance of thirty three miles as aforesaid in sd line we sett up a stake and heaped up some stones round it for a monument on a plain piece of Land being Distant in a south 77°: 30' East Course from a pond of water in the said plain about 66 rods and about the same Distance from the foot of the Mountain which is to the East ward of it

At the Distance of thirty five mile we sett up a stake and heaped some stones round it for a monument on said line being on the North End of a Ridge of Land Near a Gulley on a small piece of Bogy meadow being Easterly from Sacketts house and marked two white oak trees the one on an East 8° south Course Distant 3 rods and the other on a South Course Distant five rods from the said Monument

At the Distance of thirty seven miles we sett up a stake and heaped up some stones round it for a Monument in the said line being on the west side of a Gully in the hills and Marked some trees on each side of sd Monument in a Nearly North 12° — 30' E Course

At the Distance of fourty Miles we marked a whitè oak sapling and heaped up some stones round it for a Monument standing on a high ridge of Land being 48 rods Easterly from a small bogy meadow—

At the Distance of fourty two miles we sett up a stake and heaped up some stones round it for a monument in the said line being on the west side of a dry swamp and marked some trees on Each side of sd Monument in a Nearly North $12^{\circ} 30'$ East Course

At the Distance of 44 miles we put up a stake & heaped up some stones round it for a Monument in said line being on the East side of a swamp and on the west side of a Rocky hill being about 20 rods from the foot of sd Hill and marked some trees on Each side of said monument in a Nearly North $12^{\circ} 30'$ East Course.

At the Distance of 47 mils we sett up a stake and heaped up some stons rund it for a monument in the said line being on the East side of a hill westerly from the south End of Taconick Mountain and are Distant on a west $12^{\circ} - 30'$ North Course sixty rods from the North branch of the ten mile river

At the Distance of fifty Miles we marked an Iron Wood tree with three Notches on the North and south side and a chip off a bove and the figures x x x x x on the West side thereof and put some stons to the root of sd tree standing in the west side of a Spruce Swamp being about 18 rods East from Taconick Road

And the Monuments that were fixed or sett up in the Eastern line of the Additionall Lands Added out of the Colony of Connecticut to the Province of New york Runing paralell to the aforsd Nearly North $12^{\circ} 30'$ East line and unto which Reference is made as above mentioned were fixed or sett up Corisponding to Each of the aforsd Monuments fixed up in the western line as aforsd Distant from the same on a south $77^{\circ} - 30'$ East Course or at Right Angles to the aforsd Nearly North $12^{\circ} 30'$ East line on mile three quarters and 20 rods and were fixed and sett up in the places following viz^t

Corisponding to the Monument fixed or sett up at the two Miles distance we heaped up some stons for a Monument on the west side of a Rocky hill Near to a Chessnut Oak tree Marked with 3 Notches on the North and south side

The Monument Corisponding to the Monument at 4 miles Distance as aforsd is a stake with a heap of stons round it about twenty rods and half to the East ward of Mopo brook

The Monnm^t Corisponding to the Monument at six miles Distance as aforsd is a stake with a heap of stones round it Near the North End of a swamp and by a footpath leading to Danbury

The Monument Corisponding to the Monument at at Eight Miles Distance as aforsd is a stake and a heap of stones round it in a hollow upon a high Rocky hill

The Monument Corisponding to the Monument at ten Miles Distance

as aforsd is a stake with a heap of stones round it in springy Ground on the west side of a high hill

The Monument Corisponding to the Monument at 12 Miles Distance as aforsd was set at the end of two miles on a line runing Nearly North $12^{\circ} 30'$ East from the monum^t Corisponding to the Monument at 10 miles distance because we could not carry the perpendicular across the Great Swamp that was overflowed by Coroton River and we marked the trees in the said two miles with 3 Notches on the North and South side this Monument is a heap of stones round a small White oak tree

The Monument Corisponding to the Monument at 14 miles Distance is a stake and heap of stones standing on the North West side of a hill

The Monument Corisponding to the Monument at Sixteen miles Distance is a stake and a heap of stons on a high hill there being two two small ponds to the south eastward of the Monument the Nearest to which is about five rods to the Monument

The Monument Corisponding to the Monument at 18 miles Distance as afors^d is a stake and a heap of stones on a Ledge of Rocks on the West side of a hill

The Monument Corisponding to the Monument at 20 miles Distance as aforsd is a stake and heap of stons in a wett piece of Ground on the west side of a steep Rocky hill

The Monument Corisponding to y^e Monument at 22 miles Distance is a stake and heap of stons on the East side of New fairfield hills

The Monument Corisponding to the monument at 24 miles distance is a stake and a heap of stons on the North west Descent of a hill that is on the East side of the brook that Issus from the pond before mentioned

The Monument Corisponding to the Monument at 26 mils Distance is a stake and heap of stons on the west side of an high hill and is thirty five chains and fourty five lincks on the perpendicular line from the East side of the Ten Mile River.

The Monument Corisponding to the Monument at 28 miles Distance as aforsd is a heap of stones on the East brow of a high hill at which place we saw New Milford town Ousatanuck River Runing at y^e foot of sd hill

The Monument Corisponding to the Monument at 30 Miles Distance as aforsd is a stake and heap of stons at the south end of a high hill

The Monument Corisponding to the Monument at 33 miles Distance is a heap of stones on the top of a hollow rock on the west side of a hill

The Monument Corisponding to the Monument at 35 miles distance as aforsd is a heap of stones on the top of a Rock on the west side of a hill

The Monument Corrisponding to the Monument at 37 miles Distance as aforsd is a stake and a heap of stons on the North side of a Ridg and is 60 links North 31° West from a Rock Lying there in the Ground.

The Monument Corrisponding to the Monument at 40 miles Distance is a stake and a heap of stones at the west side of a swamp and 40 rods on the perpendicular line Easterly from the ten mile River

The Monument Corrisponding to the Monument at 42 mils Distance is a stake and heap of stones on y^e brow of a steep bank on the North side of the ten mile river where it runs Easterly and is likewise 21 rods on the perpendicular line East from the East side of the sd River

The Monument Corrisponding to y^e Monument at 44 mils Distance is a stake and heap of stones standing at the foot of a hill and 12 rods from the East side of a Large pond

The Monum^t Corisponding to y^e Monum^t at 47 miles Distance is a stake & heap of stones in a Low piece of Ground lying south westerly of Taconick Mountains and North westerly from a meadow and is near the waggou path from Wotange to Taconick we likewise marked some trees on each side of the before mentioned monuments in a line runing nearly North $12^{\circ} 30'$ East when any trees stood on the said line near the said Monuments —

IN WITNESS Whereof We have hereunto Set our hands at Dover in Dutches County in the Province of New York this ffourteenth Day of May in the ffourth Year of the Reigne of our Sovereigne Lord George the Second by the Grace of God of Great Brittainne france and Ireland King Defender of the ffaith &c. Annoq Domini 1731.

SAM^l EELLS

ROGER WOLCOTT

EDMUND LEWIS

CADWALLADER COLDEN

VINCENT MATHEWS

G WILLETT

J. BRUYN Jun^r, Dep.^{ty} Sur^r.

—[*N. Y. Col. MSS.*, lxi, 58; *Sen. Doc.*, 1857, No. 165, p. 173; 1860, No. 31, p. 38.

THE BOUNDARY LINE BETWEEN LONG ISLAND AND CONNECTICUT.

Prior to 1850, there seems to have been no serious controversy as to so much of the joint New York and Connecticut Boundary as was embraced within Long Island Sound. Fisher's Island, though originally claimed by Connecticut, was early, as now, acknowledged to belong to New York. The smaller islands near the main-land have,

with few exceptions, been held by Connecticut without dispute. Some of the exceptions appear in the following documents:

[ENDORSEMENT.] Caveat ag^t grantg Letters Patent for Calves Island.
14 Dec^r Read in Council

New York Secretarys Office 29th September 1750.

I Joseph Banks of the Township of Greenwich in the Colony of Connecticut Farmer do hereby Enter a Caveat ag^t granting his Majesty's Letters Patent to any person or persons whatsoever (until I am heard by myself or Council) for a Certain Island called Calves Island which Island lyes about a Mile to the Eastward of Byram River and is esteemed to be Within Connecticut Government And which Island my Ancestors and Self have had uninterrupted Possession of for about seventy or eighty years last past under a Title from Connecticut Government.

JOSEPH BANKS

—[*N. Y. Land Papers (MS.) in Office of Sec'y of State, xiv, 85.*]

Petition of the Earl of Stirling and others, to the King.

June 1760.

To the KINGS MOST EXCELLENT MAJESTY in Council

The humble Petition of William Earl of Sterling, who is nearest heir male to William the first Earl of Stirling, And also to Henry the last Earl of Stirling, who died in the year 1739, and of William Phillips Lee of the City of York Esq^r And Mary Trumbull of East Hampstead Park in the County of Berks, Sp^r which said William Philips Lee and Mary Trumbull are Heirs at Law of the said Henry the last Earl of Stirling.

Sheweth.

That Hislate Majesty King James the first by Letters Patent bearing date the 3. day of November 1621, did grant to the Council for the Affairs in New England in America, their successors and assigns "All the "land of New England in America lying and being in breadth from 40 "Degrees to 48 Degrees of Northerly Latitude, and in length of and "within the breadth aforesaid throughout the Main Land from Sea "to Sea."

That the said Council did in the year 1635 among other things grant to William Alexander Earl of Stirling. "All that Island or Islands there-fore called by the severall name or names of Matawock, or long Island, and thereafter to be called by the name or names of Isle or Isles of Stirling, situate, lying and being to the Westward of Cape Cod or Narohigansets, within the Láitude of Forty or forty one Degrees or

thereabouts, abutting upon the Main Land between two Rivers there known by the several Names of Connecticut and Hudson's River, with all the Islands abutting or opposite to the same within 5 leagues of the Main.¹

That in the year 1636 the said Earl of Stirling deputed Capt. James Forrest his Agent and Governor for the said Island, whom he, that same year, sent over with a number of People for Planting the same, who arrived safe there, and made the first English Settlement in that Country, and in a few years it became a flourishing Colony and all the settlers were tenants to the Earl of Stirling.

That the said William Earl of Stirling died in the year 1640 and was succeeded by his grandson William, who died a few months after him, and the said last named Earl was succeeded by his Uncle Henry, who did not well understand his American affairs, yet maintained his Governors in the said Islands of Stirling or Long Island, and promoted the further settlement thereof, which was frequently interrupted by the Dutch, who intruded into the same from their Colony of Nieu Netherland (now the Province of New York) But the said Earl of Stirling's then Governor Major Forrester opposing the Dutch in their attempts to settle at the West End of the said Island frequent contentions arose on that account, which were attended with a very considerable expence to the said Earl of Stirling.

¹ After a fruitless search in Albany for a complete copy of the said grant to the Earl of Stirling, repeatedly referred to in the foregoing pages, it has been obtained from London, through the U. S. Department of State, on application made in 1879, by the Attorney-General of the State of New York. The full text is given below.—[P.]

[GRANT TO THE EARL OF STIRLING.]

To all x^pian people unto whome this p^rts shall come THE COUNCELL for the affaires of Newe England send Greeetinge in our Lord God everlastinge WHEREAS our late Sov^eaigne Lord Kinge JAMES of blessed memory by his Highnes Letters Patents under the Great Seale of England bearinge Date att Westminster the Third daye of November in the Eighteenth yeare of his Ma^t^{ies} Raigne over his Highnes Realme of England for the considera^çons in the said Letters Patents expressed and declared hath absolutely given graunted and confirmed unto the said Counsell and theire Successors for ever, all the Land of Newe England in America lyinge and beinge in breadth from fortie degrees of Northerly latitude from the Equinocⁱall Lyne to fortie eight degrees of the said Northerly latitude inclusivelie and in length of and within all the breadth aforesaid throughout the maine Land from Sea to Sea Together alsoe with all the Firme Lands soyles grounds havons ports rivers waters fishings mynes and mineralls as well Royall mynes of gold and silver as other mynes and mineralls pretious stones quarries and all and singular other comodities jurisdic^çons Royalties previledges franchises and preheminences both within the said Tracte of land uppon the Maine and alsoe within the Islands and Seas adjoininge (as by our said Letters Patents amongst divers other things therein conteyned more att large it doth and may appeare) NOWE KNOWE all men by theis

That in or about the year 1662 the said Major Forrester and the Dutch Governor of Nieu Amsterdam agreed upon a conference for settling the said disputes and the said Major Forrester attended at the place appointed for that purpose, but the Dutch Governor instead of conferring with him seized his person, and put him on board a ship bound to Holland, but the said ship being by stress of weather forced into Spithead, Major Forrester was there relieved from his imprisonment by the Captain of an English Man of War.

That this and other injuries occasioned a War between England and the United Provinces which was declared in the year 1664.

That James Duke of York having a design to plant an English Colony between the Rivers of Connecticut and Delaware by the name of the Province of New York, and to drive the Dutch from their settlements at Nieu Amsterdam, and hearing much of the goodness of the soil of the said Islands of Stirling or Long Island, and of their contiguity to the said Nieu Amsterdam, made application to Henry Earl of Stirling for purchasing his right and title to the same, and in the year 1663, the Earl of Stirling agreed to sell the said Island to the Duke York for £7000 Stirling, but the same not being paid, he did not convey his right or title to the Duke of York.

That on the 12th of March, 166 $\frac{3}{4}$ James Duke of York obtained a grant from his brother King Charles the Second of all the Country between

pñts that the said Councill of Newe England in America beinge assembled in publique Courte accordinge to an Acte made and agreed upon the third day of February last past before the date of theis pñts for divers good causes and considerations them hereunto especially moveinge HAVE given graunted aliened bargayned and sold And in and by theis pñts doe for them and there Successors give graunt alien bargain sell and confirme unto the Right Honorable William Lord Alexander his heires and assignes All that part of the maine Land of Newe England aforesaid beginninge from a certaine place called or knowne by the name of Saint Croix next adjoyninge to Newe Scotland in America aforesaid and from thence extendinge alonge the Sea Coast unto a certaine place called Pemaquid and soe upp the River thereof to the furthest head of the same as it . . . endeth Northwards extendinge from thence att the Nearest unto the River of Kinebequi and soe upwards alonge by the shortest course which tendeth unto the River of Canada from henceforth to be called and knowne by the name of the Countie of Canada And alsoe all that Island or Islands heretofore comonly called by the severall name or names of Matowa or Longe Island and hereafter to be called by the name of the Isle of Starlinge scituate lyinge and beinge to the Westward of Cape Codd or the Narohigansets within the latitude of Fortie or Fortie one degrees or thereabouts abuttinge upon the Maine land betweene the two Rivers there knowne by the severall names of Conectecutt and Hudsons River and conteyninge in length from East to West the whole length of the Sea Coast there betweene the said two Rivers Together with all and singuler havons harbours creekes and Islands imbayd and all Islands and Ilets lyinge within Five leagues distance of the maine beinge opposite and abuttinge upon the premisses or any part thereof not formerly lawfully graunted to any by speciall

Delaware River and Connecticut River, by the name of the Province of New York, including therein the said Islands of Stirling or Long Island and in the year 1664 King Charles the Second sent out Sir Rob^t Carr and Col. Richard Nicholl with an armed force to conquer the Dutch Colony of Nieu Netherland, which was effected the same year.

That the said Earl of Stirling made frequent application to the said Duke of York for the payment of the said £7000 but never could obtain payment of the same or any part thereof And in the 10th day of November 1674 the Duke of York agreed in lieu of the said £7000 to give the said Earl a Pension of £300 per annum out of the Revenues arising from his Province of New York; but thò: frequent application was made to His Royal Highness for the payment of the said Pension, and after he came to the Crown the like application was made to him and from time to time continued to his Successors down to the year 1712, no recompence has yet been obtained.

That on the Duke of York's succession to the Crown, the said Province of New York became part of the inheritance of the Crown, and Quit Rents of the same, together with those of the said Islands of Stirling or Long Island have ever since been received by the Receiver General of His Majesty's Revenues of the Province of New York.

That the Pet^r humbly apprehend, that they are, as heirs of the said Earl of Stirling intitled in Equity to the said Islands of Stirling or Long

name And all mynes mineralls quarries soyles and woods marishes rivers waters lakes fishinge hawkinge huntinge and fowlinge and all other Royalties Jurisdicçons priviledges preheminesces proffitts cōmodities and hereditaments whatsoever with all and singuler there and every of their appurten^{ances} And together alsoe with all Rents reserved and the benefit of all proffitts due to them the said Counsell and their Successors with power of Judicature in all causes and matters whatsoever as well criminall as Capitall and Civile ariseinge or which may hereafter arise within the limitts bounds and precincts aforesaid to be exercised and executed accordinge to the Lawes of England as neere as may be by the said William Lord Alexander J. R. his heires or assignes or his or their Deputies Lieuten^{ants} Judges Stewards or Officers thereunto by him or them assigned deputed or appointed from time to time with all other priviledges franchises liberties imūnities escheates and casualties thereof arriseinge or which shall or may hereafter arise within the said Limitts and precincts with all the interest right title claime and demaund whatsoever which the said Counsell and their Successors nowe of right have or ought to have or claime or may have or acquire hereafter in or to the said porçon of Lands or Islands or any the premisses and in as free ample large and beneficiall mann^r to all intents constructions and purposes whatsoever as the said Council by vertue of his Ma^{ties} J. R. said Letters Patents may or can graunt the same SAVEINGE and allwayes reservinge unto the said Counsell and their Successors power to receive heare and determine all and singuler appeale and appeales of every person and persons whatsoever dwellinge or inhabitinge within the said Territories and Islands or any part thereof soe graunted as aforesaid of and from all Judgements and Sentences whatsoever given within the said Lands and Territories aforesaid TO HAVE AND TO HOLDE all

Island, or the Consideration money which was agreed to be paid for the same, but the said Islands being now inhabited and possessed by many thousands of His Majesty's good subjects who have long enjoyed their estates under Grants from His Majesty and his predecessors, or by bona fide purchases from Grantees under the Crown, who have regularly paid their Quit-Rents to the Receiver General, and on whom it would now be the greatest hardship and distress to purchase a New Title to their possessions from the Pet^{rs} or be dispossessed of the same by Suits at Law.

Your Petitioners therefore most humbly pray your Majesty would be graciously pleased to order payment to be made to them of the £7000 with the Interest thereof, or to give directions that such lands in the said Islands of Stirling or Long Island as have not been hitherto granted by the said Duke of York, afterwards King James the 2^d or any of His Successors, may be restored to your Petitioners; And the Quit Rents now arising from the lands which have been so granted, may for the future be paid to your Petitioners.

And Your Pet^{rs} as in duty bound shall ever Pray &c.

STIRLING
W^m PHILLIPS LEE
MARY TRUMBULL

[June 1760.]

—[*N. Y. Col. Doc.*, vii., 430.]

and singuler the Lands and premisses above by theis pñts graunted (excepte before excepted) with all and all manner of profitts comodities and hereditaments what soever within the Lands and premisses aforesaid or to the said Lands Islands and premisses or any of them in any wise belonginge or apperteyninge unto the said William Lord Alexander his heires and assignes To the only proper use and behoofe of him the said William Lord Alexander his heires and assignes for ever To be holden of the said Counsell and theire Successors per GLADIUM COMITATUS (that is to say by findeinge foure able men conveniently armed and arrayed for the warre to attend uppon the Governor of Newe England for the publeque Service within fourteene dayes after any warninge given or YEILDINGE and payinge unto the said Counsell and theire Successors for ever one fit part of all the Oars of the mynes of gold and silver which shalbe had possessed or obteyned within the limitts or precincts aforesaid for all Rents Services dueties and demaunds whatsoever due unto the said Co theire Successors from any plantaçon within the precincts aforesaid The same to be delivered unto his Ma^{ties} Receiver or Deputie or Deputies assigned to the use of his Ma^{tie} his heires and Successors from time to time the Lands precincts and Territories of Newe England aforesaid GIVEN aid Cour
Seale the two and twentieth day of Aprill in the eleventh yeare of the Raigne of our so

—[*British State Papers* (MS. ?), Colonial Series, 1634 and 1635, vol. 8, No. 56.]

I certify that the foregoing is a true and authentic Copy.

14 November }
1879. }

JOSEPH REDINGTON [L. S.]
Assistant Keeper of the Public Records.



[ENDORSEMENT.] 3^d September 1761.

Petition of John Anderson for three Small Islands in the East River
Near Byram River 3^d September 1761 Read in Council & Granted

To the Hon^{ble} Cadwallader Colden Esq^r His Majesty's Lieutenant Governor and Commander in Chief of the Province of New York and the Territories depending thereon in America.

In Council—

The Petition of John Anderson —

Humbly Sheweth

That there are three Small Islands, the largest of which contains Sixteen Acres, and is Known by the Name of the Great Captains Island, another of the said Islands containing two Acres, and the other, half an Acre of Land; lying in the East River near Byram River within this Government: and the said Islands being Vested in the Crown, and Convenient for your Petitioners Improvement —

Your Petitioner therefore Humbly prays Your Honour will be favourably pleased to grant to him and his Heirs His Majesty's Letters Patent for the said three Islands under the Quit Rent and other Terms prescribed by his Majesty's Instructions

And your Petitioner as in Duty bound shall ever Pray &c.

New York 3^d September 1761.

JN^o ANDERSON.

—[*N. Y. Land Papers (MS.)*, xvi, 87.]

By His Excellency the Honourable ROBERT MONCKTON Captain General and Governor in Chief in and over the Province of New York and the Territories depending thereon in America, Vice Admiral of the same and Major General of his Majesty's Forces. ARCHIBALD KENNEDY Esquire Collector and Receiver General of the said Province, and ALEXANDER COLDEN Esquire Surveyor General of the said Province, Commissioners appointed by his late Majesty's Instructions for the setting out of all Lands to be granted within the Province of New York. — To all to whom these presents shall come or may concern Greeting. WHEREAS John Anderson by his humble Petition presented unto the Honourable Cadwallader Colden Esquire Lieutenant Governor and then Commander in Chief of the said Province in Council on the third Day of September One Thousand seven Hundred and sixty one, did humbly pray his Majesty's Letters patent to him his Heirs and Assigns for three small Islands vested in the Crown — situate lying and

being in the East River near Byram River within this Province, The largest of which known by the Name of the Great Captain's Island contains sixteen Acres, one other of the said Islands containing two Acres And the other half an Acre of Land; WHICH PETITION having been then and there read and considered of, his Majesty's Council did afterwards on the same Day humbly advise the said Lieutenant Governor to grant to the said Petitioner his Majesty's Letters Patent for the said three Islands under the Quit Rent prescribed by his Majesty's Instructions WHEREFORE in Obedience to his Majesty's Instructions We do hereby CERTIFY that we have set out for the said John Anderson ALL THOSE three certain Islands lying in the County of Westchester in the East River or Sound commonly called or known by the Name of the Captains Islands. The largest of the said Islands known by the Name of the Great Captain's Island containing sixteen Acres and an half bears East South East half East from a Point of Land at the Mouth of Byram River where it falls into the said Sound, commonly called and known by the Name of Lyons Point. The middlemost of the said Islands containing two Acres and an half, bears East half South from the said Lyons Point and the Third or northernmost of the said Islands containing half an Acre, bears East from the said Lyons Point. The said three Islands containing together Nineteen Acres and an half of Land. GIVEN under our Hands in the City of New York the Twenty eighth Day of September One Thousand seven Hundred and sixty two, in the second Year of the Reign of our Sovereign Lord George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth.

ROBERT MONCKTON
ARCH^d, KENNEDY
ALEX^r, COLDEN

—[*N. Y. Patents (MS.)*, xiii, 501.

George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth To all to whom these Presents shall come Greeting. WHEREAS our loving Subject John Anderson by his humble Petition presented on the third Day of September which was in the Year of our Lord One Thousand seven Hundred and sixty one to our trusty and well beloved Cadwallader Colden Esquire our Lieutenant Governor and then our Commander in Chief of our Province of New York and the Territories depending thereon in America in Council did humbly pray our Letters Patent to him his Heirs and Assigns for three small Islands vested in us situate lying and being in the East River near Bryam River within our said

Province, the largest of which known by the Name of the Great Captains Island contains Sixteen Acres, One of the other two Islands containing two Acres, and the other half an Acre of Land. WHICH PETITION having been then and there read and considered of our said Council did afterwards on the same Day humbly advise our said Lieutenant Governor to grant to the said Petitioner our Letters Patent for the said three Islands under the Quit Rent prescribed by our Royal Instructions WHEREFORE in Obedience to our Royal Instructions for that Purpose, our Commissioners thereby appointed for the Setting out all Lands to be granted within our said Province have set out for him the said John Anderson ALL THOSE three certain Islands lying in the County of Westchester in the East River or Sound, commonly called or known by the Name of the Captains Islands, The largest of the said Islands known by the Name of the Great Captains ISLAND, containing sixteen Acres and an half, bears East South East half East from a Point of Land at the Mouth of Bryam River where it falls into the said Sound, commonly called and known by the Name of Lyon's Point. THE MIDDLEMOST of the said Islands containing two Acres and an half bears East half South from the said Lyon's Point: AND THE THIRD or Northernmost of the said Islands containing half an Acre bears East from the said Lyons Point. The said three Islands together containing Nineteen Acres and an half of Land. As by a Certificate thereof under the Hands of our said Commissioners bearing Date the Twenty eighth Day of September now last past and entered of Record in our Secretary's Office in our City of New York may more fully appear. WHICH said three several Islands we being willing to grant to him the said John Anderson his Heirs and Assigns for ever KNOW YE therefore that of our especial Grace certain Knowledge and meer Motion We have given granted ratified and confirmed and do by these presents for us our Heirs and Successors give grant ratify and confirm unto him the said John Anderson his Heirs and Assigns for ever ALL THOSE the above-mentioned three several Islands (lying in the County of Westchester in the East River or Sound) commonly called and known by the Name of the Captains Islands, Together with all and singular the Tenements Hereditaments Emoluments and Appurtenances to the same belonging or appertaining AND also all our Estate, Right, Title, Interest, Possession, Claim and Demand whatsoever of in and to the same Islands and Premises and every part and parcel thereof. And the Reversion and Reversions Remainder and Remainders, Rents, Issues and Profits of the same Islands and Premises, and every part and parcel of the same EXCEPT and always reserved out of this our present Grant unto us our Heirs and Successors for ever All Mines of Gold and Silver And also all white or other sort of Pine Trees fit for Masts of the Growth of Twenty four Inches

Diameter and upwards at Twelve Inches from the Earth for Masts for the Royal Navy of us our Heirs and Successors. To HAVE AND TO HOLD the said three Islands Tenements Hereditaments and Premises by these presents granted ratified and confirmed and every Part and parcel thereof with all the Appurtenances to the same belonging (EXCEPT as is herein before excepted) unto the said John Anderson his Heirs and Assigns. To the only proper Use and Behoof of the said John Anderson his Heirs and Assigns for ever. To BE HOLDEN of us our Heirs and Successors in free and common Socage as of our Manor of East Greenwich in our County of Kent within our Kingdom of Great Britain YIELDING rendring and Paying therefore yearly and every Year for ever unto us our Heirs and Successors at our Custom House in our City of New York unto our or their Collector or Receiver General there for the Time being on the Feast of the Annunciation of the blessed Virgin Mary commonly called Lady Day the yearly Rent of two Shillings and six Pence Sterling, in Lieu and Stead of all other Rents, Services, Dues Duties, and Demands WHATSOEVER for the hereby granted Islands and Premises or any Part thereof. PROVIDED always and upon Condition nevertheless, that if the said John Anderson his Heirs or Assigns, or any other Person or Persons by his their or any of their Privity Consent or Procurement shall fell, cut down or otherwise destroy any of the Pine Trees by these presents reserved to us our Heirs and Successors, or hereby intended so to be, without the Royal Lycence of us our Heirs and Successors for so Doing first had and obtained That then this our present Grant and every Thing therein contained shall cease and be absolutely void, and the Lands and Premises hereby granted shall revert to and vest in us our Heirs and Successors as if this our present Grant had never been made any Thing herein before contained to the Contrary in any wise notwithstanding. PROVIDED further and upon Condition also nevertheless And we do hereby for us our Heirs and Successors direct and appoint that this our present Grant shall be registred and entered on Record within six Months from the Date hereof in our Secretary's Office in our City of New York in our said Province in one of the Books of Patents there remaining And that a Docquet thereof shall be also entered in our Auditors Office there for our said Province. And that in Default thereof this our present Grant shall be void and of none Effect, any Thing before in these presents contained to the Contrary thereof in any wise notwithstanding. AND WE DO moreover of our especial Grace certain Knowledge and meer Motion consent and agree that this our present Grant being registred, recorded and a Docquet thereof made as before directed and appointed shall be good and effectual in the Law to all Intents Constructions and Purposes whatsoever against us our Heirs and Successors notwithstanding any Misreciting, Misnaming or other

Imperfection or Omission of in or any wise concerning the above granted or hereby mentioned or intended to be granted Islands Tenements Hereditaments and Premises or any part thereof IN TESTIMONY whereof we have caused these our Letters to be made patent and the Great Seal of our said Province to be hereunto affixed. WITNESS our trusty and well beloved ROBERT MONCKTON our Captain General and Governor in Chief in and over our Province of New York and the Territories depending thereon in America, Vice Admiral of the same and Major General of our Forces, at our Fort in our City of New York, the Twenty sixth Day of January in the year of our Lord One Thousand seven Hundred and sixty three and of our Reign the third.

CLARKS

—[*N. Y. Patents (MS.)*, xiii, 502.

WRIT ISSUED AGAINST JOHN ANDERSON FOR ALLEGED TRESPASS ON
CAPTAIN'S ISLAND.

September 14, 1764.

To the Sheriff of y^e County of Fairfield his Deputy or Either of y^e Constables of Greenwich within said County Greeting —

In his Majesties Name you are hereby Comanded to Attach y^e Goods or Estate of John Anderson of Oysterbay in Queens County on Nassau¹ Island in y^e Province of New York now Resident in said Greenwich to y^e Vallue of One thousand Pounds Lawfull money & for want thereof to Attach y^e Body of y^e said John Anderson if he may be found in your Precincts & him Safely keep & have to Appear before y^e County Court to be holden at Fairfield within & for y^e County of Fairfield on y^e 3^d Tuesday of Novem^r Next then & there to answer unto Justus Bush David Bush Will^m Bush & John Gregg all of s.^d Greenwich; In a Plea of Tresspass bro't on one certain Statute Law of this Colony Entituled an Act for detecting & punishing Trespasses in diverse Cases & Directing proceedings therein; Wherein among other things it stands Enacted "That no person or persons shall cut, fell, destroy, or carry away any Tree or Trees Timber or Underwood whatsoever, Standing, lying, or growing on y^e Land of any Other person or persons or off or from any sequestred Lands for Town Common or any Co^mon or Undivided Lands in any Town: without Leave or Licence of y^e Owner or Owners of such Lands; Whereon such Trees, Wood, Timber or Underwood was Standing lying or growing. On pain that every Such Person so cutting felling destroying or carrying away y^e Same; or that shall be Aiding or Assisting therein, Shall for every such Tresspass forfeit & pay to the party or partys Injured or trespassed upon y^e Sum of ten Shillings for every Tree

¹ The former name of Long Island.—[P.

of one foot over; and for all Trees of greater Dimensions three Times y^e Vallue thereof besides ten Shillings as afores^d; And five Shillings for every Tree or Pole under y^e Dimensions of one foot Diamiter &c;” Whereupon y^e Plt Declares & says y^e y^e Def^t the Pains & Penalties of said Statute not in y^e least regarding in Greenwich aforesaid on or about y^e first Day of August last & at Sundry other Times within three years now last past, with force and Arms, without Law or Right & without Leave or Licence together with others to y^e Plt^s unknown did enter into & upon y^e Plt^s Land to them y^e Plt^s then & Still belonging & then & Still in their Possession being; lying in said Greenwich near Horseneck Field, so called in Quantity about Twenty Acres comonly called & known by y^e Name of y^e great Captain’s Island so called in said Greenwich & bounded on all Sides by y^e salt Sea otherwise called y^e Sound And y^e Def^t being so thereinto & thereupon unlawfully entred together with Others to y^e Plts unknown as aforesaid, did then & there & at sundry other Times within three years now leest past as afores^d. with y^e Same force & Arms Afors^d without Law or Right without Leave or Licence and together with Others to y^e Plts Unknown as Aforesaid cut, fell, Destroy & carry away off & from y^e Plt^s Said Land Two thousand of y^e Plt^s good Timber trees or Poles under y^e Dimensions of One foot Diameter, all which s^d good timber Trees or Poles of y^e Plts were then & there found standing growing & being on y^e Plts Said Land to them belonging & then in their Possession being as afores^d; all which is contrary to y^e Form, Force & Effect of said Statute; and to y^e Damage of y^e Plts y^e Sum of Five hundred Pounds Lawfull money by force of s^d Statute y^e Deft by Means of his wrong & unlawfull doings aforesaid hath forfeited & ought to pay; and for the recovery thereof & Costs y^e Plts bring this Suit (Bond for prosecution being given) hereof fail not and of this Writ with your Doings thereon make due Return according to Law; Dated at Greenwich y^e 14th Day of Septem^r A D: 1764—

PETER MEAD Justice of Peace

A true Copy of y^e Orig^l Writ on file

Exam^d P David Burr Clerk

Fairfield Nov^r C. Court }

3^d Tuesday 1764 } Justus Bush &c Plt^s v^s John Anderson Def^t in a Plea of Tresspass for cutting Timber &c on y^e Island called Captain’s Island as ¶ Writ on file dated Septem^r 14th A D: 1764— Now y^e Def^t comes into Court & prays Judgment of this Process & that y^e Same may abate & be Dismissed because he says that y^e s^d Island whereon y^e facts are Said to be Done was at y^e Time of doing y^e facts complained of & now is in & belongs to y^e Province of New York and therefore

this Action being a local Action Ought to be heard & tryed in said Province wherein s^d Island Lyes. and not in this Colony as no Court in this Colony can by Law hold plea or take Cognizance of this Cause; this y^e Def^t is ready to Verify & thereof prays Judgment &c—

HILLHOUSE } for y^e Def^t
BARR

And y^e Plt Replys to y^e Plea of y^e Def^t above in Abatement pleaded & Says this Process ought not to Abate for that y^e said Island where y^e facts charged in the Plts Declaration were done was & is within y^e bounds & Limits of y^e Colony of Connecticut & y^e Charter by his late Majesty Ch^o 2^d granted to y^e Govern^r & Comp^z of said Colony & within y^e County of Fairfield in s^d Colony: And therefore this Hon^l Court have by Law Jurisdiction of this Cause & ought to hold Plea thereof without that that y^e said Island whereon said Facts were done was at y^e Time of doing y^e facts Complained of & now is in & belongs to y^e Province of New York in manner & form as y^e Def^t in his Plea hath alledged & this he is Ready to Verify &c Judgment &c.

SILLIMAN } for y^e Plts
JOHNSON }

A true Copy of y^e Pleas on file
Exam^d Ⓢ David Burr Clerk
—[*N. Y. Col. MSS.*, xcii, 145.

[IN N. Y. COUNCIL.]

February 6, 1765.

* * * *

The Petition of John Anderson was laid before the Board and read, setting forth, among other Things, that his Majesty by his Letters Patent of the 26th January 1763, did grant unto him and his heirs, three small Islands lying in the Sound: That on one of the said Islands he has erected a good dwelling House, and did retain the peaceable enjoyment of the Premises, until last Fall, when Justus Bush, David Bush, William Bush, and John Gregg, Inhabitants of Connecticut, by pretext of Title under the Corporation of that Colony, caused the Petitioner to be prosecuted, considering his Improvements under this Province as a Trespass and Offence against one of the By Laws of the said Corporation—That the Petitioner took the only Step in his Power which was to plead to their Jurisdiction, and that this issue will be tryed at the Superior Court on the third Tuesday of February Instant: And conceiving himself utterly unable to contend with a whole Colony, and as this Controversy respecting the Jurisdiction of the two Governments, may affect that of many other valuable Islands in the Sound, the Petitioner

humbly prays the interposition of this Government, to secure to him the Royal Bounty granted to him and his heirs; assert the Dignity of the Crown; and maintain the Jurisdiction of the Province.

And his Honour requiring the Opinion and advice of the Board thereupon, The Council advised his Honour to lay a Copy of the said Petition before the Governor of Connecticut, and to propose to that Government, to submit the Matter of Jurisdiction, with respect to these Islands, and such others in the Sound as are or may be contested, to the Determination of his Majesty in his privy Council; on such State of the Controversy, as each Government shall think proper to transmit to his Majesty's Ministers—A Method, that will answer the same End as a Commission in the usual Form, and which, being attended with little or no Expence, seems better adapted to a Case wherein the publick Interest in either Government is inconsiderable: And that in the mean time all Judicial Proceedings be suspended, as ineffectual, and necessarily tending to create Animosities between Individuals, and to embroil the two Governments.

—[*N. Y. Council Minutes (MS.)*, xxvi, 3.

[ENDORSEMENT.] Draft — Letter to the Gov^r of Connecticut proposing to submit to the Determination of his Majesty in his privy Council the Jurisdiction of the Islands in the Sound —

New York 12th February 1765.

Sir

Having laid before his Majesty's Council the inclosed Petition of John Anderson, holding by Grant under the Great Seal of this Province three Islands in the Sound; and complaining that he has lately been sued by Justus Bush, David Bush, William Bush, & John Gregg, Inhabitants of the Colony of Connecticut, for a supposed Trespass on one of those Islands called Captains Island; and praying the Interposition of this Government, in order to secure to him the Effect of the Royal Bounty. I am by the advice of the Council to propose to your Government, the submitting the Matter of Jurisdiction with respect to these Islands, and such others in the Sound as are or may be contested, to the Determination of his Majesty in his Privy Council, on such State of the Controversy as each Government shall think proper to transmit to his Majesty's Ministers for this purpose; and that in the Mean Time all Judicial Proceedings be suspended, as ineffectual, and necessarily tending to create Animosities between Individuals, and to embroil the two Governments. As the Method proposed will answer the same End as a Commission in the usual Form, and, being attended with little or no Expence, seems better adapted to a Case in which the Publick Interest in either Colony is

inconsiderable. I flatter myself it will meet with y^e Approbation of yours; in which Case I shall order the proper Papers to be prepared, and shall transmit them without Delay.—

—[*N. Y. Col. MSS.*, xciii, 36.

[GOVERNOR OF CONNECTICUT TO GOVERNOR OF NEW YORK.]

Norwalk 18th June 1765—

Sir

Having in my Letter of the 22^d of February in Answer to yours of the 12th of that month concerning the three small Islands in the Sound said to be granted to John Anderson under the Seal of your Province signified my Intention of laying the proposal you made of submitting the matter of Jurisdiction to the King in Council, before the General Assembly of this Colony for their Determination; which being done, and the matters having been considered by them, I am now to acquaint you by the desire of the Assembly that this Colony as such have never at all interposed in that Affair; but as it was originally a matter of Dispute relative to private Property have Entirely left the same to the decision of the Courts of Law—

That altho it relates to the Jurisdiction of the Governments, yet the Estate, in Controversy appears to be so inconsiderable, as scarcely to require or deserve the attention of the Governments, or to be in any Degree adequate to the Expence, which would unavoidably attend the mode of Determination, proposed by you:— and further that the Lines and Boundaries, between the two Colonies, have been so Effectually and finally settled, by solemn agreements, ratified and confirmed, by His Majestys Royal Predecessors, that there appears, no reasonable Foundation, for further Controversy, relative thereto —

I am Sir with great Regard your
most Obedient & most hum^le Serv^t—

The Hon^{ble} Cadwallader Colden Esq^r

—[*N. Y. Col. MSS.*, xciii, 73.

[IN N. Y. COUNCIL.]

July 8, 1765.

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His Honour laid before the Council, a Letter of the 18th June last, from M^r Fitch Governor of Connecticut, unsigned, In Answer to his Honor's Letter of the 12th of February [proposing to refer to the Determination of his Majesty in his Privy Council, the Jurisdiction of the two Governments with respect to three small Islands granted in this Province to

John Anderson, and such other Islands lying in the Sound as may be contested] signifying, at the Desire of his Assembly, "that that Colony as such, have never at all interfered in that Affair, but as it was originally a Matter of Dispute relative to private Property, have intirely left the same to the Decision of the Courts of Law.—That altho' it relates to the Jurisdiction of the Governments, yet the Estate in Controversy appears to be so inconsiderable, as scarcely to require or deserve the Attention of the Governments, or to be in any degree adequate to the Expençe which would unavoidably attend the Mode of Determination proposed by his Honor — And further that the Lines and Boundaries between the two Colonies, have been so effectually and finally settled by solomn Agreements, ratified and confirmed by his Majesty's Royal Predecessors, that there appears No reasonable Foundation for further Controversy relative thereto."

* * * *

—[*N. Y. Council Minutes (MS.)*, xxvi, 15.

Wishing to know the result of this legal controversy, a search for the records was undertaken, and after the lapse of a month a certified copy of the court proceedings was obtained from the Secretary of State of Connecticut, as follows:¹

A Superior Court holden at Fairfield in the Colony of Connecticut on Tuesday the 19th. day of February being the last Tuesday (save one) Anno Domini 1765 in the 5th. year of the Reign of George the Third of Great Britain &c King

Present — The Honorable WILLIAM PITKIN Esqr Chief Judge.

EBENEZER SILLIMAN	}	Esqrs Assistant Judges
DANIEL EDWARDS		
BENJA ⁿ HALL		
ROBERT WALKER		

Court opened by proclamation and adjourned to two of the clock afternoon and then opened according to adjournments

¹ Some idea of the labor and patience required in researches of this kind, to restore a missing link in the chain of documentary history, will be gained from the following answers to inquiries:

OFFICE OF THE COUNTY CLERK AND CLERK OF THE SUPERIOR COURT, FAIRFIELD COUNTY, CONN.,	}
BRIDGEPORT, April 25, 1879.	

DANIEL J. PRATT, Esq.:

DEAR SIR. — There are no indexes to the volumes of County Court Records in 1764–1765, which makes it difficult to find special matters, if recorded. I have,

Jury sworn were James Smedley, Jos. Banks Jr, Gideon Wakeman, Isaac Marvin, Thadeus Hubbel, Gardner Olmsted, Alexand^r Resaquie, Edmond Curtiss, Gideon Tomlinson, Isaac Nickols, Sam'l Wilcockson, David Barlow.

Justus Bush, David Bush, William Bush and John Grigg, all of Greenwich in the County of Fairfield, Plf's, (Contra) John Anderson of Oyster Bay on Nanssace Island in the Province of New York however, been carefully over the records of those years without finding any such suit as you inquire about.

Respectfully,

H. T. BLAKE, *Clerk.*

BRIDGEPORT, *April 29, 1879.*

DEAR SIR. — There are no volumes of Superior Court Records in this office prior to 1790. What has become of the volumes, if there ever were any, is not known. It is likely that some of them may have been destroyed or lost when Fairfield was burned in 1777. I am sorry that I cannot throw any light on the matter of your inquiry.

BRIDGEPORT, *May 1, 1879.*

DEAR SIR. — We have no records in this office of the Superior Court for 1765 or 1764. Consequently it will be impossible to give you the desired information. The County Court Records have been thoroughly searched and the case was not there.

BRIDGEPORT, CONN., *May 7, 1879.*

DEAR SIR. — I have ascertained that the records of the Superior Court prior to May, 1798, are in the office of the Secretary of State at *Hartford*. Possibly you may get some light on your recent inquiry by addressing Hon. David Torrance, Secretary of State, Hartford, Connecticut.

STATE OF CONNECTICUT:

OFFICE OF SECRETARY OF STATE, {
HARTFORD, *May 13, 1879.* }

DEAR SIR. — Yours of the tenth is received. The suit of Justus Bush and others against Jno. Anderson for trespass on Great Captains Island was decided in favor of plaintiffs and execution granted February 23, 1765.

Yours, truly,

DAVID TORRANCE, *Secretary.*

Pr. HINMAN.

HARTFORD, *May 24, 1879.*

DEAR SIR. — Accompanying this you will find a certified copy of the decision in the trespass suit to which you alluded.

If this is not satisfactory you can return it and we will make further search and include anything else that we find appertaining to the suit, but infer that this is all you want. Fee for the same, \$2.00.

Defendant. In a plea of Trespass for cutting Timber on an Island called by the name of the Great Captains Island, demanding in damage £500. 0. 0 L Money as per writ on file dated Sept 14th, 1764.

By appeal of the defendant from a judgment of the adjourned County Court held at Fairfield in January last, The partys appeared at this Court an were now again at issue on the plea that the said Island whereon said facts were done was at the time of doings the facts complained of, and now is in, and belongs to the Province of New York as at Large on file. Which issue with the evidence being committed to the jury they brot in the following verdict (viz) In this case the Jury find that the Island whereon said facts were done was not at the time of doing the facts complained of, nor is within the Province of New York, in manner and form as the Defendant in his plea hath alleged, therefore we find for the Plfs Twenty shillings L Money damages and their cost whereupon it is considered by ye Court yt the Plfs shall receive of the Defts 20/s, L Money dam'ges and their cost of Courts taxed at £8. 3. 3 L. Money & ye exn be charged accordingly.

Execution granted February 23, 1765

STATE OF CONNECTICUT, }
OFFICE OF SECRETARY OF STATE, } ss.

I, David Torrance, Secretary of the said State of Connecticut and keeper of the seal thereof, do hereby certify, that the above and foregoing extract from the records of the Superior Court for the Colony of Connecticut for the years 1763 to 1765, inclusive, has been compared by me with said records now on deposit in this office according to law; and I further certify that it is a correct and full transcript of the final doings and decision in the case referred to before said Superior Court.

In testimony whereof, I have hereunto set my hand and
[Seal.] affixed the seal of said State, at Hartford, this 24th day
of May, 1879.

DAVID TORRANCE,
Secretary of State.

The foregoing records show how long, earnest and sometimes bitter and violent was the controversy between the two States with reference to their joint boundary. It was doubtless expected that the amicable agreement concluded in 1731 would be the end of all strife on the subject; and it is probable that such would have been the case, so far as the main-land portion of the line is concerned, had it been at the time of survey marked by unmistakable and permanent monuments. In default of this, after an interval of a century

and a quarter, the controversy was re-opened by Connecticut, and it was not until the end of another quarter-century, now just closed, that a satisfactory, and it is to be hoped final adjustment of the southern as well as the western boundary of Connecticut has been reached and ratified by both States. The records of this modern period of discussion and, for the most part, of serious disagreement, have been embodied in the various reports and *ex parte* statements of the commissioners representing the two States, all of which are needed to ascertain the facts upon which to base any just judgment as to the relative merit of the two sides of this remarkable inter-state dispute. These various records, as collated and prepared for re-publication in the present form, have been eagerly sought and diligently used by the recent joint commissioners whose labors have happily proved successful; and while said records, having served this final practical purpose, may not be further needed as evidence, they are worthy to be preserved in accessible and connected form, as part of the annals of a State eminently rich in historic material worthy of preservation.

[Resolves] Appointing Commissioners to fix the West Boundary Line of this State [Connecticut.]

Passed 1855.

WHEREAS, sundry differences and disputes have arisen among the inhabitants resident near the line dividing the states of New York and Connecticut, concerning said dividing line, and most of the bounds and monuments, erected on and along said dividing line, have been removed or destroyed, rendering it now uncertain to which of said states sundry citizens, resident as aforesaid, belong: now therefore, it is

Resolved by this Assembly, that William H. Holley of Stamford, and Jason Whiting of Litchfield, be and they are hereby appointed commissioners on the part of this state, to be duly commissioned by the governor, to ascertain the boundary line between this state and the state of New York; and the said commissioners are hereby authorized and empowered to meet such commissioners as may be appointed and vested with similar powers by the legislature of New York, and with them, as soon as may be, to ascertain the said boundary line, and erect suitable monuments at such places as they shall deem necessary, to prevent any future mistakes concerning the same; and said commissioners are

authorized to employ necessary surveyors and chainmen to assist as aforesaid, and said commissioners are to make report of their doings to the general assembly of this state. And in case of the death or resignation of said commissioners on the part of this state or either of them, the governor of this state is hereby empowered to fill the vacancy or vacancies so occurring.

Resolved, That the governor of this state be requested to transmit a duly certified copy of the foregoing resolution to the governor of the state of New York, to be laid before the legislature of that state.

—[*Conn. Resolves and Private Laws*, iv, 841.

STATE OF NEW YORK:

EXECUTIVE DEPARTMENT,
Albany, January 25, 1856. }

TO HON. HENRY J. RAYMOND, *President of the Senate*:

I herewith transmit to the Legislature, certain resolutions passed by the General Assembly of the State of Connecticut, appointing Commissioners to fix the west boundary line of that State.

These resolutions, it will be observed, contemplate the appointment of similar Commissioners, on the part of our own State, to confer with those named in the first resolution as appointed by the State of Connecticut.

I deem the matter of sufficient importance to be laid before you; and would respectfully recommend that Commissioners be accordingly appointed on the part of the State of New-York.

MYRON H. CLARK.

—[*N. Y. Sen. Doc.*, 1857, No. 165, p. 62.

[STATE OF NEW YORK.]

April 5, 1856.

Whereas, it is represented on the part of the General Assembly of the State of Connecticut, that sundry differences and disputes have arisen among the inhabitants resident near the line dividing the States of New York and Connecticut, concerning said dividing line, and that most of the bounds and monuments erected on and along said dividing line, have been removed or destroyed, rendering it uncertain to which of said States sundry citizens resident as aforesaid belong, now, therefore, it is

Resolved, That the Governor appoint three Commissioners, to be duly commissioned by him, to meet the commissioners appointed by the General Assembly of the State of Connecticut, and with them, as soon as may be, to ascertain the boundary line between this State and the

State of Connecticut, and to erect suitable monuments at such places as they shall deem necessary to prevent any further mistake concerning the same; said commissioners to be authorized to employ necessary surveyors and chain men to assist as aforesaid, and to be required to report their doings, and the expenses attending the same to the Legislature of this State. And in case of the death or resignation of said commissioners on the part of this State, or either of them, the Governor of this State is hereby empowered to fill the vacancy or vacancies so occurring.

Resolved, That the Governor of this State be requested to transmit a duly certified copy of the foregoing resolution to the Governor of the State of Connecticut, to be laid before the General Assembly of that State.

—[*Concurr't Resolutions, N. Y. Sen. Journal*, p. 226; *Assem. do.*, p. 887.

STATE OF NEW YORK:

EXECUTIVE DEPARTMENT,
Albany, April 9th, 1856. }

In pursuance of the foregoing concurrent resolution, I hereby appoint Hon. Ben Field, of Orleans county, Hon. Samuel D. Backus, of Kings county, and Col. Jonathan Tarbell, of Essex county to be Commissioners on the part of this State, to act with the Commissioners appointed by the State of Connecticut, to ascertain and settle the boundary line between the respective States as specified in said resolution.

MYRON H. CLARK.

—[*N. Y. Sen. Doc.*, 1857, No. 165, p. 63.¹

[STATE OF NEW YORK.]

Chap. 47.

AN ACT to provide for the payment of the expenses incurred and services performed by the commissioners appointed to settle the boundary line between this state and the state of Connecticut, in pursuant of a concurrent resolution adopted April fifth, eighteen hundred and fifty-six.

Passed February 21, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of seven thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay the expenses incurred

¹We fail to find any record of the appointment of these Commissioners in the office of the Secretary of State. — [P.

and services performed by the commissioners appointed to settle the boundary between this state and the state of Connecticut, in pursuance of a joint resolution of the two houses of the legislature, adopted April fifth, eighteen hundred and fifty-six, to be paid by the treasurer on the warrant of the comptroller, on the rendering of satisfactory vouchers therefor, as follows, viz: to each of said commissioners at the rate of six dollars for each day's service actually rendered in the performance of their official duties, to be certified by a majority of the commissioners. To the commissioners, such sum as shall have been paid by them for expenses necessarily incurred in prosecuting the survey of said boundary line; the accounts to be audited by the comptroller.

§ 2. This act shall take effect immediately.

STATE OF NEW YORK,

No. 165.

IN SENATE,

April 10, 1857.

REPORT

Of the Commissioners appointed to ascertain the boundary line between the States of New York and Connecticut, appointed April 9, 1856.

* * * * *

In accordance with these resolutions [those of April 5, 1856], his Excellency Governor Clark, on the 9th April, 1856, appointed and commissioned on the part of this State, Ben. Field, of Albion, Orleans county, Samuel D. Backus, of Brooklyn, and Jonathan Tarbell, of Keeseville, Essex county, of whose appointment notice was communicated to the Connecticut commissioners.

Having no knowledge of any disputes or other occasion for the proceeding, except such as might be derived from the resolutions under which we received our appointment, we entered upon our duties anticipating their easy and speedy performance.

A meeting of the New-York Commissioners was appointed for the 27th day of May. A preliminary meeting with the Commissioners from Connecticut, took place, by pre-arrangement, at the village of Portchester, on the 3d of June, when a joint board was organized, and on the motion of one of the Connecticut members, Mr. Field was selected as chairman.

On this occasion our attention was given to the investigation of the existing difficulties and the means of their removal. "Lyon's Point" and other localities on Byram river, referred to in the official descriptions of the line, were examined; the chairman was verbally empowered

to procure a suitable engineer; and the board adjourned to meet at the same place on the 23d of the month.

The procurement of an officer of the General Government to conduct the survey was at first contemplated, but this intention was subsequently relinquished, and Mr. C. W. Wentz, of Albany, a gentleman of character as a citizen, and of distinguished reputation as an engineer, was selected for that delicate and responsible duty, and the Connecticut commissioners were duly informed of that fact. Mr. Wentz at once took steps for organising a surveying party, and we again met at Portchester, at the time appointed, when the survey was commenced.

In the mean time we gave the subject as careful an examination as circumstances would permit, finding it beset with difficulties, and embracing questions at once of extreme delicacy and great legal importance.

THE ORIGIN AND PRESENT CONDITION OF THE BOUNDARY.

The dividing line between this State and the State of Connecticut is derived primarily from an agreement made between the two governments in 1664, establishing it at twenty miles east of the Hudson river, with an adjudication stating the starting point and direction of such a line, according to the belief of the parties at the time. The agreement, though really made was not executed, but was superseded by the adjudication which was supposed to have the same effect.¹

This settlement proving to be grossly erroneous, led to an angry controversy, and in 1683 a new agreement² was made on the same basis as the former, providing however for the retention by Connecticut of certain territory on the sound, settled during the disputes, by persons from that colony, and the transfer to New-York of an equivalent along the northern portion of the line.

In accordance with this agreement, a partial survey was made the next year. The lines then run were resurveyed in 1725, and the residue of the boundary established and the requisite indentures executed in 1731. Copies of the various agreements, reports, laws and explanatory documents relating to these surveys, or extracts therefrom, will be found in connection with the second part of this report or in the appendix.

Since the last mentioned date [1731] there has been no official action of either State affecting this line. The doubts which have arisen during the century and a quarter which has passed, spring both from imperfections and errors in the work of the former surveyors, and the temporary character of the marks adopted to designate the lines which they established.

¹See appendix H. and I.—Agreement of November 30, 1664, and Settlement of December 1, 1664.—[P.]

²See appendix M.—Agreement of November 28, 1683.—[P.]

The lapse of time, the troublous years of the revolution, and the gradual settlement of the country have, on portions of the line, obliterated all trace of their operations, and at the time of our survey, doubts and uncertainties were found to exist along its entire length. Ranges of marked trees had long since disappeared; many of the heaps of stone originally erected had been scattered, leaving no memorial of their location, while modernized monuments presented their claims for recognition, confusing and distracting without satisfactory proof of their authenticity.

Traditions were found inconsistent and contradictory, varying the line in places to a considerable extent. Local surveyors, employed to ascertain detached portions of the line, by taking their direction from various traditionary points, had differed widely from each other and increased rather than diminished the general doubt. Along the whole distance the greatest uncertainty existed and a distrust and want of confidence in all the supposed lines rather than a disposition to contend for any. Residents near the border refrained from voting in either State, while officers of justice and collectors of revenue from both hesitated to exercise their authority up to any clearly defined limit. These circumstances were taken advantage of by those who desired to evade the payment of taxes or the severity of the law.

Each section of the line presents features peculiar to itself which are detailed in their order, beginning at Long Island Sound.

All the surveys, under the direction of the present commission, were made by the projection of straight lines, no reliance being placed upon the magnetic needle, either in pursuing straight courses or turning angles. The former surveys were made by the compass but the variation of the needle is not stated in the official reports.¹

BYRAM RIVER FROM "LYON'S POINT" TO THE "GREAT STONE AT THE WADING PLACE."

In the description of the boundaries of this State given in the Revised Statutes, the starting point is taken at Long Island Sound, as follows:

"Beginning at Lyon's Point in the mouth of a brook or river called Byram River, where it falls into Long Island Sound, and running thence

¹In some of the documents respecting the old surveys, mention is made of the variation of the needle at different periods. Investigation shows that the observations referred to were made with little regard to accuracy of time or place or to attending circumstances, and that they are practically unreliable.

The constant comparison of the needle with the direct lines run on our survey, proved that its *transient* deviations were very irregular, and so great as to render the compass an unfit instrument where correctness is at all desirable.

up along said river to a rock at the ancient road or wading place in said river, which rock bears north, twelve degrees and forty-five minutes east, five hundred and fifty rods, from said point." This description, in a note of the revisers, is said to have been compiled from documents in the office of the Secretary of State. It is not, however, identical in language with the description in any original agreement, report or confirmatory act which we have been able to discover.

In the published laws of Connecticut we find no recital whatever of the boundaries of that State.

This portion of the line is thus stated in the agreement of 1683, the first instrument fixing the boundary at this point, and that to which all subsequent action was designed to conform. "To begin att a Certain Brook or River called Biram Brooke or River which River is between the Towns of Rye and Greenwich that is to say att the mouth of the said Brooke where it falleth into the Sound at a Point Called Lyon's Point which is the Eastward Point of Byram River, and from the said Point to goe as the said River Runeth to the place where the Common Road or Wading place over the said River is." The Commissioners who surveyed the line under this agreement in 1684, reported that they "went to Lyon's Point on the East side of Byram River and from the mouth of the said river where it falls into the sea measured up the said river and found it to be one mile and an halfe and twenty rods bearing North halfe Easterly and so came to a great stone at the wading place where the road cuts the said river."

The next Commissioners who re-surveyed the line in 1725, and whose purpose was only to identify and distinguish the points established by their predecessors, reported that they had "surveyed from Lyon's Point to the great stone at the Wading place in Biram River and found that the said great stone bears North twelve degrees and forty-five minutes Easterly from the said point at the distance of five hundred and fifty rods." This is all that is given in the agreements and reports relative either to the starting point of the line, or its course until it reaches the "Great Stone."

The ambiguous language of the statute, as well as of the documents from which it was compiled, together with the fact that both of the former Boards of Commissioners surveyed a direct line from "Lyon's Point" to the "great stone," gave rise to a diversity of opinion in regard to the exact location of the boundary between those points. When we first went upon the ground we found three parties; one claiming a direct line, as formerly surveyed, throwing quite a village on the eastern side of the river into New-York; another, that the line followed the eastern bank of the river; and a third, that the boundary was the bed of the stream.

This diversity of belief had led to many difficulties and considerable litigation, in respect to wharf, and bridge privileges,¹ and the jurisdiction over vessels, and had greatly embarrassed the officers of justice in the discharge of their duties. The tide flows in Byram river as far as the "great stone" and it is navigable for coasting vessels two-thirds of that distance.

From a careful examination of the original documents, together with the explanations given in contemporary letters &c.,² we were convinced that the line was established in the river itself. Lyon's Point is mentioned not as the starting place of the boundary but for the purpose of designating the position of the mouth of the river. The measurement from the point of the rock, made in 1684, was for the purpose of ascertaining how far beyond the rock the direct line must be extended to complete the distance of eight miles "into the country" from Lyon's point as had been agreed; and its resurvey in 1725 was solely for a comparison and test of measurements.³

The Commissioners from Connecticut concurred with those from New York in this opinion respecting the true line. In consequence of the changes constantly being made in the banks upon a portion of the river, by the construction of wharves &c., it was deemed expedient to fix a practical line through the river following its general course, and to designate it in a permanent manner. The Commissioners accordingly caused an accurate trigonometrical survey of the river to be made, and all agreed, verbally, upon certain ranges which the line should be deemed to follow.

These have been marked by permanent monuments, consisting of copper bars, inserted in the rocks and systematically numbered. We have also caused an accurate map to be prepared, on which these ranges and the locations of the monuments are given.⁴

¹ In 1851, the Legislature of New-York granted a charter for a draw bridge from the village of Portchester "across the Byram river to the State Line on the Connecticut shore of the said river." Session Laws 1851, Chap. 266.

² See appendix N.—This reference is to Gov. Treat's letter of Dec. 3, 1683.—[P.]

³ See appendix W.—This reference is to the Commissioners' Report of May 19, 1725.—[P.]

⁴ See map No. 3.—This reference is to one of a series of maps or diagrams, four in number. These diagrams, "Lithographs of C. Van Benthuyzen, Albany," were issued as a separate pamphlet, under the title, "Diagrams showing the relative position of various lines referred to in the Report of the Commissioners on the New York and Connecticut Boundary, made to the Legislature of New York April 1857;" and with the exception of No. 1, they do not accompany the Report as printed and bound with the N. Y. Senate Documents of 1857, nor do they appear

"THE GREAT STONE AT THE WADING PLACE."

This is the brief and indefinite description of the point from which was to be commenced the survey of a line more than eighty miles in length. The "wading place" itself was long since superseded by a bridge and high embankments, causing changes in the course and bed of the stream, and rendering uncertain the precise place where the road originally crossed. Several large stones lie in or on either side of the river, any one of which in the absence of the others might be taken for the one intended, and their several claims for recognition as such were not without advocates among the residents of the vicinity.

After a careful scrutiny of the traditionary evidence, one of the largest of these "great stones," situated on the east side of the river near the end of the bridge, was selected from the rest as that best substantiated; but it was not till its identity had been demonstrated by the survey of the succeeding line, that it was fixed upon by the Commissioners from both States, as beyond question the stone referred to by the former Commissioners. It is now marked by a copper bolt inserted in its summit.

THE LINE RUNNING NORTH-NORTH-WEST FROM BYRAM RIVER.

The first direct course running, according to the agreement of 1683, from the "great stone" at the wading-place, "north north-west into the to have been filed in the office of the Secretary of State, but a copy has fortunately been preserved in the General Department of the State Library.

The following are the special titles of the respective diagrams:

- No. 1. Diagram [etc., as in the general title of the series already given. This diagram is a leaf of octavo size, and is duplicated, except as to part of the lettering, in the body of the Report, following page 35.]
- No. 2. Map of the Boundary between the States of New York and Connecticut with the adjacent territory. (Size 21×36 inches.)
- No. 3. Map of Byram River from its mouth at "Lyons" or Byram Point, to the head of tide water at the ancient Wading Place, showing the Boundary Lines proposed by the New York and Connecticut Commissioners, 1856. (16×48 inches.)
- No. 4. Diagrams of the New York and Connecticut Boundary, showing the several lines surveyed, with the relative position of each to the best defined traditionary line.

This diagram is in sections, designated successively:

Line from the "Great Stone at the Wading Place of Byram River" to the Angle at the Duke's Trees."

Line running parallel with the Sound from the Angle at the Duke's Trees.

Line running Northerly to the Ridgefield Angle.

Line running Northerly from the Ridgefield Angle to the Massachusetts Line.

(Mounted as two sheets, one 7×90 in. and the other 7×112 in.)—[P.

country so far as will be eight English miles from the aforesaid Lyon's Point," was beset with many perplexities and difficulties. The official description of its northerly termination [D]¹ is extremely indefinite. The Commissioners of 1725 reported in respect to it that where "the three white oak trees stood they buried some burnt wood in the ground and raised a heap of stones over it and cut the letters C R on a great stone lying in the ground there," and also marked the trees with certain letters. There exist no means of determining how far these "three trees" were from one another, nor the relative position or distance of the buried burnt wood or the marked rock. We could hardly hope to find any vestige of the trees.

At the place which tradition and the common consent of the neighboring residents designated as the one they had occupied, we found a stone nearly covered with earth, lying just at the edge of the traveled roadway, which, on being laid bare, disclosed the letters "C R," rudely cut upon one side in an antique form. The ground around the rock was carefully dug up, and about three feet from it a small quantity of charcoal was discovered. This spot we adopted as the termination of this course and its intersection with the next line.

Except at its extremities there exist on this section of the line, no traces of the work of either of the former commissioners. None of the monuments mentioned in their reports could be found, and in some instances we failed to identify either the fields in which they were situated or the sites of the houses by reference to which their position had been defined.

The doubts and difficulties arising from apocryphal and discordant traditions, imperfect local surveys, distrust by public officers, and impunity in the disregard of law already mentioned as common to the whole boundary, were peculiarly prevalent on this section. A fruitful source of difficulty was the liquor traffic, carried on with all the ingenuity for which the business is famous, by the erection of a building on one side of the supposed line, connected by an under-ground passage with a vault on the other, where the stock was deposited for sale. Thus the laws of either State could be evaded at pleasure, the unsettled condition of the line allowing it to be done with impunity.

For nearly the whole distance this section of the line lies in or contiguous to a thickly settled street, skirted with dwellings, out buildings, orchards, shade trees, and ornamental shrubbery, offering obstructions to sight neither to be penetrated or removed.

It was deemed advisable that this line should be established by the present survey with the utmost accuracy, not only on its own account, but because it would afford the means of comparison with the courses

¹ The letters in brackets refer to map No. 1.

of the former surveyors and might become essential in establishing the angles and directions of the remainder of the boundary. It was therefore run more than once, as more fully stated in the engineer's report.¹

Although a straight line was found to deviate at several places from that designated by tradition, there was no point presenting satisfactory evidence of its establishment by the former Commissioners, nor was there any proof that their survey deviated from the direct course which it was intended to follow. At one place, a young and thriving elm tree, a few feet west of the direct line was said to have been planted by the present generation where, according to tradition, there had been an ancient elm in the line of the early surveyors. The Connecticut Commissioners for a time urged the recognition of this tree, as an evidence of the boundary, but so entirely vague and unsatisfactory was the proof that they voluntarily abandoned it and concurred in the establishment of a direct line, agreeing verbally with us upon the places where monuments should be erected.

Stones have been set bearing the initials of the respective States on their opposite sides, but their position has not been finally confirmed by the Commissioners.

THE LINE PARALLEL TO THE SOUND.

The next section of the boundary, being the second direct course, starting at the termination of the last and running about fifteen miles parallel to the general course of the Sound, nearly in an east-north-east direction, was not so difficult to survey as that last described. The country was less densely settled and the line crossed high ridges, from which signals could be seen for long distances, a circumstance favorable both to expedition and accuracy in the work. There was also less doubt among the neighboring inhabitants respecting the location of the boundary. For a great portion of the distance, a fence dividing farms was regarded as the line.

The engineer started at the same angle with the last course, as that given by the former surveyors, but after pursuing this direction about two miles, it was found to deviate so steadily and so much from the recognized line, that he with the approval of the Commissioners present, (including both from Connecticut,) changed his course to correspond with the traditionary landmarks. This line was pursued until it reached the termination of this section, [H] at the most easterly angle of the boundary.

This is distinguished by a high heap of large stones, raised in the margin of a swamp. Its position corresponds with the official descrip-

¹ See Appendix B.—This is the Report of Engineer C. W. Wentz, made to the N. Y. Commissioners, Jan. 1, 1857.—[P.]

tion given of it, which fact with concurrent traditionary and circumstantial testimony, removed all doubt from the minds of the Commissioners of its having been erected in 1731 to designate this angle.

A heap of stones was also shown us, said to be at the south-western corner of the Township of Lewisboro. This it was claimed, was the same erected by the Commissioners in 1725, at the end of the lines surveyed in that year, to designate the southwestern corner of the Equivalent Tract, [E,] from which place the surveyors in 1731 prolonged the line to the monument already described. If this is so the latter surveyors made a deflection to the right, so that a straight line from the starting point [D] of the east-north-east line, to the monument [H] at its termination, would fall ten rods south of this intermediate monument, [E,] cutting off from Connecticut a long strip between such a line and one passing through the alleged intermediate monument.

A question arose between the Connecticut commissioners and ourselves upon this matter; they contending that the error of the former surveyors could not be corrected by us, but that we must follow their monuments wherever found, though not in the line in which they were intended and reported to be placed. To this we assented, but were not for some time satisfied of the identity or antiquity of the monument as claimed by them.

Our doubts have since been removed, mainly by the discovery of a map of the "equivalent lands," made by Cadwallader Colden, to illustrate his resurvey of them in 1732,¹ on which there is indicated the detection of this error made by him the previous year.

A line from the starting point [D] of this section, through the intermediate monument [E] to the monument [H] in the swamp, will follow nearly the course of the fences and other traditional indications of the boundary. Stones have been set up, but the correctness of their positions is still untested and unconfirmed.

THE LINE RUNNING NORTHERLY SIX MILES TO THE ANGLE EAST OF COURTLANDT'S POINT.

The remainder of the boundary follows the eastern line of the equivalent lands, which was never traced by surveyors as the lines previously described had been, but was established by an entirely different and very defective process, detailed in the accompanying historical sketch.

Leaving the monument in the swamp [H] where the last line terminated, as already described, the boundary passes in a course nearly north-northwest about six miles, to a monument, [I] at what, for convenience, we term the Ridgefield angle. This is nearly two miles easterly from a monument [F] fixed at twenty miles east of Courtlandt's or Verplank's

¹ MS. map among the Colden papers. Library of the N. Y. Hist. Soc.

point [M] on the Hudson river, by measurement of the commissioners in 1731.

The monument [I] is a heap of stones, not so unquestionable in its appearance as that at the end of the fifteen mile line, [H] but quite as well supported by the concurrent testimony of the traditions, usages and official acts of the neighboring inhabitants and their local authorities.

Between its two extremes this section of the line cuts across farms, passing through wood lots, &c., and as indicated vaguely by fences and prominent trees, does not differ greatly from a direct course.

We found neither monuments nor other evidences of the work of the old surveyors, sufficiently reliable to warrant any deviation from the straight line run by the engineer, and it was accordingly marked by him, with the concurrence of all the commissioners present, at such places as were suitable for the erection of monuments. None have, however, yet been set up.

SURVEY OF THE LINE FROM THE RIDGEFIELD ANGLE TO MASSACHUSETTS.

The line starting from the end of the last course and running a little easterly of north, fifty miles, to the state of Massachusetts, developed in a great degree, the difficulties arising from the peculiar mode of its original establishment.

In starting a datum or random line from the angle [I] the engineer could find no three points in the traditionary line to range with one another. Taking two well defined land marks about ten miles apart, he fixed upon a course which carried him within a comparatively short distance of the station he wished to reach. This was the monument [K] in the Massachusetts line, erected in 1731.

This line, the greater part of the way, lies near the summit of the high lands dividing the waters of the Housatonic river from those of the Hudson, traversing, however, in places, the valleys of several small streams and crossing one river of considerable size. For the greater part of this distance a path had to be cut through thick and often tangled wood, and for many miles the course lay over mountains exceedingly rough and almost inaccessible.

As the datum line was extended it deviated with so much apparent regularity from the traditionary line, as to encourage the hope that when the corrections should have been made and a straight line laid down, connecting the monuments, at the extremes of this course, it would be found to coincide nearly with the recognized boundary.

Such a straight line was accordingly fixed, by means of perpendicular measurements from the datum line at convenient places and its correctness tested by observations. Marks were set by the Engineer where

suitable for ranges, and also in such localities as he deemed proper for monuments, if a straight line should be determined upon as the boundary. Finding it, however, to vary from the recognized line we soon became satisfied that a further examination of the ancient monuments was needed.

The season being far advanced, and the investigations still to be made requiring less assistance, the surveying party was discharged on the completion of the straight line, the 3d of last November.

THE MONUMENT IN THE MASSACHUSETTS LINE.

The monument at the north end of the boundary consists of a heap of stones raised on the surface of a rock in 1731, and since recognized and added to by the Commissioners who established the boundary of Massachusetts in 1787, and those by whom the district of Boston Corner was set off from Massachusetts to New-York, as well as by the various local authorities of the three States which there join each other. It is described in the statutes as being in the south bounds of Massachusetts, and standing "in a valley in the Taghkanick mountains one hundred and twenty-one rods eastward from a heap of stones in said bounds on the top or ridge of the most westerly of the said mountains."

This description coincides nearly with that in the report of the last survey, but it is defective in some respects. The monument on the "ridge of the most westerly mountain" must have been found there by the surveyors, in 1731. Measuring eastwardly from there they made a steep descent, and being shut in by forests undoubtedly supposed themselves in a valley. The monument in reality stands a little to the south of the summit of a ridge connecting the two hills or mountains which run north and south. All the hills are now covered with young wood. The heap of stones on the western ridge is still undisturbed. A high and conspicuous cairn of stones, raised by visitors to the mountains, on a prominent peak about half a mile south of the Massachusetts line, is liable to be mistaken for a monument in the boundary.

The hill, from the last mentioned monument toward the west, is so precipitous that slides are laid for conveying wood down its side to the valley below. If the surveyors, in 1731, measured the specified breadth of the equivalent lands from the western corner [G], up this hill and must down its eastern slope by surface measurement as they reported, they not only have had a most difficult task, but also must have established the monument [K] at a long distance west of the spot it ought to have occupied.

THE RECOGNIZED OR TRADITIONARY LINE.

This section of the boundary was originally established, (as stated in detail in the accompanying historical sketch,) by measurements upon

the surface of the ground, at right angles, from the western line of the equivalent tract.

At the first break in the mountains about six miles south of Massachusetts, the recognized boundary is not far from thirty-one rods east of the straight line. A similar discrepancy, varying in extent, prevails along the whole length of this section, wherever the space between the eastern and western limits of the equivalent tract is smooth or presents few obstacles to accurate measurement.

On the other hand in one place where a mountain intervenes, both sides of which were to be measured, the traditionary line for a little distance is found to the westward of the straight line.¹

We found the variations so great yet so uniformly in accordance with this rule, that we were forced to believe that the actual results of the survey of 1731, were very different from a straight line which according to the agreements and reports it was the intention of the Commissioners to establish.

Some of the monuments erected in 1731 are found and identified beyond dispute, though not in the straight line. In other places though the monuments themselves are not yet and may never be identified, the land held in uninterrupted succession under the patentees of the "equivalent tract" is described as bounded on the State line and that line has never been questioned. The monuments erected and adopted in 1731, or the lines fixed by reference to them, have ever since been regarded as marking the limits of States, counties, towns, patents, and farms. In the survey of the equivalent lands, for the purpose of division and sale, made by Colden in 1732, in accordance with which most of the land on the New-York side of the line is held, the original monuments erected the previous year were taken as authentic bounds.

The limit thus fixed has always been officially recognised as authentic by the public authorities on both sides.

It is impossible that, among interests so great and so diverse, an error of this nature and magnitude could have crept in without question or resistance since the survey.

While in many places there is not a reliable tradition in regard to the exact locality, the line being ranged by ledges, rocks or trees, and exceedingly crooked; yet, in other places, the vestiges of the former surveyors are visible and not to be mistaken.

Even when uncertainties exist, the limits beyond which the greatest discrepancy, in the belief of the neighbors, does not carry the line, are far within the deviation from a straight course.

The whole territory included between a straight line and the best defined traditionary line is about twenty-six hundred acres, being forty-

¹ See Map No. 4.—Described in foot note, page 393.—[P.]

two rods wide in its greatest breadth, and extending nearly the whole length of this course. Its form can best be seen by reference to Map Number 4,¹ accompanying this report.

It comprises two or three hundred inhabitants, who have always, without question, acted as citizens of this State, and the polls of at least one New-York election district have for generations been held within its limits.

DISAGREEMENT OF THE COMMISSIONERS FROM THE TWO STATES.

Neither of the Connecticut Commissioners were present upon the completion of the straight line. Finding that an unanticipated investigation had become necessary, we at once notified them of our wish for a conference with them at the earliest day, and requested a meeting on the 6th of November, at Stamford, the residence of one of them.

This meeting was attended by both the Connecticut Commissioners and by the undersigned from this State, but it proved a brief and informal interview. We proposed to submit subjects for consideration, the reception of which being refused, we then stated them. They had for their object the settlement of the line on the basis of the original monuments; the definite and joint statement of the portion of the line already verbally agreed upon; a joint statement of our differences if any; and an adjustment of the expenses of the survey.

These were rejected, the Connecticut Commissioners refusing to consider any other settlement of the boundary than upon a straight line, and one of them denying any adjustment of accounts till monuments should have been set on such a line, upon which the interview was terminated.

We remained in town the next day, endeavoring to effect a satisfactory understanding. In this effort we were aided by one of the Connecticut Commissioners, but wearying in this attempt, after furnishing us with a statement of his expenditures on the joint account, he left for his own home.

NATURE AND EXTENT OF OUR POWERS.

We had from the first held the opinion that we had no authority beyond *finding* and *distinguishing* the true boundary already existing, as it was agreed upon in 1683, and finally laid down in 1725 and 1731, respectively; our action could make no new line and could at the most be only in the nature of a verdict as to the position of the old one, which the courts could set aside on the application of any one aggrieved by our decision, if it could be proved erroneous. In finding this line we believed we were to take the marks left by those who established it as conclusive evidence, however much they might vary from the intentions of those who placed them.

¹ See foot notes, pp. 393, 399.—[P.]

It was true that the commissioners in 1725, agreed that a straight line should be run from the monument opposite to Courtlandt's Point to the Massachusetts boundary, and that in 1731 it was reported to have been so run; but the very statement of the mode in which the work was conducted shows that such could not have been the fact. But whether the lines as run and designated by monuments coincided with those intended to have been run, does not, in our view, affect the question of the present line.

In the agreement of 1731 it is expressly provided that the lines there described "as the said lines run, *through the several monuments* above mentioned, to have been erected by the said commissioners, on the east side of the said additional lands shall remain from henceforth the lines of partition and division between the province of New-York and colony of Connecticut forever."

In the act of the Connecticut General Assembly, passed October eighth, 1730, it was recited that in 1725, a part of the boundary "was actually run and *ascertained by proper monuments,*" and the line, so far as run, was ratified. And then in reference to the remainder of the line, at that time still to be surveyed, after reciting the agreement, it was enacted that "the lines when run and the *places distinguished through which they should pass,*" should be the boundary. New-York ratified the line in a similar manner. It thus appears that the monuments upon the whole boundary were established by law without regard to the preliminary agreements entered into by the surveyors; we therefore have never supposed that the commissioners had any authority to correct the errors of their predecessors, or any discretionary power in relation to this matter, beyond the examination and admission, or rejection of the evidences which might appear as to the identity of the old line; on this principle all the work had been conducted and it had been repeatedly recognized and urged by the Connecticut commissioners, as previously stated in this report.

ADVICE OF COUNSEL.

To prevent the chance of mistake in regard to our powers and duties, and for the purpose of facilitating a settlement of the matter upon a correct and sure basis, we submitted the papers to Hon. George A. Simmons, Member of Congress, and chairman of the judiciary committee,—distinguished in his profession for his experience and knowledge in matters involving questions of land titles or boundaries—for his advice.

He prepared an elaborate written opinion which was mailed at Washington directed to us at Albany. It has not been received and although the Post Office Department volunteered to search for it we fear it is

irrecoverably lost. For the substance of this opinion reference is made to the letter¹ of Mr. Simmons to us.

Judge A. C. Paige, of the court of appeals, and judge Lucien Birdseye of the second district, were also consulted and coincided with the opinion as given by Mr. Simmons, though neither of them have written out their views. Under this advice we did not feel at liberty, however much we might otherwise have been disposed to do so, to yield at all to the demands of the Connecticut Commissioners, but considered it our duty to insist upon the line as marked by the former surveyors and that only.

CORRESPONDENCE WITH THE CONNECTICUT COMMISSIONERS.

To simplify our relations as much as possible, and to avoid their complication by misunderstanding or imperfect recollection of what had passed between us and the Connecticut Commissioners, we on the 12th of November last, gave written notice to each of them of our withdrawal of any propositions which they might suppose us to have previously made, at the same time, intimating our desire to receive others.

Hearing nothing from them we advised them, Dec. 2nd, of our having consulted counsel and requested an interview at their earliest convenience, for the adjustment of all our differences, or a joint recital of whatever matters we might not be able to agree upon. By this means we hoped to avoid the probable variances of ex-parte statements and to hasten the settlement so much to be desired.

This having been disregarded, we again wrote on the 17th of December, soliciting a statement of accounts.

Receiving no response we wrote again on the 26th of the same month, for special information relative to certain workmen's accounts.

On the next day we received a letter dated December 23d, signed by Mr. Holly alone, but not meeting the questions actually stated by us. Mr. Whiting, in a private letter, gave in part the information asked in our last communication, but with no satisfactory reply to the chief matters which we had proposed. These being individual and unofficial letters, and in no sense a reply by the Connecticut commission, we wrote them again on the 19th of January, recapitulating our former requests and renewing the propositions for a just and speedy termination of our difficulties, in more strong and definite language, at the same time demurring to any individual letters or irrelevant matters.

A joint note from both the Commissioners, assuming and endorsing Mr. Holly's letter of December 23d, has been received and replied to by us.

¹ See appendix C. Letter of New-York Commissioners, January 19th.—Mr. Simmons' opinion, as subsequently rewritten, is annexed to this reprint of the Report. See page 426 *post.*—[P.]

All the correspondence referred to, except Mr. Whiting's unofficial letter, will be found in its proper order in the appendix.¹

EXPENSES.

Although the resolution originating the commission directed that its expenses should be reported to the Legislature, no appropriation was made for their payment. Understanding that arrangements had been made for the needed funds in anticipation of an appropriation by the Legislature, we entered into engagements for the prosecution of the survey.

Disappointed in this respect, the undersigned were compelled to make other provision or suspend the work. The Bank of the Republic, in the city of New-York, on the introduction of John Thompson, Esq., relieved us from our embarrassment and enabled us to continue our operations, relying upon an early appropriation for its repayment.

In the mean while we were for some time without the means of meeting our proportion of the expenses which were accruing, while for the expenditures of the Connecticut Commissioners an appropriation had been made by that State.

The survey being jointly conducted by the two commissions, its wants were provided for by the several members, as at the time was most convenient, and bills were commonly paid by those who contracted them. That confidence being placed in the honor of each of the Commissioners to which his position entitled him, there was a comparative disregard of the relative amount of payments from the two States while the work was in progress.

In consequence of the absence of the Connecticut Commissioners and from other causes, during the latter half of the survey, an undue share of the outlay fell upon us, borne the more cheerfully because of our early want of funds.

At various times an adjustment of accounts between us was proposed by either party, but the absence of individuals or of memoranda had prevented it, up to the interview Nov. 6th. This was the first opportunity which had occurred for a settlement in many weeks, Mr. Holly not having been present upon the latter half of the survey. As the work was now suspended it was right and proper that our financial matters should be adjusted independently of all other questions.

The utter refusal of our request at that time both disappointed and astonished us. Upon the other matters agitated, we can see ground for an honest difference of opinion, involving as they do, important legal questions. For the course taken upon this matter on the occasion

¹ It is not deemed important to reproduce that correspondence in connection with this reprint of the Commissioners' Report.—[P.]

referred to, and the persistence up to this time in the denial of a settlement except upon an impossible condition, no justification has been attempted, nor can we imagine any motive consistent with the relations of the Connecticut Commissioners to us and their own State.

Although we were confident that our payments had exceeded those made by them, we paid or guaranteed the debts of the joint commission, so far as known to us, being unwilling that the credit of our State should suffer by their action, and preferring that the State of New-York should hold the claims against Connecticut, rather than that individuals should be deprived of their dues or be put to inconvenience in recovering them of the Connecticut Commissioners.

A law was passed by the present Legislature, approved by the Governor, February 21st, 1857, appropriating money for the payment of the expenses incurred and services¹ rendered by the Commissioners in prosecuting this work, in accordance with which the following sums have been paid by the Comptroller, the accounts for the same being deposited in his office.

ON ACCOUNT OF THE JOINT COMMISSION.

For services, board and transportation of engineers and assistants, and for various miscellaneous items,	\$2,637 99
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ON ACCOUNT OF THE STATE OF NEW-YORK.

For services, traveling expenses, &c., of commissioners, cost of maps, copies of documents, &c., &c.,	3,072 57
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ON ACCOUNT OF THE STATE OF CONNECTICUT.

For board of Messrs. Whiting and Holly at sundry times,	11 00	
	<hr style="width: 100%;"/>	<u>\$5,721 56</u>

Other expenses incurred and paid by the commissioners, not being yet settled at the Comptroller's office, are not stated here.

Of the sums stated as paid, on account of the joint commission, we are uncertain what proportion is properly chargeable to Connecticut. As already related, one of the commissioners from that State not only refuses a settlement of accounts, but even a statement of expenditures. We have, however, from the Comptroller of Connecticut, received an exhibit of the money paid by him to the commissioners, in which there

¹See appendix E.—This is chapter 47, N. Y. Laws of 1857. See page 387, *ante*.—[P,

appear items supposed to be properly chargeable to the joint commission, amounting to \$936.06.

This would make the balance in favor of New-York \$850.96; but we are aware of large items incurred, and, as we had supposed, paid by the Connecticut commissioners, which do not appear in the Comptroller's statement. If these have been paid they will reduce this balance; if not, a part of them, at least, will be assumed by us and will enhance it.¹

WHAT HAS BEEN ACCOMPLISHED?

Although we are unable to report a complete performance of the duties assigned to us and a satisfactory settlement of the questions pertaining to them, none of the work executed will be rendered unnecessary by the differences which have arisen. The survey was suspended at such a point that whatever line may be finally adopted, the work remaining to be done will be but the completion of what we have already commenced.

About thirty miles of the boundary is practically determined.

On the remaining portion, more than fifty miles in length, a straight line connecting its extremities has been run, and marked, forming a basis for such additional operations as may be necessary to distinguish the points in the boundary which may hereafter be fixed upon.

The relative position of this line and the ancient line in many places has been ascertained.

The entire survey thus far is one in which we take pride for its thorough, accurate, expeditious and economical execution, as compared either with former surveys of the same lines or with similar work at the present day.

The necessity of the work has been demonstrated and a state of facts disclosed relative to the vagueness and imperfection of this boundary, which is at the same time a discredit to the Government of both the adjoining States and a high testimonial to the patience, forbearance, and placable disposition of the people on either side.

The causes of these doubts and difficulties have been investigated; records, public and private have been searched and compared, and the

¹The comparative cost of this survey, and the last one executed previously, may be judged from the following facts:

In 1717 New-York appropriated for the expenses of settling the line seven hundred and fifty ounces of plate. This was exhausted before 1725. The bills paid by New-York for the survey of that year, extending twenty-one miles, amounted to £198 9s.² How much Connecticut had paid in addition to this does not appear. The cost of completing the lines in 1730, which was borne by the patentees of the equivalent tract, is stated by them to have been more than £2000.

All these were inferior compass surveys, made without cutting a transit path through forests, &c.

²See appendix X.—See page 348, *ante*.—[P.]

papers relating to the origin, progress and former attempted settlements of the disputes on this subject thoroughly examined.

The facts relating to the line are mainly ascertained and the questions reduced to a simple one of law, easy to be determined.

Aside from its utility in determining the boundary the survey has incidentally been serviceable in other respects.

STATE MAP.

It shows the importance and pressing necessity for an official State map. Though we may be justly proud of the enterprise and munificence of the Empire State, it is surpassed by several of its neighbors in the provisions made for the correct delineation of the form and features of the surface and the divisions of territory, as well as in the care taken for the preservation of "the ancient landmarks."

There are no accurate or authentic maps of town or county limits deposited in any public office. In many cases the bounds are designated in no wise on paper or on the land, except by heaps of stones or marked trees. Whatever is known to the public of the courses of streams, the height or extent of mountains, or the windings of roads is learned from maps prepared from most imperfect information, and published at private risk. Occasionally the State has been called on to purchase an edition of a "State atlas" compiled by individual enterprise, many years since, from such materials as then existed, and it has thus assumed a sort of official character. The unreliability of this work appears from the discrepancies which our survey has disclosed.

We cannot refrain from alluding to the facilities for the execution of such a work as would be creditable and in the highest degree useful to the State, afforded by the operations of the United States coast survey, already extended over five counties. In one of them a long and accurate base line has been measured, from which triangulations have been extended in the vicinity of the Hudson river into the very heart of the State. The corps of United States Topographical Engineers on the lakes has also rendered much valuable service, and the magnetic telegraph in connection with the Dudley Observatory, so munificently endowed by our citizens, is ready to join these operations with one another and determine the true position of scores of prominent towns.

With the contributions to the *detail* of such an enterprise, which may be derived from the canal and railroad surveys, we class the information furnished by our work, as being accurate, full and reliable.

PRESENT CONDITION OF THE BOUNDARY.

The action of the Connecticut Commissioners, if nothing further should be done, would result in leaving the line in a worse state of con-

fusion than that in which it was found. There is now, for the first time in this century, a "disputed territory." The inhabitants along the line are in great perplexity. Unpleasant feelings have arisen which can only be prevented from becoming more serious and permanent, by the most prompt and decisive action.

One of the Connecticut Commissioners has advised citizens of New-York residing within the lines of the survey, to vote in Connecticut and many are in doubt respecting their own citizenship.

For the purpose of quieting the people along the line we have issued a circular, denying that any change of line has been made, which is given in the appendix.¹

WHAT REMAINS TO BE DONE?

Before the purposes of the commission shall be accomplished, work of much importance is to be done, requiring the exercise of prudence and care; yet nothing which with a disposition to settle justly and perpetually the questions which have arisen may not be done with little loss of time or expenditure of money.

Whether we are bound to follow the ancient monuments, or may endeavor to correct old errors, is a legal question which may be quickly disposed of if both parties desire its decision.

If our view is correct, on the upper portion of the boundary the identification of the original land-marks is to be completed and their relative position to the lines laid down by the survey, ascertained. The boundary fixed upon is to be marked by monuments. Stones for this purpose are already prepared.

On the lower section of the line, the correctness of some of the monuments already erected is to be tested, and at points a further investigation of the old line may be required.

When the true line shall thus have been identified and distinguished, a minute and careful description of the position of each of the monuments erected is to be made and executed by both commissions in testimony of the official establishment of the bounds and for future identification of the monuments or their sites. Copies of this agreement should be deposited in the local offices of record on both sides of the line as well as with the Secretaries of the States; and perhaps for more certainty, it should be ratified by the two Legislatures.

If there shall be liability of delay in the settlement of disputes on any portion of the line, that part which does not give rise to them should be officially described at once.

The accounts of the commissioners are to be adjusted and any balance paid, which may be due to either State.

¹ See appendix F.—Not included in this reprint.—[P.]

WHO ARE RESPONSIBLE FOR THE TROUBLES?

Why all this has not been done has already been stated. We cannot take the responsibility of the failure upon ourselves; we are conscious of no lack of proper effort to prevent it.

Associated with strangers and charged with ascertaining the correct, among the many erroneous lines, from the rubbish of countless traditions, piles of musty documents as indefinite as verbosity could make them, and from a combination of true and false landmarks, our duty was one of exploration and investigation, the varying phases of which we could neither anticipate nor provide for.

We have been liberal to the very limit of our powers and to the last degree consistent with our duty to the State; our individual convenience and personal feelings have in all cases been made to yield for the accomplishment of the purposes of our appointment, and to our endeavor to prevent or to terminate controversies with our associates from the other State; we have been unsuccessful in these efforts, and see no prospect of agreement with them so long as they adhere to their present determination or while either of them may prevent the adoption of a different policy.

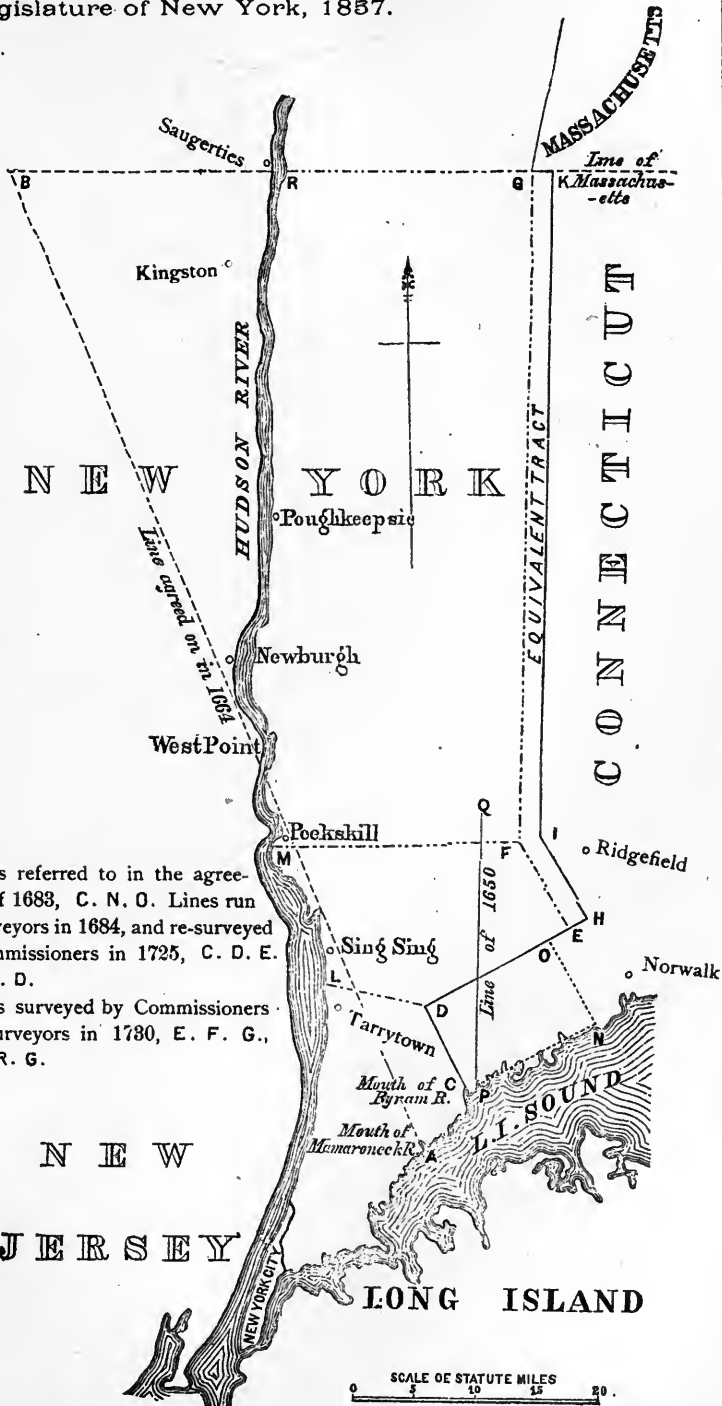
It is not for us to propose the method for the removal of these difficulties. With the STATE OF CONNECTICUT rests the responsibility of future action, and we cannot believe that when the facts become known, any unnecessary delay will be permitted by that STATE in the settlement of the troubles existing, in a manner consistent with its dignity and the honor of its citizens and their public officers.

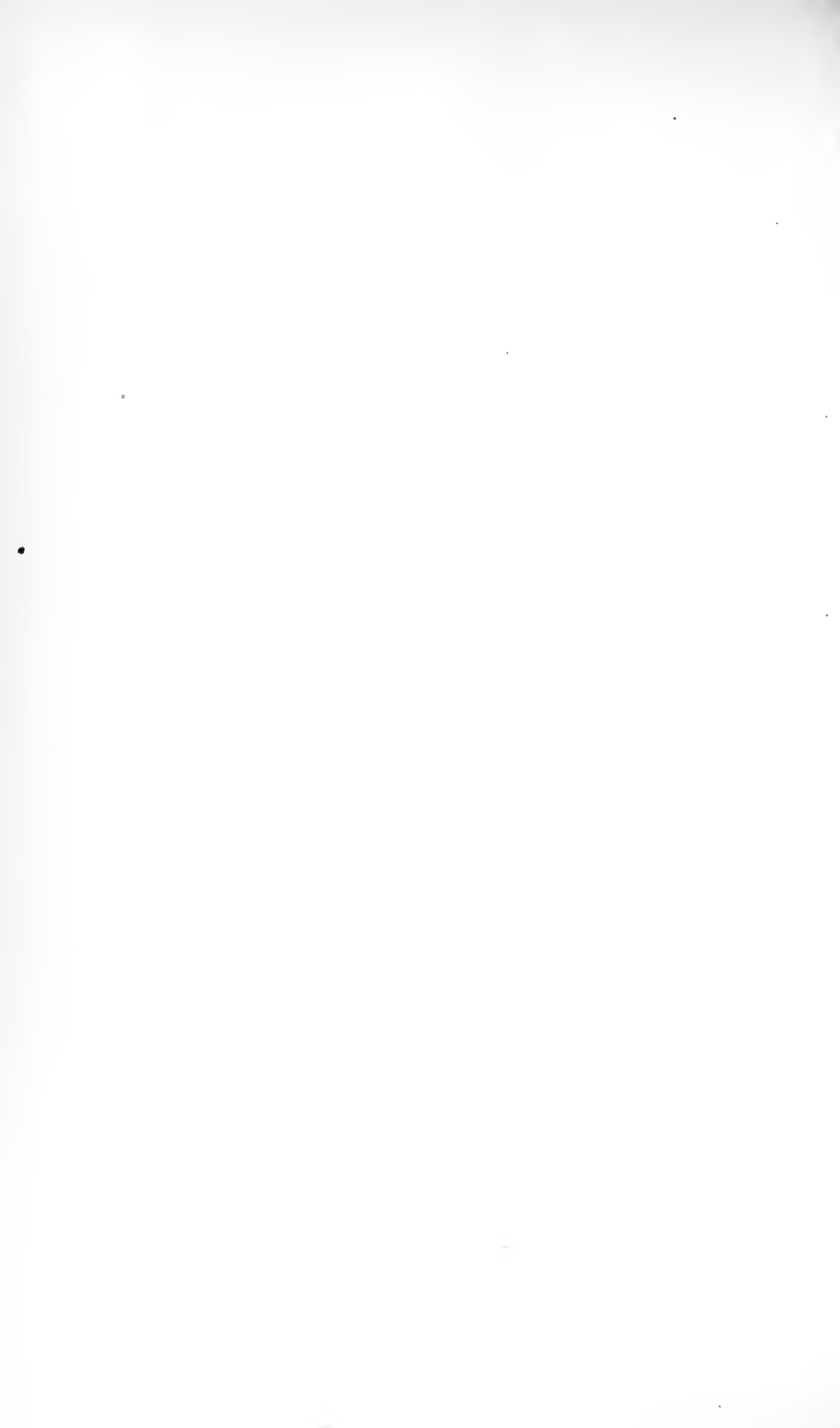
ACKNOWLEDGMENTS.

We take this opportunity to return our acknowledgments to the people living near the routes of our survey, to whose hospitality and ready assistance in promoting our work, often at much inconvenience to themselves, we were greatly indebted; to Mr. Wentz, the engineer, whose skill, persevering industry, sound judgment and excellent management were apparent through the whole work, winning the confidence of all; to the various members of the surveying corps who performed their arduous and often disagreeable duties with energy and cheerfulness; and to Mr. Andrew Perry, one of the number who for a time represented the Connecticut commissioners in their absence, exhibiting varied information and practical qualifications which rendered him an eminently useful and agreeable associate.

Valuable assistance in the investigation of the historical questions has been rendered us by Mr. George H. Moore, librarian of the N. Y. Historical society, and by Dr. E. B. O'Callaghan, but for whose systematic arrangement of the papers in the Secretary's office and his familiarity with their contents, our labor would have been greatly enhanced.

DIAGRAM showing the relative position of various lines referred to in the Report of the Commissioners on the New York and Connecticut Boundary, made to the Legislature of New York, 1837.





ACCOMPANYING PAPERS, &c.

We have endeavored to relate in as concise a manner as possible without prejudice or coloring, the facts connected with our own transactions. For the better understanding of the causes which led to the establishment of the commission the main features of the previous controversies and negotiations are given in a historical sketch annexed. The various legislative proceedings, correspondence, and other papers referred to in connection with our proceedings, and a report made to us by the engineer, may be found in the appendix. We have also appended literal copies of the more important of the many documents examined by us in connection with the early history of this matter. The originals are deposited in the Secretary's office and elsewhere, and but few of them have ever been printed while others have been but imperfectly so. As important interests depend upon them their preservation in print seems desirable.

A small diagram of the various lines fixed at different periods has been prepared to illustrate the report and history. Also a general map of the boundary with the original surveys, &c.; a plan of Byram river; and plans showing the relative position of the best defined traditionary and surveyed lines on other parts of the boundary.

"CAPTAIN'S ISLAND."

We have learned that in addition to the boundary questions, there is also a controversy respecting the jurisdiction over Captain's Island lying in the sound near the mouth of Byram River. As the extent of our powers in respect to this matter was quite uncertain we entered into no negotiation regarding it and made no investigations, except incidentally, into the origin or extent of the disputes. We are, however, satisfied that some decision of the question is urgently required.

SUMMARY.

A survey has been executed under the direction of the commissioners of both States, acting as a joint board, regularly organized.

The uncertainties of the line, the defects of the statutes describing the boundaries, the want of reliable surveys or maps, and the necessity for the work, have been demonstrated by this survey.

The boundary for thirty miles is mainly ascertained.

Upon the remaining fifty miles a legal question arises. The former surveyors first agreed and undertook to lay down a straight line from the Ridgefield angle to Massachusetts. Having performed the work by the erection of monuments, they subsequently, by a further written

agreement, declared "the line" to be "through the monuments" thus erected.

The line, thus marked and established in 1731, is found to differ widely from a direct course. Acting under advice of counsel, we adhere to the ancient landmarks as denoting the legally recognised boundary, which alone we are authorised to ascertain and mark; while the Connecticut commissioners contend for a straight line, assuming to adopt it upon our *implied* assent.

Such a straight line was run, as a matter of course, in the regular progress of the survey, and as a necessary preliminary to the identification of the correct landmarks, and marked at points selected conditionally for monuments, if it should be finally fixed upon.

It was to be supposed the boundary would coincide with a direct line. If, upon the decision of the legal question, the true line shall be declared to follow the straight course, there only remains to the completion of our work the erection of monuments; if, to pass through the points fixed in 1731, there is an accurate base line for future operations.

But that line was not declared the boundary, nor have we at any time assented to it as such.

By the resolutions under which we are acting, our powers and duties are limited to ascertaining and marking the boundary assumed to exist, not extending to the establishment of a new one.

The following propositions have been repeatedly presented to and urged upon the consideration of the Connecticut commissioners:

First. To "ascertain" the boundary marked in 1731 as the only line we have a right to adopt in the legal performance of our duty.

Second. The joint execution of instruments in writing declaring and identifying the lines we shall adopt.

Third. The execution of these respecting the parts of the line we now agree upon.

Fourth. An adjustment of our financial affairs.

Fifth. A joint statement of the questions on which we differ, with the position of either party, in order to facilitate their determination.

The Connecticut Commissioners, upon the lower portion of the line urged an adherence to the old monuments, but in respect to the remainder, while they neither assent to or deny any of our propositions, they contend for a straight line.

If the position we assume is correct and shall be maintained, the boundary will remain as it always has been, unchanged, except that where it is now in doubt or confusion, it will, when the work shall have been completed, be rendered plain and unmistakeable.

On the other hand, if the claims of the Connecticut Commissioners are allowed, a tract of land embracing several thousand acres, with its

inhabitants, including a thriving village hitherto unquestioned as a part of this State, will be transferred to Connecticut.

Such a transfer would be both illegal and unjust.

An investigation of the method by which the "equivalent tract" was set off to New-York in 1731 shows that the errors committed were in favor of Connecticut, and their correction, by removing the northern terminus of the line towards the east, would, we are confident, add territory to our State that has been hitherto possessed by Connecticut. The mistakes of the former Commissioners, however, were adopted by them, ratified by both Legislatures, and ever since have been adhered to, concluding all parties.

It is undoubtedly better to leave the inhabitants on both sides undisturbed, than to attempt (if legally empowered to do so,) to change the political relations of people who, for a hundred and twenty-five years, have dwelt in perfect confidence in their allegiance to the respective States.

Especially would it be unjust by correcting errors in part only, to detach land from New-York to Connecticut, which State originally retained too much, and since their increased value has accrued under this State. Such a dismemberment of our State we can but resist, and trust when the facts become known to the people of Connecticut it will not be further attempted.

All which is respectfully submitted,

SAM'L D. BACKUS,
J. TARBELL.

The undersigned having spent less time than his associates, Messrs. Backus and Tarbell, with the party engaged in the survey of the line, has but limited personal knowledge of the facts involved in the matters of difference, and especially those of a personal nature, which have arisen between them and the Commissioners on the part of Connecticut; and in these personal differences he prefers to take no part.

The position assumed, however, by his associates, under the advice of counsel, that this commission is bound to follow the line actually run and established by the former Commissioners, has his fullest concurrence.

A difference of opinion on this point appeared at the first joint meeting of the Commissioners. It was intended on the part of the Connecticut Commissioners that we should be governed by the courses and distances as given in the description of the boundary, disregarding all monuments except those at the angles. The undersigned, on the other hand, insisting that intermediate monuments should control equally with those at the termini of straight lines. That we had no authority except to ascertain, by the best evidence we could find, the line as actually run by the

Commissioners who established it. And we had no power to change such line in any particular, whatever errors had been committed in the original survey.

At the next meeting it was decided to commence the survey, by running a direct line between "The Great Stone at the Forging Place" and "The Duke's Trees," and that this should be regarded as the true line unless evidences to the contrary should be found; the Connecticut Commissioners thus yielding the principle for which they had previously contended.

Subsequently, and during the absence of the undersigned, such action was taken as has resulted in the Connecticut Commissioners re-assuming their original position, and in the present disagreement between them and the Commissioners on the part of this State.

BEN FIELD.

* * * *

(B.)

ENGINEER'S REPORT.

ALBANY, Dec. 17, 1856.

C. W. WENTZ, Esq., *Engineer in charge of the*
New-York and Connecticut boundary survey.

DEAR SIR.—Questions between us and the Connecticut Commissioners are assuming such an aspect that they may prevent an immediate adjustment of the boundary. We may therefore be compelled to make an *ex parte* statement of our doings thus far, and shall esteem it a favor if you will furnish us the details of the work as far as the survey has progressed, with the necessary maps, in advance of your report to the joint commission.

A full description of the points conditionally selected for monuments on any portion of the line, need not, of course, be included.

Respectfully yours, &c.,

SAM'L D. BACKUS,
J. TARBELL,
Commissioners.

MESSRS. BACKUS and TARBELL, *Com'rs, &c.:*

GENTLEMEN.—I herewith transmit a report of the surveys of the boundary line between the States of New-York and Connecticut, prepared in compliance with your request.

Respectfully, &c.,

C. W. WENTZ, *Engineer.*

ALBANY, January 1, 1857.

REPORT.

The survey party, consisting of the chief engineer with John L. Stephenson as assistant, two flagmen, two chain bearers and an axeman, was fully organized at Port Chester, on the 25th of June last, and the survey commenced at the north end of the line, described in the original survey as running from the "great stone at the wading place in Byram river," to the "Duke's trees."

It was deemed advisable to trace this line from the north angle, as this point could be identified with more certainty, and a better opportunity was afforded for procuring a range that would approximate to the line.

On arriving with our datum line at Byram river, I found a departure from the point fixed upon, as being the one described in the original survey as the "great stone at the wading place," of 7 chains and 36 links to the west, in a distance of $574\frac{36}{100}$ chains as measured.

I may here remark that in all the measurements made on the lines between angles, I adopted the system pursued in the original survey, to wit: surface measurements, making such deductions for the purpose of calculating angles as, from a close observation of the irregularities of the surface, might be deemed necessary.

Having calculated the angle necessary to overcome the departure, the line was retraced in detail and measured; and from this line, the points at which monuments were to be set, were established.

A careful examination of the whole line was made, in connection with the survey, to ascertain if any of the monuments designated in the original survey could be identified, but none were found.

This line, as finally established, commences at a large rock, rising considerably above the surface of the ground, in which it is imbedded, situated on the easterly side of the Byram river, near the east end of the bridge, and upon the northerly or up river side of the same, and is supposed to have been fixed as being at the head of tide water.

Pursuing the line from this point, its magnetic bearing is north $24\frac{1}{4}^{\circ}$ west. At 8 chains it crosses Byram river, and leaving the valley of the stream, follows near the westerly declivity bordering the stream, for about $1\frac{1}{2}$ miles, when it approaches the east line of "King street road," along which it runs for about 1 mile, when the road diverges to the east and the line crosses to the west side, and thus continues, varying in distance from the road, from 3 to 5 chains, for about 50 chains, when it is again transferred to the east side of the road and is traversed, nearly parallel to it, for over $\frac{3}{4}$ of a mile, when it again crosses to the west side. From this point the road gradually diverges from the line, reaching a distance of 15 or 20 chains east of it, and only approaches it, and

is crossed and recrossed by the line, at a bend in it near the 465th chain, the line keeping on the west side, with the above exception, to near the 490th chain, where it again crosses to the east side, and remains, varying from 5 to 8 chains in distance, to near the termination of the line at the angle described in the original survey; being in the road, a little to the west of the carriage track.

The stone described in the original survey, as being marked with the letters C. R., was here found with the letters distinctly visible.

The surveys for this line were completed on the 12th of July, the party having been disbanded for three days in the interim.

SURVEY OF BYRAM RIVER.

Before changing the location of the survey party, it was deemed advisable to make the surveys necessary to establish the line along the Byram river, from "Lyon's Point" to the "great stone at the wading place." A minute and accurate survey was therefore made of the river, and a portion of the shore of the Sound to the eastward of the Point.

This survey was made upon the east or Connecticut side of the river, and covers a base line 203 chains in length, with about 100 triangulations, and is illustrated by the accompanying map in detail, to which reference is made.¹

The proposed division line is fixed by monuments and reference points, established on the river bank, which points are designated by permanent marks easily identified.

This branch of service occupied the party until the 24th of July.

LINE RUNNING PARALLEL TO THE SOUND.

The party now resumed the survey of the line commencing at the angle at the "Duke's Trees," where the line from Byram river terminated.

In starting from this point it became necessary to rely somewhat upon the data furnished by the original survey in establishing a datum line, and it was determined to make the same angle from the established line as is shown by the magnetic bearing given of the two lines in the original survey. This gave a magnetic bearing for the line of north $66\frac{3}{4}$ deg. east, which we adopted and traversed the line about 2 miles, when it was ascertained that we were diverging considerably to the south of the traditionary marks of the State line, and it was therefore deemed advisable to change the bearing of the line.

This rendered it necessary to return to the "Duke's Trees" corner, and the bearing of the datum line was changed so as more nearly to approximate to the traditionary line, giving a magnetic bearing of north $66\frac{1}{2}$ deg. east.

¹ This map is, or diagram No. 3, described on page 393, *ante*.—[P.]

The datum line thus adopted was laid on an offset of 2 chains and 35 links southerly of the angle at the "Duke's Trees" for the purpose of avoiding the obstructions which intervened immediately on the line. The datum line was continued on this offset to its termination.

The country over which this line passes differs in character from that traversed by the lines from the "wading place in Byram river" to the "Duke's trees." The latter follows more nearly up the water courses from the sound, and as a consequence encounters few irregularities of surface, while in the case of this line, it runs parallel with the sound and crosses the streams and ridges at right angles.

In this way the main branch of Byram river is crossed, near its head waters, at 75 chains, and "Brundage's ridge" at 190 chains; descending "Brundage's ridge" another branch of Byram river is crossed near the 240th chain. The line immediately ascends another elevation, and passes over a rolling and somewhat broken surface, to the small village of Banksville near the 430th chain, where it crosses the Maharness river, which here runs northward, and reaches an elevated ridge, (McKay's,) bounding the valley of Maharness river, at the 575th chain. The traditionary line, at McKay's ridge, is some rods north of the datum line.

Maharness river is again crossed at the 656th chain. The valley on the east side, at the crossing, is bounded by a steep and almost inaccessible bank, rising to the height of 150 or 200 feet. Reaching this elevation the line passes over a rolling surface, to the small town of "Long Ridge," at the 645th chain where the traditionary line is about 8 rods north of the datum line.

Leaving Long Ridge the line passes through a swamp of considerable extent, (called in its vicinity "Pool Swamp,") and over a rough broken surface, of mostly unimproved land, to High Ridge at the 805th chain. At this point the traditionary line was found to be 3 rods north of the datum line.

In the unimproved ground, back at the 720th chain, a heap of stones was found, 2 chains 40 links north of the datum line; but it is not sufficiently identified to justify the supposition that it is an original monument.

The surface is descending from High Ridge, and at the 850th chain the Dan Town river is crossed. Ascending another ridge of land, the line crosses a small stream near the 1010th chain, and a branch of the Norwalk river at the 1150th chain, and reaches the eastern extremity of the line at 1205 chains 34 links.

The surface passed over intermediate the streams, is rolling, considerably broken and but partially improved. On arriving at the east end of the line we found a monument, well described in the original survey,

being a heap of stones, 4 rods south of the terminus of the datum line ; our datum line having crossed the traditionary line within the last mile. On a re-examination of the line, a monument was discovered near the 1065th chain, on what is called "Pudding Hill," near the highway and to the north of our datum line 2 chains.

The distance to this point from the west end of the line is 13.31 miles.

This correspondence in distance and a coincidence of location with the description in the original papers, led to the supposition that this was the original monument set at 13 miles and 64 rods, being the terminus of the line, and the survey made in 1725.

If this supposition is correct, the commissioners, on resuming the survey in 1731, at this point, must have committed an error in getting the bearing of the line which was to be produced, making an angle of nearly one and a quarter degrees, which would sufficiently account for our datum line terminating to the northward of the monument at the terminus.

I understand the commissioners as inclining to the adoption of this supposition. A line so arranged would run in a direct line from the angle at the "Duke's Trees" to this 13th mile monument, and then diverge to the east so as to terminate at the monument before described.

This line would follow the traditionary line for two miles, commencing at the "Duke's Trees," where it diverges to the eastward and reaches its greatest eastward divergence at near the 5th mile, near Banksville, after which the two gradually approach and cross each other near the 8th mile, at "Long Ridge ;" from this point the traditionary line continues to diverge to the eastward up to the 12th mile, when they again approach and terminate at a common point at the monument at near the 13th mile before described. From this monument the traditionary marks correspond very nearly with the line proposed to be adopted. The surveys on this line were completed on the 13th day of August.

LINE RUNNING NORTH-WESTERLY, TO THE ANGLE EASTERLY OF THE HEAD OF LONG POND.

From this monument, which is at the most easterly angle, the line bears northward nearly at right angles to the lines last surveyed.

Fixing a point in the traditionary line some distance ahead, on elevated ground, I adopted the range thus obtained as a datum line.

Leaving the angle, the line passes over a broken surface and an intervening swamp, and crosses Mill river, a branch of the Norwalk, at near the 50th chain ; it then ascends a ridge of considerable elevation, intersecting at the 75th chain the highway leading from Lockwood's mill to Ridgefield, along and near which it continues to near the 135th chain.

The surface from near the 90th chain, where the height of ground is attained after crossing Mill river, is quite uniform, although somewhat broken, to the 300th chain, and is mostly covered with timber from the 150th to the 250th chain. At the 300th chain it crosses a valley of considerable breadth, and reaches the high broken ridge to the east of South Salem, at the 360th chain.

The high broken land is mostly unimproved, and continues for about two miles, when the line descends to the low grounds laying easterly of the head of Long pond, and is terminated at the 538th chain, where we found the monument, supposed to have been erected in the original survey, 12 chains 38 links south of the datum line.

The monument at this angle is rather obscurely described in the original survey; but as this has been always recognised as the angle, and no other monument has ever been known to have existed in this vicinity, there seems little room to doubt its identity.

Having determined the angle requisite to trace the corrected line back, it was re-surveyed, and points were designated at which it was deemed necessary to set monuments.

The line as established lies to the westward of the traditionary line as follows:

At the 91st chain, 2 chains 16 links; at the 157th chain about $1\frac{1}{2}$ chains; at the 570th chain, about 40 links.

No monuments were found on the traditionary line answering to the description given in the original survey.

The surveys on this line were completed on the 27th day of August.

LINE NORTHWARD TO THE INTERSECTION OF THE SOUTH LINE OF MASSACHUSETTS.

In establishing a datum line, or adopting a range which should approximate to the original line, great care was used, and the traditionary marks were examined, and search was made for the original monuments along the traditionary line, for about 10 miles; a long range was thus obtained from the mountain near the south end of the line, over the traditionary line, to where it crosses "Round Mountain."

Finding that this range if taken in the direction of the monument, adopted as the south end of the line, would run at a considerable angle with the traditionary marks, and considering the monument as somewhat questionable in identity, I adopted a range which would the most nearly conform to the traditionary marks as a datum line, and commenced the survey accordingly.

This datum line intersects the line established, at a point nearly 5 chains to the eastward, at right angles from the monument adopted as the angle.

Commencing the survey at this point, the line ascends a precipitous mountain, known as "Sarah Bishop's mountain," and passes through a heap of stones near the 106th chain, which is supposed to be the first monument described as on this line, in the original survey; it is described as being located to the westward of a rocky hill; in this respect the monument bears the description; notwithstanding this coincidence, the heap of stones at this point does not, to me, bear conclusive evidence of its having been erected so early as the date of the original survey; lying so far out of the direction to the monument at the south end of the line, I think doubts may reasonably be entertained of its authenticity.

Pursuing the survey from this point, the line passes to the north brow of the mountain, and descends into the valley of the Titicus river, to the eastward of the village of North Salem. The river is crossed on the 201st chain.

Near the 150th chain, we find the supposed State line, as indicated by a line fence, about 9 rods west of our datum line.

At 264½ chains, near the north edge of a swampy meadow, I found a small collection of stones, and there being no stone on other parts of the meadow, I was led to suppose this to be a second monument described in the original survey; it is described as being 2 miles from the last monument, and 20 rods east of Mopo brook; it falls 5½ chains short of the requisite distance, but I found the distance to Mopo brook to coincide with that given in the description.

This supposed monument is about 64 links east of our datum line, and the fence, which is here supposed to be on or near the line, is still farther east. It will be seen, therefore, that our datum line must have crossed the traditionary line somewhere south of this point.

At the 323d chain, we enter woods of considerable extent, and at this point the traditionary line was 6 to 8 rods east of us; the unimproved lands continue nearly to the 435th chain, where I again found fences, supposed to be on the State line. None of the described original monuments are to be found.

Passing on, we gradually approach the traditionary line, and cross it near the 585th chain, on the south brow of the mountain north of Thompson Field's. Near the 590th chain, on the top of this mountain, a heap of stones is found, somewhat modernized, which in location answers to the description given in the original survey, of the monument erected at the 8th mile.

This monument is a little over 6 miles from the first monument found, and over 4 miles from the monument near Mopo brook; and is 1 chain and 5 links west of our datum line. In distance these monuments seem to coincide very well with the descriptions.

Pursuing the datum line at the 605th chain, we cross the highway

leading from Mill Town, on the Croton river, to Mill Plain, Connecticut, near the residence of Peter Hall; and at this point our datum line is again near the fences which are recognized, by the inhabitants of the vicinity, as the State line.

At near the 690th chain, the datum line crosses "Round Mountain," a rocky, conical shaped hill, elevated about 200 feet above the valley, and nearly detached from the surrounding high lands. The line which here corresponds with the traditionary marks, passes over it on the easterly slope, 12 or 15 rods from the top. The peak is distinctly seen from "Sarah Bishop's Mountain," near South Salem, and it was upon this elevation that we raised a flag by which to get a range for our datum line.

Leaving Round Mountain, the line traverses the eastern slope of the valley, formed by a branch of the Croton river, up to the 1040th chain; for a great portion of this distance, the datum line is very near the traditionary marks. Near the 920th chain, there is a stone set up in a wall, which is said to be a monument. It is 3 rods east of the datum line; if an original monument, it is the one described as the 12th mile. It has been remodelled, and may have been changed. It is $10\frac{18}{100}$ miles from the monument we first found, on the line, and should be but 10 miles.

The monument at this point is described in the original survey as having been established, or determined, by running on the line from the 10th mile, whereas the other monuments were established by measuring on the perpendiculars from the west line of the equivalent tract. The reason assigned for this change in the manner of determining this point, is, that the swamp at the head of the Croton river was flooded by water, so as to render it impracticable to conform to the usual method. This swamp is of considerable extent, and lies directly west of the monument in question, and about one-fourth of a mile distant.

The description given in the original papers is not sufficiently definite, in my judgment, to render it certain that this is the point at which the original monument was erected.

The next point at which we find traditionary marks is near the 1070th chain. I found at this point a line fence, which is supposed to be the State line, 18 rods west of the datum line.

From the 1070 chain, the datum line follows up the valley of a small stream, ("Haviland Hollow,") to the 1185th chain, where it strikes the eastern slope of a high mountain the top of which is reached at near the 1230th chain.

On the top of this mountain, (called "Cranberry mountain,") is the monument described in the original survey, as having been erected at the 16th mile, and in the vicinity of two ponds of water.

This monument being rather inaccessible, and on unimproved lands, has not been disturbed, and is easily identified by the description; it is about 30 rods to the westward of the datum line, and the distance by line measurement corresponds very nearly with that required in the original papers.

The line now passes over a surface which is considerably broken, to the 1355th chain, where in low ground it crosses the Patterson and New Milford turnpike; ascending from this point, we reach "Wakeman Hill" at the 1450th chain, and cross the road leading to "Quaker Hill" post office, at the 1527th chain. No original monuments are found until near the 1537th chain.

At the Patterson and New Milford turnpike, the fence, which indicates the position of the 'traditional line, is 32 rods west, and on "Wakeman Hill" 33 rods west, of the datum line.

At near the 1537th chain, is a heap of stones, supposed to be an original monument; it answers in location to the description given in the original surveys of the monument erected for the 20th mile. The distance corresponds very nearly, but the monument has not an ancient appearance, and the description is not sufficiently definite to detect a change in its location, if any has been made; it is 31 rods west of the datum line.

Continuing the line to the 1610th chain, a small stream is crossed, and the line for about $1\frac{1}{4}$ miles passes over a succession of mountain spurs and ridges, covered with a growth of small timber. A more regular surface intervenes at the 1710th chain, and the line thence passes over an undulation of surface, in a fine state of cultivation, to the Ten Mile river, a principal branch of the Housatonic, at the 2050th chain. Up to this point no other monuments bearing the original description are found.

At the 2104th chain, the line crosses the highway leading from South Dover to Bull's bridge, on the Housatonic river. At this point the traditional line, a fence along the highway, is 40 rods west of the datum line.

Leaving this point, we ascend the south end of a range of mountains, known as the "Schaghticoke Mountains."

This range extends, (broken by "Bog Valley,") to the 2750th chain, and is bounded on the east by the valley of the Housatonic, and on the south and west by that of the Ten Mile River.

The general character of the country embraced in this mountain range, may be inferred from the fact, that with few exceptions, the whole extent remains unimproved, and is regarded as of little value, except as it affords a scanty growth of timber, which at intervals of eight or twelve years is cut and converted into charcoal. The surface

is rocky and much broken, many parts affording but a stunted growth of shrub oaks, of value only as a covering to the rocky surface.

The south brow of the mountain is attained at near the 2080th chain, near upon the Housatonic slope of the range.

In the original survey, a monument is described as located near the south end of this mountain, at the 26th mile. I was, however, unable to find it, although informed by persons, resident in the vicinity, that something of the kind existed.

It would be difficult to indentify a monument with certainty, in this locality, unless the description was very minute, as, in the frequent process of "coaling" the lands, stone have been collected in heaps at frequent intervals over the range, and in this way, it is not improbable that the original monument may have been destroyed, or there is a liability to mistake its location.

Near the 2350th chain to the westward of what I have designated as Preston Mountain, there is a heap of stones which has been regarded as a monument; it is about 57 rods west of the datum line.

The distance by the line would indicate that this is the monument erected at the 30th mile. It answers the description given of this monument, in the original survey, and I have no doubt of its identity.

"Bog Valley," a deep ravine, is crossed diagonally by the line, and "Chase Mountain,"—so designated in its vicinity,—is reached at the 2580th chain. In "Bog Valley" the traditionary line, as indicated by fences dividing farms, at the 2536th chain, is $94\frac{1}{2}$ rods west of the datum line.

The range of the Schaghticoke, from "Chase mountain," is much more broken; and the line lies upon the western slope towards "Bog Valley."

Leaving the Schaghticoke mountains, I found traditionary marks, (fences) at near the 2800th chain, 78 rods west of the datum line. About a mile south of this, I was informed, there is a heap of stones, which is recognized as a monument; I had not time to examine it, but from the description given me of it, I have no doubt of its being the monument described as erected at the 36th mile.

From this point the line is continued up a broad valley, formed by two principal branches of the Ten Mile River. The country is rolling in its character, well adopted to the purposes of agriculture, and is generally in a high state of cultivation.

In this valley, at the confluence of the streams before mentioned, is situated the small village of Hitchcock's corners, or as the post office is styled, Amenia Union. The traditionary line, as established by property lines, passes through near the centre of the main or business street of the town, and is about 72 rods west of the datum line.

The town has a population of about 250 or 300 inhabitants; it has a

water power of considerable value, which has been improved by the erection of factories and mills, which are mostly located on the Connecticut side of the traditionary line. The datum line lies entirely to the east of the settled portion of the village.

Pursuing the line up the valley, we reach a small settlement, "Sharon Valley," situated on the west branch of the stream, which is here called Oblong brook, at the 3270th chain.

The village of Sharon, Connecticut, is situated about two miles east of this place, and is in view from the elevated ground in the vicinity. Sharon Valley has a water power which is used to drive a blast furnace, and other machinery of considerable importance. No monuments were found at any of the points through this valley.

Near the 3415th chain, we cross Indian Pond, a small body of water which lies at the head of the valley, and ascend the south-western slope of Indian mountain, which extends to about the 3600th chain. The datum line follows near the western brow, the traditionary line being about 70 rods west, near the foot of the mountain.

Leaving this mountain we cross an interval of considerable extent, to the eastward of the village of North-East, Dutchess county. At the 3660th chain, near the highway, we measured west to the traditionary line, a fence, and found the distance 60 rods.

The line ascends the south slope of the Taghkanic mountains, near the 3770th chain. This mountain range, in character, is similar to the Schaghticoke; it is more elevated and of greater extent than the latter, and is less susceptible of cultivation. The lands are only valuable for the wood which they afford, which is converted into charcoal.

On the summit of this range, two ponds are found, which have been converted into reservoirs, from which a valuable water power is obtained. This water power is used to drive numerous furnaces, and other machinery for the manufacture of iron, situated on the Connecticut slope of the mountain.

Passing over the uneven surface of this mountain range, to the 4165th chain, we arrive at the south line of Massachusetts. Here the monument, known as the terminus, was found, on measurement, to be 129 rods west of the datum line. This monument is a heap of stones, located on the south brow of a rocky ridge, lying nearly east and west between two mountains. It is described in the original papers, very imperfectly, as being in a valley.

Having established a datum line, we next established, from that line, a direct line connecting the monument at the two extremes. To do this, measurements were made, on perpendiculars, from the datum line westward, at various points where if such a line should be adopted, it would be advisable to establish monuments.

At most of these points, measurements were made to the traditionary line, for the purpose of ascertaining the position, relatively, of each. The result of these measurements, is as follows, commencing at the monument at the south end, where the lines have a common starting point:

At 104th chain,	traditionary line is	5.58 chs.	east of straight line.				
323d	do	do	do	9.00	do	do	do
434th	do	do	do	10.52	do	do	do
521st	do	do	do	8.60	do	do	do
615th	do	do	do	9.00	do	do	do
835th	do	do	do	10.39	do	do	do
1070th	do	do	do	7.45	do	do	do
1239th	do	do	do	5.56	do	do	do
1355th	do	do	do	5.81	do	do	do
1450th	do	do	do	6.19	do	do	do
1534th	do	do	do	7.26	do	do	do
1773d	do	do	do	7.05	do	do	do
2097th	do	do	do	8.69	do	do	do
2348th	do	do	do	6.00	do	do	do
2536th	do	do	do	2.10	west	do	do
2792d	do	do	do	3.96	east	do	do
2930th	do	do	do	6.00	do	do	do
3082d	do	do	do	6.62	do	do	do
3287th	do	do	do	9.40	do	do	do
3656th	do	do	do	7.95	do	do	do

To the monument at the north end, which is common to both lines.

It will thus be seen that the traditionary line is considerably east of a straight line at all the points, save one at the 2536th chain, in "Bog Valley," where the traditionary line is 2 chains and 10 links west.

The greatest departure to the east occurs at the 434th chain, where the lines are 10.52 chains apart.

The adoption of a straight line like this would detach a portion of territory from New-York equal in area to about 2600 acres, and would likewise change the residence of a large number of inhabitants along the line, who claim to be residents of the State of New-York, transferring them to the jurisdiction of Connecticut.

At the small village of Hitchcock's Corners, a church, public house, a store, and from six to ten dwellings, comprising about one-third of the population of the place, would be thus changed.

In order to fully appreciate the causes which combined to produce the angles which are apparent in the traditionary lines, a few remarks may be appropriately made, upon the manner in which the original surveys were made.

The original surveys were commenced at Byram river in 1725, and progressed as far as the south-west corner of the "equivalent tract," being at near the 13th mile, on the line which lies parallel with the Sound, and here, from some cause, the surveys were suspended. The lines were run by the magnetic needle, with the imperfect instruments then in use; and up to this point, considering these circumstances, and taking into the account, also, the imperfect monuments that were erected, and the time which has elapsed since the surveys were made, the lines, now run, coincide with the traditionary lines as nearly as could be expected.

From this point the surveys were resumed in 1731, and the mode then adopted to establish the lines running north, will, when fully understood, explain the angles, and deviations so frequently made.

Lines were first run on the west side of the "Equivalent tract," or Oblong as it is called, in accordance with an original agreement, at the distance of 20 miles from the Hudson river; and from this line the final State line was established, by measuring off to the east, on perpendiculars, generally at distances of 2 miles on the line, $1\frac{3}{4}$ mile and 20 rods, and at the end of each perpendicular, erecting a monument; this line of monuments was adopted as the division line between the two States. The intermediate distances between the monuments never having been traversed.

The magnetic needle, at the present day, with all the improvements which have been made in the instruments used, and the knowledge of its eccentricities, which years of experience have brought, even when used by the most skilful persons, is subject to errors against which it is impossible to guard. It is not considered reliable, therefore, when any great degree of accuracy is required, especially when lines of considerable length are to be established.

When we add to the foregoing, the fact, that the country over which the line passes, from its geological formation, is more than usually subject to those local influences which divert the needle from its magnetic bearing, we can the more readily understand the difficulties under which the original surveys were made. A more fruitful source of error, however, will be found in the process by which the final line was established;—the measurements upon the perpendiculars.

If the perpendiculars had, in all cases, been located with special reference to the surface over which measurements were to be made, so that the same irregularity of surface should exist on each, then the measurements being carefully made, a fair degree of accuracy might be secured. This, however, was not the case; the perpendiculars were located without reference to the surface to be measured over, and hence we find that where the perpendiculars lie over a moderately uneven sur-

face, the greatest deviation is made eastwardly, and where the reverse is the case, as at "Bog Valley," the greatest deviation to the westward is obtained.

Under these circumstances it is no wonder that a deviation of 5, 10 or 15 chains, should be found at different points on the line; for we have here combined, the errors and uncertainties of the magnetic needle with the errors consequent on measuring nearly two miles over a rough, and, in many cases, mountainous surface, which are carried into the line established.

In making these surveys, I have entirely discarded the use of the magnetic needle, except as a check upon the work. The instrument used being the Railroad Transit, now generally used in projecting lines of any considerable length, where accuracy is required. The datum lines have, in all cases, been very carefully run, and I have full confidence in the accuracy of all the work.

The measurements of the lines, as I have before intimated, have all been made upon the surface of the ground, and are thus given in the foregoing detailed description of the lines. But I am enabled, from the full notes I have taken of the surface, to make such deductions therefrom as will give the true horizontal measurement, with a degree of accuracy sufficient for all practical purposes.

With these deductions the length of the different lines, with the magnetic bearing of each, will be as follows:

From the "Great Stone at the Wading place," north $24\frac{1}{2}$ degrees west, 570 chains to the angle at the "Duke's Trees."

From the angle at the "Duke's Trees," north $66\frac{1}{2}$ degrees east, 1055 chains, to the S.W. corner of the "equivalent tract," making the angle at "13 miles," as before mentioned; and from thence to the S.E. corner of the "equivalent tract," (being the most easterly angle made by the State line,) north $67\frac{1}{2}$ degrees east, 139 chains.

From this point to the angle near the foot of "Sarah Bishop's Mountain," north 25 degrees and 10 minutes west, 530 chains; and from thence by a direct line to the monument in the south line of Massachusetts, north $11\frac{1}{4}$ degrees east, 4041 chains.

Showing a total length of line, (exclusive of the river survey,) of 79.2 miles, and including the river survey from "Bryam Point," 81.2 miles.

The surveys were mostly completed on the 1st day of November, and the party was then disbanded, having been in the field about 100 days, in which time there was instrumentally run about 150 miles of line.

Illustrative of the foregoing remarks, I have prepared, and herewith present, a "General Map" of the line embracing such portions of the adjoining territory as is necessary to a proper understanding of the several points referred to.

Also a "Map of Byram river," from "Lyons or Byram Point," to the "Wading place" at the head of tide water, showing the lines which it is proposed to adopt as the dividing lines between the two States.

And a diagram which is intended to show the various lines traversed, and the portion of each, with reference to the traditionary lines.

All which is respectfully submitted.

C. W. WENTZ, *Chief Engineer.*

* * * * *

(D.)

OPINION OF COUNSEL.

The following opinion of the Hon. GEO. A. SIMMONS, of Keesville, is the same in substance as the one lost in the mails and referred to in the Report of the Commissioners.¹ It has been re-written by Mr. S., and received by the Commissioners since that part of the Report was printed:

The question to be considered arises from conflicting views as to the *boundary line* between the State of New-York and Connecticut.

In May 1855, the Legislature of Connecticut appointed Commissioners on the part of that State "to ascertain the boundary line between that State and the State of New-York," and authorised them, jointly with Commissioners to be appointed by the Legislature of the State of New-York, vested with similar powers on the part of the latter State, "to ascertain the said boundary line and erect suitable monuments at such places as they should deem necessary to prevent any further mistakes concerning the same."

In April 1856, the Legislature of New-York appointed similar Commissioners with the like powers "to ascertain the boundary line between this State and the State of Connecticut, and to erect suitable monuments at such places as they should deem necessary to prevent any further mistakes concerning the same."

From the *preambles* of the two legislative resolutions appointing the Commissioners, stating "That sundry differences and disputes have arisen among the inhabitants resident near the line dividing the States of New-York and Connecticut concerning said dividing line, and that most of the bounds and monuments erected on and along said dividing line have been removed or destroyed, rendering it uncertain to which of said States sundry citizens, residents as aforesaid, belong; now, therefore," &c. It is not to be *presumed*, that the Commissioners were meant to be empowered to make a new line where the old one could not be found, and thus exercise the powers of a court of chancery to settle confused boundaries; for the operative and directory part of the reso-

¹ See page 402, *ante*.—[P.]

lutions is confined in terms to the duty of *finding* or *ascertaining* the old line — “to *ascertain* the boundary line between this State and the State of Connecticut and to erect suitable monuments at such places as they shall deem necessary,” &c. But besides these words, thus excluding the Commissioners from making a new line and restricting them to the duty of *ascertaining* or finding and marking the old one, even a Court of Equity never authorises any other thing if the ancient boundary *can be ascertained*, nor even where it can not be, until acting for itself on a report of the facts and evidence made by the Commissioners as to that point; and then only by a subsequent order of the Court adapted to the case. 1 Chitty Gen. Pr. 722. 2 Meriv. 507. 1 Swant. 9.

If, then, the Commissioners are satisfied that the old line can be found or ascertained, they have performed their duty, and it is for the Legislatures of the two States to say whether they will give them authority to alter it or make a new line, not the Commissioners. And even the State Legislatures cannot authorise such alteration without the approval of Congress. 10 U. S. Statutes at large, p. 602, and Constitution U. S. see Art. 4, Sec. 3.

But more than this, the two Legislatures must have *assumed* the existence of an old line once marked on the land and that it is capable of being *ascertained* by careful and proper resurveys with the help of ancient marks and documents, and they have *precluded* the notion of making a *new* line or altering the *old* one in any respect. We may take for granted, then, that the only question to be decided by the Commissioners is, *where is the old line?*

This line was agreed on by the two colonial governments in 1683 and *ratified* by the King in council in the year 1700.

It was provided in the agreement, that in case certain lines therein mentioned should diminish or take away land within twenty miles of Hudson River, that then an equal quantity should be added out of the bounds of Connecticut. In 1684 a survey was made by joint Commissioners and several lines run. It was ascertained that these lines *did* diminish the territory of New-York to the amount of 61,440 acres, and that a tract must be taken from Connecticut containing an equal number of acres in an oblong form as an equivalent for the 61,440 acres, and the particular location of the oblong was agreed to and the agreement and survey were confirmed by the King in council. But the greater part of the bounds remaining unsurveyed, and unmarked on the land, and Connecticut retaining possession of the *equivalent lands*, and the old marks becoming considerably effaced by time, the two colonial legislatures in 1725 authorised a resurvey of the old lines as far as run and a further survey to be made of the remaining lines not before run, and the erect-

ing of suitable monuments with proper marks on the land, pursuant to the agreement and partial survey of 1683 and 1684. It appears from the colonial act of New-York in 1725, that the boundary line from the mouth of Byram River, including the parallelogram of 61,440 acres taken from the territory of New-York, was run by the surveyors in 1684, but that the boundary line from the north-east corner of the parallelogram to the bounds of Massachusetts colony, and containing the *equivalent* lands to be added to the territory of New-York had never been actually run and marked on the land, and that the marks and monuments made in 1684 around the parallelogram conceded to Connecticut had become somewhat obliterated.

The Commissioners appointed in 1725 to resurvey the old lines and to complete the survey of the remaining lines began in 1684, *did* resurvey and ascertain the original bounds as far as the original survey had been actually made, and agreed upon a proper mode of surveying and marking the remaining lines from the north-east corner of the oblong conceded to Connecticut, to the Massachusetts line, and in such way as to concede and add to New-York the 61,440 acres. And again in 1731 the Commissioners completed the survey of the whole line to Massachusetts bounds and marked them on the land in due form according to the original agreement and pursuant to their instructions from the colonial legislatures.

Now it will be observed that the Commissioners run no *new* lines nor were authorised to run a new line in 1725 and 1731, but only to *ascertain* the lines of 1684, and the lines thus run and found in 1725 and 1731 are the same that are to be found and ascertained now in 1856.

The line starting from the easterly termination of the thirteen miles and sixty-four rods, extending along and beyond the parallelogram conceded to Connecticut, and running to the cross line coming from Courtland's Point and from thence at a distance of twenty miles from the Hudson River nearly northerly to Massachusetts bounds, *was run and marked on the land* and is equally traceable at this time; but the other lines parallel to these two on the east of them at the distance of about $1\frac{3}{4}$ miles and 20 rods from them, running in the same direction to the Massachusetts bounds, were run and marked on the land by *set off's only* from the former lines. That is to say, after running and marking on the land a continuous line between the colony of New-York and Connecticut from the oblong on the Sound to Massachusetts bounds, giving to Connecticut the oblong but giving to the colony of New-York no equivalent lands, they run and marked on the land another line parallel to this surveyed and marked line, on the easterly side of it, at the proper distance from it, through its entire length, comprising the 61,440 acres of equivalent lands. But such other

east line was only run and marked by set offs and monuments erected at distances of about two miles from each other, leaving these monuments as guides and directories to locate at any future occasion an exact, continuous line through them.

The principal governing monuments, viz: the one at the beginning towards the south, the intermediate one nearly opposite to the end of the line from Courtland's Point, and the one at the termination in the Massachusetts line are now actually ascertained and identified, and of course indicate the *general* course of the whole east line of the equivalent lands. Through these monuments and other intermediate ones wherever they can be found or can be shown by proper evidence to have once existed, the line must now be located just as if the monuments all remained to this time, without regard to the straightness or crookedness of the line indicated by them.

Had the line been run within a year or two after the monuments were first erected, and before being obliterated, it is plain the line must have run straight only from one to another of these monuments, however crooked it might happen to be as a whole; and the *obliteration* of the monuments can make no change in the rule if the places where they once were can, at this late day, be ascertained by proper evidence.

This evidence may be not only remnants of decayed *monuments*, but possession or *occupancy* in reference to them or the line running through them; or even traditionary and ancient general reputation. Long and ancient *reputation*, if general, is sufficient of itself, especially if accompanied by a corresponding possession and claim of jurisdiction. 1 Phil. Ev., 248; 1 Cowen & Hill's notes, 628; 1 Greenl. Ev. 145 note—:01 note.

It cannot be contended that the boundary line between States is not to be ascertained by the same rules as the boundary between tracts of land owned by individuals.

"No court acts differently in deciding a boundary between *States*, than in lines between separate tracts of land," say the Supreme Court of the United States in the case of the State of Rhode Island vs. The State of Massachusetts. 12 Peters, 734.

Now, to establish a line between different tracts of land, *monuments* or marks on the land must govern, and not courses or lines of the compass, or quantity of acres; and this rule holds whether the line established by such monuments is straight or crooked.

Where a line is once found *marked on the land*, it cannot be straightened by an ideal line indicated by the compass. It follows that the Commissioners must now follow the old marks and monuments wherever found, and if not found after so long a period, they are then to take the best evidence they can get of their former existence and locality.

Traditional testimony is good if supported by public acts of recognition; such as the acts of town and county officers, and even of town meetings and county assemblies, *uninterruptedly continued from year to year*; and mere courses and distances are never resorted to in order to straighten lines if clearly opposed to other evidence of ancient marks. This is on the same principle that a deed or bond, though lost or destroyed, is still to govern instead of a parol contract, when the *contents* of such lost deed or bond can be proved by other evidence.

The east line of the equivalent lands was fixed by set-offs, and the entire series of such set-offs constituted a *line* of monuments marked on the land, about two miles apart, from beginning to end of the boundary line. These monuments being ascertained, or the places where they once were, the intermediate lines between them must be run and connected so as to form a continuous boundary, however crooked this boundary line may turn out to be, and without regard to whether it contains between the parallels exactly 61,440 acres or not; for the Commissioners have no authority to make a new boundary, or to make a new line, even if the old Commissioners in 1731 committed mistakes in running the cross lines or set-offs.

Such crooked lines having been so long recognized and acted on as the true division line, can now only be corrected, if at all, by a suit in equity by the State of Connecticut against the State of New-York to *correct the mistakes*, which would, in all probability, be as ineffectual for the purpose as it was in the case of Rhode Island against Massachusetts, before cited, the loss of time or limit of prescription being applicable to *States* on questions of boundary as well as to individual land owners. See Vattel, p. 190, § 147, and the opinion of the Supreme Court in the case of Rhode Island vs. Massachusetts, before cited.

In short, *the old line* of 1731, as indicated by the monuments then erected, and not a *new line*, must govern, because such new line in point of fact and of law does not coincide with the boundary established in 1731, this having been so long recognized, and now being easily ascertained and identified. If the true old line shall be ascertained by the present survey to be a crooked one, too near its western parallel on the north end, or too remote at the intermediate points, or devious and irregular in many places, it can only be *straightened* by the consent of the Legislatures of the two States, with that of Congress hereafter to be given, and not otherwise; for the resolutions of those Legislatures, already adopted, and under which the present Commissioners are acting, are not sufficient for the purpose; nor could the Supreme Court of the United States order the lines to be straightened after so long an acquiescence of the States.

But again: no other mode of ascertaining the division lines is con-

sistent with the agreement made by the joint Commissioners the 29th April, 1725, and their survey under it. The lines were to be run by marks and monuments on the land; for it was agreed that "where the breadth of the said lands to be added out of Connecticut shall be established as above directed, we shall affix and ascertain the bounds of the same," and "*erect monuments in the said lines at all places which may be thought necessary.*"

The same Commissioners, immediately thereafter, on the 12th day of May, 1725, commenced their survey on the land, and actually run and marked by *monuments* so much of the boundary line agreed on as designated the oblong on the land conceded to Connecticut "in pursuance" of the said agreement; and they say that they "*have erected several monuments in the said line,*" mentioning a large number of them. After marking trees and raising heaps of stones at the end of every mile on the line along the northerly side of the Connecticut oblong from the white oak trees north northeast thirteen miles and sixty-four rods, *they marked and distinguished*, and thereby *established and fixed* it by monuments as the line of partition *so far* between the province of New-York and colony of Connecticut.

Afterwards, on the 14th of May, 1731, the joint Commissioners finished their work by running and marking the residue of the boundary lines extending from the northeast corner of the oblong assigned to Connecticut, to the Massachusetts line, including the equivalent lands of 61,440 acres, "*in pursuance of the agreement* made in the year 1725, adopting their former *monument* at the northeast corner of the Connecticut oblong as their starting point; and then finding and fixing the northeast corner of the equivalent lands by a *monument*, they established the remaining boundary lines to Massachusetts, so as to include the equivalent lands, by erecting heaps of stones "*as monuments of the east bounds of the said additional lands.*"

These monuments were located by set-offs, or perpendiculars, from a parallel line previously surveyed and marked by *them on the land*; and then the Commissioners surrendered up to New-York the *possession* of the equivalent lands as divided from Connecticut by the said "lines" run *through the said several monuments* erected as before mentioned.

These expressions in the agreement and in the report of the survey, made pursuant to it, clearly show that these Commissioners were too wise to leave boundary lines to be ascertained by mere courses and distances, to be ascertained from books; they *located them on the land*, as the controlling marks and *monuments*, to be there read and known by all men; they were too sensible not to appreciate the difficulty in after times of ascertaining and fixing mere *straight lines*, indicated by the compass and measuring chain only, and they determined not to leave

the boundaries thus uncertain and swimming in the air, but to have them attached and fastened to the land by actual marks and monuments. It was the great end and purpose which they had been appointed and empowered to accomplish — *not to run new lines, but to ascertain and mark old ones*; and they do not pretend to have run *straight lines* with any greater exactness or certainty than is marked by monuments on the land.

The lines thus actually run and marked on the land must now govern, unless we are to reject all the former agreements and surveys, and launch ourselves into an ocean of uncertainty.

GEORGE A. SIMMONS.

January 1st, 1857.

* * * * *
—[*N. Y. Sen. Doc., 1857, No. 165, p. 65.*

The official document from which the foregoing extended extracts have been made includes much historical matter, a large part of which has been inserted in chronological order in this volume.

Pages 37–60, inclusive, of that document, contain “A Historical Sketch of the Controversies and attempted Settlements respecting the New York and Connecticut Boundary previous to the year 1855,” apparently prepared by or under the direction of the New York Commissioners in connection with their formal report. This sketch being for the most part a repetition of the substance of early official records, seems not sufficiently important to be reproduced here. Several pages (82–89) of “Correspondence with Connecticut Commissioners” (from Nov. 12, 1856 to March 25, 1857), are also omitted;—any essential matter therein being included in the formal reports subsequently made by the Commissioners of the two States.

[IN N. Y. SENATE.]

April 10, 1857.

* * * * *
The President presented the report of the Connecticut boundary commission, in pursuance of a concurrent resolution of the Senate; which was read, laid on the table and ordered printed.

* * * * *
Mr. Ferdon offered for the consideration of the Senate, the following resolution, to wit:

Resolved, That the report of the commissioners appointed to ascertain the boundary between this State and the State of Connecticut, be

referred to a select committee to report whether any action of the Legislature is required respecting said boundary.

Mr. Brooks moved to amend by adding thereto the words "and that the committee also inquire if the appointment of the commission was necessary."

The President put the question whether the Senate would agree to said amendment, and it was decided in the negative.

The President then put the question whether the Senate would agree to said resolution, and it was decided in the affirmative.

* * * *

—[*N. Y. Sen. Journal*, 1857, pp. 807, 819.

April 11, 1857.

* * * *

The President appointed Messrs. Ferdon, Lee and Kelly, as the committee on the resolution of Mr. Ferdon, in relation to the Connecticut boundary commission.

* * * *

—[*N. Y. Sen. Journal*, 1857, p. 825.

April 13, 1857.

* * * *

Mr. Ferdon, from the select committee, to which was referred the subject of Connecticut boundary commission, reported in writing, and in favor of the adoption of the following resolutions:

Resolved, That the commissioners on the part of New York, while they have maintained the rights of this State, by declining to yield any of its territory or to adopt any other than the legal and recognized boundary through the ancient land marks have not been lacking in liberality toward the commissioners on the part of Connecticut, nor in proper effort for a just and speedy determination of the matters in difference between them, nor are they to be held responsible for the failure of a settlement hitherto.

Resolved, That relying upon the Legislature of Connecticut to correct the errors of its commissioners, we deem no legislation necessary on the part of this State in relation to this subject at the present time.

The President then put the question whether the Senate would agree to said resolutions, and it was decided in the affirmative.

* * * *

—[*N. Y. Sen. Journal*, 1857, p. 885.

[IN CONN. SENATE.]

May 20, 1857.

* * * *

Mr. Giddings, by leave of the Senate, presented the report of the Commissioners appointed by the Legislature of 1855, to ascertain the Western boundary line of the State of Connecticut.

On motion, the report was referred to a Joint Select Committee to be raised on the subject.

Mr. Giddings, by leave of the Senate, introduced a joint resolution raising a Joint Select Committee, to consist of one Senator and eight Representatives, to act and report upon the report of the Commissioners appointed to ascertain the Western boundary of the State of Connecticut.

On motion, the resolution passed.

—[*Conn. Sen. Journal*, 1857, p. 115.]

REPORT OF THE [CONNECTICUT] COMMISSIONERS ON THE WESTERN BOUNDARY LINE BETWEEN CONNECTICUT AND NEW YORK, TO THE GENERAL ASSEMBLY, MAY SESSION, 1857.

To the Honorable General Assembly of the State of Connecticut, now in session at Hartford, the undersigned have the honor to report :

THAT by a resolve of your Honorable Body, passed at the May Session, holden at Hartford, A. D. 1855, we were appointed, and subsequently duly commissioned by His Excellency the Governor of this State, Commissioners, to meet such Commissioners as might be appointed on the part of the State of New York, and with them, to ascertain the boundary line between this State and the State of New York, and erect suitable monuments at such places as might be deemed necessary to prevent any future mistake regarding the same.

That in April, A. D. 1856, the Legislature of the State of New York, by a concurrent resolution, authorized the Governor of that State to appoint three Commissioners, to be by him duly commissioned, to meet the undersigned for the purposes aforesaid, and soon thereafter, His Excellency the Governor of the State of New York, forwarded to each of the undersigned a copy of said concurrent resolution, accompanied with a notice, of which the following is a copy :

“STATE OF NEW YORK.

“EXECUTIVE DEPARTMENT, }
“Albany, April 9th, 1856. }

“In pursuance of the foregoing Concurrent Resolution, I hereby appoint Hon. Ben Field, of Orleans County, Hon. Samuel D. Backus, of King’s County, and Col. Jonathan Tarbell, of Essex County, to be Com-

missioners on the part of this State, to act with the Commissioners appointed by the State of Connecticut, to ascertain and settle the boundary line between the respective States, as specified in said Resolution.

MYRON H. CLARK."

That preparatory to a proper understanding of the duties of our Commission, we examined many ancient documents relating to the western boundary of this State, but we deem it unnecessary in this Report, to give the details of the many controversies regarding this line in the early settlement of our country, or to discuss the justice of the policy heretofore pursued by this State regarding that boundary. It is sufficient for a right comprehension of our powers, and the manner in which we have endeavored to faithfully discharge the duties of our Commission, to allude only to an agreement, made and concluded at Greenwich, in the Colony of Connecticut, on the 29th day of April, 1725, by a Joint Commission on the part of the Province of New York and the said Colony, and the manner in which that agreement was subsequently executed, and carried into effect.

That agreement appears at length in the appendix of the printed Resolves and Private Laws, published by authority of the General Assembly of this State, in May, A. D. 1835, as well as upon the Colonial Records, and appears to have been predicated upon a previous agreement and partial survey made in the year 1684. From those documents, and from the Reports of the Commissioners who run the boundary line under those agreements, which are also at length on the pages of said appendix, we collate the following facts:

By the agreement of 1684, the general course of Byram River, from "Lyon's Point," where said river empties into Long Island Sound, to a large stone at the country road, or "wading place," in said river, thence on a straight line north, north-west six miles and a half, to "three oak trees," was established as the partition line between the said Province and Colony thus far, and then the partition line was to run parallel with the sound a straight course "East North-East" until the east end of said east north-east line should be twenty miles from the Hudson's River, and from that point to run parallel with the said Hudson's River to the southern line of Massachusetts.

By the agreement of April 9th, 1725, stipulations were entered into for determining the line as set forth in the agreement of 1684, and then it was further agreed, that having satisfactorily determined that line, there should be added to the province of New York sixty-one thousand four hundred and forty acres of land out of the Colony of Connecticut, by a parallel line, with the said line running parallel with the Hudson River, commencing at the end of said east north-east line twenty miles from said river, and running to Massachusetts boundary.

Pursuant to this last agreement, and immediately thereafter, the Commissioners and surveyors of the Province of New York and Colony of Connecticut, surveyed from Lyon's Point to said "Great Stone," and from thence to the "three trees," for the purpose of determining the allowance to be made in measuring the width of said additional land, agreeable to said agreement, and they found and determined there should be allowed an additional measure, at the rate of twenty-five rods to one mile, so that in measuring said width, one mile and twenty-five rods of actual measure on the surface of the earth should be accounted and esteemed one mile and no more, and so in proportion for a longer or shorter length. These Commissioners found no difficulty in satisfying themselves as to the identical "three Oak Trees" marked by the Commissioners in 1684, and the better to perpetuate the place, they say, in their Report, "At the place where the three white oak trees stand we buried some burnt wood in the ground and raised a heap of stones over it; we likewise cut the letters G. R. on a great stone lying in the ground there." They then ascertained the distance of that point from the Hudson River, and run a straight line east north-east thirteen miles and sixty-four rods, — the distance they found necessary to make up the whole distance of twenty miles from the Hudson River, and raised a heap of stones there, and they determined and declared, that the straight line from said "great stone at the wading place," to the said "great stone" marked G. R., and from thence a straight line to said heap of stones at the end of the said east north-east line of thirteen miles and sixty-four rods is, and shall be, esteemed and fixed as the line of partition, so far between the Province of New York and Colony of Connecticut. They also declare that the said "heap of stones" shall be esteemed twenty miles from Hudson's River, according to the survey made in 1684, and the place from whence the additional land of sixty-one thousand four hundred and forty acres to be taken out of Connecticut shall commence. And the said east north-east line to be continued so far as to make up that number of acres, with the allowance of measure before mentioned.

At this point, the commissioners, at that time, closed their work.

In May, 1731, another Board of Commissioners and surveyors assembled to complete the survey, agreeable to the agreement of April 29th, 1725, left unfinished by the Commissioners in May, 1725. They run out from Hudson's River, at Courtland's Point, at a right angle with the river, the distance of twenty miles, and then they connected that point with the "heap of stones," at the end of said east north-east line, placed by the Commissioners, in the year 1725, by a straight line, and found its course to be north twenty-four and a half degrees west, and distance, (corrected measure,) "six miles, three quarters of a mile, and

seventy-six rods." They then fixed a point in the Massachusetts line, twenty miles from the Hudson River, and run a straight line to said point, twenty miles from Courtland's Point, and found the course north, twelve and a half east, "nearly," and distance "fifty miles, three quarters of a mile, ten rods and fifteen links," corrected measure. They then set off a line parallel with these two lines, at a distance of one mile, three quarters of a mile, and twenty-one rods, strict measure, (but being only 432 rods, with the allowance of measure as aforesaid,) to embrace the 61,440 acres of land to be added to the Province of New York, out of the Colony of Connecticut, and such a parallel line will embrace said quantity of land, and no more.

The north-east bound, at the Massachusetts line, the bound opposite to Courtland's Point, and the bound at the south-east angle of said additional land, are all well described in the report of the Commissioners of May the 14th, 1731, and they declare by said report that the said lines running north twenty-four and a half degrees west, and north twelve and a half degrees east, "nearly," are to be considered and esteemed as parallel to Hudson's River, and as twenty miles distance from the same. And that the east lines of said additional lands are *parallel* with the said lines running parallel with Hudson's river, and "to be and remain henceforth the lines of partition between the Province of New York and Colony of Connecticut, forever," and the report adds, "which lines, together with those that were fixed and established in the year 1725, do every where completely and entirely separate and divide the said Province from the said Colony, from the sound so far as the line of the Massachusetts Bay." In accordance with previous arrangements, on the 3d day of June, 1856, the undersigned met the gentlemen named by his Excellency Governor Clark, as Commissioners, on the part of the State of New York, at Portchester, in the county of Westchester, for preliminary consultation, which resulted in the understanding that they would select their own surveyor, and that Mr. Holly, one of the undersigned, being himself a practical surveyor, would superintend the work, on the part of Connecticut, and the 23d day of the same month was fixed upon as the day to commence the survey.

On the 23d day of June last, we returned to Portchester, taking with us Andrew Perry, Esq., of Stamford, as an assistant, and on the 24th the three commissioners on the part of the State of New York, met us, accompanied by a Mr. Wentz, as a surveyor, with two assistant surveyors, and two or three other assistants, of their own selection, from various parts of the State of New York.

On consultation and examination of facts, we had no hesitancy in at once establishing the center of the general course of Byram river, from its mouth at "Lyon's Point," to the bridge at the country road, as the

true jurisdictional line between our respective States, and subsequently made an accurate survey of said river, fixing witness bounds on each shore thereof, to designate the said central lines, and their angles, so that in future no misunderstanding in regard to the same can well be made. And we had as little difficulty in determining that a large rock on the north side, and near the eastern terminus of said bridge, was the "great stone," "at the wading place," described by the Commissioners in 1725. We then proceeded to the present north-west corner of the town of Greenwich, in this State, where we found a stone lying in the ground; on the west side of a public highway, nearly opposite the residence of a Mr. Langdon, and on a careful examination of this stone we discovered the letters "G. R." upon one of its sides, bearing unmistakable appearances of having been chiseled some great length of time past. On removing the earth from about this stone, we also found the semblance of charcoal or "burnt wood." These two facts, taken with traditional evidence elicited, the Commissioners were fully satisfied, that this stone was the one marked by the Commissioners in 1725. We therefore run a straight line from the said large rock, at Byram bridge, to said stone, and found the course by magnetic needle, (applying the proper equation for the variation,) and the distance to agree very accurately with the survey of 1725. But from the lapse of time, the clearing up of the country, and the opening of highways, the intermediate bounds mentioned in the report of the Commissioners of May 12, 1725, have become entirely obliterated, and traditionary evidence in regard to their former locality, vague and uncertain. Hence, notwithstanding this straight line ran generally to the eastward of the line, as it has been of late years regarded by the residents along the line, in many places forming the western boundary of Greenwich Farms, and changing some residents from the jurisdiction of Connecticut to that of New York, the undersigned submitted to the claims of the Commissioners on the part of that State, that we could rely only upon the angle bounds, when well defined by record, and establish a straight jurisdictional line between them, it being mutually understood and agreed, that such a straight jurisdictional line, from angle bound to angle bound, should in no wise affect or vary the title to lands on or near said line, but the same to be holden and remain as if the said line by us established had not been run, and that we should make provision for this in a joint report to our respective Legislatures.

This principle of a straight jurisdictional line having thus been settled, and as we supposed would be carried out in good faith, throughout the whole survey, on the part of the Commissioners for the State of New York, we committed the entire control of running the line, to their surveyors, especially as the acting Commissioner assured

us in writing, over his signature, that on the part of New York, they only desired "a perfect survey," that "no territory was in dispute," that "Mr. Wentz (we quote his own words,) was the first engineer in the State," and "we hired him expressly to run a line that no future surveyor could ever break down." In accordance with this understanding, after the true line was ascertained by a transit instrument, the surveyors went over the line again, and fixed points for erecting monuments along the line, thus far, at every crossing of a highway, and subsequently, one of the Commissioners on the part of New York, ordered monuments of gray granite stone, five feet in length, one foot in width, and six inches thick, with the letters "N. Y." handsomely cut on one side, and "Ct." on the reverse, from the quarries of New Milford; had them distributed along the line, and one has been erected at each point thus marked by their surveyor, eight in number, by being set three feet and a half in the ground, in the most substantial manner.

From the angle at the rock marked "G. R." on the course indicated in the report of the Commissioners of 1725, (variations of the needle considered) and at the distance of thirteen miles and sixty-four rods, nearly reaches the present regarded south-west corner of the town of Lewisboro' in the county of Westchester, where are found a heap of stones on the south side of a highway, near an old stump, by the fence, and which seemed to be indicated by the make of the land, and distance as described in said report, and confirmed by traditionary evidence, as the bound established by the Commissioners of 1725, as where the line was to be extended from, to embrace the additional lands, and as being twenty miles from Hudson's River. No intermediate bound, as described in the report of 1725, were recognizable along this line, but it ran through a traditionary bound on the north line of Greenwich, and also through the received and acknowledged north-west corner bound of the town of Stamford, and a traditionary bound near the north-west corner of the town of New Canaan, and in all other places, ran with or very near traditionary lines. On this line also, monuments ordered by the New York Commissioners, (of the same character as those already described) have been erected at every crossing of a highway and other prominent points along the line — sixteen in number.

On extending this last mentioned line, the distance required to embrace the additional lands, one mile, three-quarters of a mile, and twenty-one rods, strict measure, as per said agreement of 1725, the eastern end fell about ten rods north of an ancient bound in a piece of woods on the west side of a stony ridge near the west base of Bald Hill, two hundred and sixty-three rods from the west branch of the Norwalk river, as described in the report of the Commissioners of May 14, 1731. This bound being well defined by that report, and permanently

established, together with traditionary evidence and its antiquated appearance, the present Commissioners had no difficulty in deciding upon this as the true bound. The cause of this bound not having been erected in a true line with the line westerly of the bound at the end of the twenty miles from the Hudson river, may be accounted for upon the supposition that the surveyors in 1731, in extending that line, made no allowance in running the course, for the difference of the variations of the magnetic needle between the years 1725 and 1731 ; but from all the circumstances, the present commissioners did not feel warranted in disturbing this ancient landmark, although it stands some ten rods south of the line contemplated in the agreement of 1725, and cutting a slice out of the territory of Connecticut, and we agreed to that as the true bound, and the jurisdictional line, to be a straight line from it to the said bound at the south-west corner of Lewisboro', before mentioned.

The next angle to establish was the one described in the report of 1731, opposite to Courtland's Point, at the south-eastern extremity of Long Pond. Only one of the Commissioners on the part of New-York had been present for many days, and as there was some discrepancy in traditionary evidence, we complained to the Commissioner present that we were deprived of the counsel of his associates. But he frankly declared that his associates not being practical men, it was of little or no consequence whether they were present or not, and as they had committed the running of the line to Mr. Wentz, they would be governed and bound by his decisions and acts, so far as bounds and the survey of the line was concerned. We then submitted to their claim, and the line was accordingly run, and points fixed at the crossing of every public road, as on the other lines, the course and distance not varying materially from the survey of 1731.

From the angle bound at Long Pond, as before mentioned, the surveyors run a straight line to a monument, at the southern boundary line of Massachusetts, in the Tahconic mountains — a monument unmistakably described in the report of the commissioners of 1731, as the one they established as the north-east corner of said additional lands — the distance and course again very accurately agreeing with the survey of that year.

In running this last said line, a distance of over fifty miles, the attention of the Commissioners or surveyors was not called to any intermediate bounds whatever. And on becoming satisfied as to the identity of the said monument in the Tahconic mountain, the Commissioners on the part of New York suggested that a marble monument should be erected at that point, commemorative of this survey, and a few days afterwards, Mr. Backus wrote to Mr. Whiting, giving directions as to the inscriptions he desired to be engraven upon said monument.

The surveyors run over this line the second time, and under the special directions of Mr. Wentz, (the Commissioners on the part of New York having left the line after deciding in regard to the monument in said Tahconic mountains,) fixed points for monuments along the line, wherever it crossed public highways, and on all the intermediate points of high land, where it was deemed necessary to make the line so distinct that in future there could be no misapprehension in regard to it by any one. This was completed on the first day of November last, and the surveying party disbanded.

The undersigned congratulated each other at the final consummation of the survey, which had been, in their judgment, greatly retarded, and subjected to much unnecessary expense, by circumstances altogether beyond their control, and entertained no thought but that the Commissioners on the part of New York were perfectly satisfied that a true jurisdictional line had been completed, and that all that remained to be done, was to set the monuments, where they had not already been erected, and unite in a report of our doings to our respective Legislatures.

That the Commissioners on the part of New York so considered the line as settled, at the close of the survey, we were justified in believing, not only from the honorable position they had been placed in by the Executive of that State, which demanded our confidence in them as gentlemen, who would not depart from agreements because such agreements had not been submitted to writing, but also from their subsequent acts. On the 28th day of October, one of them wrote Mr. Whiting regarding the monument to be set in the Tahconic mountains; they arranged on the day they left the line, with Mr. Perry, our assistant surveyor, to superintend the setting of the remainder of the monuments, which they had already ordered to be made and delivered at New Milford railroad depot, similar in style to those herein before described; they proclaimed along the line, that the line as run by Mr. Wentz, was the true jurisdictional line; and on the 3d day of November, three days after the surveying corps had been discharged, Mr. Backus wrote to Mr. Whiting, requesting him to meet the Commissioners at Stamford on the following Thursday, in which he says: "We name that time and place as most convenient for us all, and it is important that whatever business we may have to do before setting the monuments, should be done at once, in order that frost may not interfere with the work. Mr. Perry had also better be present."

With the exception of Mr. Field, the Commissioners met at Stamford in accordance, with that request. But it was a very brief meeting. They made a demand upon the undersigned, having no bearing whatever upon the jurisdictional line, which we declined to entertain until

the work was finished. We decidedly informed the gentlemen that we were perfectly satisfied with the line as they and their surveyors had established it, and that as soon as the remainder of the monuments were set, we should be happy to meet them at any convenient place and close up other matters as amicably as we had agreed in running the line. They then demurred to proceeding any further, until we complied with their demand, which we considered a very unreasonable one, and entirely contrary to our original understanding, and they left, without any decision as to who should finish up the work. We proposed for them to go on and set the monuments, or if they would so consent, we would take the burden. But no, they must have their own way, as they had done from the commencement of the work, or no way at all, and thus we separated.

Before leaving the place, they notified Mr. Perry that his services were not wanted in setting the monuments, and on the 15th of November, Col. Tarbell placed in our hands individually, without a word of explanation, a notice of the following tenor, subscribed "Samuel D. Backus," "J. Tarbell," "Commissioners on the part of the State of New York."

"GENTLEMEN :

"All communications and propositions, oral or written, from us or either of us, to you for the settlement of said line, are respectfully withdrawn; we take this step in good faith, and as necessary and proper under all the circumstances. Permit us to add that we shall take pleasure in a prompt reopening of negotiations, and will make full, and we have no doubt satisfactory explanations for this step."

Language can not adequately express the surprise of the undersigned on perusing this brief document, neither could they well comprehend its meaning. Mr. Holly was at the very time engaged in preparing a topographical sketch of the whole line, to accompany our report, the outlines of which have been finished, but he did not feel justified in incurring the expense of a transfer to a proper shape for preservation, if the whole work of the expensive survey that had been made, was thus to be crushed out by the gentlemen on the part of New York, and rendered nothing worth. These gentlemen have not subsequently made us any explanation for this recalling all their agreements, neither have they ever named a time or place requesting us to meet them to "reopen negotiations," although they have solicited us to name a time and place for an interview. In reply to their solicitations we notified them that we were not aware of any disagreement or uncertainty in regard to the line as it was run — that we most cheerfully assented to the line as they had marked it out, that Mr. Holly had reviewed every point, and was satisfied the work was correctly accomplished, and that as soon as they would unite with us in erecting the remainder of the monuments, we should be happy to meet them at the place of their own selection to

close up the business of our joint Commissions. But nothing further has been jointly accomplished.

The undersigned have been thus particular in regard to matters that, perhaps, might otherwise have been omitted in this report, but from the fact that we have noticed in the public prints, that on the afternoon of the 13th day of April, 1857, only four days before the close of the session, the Boundary question was reported upon by a select committee of the Legislature of New York, accompanied with the following resolutions:—

“*Resolved*, That the Commissioners on the part of New York, while “they have maintained the rights of this State, by declining to yield “any of its territories, or to adopt any other than the legal and “recognized boundary through the ancient land-marks, have not been “lacking in liberality towards the Commissioners on the part of Con- “necticut, nor in a popular effort for a just and speedy determination “of the matters of difference between them, nor are they to be held “responsible for the failure of a settlement hitherto.”

“*Resolved*, That relying upon the Legislature of Connecticut to “correct the errors of its Commissioners, we deem no legislation neces- “sary on the part of this State, in relation to this subject at the present “time.”

From the tenor of these resolutions, the undersigned are constrained to believe the Legislature of New York has been misled in relation to facts by an *exparte* report, at a period of the session too late to entertain any counter statement, and we cannot but hope and believe, that, should your honorable body devise some proper means to bring this subject under the review of our sister State, justice and truth in relation to this subject will yet be honored, and that ultimately the line, as run by the intelligent and efficient engineer on the part of the State of New York, will be established as the true jurisdictional line between the two States.

All which is respectfully submitted,

WM. H. HOLLY, }
JASON WHITING, } *Commissioners.*

HARTFORD, May 19th, 1857.

—[*Conn. Gen. Assem. Reports, &c.*, May Session, 1857, No. 16.]

[IN CONN. SENATE.]

May 26, 1857.

* * * *

The President announced the appointment of Mr. Giddings on the Joint Select Committee on the part of the Senate, appointed to examine and report upon the report of the Commissioners on the Western boundary line of the State.¹

* * * *

—[*Conn. Sen. Journal*, 1857, p. 149.]

June 5, 1857.

* * * *

The report of the Joint Select Committee appointed to examine the report of the Commissioners * * *, to whom was referred a resolution, directing the printing of 750 copies of said report, favorable to the passage of said resolution, was received from the House of Representatives, the report of the Committee being accepted, and the accompanying resolution being passed.

On motion, the Senate concurred with the House in the passage of the resolution, and in accepting the report of the Committee.

* * * *

—[*Conn. Sen. Journal*, 1857, p. 202.]

[IN CONN. GENERAL ASSEMBLY.]

REPORT OF THE JOINT SELECT COMMITTEE ON THE BOUNDARY QUESTION,
WITH RESOLUTIONS.

May Session, A. D., 1857.

The Joint Select Committee, to whom was referred the "Report of the Commissioners on the Western Boundary Line between Connecticut and New York," beg leave to Report, that they have had the same under consideration, and find the following facts.

That as yet said Commissioners have been unable to accomplish the object of their Commission, and for the reasons set forth at length in their report.

That after a full examination and enquiry into the matters contained in said report, in which Messrs. Holley and Whiting, of the Connecticut Commission, and Messrs. Field and Backus, of the New York Commission appeared before your Committee, and were each heard at length

¹The N. Y. State Library has never received a copy of the *Conn. House Journal* for 1857, and we therefore have not at hand the formal record of the appointment of the House Committee. Their names, however, are given at the end of the report of the Joint Committee, on page 447, *post*.—[P.]

thereon, your Committee find that the statements made in said report are true, and therefore satisfactorily account "for the failure of a settlement hitherto" of this question of boundary line.

They also find that the said Connecticut Commissioners, have at all times endeavored faithfully and fairly to carry out both the letter and spirit of their Commission, and which as they supposed coincided with the authority and scope of the New York Commission. And herein, your Committee fully and unhesitatingly exonerate the Connecticut Commissioners from any and all imputations or reflections upon their conduct in this survey, whether embraced in the printed report of the New York Commissioners or in their correspondence published by them in connection with their report; and they also exceedingly regret that any unworthy imputations or reflections, either upon the State of Connecticut or its Commissioners, should have been permitted to appear in a published document under the authority of a high Commission from a sister State, as will be found in said printed pamphlet, authorized by two of the commissioners of New York.

They further find that at the first meeting of the Connecticut Commissioners with the New York Commissioners for the commencement of their survey, as stated in their report, the principle that should govern the joint commission in ascertaining and running said boundary line, was discussed and jointly agreed upon, (Mr. Field of the New York Commission dissenting,) to wit: that the angle bounds being first ascertained, the true jurisdictional line would be found by running a straight line from angle bound to angle bound, and that thereafter the joint Commission, with the said exception, adopted this rule throughout the whole survey; and so ascertained and established the entire boundary line, to the mutual satisfaction of all, Mr. Field excepted, leaving only the monuments to be thereafter prepared and placed upon the line in completion of their joint labors as more fully set forth in their report aforesaid.

That subsequently to this and before the placing of said monuments, there was an adjourned meeting of said Commissioners, at which meeting there arose a disagreement between Messrs. Backus and Tarbell and the Connecticut Commissioners on matters relating to the expenses of the joint Commission, but none whatever as to the line jointly ascertained and established by them; and which difference alone prevented them from then jointly placing said monuments, and finishing up the whole matter preparatory to a report to their respective Legislatures.

That in consequence of this said difference as stated in said report, the further progress of the joint commission was interrupted, a formal withdrawal of former communications and propositions was afterwards demanded by Messrs. Backus and Tarbell, and the Connecticut Com-

missioners were by them forbid placing the monuments which had been jointly ordered on the remainder of the line, as before agreed upon by them.

That after this, for reasons which do not fully appear to your Committee, Messrs. Backus and Tarbell consulted legal counsel as to the principle they had adopted in accordance with the views of the Connecticut Commissioners as above referred to, and which was to govern them in ascertaining said boundary line. And it was not until after such consultation and further consideration, that they now came to a different conclusion as to the authority of their Commission, and the principle which should determine their action under it; and which change of opinion led them now to coincide with the opinion of their associate and Chairman, the Hon. Benj. Field, as before stated — to wit: That they were not to be guided by straight lines from angle bound to angle bound in determining the true boundary line, excepting in the absence of all well ascertained intermediate monuments; but that where said intermediate monuments could be found, and by traditionary evidence be satisfactorily made out to be the ancient monuments through which the original boundary line was known to run, that these must uniformly determine the true line, however it might vary from a straight line, and although it should be found to have been so originally run by a mistaken or erroneous survey. That as a question of law, no original mistakes could now be corrected in running this boundary line; but that they were shut up to finding out as nearly as possible where the old line was, and in doing this they were to be governed rather by a traditional line than by angle and fixed bounds.

This new question of power and of law, under the respective Commissions of these Commissioners, your Committee felt to be no part of their province to pass upon, and therefore suggest no opinion in the premises.

In view of this state of the case as now presented, your Committee are of the opinion that a re-examination of a portion at least of said boundary line will need to be made by our and their respective Commissioners; and your Committee are led to believe that under such a re-examination, a true and correct and in all respects proper line may be fixed upon by said Commissioners jointly, and which will be mutually satisfactory to them and be approved by the States which they respectively represent. Without this, your Committee feel that all the past labors and expenses of said commission will not only be unavailing, but be productive of unpleasant differences between the States themselves, and injurious to the inhabitants now living immediately upon this uncertain boundary.

Your Committee are further of the opinion, that in order more fully to meet these new questions of law, it is desirable that a legal gentle-

man should be added to your commission, and this is at the instance and request of your present Commissioners.

In accordance with these views entertained by your Committee, they recommend the adoption of the accompanying resolutions.

All which is respectfully submitted, by

AMMI GIDDINGS, *Senate Com.*

O. H. PERRY,

JAMES T. PRATT,

ALEX. S. PALMER,

RICHMOND M. BULLOCK,

G. D. COLBURN,

E. S. HASKIN,

O. H. PARKER,

C. R. INGERSOLL.

}
House
Committee.

GENERAL ASSEMBLY,

May Session, A. D. 1857.

Resolved by this Assembly,

That the Commissioners heretofore appointed on the part of Connecticut to ascertain the boundary line between this State and the State of New York, and to erect suitable monuments thereon, be and hereby are continued in commission, and that Hon. Truman Smith, be added to the said Commission, who being duly commissioned by His Excellency the Governor, shall, with the aforesaid Commissioners, constitute a Board for finally carrying out the object of said Commission appointed by the General Assembly of 1855; and they are hereby authorized and empowered to bring to a final settlement all matters appertaining to and implied by the authority granted in the original resolve raising said Commission, together with all proper expenses already incurred, or to be hereafter incurred therein.

In case any vacancy shall occur in said Board by reason of death or otherwise, His Excellency the Governor, is hereby empowered to fill such vacancy by the appointment of a successor or successors to be by him duly commissioned as aforesaid.

Resolved, That the said Connecticut Commissioners, be hereby authorized and requested to go forward and bring to a satisfactory conclusion the matter originally committed to them, as soon as requested thereto by the present or other Commissioners on the part of the State of New York duly authorized;— and to make a final report thereon to the next General Assembly.

—[*Conn. Gen. Assem. Reports, &c., May Session, 1857, No. 17.*

[IN CONN. SENATE.]

June 23, 1857.

* * * * *

Mr. Giddings, from the Joint Select Committee appointed to examine and report upon the report of the Commissioners appointed at the last session of the General Assembly, to ascertain and adjust the boundary line between this State and the State of New York, reported recommending the passage of accompanying resolutions continuing said Commissioners in office, and adding to their number Truman Smith, of Stamford, and recommending that the report of the Commissioners for the past year, which had been referred to them, be accepted and lodged on file in the office of the Secretary of State.

On motion, the report of the Committee was accepted, the accompanying resolutions passed, and the report of the Commissioners was accepted and ordered to be lodged on file.¹

* * * * *

—[*Conn. Sen. Journal*, 1857, p. 333.]

May 5, 1858.

* * * * *

A message from his Excellency, the Governor, transmitting information relative to the Boundary Line between this State and the State of New York, was received and read.

On motion, the message was ordered to be transmitted to the House of Representatives.

* * * * *

—[*Conn. Sen. Journal*, 1858, p. 19.]

[IN CONN. HOUSE OF REPRESENTATIVES.]

May 5, 1858.

* * * * *

A second message from his Excellency, the Governor, was received from the Senate, giving information in relation to the boundary line between this State and the State of New York, that the question was yet unsettled, and little progress had been made towards its final adjustment; also that the resignation of Hon. Truman Smith as one of the Commissioners, had been accepted.

On motion, the message was read and ordered to be lodged on file in the office of the Secretary of State.

* * * * *

—[*Conn. House Journal*, 1858, p. 8.]

¹For the reason stated in foot note on p. 444, no record of concurrent action by the House of Representatives is subjoined.—[P.]

[IN CONN. SENATE.]

May 20, 1858.

* * * *

Mr. Curtis, by leave of the Senate, introduced a joint resolution, raising a Joint Select Committee, to consist of one on the part of the Senate and eight on the part of the House, whose duty it shall be to inquire into all matters of difference concerning the boundary line between the State of Connecticut and the State of New York, and report to this session of the General Assembly.

On motion, the resolution was passed.¹

* * * *

—[*Conn. Sen. Journal*, 1858, p. 117.]

[IN CONN. HOUSE OF REPRESENTATIVES.]

May 21, 1858.

* * * *

A joint resolution, raising a Joint Select Committee, * * * was received from the Senate, passed.

On motion, the House concurred with the Senate in the passage of the resolution.

* * * *

—[*Conn. House Journal*, 1858, p. 110.]

May 26, 1858.

* * * *

The Speaker announced the following Joint Select Committee to inquire into all matters of difference concerning the boundary line between the State of Connecticut and the State of New York, viz:

- Messrs. Hubbard of Hartford,
- Downs of Southbury,
- A. S. Palmer of Stonington
- Dauchy of Ridgefield,
- Carey of Ashford,
- Stone of New Hartford,
- Redfield of Essex,
- Colburn of Union.

* * * *

—[*Conn. House Journal*, 1858, p. 143.]

¹It appears from a subsequent report, that Mr. Curtis was the member of the Joint Committee on the part of the Senate, although we find no record of his appointment in the Journal of the Senate.—[P.]

[IN CONN. SENATE.]

June 4, 1858.

* * * *

A report from the Board of Commissioners on the part of this State, to ascertain the boundary line between this State and the State of New York, was received.

On motion, the report was referred to the Joint Select Committee appointed to examine the subject.

* * * *

—[*Conn. Sen. Journal*, 1858, p. 327.

June 8, 1858.

* * * *

Mr. Curtis, from the joint Select Committee * * by leave of the Senate submitted the report of the Committee * *

On motion of Mr. Curtis,

The report of the Committee and the accompanying resolutions were laid upon the table, and ordered to be printed.

* * * *

—[*Conn. Sen. Journal*, 1858, p. 373.

June 10, 1858.

* * * *

Mr. Curtis, from the Joint Select Committee, * * to whom was referred the report of William H. Holley, one of the Boundary Commissioners on the part of this State, by leave of the Senate, submitted the report of the Committee, recommending that said annual report be accepted and ordered to be lodged on file in the office of the Secretary of State.

On motion, the report of the Committee was accepted, and the accompanying report was ordered to be lodged on file in the Secretary's office, as by the Committee recommended.

* * * *

—[*Conn. Sen. Journal*, 1858, p. 429.

[IN CONN. HOUSE OF REPRESENTATIVES.]

June 15, 1858.

* * * *

The following report of the Joint Select Committee, appointed to inquire into the matters in dispute concerning the Boundary Line between this State and the State of New York, with the accompanying resolutions, was received from the Senate, viz:

GENERAL ASSEMBLY, May Session, A. D. 1858.

The Joint Select Committee, who were raised to inquire into all matters in dispute concerning the boundary line between the State of Connecticut and the State of New York, respectfully report:

That from the earliest period in our colonial history one of the most fruitful sources of difficulty between the colonies of Connecticut and New York was the uncertainty concerning their boundary line, and it was not until years had elapsed, and the colony of Connecticut had relinquished a large portion of her territory, that the matter was finally adjusted, and brought to a successful termination in the year seventeen hundred and twenty-five; since which time, up to the year 1855, a period of one hundred and thirty years had elapsed, and most of the early marks and bounds made and set up by the early Commissioners, in running that line, had been entirely obliterated. In view of these facts, and to prevent any difficulties which might arise out of controversies concerning said boundary, the General Assembly, at its session in May, A. D. 1855, passed a resolution providing for the appointment of a Board of two Commissioners on the part of the State of Connecticut, whose duty it should be to confer with any number of Commissioners to be appointed by the State of New York, and jointly with such Commissioners to ascertain the boundary line between the two States.

That at the same session of the General Assembly William H. Holly and Jason Whiting, Esqrs., were appointed such Board of Commissioners to ascertain said boundary, and were duly commissioned for that purpose.

That said Commissioners on the part of the State of Connecticut, met certain Commissioners on the part of the State of New York, on the 3d day of June, 1856, and it was mutually agreed to proceed and ascertain the said boundary line between the two States, and to set up and establish marks and bounds at intervals along the same.

And your Committee find that, in pursuance of such agreement, a boundary line was run, and marks and bounds were set up at intervals along said line, and no permanent disagreement took place between the Commissioners of the two States until they met to adjust and settle the expenses of the survey.

That the Commissioners on the part of the State of New York, at the meeting last mentioned, positively refused to agree to establish the line so run and surveyed by said joint commission, unless the Commissioners on the part of the State of Connecticut would agree to pay one-half of the expenses arising from the employing a surveyor to run and survey said line, which surveyor was employed wholly by the Commissioners on the part of the State of New York.

And in consequence of such disagreement no line has been fully ascertained and determined upon between the two States.

All of which doings of said Commissioners were fully heard and reported upon at the last session of the General Assembly, and the Commissioners on the part of the State of Connecticut were fully and entirely exonerated from all blame during the time they were conferring with said New York Commissioners and running said boundary line.

At the same session of the General Assembly, a resolution was passed, authorizing and requesting the said Commissioners heretofore appointed, together with the Hon. Truman Smith, appointed at said last mentioned session, to go forward and bring to a satisfactory conclusion the matter originally committed to them as soon as requested thereto by the Commissioners of the State of New York, duly authorized, and to make a final report to this session of the General Assembly.

And your Committee find that so far as they have been able to ascertain, no request has been made by any Commissioner or Commissioners on the part of the State of New York, to go forward and ascertain and settle said boundary line, and therefore that the Commissioners on the part of this State are not under obligations, and in pursuance of the aforementioned resolution are not bound to take any further action to bring to a satisfactory conclusion the various questions existing concerning said boundary line.

And your Committee further find, that along said line the greatest uncertainty and confusion now prevails in regard to the same, and that there is a dispute now existing between said Commissioners as to whether the line they have run is the true line of seventeen hundred twenty-five, and as to whether they have exceeded their powers in running said line. That at many places along said line it varies materially from the old traditionary line, and that the recent survey, if left in its present condition, will tend to greater confusion and uncertainty, rather than to fix and determine the said boundary line.

Your Committee further report, that the said Commissioners are desirous of being discharged from further action in the matter, and that the existing difficulties are of such nature, that in the opinion of your Committee, no adjustment can be had of the questions now in

controversy, unless there is a full discharge of your present Board of Commissioners.

Your Committee, therefore, recommend that the present Board of Commissioners be fully and honorably discharged from all further duty, and that his Excellency, the Governor of this State, be empowered to appoint such number of Commissioners, (not exceeding three,) as may be necessary to confer with any number of Commissioners to be hereafter appointed on the part of the State of New York, whose duty it shall be to ascertain and settle said boundary line—subject to the ratification of the Legislatures of the two States; and herewith report the accompanying resolutions.

All of which is respectfully submitted.

JULIUS B. CURTIS, *Chairman.*

Resolved by this Assembly, That the Commissioners heretofore appointed on the part of the State of Connecticut, to ascertain the boundary line between this State and the State of New York, be and they are hereby discharged from all further duty concerning said boundary line, and that the resolution appointing said Commissioners, passed at the session of the General Assembly, May, 1855, and all other resolutions in addition to and alterations of the aforesaid resolution, be and the same are hereby repealed.

Resolved, That his Excellency, the Governor of this State, be and is hereby empowered to appoint and commission any number of Commissioners, not exceeding three, which said Commissioners are hereby empowered to meet such Commissioners as may be hereafter appointed, on the part of the State of New York, and with them jointly to ascertain and settle the boundary line between the two States, and erect suitable monuments at such places as they shall deem necessary, to prevent future mistakes concerning the same, and to employ necessary surveyors, chainmen, and assistants to assist as aforesaid, and report to and be subject to the next session of the General Assembly.

Resolved, That the Governor of this State be requested to transmit a duly certified copy of the foregoing resolutions to the Governor of the State of New York.

The report of the Committee having been accepted in the Senate, and the accompanying resolutions amended by inserting before the word "discharged" in the fourth line of the first resolution the word "honorably;"

Also, by inserting after the word "resolutions," in the second line of the last resolution, the words "with the accompanying report of the Joint Select Committee of this General Assembly," and, as amended, passed;

The question, "Shall the amendments proposed by the Senate be adopted?" was put, and decided in the affirmative.

So the House concurred with the Senate in the adoption of the proposed amendments.

The question recurring upon the passage of the resolutions, as amended,

The question, "Shall the resolutions, as amended, pass?" was put and decided in the affirmative.

So the resolutions, as amended, were passed, and, on motion, the House concurred with the Senate in accepting the accompanying report of the Committee.

* * * *

—[*Conn. House Journal*, 1858, p. 516.

[GOV. MORGAN TO N. Y. LEGISLATURE.]

January 4, 1859.

* * * *

There is an unadjusted question, in relation to the boundary line between this State and the State of Connecticut, the necessary information concerning which, I have not been able to obtain; but it is a question which ought to be settled during the present session, and I call attention to it, fully believing it will receive that consideration and action, which justice to our own, and to our sister State, demands.

* * * *

—[*N. Y. Sen. Journal*, 1860, p. 22.

[IN N. Y. ASSEMBLY.]

February 2, 1859.

* * * *

A message was received from his excellency the Governor, relative to the disputed boundary between this State and the State of Connecticut, which was referred to the committee on the judiciary, and ordered printed.

* * * *

—[*N. Y. Assem. Journal*, 1859, p. 249.

STATE OF NEW YORK.

No. 54.

IN ASSEMBLY, Feb. 2, 1859.

COMMUNICATION

From His Excellency the Governor, with reference to the disputed Boundary between New York and Connecticut.

EXECUTIVE CHAMBER,
ALBANY, February 2, 1859. }

To the Assembly:—In my annual message I stated that there was an unsettled question of boundary with the State of Connecticut, concerning which I had not then been able to obtain the requisite information. Since that message was communicated to the Legislature, I have gathered some additional information which convinces me of the propriety of immediate action.

The boundary between the States of New York and Connecticut has been unsettled for more than two centuries. It is not necessary to enter into the controversy here, further than to mention that in 1725 and 1731, the boundary line was officially defined, as was then supposed finally and beyond the possibility of dispute, an elaborate survey having been made and numerous monuments erected. In the lapse of time these monuments have been in a great measure obliterated, and great uncertainty has consequently prevailed along the border, as to the precise position of the boundary line. In May, 1855, the Legislature of Connecticut passed resolutions appointing two Commissioners to meet such as might be appointed by this State, to ascertain and mark the boundary, and requested the co-operation of New York. Our Legislature responded to this request, and on April 9, 1856, by concurrent resolutions, authorized the Governor to appoint three Commissioners to define the line. Gov. Clark, on the same day, appointed Ben. Field, Samuel D. Backus, and Jonathan Tarbell, Commissioners under these resolutions. They entered upon their duties about the first of June, and from the 23d of that month till November 1, the Commissioners of both States, with a surveying party, were engaged in running the line. The result was that for a distance of about thirty miles, commencing at Long Island Sound and proceeding northward by a zig-zag line, there was a substantial agreement between the Commissioners as to the position of the line, the ancient monuments being readily discovered. For a distance of about fifty miles running northward from what is called the Ridgefield angle to the southern boundary of Massachusetts, a line was run by the surveying party, which the Commissioners on the part of Connecticut were

willing to accept, and which they claim was run under the authority of the Commissioners of this State, and was established as the true boundary line by their acts. The latter, however, maintain that the line so run was merely an experimental line, which is as a general thing to the west of the true boundary line as designated by traditions and monuments, and that it has never been established by any act of theirs. Upon this point connected with some questions of expense the Commissioners of the two States, on November 6, 1856, came to an entire disagreement. The disputed district, consisting of a strip of land which runs north and south for a distance of about fifty miles, and which is at its widest part forty-two rods wide, contains about twenty-six hundred acres. Most of this district is mountainous and of no great value, but at one point a portion of a village of two or three hundred inhabitants is included in the disputed territory.

The disagreement between the Commissioners of the two States soon assumed a bitter and personal form, so that there has been no official definition even of thirty miles of line about which there is a substantial agreement between the representatives of the two States. Since this disagreement, which was followed by a withdrawal, on November 15, of all proposals on the part of the Commissioners of this State, nothing has really been accomplished, though several formal communications have passed between the Commissioners. Even the proper division of the expenses attending the attempted settlement of the boundary remains undetermined, the representatives of both States claiming to have paid more than their share. The dispute upon this point seems mainly to turn upon the question whether Connecticut is responsible for any portion of the expense of a surveying party employed apparently by the New York Commissioners.

The original resolutions, under which the Commissioners of this State were appointed, made no appropriation for the expenses of the Commission, though they authorized the Commissioners to incur them. But in 1858 a law was passed appropriating seven thousand dollars for the purpose, and fixing the personal compensation of the Commissioners at six dollars per day each. The entire amount thus appropriated was drawn from the treasury prior to March 23, 1858, while a clause appropriating about two thousand dollars additional was inserted in the supply bill of that year, but stricken out in the Senate and referred to the present Legislature.

I cannot resist the conclusion that the expenses of this Commission, on the part of this State, have been unnecessarily large. The Comptroller of the State of Connecticut states the entire amount drawn by the Commissioners of that State at twenty-four hundred and twenty dollars, while this State has already paid seven thousand dollars, and

there are bills to the amount of nearly two thousand dollars more outstanding.

Of this sum a considerable proportion has accrued since negotiations have been broken off between the representatives of the different States. and the amount is constantly increasing, without the least probability of anything being accomplished.

Whether, however, the expenses hitherto have or have not been unnecessarily large, there seems no reason to doubt that this question of boundary can now be settled at a small additional expense, and in a brief period, the line already surveyed being taken as a basis.

I would suggest, therefore, that the resolutions of 1856 be rescinded, and that a law be passed authorizing the appointment of two Commissioners, with full powers to establish the line where it may be deemed best, after consultation with proper representatives of Connecticut, and that their compensation, and the entire expense they are allowed to incur, be fixed in the bill. By such a course the matters in dispute can be settled within a month, after good weather commences in the spring.

Connecticut has honorably discharged her Commissioners, but has left authority with the Governor to appoint others with power to ascertain and settle the boundary line, and this State must communicate with the Governor of that State, and procure some action on his part. Under no circumstances should the present condition of things be allowed to continue another year. What has been done has thus far only served to render matters more unsettled than before. Residents near the border know not to what laws they are subject nor in which State they should vote, while officers of justice and of revenue hesitate to exercise their authority. Consequently the laws are not obeyed and the taxes are not collected. Justice to our own citizens and to our neighbors demands that this state of things should not be allowed to continue.

E. D. MORGAN.

February 2, 1859

* * * *

On motion of Mr. Morris,

Resolved, That the communication from his excellency the Governor, to this House, in relation to the Connecticut boundary be printed immediately for the use of the judiciary committee and this House, that action may be had thereon without delay.

* * * *

—[*N. Y. Assem. Journal*, 1859, p. 255.]

A bill entitled "An act for the settlement of the disputed boundary between this State and the State of Connecticut," passed the Assembly, and was favorably reported by the judiciary committee of the Senate and committed to the committee of the whole on the 12th of April,—one week before the final adjournment. For details as to this bill, which failed to pass the Senate and become a law, probably for want of time, see *Assem. Journal*, 1859, pp. 432, 921, 951, 1111, 1159, 1233; *Sen. do.*, pp. 760, 763; and *Assembly Bills*, No. 283.

[STATE OF NEW YORK.]

Chap. 508.

Passed April 19, 1859.

* * * *

To J. Tarbell and S. D. Backus, in full, for services rendered and expenses incurred by them, as Commissioners to settle the disputed boundary between this state and Connecticut, the sum of two thousand one hundred and thirty-five dollars and seventy cents, of which one thousand two hundred and fifty-three dollars are to be paid to J. Tarbell, and eight hundred and fifty-two dollars and seventy cents to S. D. Backus; the same to be paid only on their giving a receipt in full, releasing the state from all claims, and on their exhibiting to the comptroller satisfactory proof that they have discharged all outstanding just claims for moneys alleged to have been borrowed by them on account of said commission.

* * * *

—[*N. Y. Laws*, 1859, p. 1174.]

[GOVERNOR BUCKINGHAM TO CONN. LEGISLATURE.]

May 4, 1859.

* * * *

A copy of the resolution adopted by the last General Assembly, relating to the boundary line between this State and the State of New York was transmitted to the Governor of that State, and, by the present executive made the subject of a special message to the Legislature. Commissioners have been appointed, on the part of this State, to act, jointly, with such as may be appointed by the State of New York; but I have not been informed whether the Legislature of that State took action on the subject.

* * * *

—[*Conn. Sen. Journal*, 1859, p. 36.]

[IN CONN. HOUSE OF REPRESENTATIVES.]

June 7, 1859.

* * * *

Mr. Armstrong of Danbury, introduced a joint resolution referring so much of the message of his Excellency, the Governor, as relates to the boundary line between this State and the State of New York, to the Joint Select Committee on Federal relations, with instructions to inquire into the matter, and report what measures, if any, may be adopted to secure the settlement of said boundary question, as speedily as possible. Passed.

* * *

—[*Conn. House Journal*, 1859, p. 265.]

[IN CONN. SENATE.]

June 15, 1859.

* * * *

Mr. Bird, from the Joint Select Committee on Federal Relations, to whom was referred by a joint resolution, so much of the message of his Excellency, the Governor, as relates to the boundary line between this State and the State of New York, with instructions to inquire into the matter, and report what measures, if any, may be adopted to secure the settlement of said boundary question, as speedily as possible, by leave of the Senate, submitted the report of the Committee, reporting that no information had been received by his Excellency, whether the Legislature of New York took action on the subject, and recommending the passage of the following resolution:

“GENERAL ASSEMBLY, }
 May Session, 1859. {

Whereas, in pursuance of a resolution of the last General Assembly, Commissioners have been appointed by the Governor, on the part of this State, to act with such as might be appointed by the Legislature of the State of New York, to ascertain and settle the boundary line between the States, and whereas, due notice has been given to that State of the appointment of said Commissioners, but no information received what action, if any, has been taken on the subject by its Legislature; therefore,

Resolved by this Assembly,—That the Commissioners appointed by his Excellency, the Governor, under and by virtue of a resolution above referred to, be, and the same are hereby continued, with all the powers and duties defined by said resolution, and that the Governor may be

empowered to fill any vacancy that may occur in said Commission. And that he be requested, in such manner as he may deem most expedient, to again call the attention of the Governor of the State of New York to this matter, and on the behalf of this State, request such action on the part of the State of New York, as may promote the most speedy settlement of the matters in dispute."

The question being upon the passage of the resolution submitted by the Committee,

The question "Shall the resolution pass?" being put, was decided in the affirmative.

So the resolution submitted by the Committee was passed, and, on further motion, the accompanying report of the Committee was accepted.

—[*Conn. Sen. Journal*, 1859, p. 371.]

[IN CONN. HOUSE OF REPRESENTATIVES.]

June 16, 1859.

* * * *

The report of the Joint Select Committee on Federal Relations, * * was received from the Senate, the report of the Committee being accepted, and the resolution being passed as by the committee recommended.

The question being upon the passage of the resolution submitted by the Committee,

The question, "Shall the resolution pass?" was put, and decided in the affirmative.

So the resolution submitted by the Committee was passed, and, on further motion, the House concurred with the Senate in accepting the report of the Committee.

* * * *

—[*Conn. House Journal*, 1859, p. 402.]

[GOV. MORGAN TO N. Y. LEGISLATURE.]

January 3, 1860.

* * * *

Having been officially informed by the Governor of Connecticut that he had appointed a new commission for the purpose of settling the disputed boundary between that State and our own, and determined to meet this action on the part of our sister State in a proper spirit, I

appointed commissioners on the part of this State.¹ The representatives of the two States have met and formed a joint board, and have examined the disputed territory, but after several meetings, have been unable to agree upon a basis for settlement. I still hope that the matters in dispute will be satisfactorily adjusted; but should this not be done, some action on your part may become necessary during the present session.

* * * * *

—[*N. Y. Sen. Journal*, 1860, p. 31.

[IN N. Y. SENATE.]

January 18, 1860.

* * * * *

The President presented a communication from the Commissioners appointed to ascertain the boundary line between the States of New York and Connecticut, transmitting a report of their proceedings, together with the expenses incident thereto, which was read, laid on the table and ordered printed.

* * * * *

—[*N. Y. Sen. Journal*, 1860, p. 84.

STATE OF NEW YORK.

No. 31.

IN SENATE, JANUARY 18, 1860.

REPORT OF THE COMMISSIONERS TO ASCERTAIN THE BOUNDARY LINE BETWEEN NEW YORK AND CONNECTICUT.

ALBANY, *January 18, 1860.*

To the HON. ROBERT CAMPBELL, *President of the Senate*:

SIR.—We, the Commissioners appointed to ascertain the boundary lines between the states of New York and Connecticut, herewith transmit to the Legislature a report of our proceedings, and the expenses, as

¹ It appears from the records in the office of the N. Y. Secretary of State (*Commissions by the Governor*, iii, 113, 114, 118), that the following Commissioners were appointed by the Governor, Aug. 2, 1859, under the concurrent Resolution of April 5, 1856, viz. :

Thomas B. Carroll, of Troy, *vice* S. D. Backus.

Isaac Platt, of Poughkeepsie, *vice* J. Tarbell.

Jacob Vrooman, of Schoharie Co., *vice* Ben Field, resigned.

Mr. Carroll having declined to serve, Leander D. Brown, of Schuyler Lake, Otsego Co., was appointed Aug. 26, 1859.—[P.]

near as we can ascertain the same, incident thereto, so far as we have been able to proceed with the duties of said Commission.

Respectfully yours, &c.,

ISAAC PLATT,
JACOB VROMAN,¹
LEANDER D. BROWN.

The first regular meeting of the Commissioners of the two states was held at Port Chester, in the county of Westchester, on the 13th of September, 1859, at which meeting a joint Commission was organized by the election of Isaac Platt, of the New York Commission, as chairman, and J. R. Hawley of the Connecticut Commission, as secretary.

After this organization of the joint Commission, the first subject discussed was the manner in which we should proceed to the labor before us. Pending this discussion, Mr. Brown, of the New York Commission, presented a resolution, of which the following is a copy, to wit:

“*Resolved*, That we will proceed immediately to trace and define the boundary line between the respective states, as fixed by the Commissioners on the part of both in 1731, in compliance with an agreement previously made in 1725, commencing at the mouth of Byram river, and following the line of monuments and marks originally placed to mark said boundary, to the monument in the south line of Massachusetts, at the northwest corner of Connecticut and northeast corner of the Oblong.”

This was rejected by the Connecticut Commissioners, on the ground that they believed that such a line could not be traced with any certainty; that the monuments and marks were destroyed, especially above the Ridgefield Angle, where the principally disputed line commenced, and therefore the proper course would be to run a straight line from that point to the monument in the Massachusetts line. In reply to this, we suggested that where monuments could not be found fences would be, that had been placed on the division line of farms, as the states were originally divided; also that monument points, if the monuments themselves had been destroyed, could be found in many instances from the description of the location for the same, given in the survey of 1731, and where they could not be found in that manner, tradition would, without doubt, fix their original locality. These suggestions, however, did not seem to remove the objections of the Connecticut Commissioners.

To meet this difficulty and disagreement, which seemed thus at the outset to present a formidable obstacle to our further proceedings, it

Spelled “Vrooman” in commission, and at end of report.—[P.]

was then urged and insisted, on our part, that the proper course would be to proceed immediately to trace or search out the line from the mouth of Byram river to the monument in the Massachusetts line, as it was fixed by the survey of 1731, in compliance with the compact of 1725, by a careful examination on the part of the entire Commission, competent engineers being employed on both sides to make the requisite notes and observations at the points of most interest. To this, after some hesitation, the Connecticut Commissioners gave their assent, but added, at the same time, that they had no proposition to offer on their part, and could not proceed until they had returned home for further instructions. On their motion, the board then adjourned to meet again at the same place on the 20th of September, then instant.

At the time and place above specified, in pursuance of the adjournment, the joint board again met, accompanied by an engineer from each state, having the necessary instruments for taking such observations as the service might require, and proceeded on that day to prospect along the line, and take such observations and measurements, and make such notes as were deemed necessary over that portion of the line from the mouth of Byram river to the great stone at the Wading place.

When we had proceeded thus far the Connecticut Commissioners suggested that probably there would be no dispute about that portion of the line between the Wading place and the Ridgefield Angle monument, and proposed that we proceed to that place, and first examine the line from the said Ridgefield Angle monument to the Massachusetts line.

Accordingly we consented to the proposition, and on the following day repaired to the monument which tradition says is the Ridgefield Angle monument, being the commencement of the direct line running from that point to the line of Massachusetts, originally agreed upon as the east line of that portion of the equivalent tract lying north of the point opposite Cortlandt's Point, mentioned in the survey of 1731.

This monument is obscurely described in the original survey and we found it as poorly marked as any other, being nothing but a small heap of stones of very modern appearance, in which is a stake, evidently very recently placed there; but this appeared by traditionary evidence to be a well established point. We therefore waived all dispute respecting this point for the present, especially as the Connecticut Commissioners were satisfied with it, in order that we might apply the same rule to the ascertaining of other monuments and portions of the line, resting upon like evidence as to their identity.

From this point, following along the dividing line of farms, as designated by fences which the owners on both sides have always recognized as the line between the states, we found the monument

described in the original survey as the two mile monument. It answers well to the original description, but it was found to be five chains and fifty-eight links east of a straight line running from the Ridgefield Angle monument above to the monument in the Massachusetts line, as per the survey of Mr. Wentz, in 1856.

Again, following the dividing line of farms, we found the fourth mile monument at Mopo Brook, in all respects answering to the original description. It is placed in a low piece of ground that has never been ploughed, and twenty and one-half rods east of said brook. The brook at that point running along the east side of a high ridge of land, where evidently its bed could not have been materially changed in centuries. It is seven chains and twenty-seven links east of a straight line, and we have no doubt of its identity.

The six mile monument could not be found, but the boundary line to the point described for its location in the old survey, as designated by the division line fences of farms, acquiesced in by the occupants on each side from time immemorial, and passing that point to the eight mile monument, was pointed out to us, and without doubt these fences, composed of stone walls of ancient appearance, are on the line established in 1731. This point was found to be ten chains and twenty-six links east of a straight line.

The eight mile monument was found and readily distinguished from the description given in the old survey. There was no question raised as to its identity.

The ten mile monument was not found, but evidence of the position it should occupy exists, and the line can be traced by the division line fences of farms, bounded on each side by the State line, (the same as from the four to the eight mile monument) from the eight mile monument to the twelve mile monument.

The twelve mile monument was found designated by a stone set up in a wall at the point where it was originally placed, the wall being built over the original monument, and the stone in the wall placed over that point.

The fourteen, sixteen, eighteen and twenty mile monuments were all found, and readily identified, fully answering their description in the original survey. No question was, nor could any be raised as to their identity, and the division line fences of farms as usual run over these several points.

The twenty-two, twenty-four and twenty-six mile monuments could not be found. They are very indefinitely described in the old survey, but from the twenty mile monument to the twenty-eight mile monument, the line is designated by the division line fences as before, and we readily ascertained the point in the line of said fence, where the twenty-

six mile monument was located, by measurement, on a perpendicular from the east bank of Ten Mile river.

We found the twenty-eight mile monument. Its locality as per the description given in the old survey and its ancient appearance, independent of conclusive traditionary evidence, rendered its identity certain.

The thirty, thirty-three and thirty-five mile monuments were each found, fully answering in appearance and locality to their description as given in the old survey. The division line fences of farms, also run over all these points.

The thirty-seven and forty mile monuments were not found. The point designated in the old survey for the latter, however, could be readily ascertained by a measurement easterly from the Ten Mile river, and also tradition points out the spot it once occupied. We took observations and measurements and found the point in the line designated by fences on the recognized State line.

The forty-two mile monument point, or locality, we found to be more easily established by calculation and measurement than any other on the whole line, owing to the peculiar locality in which it was placed, and although the monument itself does not exist, by making a measurement of the distance from Ten Mile river, easterly from its bank where it runs southerly, to a point on the high bank of the same where it runs easterly, the exact spot the monument once occupied was readily found.

The forty-four mile monument was found, and by measurement on a perpendicular from the shore of Indian pond to the same, we found the distance to correspond so nearly with that specified in the old description, we were satisfied with its identity.

The forty-seven mile monument could not be found. Tradition, however, marks the spot in a stone wall on the division line of farms, and the recognized State line, that it once occupied, and from the facts we could obtain by evidence traced directly back to the period of the survey, together with its locality as compared with the old description, we could have no doubt of its being correctly marked. This point is thirty-six rods east of a straight line.

The monument in the Massachusetts line was found in a hollow between two mountains, but not fully answering the description. We think, however, that it is the one designated in the old survey.

We might add that the forty-four mile monument is the established corner of the towns of Salisbury and Sharon; the thirty-five mile monument as the corner of the towns of Sharon and Kent; and the twenty-eight mile monument as the corner of the Housatonic Indian reservation, all in the State of Connecticut.

This labor of exploring the line was completed on the 4th of October, and thus it was found that the line could be traced and defined with

such ease and certainty that all grounds for doubt as to its locality were removed. We proposed further to test the location of the monument in the Massachusetts line, by measurement to it from the north-west corner of the Oblong, but as the Connecticut Commissioners objected to this on account of the labor, the difficulty of measuring over the Taghkanic mountains, and the time it would consume, we waived that point for the time, feeling that whether such monument was at the right place or not, its position could not now be changed.

The cause of the above monuments not being in a direct or straight line, can readily be perceived from a perusal of the agreements of 1725 and basis of the survey taken, together with a view of the country through which the line passes; it is because of the inequalities of the surface over which the perpendiculars were measured from the west line of the Oblong, the locality of some of said perpendiculars running over high and almost inaccessible mountains, and others over a plain level surface. And also, probably, they do not in all cases describe a straight line at right angles with said west line of the Oblong, for the reason that a compass was the only instrument used in the survey, and our experience demonstrates that it is difficult, if not impossible, to run a straight line with that instrument in their localities, in consequence of the mineral deposits, principally of iron, extending through that whole region of country.

The labor of exploring the line being completed thus far, and no question having been raised by the Connecticut Commissioners as to the correctness of the evidence we had obtained with reference to the monuments, and the points designating their locality, we then hoped to immediately enter upon the duties of a survey.

For the purpose of agreeing upon a basis for such survey, and the Commissioners of both States deeming it inexpedient to commence the same unless an agreement establishing its basis over that portion of the line thus explored and examined was first agreed upon, the joint Commission held a meeting at Lakeville, in the State of Connecticut, on the fifth of October, then inst., at which meeting we immediately proposed that a survey of the line as ascertained should be commenced as soon as the necessary help could be obtained for such purpose. The Connecticut Commissioners, after consulting together, announced that they had no proposition to offer on their part. Mr. Vroman of the New-York Commission, then presented the following resolution, to wit:

Resolved, By the joint Commission, that we will survey the boundary line between the States of New York and Connecticut, by commencing at the monument in the Massachusetts line, and run thence to the forty-seven mile monument point, as pointed out by Mr. Wm. Kelsey, from thence to the forty-four mile monument at Indian Pond, from thence to

the forty-two mile monument on the north side of Ten Mile river, from thence to the forty mile monument point in the traditionary line near the house of George Wheeler, from thence to a point in the traditionary line designated for the thirty-seven mile monument; from thence to the thirty-five mile monument; thence to the thirty-three mile monument; thence to the thirty mile monument; thence to the twenty-eight mile monument; thence to a point in the traditionary line where the measurement was at right angles from Ten Mile river, on the perpendicular line designated as the place for the twenty-six mile monument; from thence to a point in the traditionary line designated as the place for the twenty-four mile monument; from thence to a point in the traditionary line designated as the place for the twenty-two mile monument; from thence to the twenty mile monument; from thence to the eighteen mile monument; from thence to the sixteen mile monument on Cranberry mountain; from thence to the fourteen mile monument, as pointed out by the inhabitants living in the vicinity on each side of the line; from thence to the twelve mile monument; from thence to a point in the traditionary line designated as the locality for the ten mile monument; from thence to the eight mile monument; from thence to a point in the traditionary line at the place designated as the locality for the six mile monument; from thence to the four mile monument at Mopo Brook; from thence to the two mile monument, and from thence to the Ridgefield Angle monument.

To this the Connecticut Commissioners immediately objected, yet raising no question as to the evidences of the line we had traced, and insisted that we should run a straight line from the monument in Massachusetts line to the Ridgefield Angle monument, disregarding all the intermediate monuments.

Supposing that the above resolution might be too rigid in its phraseology, and that, perhaps, a modification might render the proposition more acceptable, Mr. Platt, of the New York Commissioners, offered the following as a substitute:

“The members of the joint Commission on the part of the States of New York and Connecticut, having examined for the purpose of ascertaining the position of the boundary line between their respective States, as located by the Commissioners of 1731, hereby agree to employ engineers for running said line in the manner following:

“Commencing at the monument in the south line of Massachusetts, at the northwest corner of Connecticut, as heretofore fixed, and running thence southerly, following the line of monuments originally placed to mark and designate the actual line between the States, where such monuments have been found, and where they are wanting the fences at the points they formerly occupied, as correctly as can be ascertained,

to the Ridgefield Angle, and from that point following the settled line in like manner to the mouth of Byram river."

This was also immediately rejected by the Connecticut Commissioners, on the ground, as they declared, that it was in effect the same thing as the resolution of Mr. Vroman, although in less objectionable terms.

As a further effort to remove objections and secure an agreement, Mr. Platt offered the following in addition to the above, to wit :

"That in case said survey of the original or traditionary line shall not prove mutually satisfactory, such further steps shall then be taken as shall be considered requisite for the purpose of ascertaining more definitely the true boundary between the States, with a view to its final and correct settlement."

But this effort at conciliation met with no better reception than the former proposition, and a straight line was again insisted upon by the Connecticut Commissioners.

A long discussion was had ; the Connecticut Commissioners offering no proposition on their part, and finally after it conclusively appeared that no terms could be fixed upon at that time, at the request of the Connecticut Commissioners we consented to an adjournment on their motion, to meet again at North Salem, on the twelfth day of October then instant.

When we reached the above place, pursuant to adjournment, the Connecticut Commissioners did not appear, and we heard nothing from them until a late hour in the evening, when we learned they had reached Ridgefield, Connecticut, at 12 M. of that day, and there stopped, although but four miles distant. They sent us notice, however, that they would meet us at the Ridgefield Angle on the following morning.

We met them accordingly, at the hour appointed, they being fully prepared with an engineer, transit, chain, flag, &c., as if ready to proceed immediately to the business of the survey.

After testing by mutual agreement the position of a traditionary point designated as the original Ridgefield Angle, fixed at twenty miles from Cortlandt's point, on the Hudson river, according to the old survey of 1731, we next proceeded to measure across the Oblong to the present angle monument, and found the distance to agree with the original survey so nearly that the difference was only nineteen links.

The labors of this examination being completed, another effort was made on the evening of the same day to agree on the basis of a survey of the entire line.

As usual the first call was upon us for propositions, when Mr. Brown, of the New York Commission, presented the following, to wit :

"Commence at the monument in the Massachusetts line and run from thence to the forty-four mile monument; thence to the point designated

as the location of a monument on the high bank north of Ten Mile river; thence to the end of the line fence in the traditionary line at the north end of the village of Hitchcock's Corners; thence through the centre of the main street to a point in said centre in front of the store at the south end of said village; thence to a point in the traditionary line on the southerly side of the highway leading southeasterly from said village; thence to the thirty-five mile monument; thence to the thirty mile monument; thence to the twenty-eight mile monument; thence to the twenty mile monument; thence to the eighteen mile monument; thence to the sixteen mile monument; thence to the fourteen mile monument; thence to the eight mile monument; thence to the four mile monument; thence to the Ridgefield angle monument, running straight lines from point to point."

The object of this proposition on our part was to offer as much of a compromise as the circumstances of the case would permit, acting within the scope of our powers, by omitting all points in the line respecting which there could be any doubts, and making it as straight as possible.

The object of the deviation at Hitchcock's Corners was to leave the main street, heretofore regarded as the dividing line, a highway or thoroughfare for the use of the people of each state, to promote general convenience. But this was rejected as promptly as the propositions that had preceded it; when Mr. Platt, of New York Commission, renewed his proposition made at Lakeville, slightly modified, and in the following form, to wit:

"The members of the joint commission on the part of the states of New York and Connecticut, having examined for the purpose of ascertaining the true position of the boundary line between their respective states, and mutually agreeing that it is their duty to define and fix said line in conformity with the original agreement of the contracting parties, hereby consent to employ engineers to run said line in the manner following, to wit:

"Commencing at the monument in the south line of Massachusetts and at the northwest corner of Connecticut, and running thence southerly, following the actual dividing line between the respective states as heretofore fixed and assented to by the parties interested on both sides, to the Ridgefield angle, and thence in a line designated in like manner to the mouth of Byram river.

In case such survey and the facts and results ascertained in making it, shall not prove mutually satisfactory, then such further steps shall be taken as shall be required by either party for the further ascertaining, locating and defining said line in conformity with the original intention of the States concerned."

It will be perceived that this was going as far as concession could be carried, but notwithstanding this, with the concluding stipulation that if the survey and its results were not satisfactory we would take such further steps as might be required to render them so, this fair and conciliatory proposition was immediately rejected by the Connecticut Commissioners, and followed by a renewal, on their part, of the proposition to run a straight or new line, and that only, from the monument in Massachusetts line to the Ridgefield angle, disregarding all intermediate monuments and points.

Here for the first time, as an argument in favor of a straight line and no other, the Connecticut Commissioners set up the plea that New York had received some three thousand acres too much by the survey and settlement of 1731.

To this we replied, that, whether the Oblong originally set off by Connecticut contained too much or too little was a question that could not be entertained at this day, as the whole had been settled by the respective states when colonies, and the conveyance formally made at the date above mentioned, and confirmed by a royal ordinance, as the papers before us would show that the indenture then made expressly stipulated, on the part of the Connecticut Commissioners, that the eastern boundary of the Oblong or equivalent lands, should be fixed, to use their own language, *as the said lines run through the several monuments erected*, over the entire line; and that further, in the same indenture, or conveyance, it was also stipulated on the part of the commissioners of both sides, to quote the words of the indenture, that the boundary should be defined and fixed "as the lines through the several monuments above mentioned, to have been erected by the said Commissioners on the east side of said additional lands, to be and remain from henceforth the lines of partition and division between the province of New York and the colony of Connecticut, forever." That the effort to change at this day a conveyance or line that had been thus established, and confirmed by general assent for one hundred and twenty-eight years, would not be sanctioned by any court; also that the powers of the commissioners of each State were simply to *ascertain* the line. This duty had been performed, so far as the disputed portion of the line was concerned, and any proposition to establish a new line could not, therefore, be entertained for a moment.

The discussion of this proposition being thus terminated, the Connecticut Commissioners, after consultation among themselves, finally proposed to deviate so far from a straight line only as to run through the main street of the village of Hitchcock's Corners, leaving all west of that street in New York, as at present.

This slight movement for a concession extending over a distance of

less than half a mile, we did not regard of sufficient consequence to need any discussion further than courtesy demanded.

As a final effort, or experiment, to see if the Connecticut Commissioners would accept any fair proposition we might make, Mr. Platt, on behalf of the New York Commission, presented the following resolution, we hoping that, perhaps by omitting all details of the plan, and making the terms entirely general, an arrangement might be effected.

“*Resolved*, By the joint Commission, that we agree to employ engineers to run and correctly define the true boundary line between our respective states under our direction.”

But this, like all of our other propositions, was immediately rejected by them.

Here we conceived that our powers of conciliation were exhausted, and after all discussion on our part had ceased, the Connecticut Commissioners finally offered, as if nothing had ever been done with reference to this subject, a proposition to run the original west line of the Oblong again, from the point twenty miles east of Courtlandt's point on the Hudson's river, to a point on the Massachusetts line twenty miles from the said Hudson's river, and set off 61,440 acres to New York, in other words to do over again the work of 1731.

What object they had in making such an offer we could not readily understand, especially as we were not disposed to accuse them of trifling with so grave a subject.

This last proposition of the Connecticut Commissioners was rejected by us on the same grounds before specified, to the other propositions offered by them, and the joint Commission here adjourned to meet again at such time as should thereafter be fixed upon by the chairman of the respective Commissions.

After such adjournment, we, the New York Commissioners, repaired on the following day to Boston Corner, for the purpose of testing the position of the monument in the Massachusetts line at the northeast corner of the Oblong, and after the most severe labor in crossing the Taghkanic mountains, the most careful observations had been taken by our engineer, Mr. Dewey, and the requisite measurements made, both on the mountains and at the northwest corner of the Oblong, the distance was found to be nineteen rods short of that required, or that the monument should be at least nineteen rods east of its present locality. The difference in the distance as calculated by our engineer, and that made by Mr. Hogeboom in the survey of Boston Corner in 1853, when the same line was measured by both triangulation and chaining, was found to be but one rod and three links. It will thus be seen that to consent to run a straight line from such a point south to the Ridgefield angle monument, would be to wholly disregard the rights and interests of our State.

Our joint labors had here apparently closed, but after a correspondence with the chairman of the Connecticut Commission, another meeting of the joint Commission was finally appointed and had at Pittsfield, Massachusetts, on the 25th day of October. At such meeting, after an informal discussion of some length, Mr. Brown, of the New York Commission, renewed on our part the proposition made by him at North Salem, on the 13th of October, a copy of which is heretofore herein given, adding thereto the words:

“And from the Ridgefield angle monument along the traditionary line to the mouth of Byram river.”

The Connecticut Commissioners again rejected this proposition, and offered in writing upon their part, the following:

Resolved, That we will first test the breadth of the Oblong at the angle bounds at the Massachusetts line, at the Ridgefield angle and at the Wilton angle. If it shall be found that the present recognized bounds at said angles do not give to New York the area called for by the agreement of 1725, to be measured with the allowance provided for in such agreement of twenty-five rods per mile, then we agree that either of said angle bounds may be carried so far east as to make it sure to conform to said agreement. Then said angle bounds shall be connected in straight lines for the boundary line between the States, with the following exception:

The village of Hitchcock's Corners having grown up under the impression that the true boundary line ran through its principal street, we agree at this point to vary said straight line by beginning at the north end of the said principal street, and in the centre of the same, and run a line southerly through the centre of the said street, and so on in a direct course until it shall intersect the said straight line, and also running northerly from the said starting point, and at the same angle until it shall intersect the said straight line in the same manner above as below the said angle. It being understood and agreed that said straight line shall be so run as to give to New York an area, besides that given by the said departure at Hitchcock's Corners, of full 61,440 acres, as called for by the agreement of 1725 and survey of 1731, in furtherance thereof and measured according to the said agreement of 1725.

That as to the remainder of the boundary, straight lines shall be run between the present recognized angle bounds until arriving at the centre of Byram river, in the direction of the great stone at the old Wading Place, and thence the boundary line shall proceed in the centre of said river to the Sound. And when so run we will recommend the above lines to our respective States, to be established by them as the boundary between them, and in connection therewith, will also recommend to our

respective Legislatures to pass such special acts as shall guaranty to present owners all real estate, rights and titles that may be affected thereby, to the full extent and enjoyment in which they are now legally held.

The New York Commissioners rejected this proposition on grounds stated in writing as follows :

First, It proposes to establish an entire new line instead of ascertaining *the* line between the States.

Second, The proposition is not fair on its face, in not offering to reduce the area of the lands received by Connecticut of New York on Long Island Sound, to the number of acres offered New York in the proposition.

Third, It would exceed the powers of the Commissioners and of the States to establish such new line.

It is perhaps proper to state that in discussing these propositions we met the novel arguments of the Connecticut Commissioners in favor of theirs, by observing that if any of the original surveys were to be revised at this day, and former errors corrected, it would of necessity be the duty of the Commission to extend such revision to all such surveys, to that of the tract ceded by New York to Connecticut on the Sound, as well as that of Connecticut to New York in the Oblong; that if New York should give back what she had received in excess in the original cession, Connecticut should also in like manner give back the excess she had received from New York, and a new line be run and established south of the Ridgefield Angle as well as north of it; we claiming what plainly and conclusively appears by the surveys of 1684, 1725 and 1731, and the royal ordinances confirming the same, that Connecticut had received from New York, instead of 61,440 acres, an area of about 73,000 acres, thus making an excess in favor of Connecticut of about 5,000 acres, if such proposition should be entertained.

Our arguments did not appear to have been anticipated by the Connecticut Commissioners, and placed them in an embarrassing position, but notwithstanding these conclusive objections to their proposition, it was still insisted by them that the old surveyors intended to describe a straight line between the angle monuments and had made a mistake, which should be corrected, and they totally refused to modify their proposition or accede to any other.

Finally, after having spent the entire afternoon and evening until a very late hour, in discussion, the Commission again adjourned without having reached any conclusion, and have not had any subsequent meeting, although some correspondence has been since had, which was opened by the Connecticut Commission, but no new proposition has been made.

We would here observe that all our intercourse with the Connecticut Commissioners has been of the most friendly nature, without the exhibition of any ill feeling on the part of either Commission towards the other, or any violation of the strictest courtesy.

The objection to running a straight or new line to divide the States north of the Ridgefield Angle, and the principal reasons why New York cannot consent to adopt the same, may be briefly summed up thus :

First. An indenture was executed by the Commissioners on the part of both States in 1731, (then the colony of Connecticut and province of New York,) in which the Connecticut Commissioners on their part formally transferred to New York, in conformity with a previous agreement made in 1683, all the lands in the Oblong, and all agreed upon the east line of said Oblong by them defined and marked, as the boundary between the respective States, and this line was defined as a line running *through the several monuments* set up by said Commissioners, and acquiesced in by the States, and subsequently sanctioned and confirmed by a royal ordinance of King George the Second, thus giving to the transfer all the force of law as well as of contract.

Second. The monument in the Massachusetts line, occupying a position too far west to give the proper width at the north end of the Oblong, is not a proper starting point for a line further than to the first monument point south of it. The straight line run from it in 1856 by Mr. Wentz, as well as our observations made, showing that it would cut off for the entire distance of over fifty-three miles, an average width from this State of twenty-eight rods, or about two thousand eight hundred acres.

Third. The change would cause great and needless inconvenience to the people changing many residences from this State to Connecticut subjecting them to taxation in both States, by placing farms bounded on the present State line partly in each, requiring double conveyances in case of sales, and like additional labor, and the expense incident thereto, in the settlement of estates.

Fourth. The line having been sanctioned on both sides for over one hundred and twenty-eight years, has become fixed and permanent, the people on both sides along the line being satisfied, and alike opposed to any change, and although not perfectly straight, is so nearly so that no public interest in either State would be promoted by changing it at this day, if the same were practicable.

Fifth. The Commissioners have no power whatever to make a straight or new line, having been appointed only for the purpose of ascertaining and marking the position of the old line, as per the proceedings of the Legislatures of the respective States defining their powers and duties.

Sixth. Either of the new lines proposed would be unjust to New

York, in taking from her and giving to Connecticut territory beyond the ancient boundary line, easily traced and ascertained, as before stated, while there is included in the equivalent tract, by the present boundary, at least three thousand acres less than Connecticut received from New York. The original intention of the States being that the number of acres ceded to each should be equal.

Seventh. It would exceed the powers of the States to establish the straight or new line proposed, for the reason that it would be ceding territory by one State to another by the action of the States themselves.

On examining into the history of this subject, we find that it has commanded more or less attention from the year 1664 to the present time. An effort was first made at the above-mentioned date, between commissioners on the part of the Duke of York, and delegates from the Colony of Connecticut, to settle it, and an arrangement effected, but it was soon found that this, being very erroneous in its details and provisions, was not sufficient, and as settlements by people from Connecticut progressed rapidly along the Sound, and they wished to remain under the government of that Colony, conflicting questions of jurisdiction constantly arose, and the agreement of 1664 was not carried fully into effect.

To settle these controversies, another and new agreement was made in 1683, in which it was stipulated that a territory or district on the Sound, the bounds being described in such agreement, and to contain 61,440 acres, should be permanently set off to Connecticut from New York, on condition that she in turn should set off and convey to New York a tract of like extent, to extend in equal width from the northeast corner of the tract thus set off, to the south line of Massachusetts.

This agreement of 1683 was sanctioned by Royal ordinance of William the Third, and carried into effect in 1684, so far that the tract on the Sound was surveyed, the lines marked, and Connecticut received her share of the benefits, which she has held undisturbed until this day.

The next question was, how was New York to obtain her equivalent to which she was entitled in the exchange, and here, in such an apparently simple transaction, the contract on her part being already fulfilled, the negotiations were prolonged over the extraordinary period, under various pretexts on the part of Connecticut in all cases, of forty-seven years, before the transfer of the Oblong, during that whole time due New York, was finally made.

A reference to a few facts here will be sufficient.

Instead of complying promptly with her agreement, or taking any steps for that purpose, Connecticut, in 1697, encouraged the towns of Rye and Bedford, in Westchester county, to revolt against New York, and the same Governor who had signed the contract of 1683, demanded

those towns for Connecticut, in violation of the contract he had himself sanctioned fourteen years previously. No new steps were taken for the term of twenty years.

In 1717 the government of New York made another attempt at an arrangement, by passing an act to provide for the survey of the equivalent tract. This act was sought to be carried out in 1718 by New York, and at her solicitation commissioners were appointed on the part of Connecticut to meet her own already appointed, but their consultations were without effect, as those of Connecticut would agree to nothing practical, and were vested with no authority to bind their government.

In 1719 New York made a further attempt at an arrangement, by passing another act appointing commissioners to meet those of Connecticut and settle the line amicably, but as all previous efforts had proved useless, in this it was provided that if Connecticut would not respond to the proposition, the Commissioners of New York were authorized to proceed alone, and run and fix the line, but in strict conformity with the agreement of 1683, to guard against injustice to either party.

As a further effort to effect an agreement, and avoid future controversy, it was provided that nine months' notice should be given to Connecticut before the running of the line *ex parte* should be commenced. This act was sanctioned by royal ordinance, although the agents of Connecticut in England made every effort in their power to prevent it. This brought matters to a point where Connecticut was finally forced to act. Still she took no steps until 1723, when the subject was brought before her Legislature, and in 1724 she again appointed commissioners on her part to run and mark the line.

Thus matters progressed until, in 1725, articles of agreement were signed settling the manner of the survey, at the end of sixty-one years after the commencement of the controversy, and forty-one years after Connecticut had received her share of territory from New York, under the arrangement of 1683, but even this resulted in nothing for the time beyond the running over again of the line bounding the tract on the Sound, which Connecticut had already held for the period named, and it was not until 1731 that the matter was adjusted by a survey, and New York received her share of territory, after it had been withheld for forty-eight years.

It was then that this line was run, defined and marked by the monuments so readily found by us, as we have shown; and it is this which is again the subject of controversy.

We would here remark, that in all researches and examinations, and all our intercourse with people living along said line, we have not found one individual who desires a change of the line, and no proposition made by us during the above negotiations with the Connecticut Com-

missioners would change a single residence or take from Connecticut one rod of her territory.

In view of these facts, taken together with the disagreement between the late Commissioners of the two States, we feel doubly anxious to end permanently this long and vexatious controversy.

Whether anything can be effected by further negotiation we fear is doubtful, as we cannot without a total disregard of the interests of our State, consent to surrender any of her territory, originally so difficult to obtain and so long held. Still we shall not despair, as we regard our position as so just that we can hardly conceive how it can fail to be finally assented to by Connecticut.

In our view all that remains to be done by New York is comprehended in the running and marking of the original line, and erecting suitable monuments to designate the same, to remove all chance for doubts as to its true locality for the future. For which, having made the requisite examinations and observations, we believe that the whole work can be completed at a comparatively trifling expense to the State. We deem this due to the people living along the line, upon that portion of her territory claimed by Connecticut, who manifest much anxiety to learn whether they are summarily to be ejected from the State of their adoption.

Such is a summary of the progress we have made, the facts ascertained, and the position we occupy in our efforts to settle this long disputed question. We feel that we have made every concession and exhausted every effort consistent with the duties of our office and the interests of the State we have the honor to represent.

We herewith transmit, accompanying our report, copies of the documents, fixing and establishing the boundary line that we have ascertained, and from which chiefly we have obtained a history of former controversies concerning it.

DOCUMENTS. .

No. 1. Agreement of 1683.

No. 2. Report of Commissioners and Surveyors of 1684.

No. 3. Preliminary agreement of 1725.

No. 4. Agreement of the Commissioners establishing the boundary, in part, of 1725.

No. 5. Indenture finally fixing and establishing the line, made May 14, 1731.

No. 6. Descriptions of the monuments and places of their erection, referred to in the indenture, as describing the line of 1731.¹

¹These documents have been previously inserted in chronological order in this volume. See pp. 244, 247, 336, 341, 355, 361.—[P.]

No. 7. Extracts from an ordinance by King George the Second, confirming the survey made and line established, and including letters patent to divers individuals in the Oblong or equivalent tract, describing the grants made thereby as bounded on the east by the line of monuments erected as above.¹

We also have had prepared, by Mr. Hiram S. Dewey, our engineer, a map of that portion of the State of New York lying between the Hudson river and Connecticut line, including a plot of the Oblong or equivalent tract, and a view of the localities of the several monuments marking the line between the two States, as fixed by the Commissioners and surveyors of 1731.²

The expenses of ascertaining the line, taking measurements, making preliminary observations, and taking notes of the same, and testing the locality of the several monuments, and determining monument points, may be summed up as follows:

For services and expenses of our engineer, cost of maps, &c.,	\$467 09
Miscellaneous expenses of the exploring party, including pay for guides, conveyances and chainmen, &c., &c.,.....	53 84
Traveling expenses and board of the Commissioners, including all the necessary individual expenses,.....	509 94
Services of the Commissioners at the per diem rate fixed by chapter 47 of the Laws of 1857,.....	1,128 00
	\$2,158 87
	\$2,158 87

All which is respectfully submitted.

ISAAC PLATT,
JACOB VROOMAN,
LEANDER D. BROWN.

* * * *

¹ This document, dated June 4, 1731, which is recorded in the office of the N. Y. Sec'y of State, (*Patents*, xi, 4), is not, — in our judgment and with due deference to the generally accurate as well as able report of the Commissioners, — “an ordinance confirming the survey made and line established,” but merely a patent to divers individuals, as further stated above. This patent is prefaced with sundry recitals of acts and proceedings referring to the establishment of the boundary line in question, evidently intended merely to show that the said divers individuals, holding lands which they had improved in the Oblong or equivalent tract, under patents from Connecticut, and becoming by the cession of the Oblong residents of New York, were justly entitled to a confirmation of their original titles by this new patent from New York.—[P.]

² This Map is a lithograph of C. Van Benthuyzen, size 15×37 inches, scale one mile to an inch. There is also a lithograph “Map showing the position of Boundary Lines between New York and Connecticut,” — size 6×16 inches.—[P.]

[STATE OF NEW YORK.]

Chap. 159.

AN ACT to provide for the survey and settlement of the boundary line between the states of New York and Connecticut, and for the expenses thereof.

Passed April 4, 1860.

* * * *

SECTION 1. The commissioners appointed by the governor to ascertain the boundary line between the States of New York and Connecticut, are hereby empowered and directed to survey and mark with suitable monuments the said line between the two states, as fixed by the survey of seventeen hundred and thirty-one.

§ 2. It shall be the duty of said commissioners before proceeding to the performance of such duties, to give at least one month's notice in writing to the commissioners appointed on the part of the State of Connecticut to ascertain and settle said line, of the time and place when and where such survey will be commenced, and inviting them to join in the duties enjoined upon the said commissioners from this state by the first section of this act.

§ 3. The notice in the last section mentioned may be served by mail, by enclosing a copy thereof to each of said Connecticut commissioners, directed to him at his place of residence, at least thirty-five days before the time specified therein for the commencement of said survey.

§ 4. In case of the refusal or neglect of said Connecticut commissioner to appear and join in such survey and marking of said line at the time and place specified in such notice, or such other time as may be mutually agreed upon by the commissioners of the two states, then the commissioners of New York shall proceed in the performance of their duties as in the first section of this act empowered and directed.

§ 5. The sum of five thousand dollars is hereby appropriated out of any funds in the treasury applicable to such purposes, or so much thereof as may be necessary to pay the expenses of the said commissioners already incurred and for their services heretofore rendered, and the expenses they may hereafter incur and the services they may render in the performance of their duties, at the rates and in the manner specified in chapter forty-seven of the Laws of eighteen hundred and fifty-seven.

§ 6. This act shall take effect immediately.

—[*N. Y. Laws*, 1860, p. 252.]

[GOV. BUCKINGHAM TO CONN. LEGISLATURE.]

May 2, 1860.

* * * *

Since the last meeting of the General Assembly, His Excellency the Governor of New York has appointed a new Board of Commissioners to act with Commissioners appointed by this State "to ascertain and settle the boundary line between the two States."

The joint Commissioners have had a number of meetings, but have come to no satisfactory conclusion. The Commissioners on the part of the State of New York claim to have discovered the line described in an agreement made between the Province of New York and the Colony of Connecticut, in 1731, which line runs through several monuments, each described as a "stake and heap of stones," and which makes an angle at every second or fourth mile between Ridgefield Corner and the Massachusetts line, and they claim that such line is the true boundary.

The Connecticut Commissioners claim that, in 1725, the Commissioners of said Province of New York, and of the Colony of Connecticut, agreed that the boundary should be a straight line; that the line referred to was in fact never run, but was determined by running lines of equal length at right angles from a straight line, which had then been surveyed, and was believed to have been a straight line at the time by both parties in interest; and further, that a straight line should now be established in accordance with the original agreement, and in accordance with the belief that the first line was a right line, until the recent survey revealed its error.

The report of the Commissioners contain[s] other reasons for disagreement, and a detailed account of the subject, and of their views thereon. While I must believe that the Commissioners on both sides entertain an earnest desire to settle the question involved upon principles of right and equity, I, nevertheless, am of opinion that they will not agree upon the application of these principles to a given line. I therefore fully concur in the recommendation of our Commissioners—that a proposition be made to the State of New York, that each State appoint an arbitrator, and that the two appoint a third, neither of whom shall be a resident of either State, and that the joint Commissioners present the surveys and facts connected with the subject to the consideration of said arbitrators; that they or either two of them shall recommend such a line as may to them appear just and proper to be established as the boundary between the two States. The people of both States would be likely to acquiesce in the views, and accept the recommendation, of men who are not prejudiced in favor of or against the claims of either State.

* * * *

—[*Conn. Sen. Journal*, 1860, p. 26; *Gen. Assem. Reports, &c.*, 1860, No. 1, p. 6.]

[May 3, 1860.]

REPORT OF THE [CONN.] COMMISSIONERS ON THE BOUNDARY LINE
BETWEEN CONNECTICUT AND NEW YORK, TO THE GENERAL ASSEMBLY,
MAY SESSION, 1860.

*To the Honorable General Assembly of the State of Connecticut, now
in session at New Haven :*

The undersigned, Commissioners appointed to ascertain and settle the boundary line between this State and the State of New York, submit the following Report:

In order to a full understanding of the question, there have been hereto annexed copies of the original agreement of 1683, with the partial survey of 1684, under the same; the agreement of 1725, the survey in part of 1725, and the survey complete of 1731, under the same. Also, the description of the locality of the intermediate monuments in the survey of 1731.

In addition to these there is a document on file in the office of the Secretary of the State of Connecticut, purporting to be a survey and report made in pursuance of the agreement of 1725, dated Nov. 21st, 1730, and signed by Roger Wolcott and Edmund Lewis, Commissioners from Connecticut; and Cadwallader Colden, Vincent Mathews, and J. Bruyn, Jr., Commissioners of New York, which is similar to, but not so full as that of 1731.

Also, in 1857 there was published an elaborate *ex parte* report of one hundred and eighty-four pages, which was made to the New York Legislature of that year, by the then New York Commissioners, setting forth the survey that they, conjointly with the Connecticut Commissioners, had made; the reasons of their final disagreement; the report of Mr. Wentz, their engineer in chief, with diagrams and maps; and to which were appended most of the above named, and a number of other ancient documents purporting to be literal copies from the originals in the office of the New York Secretary of State and elsewhere; and also, "A Historical Sketch of the Controversies and Attempted Settlements respecting the New York and Connecticut Boundary, previous to the year 1855," which is in no wise partial to Connecticut. To most of these, reference is made in this report.

The chaining is taken from the report of Mr. Wentz and the field notes of Mr. Andrew Perry.

In 1855 the General Assembly of this State, for reasons set forth in the preamble thereto, passed a resolution appointing William H. Holley of Stamford, and Jason Whiting of Litchfield, Commissioners on the part of this State, to ascertain the boundary line between this State and the State of New York.

In 1856 the Legislature of New York, having been officially advised of the above, passed a preamble and two resolutions, one of which was as follows:¹

* * * *

In pursuance of the foregoing resolution the Governor of New York appointed Messrs. Ben Field, Samuel D. Backus, and Jonathan Tarbell, Commissioners for the purpose named in the resolution.

During the year 1856 the aforesaid Commissioners from the two States made a joint survey of the boundary line from the Sound to the Massachusetts line; but before coming to a joint report of their doings, so disagreed as that no settlement of the boundary line was effected thereby.

In 1857 two of the New York Commissioners made a report to the Legislature of that State, stating the reasons of their disagreement, as already referred to; and the same year the Connecticut Commissioners also made a report to the Legislature of this State, narrating the joint survey of the line, and stating the causes of their failing to secure a final settlement, as will more fully appear by their report on file.

In 1858 the following resolutions were passed by the General Assembly of this State:²

* * * *

In accordance with these resolutions Messrs. Gideon Welles, O. H. Perry, and Philip S. Beebe, were appointed Commissioners on the part of this State. Thereafter, the Hon. Mr. Welles having resigned, Joseph R. Hawley was appointed in his stead.

At the May Session of the General Assembly of this State, A. D. 1859, a preamble and resolution were passed setting forth that no action in the premises having been taken by the Legislature of New York, the Governor was requested again to call the attention of the Governor of New York to this matter, that the object of the resolutions of 1858 might be carried out.

Some months after this the Chairman of the New York Commissioners, Hon. Ben Field, having resigned, the remaining Commissioners were superseded, and the Governor of that State appointed new Commissioners, under the resolution of 1856, consisting of Messrs. Isaac Platt, of Dutchess County, Jacob Vroman, of Schoharie County, and L. D. Brown, of Otsego County.

On notice from the Chairman of the New York Commissioners, the first meeting was appointed and held at Port Chester, N. Y., on September 13th, 1859; at which, all of the Commissioners from both States being present, a joint board was organized, and Mr. Platt appointed Chairman, and Mr. Hawley, Secretary.

In discussing the duties of the joint Commission, and the true prin-

¹ See page 386, *ante*.—[P.]

² See page 453, *ante*.—[P.]

ciple of conducting the survey, it was apparent that the ultimate cause of disagreement between the last Commissioners of the two States would still continue to be the chief ground of difference between us. This arises entirely out of the imperfect and erroneous survey which was made in 1731, and which was not discovered until the survey of 1856.

For a long period prior to 1683 this boundary was a subject of controversy and attempted settlement between the province of New York and the colony of Connecticut. On the 28th of November, of that year, there was an agreement entered into between the Governor and Council of New York and the Governor and Commissioners of Connecticut, establishing the true boundary as twenty miles from Hudson's River; and then providing for the manner in which the line should be run so as to throw into Connecticut certain lands upon the Sound, which had been settled by people from Connecticut; but that for all the lands so included in Connecticut, within twenty miles from Hudson's River, there should be added to New York, out of Connecticut, upon the northern part of the line, an equal quantity, afterwards called the "equivalent tract" or "oblong."

In pursuance of this agreement a partial survey was made in 1684, and by which it was determined that the south oblong, on the Sound, would take from New York, from within twenty miles of Hudson's River, sixty-one thousand four hundred and forty acres, and that this would be the area of the equivalent tract contained in the north oblong to be taken from Connecticut.

Subsequently other attempts were made at different times to complete the survey, but no conclusive result was arrived at until 1725, when another agreement was entered into between the parties, substantially like that of 1683, but more full and specific in its details. Under this agreement of April 29th, 1725, the line was again surveyed in part, under date of May 12th, 1725, and completed May 14th, 1731. By a reference to the survey of 1731 it will be seen in what manner the agreement of 1725 was attempted to be carried out. Having connected the angle bounds on the west side of the equivalent tract, by straight lines, for the then true boundary of Connecticut, twenty miles from Hudson's River, they determined the breadth of the equivalent tract, with the proper allowance, and proceeded to set it off; not, however, by running a line on the east side of the same, as they had done on the west side, but by running out perpendiculars from the west line, as a base line, for the most part at intervening distances of two miles, and placing a stake and heap of stones at the end of each. These perpendiculars were to be of uniform length, with the required breadth of the equivalent tract, measured on the surface, and the same whether over level or uneven ground. They then in due form set off and ceded

to New York the lands so included in the equivalent tract by lines running from one angle bound to another, through these intermediate monuments, describing the east line, which was never traced, as parallel to the west, which is a straight line, and which east line is to be and remain the boundary line between the States. Thus they intended and supposed the boundary line to be a straight line, in conformity with the agreement of 1725; and so have every one supposed, as appears by every map of either State, until the survey of 1856 has shown that what is now called the traditionary line is a very crooked line, and cannot be parallel to any straight line, and that doubts and uncertainties were found to exist, on many parts of the line. On some portions of the line, as is truly said in the New York report of 1856, "many of the heaps of stone originally erected had been scattered, leaving no memorial of their location, while modernized monuments presented their claims for recognition, confusing and distracting without satisfactory proof of their authenticity." Also, "traditions were found inconsistent and contradictory, varying the line in places to a considerable extent. Local surveyors, employed to ascertain detached portions of the line, by taking their direction from various traditionary points, had differed widely from each other and increased rather than diminished the general doubt. Along the whole distance the greatest uncertainty existed, and a distrust and want of confidence in all the supposed lines, rather than a disposition to contend for any. Residents near the border refrained from voting in either State, while officers of justice and collectors of revenue from both, hesitated to exercise their authority up to any clearly defined limit."

It also appeared by the same report that the Commissioners jointly agreed as to the lines below the Ridgefield angle, which were straight lines, to wit, from the Byram River to the Duke's trees, thence to southwest angle of oblong, thence to southeast angle of oblong, and thence to Ridgefield angle; and actually placed the monuments on the same from the southeast corner of the equivalent tract to the Sound; but that afterwards, finding that a straight line from the Ridgefield angle to the Massachusetts line varied so much from the traditionary line as to change a considerable number of acres from New York to Connecticut, the New York Commissioners refused to establish the boundary as run by them.

In this posture, then, the matter came into our hands. On our part we were satisfied with the straight lines between angle bounds as run by the Commissioners of 1856, under the chief direction of Mr. Wentz, the distinguished engineer employed by the New York Commissioners, and were of the opinion that this was the only true way of running a boundary line, and the only way ever originally contemplated by either party.

The New York Commissioners objected to this, and contended for old monuments and traditionary lines, however crooked they might be.

The second meeting was held by adjournment, at Port Chester, September 20th, all being present.

It was agreed that each board should pay its own expenses, and that all joint expenses should be divided between the boards, and paid when incurred.

After an examination of Byram River, it was again proposed that we agree upon some principle to which we should adhere, in running the line, before beginning the survey. But this we were then unable to do. It was, however, admitted on both sides, that probably there would be no difference between us, on the line below the Ridgefield angle. We therefore agreed to begin at that point, and perambulate the line to the Massachusetts monument, in a search for such monuments and traditionary marks as could be found on either side. The New York Commissioners had employed H. S. Dewey, Esq., engineer, and we secured the services of Prof. W. A. Norton, as engineer. Also, Andrew Perry, Esq., who had acted as assistant to Mr. Holley, in the last survey, was employed by us to point out the location of the line run by them, the road crossings of the same, and any monuments which they had discovered.

From the Ridgefield angle to Massachusetts, a distance of over fifty miles, the line for the most part lies along a succession of high hills and mountains, dividing the waters of the Hudson and Housatonic, and over a country rough and rocky, where much of the land is of little worth; and though some ridges and valleys are crossed, affording good farming land, still, for many miles, the country is broken into almost inaccessible mountain ranges, so as to form quite a natural boundary between the states.

The Ridgefield angle we found near the house of Mr. Timothy Jones, marked by a heap of stones; in location corresponding very well with the description of 1731, and pointed out by the tradition of the neighborhood as the old angle bound. From this point to the Massachusetts bound, the bearing of the straight line is north $11\frac{1}{4}$ degrees east. Following this course nearly, we came upon several flat stones laid one upon another, "on the west side of a rocky hill," which answers the old description of the place where was erected the monument corresponding to the two mile monument. The stones now have the appearance of having been laid up at a comparatively recent date. It was found to be in 1856, one hundred and six chains from the angle monument. By calculation, the distance to the corresponding monument on the east line of the oblong is supposed to be forty-eight and one-half chains shorter than to the monument on the west line, which would

make the said stone heap twenty-two rods short of the requisite distance. By calculation, also, it is found to be twenty-two rods nine links east of the straight line.

At about three miles from the angle, near the house of William Howe, we found the traditionary line fences seventeen rods east of the straight line.

At about three and a half miles, on Howe's hill, we found the traditionary line fence twenty-four rods east of the straight line.

On the east of, and twenty rods distant from Mopo brook, we found a small stone heap which is claimed to be the monument which corresponds to the fourth mile monument. Elias Smith, the owner of the land, knew nothing of the stone heap as a monument. It is one rod west of the traditionary line fence; and twenty-nine rods two links east of the straight line. The place answers the old description very well, but being at the two hundred and sixty-four and one-half chain, is short of the requisite distance from the angle, and six rods short from the last monument.

September 27th, again went on to the line, near Sodom Corner, after a short adjournment, to look for the sixth mile monument, but could not find it.

At the four hundred and thirty-fourth chain, found traditionary line fence by measurement, forty-one rods one link east of the straight line.

On the top of a high rocky hill, a little north of the house of Selah Field, found a stone heap consisting of an upright stone two and a half feet, by one and a half feet, with other stones placed around it, having the appearance of an ancient monument, and near to the traditionary line fence. Being at the five hundred and ninetieth chain, it is thirty rods and twenty-two links east of the straight line, and sixteen rods short of the requisite distance from the first monument, and twenty-two rods short from the last.

In looking for the tenth mile monument we were shown, by Mr. Seneca Solomon, some small stones upon a rock, on his land, which he said was a state line monument; but which none of the party regarded as a monument, corresponding with any recorded description. Nor could we find any satisfactory evidence of it in that vicinity.

About three-quarters of a mile north of the house of Mr. Elwell, through which the traditionary line is said to run, we found a stone about two feet long by one foot wide, placed upright, on the top and at the south end of a modern stone wall, where it intersected another stone wall running east and west, which is said to be the twelfth mile monument. Course of the stone wall, north $11\frac{1}{2}$ degrees east. Sighting south by compass, the line falls several rods east of Elwell's house, and a considerably east of the traditionary line fences on the hills beyond.

Placed at the nine hundred and twentieth chain, it is forty-six rods and nineteen links east of the straight line, and overruns the requisite distance fifty-six rods from the first monument, and forty rods from the last. In the old description the distance from the tenth to the twelfth mile monument was measured, unlike the others, on the line. This monument is evidently of recent erection, and whether on the old site, cannot now be known.

Near the house of Edward Jennings, at the ten hundred and sixty-first chain, the traditionary line was thirty-four rods one link east of the straight line.

At the ten hundred and seventieth chain, Mr. Jennings pointed out a rock with a few stones around it, on the north west side of a hill, which he supposed to be an old state line monument, and which ought, therefore, to correspond to the fourteenth mile monument. It is thirty-three rods nine links east of the straight line, and three rods sixteen links east of the traditionary line fence. It is also sixteen rods over the required distance from the first monument, and forty rods short from the last.

On the top of "Cranberry mountain" we found a stake and small stone heap, about six rods northwest from a small pond of water, which answered the old description of the sixteenth mile monument. It was twenty-one rods twenty-three links east of the straight line. Placed at the one thousand two hundred and thirtieth chain, it was sixteen rods over the requisite distance from the first monument.

A short distance south of the house of Perry Wheeler, we were shown a stone heap, supposed to be the eighteenth mile monument, on a ledge of rocks on the eastern edge of a ravine about thirty feet deep; the traditionary line fence passing near the monument. It was thirty-one rods east of the straight line. Its distance from the other monuments not ascertained.

Near "Quaker Hill," on land of Henry Briggs, we found a small stone heap, said to be the twentieth mile monument. It was situated in a swale, about twenty feet west of the foot of a wooded rocky hill. The old description says, "*in* the west side of a steep rocky hill." From this point the traditionary line fence, about half a mile south, bears south fourteen degrees west. At the one thousand five hundred and thirty-seventh chain, it is twenty-eight rods twenty-four links east of the straight line. It is also thirty-six rods short of the requisite distance from the first monument, and fifty-two rods short from the sixteenth mile monument. "It has not an ancient appearance."

At the one thousand six hundred and ninety-seventh chain, south of the house of Mr. Caldwell, and thirty rods east of the straight line, brought us in line with the traditionary line fence on the hill north.

Nothing corresponding to the twenty-second, twenty-fourth, or twenty-sixth mile monuments, could be found.

Near the house of William Draper, near the one thousand nine hundred and seventieth chain, the traditional line fence is thirty-seven rods east of the straight line.

At the two thousand and seventeenth chain, south from the house of Alfred Chapman, the traditional line fence is thirty-eight rods twelve links east of the straight line.

In a north northwest course, from the house of Abijah Beach, and near the top of the "Schaghticoke mountains," we found a heap of stones with an upright board in the center, marked D. L. & W.; this is said to be a state line monument — if so, it must be the twenty-eighth mile monument. We could not determine its relative position.

On the southwest side of "Preston mountain" we found a stone heap near the traditional line fence, said to be a line monument. If so, it must be the thirtieth mile monument, and near the two thousand three hundred and fiftieth chain. It is twenty-four rods eight links east of the straight line. It is also sixteen rods over the requisite distance from the first monument, and fifty-two rods over from the twentieth mile monument.

In "Bogg Valley," near the house of Milton Winegar, at the two thousand five hundred and thirty-sixth chain, the traditional line fence was eight rods twenty links *west* of the straight line. Course of fence, north 12 degrees east.

At sixteen chains north of this, on top of the hill, we found a stone heap, said to be a line monument. If so, corresponding to the thirty-third mile monument. By the above measurement, it would be placed at the two thousand five hundred and fifty-second chain. It is seven rods five links *west* of the straight line, and is one hundred and thirty-six rods short of the requisite distance from the first monument, and one hundred and fifty-two rods short from the last monument.

At a point fifty-seven chains south of the house of Horace Clark, we were shown a stone heap claimed to be the west corner bounds of the towns of Kent and Sharon; and which is also said to be a state line monument. If so, it should be opposite the thirty-fifth mile monument. It is on a rock, on the west side of a hill, and is twenty-one rods and fourteen links east of the straight line at the two thousand seven hundred and thirty-fifth chain. It is forty-four rods short from the first monument, and ninety-two rods over the required distance from the last monument.

The thirty-seventh, fortieth, forty-second, forty-fourth and forty-seventh mile monuments, not found.

At the two thousand seven hundred and ninety-second chain, the tra

ditionary line was east of the straight line thirteen rods and twenty-two links.

At the two thousand eight hundred and ninety-fifth chain, the traditionary line was east of the straight line twenty-one rods and eleven links. The line fence bearing north $12\frac{1}{2}$ degrees east.

At the two thousand nine hundred and fifteenth chain, we arrived opposite the south end of the street running through the centre of Hitchcock's Corners, — a small village of perhaps two hundred inhabitants, which was eighteen rods nineteen links east of the straight line. From this point to the center of the north end of the street, is 11-67 ch. and which is twenty-three rods sixteen links east of the straight line. Difference between the south and north end of the street from the straight line, four rods twenty-two links.

Bearing of street north, $18\frac{1}{4}$ degrees east. Bearing of traditionary line, north 12 degrees 15 minutes east, which cuts the street as represented in the accompanying diagram — crossing the fence on the east side and running through a dwelling house before arriving opposite the south end of the street, where it is four rods eleven links east of the center of the same. The bearing of the traditionary line fence, north of the village, is north $12\frac{1}{4}$ degrees east.

Near the House of Mrs. William Morehouse, at the three thousand one hundred and fifty-fifth chain, the traditionary line fence is thirty rods twenty-three links east of the straight line. Its bearing is north 11 degrees 52 minutes east.

A short distance north of the house of E. Williamson, opposite the three thousand three hundred and second chain, (estimated,) the traditionary line fence was estimated to be thirty-seven rods fifteen links east of the straight line. This point answers to the description of the place for the forty-second mile monument, but none could be found.

On the east of "Indian Pond," near the house of Mr. Sibley, there is a stone wall, the end of which is said to be the corner bound of the towns of Sharon and Salisbury; and also on the site of one of the state line monuments. It is ten rods twenty-three links from the Pond, but has no appearance of a monument, and has been the same as now for many years.

At about half a mile northwest of the house of William Kelsey, in the corner of his farm, he pointed out a place where he had heard it said was once a state line monument. He had known the place for fifty years, but never saw the monument. Course of the line fence was north $12\frac{1}{2}$ degrees east. The traditionary line fence was thirty-five rods twenty-one links east of the straight line. No monument can now be found in that vicinity. The monument in the Massachusetts line, which is at the north-east angle of the equivalent tract, is a heap of stones on

a rocky ridge in Tagkconic mountain, between a high peak on the south, with a high heap of stones on its summit, raised by visitors to the spot, and another peak on the north. It bears from the high heap of stones mentioned, north 45 degrees east, and from the southeastern brow of the same mountain, north 7 degrees east.

Thus we perambulated the boundary from the Ridgefield angle to the Massachusetts line, with the foregoing results. By a careful examination and comparison of these it will be found, as we have already said, that the traditionary line is a very vague and crooked line. No three supposed monuments can be found in line; while the bearings of the line fences between the monuments widely differ. These lines were never run over by the surveyors of 1731, and have grown up by the building of fences dividing farm lands, whether bounded or not on the supposed state line. Many of these lines have been run by local surveyors to determine town limits or the individual proprietorship of lands; and having no certain starting point or record to guide them, they have disagreed almost as much with each other, as with the straight line between the angles.

Only one half of the monuments, or those that are called such, can be found; and they consist of small heaps of stones, in no way differing from many other stone heaps along the line. But few of these have any thing like an ancient appearance; and fewer still are well identified by the description of 1731. The evidence regarding them is also taken, for the most part, from those who occupy the lauds or those adjoining, and who therefore are interested in establishing, as they think, their property lines. "Such evidence we refused," say the New York Commissioners in a letter to the Governor of New York, May 19, 1725.

Along the line, more importance was attached to supposed line fences, than to any known, or well-understood monuments; and in some instances those living near knew nothing of them as such.

The discrepancies of these monuments have been attributed to the mode of marking the line by perpendicular offsets; but this will not satisfactorily account for their very great disagreement. The surface across the oblong at the Ridgefield angle is quite level, perhaps more so than at any other point on the line; therefore this monument ought, according to the above suggestion, to be found as far or farther east than any of the intermediate monuments. Yet the first two mile monument north, which has been found, projects twenty-two rods nine links beyond it; while the perpendicular which it marks is run across the oblong where it is very uneven, upon what is called "Sarah Bishop's mountain." This is entirely irreconcilable with such an explanation as that given above. On other parts of the line the same want of coincidence with the surface measured over, is observed; while there are

other points, such as "Bogg valley," where such an explanation seems plausible.

The intervening distances between the monuments also differ so much from the true distance and from each other, as that they cannot be made consistent by such a theory — varying, when measured from the angle, from six rods to one hundred thirty-eight rods, from the true position; and from six rods to one hundred fifty-two rods from their true distance from each other. Some of them falling short, and some overrunning the required distance.

Such variations as these cannot be justly, attributed to the inaccuracies of the compass, in running lines of only five hundred eighty rods in length, of the same bearing, and perpendicular to a base line of a uniform bearing.

The entire area enclosed between the original western boundary and straight lines connecting the monuments at the Massachusetts angle, Ridgefield angle and Wilton angle, as said monuments were established according to the report of the Commissioners of 1731, is sixty-one thousand six hundred seventy-one acres; or two hundred thirty-one acres over and above sixty-one thousand four hundred and forty acres. Add to this two thousand seven hundred forty-four acres, which is the area included between said straight lines and the traditionary lines, and you have two thousand nine hundred and seventy-five acres, as calculated by Prof. Norton, over and above what is called for, by the agreement of 1725, for the "equivalent tract."

There are no villages on the line, excepting that of Hitchcock's Corners, already referred to, and but a few scattered dwellings whose inhabitants would be affected by a correction of the boundary, and establishing it in its true position. These dwellings number perhaps less than twenty. Some of their inhabitants are averse to a change of State jurisdiction, others are satisfied if called on to pay taxes in but one State, and others still are indifferent as to the State in which they are placed. The inconvenience to these on account of their business relations or their property lines, could but be small, and certainly of minor consideration when compared with the importance of a boundary line between States which would be alike a just and proper line, and one easily to be ascertained and made permanent.

With these facts before us, we had reason to suppose that the New York Commissioners would agree with us on a line approximating at least to a straight line, and especially if so run as to leave the village of Hitchcock's Corners nearly as now divided by the traditionary line.

After completing the examinations, therefore, a conference was had by the two boards, at Lakeville; but after one or more propositions

were made on either side, it was found that the New York Commissioners still insisted substantially on a line running through such stone heaps as were thought to be monuments, or where line fences were erected on the supposed foundation of old monuments. Still unable to agree we adjourned to meet one week later near the Ridgefield angle, for the purpose of testing it; as the New York Commissioners had suggested that it might not be in its true position.

On October 13th, the joint board again met near the house of Mr. Boughton, on the west side of the oblong at the place which was pointed out by tradition as at the end of the twenty mile line from Courtland's Point. To ascertain its identity with the description of 1731, making it one hundred seventy-seven rods from Long Pond, we measured the distance and found it very nearly to agree. Taking the course of N. 84° E. across the oblong, we measured six hundred and twelve rods, surface measure, the given breadth at this angle in 1731, and came out one hundred thirty-six feet south, and thirty feet west of the monument at the Ridgefield angle. Thus proving the monument to be thirty feet farther east than the required distance. The ground measured over at this angle is comparatively level.

After this examination propositions on both sides were renewed but without any favorable result, when we again adjourned.

On a call from the chairman of the joint board, a fourth meeting was held at Pittsfield, October 25th, 1859 — all present excepting Mr. Hawley of the Connecticut Commission. We were then informed by the New York Commissioners, that since our last meeting they had tested the angle monument at the Massachusetts line and found it, by triangulation, to be nineteen rods, horizontal measure, too far west.

Mr. Brown then, on behalf of the New York Commissioners, made the following proposition.

“Without changing any angle monument from its present position, to begin at the Massachusetts angle monument and run a straight line to the place of the forty-fourth monument; thence to the line fence in the place of the forty-second monument; thence to the fence and the centre of the street at the north end of Hitchcock's Corners; thence following the centre of the street to the front of the store at the south end; thence to a point on the south easterly side of highway, bearing south easterly from said Village; thence to the thirty-fifth monument; thence to the thirtieth monument; thence to the twenty eighth monument; thence to the twentieth monument; thence to the sixteenth monument; thence to the fourteenth monument; thence to the eighth monument; thence to the fourth monument; thence to the Ridgefield angle; thence on the traditionary line to the mouth of Byram River.”

This proposition was not accepted by the Connecticut Commissioners, but in lieu thereof, they submitted the following — to wit:¹

* * * *

The foregoing proposition of the Connecticut Commissioners was declined by the New York Commissioners, as follows:²

* * * *

These propositions were the last made, respectively, by the two boards; and present the final disagreement between us.

It had been claimed at this meeting by the New York Commissioners that their triangulation, when we were not present, placed the monument at the northeast corner of the oblong nineteen rods too far west. But on enquiry it appeared that they made the distance across the oblong on the Massachusetts line by triangulation to be five hundred sixty-three rods three links, and that this deducted from five hundred eighty-one rods five links, the measure of 1731, made it eighteen rods and two links short. But this measure of five hundred and eighty-one rods five links, in 1731, was surface measure. The horizontal breadth of the oblong, on the Massachusetts line, according to the agreement of 1725, was five hundred thirty-nine rods; while the "form horizontal perpendicular" breadth was five hundred thirty-eight rods, as stated in the survey of 1730, and the surface breadth five hundred eighty rods.

Thus the triangulation proved that the monument was not short of the required horizontal distance, but on the contrary it gave them twenty-four rods more, by horizontal measure, than the old agreement called for.

We then proposed to measure the same line on the surface with the allowance made in 1731; but the New York Commissioners declined to do this. During the succeeding two days we did this ourselves, in their absence, with the following results.

The northwest corner of the oblong, at Boston Corners, is marked by a small marble monument, and is the dividing line of Dutchess and Columbia Counties. The "great stone" on the top of the most westerly of the Taghconic mountains, as described in the survey of 1731, is readily recognized, and is in line with a copper bolt marking the Massachusetts line, and also with the corner monument of Massachusetts, as established in 1853 in setting off Boston Corners to New York.

From this point can be seen flags erected at the monument, at the northeast corner of the oblong, and at the northwest corner also.

We measured from the monument at the northwest corner to the said "great stone" 116 chains, 49 links. Thence to the monument at the northeast corner 30 chains, 32 links. So that the whole distance, by

¹ See page 472, *ante*.—[P.]

² See page 473, *ante*.—[P.]

surface measurement, we found to be 587 rods, 6 links — overrunning the measurement of 1731 by 6 rods and 1 link.

For height and slope of mountain and other measurements connected with the same, see diagram of Prof. Norton, herewith.

Thus, by instrumental survey and measurement, we have proved, contrary to the intimation of the report of the New York Commissioners in 1857, that the monuments at the Massachusetts and Ridgefield angles ought not to be carried further east to give the requisite breadth to the equivalent tract.

At the last meeting at Pittsfield, the Connecticut Commissioners had claimed that the line of intermediate monuments was based on a mistaken survey in 1731, and so greatly exceeded the area called for by the agreement of 1725. To this the New York Commissioners replied that there was also a mistake in estimating the area of the south oblong, on the Sound, set off to Connecticut in 1725.

That it should be an area contained in 13 miles and 64 rods long by 8 miles wide, instead of that contained in 12 miles long by 8 miles wide.

To this we answered that it cannot be made to appear that Connecticut, by the lines actually run, did then receive or now holds any more than 61,440 acres within a twenty mile line from Hudson's River; which twenty mile line was all that New York then claimed; and up to which Connecticut then held undisputed title; and upon which admission, on both sides, the agreement of 1725 was based.

To determine the truth of this, before quitting the field, we went to the Hudson River at the point described in the survey of 1725, at about one mile above Philipse's upper mills, and took the bearing of the eastern shore for nine miles to the south, from seven different points. The average or general bearing of the same we found to be S. 17 deg. 39' W.

By extending a line from the southwest corner of the "equivalent tract," which, by the survey of 1731, was determined to be 20 miles from Hudson River to the Sound and parallel with the actual bearing of the River would leave in Connecticut, west of the same, within the boundary lines, 50,512 acres. A line from the same point parallel with the general bearing of the east shore line of the River would leave in Connecticut 54,500 acres. A radius starting from the point one mile above Philipse's upper mills, to the southwest corner of the "equivalent tract," describing an arc thence to the Sound, would leave in Connecticut, west of the same, within the boundary lines, 59,493 acres, as will more fully appear from the accompanying diagram by Prof. Norton.

These observations, carefully made, have satisfied us that no mistake in favor of Connecticut was made, on this part of the line, in 1725.

So also, for the allowance of 25 rods to the mile in the breadth of the "equivalent tract," we received the excess of 200 rods on the eight

mile line from the Sound; but for the allowance of 12 rods per mile on the north and south lines of the north oblong, we received no equivalent whatever.

This view of the case is also confirmed by the New York Commissioners of 1725, where they say, in a letter to the then Governor of New York, under date of May 19th, of that year, in speaking of measuring the twenty mile line from Hudson's River without any allowance, "We thought that we might the more readily agree to this because we doubted whether in law they could be obliged to make allowance, seeing they agreed that we should measure these lines in the best manner we could. The yielding these small things as a favor to their settlers made them more willingly agree in other things which has given this province twenty times the quantity of land which may be supposed to be lost by the strict measure in this part."

The calculations of 1725, for the most part, were arbitrary, and so understood on both sides. With them we find no fault, but only claim that the agreement then made should be evenly and justly carried out.

The New York Commissioners insist that in running the line the intermediate monuments are as decisive as the angle monuments; and where they cannot be found, their places must be determined by tradition, or traditionary line fences. That they have a formal deed of cession, describing a line through these monuments; and that under it they have held possession for over one hundred years. That though an erroneous survey at first, it cannot now be corrected; and especially after being ratified by both States.

On the contrary, our claim from the first has been that the true boundary between the States was and is a straight line between the angles from Byram River to Massachusetts.

That the angle monuments are governing monuments, and were the only ones taken into account in making the estimate of the area required in the "equivalent tract," according to the agreements of 1683 and 1725.

That the deed of cession was for sixty-one thousand four hundred and forty acres, measured with the allowance agreed on, and no more. That although the line was described as running through the intermediate monuments, it was also described as a line parallel with the west line, which they said was a straight line; which being inconsistent with itself, should be so construed as to give effect to the agreement of the parties and the true intent of the Commissioners; as specially set forth in said deed of cession, which by its very terms is so restricted; to wit, "Containing sixty-one thousand four hundred and forty acres of land with allowance in measure as aforesaid, for the use of our Sovereign Lord the King, his heirs and successors, in as full and ample a manner

as the same ought to be done by the agreement and covenants entered into between the Commissioners of the said Province and Colony in the year one thousand six hundred and eighty-three, and one thousand seven hundred and twenty-five."

That between sovereign States no adverse possession can give title; since "no limitation runs against the king;" otherwise a change of individual farm lines would work a change of State boundary every twenty years by adverse user, and destroy all permanent jurisdiction.

That the boundary has been supposed to be, and described by, straight lines, as is evident from all the maps or other description of the territory, down to 1856. That such lines alone are practicable because certain, or capable of being made certain; and whatever changes or disturbances may occur on the line, it may be easily and accurately recovered by a survey; while in the other case, such disturbances would give rise to the periodical necessity of boundary commissions like the present, with all the expense and disagreements attending them. In accordance with this view, the last Commissioners surveyed straight lines between the angles, and on a part of the line planted artificial monuments; but which not being ratified will hereafter serve only to add to the confusion already existing. That an erroneous survey can and ought to be corrected, especially when the error is so great and serious as this, between sister States — and this very thing was done between these same parties, and in favor of New York, in 1683, as will appear by an examination of the old documents.

On December 1st, 1664, an agreement was made at New York by the Commissioners of the Duke of York, and the Governor and Commissioners of the General Assembly of Connecticut, by which they "ordered and declared" that a line drawn north northwest from Mamaroneck creek to the Massachusetts line to be the boundary between New York and Connecticut. Under this, for some twenty years, Connecticut claimed jurisdiction up to that line. Yet it was afterwards found to be an error, and although it had been confirmed, it was corrected by the agreement of 1683 and the survey of October 10, 1684. In the meantime Rye, and it is thought Bedford also, had been organized and settled under Connecticut, and mostly by her inhabitants. After the transfer, they made serious complaint, and long resisted it; but it was adhered to, notwithstanding the formal settlement of 1664, because it was claimed by New York as called for by an honest and fair interpretation of the agreement of 1683.

Another fact in the early history of this boundary may tend towards an explanation of the variations of the intermediate monuments from a straight line. On September 3d, 1730, Thomas Hawley and twenty-one others living on the equivalent tract, associated with "residents of New

York having political influence and official position," petitioned the New York Council, offering, if they could have fifty thousand acres of the equivalent lands secured to them in fee, to defray the charge of completing the boundary line, which was to set off the oblong. The council, the same day, acceded to their proposal, and Commissioners were accordingly appointed."

Soon after the survey, a patent for fifty thousand acres, covering the greater part of the oblong, was granted to Hawley and his associates. Immediately after the survey and indenture of 1731, and before Hawley & Co. had received their patent from the Council of New York, 'Francis Harrison, who had been one of the Commissioners in settling the boundary and a partner in the procurement of the patent," secretly obtained from England a patent for other parties, of prior date, in order to get the start of the first claimants. But Hawley & Co. relied on their contract with the authorities of New York and the expense of two thousand pounds which they had incurred. All which facts becoming known stirred up the public indignation against Harrison to such a degree as to lead him permanently to leave the Province. The lands were divided among the Hawley patentees, to whom the present owners trace their titles. Thus it was for the interest of those who paid for the survey to have these perpendiculars extended as far east as possible. The following table will show the variation of the traditionary from the straight line, at the several intermediate points and stone heaps between the Massachusetts and Ridgefield angles, which are common to both, beginning at the latter.

DISTANCE FROM TRADITIONARY LINE TO STRAIGHT LINE.

	Rods.	Links.
At Ridgefield angle.....	0	—
Second mile stone heap is east of straight line,.....	22	— 9
At about 3 miles traditionary line fence is east of straight line,.....	17	—
At about 3½ miles traditionary line fence is east of straight line,.....	24	—
Fourth mile stone heap is east of straight line,.....	29	— 2
At about 5½ miles traditionary line fence is east of straight line,.....	41	— 1
Eighth mile stone heap is east of straight line,.....	30	— 22
Twelfth mile stone in fence is east of straight line,.....	46	— 19
At about 13¼ miles traditionary line fence is east of straight line,.....	34	— 1
Fourteenth mile stone heap is east of straight line,.....	33	— 9
Sixteenth mile stone heap is east of straight line,.....	21	— 23

	Rods.	Links.
Eighteenth mile stone heap is east of straight line,.....	31	—
Twentieth mile stone heap is east of straight line,.....	28	— 24
At about $21\frac{1}{8}$ miles traditional line fence is east of straight line,.....	30	—
At about $24\frac{5}{8}$ miles traditional line fence is east of straight line,.....	37	—
At about $25\frac{1}{2}$ miles traditional line fence is east of straight line,....	38	— 12
Thirtieth mile stone heap is east of straight line,.....	24	— 8
At $31\frac{7}{10}$ miles traditional line fence is west of straight line,	8	— 20
Thirty-third mile stone heap is west of straight line,.....	7	— 5
Thirty-fifth mile stone heap is east of straight line,.....	21	— 14
At $34\frac{9}{10}$ miles traditional line fence is east of straight line,	13	— 22
At $36\frac{3}{16}$ miles traditional line fence is east of straight line,	21	— 11
At $36\frac{7}{16}$ " Hitch ^k Cor ⁿ S. Centre of street is east of straight line,.....	18	— 19
" Hitch ^k Cor ⁿ N. Centre of street is east of straight line,.....	23	— 16
At $39\frac{7}{16}$ miles traditional line fence is east of straight line,	30	— 23
At about $41\frac{1}{2}$ miles traditional line fence is east of straight line,.....	37	— 15
Forty-seventh mile place is east of straight line,.....	35	— 21
At Massachusetts angle $52\frac{1}{16}$ miles surface measure,.....	0	—

The following table will show the relative position of those monuments whose distances were determined by the measurement of 1856; their variation from the true distance as calculated from the angle at Ridgefield; their variation from the first monument; their intermediate variation; and their variation from the straight line between the angles, in chains and links, plus or minus.

Monsts.	Cal. Dist.	1856. Meas'd Dist.	Va. fr. Angle.	Va. fr. 1st Mt.	Int. Va.	Va. fr. St. Line.	
2	111.50	106.00	— 5.50			5.59	East.
4	271.50	264.50	— 7.00	— 1.50	— 1.50	7.27	"
8	591.50	590.00	— 1.50	+ 4.00	+ 5.50	7.72	"
12	911.50	920.00	+ 8.50	+ 14.00	+ 10.00	11.69	"
14	1071.50	1070.00	— 1.50	+ 4.00	— 10.00	8.34	"
16	1231.50	1230.00	— 1.50	+ 4.00		5.48	"
20	1551.50	1537.00	— 14.50	— 9.00	— 13.00	7.24	"
30	2351.50	2350.00	— 1.50	+ 4.00	+ 13.00	6.08	"
33	2591.50	2552.00	— 39.50	— 34.00	— 38.00	1.80	West.
35	2751.50	2735.00	— 16.50	— 11.00	+ 23.00	5.39	East.

To the reasons of the New York Commissioners in declining the last proposition of the Connecticut Commissioners it was replied that we did not claim by it to establish a new line, but to ascertain and settle the true line. That this was to be done by evidence derived from all sources, and especially from original documents as superior to that of any doubtful monuments or traditional marks. That it is fair, because it is in conformity with what both parties originally assented to and attempted to carry out; and because it gives to New York all and more than that agreement called for; and much more, in quantity, than what we received. That there is no want of power, in the States, to find out and settle what is their true boundary line, and to carry out in good faith what has been already understandingly agreed upon. It was not claimed that the Commissioners had plenary powers; but that while they cannot conclude any thing, it is their duty to recommend, for the adoption and ratification of the States, such a line as justice and equity shall dictate, and such as may be demanded by the nature of the case.

The undersigned have acted in conformity with these views in the proposition they have made, varying from a straight line only at Hitchcock's Corners, for reasons therein stated.

Having offered, in the spirit of accommodation, all that can reasonably be asked, what remains to be done to bring about a final and satisfactory adjustment of this matter? This is a question for your Honorable Body to determine.

If no better way can be devised, and the Legislature of New York shall concur, it might be decided by arbitration, by authorizing the Governors of the respective States to choose some judicious person from another State, and they the third, who, after hearing the whole case from the Commissioners of the two States, shall settle the principle on which the line shall be run, and which shall be binding with or without ratification, as the two States may judge fit.

The following diagrams, numbered from 1 to 5, with explanations, drawn by Prof. William A. Norton, Engineer, are submitted herewith.¹

No. 1. Showing, on a small scale, the course of the Boundary Line, the lines run in establishing the angular points, and the manner of laying off the "Equivalent Tract," by perpendicular offsets; together with the monuments found by the Commissioners, and points ascertained on the line fences.

¹ These diagrams are not severally reproduced in the Report as found in the *Conn. Gen. Assem. Reports, &c.*, of 1860; but in place of them is a small "Diagram illustrating the surveys made in 1725 and 1731, to establish the Boundary Line between New York and Connecticut; and showing the irregularities of the boundary, on an enlarged scale." This diagram seems to include substantially what is described as belonging to the original diagrams 1, 3 and 5.—[P.]

No. 2. Showing the bearing and lengths of the Boundary Lines, and the area of the "Equivalent Tract," as determined by the stations established for the angular points.

No. 3. Showing, on a large scale, the disagreement between the straight and traditionary lines; with the monuments found, and points ascertained on the line fences, supposed to be at the ends of the perpendicular offsets.

No. 4. Showing the profile of the line from the northwest corner to the northeast corner of the "Equivalent Tract," with the measurements along the same.

No. 5. Showing the position of the south "oblong" relatively to the Hudson River, and the area thrown into Connecticut, within twenty miles of said river.

Since writing the foregoing, we have received from the New York Commissioners a copy of an "Act" passed at the last session of their Legislature, in the words following, to wit —

"An Act to provide for the survey and settlement of the boundary line between the States of New York and Connecticut, and for the expenses thereof.¹

* * * *

In accordance with the above act, the New York Commissioners have notified the Connecticut Commissioners under date of April 4, 1860, that on the 15th day of May next they will commence a survey of said boundary line at the monument in the line of the state of Massachusetts, and continue it until completed; and designate the same by the erection of suitable monuments — adding this invitation: "And you are respectfully invited and earnestly solicited to join in such survey and the marking of said line commencing at the time and place aforesaid."

While the above act and notice contemplate the establishing a boundary line between the states without the coöperation of Connecticut, they have been pleased to invite us to join in *their* survey, with what intent and meaning, it is not for the undersigned, but for your Honorable Body, to determine.

All which is respectfully submitted.

O. H. PERRY,
P. S. BEEBE,
JOS. R. HAWLEY.

New Haven, May 3d, 1860.

—[*Conn. Gen. Assem. Reports, &c.*, 1860, No. 15.

¹ For the body of this act, see page 479, *ante*.—[P.

[IN CONN. HOUSE OF REPRESENTATIVES.]

May 4, 1860.

* * * *

Mr. Mathewson of Pomfret, introduced a joint resolution that a Joint Select Committee, consisting of one Senator and eight Representatives, be raised upon that portion of His Excellency, the Governor's message, which relates to the Connecticut and New York boundary line.

On motion, the resolution was passed.

* * * *

The Speaker announced the appointment of the Joint Select Committee on the boundary line between the States of Connecticut and New York, as follows:

Messrs. Deming of Hartford,
Scranton of Madison,
Smith of Colchester,
Loomis of Bridgeport,
Mathewson of Pomfret,
Battell of Norfolk,
Child of Portland,
Newell of Union.

* * * *

A joint resolution, referring so much of the message of his Excellency, the Governor, as relates to the Connecticut and New York boundary line, to a Joint Select Committee to be raised, was received from the Senate, passed.

On motion, the resolution was indefinitely postponed.

* * * *

The report of the Commissioners on the boundary line between the States of Connecticut and New York, with accompanying maps and diagrams, was received and referred to the Joint Select Committee on the boundary line between the States of Connecticut and New York.

Said report was ordered to be printed, and the printing of the maps and diagrams was left discretionary with said Committee.

* * * *

—[*Conn. House Journal*, 1860, pp. 55, 56, 57.]

[IN CONN. SENATE.]

May 6, 1860.

* * * *

A resolution came from the House, passed, to raise a Joint Select Committee of one Senator and eight Representatives, upon that portion of the Governor's message which relates to the boundary line between the States of Connecticut and New York.

On motion of Mr. Curtiss, the resolution was laid upon the table.

* * * *

—[*Conn. Sen. Journal*, 1860, p. 51.]

 May 7, 1860.

* * * *

The report of the Commissioners on the Boundary Line between Connecticut and New York was received from the House of Representatives, referred to the Joint Select Committee on the Boundary Line of Connecticut and New York.

On motion, the Senate concurred with the House in the reference.

* * * *

 * * * *

A joint resolution, referring so much of the message of his Excellency, the Governor, as relates to the Connecticut and New York Boundary Line, to a Joint Select Committee, to be raised, passed in the Senate, was received from the House of Representatives, indefinitely postponed.

On motion, the Senate concurred with the House and indefinitely postponed said resolution.

A joint resolution for raising a Joint Select Committee, consisting of one Senator and eight Representatives, upon that portion of his Excellency, the Governor's message, as relates to the Boundary Line between the State of Connecticut and New York, passed in the House, which, on motion of Mr. Curtiss had been laid upon the table, was called up.

On motion, the Senate concurred with the House in the passage of the same.

* * * *

The President announced the appointment of the following Joint Select Committee on the part of the Senate, viz:

On Connecticut and New York Boundary Line, Mr. Curtiss.

* * * *

—[*Conn. Sen. Journal*, 1860, pp. 52, 54, 55.]

May 11, 1860.

* * * *

The report of the Commissioners on the Connecticut and New York Boundary Line, which report had been accepted and referred to the Joint Select Committee on the Connecticut and New York Boundary Line, was, on motion of Mr. Curtiss, called up, and, on further motion, the vote referring the same was reconsidered, and, on further motion, it was

Ordered, That the same be transmitted to the House of Representatives for correction, the same having been ordered printed in the House.

* * * *

—[*Conn. Sen. Journal*, 1860, p. 88.

May 15, 1860.

* * * *

The report of the Commissioners of the Connecticut and New York boundary line was received from the House of Representatives, accepted and referred to the Joint Select Committee on the Connecticut and New York Boundary Line, with instructions to the Committee to cause said report to be printed, with the small diagram accompanying the same, explanatory of said report; and also giving said Committee discretionary power to have published or lithographed the large diagrams or maps accompanying the report of the Commissioners.

On motion, the Senate concurred with the House in the acceptance of the report and in the printing of the same.

* * * *

—[*Conn. Sen. Journal*, 1860, p. 93.

June 21, 1860.

* * * *

Mr. Curtis, from the Joint Select Committee on the Connecticut and New York Boundary Line, by leave of the Senate submitted the following report and accompanying resolution:

“GENERAL ASSEMBLY, }
 May Session, A. D. 1860. }

“The Joint Select Committee to whom was referred so much of the message of his Excellency, the Governor, as relates to the boundary line between the States of Connecticut and New York, respectfully report:

That the Commissioners appointed on the part of this State to ascertain and settle said boundary line, have been unable to agree with the Commissioners on the part of the State of New York, and that the grounds of difference are fairly and fully set forth in the report of the Commissioners of this State, made to this session of the General Assembly, and now on file in the office of the Secretary of State.

That the action of the Connecticut Commissioners in regard to said boundary is fully sanctioned and approved by your Committee, and they further find that the Connecticut Commissioners have fairly and honorably endeavored to settle the various questions in controversy concerning said boundary, by repeated propositions to the Commissioners on the part of the State of New York.

That on the 6th day of June, 1860, they submitted to the consideration of the New York Commissioners the following propositions, to wit:

1st. Begin at a point in the north center and near the north end of the street running through the village of Hitchcock's Corners, and thence run in straight lines to the Ridgefield and Massachusetts angles.

2d. Move the angle bounds at Ridgefield and on the Massachusetts line, five chains and ninety-one links east of their present positions, and connect the same by a straight line running through the same points in the said center of the north end of the street at Hitchcock's Corners."

3d. In case both of said propositions are rejected by the New York Commissioners, then let us submit the subject to arbitration, each party choosing a disinterested person, not an inhabitant or citizen of either State, which two shall choose a third of like qualifications. Said arbitrators shall hear the claims of each State, and decide where the line in dispute ought to be run. It being understood and agreed that the said board of arbitrators shall take into consideration not only the legal questions involved, but any and all considerations of equity, public policy, and convenience. All of which propositions were rejected by the New York Commissioners.

Your Committee further find that the Legislature of the State of New York have passed an act providing for an independent survey of said boundary line, and thus, unless the State of New York recedes from its present position in reference thereto, no further action can be had by our present Board of Commissioners.

That in order to prevent the disastrous consequences which must arise in consequence of such independent action on the part of the State of New York, your Committee recommend,

That his Excellency, the Governor, be and he is hereby empowered to propose to the Governor of the State of New York the two first propositions herein mentioned, and, in case of their rejection, to submit the whole matter in controversy to final arbitration. All of which is respectfully submitted, together with the accompanying resolution:

JULIUS B. CURTIS,

Chairman.

H. C. DEMING,

Chairman on the part of the House of Representatives.

Resolved, That his Excellency, the Governor, be, and he is hereby empowered to make the two following propositions to the Governor of the State of New York, to wit:

1st. Beginning at a point in the north center, and near the north end of the street running through the village of Hitchcock's Corners, and from thence in straight lines to the Ridgefield and Massachusetts angles; or,

2d. Move the angle bounds at Ridgefield, and on the Massachusetts line, five chains and ninety-one links east of their present positions, and connect the same by a straight line running through said point, in the said center of the north end of the street at Hitchcock's Corners.

And, in case of the rejection of the aforesaid proposals, he is empowered to submit the controversy concerning so much of said boundary line as lies between the Ridgefield angle and the Massachusetts boundary, to final arbitration, in such manner as he shall deem expedient, and shall have full power to direct the present, or any subsequent Board of Commissioners, in accordance with the powers herein conferred, and be subject to the action of the next General Assembly.

The question being upon accepting the report of the Committee, and passing the resolution,

The question, "Shall the resolution pass?" was put, and decided in the affirmative.

So the resolution was passed, as by the Committee recommended, and, on further motion, the accompanying report of the Committee was accepted.

* * * *

—[*Conn. Sen. Journal*, 1860, p. 511.]

[IN CONN. HOUSE OF REPRESENTATIVES.]

June 22, 1860.

* * * *

The report of the Joint Select Committee, to whom was referred so much of the message of his Excellency, the Governor, as relates to the boundary line between the States of Connecticut and New York, reporting that they had attended to the duties of their appointment, and recommending the passage of the following resolution, viz.: [as already given above], * * was received from the Senate, the report of the Committee being accepted, and the accompanying resolution being passed, as by the Committee recommended.

The question being upon the passage of the resolution,

The question, "Shall the resolution pass?" was put, and decided in the affirmative.

So the resolution was passed, as by the Committee recommended, and, on further motion, the House concurred with the Senate in accepting the report of the Committee.

* * * *

—[*Conn. House Journal*, 1860, p. 516.

[GOV. MORGAN TO N. Y. LEGISLATURE.]

January 2, 1861.

* * * *

The commissioners appointed by the act of April 3, 1860, to ascertain and mark the boundary line between the States of New York and Connecticut, in conformity with the survey of 1731, have been unable to agree with those on the part of the latter State. The various propositions made having been declined, and the joint commission failing to agree upon a basis, the commissioners for this State proceeded to run, and have run and marked a line, which is represented as being satisfactory to the people on both sides of the boundary, and have placed monuments at the proper points. Their report, presenting the details of their proceedings, will be transmitted to you, together with a communication from the Executive of Connecticut.

* * * *

—[*N. Y. Sen. Journal*, 1861, p. 24.

[IN N. Y. SENATE.]

February 8, 1861.

* * * *

Mr. Ketcham presented the report of the Commissioners appointed to ascertain and settle the boundary line between the States of New York and Connecticut, which was laid on the table and ordered printed.

* * * *

—*N. Y. Sen. Journal*, 1861, p. 161.

STATE OF NEW YORK.

No. 36.

IN SENATE, February 8, 1861.

REPORT

Of the Commissioners to ascertain and settle the boundary line between the States of New York and Connecticut.

ALBANY, *February 8, 1861.*HON. ROBERT CAMPBELL, *President of the Senate.*

SIR—The undersigned Commissioners, appointed to ascertain and settle the boundary line between the States of New York and Connecticut, herewith transmit to the Legislature a full report of their proceedings, and of the expenses incident thereto.

Respectfully yours,

ISAAC PLATT.

JACOB VROMAN.

LEANDER D. BROWN.

REPORT.

The controversy between the States of New York and Connecticut has been called, and perhaps justly, one of the most extraordinary of the kind, especially in enlightened times and between friendly States, each professing to have a proper regard for the rights of the other.

It is difficult, if not impossible, to account for the many embarrassments and controversies that have attended it, extending over a period of about two centuries, and its history is worthy of special attention at this time, as illustrative of the importance of our position, when we feel that we may be warranted in stating that it has been finally terminated in a manner just to the respective States, and satisfactory to all directly concerned.

A reference to a few prominent facts will serve, not only to show the character the controversy has at times assumed in the distant past, but in events of recent date, and also the importance of the conclusions to which we have arrived, fully sustaining the interests of New York while respecting as sacredly the rights of Connecticut.

The original strife had its origin in the early settlement of emigrants from Connecticut on Long Island Sound, within territory claimed and held by New York. The bounds of the respective provinces not being

defined by any distinct lines, and the people not fraternizing with the Dutch settlers of New York, but being anxious to remain under the jurisdiction of Connecticut, an effort was first made in 1664 to have a boundary located and defined, and for that purpose Commissioners were appointed on the part of the Duke of York, and delegates on that of the colony of Connecticut. An arrangement between these parties was made, but so little was then known of the situation of the country and the interior localities, that it was found so full of errors it could not be carried into effect, and was therefore by consent abandoned. But the settlements went on, and controversies respecting jurisdiction were so frequent, that in 1683 a new agreement was made to remove the troubles, in which it was stipulated that a tract on the Sound, the bounds of which were described to contain 61,440 acres, should be permanently set off to Connecticut by New York, on condition that the former should in exchange set off to New York a territory of like extent, to be of equal width from the tract on the Sound to the south line of Massachusetts. This agreement was sanctioned by a royal ordinance of William the Third, and carried into effect in 1684, so far that the tract on the Sound was surveyed and set off to the full possession of Connecticut.

A simple contract to make an exchange of an equal number of acres of land was certainly not apparently one of difficult execution, and the natural conclusion of the disinterested observer would be, that its fulfillment, on both sides, would immediately follow. But instead of such prompt fulfillment, while Connecticut had her share secured, and in possession, the equivalent due New York was withheld under various pretexts, for the extraordinary period of forty-eight years. The obstacles in the way of a settlement were invariably made on the part of Connecticut, and in no instance on that of New York, rendering it doubtful for a time whether the latter would ever obtain her share at all.

The singular fact appears that instead of taking steps to carry her agreement of 1683 into effect, Connecticut made no movement until 1697, when she encouraged the towns of Rye and Bedford, in Westchester county, to revolt against New York, claiming them as her territory, and the same Governor who had signed the contract alluded to, fourteen years previously, demanded those towns for Connecticut, in violation of that contract which placed them beyond dispute in New York.

After the contest respecting Rye and Bedford, matters remained stationary for twenty years, and until 1717, when New York made another attempt to obtain her rights, by passing an act to provide for the survey of the equivalent tract. At her solicitation, in 1718, commissioners were appointed on the part of Connecticut to meet those of

New York already appointed, but their labors, on consulting, were without effect, as those of Connecticut would agree to nothing practical, and were not vested with authority to bind their government.

In the following year New York made a further attempt at an arrangement, by appointing another set of Commissioners to meet those of Connecticut and settle the line amicably; and as all previous efforts had proved unavailing, it was provided in this instance, that if Connecticut would not assent to something practical, the New York Commissioners should be authorized to proceed alone, to run, and fix the line *ex parte*, but in strict conformity with the agreement of 1683, nine months' notice being first given to Connecticut, to give her Commissioners an opportunity to participate in the work if so disposed. This act was subsequently sanctioned by a royal ordinance, although the agents of Connecticut in England at the time made every effort in their power to prevent it.

This last act brought the controversy to such a position that Connecticut was finally obliged to take definite action. Still, nothing decisive followed, although various propositions were made, and acts passed, until 1723, when Commissioners with authority to act and settle the boundary from Long Island Sound to Massachusetts line were again appointed on both sides.

These Commissioners held several meetings in 1724, but at all these nothing was accomplished in consequence of the steady refusal of those of Connecticut to test the correctness of the points claimed by them as authentic monuments defining the bounds of the tract on the Sound ceded by New York; and also by reason of their questioning the provisions of the agreement of 1683, for ceding to New York lands over twenty miles east of Hudson river. The proceedings were ended by their abruptly leaving the conference.

But in 1724 Connecticut took definite action in the case, and again appointed Commissioners on her part, fully authorized in this instance to enter into an agreement with those of New York to survey and set off the equivalent tract, and fix and mark the line to divide the provinces.

In 1725, the Commissioners on both sides, making the fifth set appointed for the same purpose, met, came to a full understanding, and entered into articles of agreement settling the manner of the survey. This, let it be understood, was at the end of sixty-one years after the commencement of the controversy, and forty-one years after Connecticut had received her share of the territory exchanged. But even this last movement resulted in nothing further for the time being, than the running again of the line bounding the tract on the Sound, which Connecticut already held. Action, from some cause, was suspended until 1731. when the Commissioners of 1725 took hold of the work in earnest,

surveyed and set off the oblong or equivalent tract to New York, defining its eastern boundary as that which was forever to remain the boundary between the respective States.

Here may be stated two striking facts having a direct bearing, not only upon the original settlement, but also upon questions relating to the boundary, so far as it has since been found pending between the States. They are these: In October, 1730, an act was passed by the general assembly of Connecticut, in which it was stated, that under the agreement of 1725, a part of the boundary dividing the provinces was "*actually run, ascertained, and fixed by proper monuments,*" and the line so run was formally ratified in the same act. Further, in that act, reference was made to the remainder of the line, to include the Oblong, then to be surveyed under the agreement referred to, in which, after citing the agreement, it was enacted that, "*The lines when run, and the places distinguished through which they should pass, should be the boundary.*" This, let it be understood, was the independent action of Connecticut, fixing by law the line of monuments as located by the surveyors, to be her permanent boundary, and depriving subsequent Commissioners or surveyors of the power to change them. One fact more will be sufficient to dispose of this part of our subject.

After the survey of 1731 was completed by the joint action of the Commissioners on the part of New York and Connecticut, an indenture was executed by said Commissioners, pursuant to the authority delegated to them, in which the Commissioners of the latter State (then colony) on their part formally transferred to New York all the lands contained in the oblong, or equivalent tract, in conformity with the original agreement of 1683, and the subsequent one of 1725. All the Commissioners agreed upon the east lines of said oblong or equivalent tract, fixed and marked by themselves, and minutely described in their survey, as the permanent boundary of the respective States (then colonies), defining it to be by the lines as "*said lines run through the several monuments*" as "*erected by the said Commissioners, on the east side of said additional lands.*" This arrangement, or transfer, was subsequently sanctioned, without reserve, by both the contracting parties, and also, the same year, by a royal ordinance of King George the Second; thus giving to the transaction all the forms of law as well as of contract. The ordinance, like the indenture, expressly stipulated that the line should be "*at the several monuments erected by them* (the Commissioners) *on the east side of said additional lands.*"¹

In presenting this sketch of the controversy and final arrangement between the States, it is not our object to cast reproaches, or draw

¹ See foot note 1, p. 478, *ante*.—[P.]

unfavorable inferences, respecting what appears to us an extraordinary course on the part of Connecticut. But to set forth the origin, progress, and conclusion of the original and long protracted negotiations, and also to show, as we trust the facts do most clearly, that when the survey and transfer of the oblong was concluded, sanctioned by the parties and by the crown, in 1731, there remained no room for further controversy, or ground for negotiation respecting said boundary lines, unless one or both parties should resolve to disregard the obligation of contracts.

Under this view of the subject, which the premises show to be a just one, it is clear that after the settlement of 1731, the only legitimate subject of difference that could arise between the States, might be with reference to the original and true location of those lines. The lapse of a long period of time, the changes that necessarily come over the face of the country in the course of a century or more, the removal or obscurity of the original land marks, would naturally make a new survey and marking of the line necessary for the convenience of the people, and remove subjects of controversy: but beyond that the parties left no matters for new adjustment.

That the original settlement of the line was satisfactory to all parties concerned, we have the further evidence in the fact that for more than a century no controversy respecting it arose, either between the States or the people on their borders. It was not until subsequent to the year 1850, when the trees which had been marked had all disappeared, some of the monuments been removed, and, owing to changes among the people few of them knew of the monuments remaining, that questions of jurisdiction were raised, and controversies began respecting the true position of the original line. Doubts which none had authority to solve, made the difficulties more and more serious, so that on the first Wednesday in May, 1855, Connecticut made a proposition to ascertain the true position of that line by having a new survey of it made, and new monuments placed upon it. As a first step for promoting this object her Legislature, or General Assembly, on the day above named, passed the following preamble and resolutions: ¹

* * * *

This proposition was submitted to the Legislature of New York by the Governor, on the 25th of January, 1856, and acted upon by that body on the 15th of April following, when the following preamble and concurrent resolutions were passed: ²

* * * *

An examination of these proceedings will show that the true character

¹ See page 385, *ante*.

² See page 386, *ante*.—[P.]

of the proposition by Connecticut, and its acceptance by New York, could not be mistaken. The only authority conferred upon the Commissioners on either side, was to *ascertain*, and with suitable monuments to mark, the original line.

Pursuant to authority conferred by the resolutions adopted, the Governor, on the 9th of April, 1856, appointed the Hon. Ben. Field, Samuel D. Backus and Jonathan Tarbell, Commissioners on the part of this State, to act with the Commissioners appointed by Connecticut, to ascertain, survey and mark the boundary line.

These Commissioners conferred with those of Connecticut, and after they had organized a joint board, and agreed upon the mode of proceeding, they employed Mr. C. W. Wentz, of Albany, an engineer of established reputation and ability, to survey the line. Mr. Wentz entered upon the duties of such survey, with a party properly organized, on the 25th of June, 1856. The line was run without controversy between the Commissioners, from the great stone at the wading place on Byram river, to the Duke's trees, then on the line parallel to the Sound to the Wilton angle, and thence to the Ridgefield angle. Thus far it would appear that the Commissioners agreed.

But from the Ridgefield angle northerly to the monument in the south line of Massachusetts, a different policy was pursued, the original line was not traced or followed, but Mr. Wentz first run a datum line, and from that located a straight line between the two points, by measurements, on perpendiculars from the datum line westward, at various points. These surveys were so far completed on the first of November, that the surveying party, having been engaged in the field one hundred days, was dismissed.

The location of the straight line between the Ridgefield angle monument and the Massachusetts line monument, revealed the fact that the line as originally located, as shown by the monuments found on it in this survey, was not straight, but inclined to the east of a direct line so far, at various points, that to abandon it and adopt a straight line in its stead, would cut off from this State a tract of about two thousand eight hundred acres, and between two and three hundred inhabitants, who had always been residents of New York.

This immediately brought up an irreconcilable subject of controversy. The Commissioners of New York insisted that as the old line was defined to follow the line of monuments, that should be adhered to; while the Connecticut Commissioners insisted upon a straight line between the points named. Several efforts were made to effect an arrangement, but in vain. The Connecticut Commissioners remained immovable. No further progress could be made, and no part of the survey was adopted.

Reports of the survey and proceedings were made by the engineer, and by the Commissioners, but, besides providing for the expenses incurred, no legislative action was taken beyond the passage of the following preamble and resolutions, sustaining the course of the New York Commissioners in refusing to yield up any portion of the territory of the State :

Whereas, The Commissioners appointed on the part of New York and Connecticut respectively, to ascertain the boundary line between the two States, have been unable to agree in relation thereto,¹

Resolved, That the Commissioners on the part of New York, while they have maintained the rights of this State, by declining to yield any of its territory or to adopt any other than the legal and recognized boundary through the ancient landmarks, have not been lacking in liberality towards the Commissioners on the part of Connecticut, nor in proper effort for a just and speedy determination of the matters in difference between them, nor are they to be held responsible for the failure of a settlement hitherto.

Resolved, That relying upon the Legislature of Connecticut to correct the errors of its Commissioners, we deem no legislation necessary on the part of this State, in relation to this subject at the present time.

From this point of the controversy nothing further was effected by the former Commissioners ; all efforts at an agreement proved vain. It is unnecessary to state here what conferences were held, or propositions offered, as none on the part of this State were accepted by Connecticut.

In August, 1859, new Commissioners were appointed on the part of each State, who still continue to act. These Commissioners had their first conference at Port Chester, on the 13th of September, 1859, at which a joint board was organized by the appointment of Isaac Platt, of the New York commission, chairman, and Joseph R. Hawley, of the Connecticut commission, secretary.²

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PROCEEDINGS OF 1860.

In giving the foregoing sketch of the long and singularly protracted controversies with Connecticut, respecting the boundary line of our State, from the earliest period of our history up to the close of the year 1859, our object is to present, in a condensed and connected form, a clear view of the whole subject, that it may be seen that New York, from the outset to the end, has steadily occupied a fair and just position, asking only for her just rights, but strictly respecting those of Connecticut, and yet, while the matters to be settled were so simple, all

¹The above preamble does not appear in the official record of the passage of these resolutions by the Senate. See p. 433, *ante*.—[P.]

²Here follows a summary statement of the proceedings of 1859, already given in full, as reported by the same Commissioners. See page 462, *ante*.—[P.]

efforts at an arrangement have proved abortive. Her representatives would assent to nothing that could be accepted without a sacrifice of the honor or the rights of New York. The obstinacy of the majority of her commissioners cannot be accounted for. These facts prove the necessity of the proceedings which follow, to settle and fix the boundary line by the action of New York alone.

A report of our proceedings up to the close of 1859, hereinbefore alluded to, was made to the Legislature last year, explaining what had been accomplished, the efforts we had made at an amicable arrangement, and the difficulties we had encountered. After a full consideration of the subject, that body passed the following act, which became a law on the third¹ day of April, 1860:²

* * * *

Pursuant to the provisions of sections two and three of said act, on the fourth day of April, immediately after the passage of said act, we addressed to each of the Connecticut commissioners the following notice, with which we also enclosed to each a copy of the foregoing law.

ALBANY, *April 4*, 1860

HON. OLIVER H. PERRY, JOSEPH R. HAWLEY and PHILIP S. BEBEE,
Commissioners, &c. :

GENTLEMEN—In compliance with an act of the Legislature of the State of New York, a copy of which is herewith enclosed, the undersigned, commissioners on the part of the State of New York to ascertain the boundary line between said State and the State of Connecticut, hereby respectfully give notice, that on the 15th day of May next they will commence a survey of the boundary line between the States of New York and Connecticut, at the monument in the line of the State of Massachusetts, and continue the survey of the same until completed, in compliance with the provisions of said act; and when so completed, they will designate the same by the erection of suitable monuments. And you are respectfully invited, and earnestly solicited, to join in such survey and the marking of said line, commencing at the time and place aforesaid.

Yours, &c.,

ISAAC PLATT.

L. D. BROWN.

JACOB VROMAN.

To guard, as far as possible, against any ill feeling on the part of our Connecticut friends, with the above notice, the chairman of the New

¹ Should be "fourth."—[P.]

² See p. 479, *ante*.—[P.]

York commission, at the same time addressed to each of them the following conciliatory letter:

ALBANY, *April 4, 1860.*

DEAR SIR — Enclosed herewith, I send you an official notice, which you will perceive is authorised and directed by an act just passed by the Legislature of this State, for the purpose of finally settling the boundary line between our States.

As you will see, it authorises us, if no arrangement can now be effected, to go on and do up the work of fixing the boundary of our State alone; but I can assure you that we feel no disposition to proceed in any manner that will not be satisfactory to you, if any arrangement can still be made by which we may unite, and together finish up our work to accommodate all concerned.

We have fixed upon a date, as the law requires, when to begin our work; but, as you will see that we may fix upon any other time that can be mutually agreed upon, will you please let me hear from you on the subject, and whether we can meet again between this and the fifteenth of May, and enter into a fair and just arrangement for the discharge of our remaining duties. Sincerely hoping that all may still be settled in perfect fairness, and in such manner that none will find cause of complaint, I remain, with much respect,

Yours truly,

ISAAC PLATT.

After sending the above notice and letter, the chairman of our commission received answers from the different members of the Connecticut commission, which it is unnecessary to give; but on the 20th of April the following official reply was received from their chairman:

SOUTHPORT, Ct., *April 18, 1860.*

ISAAC PLATT, Esq., *Chairman of the N. Y. Boundary Commission:*

DEAR SIR — At a meeting of the Connecticut boundary commissioners, held at Hartford, April 17, 1860, the recent act passed by your State Legislature, was submitted to the board, together with your formal notice under the same, that the New York commissioners would proceed to survey and mark the boundary line between the two States, on the 15th of May next, beginning at the Massachusetts line.

After due consultation as to the intent and effect of said act, and of your proposed action thereon, without the co-operation of our State, or her commissioners, it was determined to request that your board would delay such action, at least until the 15th of June next, that in the meantime our report might be made to our General Assembly, which convenes on the 2d of May next, and they have time to act on the same, and also to consider the act of your Legislature above referred to.

By order of our board, I hereby transmit to the New York commissioners, through you as their chairman, the above request, hoping that you will accede to the same.

Very respectfully your ob't serv't,

O. H. PERRY,

Chairman of the Conn. Boundary Commission.

After this was received, the chairman of the New York commission called a meeting of our board, which was held on the 4th of May, when the following reply to the proposition to postpone action, was returned to the Connecticut commission:

POUGHKEEPSIE, *May 4, 1860.*

HON. OLIVER H. PERRY, JOSEPH R. HAWLEY, and PHILIP S. BEBEE,
Commissioners, &c.:

The undersigned, commissioners on the part of New York to ascertain and settle the boundary line between the States of Connecticut and New York, hereby give notice, that, at a meeting of said New York commissioners this day held, they have resolved, in consideration of your request of April 18, 1860, to postpone the time of the commencement of the survey and marking of said boundary line, to the sixth day of June next, when such duties will be by them commenced at the place, and prosecuted in the manner specified in the notice heretofore served upon you, and the request of your co-operation, made in said former notice, is hereby respectfully renewed.

ISAAC PLATT,
JACOB VROMAN,
L. D. BROWN.

Accompanying this notice, a friendly letter was addressed by our chairman to the head of the Connecticut commission, renewing former friendly assurances, and again asking for united action in the survey. Replies were received, signifying that the postponement was satisfactory.

We now proceeded with our arrangements, and met at Albany on the 4th of June to complete them, and repair to the field of labor. In the meantime, the chairman received a letter on the 29th of May, from the Hon. Philip S. Bebee, one of the Connecticut Commissioners, earnestly requesting him and others of our commission to come to New Haven on June 5th, for the purpose of holding another joint consultation, and placing the subject before the joint committee of the Connecticut Legislature, which then had the subject in charge, assuring us that our visit and statements would be received in a friendly spirit. As Mr. Bebee had used every reasonable effort to bring about an arrangement,

we considered it advisable to accept the invitation. Messrs. Platt and Brown accordingly proceeded to New Haven, for the purpose of making a final attempt at an arrangement, while Mr. Vroman and our engineer, Mr. Dewey, proceeded to Millerton to organize the surveying party, and make arrangements for proceeding immediately with the survey on the return of the two commissioners from New Haven.

We arrived at New Haven on the 5th of June, and were courteously received by the Connecticut Commissioners. A joint meeting was held the same evening and a long consultation had, but without any result. Another meeting was held on the following morning, but with like effect, as the majority of the Connecticut Commissioners adhered to their position, as hereinbefore stated, and would abate nothing of it.

After these proceedings were concluded, Mr. Curtis, chairman of the joint legislative committee to whom the subject was referred, courteously invited us to appear before that committee, at 2 P. M. of that day, and give a full explanation of the position of New York, with our views at large.

We attended accordingly, stated the character of the issue, the propositions we had offered, and our reasons for maintaining the positions we had assumed, showing that while we insisted on maintaining the rights of New York, we were determined not to encroach, in any respect, upon those of Connecticut.

Mr. Brown, on the part of New York, stated in substance, that he considered the quantity of territory involved in the dispute, of little moment to either State. The duty of the State to her citizens, however, who had, with their ancestors for several generations, occupied the disputed territory, was of paramount importance. That the territory had been occupied by the States, in accordance with the survey of 1731, was conclusively established, and the residences of inhabitants on either side of said line could not now be changed without doing great violence to all legal and equitable claims of either State. He further and at large explained the views of the New York Commissioners as to the extent of the powers of the commissions of each State, which was to ascertain and settle *the* line, and not make or establish an entire new line. And inasmuch as some of the Connecticut Commissioners, and some of her Senators and Representatives, took exceptions to the act of our Legislature, a copy of which is herein heretofore given, he fully explained what was the intent and meaning of said act, which was, in substance, that already a large amount of money and valuable time had been expended by commissions in attempting a settlement of the controversy; that Connecticut, by her Commissioners, had constantly insisted upon running a new line of division between the States, cutting off from the

State of New York a strip of land about fifty-three miles in length, of the average width of about twenty-eight rods, ejecting from the State of their adoption about three hundred inhabitants, instead of ascertaining, defining and settling the line between the States as fixed in 1731, by both States, and confirmed by royal ordinance, which was clearly the extent of the Commissioners' powers. Therefore, despairing of any adjustment, except such an one as would be humiliating to the State of New York, and making her government justly chargeable with neglect of the rights of her citizens, and of being unmindful of the duty which every government owes towards those living under its jurisdiction, this act was passed for the purpose of ending the controversy, and the service of Commissioners, and of defining and suitably marking the actual line, leaving all future questions, if any should arise concerning the same, which was not probable, to be decided by the courts of law, as a less expensive and more certain way of settling them. He also assured the committee, in presence of the Commissioners, that if the Connecticut Commissioners would join in the survey and marking of the line, we would pass all uncertain points on the line, if any such should be found when making the survey, and run straight lines from one well authenticated point to the next point of the same character, thus running straight lines between certain and well authenticated points the whole length of the line between the States, which would not make any material changes of any kind.

Mr. Platt followed, concurring in the views presented by Mr. Brown, and added, that in his opinion there was nothing in the question that should properly make it one of controversy. It was simply whether two great States should adhere, in good faith, to a contract, made with a full understanding of its character, and acquiesced in by both for one hundred and twenty-nine years. It was of no real consequence to either whether the old line was exactly straight, or a little crooked; nor did the fact that the line slightly varied from a straight course therefore give to either party the right to repudiate it. It was sufficient that the indenture conveying the lands defined the line to be "*as it runs through the several monuments.*" No man of respectable legal attainments could deny this. An arbitration had been spoken of at times, but how could arbitrators decide intelligently respecting the matter unless the tracts conveyed by each State were first surveyed, and then, at the very outset, would come up this very issue as it now stands—how should the lines be run? One party could insist on following a straight line from Ridgefield to Massachusetts, the other upon tracing the old line, and there would be another dead lock. More Commissioners might be appointed, more correspondence had, more meetings held, more money spent, and what then? Nothing but useless sacrifice

on both sides. The old quibble or abstraction would hold as good as ever unless given up.

New York had passed an act to authorize her Commissioners to run and fix this line alone, if those of Connecticut would not unite with them; but this did not take away any of the rights of Connecticut. The object of the law was to bring the matter to an end, as there was no prospect that it would ever terminate in any other way. That law, too, was abundantly called for on account of the people residing along the line, who were kept in controversies and constant anxieties respecting such line. They had suffered too much already, and for their sake, above all other considerations, we should now bring this whole business to a final and definite termination.

Our statements seemed to make a favorable impression, and we left, hoping that as the Connecticut Commissioners had expressed to us their readiness to follow any direction their General Assembly might give, that an arrangement might still be possible. But whether successful or not, we felt that we had discharged our whole duty in our efforts to avoid *ex-parte action*.

After we had left the legislative committee, our Connecticut friends were very prompt to prepare a rejoinder. As we reached the railroad station, we were handed the following paper by Mr. Hawley, one of its signers :

NEW HAVEN, June 6, 1860.

TO MESSRS. PLATT, BROWN and VROMAN, *Commissioners on the part of New York* :

GENTLEMEN.—The subscribers, commissioners on the part of Connecticut to settle the boundary between the two States, beg to submit the three following propositions, in addition to those previously made.

First—Begin at a point in the center and near the north end of the street running through the village of Hitchcock's Corners, and run thence in straight lines to the Ridgefield and Massachusetts angles.

Second—Move the angle bounds at Ridgefield and on the Massachusetts line, five chains and ninety-one links east of their present positions, and connect the same by a straight line running through said point in the center of the north end of the street of Hitchcock's corners.

Third—In case both of said propositions are rejected by the New York commissioners, then let us submit the subject to arbitration, each party choosing a disinterested person, not an inhabitant or citizen of either State, which two shall choose a third of like qualifications. Said arbitrators shall hear the claims of each State, and decide where the line in dispute ought to be run; it being understood and agreed that said board of arbitrators shall take into consideration, not only the

legal questions involved, but any and all considerations of equity, public policy, and convenience.

Respectfully yours,

O. H. PERRY,
J. R. HAWLEY.

Such an uncalled for, extraordinary communication as this, naturally surprised us; its captious spirit displayed its object. It required careful consideration, and we took it in hand for that purpose. Having scanned its purport and objects, on the thirteenth of June we returned the following answer:

The commissioners on the part of New York to ascertain and settle the boundary line between the States of New York and Connecticut, respectfully decline to accede to either of the three propositions offered by two of the commissioners on the part of Connecticut, on the sixth day of June instant, for the following reasons:

First — Either of the first two propositions propose, not to ascertain and settle the line, but to make an entire change of the line as formerly established by the two States, unnecessarily changing many residences, and violating the rights of citizens and residents of the State of New York, and under her jurisdiction.

Second — The line formerly established between the States, having been ascertained by the joint commission, and there being no reasonable doubt as to its locality, nothing but an accurate survey of the same, and a settlement establishing the boundary between the States, on such line, would be consistent with the duty of either State towards her citizens, and no principles of State policy or expediency, demand a change.

Third — The New York commissioners have no power to change the line between the States, after having ascertained the same to their satisfaction.

Fourth — All the grounds and objections to the straight line, specified in the report of the New York commissioners to their Legislature, dated Jan. 18, 1860, apply to these propositions.

Also, they decline to arbitrate the matter for the reasons:

First — That in order to place the whole facts necessary to either a legal or an equitable settlement of the whole case, before arbitrators, it would be necessary to review the whole of the old survey, ascertaining, to a certainty, the number of acres each State received from the other, by the original cession of each State, instead of taking as a basis the guess-work of the Connecticut commissioners, and their assertions as to the number of acres received by Connecticut from New York, with calculations made upon a false basis, in violation of the facts and the records of the old commissioners.

Second — The New York commissioners have no power to arbitrate.

Third — The decision of arbitrators, if the same should change the established line, would not bind the States.

Finally, all objections to the old established line, being that it is not perfectly straight, are merely frivolous, are of no real force, and are not entitled to our further consideration.

ISAAC PLATT,
JACOB VROMAN,
L. D. BROWN.

Dated *June* 13th, 1860.

We may add to the reasons given in the above reply, that while the removal of the ancient angle bounds at Massachusetts and Ridgefield, would have little effect but to make confusion and trouble among the people above the Ridgefield angle, it would have a still worse effect below it. It would derange the entire line between that and the Wilton angle, which passes through a good and well settled section of country, which derangement of the line would be wholly to the prejudice of Connecticut, and change some ten or twelve residences, with the lands adjacent, into New York, while all are now content and desire no change. We would not sanction such injustice to Connecticut, although her own representatives proposed it.

With the communication of June 13th, terminated our correspondence with the commissioners of Connecticut. Were it all published, it would extend this report beyond reasonable dimensions. All essential to a fair understanding of our proceedings, as we believe, is given.

On the 7th of June we met again at Millerton. Our surveying party was organized with Hiram S. Dewey, chief engineer, John Evans, assistant, and a full complement of flag men, chain men, and axe men, and our preliminary arrangements completed. On the 8th of June the survey was commenced at the Massachusetts line monument, all the New York commissioners and the party being present; no one appearing on behalf of Connecticut. We felt our duty to be a delicate if not a difficult one, to settle a disputed line by *ex parte* action, and therefore, resolved to practice the most rigid circumspection; to give no cause of complaint, and to follow the true line with strict impartiality.

The monument in Massachusetts line, or corner monument, we found to be a heap of stones piled up among large loose stones, or ledges, between two high ridges of the Taghkanic mountains, always recognized as the northeast corner of the equivalent tract, or oblong, ceded to New York in 1731, as the northwest corner of Connecticut. On this point we believe there has never been any dispute. In the indenture executed by the Commissioners of 1731, conveying the oblong to New York, its position is thus described:

The monument at the northeast corner of the additional lands, in the Massachusetts line aforesaid, stands in a valley in the Taghkanic mountains, being one hundred and twenty-one rods eastward from the top or ridge of the most westerly of said mountains, there being a great stone, with some others set upon it, on the top of said westernmost mountain, where the said Massachusetts line crosses it.

The great stone here described, which human power could not remove without first breaking, occupies its original position, and therefore we tested its distance from the monument aforesaid, and found it to differ from that given in the old survey but one foot.

We had previously tested the distance of this monument from the northwest corner of the oblong, by measurement on the north line, and found the distance to be nineteen rods short of that required to give New York her requisite width of land. But as the description corresponded with that of the original monument, and there was no room to doubt its identity, we adopted it as a fixed point, which we had no right to change.

From this monument the course to the forty-seven mile monument point was found to be south eleven degrees twenty minutes west; distance four hundred and sixty-four chains sixty-nine links. This monument is thus described in the original survey:

The monument corresponding to the monument at 47 miles distance, is a stake and heap of stones, in a low piece of ground, lying south-westerly of Taconic mountains, and northwesterly from a meadow, and is near the wagon path from Woatang to Tacanick.

The original monument was gone; it is, however, a well recognized traditionary point. The locality of this point was also pointed out by Mr. William Kelsey, who had resided in that vicinity fifty years, whose farm is bounded westerly by the State line, and corners on this monument point. His informant as to the monument point was a Mr. Bird, who was the owner of the land on both sides of the line at the time the survey was made in 1731. He resided in the State of Connecticut, near the monument, and shortly after the survey sold his land in New York, fixed the dividing fences as they now stand, and retained his land in Connecticut many years after. Mr. Kelsey also pointed out the location of the old road leading from Woatang to Taghkanic. This evidence we considered conclusive.

Of course from this point to the forty-four mile monument, was twelve degrees thirty-four minutes west, two hundred and thirty-nine chains and fifty-seven links. This monument is described in the original survey, as follows:

The monument corresponding to the monument at forty-four miles distance, is a stake and heap of stones, standing at the foot of a hill, and twelve rods from the east side of a large pond.

This monument was found, and on testing its location by measurement from Indian pond, we had no difficulty in fixing its position, in consequence of the peculiar formation of the land, as the hill recedes on both sides of the monument from the pond. It is also the established corner of the towns of Salisbury and Sharon, in Litchfield county, Connecticut. We consulted the inhabitants in the neighborhood, among them Mr. Douglas Clark, who had been a resident there for sixty-five years, and who had always known that as the line monument.

We found the course from this forty-four mile monument to the forty-two mile monument point, to be south eleven degrees and thirty-three minutes west, one hundred and sixty chains and ninety-nine links; which is thus originally described:

The monument corresponding to the monument at forty-two miles distance, is a stake and a heap of stones, on the brow of a steep bank, on the north side of Ten Mile river where it runs easterly, and is likewise twenty-one rods on the perpendicular line east from the east side of said river.

This point is so accurately described in the old survey, that its true position could not be mistaken. The course of the river at the place where the perpendicular line crosses it is nearly due south, then it makes a bend and runs nearly due east at the foot of the steep bank spoken of. The top of the bank is a steep ledge of rocks which terminates abruptly, the ground beyond it being nearly level. The distance measured on a perpendicular line from the east side of the river was found to correspond with that originally made.

The course from this point to the forty mile monument point, was south thirteen degrees and sixteen minutes west, one hundred and sixty-one chains and twenty-four links. The following is the description of the last mentioned point, in the original survey:

The monument corresponding to the monument at forty miles distance, is a stake and a heap of stones at the west side of a swamp, and forty rods on the perpendicular line easterly from the Ten Mile river.

This monument was not in existence, but near the requisite distance from the last mentioned point we selected a point on the river, where the east bank had evidently never changed, and measured, on a perpendicular line easterly, the distance specified in the old description, and there located the point. The location selected was also pointed out by tradition, and although it took some time to make the necessary inquiries and investigations for its establishment, we were finally fully convinced of its correctness.

From this point to the thirty-five mile monument we ran a straight course, which was south twelve degrees and twenty-one minutes west, three hundred and ninety-eight chains and twenty-one links.

The thirty-seven mile monument is thus described :

The monument corresponding to the monument at thirty-seven miles distance as aforesaid, is a stake and heap of stones, on the north side of a ridge, and is sixty links north thirty-one degrees west from a rock lying there in the ground.

This monument had been removed, but the locality of the rock referred to was pointed out to us by Mr. George Winegar, who had blasted and removed the same. The position of the rock being ascertained, that of the monument was readily determined by measurement from it. We made no angle at this point, none being necessary, the line all the way corresponding to the traditionary line. In this distance, a little north of the thirty-seven mile point, we passed through the village of Hitchcock's Corners, where the people are more sensitive on the subject of the line than at any other place in its entire length. We found our direct course to pass with such precision through the several points in the village designated as the original line, that we scarcely varied from said line one foot.

The thirty-five mile monument is described in the original survey as follows :

The monument corresponding to the monument at thirty-five miles distance as aforesaid, is a heap of stones on the top of a rock on the west side of a hill.

This monument was found corresponding so exactly with the original description, that there was no possible room for doubt of its identity. It has never been disputed, is well known to the inhabitants in the neighborhood, and is also the established corner of the towns of Sharon and Kent, in the State of Connecticut.

The course from this monument to the thirty-three mile monument is south twelve degrees thirty-two minutes west, one hundred and fifty-eight chains and ninety-six links.

The thirty-three mile monument is thus described :

The monument corresponding to the monument at thirty-three miles distance, is a heap of stones on the top of a hollow rock on the west side of a hill.

We found this monument agreeing perfectly with the original description, it being a heap of stones on the top of a hollow rock of very peculiar shape, about five feet square, and hollowed out like a spoon. It was in a wild, unfrequented spot, and the heap of stones had an ancient appearance. It was so nearly in line with the forty, thirty-seven, and thirty-five mile monuments, that an angle at the latter monument of only eleven minutes, it was found would strike it, and the distance from the thirty-five mile monument to this, varied only one chain and one link from the proper distance. To obtain further evi-

dence of the certain identity of this monument, we consulted Mr. Ritton, who stated that he had been familiar with all the localities in that neighborhood some sixty years, and who had always known this as the true line monument, the same having been pointed out to him as such, by men who had known it ever since the original survey. We also consulted a Mr. Nye and Mr. Thomas Swift, very aged residents of the neighborhood, who gave us similar information.

Another heap of stones, not on a hollow rock, had been regarded as the thirty-three mile monument by some of the inhabitants in the neighborhood. It was so pointed out to us when exploring the line in company with the Connecticut commissioners in September, 1859. This stone heap was found to be two thousand, three hundred feet too far south for the proper location of the line monument, seven hundred and fifty feet west of our present line, and nine hundred and sixty feet west of a straight line from the thirty-five to the thirty mile monument. Also, this heap of stones does not correspond with the description of the monument in question as to locality, being on the south west brow of a high hill, the land north easterly from it being very nearly level for a considerable distance.

From the thirty-three to the thirty mile monument, the course is south eleven degrees forty-four minutes west, distance two hundred and forty-three chains and thirty-seven links.

The thirty mile monument is thus described in the original survey:

The monument corresponding to the monument at thirty miles distance aforesaid, is a stake and a heap of stones at the south end of a high hill.

It was readily identified by its location, was well preserved, and from what we could learn, had, from time immemorial, been recognised as one of the original monuments erected to mark the line between the States.

From this to the twenty-eight mile monument, the course was south twelve degrees and twenty-seven minutes west, one hundred and sixty-one chains and thirty-two links — which last mentioned monument has the following description in said old survey:

The monument corresponding to the monument at twenty-eight miles distance as aforesaid, is a heap of stones on the east brow of a high hill, at which place we saw New Milford town, Ousatonick river running at the foot of said hill.

This, like the thirty mile monument, is well known and undisputed, its location fully corresponds with the above description, and it is the established corner of the Housatonic Indian reservation in Connecticut.

The course from the twenty-eight to the twenty-six mile monument is south ten degrees fifty-six minutes west, one hundred and sixty chains

— of which twenty-six mile monument the following is the original description:

The monument corresponding to the monument at twenty-six miles distance, is a stake and a heap of stones on the west side of an high hill, and is thirty-five chains and forty-five links on the perpendicular line from the east side of the Ten Mile river.

No monument was found here, but aged residents in the vicinity pointed out a spot which they asserted it once occupied. We tested this position by a measurement on the perpendicular from the east side of Ten Mile river, referred to in the above description, and the distance agreeing with the original measurement, we readily adopted this point.

From the twenty-six mile monument point to the twenty-two mile monument, the course was south eleven degrees thirty-nine minutes west, distance three hundred and twenty chains and eleven links.

The twenty-four mile monument could not be found, as the description was very indefinite, and we could apply no test to locate it. There being no dispute as to the line in that section, we continued the same course to the twenty-two mile monument, which is thus described in the original survey:

The monument corresponding to the monument at twenty-two miles distance, is a stake and heap of stones on the east side of New Fairfield hills.

This monument was readily found and identified, in its proper place as to distance, differing only eleven links from four miles, from the twenty-six mile monument.

Our course from the twenty-two to the twenty mile monument, was south twelve degrees and eighteen minutes west one hundred and sixty-three chains and seventeen links.

This monument is described as follows :

The monument corresponding to the monument at twenty miles distance as aforesaid, is a stake and heap of stones, in a wet piece of ground in the west side of a steep, rocky hill.

This monument was pointed out to us by Mr. Henry Briggs, of Connecticut, who is the owner of the land where the same was placed. It was also pointed out by other old residents of the vicinity, as one of the original line monuments. Its position corresponded accurately with the above description, and left no room for doubt as to its genuineness.

From thence to the eighteen mile monument our course was south eleven degrees and forty-nine minutes west, distance one hundred and fifty-nine chains and nine links; the original description of which is as follows :

The monument corresponding to the monument at eighteen miles distance as aforesaid, is a stake and heap of stones, on a ledge of rocks on the west side of a hill.

This monument was found, agreeing strictly with the original description.

From it to the sixteen mile monument the course was south twelve degrees nineteen minutes west, one hundred and fifty-seven chains and fifteen links.

This monument is thus described :

The monument corresponding to the monument at sixteen miles distance, is a stake and heap of stones, on a high hill, there being two small ponds to the southeastward of the monument, the nearest to which is about five rods to the monument.

We found this monument on what is now called Cranberry mountain, northwest from two small ponds, and five rods from the nearest one, and in all respects agreeing with the foregoing description.

From the sixteen to the fourteen mile monument our course was south ten degrees and eleven minutes west, distance one hundred and sixty-one chains and seven links.

The following is the description of this monument, given in said original survey :

The monument corresponding to the monument at fourteen miles distance, is a stake and heap of stones standing on the northwest side of a hill.

After a careful search this monument was found, on the northwest side of a hill, a soft maple tree having grown up through it and crowded off some of the upper stones, but leaving the foundation in such a position as to do away with all doubts as to its identity.

Our course from the fourteen to the ten mile monument point was south ten degrees and fifty-one minutes west three hundred and thirteen chains and forty-one links; of which last mentioned monument the following is the original description :

The monument corresponding to the monument at ten miles distance as aforesaid, is a stake with a heap of stones round it, in a springy ground, on the west side of a high hill.

This monument was not found, but its position was pointed out by Mr. Seneca Salmons, the owner of the land on both sides of the line, and who had removed the stones of which it was composed from his meadow, the hole the stones had made by settling into the soft ground remaining undisturbed. The point indicated fully answers to the above description as to position, and it is in the traditionary line as indicated by the usual evidences of it, both at the north and at the south of said point. Hence we adopted it.

The twelve mile monument could not be found, neither could we obtain any satisfactory evidence of its original location; we therefore passed it, running direct from the fourteen to the ten mile point.

From this ten mile point to the eight mile monument our course was south twelve degrees and twenty-four minutes west, distance one hundred and fifty-five chains and seventy-one links.

The surveyors of 1731 described the eight mile monument as follows:

The monument corresponding to the monument at eight miles distance as aforesaid, is a stake with a heap of stones round it, in a hollow upon a high rocky hill.

We found this monument readily, in a hollow upon a high rocky hill, as above described, and in such a position as to leave no doubt of its identity. It was also well known to all the inhabitants in the vicinity, and conceded to be a monument placed there to mark the line between the States, and preserved for that purpose.

The course from this to the six mile monument was south ten degrees and nineteen minutes west, distance one hundred and fifty-nine chains and twenty-eight links.

The six mile monument is thus described :

The monument corresponding to the monument at six miles distance as aforesaid, is a stake with a heap of stones round it, near the north end of a swamp, and by a footpath leading to Danbury.

The remains of this monument were found, near the north end of a swamp, in a meadow. Its location corresponds with the description. A strip of dry ground which passes through the swamp, or apparently between two large swamps, near this point, gives evidence of the ancient path to Danbury.

From this point to the four mile monument the course was south twelve degrees ten minutes west, distance one hundred and sixty-four chains and forty-two links.

The following is the ancient description of the four mile monument :

The monument corresponding to the monument at four miles distance as aforesaid, is a stake with a heap of stones round it, about twenty rods and a half to the eastward of Mopo brook.

This monument in all respects answers the above description. It is placed in a low piece of ground which has never been cultivated, and twenty and one-half rods east of said Mopo brook; the brook at that point running along the east side of a high ridge of land where evidently its bed could not have materially changed in centuries.

Our course from the four to the two mile monument, was south eleven degrees and forty four minutes west, and the distance one hundred and fifty-eight chains and ninety-nine links.

Description of said two mile monument, in the old survey, as follows:

Corresponding to the monument fixed or set up at two miles distance, we heaped up some stones for a monument, on the west side of a rocky

hill, near to a chestnut oak tree, marked with three notches on the north and south side.

This a well known and established point, the monument fully answering its description, and readily found.

From this monument to the Ridgefield angle our course was south fourteen degrees and ten minutes west; distance one hundred and nine chains and forty-one links.

The angle monument is described as follows in the indenture of 1731:

The monument where the two easternmost parallel lines intersect and terminate in each other, stands on the north side of a hill, and is south-easterly from the easternmost end of the long pond.

This monument is known quite extensively, is universally conceded to be the true one, and has never been disputed.

Here commenced the line from the Ridgefield to the Wilton angle, the intermediate monuments being numbered from the Wilton angle north. Our course from this point to the four mile monument in said line, was south twenty-five degrees eight minutes east, distance two hundred and thirteen chains and thirty-nine links.

We passed the six mile point, because of our inability to find the monument, the original description being very vague and indefinite.

This four mile monument is thus described in the survey of 1731:

Corresponding to the monument fixed up at the distance of four miles as aforesaid, we set up a stake, heaped some stones around it for a monument, being in a swamp, and on the northwest side of a brook which runs into the pond of a saw mill.

This monument was easily found, fully answering its description as to locality. The stones of which it was composed were very deeply imbedded in the soft mucky earth, and a stone post had been set up in it, which, according to tradition, was placed there by a Mr. Keeler soon after the survey of 1731, he being the owner of the land on both sides of the line at that time, and for a long time subsequent.

From this to the two mile monument, the course was south twenty-four degrees and forty-eight minutes east one hundred and fifty-seven chains and sixty-three links.

The ancient description of the last mentioned monument is as follows:

Corresponding to the monument fixed up at two miles distance, we heaped up some stones for a monument on the west brow of a stony ridge of land on the top of a rock sticking out of the ground.

This monument was found in its proper place as to distance, and in every respect corresponding with the foregoing description.

The course from this monument to the Wilton angle was south twenty-four degrees fourteen minutes east, distance one hundred and sixty-seven chains and twenty-eight links.

The Wilton angle monument is described in the original survey as the monument at the southeast corner of the additional lands, the following being a copy of such description:

The monument at the south-east corner of the additional lands being east-northeast from the monument erected in the year one thousand seven hundred and twenty-five, at five hundred and eighty-one rods distance, stands on the west side of a stony ridge, about six rods east from the south end of a swamp, and is two hundred and sixty-three rods distant on an east-north east course from the west branch of Norwalk river.

We found this monument answering the description, tested its location by measurement from the points mentioned in the above description, and found the distances correct.

Our course from the Wilton angle monument, at the end of the line running parallel to the Sound, along the south line of the oblong, to the southwest corner of the same, being at the end of the line of thirteen miles and sixty-four rods from the Duke's trees, was south sixty-seven degrees and forty-five minutes west one hundred and thirty-eight chains and seventy-six links.

At the southwest corner of the oblong no monument could be found, and tradition is the only evidence upon which the point could be established, as the surrounding locality is not described in the old survey. It is a point, however, not disputed, and respecting which there is no diversity of opinion among the inhabitants in the vicinity. It was agreed upon by the joint commission of 1856.

From this southwest corner of the oblong to the Duke's trees, it was more difficult to find the intermediate monuments erected along the line, than from Massachusetts line to the Ridgefield angle, and thence to the Wilton angle, in consequence of there being no description of them or their localities.

The line between these two points is thus described in the survey of 1725:

We have likewise run a line from the said three white oak trees east-northeast thirteen miles and sixty-four rods, at the end of which we raised a heap of stones, and marked a black oak tree about half a rod to the westward of the said heap of stones, with the following figures and letters. viz: 13 M., 64 R.,— and cut a broad notch into several trees round the said heap of stones, on the sides of the trees towards the said heap of stones. We likewise raised a heap of stones at the end of every mile from the said three white oak trees, excepting the first mile, which ending in a watery swamp or pond, we raised a heap of stones on the west side of said swamp at two hundred and eighty rods from the trees, and another heap on the east side, at three hundred and sixty rods from the trees, and we marked the trees standing in said line with three notches on their west and east sides, which line, running east-northeast thirteen miles and sixty-four rods, and marked and dis-

tinguished as aforesaid, we have and do hereby establish and fix as the line of partition so far between the province of New York and colony of Connecticut.

This line, it will be seen, is so imperfectly described, that, to trace the monuments by reference to the old survey, as in the other lines, was beyond our power. Our measurements pointed out the places where monuments should be sought, and beyond this we were guided by traditionary evidence. But to this we may add, that no part of this line has been in dispute at any time, and the traditionary evidence of its position is not conflicting, but admitted by the inhabitants on both sides.

The point selected as that of the twelve mile monument, is where the remains of a monument are found. It was pointed out to us by a Mr. Davis, of Connecticut, whose father, now deceased, had been the owner of the land for many years. Its position is in the traditionary line, and it lacked only fifty-two links of the proper distance from the Duke's trees.

At the point selected for the nine mile monument there is a heap of stones, the location of which varies only six rods from the proper distance of nine miles from the Duke's trees. This, also, is in the traditionary line, and being at the proper point for a monument, and where it was necessary to make a slight angle, (only eleven minutes,) in order to follow the traditionary line, we adopted it as a monument point of the original survey.

At a point in the traditionary line, within six rods of five miles from the Duke's trees, we found a heap of stones occupying the position of the monument at five miles. Being thus situated, and the line as at the other points, undisputed, we adopted it as a monument, or monument point of the original survey, this enabling us to follow accurately the original line, in conformity with the rule we had adopted from the beginning.

These points were adopted by a majority of the Commissioners, Mr. Brown dissenting.

Commencing on this line at the southwest corner of the oblong, our course was south sixty-five degrees and forty-four minutes west, ninety chains and eighty-seven links to the twelve mile monument above described and adopted; thence south sixty-six degrees and fifty-six minutes west two hundred and forty-one chains and ninety-three links to the nine mile monument, above specified; thence south sixty-six degrees and forty-five minutes west three hundred and nineteen chains and twelve links to the five mile monument, last above described; thence south sixty-six degrees and twenty-five minutes west three hundred and ninety-eight chains and forty links to the stone marked G. R., at the Duke's trees.

This stone is in the public highway leading from King street to Bed-

ford, near the residence of Mr. Langdon. It is at the end of the line running parallel to the Sound, and is a point that has never been disputed, in the midst of a thickly settled and richly cultivated country, from the time of the survey of 1725.

Between this point and the great stone or rock at the wading place, the surveyors and commissioners of 1725 had marked the line by them established, by the erection of monuments described as follows:

At two miles from said rock, upon the east side of the said highway, close by the fence and near William Anderson's house, we raised a heap of stones.

At three miles from the great stone we laid a heap of stones in the field belonging to William Fowler on the west side of said highway.

At four miles we raised a heap of stones close by the fence, on the west side of said highway. All the houses on the west side of the said highway from the said heap of stones, at four miles from the rock to the place below John Purdy's where the line comes into the highway, being and remaining in the province of New York, and those on the east side of said highway being in the colony of Connecticut.

At five miles from said great stone we raised a heap of stones in John Clapp's field, which heap of stones are thirty-two rods on a west-south-west line from the westernmost chimney of the said Clapp's house.

At six miles we marked a large stone in the ground with a X, and raised a heap of stones round it.

At six miles and a half we raised a heap of stones near the north side of a meadow, near John Hutchinson his house.

At the time of the old survey and erection of these monuments, the country, along the whole length of this line, was, evidently, quite thickly settled, therefore these rude monuments very soon disappeared; and, of course, at the time of our survey, none of them were in existence, and but two of the points where such monuments were erected could be located with any degree of certainty.

At the fifth mile on said line, notwithstanding the monument itself was not in existence, the foundation of the chimney of John Clapp's house remained undisturbed. Finding that of this fact there could be no doubt, we measured from said chimney on a west-southwest line, and at the end of thirty-two rods established a point in our line. This point is in the traditionary line, and by running through it the line is varied very slightly from where the people have always located it.

The stone foundation of William Anderson's house, referred to in the description of the two mile monument, still remains, and was pointed out by old residents of the neighborhood. The distance of the line westerly from this house is not stated, but the point or place the traditionary line occupied was pointed out, and this enabled us to fix a monument point at said Anderson's house so accurately that an angle of but two minutes was required in order to follow the traditionary line to the great stone at the wading place on Byram river.

Starting from the stone marked G. R., located in the highway at the Duke's trees, our course was south twenty-three degrees and thirty-eight minutes east one hundred and seventy-two chains and ninety-three links, to the five mile monument point, west-southwest thirty-two rods from the west chimney of the John Clapp.house; thence south twenty-four degrees twenty-one minutes east two hundred and twenty-four chains and seventy-eight links, to the monument point in the highway near and west of the William Anderson house; thence south twenty-four degrees and nineteen minutes east one hundred and seventy-three chains and seven links, to a bolt in the great stone at the wading place on Byram river.

The great stone at the wading place, is a large rock on the east bank of Byram river, with a bolt fixed in it, and there was no room for any question respecting it. It has always been known as a point in the State line.

From this we ran to a rock in the channel of the river, which is out of water at low tide, on a course south seventeen degrees and forty-five minutes west, twelve chains and sixty links. In this rock there is a bolt. Thence, following the channel of the river, south twenty-seven degrees west, fifty-five chains and nineteen links; thence south seven degrees and twenty minutes east thirteen chains and forty-five links; thence south twelve degrees and ten minutes east sixteen chains and thirteen links; thence south two degrees and forty minutes east nine chains and four links; thence south twenty-eight degrees and twenty-five minutes east nine chains and fifty-four links; thence south eighteen degrees and forty minutes east four chains and seventy-seven links; thence south eleven degrees and fifty-five minutes west six chains and thirty-three links; thence south fifty-eight degrees and ten minutes west to where it falls into the Sound.

The survey being completed, and the marks fixed, the work of placing monuments on the line commenced on the second day of October last. The engineer, aided by at least one Commissioner, superintended the setting of each, to see that the business was done properly.

This was found a difficult business, as the monuments, most of them, weighed from five to seven hundred pounds each; their transportation to proper points on the line was very expensive, and many of the points where they were to be placed were away from the roads — sometimes almost inaccessible, some quite so with teams. To have them left at proper points, too, it was necessary to have one of our assistants acquainted with the line, to superintend their distribution.

We believe we are warranted in saying that when our work was finished, it was entirely satisfactory to the people interested on both sides of the line, and that strict justice was done to both States.

In reference to the line from Massachusetts to the Sound, described in this report, it is perhaps well, for the purpose of giving a better under-

standing of the whole matter, to present a few interesting facts connected with it as found, and as we left it when our duties were completed.

The line passes through a section of country nearly three-fourths of which, as the line traverses it, consists of rugged hills and mountains, woods and swamps. The hills and mountains were frequently, and often for long distances, covered with thickets of scrub oaks and laurels, and where not thus covered, with a vigorous growth of young chestnut, oak, walnut and other woods. The proportion of old forests was small, and where found were seldom free of underbrush. There was also among these an almost continuous succession of rugged elevations and deep ravines. The swamps, which were numerous, and often large, were like the mountains, covered with thickets of underbrush of every kind, often well sprinkled with poison sumac, through which we were obliged to pass. Our progress was necessarily slow, and only as the axe men cleared our way.

Even in what we considered the best portions of the line, from the Ridgefield to the Wilton angle, there is little improvement, except that there are no high elevations to overcome ; and from the Wilton angle to the Duke's trees, there is an almost continuous succession of lofty ridges and deep valleys, a large portion covered with wood, and the surface very rough. On King street alone we had good running, but even that was slow, owing to the numerous orchards and groves through which we were obliged to pass.

The monuments spoken of as having been found at the end of one hundred and twenty-nine years from the date of their erection by the commissioners of 1731, were all on lands that had never been cultivated, and with but four exceptions in meadows, in unfrequented mountains, or old woods, where no improvements of the soil had been made. Beyond cutting off the wood to sell in the neighboring markets, or to burn into coal, there had been no material changes. As to those we speak of located in meadows, they were situated in grounds that had never been ploughed. This explains the reasons why they had been preserved so long. When they were removed, their location with but two exceptions, was in cultivated grounds.

As the law under the authority of which we acted, required us to follow strictly the original line, much more time was required at several points than would have been necessary had Connecticut been represented, as then an agreement upon a point would have been sufficient in each case. But acting alone, and constantly under the eye of close observers on both sides, we resolved to assume nothing, but to gather evidence that could leave no reasonable doubt of the correctness of our decisions in each case. To guard the more effectually against mistakes, or unwarranted assumptions, it was arranged that a majority of the

commissioners should be constantly on hand. If our labors were protracted in some instances, it was, that they might be so concluded that no controversy could follow them.

It will be observed that we occupy an unusual space in speaking of the monument at thirty-three miles; this is because the traditionary evidence there first obtained, was found in direct conflict with that of the old survey. The new residents of the place had become accustomed to regard an old stone heap where they supposed a monument ought to be, as the monument, and therefore, the line as passing through it. But the application of our instruments, and the test of measurements, proved at once beyond doubt, that it never could have been a line monument. Notwithstanding this, we did not adopt the monument for this point, to us newly discovered, until we had collected traditionary evidence that was sufficient, and had applied to it the tests of course and distance that were sufficient to satisfy all reasonable men.

In consequence of the discovery of the original thirty-three mile monument, in running from that to the thirty mile monument, we changed one residence, that had been considered in Connecticut, into New York, and this is the only change made from Connecticut to New York in the entire line.

It is proper, also, to add here, that the error above spoken of, the substitution of a spurious stone heap for the thirty-three mile monument, has been the source of much comment, and no small amount of difference respecting the line from the Ridgefield angle to Massachusetts. The fact that said old stone heap was nine hundred and thirty-six feet west of a straight line from the thirty-five to the thirty mile monument, and about seven rods west of a straight line running from Massachusetts line monument to Ridgefield angle monument, while all the other intermediate monuments were east of such line, constituted generally the principal capital of the Connecticut commissioners in their objections to following the original line. We removed the crook which they could not endure, and humbly trust that intelligence of the fact will afford them, and the authorities of that patriotic State, substantial relief.

In our explorations over the line with the Connecticut Commissioners, in September, 1859, a stone standing up in a wall was shown as the twelve mile monument point. When we had reached the fourteen mile monument in our survey, we struck for this stone, supposing it to occupy a monument point, and found it one thousand three hundred and forty-two feet short of the proper distance, and one hundred and sixty-one feet east of a straight line from the fourteen to the ten mile monument point. Although it had been considered for a time, we presume, in the traditionary line, the evidence of its spurious character was so conclusive, after a full examination, that we rejected it. No reliable

traces of the original monument being found, we ran a straight course from the fourteen to the ten mile point, thus passing one hundred and sixty-one feet west of this stone, placed the line so far to the west of what had been considered its position, and removed another crook that in passed negotiations had assumed the importance of a stumbling block. Here we changed a house formerly considered partly in each State into Connecticut.

Nothing worthy of special note was observed from the above point until we reached the monument two miles from the Wilton angle. Here we found that a third spurious stone heap had been taken for a monument, and had led a few residents to suppose they were in New York while really in Connecticut. We had not previously explored this part of the line, but on examining and applying the usual tests, we found the character of this stone heap, that it in no respects answered the original description. It was at least fifty rods too far south, in swampy ground. The true monument was found on the west side of a stony ridge, answering perfectly the original description, and at the proper distance. This enabled us to fix the line accurately from this monument to the Wilton angle. In so doing we changed three residences, supposed to be in New York, into Connecticut.

We ever have believed that could the Connecticut Commissioners have been induced to unite with us in a survey of the line, as we progressed with the same, their objections would disappear, and we are now confirmed in this opinion, from the fact that their main objections to following the old line, were because of these greatest irregularities in it, and of their understanding of the old survey; they insisting that the measurements of the old Commissioners and surveyors were surface measurements, without leveling the chain, and claiming that all our measurements should be made in the same manner; while we as strongly insisted that such measurements were horizontal measurements, performed in the best manner the same could be, upon the surface of the ground. The irregularities above named, it will be seen by reference to our survey, were wholly removed, and the length of the several lines, according to our measurements, performed in the best manner the same could be done by levelling the chain, proves conclusively that they were wrong in their calculations, the distance from Massachusetts line to Ridgefield angle, according to our measurement, varying only about five rods from the distance given by the old surveyors.

It should be observed in reference to the monuments spoken of in the old surveys as corresponding to other monuments, that in the said surveys there is a description first given of the monuments as erected in the *west line* of the oblong, and *first line* between the States; that in setting off the Equivalent Tract, the surveyors followed said west line,

and from each of the monuments on it ran perpendiculars by the compass, one mile, three-quarters of a mile, and twenty rods in length, and at the end of such perpendiculars erected the corresponding monuments, described to designate the east line of said Equivalent Tract, and the line by them established between the States. Thus, all those above the Wilton angle, in the line we traced, were monuments or points corresponding to those opposite; numbering first from the Wilton angle to the Ridgefield angle, and then from the latter angle to the Massachusetts line. This also explains why the east line is not perfectly straight; the measurements of the perpendiculars over the uneven and wild country of 1731 could not be accurately made, and hence were of slightly unequal lengths. As the country is full of minerals, too, variations of the compass must have been frequent, so that said perpendiculars, in many instances, were not parallel to each other, which accounts also for the fact that the monuments in the line established were not placed in all instances at the intended distances apart.

These facts also explain another of material importance. The commissioners of 1731, were doubtless aware that their work could not be done up with that perfect accuracy and precision that would render future cavil impossible, and, therefore, in order to guard effectually against leaving grounds for controversy, were careful to describe every monument they had erected, and then to define the line, and enter into an agreement establishing it, as it ran through the several monuments by them described.

Our report is of unusual length, but is necessarily so because we have considered it essential, under the peculiarities of our position in arranging the matter in dispute between two States, to set forth and maintain the following positions:

First — That the original exchange of lands was proposed by Connecticut.

Second — That all the difficulties respecting it originated on her part, as well as the delays that were most unreasonably and unnecessarily prolonged.

Third — That the proposal to run and mark the line anew, as it had become obscure and in dispute, was made by Connecticut in 1855.

Fourth — That since its acceptance by New York in 1856, the commissioners of Connecticut have constantly thrown obstacles in the way of a fair adjustment, by repudiating the original line, and their own proposition, and insisting upon running a new line.

Fifth — That three-fourths of all the expense, except that of the survey only, has arisen from this cause alone.

Sixth — That our final efforts to induce the Connecticut commissioners to unite with us in the survey, were met by a proposition that would have complicated the controversy more than ever.

Seventh—That we have finished our work in such manner that the rights of both parties have been rigidly respected, and there now remains nothing that can form a legitimate subject of dispute.

One more topic only needs attention. Since our labors were completed, with which no dissatisfaction has been expressed by any of those interested, the Governor of Connecticut has made propositions to the Governor of this State, the same as though things remained as they were in 1855.

He makes the three propositions which were made to us by the Connecticut commissioners in June last, at New Haven, a copy of which, with our written rejection, giving our reasons for such rejection, are embodied in this report.

Why these propositions are renewed at this time by the Executive of Connecticut, after full action had upon them by the commissioners, we cannot conceive. Any action upon them now could certainly amount to nothing further than the making of additional expense, the whole question being settled, or at least in a position to be tested by judicial tribunals, if conflicting questions of jurisdiction arise between the States.

We submit these additional facts as a final illustration of this extraordinary controversy.

We have appended hereto, for future reference, a description of the line, and each of the points thereon, where monuments or bolts have been placed by us, to designate the same.

We have had prepared, by our engineer and assistant, a map, together with a diagram of the line to accompany this report.

The expenses of the commissioners, that have accrued in prosecuting their labors, since our last report, are as follows:

Expenses of the survey, including pay of engineer and assistant, flagmen, chainmen, axemen, transportation, use of team, tools, &c.....	\$2,434 34
Cost of monuments, transportation of same to the proper points, including engineering expenses, and hire of laborers setting them	830 05
Other expenses of a general nature, including pay of engineer for making maps and reports, &c.....	281 69
Services of commissioners, and their traveling expenses during the survey, setting of monuments and making report,	5,245 05
	<hr/>
	<u>\$8,791 13</u>

All of which is respectfully submitted.

ISAAC PLATT.
JACOB VROMAN.
LEANDER D. BROWN.

BOUNDARY LINE BETWEEN NEW YORK AND CONNECTICUT, AS LOCATED AND MARKED BY THE NEW YORK COMMISSIONERS IN 1860.

Description of the monuments, and the positions in which they were placed on the boundary line between New York and Connecticut, in conformity with the survey of 1860:

The monuments from the Massachusetts line to and including the tenth mile monument, are of sawed marble, eight inches square, from five to six feet in length, and standing out of the ground about two and a half feet. And the monuments from the tenth mile to Wilton angle, and including one west of said angle, also those at the twelfth and fifth mile points on the line parallel to the Sound, are of cut granite, finished two and a half feet, eight inches square at the base or surface of the ground, and six inches square at the top. And at the five and two mile points on the line from the Duke's trees to the stone at the wading place, are similar to those north of the tenth mile; the remainder being of rough granite slabs, varying in breadth and thickness. For the original monument points our monuments were marked with the number of miles corresponding to the original survey, and all other monuments were marked with the letters *N. Y.*, on the New York side, and *Ct.* on the opposite side.

At the Massachusetts line we set a monument on a ridge between two high hills in the Taghcanic mountains, one hundred and sixty rods east from the southwest corner of Massachusetts, and one hundred and twenty-two rods east from a bolt placed in a rock on the westernmost range of said mountains, and in the southerly line of Massachusetts.

At a distance of fifty-eight chains twenty-five links from the above mentioned monument, we placed a bolt firmly in the rock, and heaped up some stones near it, being on the east brow of a high ridge.

At a distance of one hundred and sixty chains seventy-four links from the Massachusetts line, we fixed a bolt in a rock, westerly from the southerly end of North pond, and fifteen chains fifty-nine links northerly from where the line crosses the outlet of Grass pond.

At a distance of two hundred and forty-four chains from the Massachusetts line, we set a bolt on a high, rocky ridge, on the northerly side of a run, or deep ravine.

At a distance of three hundred and six chains twenty-one links from Massachusetts line, we set a bolt in a rock about eighty feet east from the brow of a high ledge, which is east of a run, and pasture land.

For the forty-seventh mile we set a monument in the plain which is south of Taghcanic mountain, adjoining the land of William Kelsey, and about four hundred and seventy feet south of a highway running nearly east and west.

At the distance of forty-one chains six links from the forty-seventh

mile monument, we set a monument in the road leading from Millerton to Lakeville, being at the junction of said road with the road from Spencer's Corners.

We have set a monument on the south side of a road leading from George Clark's, near Indian pond, to Lakeville, one hundred and twenty-nine chains nine links from the forty-seventh mile monument.

For the forty-fourth mile monument we set a monument at the southwest corner of the Ore-bed House dooryard, near Indian pond, about twelve rods on a perpendicular line east from Indian pond.

We have set a monument on the north side of a road leading from Millerton to Sharon Valley, by Norman Wheeler's, eighty-five chains nineteen links from the forty-fourth mile monument.

At the forty-second mile we set a monument on the brow of the bank, on the north side of Ten Mile river, where it runs easterly, and five chains twenty-nine links on the perpendicular line easterly from the east side of said Ten Mile river.

We also set a monument on the north side of a road leading from Sharon station on the Harlem railroad to Sharon Valley, at a distance of fifteen chains sixty-three links from the forty-second mile monument.

We also set a monument on the south side of a road leading from Amenia to Sharon, through Sharon Valley, at a distance of one hundred and thirty-seven chains forty-seven links from the forty-second mile monument.

At the fortieth mile we set a monument in a wet piece of ground, about forty rods east on a perpendicular from Ten Mile river, and one hundred and sixty-seven feet, on a south forty-three degrees east course, from a well on the east side of a house occupied by George Wheeler.

We have set a monument on the north side of a road running nearly east and west, at a distance of twenty-nine chains fifty-four links from the forty mile monument.

We have set a monument in the north end of the street running nearly north and south through the village of Hitchcock's Corners, two hundred and seventeen chains twenty-one links from the forty mile monument, and fifty-five feet east from the northeast corner of Milo Winchester's house.

We have set a monument on the south side of the street leading southeasterly from the village of Hitchcock's Corners, at a distance of two hundred and twenty-nine chains eighty-one links from the forty mile monument. It is sixteen and seven-tenths feet east from the southeast corner of William Wattles' house.

We also set a monument on the south side of the highway which passes the dwelling of George Clark, three hundred and forty-seven chains forty-two links distance from the forty mile monument.

At the thirty-fifth mile we set a monument on the west side of a high hill, it being at the corner of the towns of Sharon and Kent in the State of Connecticut. This monument was placed three feet south of the center of a rock upon which is placed the original monument of 1731.

At the thirty-third mile we set a monument on the north side of the hollow rock on which was erected the original thirty-three mile monument, it being on the west side of a high hill.

We placed a monument on the north side of Bog Valley road, distance fifty-one chains fifty-seven links from the thirty-three mile monument.

We fixed a bolt in a rock, on the southeast brow of a high ridge in the Preston range of mountains, one hundred and eleven chains eighty-seven links from the thirty-three mile monument. The mountain road across to Dover Plains is at the bottom of the south slope of said ridge.

For the thirty mile point we placed a bolt in the rock where the monument remained, on the south side of a high hill, and set a monument in the line six and three-tenths feet south of the bolt.

We fixed a bolt in a rock on the east slope of a ridge, there being low wet ground to the east of said point, sixty chains eighty-three links from the thirty mile point.

For the twenty-eighth mile, we set a monument on the southeast slope of Schaghticoke mountains. The Preston lot and McDurf lot, in the State of New York, and the Housatonic Indian Reservation, in Connecticut, corner on this monument.

A monument was set on the east side of a road which runs southerly from the foot of Schaghticoke mountains, crossing Ten Mile river at the north end of Ten Mile hill. It is two hundred and thirty-one and a half feet north of the east window in the house now occupied by Hiram Allis, through which window the line passes.

For the twenty-sixth mile, we placed a monument on the northwest side of a high hill (called Ten Mile hill), thirty chains and ninety-six links, on a south ten degrees fifty-six minutes west course, from where the line crosses Ten Mile river.

We set a monument on the south side of a road leading from South Dover to Gaylord's Bridge, which is ninety-one chains from the twenty-six mile monument.

Also a monument on the south side of a road leading from South Dover to Sherman Centre, at the distance of one hundred and eleven chains fifteen links from the twenty-six mile monument.

Also a monument on the north side of a road leading from Quaker Hill to Sherman Centre, near the dwelling of John R. Caldwell. It is from five to six rods east of a bridge across a small stream, and two hundred and forty-four chains fifty-nine links from the twenty-six mile monument.

For the twenty-second mile, we set a monument on a rocky ridge, on the east side of New Fairfield hills.

We set a monument at the angle of a road which runs northerly from the dwelling of the widow Haviland, and where it runs easterly, at a distance of one hundred and nineteen chains and forty-three links from the twenty-two mile monument.

At the twenty mile point we set a monument in a wet piece of ground near the west side of a rocky ridge.

We also placed a monument at a distance of eighty-three chains and sixteen links from the twenty mile monument, it being on the summit between the twenty and eighteen mile monuments.

For the eighteenth mile, we set a monument on the brow of a ledge, it being on the westerly side of a hill, and east of a ravine through which a small stream of water runs to the southeast.

A monument was placed on the south side of a highway called the Old turnpike, where it crosses a swamp. There is a low rocky ridge east of it, and it is thirty-seven chains eighty-seven links from the eighteen mile monument.

Also a monument on the south side of a road which leads from Quaker Hill to Haviland Hollow, it being the first road north of Cranberry mountain. This monument is one hundred and six chains and thirty links from the eighteen mile monument.

For the sixteenth mile, we set a monument on Cranberry mountain. There are two small ponds to the southeast of it, the nearest of which is eighty-nine feet from said monument.

At a distance of eighty-three chains ninety-five links, from the sixteen mile monument, we placed a monument on the west bank of the east branch of Croton river, about one hundred and twenty-one feet north of a highway bridge across said river.

Also a monument on the south side of a road leading from Haviland Hollow to South East, one hundred and forty-three chains fifty-four links from the sixteen mile monument.

For the fourteenth mile point we set a monument on the northwest side of a hill, seventeen chains fifty-three links south of the last mentioned monument at the road crossing.

Also another monument on the north side of a road leading westerly from Ball's pond, about seventy-four chains forty links from the fourteen mile monument.

Also a monument on the north side of a road leading from Deloss Barnum's to the south end of Ball's pond, at a distance of one hundred and seventy-six chains sixty-nine links from the fourteen mile monument. Milltown to Ball's pond, at a distance of two hundred and fifty-six

Also another monument on the north side of a road leading from

chains eighty-nine links from the fourteen mile monument, eighty-three and eight-twelfths feet east from the east side of a road running nearly north and south.

For the tenth mile, we placed a monument on the west of a high rocky hill, and east of the north end of a low rocky ridge. It is nearly equal distance from these land marks, in a meadow, about one hundred and fifty-five feet north of a low rocky ridge in the line.

Also a monument on a high ridge, running northeasterly from round mountain, at a distance of fifty-nine chains thirty-six links from the ten mile monument.

And another on the north side of the highway leading from Milltown, in the town of Southeast to Danbury, at a distance of one hundred and forty chains forty-two links from the ten mile monument.

For the eighth mile we set a monument in a hollow on the east end of Joe's hill, fifteen chains twenty-eight links south of the last mentioned monument.

We also set a monument on the south side of the turnpike leading from Danbury to Brewster's Station, sixty-seven chains ninety-five links south of the eight mile monument.

At the sixth mile point we set a monument in a wet, stony meadow, on the north side of a swamp.

Also a monument on the west side of a road leading from Peach Pond to Ridgebury, at the southerly end of the road where it runs nearly north and south, and thence turns easterly. It is one hundred and nineteen chains fifty-four links from the six mile point.

For the fourth mile we set a monument in the north end of a boggy meadow, about twenty and one-half rods easterly from Mopo Brook.

Also a monument on the south side of a road leading from North Salem to Ridgebury, fifty-one chains sixty-two links from the four mile monument.

And another on the south side of a road leading from North Salem to Ridgefield, eighty-one chains nineteen links from the four mile monument.

For the second mile we set a monument on the southwest side of a rocky ridge on Sarah Bishop's mountain.

We also set a monument on the south side of Sarah Bishop's mountain, in a small meadow, where the South Salem churches could be seen. It is seventy-two chains and four links from the two mile monument.

At the Ridgefield angle we set a monument on the north side of a hill which lies southeast of Long Pond. This monument is about six hundred and eighty feet southerly from where the line crosses a small brook that empties into said pond.

We next placed a monument on the north side of a road leading from Ridgefield to the west end of Long Pond. It is fifteen chains sixty-four links from the Ridgefield angle monument.

Then a monument on the north side of a road running nearly east and west along the north side of a large swamp. It is eighty chains eighty-eight links from the Ridgefield angle.

On the south side of the old turnpike known as the New York and Hartford turnpike, one hundred and nineteen chains fifteen links from the Ridgefield angle monument, we set another monument.

For the four mile point from Wilton angle we set a monument in a low wet meadow, fifty-eight feet north of a brook running through said meadow into a mill pond.

Also on the south side of a road leading from Lewisborough to Ridgefield, forty-six chains forty-five links from the four mile monument aforesaid we set another.

For the second mile we set a monument on the west side of a ridge four feet south of the centre of the old monument piled upon the top of a rock striking out of the ground.

On the west side of a road which runs nearly north and south, on the south slope of a hill, at the distance of ninety-two chains seventy-two links from the two mile monument we placed another.

At the Wilton angle we placed a monument in the centre of the site of the heap of stones erected by the Commissioners of 1731. It is on the west side of Bald hill, and south of a large swamp called Bear swamp.

Also a monument on the east side of a road which runs nearly north and south, at a distance of twenty-six chains eighty-nine links westerly from the Wilton angle monument.

And another on the east side of a road running through the village of Vista. It is placed near the intersection of a road which runs nearly east and west.

At the southwest corner of the equivalent track¹ we set a monument. It is on the east slope of a ridge of land which runs nearly north and south, the first ridge westerly from the village of Vista; also, it is on the east side of a highway, at the distance of one hundred and forty-three chains sixty-six links from the Wilton angle monument.

At the distance of eleven chains thirty-three links from the last mentioned monument we set a monument on the west side of a road leading from Vista to High Bridge.

At the distance of fifty-seven chains, sixty-two links from the southwest corner of the equivalent tract, we placed a monument on the west side of a road, near the southeast side of Mud pond.

¹ So in the original report.—[P

For the twelve mile point in this line we set a monument on the northeast side of a hill about one hundred and twenty feet to the east of a large boulder lying on the top of the hill.

At the distance of twenty-five chains seventy-four links from the last mentioned monument, we set a monument on the east side of a road.

Also another on the west side of the road from Dantown to Vista.

At the distance of one hundred and three chains twenty-five links from the twelve mile monument, we placed a monument on the west side of the highway leading through Dantown to High Ridge.

Also at the distance of one hundred and sixty-six chains sixty-three links from the same place, another monument on the west side of the highway leading from High Ridge to Pound Ridge.

For the ninth mile point, we placed a bolt in a rock on the west ridge of a very high rocky ridge, lying between Miry Brook Swamp and Poole Swamp. It is forty feet from a large boulder on a north forty-one and one-half degrees west course.

At the distance of eighty-one chains fifty-seven links from the nine mile point, we set a monument on the west side of the highway leading through the village of Long Ridge, northerly to Bedford.

At the distance of two hundred and fourteen chains thirty links from the said nine mile point, we placed a monument on the west side of the road running nearly north and south along the ridge between Banksville and Long Ridge.

At the distance of two hundred and sixty chains sixty-two links from said nine mile point, we set a monument on the north side of a highway running nearly parallel with the line through the village of Banksville. The monument is near where the said highway crosses the line and turns southerly.

At two hundred and eighty-seven chains eighty-eight links from said nine mile point, we placed a monument on the south side of the street or highway, last above mentioned, and near the junction of said street with the street running north and south through said village and crossing the line.

For the fifth mile, we set a monument on the northwest slope of a hill, there being swampy ground north of it.

At the distance of sixty-nine chains seventy-seven links from the five mile monument, we set a monument on the west side of a road, in front of the dwelling house of Samuel Thomas.

At the distance of one hundred and eight chains seventy-five links from the five mile monument, we placed a monument on the east side of a road. There is a knoll to the east and a swamp to the west of the monument.

At the distance of one hundred and forty-eight chains ten links from

the first mile monument, we placed a monument on the north side of a highway.

At the distance of two hundred and forty-three chains thirty-eight links from the five mile monument, we set a monument on the west side of the road leading from Bedford to Port Chester.

At the place called the Duke's Trees, in the ancient survey, we found a stone marked with the letters G. R., as described in that survey, lying in the ground on the west side of the beaten track of the highway.

For reference, we set a monument on a south sixty-six degrees twenty-five minutes west course, and easterly thirty feet from said stone, and another westerly thirteen feet and seven-tenths of a foot from said stone, on the same course.

At the distance of ninety-two chains thirty links from the marked stone at the Duke's Trees, we set a monument in the field west of King Street road, being on the land of John Brimlow, south of his dwelling.

For the fifth mile point on this line we set a monument thirty-two rods, on a west-southwest course, from the old chimney in the Clapp house, mentioned in the survey of 1725.

At the distance of four chains twenty-nine links from the above mentioned point we set a monument on the north side of a road leading from Bedford to White Plains.

At the distance of eighty-eight chains twelve links from the fifth mile, we set a monument on the west side of King Street road, a short distance south of the house of Joseph Fields.

At the distance of one hundred and forty-four chains sixty-six links from the five mile point we placed a monument on the east side of King Street road.

At the distance of one hundred and eighty-three chains seventy-three links from the five mile point aforesaid, we set a monument on the north side of a road running westerly from the King Street road.

For the two mile monument in this line, we set a monument on the east side of King Street road, opposite the site of the old William Anderson house, as designated by the old foundation of the same remaining.

At the distance of fourteen chains twenty-seven links from the last mentioned point, we placed a monument on the east side of the carriage track of King Street road.

At the distance of fifty-three chains twenty-nine links from the two mile point aforesaid, we placed a monument on the east side of King Street road, where the road leaves the line and bears westerly from it.

At the distance of ninety-three chains eighty-three links from the two mile point, before mentioned, we set a monument on the northeast slope of a high ridge, lying westerly from the screw factory on Byram river.

The great stone at the wading place is a large rock, in which is a copper bolt, on the east side of Byram river, adjoining the bridge on the turnpike from New York to New Haven.

From the said great stone at the wading place south seventeen degrees forty-five minutes west, twelve chains and sixty links, is a rock in the river, in which is a copper bolt, which can be seen at low tide.

Thence down the river, on courses and distances which are given in the foregoing report. And each of these lines were extended on the bank of the river, and a bolt placed permanently in the rock, so as to secure a range to determine the angle or intersection of the lines thus surveyed; and the angles are declared to be where the lines meet and terminate in each other.

Dated ALBANY, *February 8th*, 1861.

ISAAC PLATT,
JACOB VROMAN,
LEANDER D. BROWN,
Boundary Commissioners.

HIRAM S. DEWEY,
Chief-Engineer.

—[*N. Y. Sen. Doc's.*, 1861, No. 36, p. 47.

ENGINEER'S REPORT.

ALBANY, *February 8th*, 1861.

TO MESSRS. ISAAC PLATT, JACOB VROMAN and L. D. BROWN, *New York Boundary Commissioners:*

SIRS—I herewith transmit to you a report of the survey of the New York and Connecticut boundary line, executed under your personal observation; and also a map of said line made according to your direction.

Respectfully yours,

H. S. DEWEY.

REPORT OF THE SURVEY OF THE BOUNDARY LINE.

A surveying party was organized by the undersigned as chief-engineer, with John Evans as assistant, and a suitable number of flagmen, axemen and chainmen, under your direction as New York Boundary Commissioners, and placed in the field on the 8th day of June. The survey was commenced at a monument in the Massachusetts line, answering to the description of a monument erected in the year 1731, by the Commissioners and surveyors of New York and Connecticut, as

the northeast corner of the equivalent tract, or oblong, ceded to New York by Connecticut, in said year.

Starting from this point, we ran a random line to the forty-seventh mile monument point, which was pointed out by Mr. William Kelsey, he having owned the land for nearly half a century. Mr. Kelsey says his informant was a gentleman by the name of Bird, who owned the land on which the monument was erected, at the time of the survey, and remembered distinctly of its being placed there by the Commissioners and surveyors of the year 1731, which random line was one hundred and eighty-nine feet east of said monument point.

I may here remark the lines were run with care and precision. The instrument used being a transit, and all measurements made were horizontal measurements, and done in the best possible manner the same could be made on the surface of the land.

Having calculated the angle necessary to overcome the departure, the line was retraced in detail and measured. The course adopted being south eleven degrees twenty minutes west, distance four hundred and sixty-four chains sixty-nine links, to the forty-seventh mile monument point.

Thence from the forty-seventh mile monument, south twelve degrees thirty-four minutes west, two hundred and thirty-nine chains fifty-seven links to the forty-fourth mile monument point, described as being twelve rods east from Indian pond.

Thence south eleven degrees thirty-three minutes west, one hundred and sixty chains ninety-nine links to the forty-second mile monument point, described as being on the brow of a steep bank on the north side of Ten Mile river, where it runs easterly, and likewise twenty-one rods on a perpendicular east from the east side of Ten Mile river. The measurement was made to Ten Mile river at this place, and distance found to differ only three links.

Thence from the forty-second mile monument south thirteen degrees sixteen minutes west one hundred and sixty-one chains twenty-four links to the fortieth mile monument point, being in Sharon valley, and described as being forty rods on the perpendicular line easterly from Ten Mile river.

Thence south twelve degrees twenty-one minutes west, three hundred and ninety-eight chains twenty-one links to the thirty-fifth mile monument, which is described by a heap of stones placed on the top of a rock on the west side of a hill, which was found answering to the old description in every respect, and the corner of the towns of Sharon and Kent is established there.

The thirty-seventh mile monument was not found. There is nothing existing to mark its original location, and a straight line from the

fortieth to the thirty-fifth mile point follows on the traditional line wherever it could be traced, and passes through the village of Hitchcock's Corners, where the oldest inhabitants have always considered the line to be.

Thence from the thirty-fifth mile monument south twelve degrees thirty-two minutes west, one hundred and fifty-eight chains ninety-six links to the thirty-third mile monument, which was found on the top of a hollow rock on the west side of a hill, as described in the original survey.

There was another place pointed out by a Mr. Whitney, as being the original thirty-three mile monument. The location of this is two thousand three hundred feet too far south, and is seven hundred and fifty west of our present line, and would be nine hundred and thirty-six feet west of a straight line between the thirty-fifth and thirtieth mile monuments, which are not discredited by any one living in the vicinity.

Thence from the thirty-third mile monument south eleven degrees forty-four minutes west, two hundred and forty-three chains thirty-seven links to the thirtieth mile monument, standing on the south side of a hill on Preston mountain.

Thence from the last mentioned monument south twelve degrees twenty-seven minutes west, one hundred and sixty-one chains thirty-two links to the twenty-eighth mile monument, standing on the south end of Schaghticoke mountain.

After leaving the thirty-fifth mile monument the line passes over the west slope of Round mountain, thence across Bog valley to a range of mountains known as the Schaghticoke range, leaving said mountains soon after passing the twenty-eighth mile monument.

Thence from the twenty-eighth mile monument south ten degrees fifty-six minutes west, one hundred and sixty chains to the twenty-sixth mile monument point, described in the original survey as being on the west side of a high hill, and thirty-five chains forty-five links on a perpendicular line east from the east side of Ten Mile river.

Thence from the last mentioned monument south eleven degrees thirty-nine minutes west, three hundred and twenty chains eleven links to the twenty-second mile monument, which was found on the east side of New Fairfield hills, answering to the original description of 1731.

The twenty-fourth mile monument point was passed with a straight line running from the twenty-sixth to the twenty-second mile monument. There was nothing found to mark the original location of said monument. The straight line follows nearly on the traditional line, where any evidence of it was found.

Thence from the twenty-second mile monument south twelve degrees eighteen minutes west one hundred and sixty-three chains seventeen

links to the twentieth mile monument, standing in a wet piece of ground, on the west of a steep rocky hill.

Thence from the last mentioned monument south eleven degrees forty-nine minutes west one hundred and fifty-nine chains nine links to the eighteenth mile monument, which was found as described by the old survey, it being a heap of stones on a rocky ledge on the west side of a hill.

Thence south twelve degrees nineteen minutes west one hundred and fifty-seven chains fifteen links to the sixteenth mile monument on Cranberry mountain, and being near two pond[s] as described by the survey of 1731.

Thence from the sixteenth mile monument south ten degrees eleven minutes west one hundred and sixty-one chains seven links to the fourteenth mile monument. This monument was found on the northwest side of a hill, answering to the description of 1731.

Thence from the last mentioned monument south ten degrees fifty-one minutes west three hundred and thirteen chains forty-one links to the tenth mile monument point, it being in a wet piece of ground to the west of a high hill.

There was a place pointed out to us for the twelfth mile monument point, it is one thousand three hundred and forty-two feet too far north, and one hundred and sixty-one feet east of our straight line from the fourteenth to tenth mile monument.

Thence from the tenth mile monument south twelve degrees twenty-four minutes west one hundred and fifty-five chains seventy-one links to the eighth mile monument, it being in a hollow on a high rocky hill.

Thence south ten degrees nineteen minutes west one hundred and fifty-nine chains twenty-eight links to the sixth mile monument point, it being in a wet piece of ground on the north side of a swamp, as described in the old survey of 1731.

Thence from the sixth mile point, south twelve degrees ten minutes west one hundred and sixty-four chains forty-two links to the fourth mile monument, which was found in a low piece of ground, and was twenty and a half rods east from Mopo brook.

Thence from the fourth mile monument, south eleven degrees forty-four minutes west one hundred and fifty-eight chains ninety-nine links to the two mile monument, which was found on the west side of a rocky hill, as described by the survey of 1731.

Thence from the two mile monument, south fourteen degrees ten minutes west, one hundred and nine chains forty-one links to the Ridgefield angle monument, which was found on the north side of a hill which lies southeasterly from the east end of Long pond.

The survey of these lines was completed on the 18th day of August,

making the distance from Massachusetts line to the Ridgefield angle fifty-two miles and thirty-five rods; a difference of only five rods in distance from the survey of 1731, after making a correction for the angle at the Massachusetts line and at Ridgefield angle.

Commencing at the Ridgefield angle monument, where the last mentioned line terminated, running thence south twenty-five degrees eight minutes east two hundred and thirteen chains thirty-nine links to the fourth mile monument, on the east line of the oblong, between the Wilton and Ridgefield angles. This monument was found in a wet piece of ground, and on the north side of a brook, which bears the name of Mill River brook, and runs into a sawmill pond, as described in the original survey.

Thence from this last mentioned monument, south twenty-four degrees forty-eight minutes east, one hundred and fifty-seven chains sixty-three links to the two mile monument, it being on the west brow of a stony ridge of land, on the top of a rock sticking out of the ground.

Thence from the last mentioned point, south twenty-four degrees fourteen minutes east, one hundred and sixty-seven chains twenty-eight links to the Wilton angle monument, or southeast corner of the oblong, as set off by the commissioners of 1731.

Thence from the Wilton angle monument, south sixty-seven degrees forty-five minutes west one hundred and thirty-eight chains seventy-six links to the southwest corner of the oblong, and being where the survey of 1725 terminated.

Thence south sixty-five degrees forty-four minutes west ninety chains eighty-seven links to a point which was called a monument in the State line. I have no doubt of its being the original twelfth mile monument. It is fifty-two links less than twelve miles from the angle at the Duke's trees.

Thence from the last mentioned point, south sixty-six degrees fifty-six minutes west, two hundred and forty-one chains ninety-three links to a point called the ninth mile monument. This monument was found on a rocky ridge of land between two swamps. It did not have an ancient appearance, but if an original monument, it was for the ninth mile.

Thence from this last mentioned point, south sixty-six degrees forty-five minutes west three hundred and nineteen chains twelve links to the fifth mile monument point, being about two thousand feet west from Banksville.

After passing the ninth mile, the line passes through a dense swamp, known as Pool's swamp, thence over Long ridge, afterwards crossing a deep valley through which runs the Maharness river, thence across McKay's ridge to the village of Banksville, following on the traditional line wherever it was pointed out to us.

Thence from the fifth mile monument, south sixty-six degrees twenty-five minutes west three hundred and ninety-eight chains forty links to the angle at the Duke's trees. At this point we found the stone marked with the letters G. R., as described in the survey of 1725, lying in the ground on the west side of the wagon track at the north end of King street.

Thence from the Duke's trees south twenty-three degrees thirty-eight minutes east one hundred and seventy-two chains ninety-three links to a point which is west southwest, and distant thirty-two rods from the chimney in the old Clapp house. The foundation of said chimney is now standing, and the distance was measured therefrom.

Thence from the last mentioned monument, south twenty-four degrees twenty-one minutes east two hundred and twenty-four chains seventy-eight links to a point opposite the old William Anderson house, mentioned in the survey of 1725; its foundation now remains, and was pointed out to us as the foundation of said house.

Thence from this last mentioned point, south twenty-four degrees nineteen minutes east one hundred and seventy-three chains seven links to the great stone at the ancient wading place on Byram river.

The survey was continued down the said river, following the channel as near as it could be ascertained, with courses and distances, as follows:

From the stone at the wading place, south seventeen degrees forty-five minutes west twelve chains sixty links, to a rock in the river, which can be seen at low tide, and in which there is a bolt; thence south twenty-seven degrees west fifty-five chains nineteen links; thence south seven degrees twenty minutes east thirteen chains forty-five links; thence south twelve degrees ten minutes east sixteen chains thirteen links; thence south two degrees forty minutes east nine chains four links; thence south twenty-eight degrees twenty-five minutes east nine chains fifty-four links; thence south eighteen degrees forty minutes east four chains seventy-seven links; thence south eleven degrees fifty-five minutes west six chains thirty-three links; thence south fifty-eight degrees ten minutes west to where it falls into the Sound. Each of those lines were extended on to the bank of the river, and a bolt placed permanently in the rock, so as to secure a range to determine the angle or intersection of the lines thus surveyed, and the angles are declared to be where the lines do meet and terminate in each other.

Making the entire length of the line, exclusive of the river survey, eighty and ninety-one hundredths miles, and including the river survey, eighty-two and sixty-four hundredths miles.

The survey was completed and party disbanded on the 25th of September, having been in the field about one hundred and ten days.

There have been monuments erected at all the angle points, and at road crossings, wherever it was deemed necessary to permanently mark the line.

I have prepared, and herewith present, a map of the line, embracing such portions of the adjoining territory as is necessary to properly understand the several points referred to.¹

Care has been taken to make the descriptions full, for the convenience of the people and for future reference, to avoid controversies.

All of which is respectfully submitted.

H. S. DEWEY, *Chief Engineer.*

—[*N. Y. Sen. Doc's.*, 1861, No. 36, p. 57.]

[GOV. BUCKINGHAM TO CONN. GEN. ASSEMBLY.]

STATE OF CONNECTICUT, EXECUTIVE DEPARTMENT,
HARTFORD, JUNE 5, A. D. 1861.

To the Senate and House of Representatives in General Assembly convened :

In accordance with a resolution of the General Assembly, approved June 23, 1860, "authorizing the Governor of this State to make certain propositions to the Governor of the State of New York for an adjustment of the boundary line between the two States," on the 28th day of July last I addressed a letter to His Excellency the Governor of New York, and proposed that either of the following described lines should be adopted as the boundary.

First. Beginning at a point in the north center and near the north end of the street running through the village of Hitchcock's Corners, and from thence in straight line to the Ridgefield and Massachusetts angles; or,

Second. Move the angle bounds at Ridgefield and on the Massachusetts line, five chains and ninety-one links east of their present positions, and connect the same by a straight line running through said points in the said center of the north end of the street at Hitchcock's Corners.

As I received only an acknowledgment of my communication, I concluded that neither line was acceptable and addressed another letter to His Excellency Gov. Morgan, on the 8th day December, 1860, and proposed as follows :

¹ "Map of the Boundary Line, between the States of New York and Connecticut, to accompany the Report of the New York Commissioners, January, 1861. Lithograph of C. Van Benthuyzen. Scale 2,000 ft. to one inch." Size of map, 18 ft. × 10 in.—[P.]

STATE OF CONNECTICUT, EXECUTIVE DEPARTMENT,
HARTFORD, Dec. 8, 1860.

HIS EXCELLENCY E. D. MORGAN, Governor of the State of New York.

SIR: On the 28th day of July last I addressed your Excellency with a copy of a part of a resolution adopted by the General Assembly of this State at its last session, relating to the boundary line between the States of New York and Connecticut. In that resolution two lines were proposed, either of which would be satisfactory to this State. As I have not heard from you on the subject I assume that you do not accept either. I therefore make another proposition under authority of the resolution to which I have referred, which is in the following words: "and in case of the rejection of the aforesaid proposals, he" (the Governor) "is empowered to submit the controversy concerning so much of said boundary line as lies between Ridgefield corner and the Massachusetts boundary to final arbitration in such manner as he shall deem expedient, and shall have full power to direct the present or any subsequent board of commissioners in accordance with the powers herein conferred, and be subject to the action of the next General Assembly."

In accordance with the resolution I now propose to submit all matters relating to the boundary line therein referred to, to the arbitration of three disinterested gentlemen, neither of whom shall be a resident of New York or Connecticut, one to be selected by your Excellency, or in such other way as the Assembly of New York shall direct, one by the Executive of this State, and the two thus appointed to select the third. The decision which shall be made by such arbitrators or a majority of them shall be accepted as final by the commissioners of the two States, and recommended to the legislatures of each for ratification.

If this proposition shall be accepted I have no reasonable doubt that the Legislatures of both States will ratify the action of the arbitrators by establishing the line they may recommend as the boundary. For this I am anxious lest questions may arise which will involve the citizens of both States in long and perplexing controversies. This should be avoided.

If there is any objection to the manner of appointing arbitrators as proposed, I shall be happy to listen to any proposition on the subject from your Excellency."

I am, dear sir, yours with high regard.

WILLIAM A. BUCKINGHAM.

So far as I learn, no action has been taken by the General Assembly of New York upon either proposition, and the Governor in his annual message says, "The commissioners appointed by the Act of April 3,

1860, to ascertain and mark the boundary line between the States of New York and Connecticut, in conformity with the survey of 1731, have been unable to agree with those on the part of the latter State. The various propositions made having been declined, and the joint commission failing to agree upon a basis, the commissioners for this State proceeded to run and have run and marked a line which is represented as being satisfactory to the people on both sides of the boundary and have placed monuments at the proper points."

This subject has been repeatedly before the General Assembly of this State, and the facts are simply these:

In 1731, Commissioners from both States designated a line between Ridgefield Corner and the Massachusetts boundary, and described it as a straight line running through certain monuments. This line was never run, but was supposed to have been parallel with one which had been surveyed.

Recently, Commissioners were appointed by the two States who agreed that the boundary line was straight, and that in the re-survey such an one should be determined and adopted.

On running the old line, they found some monuments which from traditional testimony they regarded as having been located in 1731, and others which were pointed out without evidence sufficient to prove their identity.

This line was irregular, sometimes running west, but generally east of a direct line. After this survey, the Commissioners of New York decided that they could not consent to a straight line, as they were only authorized to ascertain the line of 1731. But neither they nor the Commissioners of this State were at all times tenacious of adhering to their agreement to report a straight line, nor of adhering to the line as re-surveyed, for propositions to vary from and change it, were made by the representatives of each State.

But for reasons valid or otherwise, the Commissioners did not agree.

The Assembly of New York directed their Commissioners to erect monuments on the crooked line, either with or without the coöperation and approval of the Commissioners of this State, and thus so far as they were able, have established the line of many angles, made by what is evidently an erroneous survey, and sustained by doubtful traditional testimony, all of which is in violation of that part of the description of the survey of 1731, which declares that it is a straight line.

In January, I received a letter from a citizen of Kent, inquiring whether the boundary had been established; for he remarks, "we are about to lay a tax on the property in our School District, and where the monuments now are, it shuts out a part of our District, and not knowing whether the line is established or not, we know not what to do."

This inquiry, taken in connection with the fact that neither State has authority to establish a line as the boundary without the consent of the other, shows the importance of an amicable adjustment of this question.

But we are precluded from such an adjustment by the acts of the Commissioners and the Assembly of New York, to which I have referred.

It may not be advisable to take further action. We can rest, under a consciousness that Connecticut has not, in this case, when her pride and her interest may have given a wrong bias to her judgment, insisted that such judgment shall be the rule by which others must be governed, and in the belief that history will record the fact that we have made no claims, proposed and adopted no measures, the tendency of which would be to wound the honor, or humble the self-respect of a sister State.

WILLIAM A. BUCKINGHAM.

—[*Conn. Gen. Assem. Reports, &c.*, 1861, No. 3.]

[IN CONN. SENATE.]

June 5, 1861.

* * * *

A message from his Excellency the Governor, relative to the boundary line between this State and the State of New York, was received at the hands of Nathaniel Shipman, Esq., Executive Secretary.

On motion of Mr. Briscoe, the message was referred to a Joint Select Committee, to be raised, and on further motion, five hundred copies of said message were ordered to be printed.

* * * *

Mr. Briscoe, by leave of the Senate, introduced a joint resolution appointing a Joint Select Committee of one Senator and eight Representatives, to whom shall be referred the message of his Excellency the Governor, relative to the boundary line between this State and the State of New York.

On motion, the resolution was passed.

The President then announced the appointment of Mr. Ives, as such Committee on the part of the Senate.

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—[*Conn. Sen. Journal*, 1861, pp. 236, 238.]

[IN CONN. HOUSE OF REPRESENTATIVES.]

June 6, 1861.

* * * *

A joint resolution raising a Joint Select Committee consisting of one Senator and eight Representatives, to whom shall be referred the Governor's Message relative to the boundary line between this State and the State of New York, was received from the Senate, passed.

The question being upon the passage of the resolution, the question "Shall the resolution pass?" was put and decided in the affirmative.

A message of his Excellency the Governor, respecting the boundary line between the States of Connecticut and New York, was received from the Senate, referred to a Joint Select Committee on boundary line between this State and the State of New York, to be raised, and five hundred copies ordered to be printed.

On motion, the House concurred with the Senate in the reference and the order.

* * * *

—[*Conn. House Journal*, 1861, p. 249.

June 11, 1861.

* * * *

The Speaker announced the appointment of the Joint Select Committee on the Connecticut and New York Boundary Line, on the part of the House as follows:

Messrs. Kendrick of Waterbury.
 Bunnell of Farmington.
 Smith of Stonington.
 Northrop of Ridgefield.
 Morse of Canterbury.
 Chaffee of Sharon.
 Griswold of Killingworth.
 Talbot of Coventry.

* * * *

—[*Conn. House Journal*, 1861, p. 292.

June 26, 1861.

* * * *

The report of the Joint Select Committee on the Boundary Line between Connecticut and New York, was received, containing a review of past proceedings in reference to said Boundary Line, and concluding as follows: "In order therefore that no unfavorable inference may be

drawn from an apparent acquiescence on the part of this State, in the proceedings of the Legislature of New York, and for the purpose of indicating our intention at a proper time to resort to such other peaceable measures for the settlement of this question as circumstances in the future may show to be in accordance with justice and the honor of the State, the Committee recommend the passage of the accompanying preamble and resolution," which preamble and resolution were as follows:

"GENERAL ASSEMBLY, May Session, A. D. 1861.

Whereas, the question of boundary between this State and the State of New York, is still in dispute; and *whereas* attempts have been made at various times to ascertain and agree upon said boundary by Commissioners appointed by both States, without any satisfactory results; and *whereas* the State of New York has recently, by authority of an act of the Legislature of that State, run and marked a boundary line between the two States, which was done without the co-operation of the State of Connecticut, and to which said State does not assent, but regards as unjust, and as being run without authority and in violation of right and consequently void; therefore,

Resolved by this Assembly, That the Governor of this State be, and he hereby is authorized and empowered to adopt all such measures as in his opinion may be expedient in regard to the settlement of the boundary line between this State and the State of New York, and he is hereby clothed with full power to correspond with the Executive of the State of New York, and propose and accept such proposals in regard to the same, as in his judgment the circumstances of the case may render expedient and proper, and that any settlement which he may effect in regard to the boundary line between the two States, shall be final and conclusive, when ratified by the General Assembly, on his recommendation to that effect."

On motion of Mr. Kendrick of Waterbury, the report and resolution were laid upon the table.

—[*Conn. House Journal*, 1861, p. 431.

June 27, 1861.

* * * *

On motion, the House resumed the consideration of the report of the Joint Select Committee on the Boundary Line between Connecticut and New York, [as given above].

The question being upon the passage of the resolution submitted by the Committee, the question "Shall the resolution pass?" was put and decided in the affirmative.

So the resolution was passed, and on further motion, the House accepted the report of the Committee.

* * * *

—[*Conn. House Journal*, 1861, pp. 449, 450.

[IN CONN. SENATE.]

July 3, 1861.

* * * *

The report of the Joint Select Committee, to whom was referred the message of his Excellency the Governor, relative to the boundary line between this State and the State of New York, * * was received from the House of Representatives, the report of the Committee being accepted, and the resolution being passed, as by the Committee recommended.

* * * *

So the resolution was passed, * * and * * the Senate concurred with the House in accepting the report of the Committee.

* * * *

—[*Conn. Sen. Journal*, 1861, pp. 522, 523.

The *ex parte* action of the New York Commissioners in running and marking the (land) boundary line, as already set forth, seems not to have been further strenuously resisted or opposed by Connecticut; and at the time of printing these pages, the concurrent ratification of this line by the two States and by Congress is an accomplished fact, as will hereafter more fully appear. What follows, as matter of question and dispute between these States since 1861, almost wholly relates to the divisional line through Long Island Sound, which has been of late for the first time accurately defined, without, however, disturbing any previous rights as to either fisheries or existing titles to property under grants by either State.

[IN N. Y. ASSEMBLY.]

April 15, 1873.

* * * *

By unanimous consent, Mr. Prince offered for the consideration of the House a resolution, in the words following :

Resolved, That the Attorney-General be requested to report to this

House, at his earliest convenience, his opinion as to whether the oyster beds in Long Island Sound, off the Harbor of Bridgeport, the Norwalk Islands and other points in the sound below low water mark of the Connecticut shore, are within the jurisdiction of this State, and if within the jurisdiction of this State, whether they are within the limits of any town or county, and if so, which.

Mr. Speaker put the question whether the House would agree to said resolution, and it was determined in the affirmative.

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—[*N. Y. Assem. Journal*, 1873, p. 1026.

[STATE OF NEW YORK.]

Chap. 760.

AN ACT making appropriations for certain expenses of Government,

* * * *

Passed June 13, 1873.

* * * *

The sum of three thousand dollars is appropriated, to be expended by the attorney-general, * * in the suit of Whitman versus Thompson,¹ * * and for the further purpose of paying the legal, necessary expenses, and the expense of surveying and other necessary expenses to determine the title as between New York and Connecticut to certain oyster beds on Long Island Sound, off the harbor of Bridgeport and to Norwalk islands, and other points in said sound below low-water mark, there being now pending a dispute between said States on that point.

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—[*N. Y. Laws*, 1873, p. 1149.

[IN N. Y. ASSEMBLY.]

January 7, 1874.

* * * *

By unanimous consent, Mr. Prince offered for the consideration of the House a resolution, in the words following:

Resolved, That the Attorney-General be requested to report to this House, at his earliest convenience, his opinion as to whether the oyster beds in Long Island sound, off the harbor of Bridgeport, the Norwalk Islands and other points in the sound below low water mark on the Connecticut shore, are within the jurisdiction of this State; and also whether under article 4, section 2 of the Constitution of the United States, citizens of the State of New York are not entitled to all privileges relative to oyster beds within the jurisdiction of Connecticut which by the laws of that State are accorded to citizens thereof. Also,

¹ See reference to this case on page 574, *post*.—[P

what action, if any, has been taken relative to the determination of the boundary between New York and Connecticut, an appropriation for which purpose was made in the supply bill of 1873.

Mr. Speaker put the question whether the House would agree to said resolution, and it was determined in the affirmative.

* * * *

—[*N. Y. Assem. Journal*, 1874, p. 44.

January 27, 1874.

* * * *

Mr. Speaker presented a communication from the Attorney-General in response to a resolution of the Assembly adopted January 7, 1874, in the matter of the claim to the ownership of Long Island Sound; which was laid on the table and ordered printed.

* * * *

—[*N. Y. Assem. Journal*, 1874, p. 139.

STATE OF NEW YORK.

No. 30.

IN ASSEMBLY, January 27, 1874.

REPORT

Of the Attorney-General, in answer to a resolution of the Assembly, passed January 7, 1874.

In obedience to the resolution of the 7th instant, passed by your honorable body, the attorney-general would beg leave to report, that a similar resolution was referred, during the last session of the legislature, to his predecessor, who employed John L. Cadwallader, Esq., to investigate the entire subject, and to whose report, accompanying this, he begs leave to refer.

The subject of the boundary between this state and Connecticut has been a matter of dispute between the two states for over two hundred years. It cannot, therefore, be expected that the attorney-general can be able to fix or ascertain the true boundary with any approach to correctness.

It will be enough, perhaps, for him to say that he concurs in the conclusion arrived at by Mr. Cadwallader, to wit: That the oyster-beds referred to in said resolution do not lie within the jurisdiction of the state of New York, and he refers to the cases cited by him for his conclusion.

In regard to the question whether, under article 4, section 2, of the constitution of the United States, citizens of the state of New York are not entitled to all the privileges relative to oyster beds within the jurisdiction of the state of Connecticut, which, by the laws of that state, are accorded to its own citizens, he replies in the affirmative.

The state has, undoubtedly, the right to pass laws regulating the planting and preservation of oysters in the waters within its jurisdiction; but it has no right or authority, under the constitution of the United States, to discriminate between its own residents and the residents of other states.

The section of the constitution referred to was adopted as a substitute for article 4 of the old articles of confederation, which provided, in terms, that the citizens of each state should enjoy all the *privileges of trade and commerce* which the citizens of the several states enjoyed. (Story on the Constitution, § 106.)

As to the action taken, relative to the determination of the boundary between New York and New Jersey, the attorney-general has no knowledge, except what is contained in the letters of his predecessor, which accompany this report, and to which he begs leave to refer.

All which is respectfully submitted.

ALBANY, *January 26, 1874.*

DANIEL PRATT,
Attorney-General.

COMMUNICATIONS.

LETTER FROM JOHN L. CADWALADER, ESQ.

HON. FRANCIS C. BARLOW, *Attorney-General, etc. :*

In accordance with your request, and owing to the difficulties which have lately arisen between the fishermen of Long Island and Connecticut, relative to their respective rights to take oysters from certain oyster-beds lying adjacent to the Connecticut shore, and further into Long Island Sound, I have examined into the question of the ownership of and jurisdiction over the sound, as between the states of New York and Connecticut, and herewith state my conclusions.

The Revised Statutes of the state of Connecticut provide (see General Statutes Conn., pp. 460, 475) that none but actual inhabitants of their state should take any oysters within the waters of the state.

No further reference is here made to the particulars of the act, as this statement of the purport raises the questions to be presented.

The state of New York and other states have enacted similar laws, and they are generally in force.

The supreme court of the United States in the case of *Smith v.*

Maryland, 18 How. 71, decided that the state of Maryland might regulate the right of fishing in Chesapeake bay and prevent destruction by the use of rakes, and seemed in the decision, pp. 74, 75, to put the general right to take shell fish and floating fish precisely upon the same footing, but in giving this opinion of the court Judge Curtis states: "Whether this liberty" (of taking fish and oysters) "belongs exclusively to the citizens of Maryland, or may lawfully be enjoyed in common by all citizens of the United States, whether this public use may be restricted by the state to its own citizens or a part of them, are matters wholly without the scope of this case, and upon which we give no opinion."

The question as to the constitutionality of such acts, which arises at the outset, may perhaps be deemed an open one in the supreme court of the United States, although such laws have, from time to time, been upheld in the courts and very generally acquiesced in, and for the purpose of this inquiry, such constitutionality will not be further questioned.

The simple question to be decided in this controversy with Connecticut is, as to the ownership of the ground from which the oysters have been taken.

The state of New York has, from time to time, more or less vigorously, laid claim to the exclusive right and jurisdiction over Long Island Sound, and has claimed in fact that the sound, or a very large portion of it, is within this state.

The state of Connecticut, on the other hand, since its contest and defeat for the actual possession of Long Island in 1664, appears not to have vigorously asserted for exclusive jurisdiction over the waters of the sound, except as a claim may arise to ownership of that portion of the sound, lying within prominent headlands on its shore, although, as will hereafter appear, her claim to that portion of the sound lying north of the center line or thread would be good according to the views of some members of the court in a late case in the court of appeals. (35 N. Y. 352.)

If the sound does not belong to the state of New York equally with Connecticut, or entirely to the state of New York, it might be necessary to examine whether the sound is a territorial sea, over which the United States has jurisdiction, or a portion of the ocean proper, the common property of all nations, and to examine the various questions as to rights of fishing which such a decision would occasion, but that will be seen to be unnecessary.

Although these localities in dispute between New York and Connecticut differ, from time to time, and while any fixed rule would hardly dispose of all the cases which might arise, I propose to take the locality of the Bridgeport oyster-bed, so called, lying near the mouth of Bridge-

port harbor, which was discovered in the autumn of 1868, as a test point from which to fix the state line.

It was the use of this ground by New York fishermen which resulted in the capture of a New York boat some time since, and which has brought these questions to a point.

This oyster-bed lies in the shoal water adjoining the Connecticut coast, and partly within and partly without a line drawn from Stratford Point to what is known as the Cows, or the end of Fairfield Bar, and largely within any line drawn from Fairfield Point to any of the more prominent headlands west.

This bed also lies some distance north of a straight line drawn from Point Judith, or the center of the channel north of Fisher's Island to Lyon's Point at the mouth of the Byram river, the boundary line of the state.

Is this oyster-bed within the state of New York? And if not, where is the line of jurisdiction?

A reference to the original patents and charters and the history of the time will hardly throw much light upon the question.

The great patent of New England, November 3, 1620 (see Trumbull's History of Conn., vol. 1, p. 546) granted the whole circuit from forty degrees of northerly latitude from the equinoctial line to forty-eight degrees of northerly latitude, and in length from sea to sea.

The old patent of Connecticut granted in 1630 by the council for New England to the Earl of Warwick, and by him transferred, in 1631, to Lord Say and Seal, Lord Brook and others, grants "All that part of New England in America which lies and extends itself from a river, there called Narragansett river, the space of forty leagues upon a straight line near the shore toward the southwest, west, and by south or west, as the coast lieth toward Virginia, accounting three English miles to the league, and also all and singular the lands, hereditaments, etc." (1 Trumbull's Hist. Conn., Appendix, 1.)

The charter granted to Governor Winthrop, April 23, 1662, describes Connecticut as "All that part of our Dominion in New England bounded on the east by Norrogancett river, commonly called Norrogancett bay, where the said river falleth into the sea, and on the north by the lyne of Massachusetts plantation, and on the south by the sea." (Colonial Records of Conn. from 1665 to 1678.)

The Duke of York's patent of March 12, 1664, grants a portion of New England from St. Croix to Pemaquid and extending back to Canada (St. Lawrence) river, "and also all that island or islands commonly called by several name or names of Matowacks or Long Island, situate, lying and being toward the west of Cape Cod and the Narrow Higansetts, abutting from the main land between the two rivers there

called or known by the several names of Connecticut or Hudson's river, together with the said river called Hudson's river, and all the land from the west side of Connecticut to the east side of Delaware bay, and also those several islands called or known by the names of Martin's Vineyard and Nantukes, otherwise called Nantuckett," together with all the harbors, etc., etc. (See Documents relative to Colonial History New York, by John Romeyn Brodhead [1858], vol. 2, p. 295.)

This description is followed in substance in the commissions to Andros and Dongan. (Id., vol. 2, pp. 215 and 328.)

Upon November 30, 1664, Richard Nichols, George Cartwright and Samuel Maverick, the commissioners appointed by the crown to examine into the claim of Connecticut to the ownership of Long Island, after consulting with the agent of Connecticut, did declare as follows: "We do declare and order that the southern bounds of His Majesty's Colony of Connecticut is the sea, and that Long Island is to be under the government of His Royal Highness the Duke of York." (1 Trumbull's Hist. Conn. 273. Conn. Hist. Collections, 19.)

By this decision that spirited contest was adjusted, and Connecticut lost Long Island.

Van Tienhoven, in his observations on the colonization of New Netherlands, describes the shore from Stamford toward New Amsterdam as the "main north coast." (1 N. Y. Colonial Doc. 360.)

The New Am. Cyc. Article, "Connecticut," describes its southern boundary as "the seacoast from Pancatuck river to the north of Byram river."

I am aware of the claim advanced by one Anderson, and referred to in the case of *Coe v. Keyser*, that the line, being a *straight* line, excluded a large part of the coast from Connecticut, but the state of New York has never put her claim on this ground.

It must, therefore, be conceded that the southern boundary of Connecticut is what is known as Long Island Sound, which was known and considered as *the sea*. The charter of the Duke of York, above referred to, describes Long Island as an island, with all the surroundings of an island, and not as a part of the shore connected by land under water with the Connecticut shore, and abutting on it, and does not specifically convey the sound by a particular description.

The Revised Statutes (1 Rev. Stat. N. Y., 5th ed., p. 77), after reciting that it is useful that the boundaries of the state "*so far as its jurisdiction is now asserted*, should be declared," declare that the state is bounded as follows: Beginning at "Lyon's Point, in the mouth of a brook or river called Byram river, where it falls into Long Island Sound, and thence up and along said river to a rock," etc., describing the boundaries north and west, reaching Sandy Hook and the disputed

ground, as follows: "Thence southerly along the west shore at low-water mark of Hudson's river of the Kill Van Kull, of the sound between Staten Island and New Jersey, and of Raritan bay to Sandy Hook, and then to the place of beginning, *in such manner* as to include Staten Island and the island of Meadow on the west side thereof, Shooter's Island, Long Island, the Isle of Wight (now called Gardiner's Island), Fisher's Island, Shelter Island, Plum Island, Robin's Island, Ram Island, and the Gull Islands, and all the islands and waters in the bay of New York, and within the bounds above described."

If this claim of jurisdiction really intended to claim Long Island Sound up to low-water mark on the Connecticut shore, a more indefinite description of the line from Sandy Hook to the Byram river can hardly be imagined. To run a line from Sandy Hook to the Byram river "in such a manner as to include" a number of islands dotted over the sound, would seem of itself to presume that the line intended was not the line of the Connecticut shore.

It will be remembered that the boundary here given on behalf of the state of New York is not the boundary line as settled by any compact or decision, but is put forth as the extent of the claim of jurisdiction of the state.

When we examine into the subdivision of the state into counties, we find that Queens county is bounded on the north by the Sound, but that the islands are given to that county opposite her bounds and south of the main channel; and to Westchester, which is also bounded by the sound, is given all the islands in the sound to the east of Throg's Neck, and north of the main channel. The county of Suffolk is bounded by the sound, but is made to include the Gardiner's Island and other islands contiguous to it. The Revised Statutes, therefore, have not actually extended the other counties over the sound.

Such are the general facts from the charters and our Revised Statutes, and referring to the decisions, it will be found that the very point in controversy has been touched upon, and on several occasions received judicial construction.

In *Manley v. The People*, 3 Selden, 295, the plaintiff in error was tried and convicted at the general sessions in September, 1850, on an indictment charging him with larceny from one Williams, at New York, in July, 1850.

The plaintiff was steward of the steamer Knickerbocker, on a trip from New York to Norwich, and the offense was committed about 8 o'clock, when the steamer was close to the Long Island shore opposite Huntington, in the county of Suffolk, and the money was brought to the city of New York, and the prisoner there indicted and tried for that reason.

It was contended that the offense was committed without the state of New York and overruled, and an appeal was taken.

Wells, J., in delivering the opinion reversing the judgment of the court below, held that the *locus in quo* was the high seas, and not in the state. Ruggles, C. J., Gardiner, Hewett and Johnson, JJ., concurred in reversing the judgment, on the ground that the offense was committed in Suffolk county, and not in the county of New York; that the prisoner could not be tried in New York county if the money was brought there; and that the portion of the sound where the steamer was at the time of the offense was an arm of the sea, and not a river, lake, or canal, within the meaning of the 2 R. S. 727, §§ 44 and 50, providing that where a felony is perpetrated on board a steamer navigating a river, etc., and the property is brought to another county, an indictment would lie.

In this case, however, Welles, J. (p. 298), discussed the proper mode of drawing the line through the sound, saying there were two ways: 1. By a direct line from Fisher's Island to Lyon's Point (which we have seen would not include the Bridgeport oyster-bed); and 2. By a line running directly from Sandy Hook to the Byram river, diverging from a direct course only far enough to include the islands, etc., and, as soon as the object is attained, returning to its original course, and preferring the latter.

The latter method, as explained by the learned justice, seems extremely indefinite, but neither would include the Bridgeport oyster-bed.

Edmonds, J., claimed that the boundary line from the east end of Long Island to the boundary of Connecticut, ran straight from one point to the other across the sound, and did not, as claimed by the prisoner's counsel, follow the windings of the inner or north shore of Long Island to a point opposite the mouth of Byram river, and then in a straight line across the sound.

This line would also exclude the oyster-bed in question.

In the case of *Keyser v. Coe*, 9 Blatch. C. C. 32 (1871), this question was elaborately discussed.

The action was a bill in equity to enjoin a nuisance carried on by the defendant in a factory on an island called Goose Island, situate at the mouth of the Norwalk river, and over a mile from the shore, the question in dispute being whether the island lay in New York or Connecticut. The bill was originally filed in the superior court, and was removed to the United States court, and a demurrer to the jurisdiction filed. The demurrer was overruled by Woodruff, J., orally, and the opinion of the court afterward prepared by Judge Shipman.

The court discusses the whole question and holds the boundary of

Connecticut to be the sound, and to include the island in question, and that the most extended jurisdiction to which New York can lay claim is to all that portion of the sound lying south of a straight line drawn from Point Judith to Lyon's Point.

Mahler v. The New York Transportation Company, 35 N. Y. 352, was an action under the statute, for negligence brought for the death of a person on board a sloop in Long Island Sound, within a short distance of Sand's Point.

The court below held the place of the accident to be out of the state, and that the true line was to be run by following low-water mark along the northern shore of Long Island.

The court above reversed the judgment. Porter, J., delivering the opinion, holds that the place of the accident was clearly within the jurisdiction of the state, but declined to decide the question whether the line should be run in a straight line from Fisher's Island to Lyon's Point, as claimed by Judge Edmonds in *Manley v. The People*, "or whether it should follow the thread of the sound, with such deflections as may be required to include the islands confessedly within our jurisdiction."

The personal opinion of Judge Porter, from this case, would apparently concede to each state territorial dominion over the sound, from its own shore to the center of the sound, so far as the possession of New York and Connecticut is co-terminous, and to give the residue entirely to New York, where she is the sole owner on either side, not by the grants, but as abutting owners.

In the case of the *United States v. Jackalow*, in the United States circuit court, district of New Jersey, tried before Judge Dickerson in 1861, the prisoner was charged with robbery on the high seas, committed on board a sloop lying in the waters adjoining the state of Connecticut, between Norwalk harbor and Westchester county, and about one and a half miles from the Connecticut shore at low-water mark, and the question of jurisdiction was raised and elaborately discussed.

Dickerson, J., was of the opinion that the robbery was not upon the high seas, but ordered a special verdict to present the question of law. In his opinion upon this question, he decides as follows: "I think the proper and natural way of connecting these points ('Fisher's Island and Lyon's Point'), would be by a direct line drawn from one to the other, which would be nearly parallel with the Connecticut shore, in its whole extent on the sound, and divide the sound in such a manner as to leave about three-fourths of it included in the territory of New York, and one-fourth in that of Connecticut. To this extent New York is fairly entitled, according to her territorial bounds, and I am not prepared to say that she is not entitled to the whole of the sound, by virtue of the

words, all the islands and waters in the bay of New York, and within the bounds aforesaid."

And again:

"I am, therefore, of opinion that the state of New York has jurisdiction over all that part of the sound lying to the south of a line drawn from the channel, between Fisher's Island and the Connecticut shore directly to Lyon's Point."

This case went to the supreme court on a certificate of division of opinion, and is reported in Black, 484.

The court reversed the judgment on the ground that while the special verdict had found the offense to have been committed at a particular place, the court had, as a question of law, adjudged the place to be in the state of New York, and held that the jury should have found upon that point.

Upon a second trial before Judge Grier, the prisoner was acquitted, and he is said to have been acquitted because the offense was committed in the state of New York.

As an explanation of the unsatisfactory decision, as appearing in 1 Black, 484, Mr. Keasby, the United States district attorney for New Jersey, has informed me that he was stopped in his argument, after an adjournment, and informed that the court had examined the question, and was of the opinion that the offense was committed on the high seas. No counsel appeared for Jackalow, and the argument closed.

A short time afterward the judgment was reversed, as appears in 1 Black, Judge Grier informing Mr. Keasby that the court were unwilling, on reflection, to decide so important a question, arising in a criminal case, in this way, and after no argument on the other side.

All these cases touch the very question in controversy, and to these must be added *The Sloop Elizabeth*, 1 Paine's C. C. 10.

The sloop left New York in 1808 without a permit, and was taken by a cutter one hundred and ten miles from New York, in the sound nearer to Connecticut than New York, and was libelled.

The question in dispute was, whether the sloop had left the state of New York, and it was urged that no part of the sound having been given to Connecticut by its charter, that it belonged to New York.

Livingston, J., held distinctly that the sound was not conveyed by the charter to the Duke of York, and that it was not a portion of the state of New York.

The Sloop Martha Anne, Olc. 18.

In June, 1843, a number of fishing crafts went to Oyster bay, in violation of the town law, to gather oysters. Complaint being made, the sloop "Martha Anne" was manned under the direction of the

magistrates, and captured a boat called the "Bahama" and brought her back to Oyster bay, and the libellant claimed damages.

The jurisdiction in which the vessel was captured became important, and it was held by Betts, J., who apparently simply followed Livingston, J., in the preceding case, that "the sound is an arm of the sea, within the common-law acceptation of the term, being navigable tide-water. It is more properly a strait than a sea. It is not within the territory of any particular state."

The Amstad case, 15 Pet. 518, has no bearing on the question, as the vessel was anchored off Montauk Point to the eastward of Long Island Sound, and Judge Story in that case assumes and states as a portion of the *facts of the case*, that the vessel was at anchor on the *high seas*, half a mile from the Long Island shore.

These appear to be the decisions in this question — their bearing will be discussed hereafter. Only the last two cases deny to New York any jurisdiction over the sound.

In addition to the light thrown on this question by the grants and charters, the Revised Statutes and the decisions, we have various loose facts, among them that the state of New York has, on various occasions, made claim to the ownership of portions of the sound and to certain of the islands contiguous to Connecticut, sometimes with success and again unsuccessfully.

In 1765 Governor Cadwallader Colden addressed a letter to Governor Fitch of Connecticut, suggesting an arbitration in regard to the ownership of Captain's Island, lying off Byram river, near the boundary line of New York and Connecticut.

It appeared that one Buck, a citizen of New York, had been sued for a trespass on this island, and had complained to his own state. It was referred to the general assembly, who decided to arbitrate the question, and upon the trial in the action which caused the correspondence, the island was declared a part of Connecticut.

It will be seen that these islands are south of a line drawn from Point Judith to Lyon's Point, and within the jurisdiction of New York, under the rules laid down in the court of appeals.

The government, however, when lands in this island were ceded for a light-house, took cessions from both New York and Connecticut.

Other controversies have, from time to time, arisen in respect to the ownership of the islands contiguous to the Connecticut shore, but I am not able to point to any authoritative decisions arising from them.

I have been informed that many years ago an indictment was found against a person for selling liquors on Thimble Island, situated east of New Haven and very near the Connecticut shore, and within the headlands, and that a demurrer to the jurisdiction was sustained in the Con-

necticut court; and a similar question also arose in reference to Charles Island, situated also close to the shore, and east of Bridgeport, upon the arrest of certain persons for engaging in a prize fight, and it is said they were, for the same reason, discharged.

A controversy also arose as to Ram Island — or Mystic Island as now called — about a year ago, which is very near the main land, in which the claim of New York seems to have been sustained. There are, however, two islands of that name.

In addition to all this the state of New York has, from time immemorial, assumed jurisdiction over the waters of Long Island Sound, by grants of exclusive rights of ferriage, authorizing improvements in the waters of the sound, directing the flow of water, the construction of piers, regulating fishing, granting lands under water, and by legislation in regard to kindred matters. Laws 1835, ch. 234; Laws 1839, ch. 173; Laws 1847, ch. 409; Laws 1849, ch. 435; Laws 1853, ch. 83; Laws 1858, ch. 261; Laws 1865, ch. 242.

From all these matters and this consideration of the general question, my opinion is as follows:

I. That claims have been, from time to time, advanced to the exclusive ownership of the sound to low water on the Connecticut shore, but when critically examined, I cannot find in the original grants or in the judicial interpretation of them any clear evidence to support the claim.

Nor, in fact, can I find any formal and well-considered judicial or other decision giving to New York such jurisdiction, unless it be contained in the remarks of Judge Dickerson, in his opinion in the Jackalow case, intimating that New York might be entitled to the whole sound by virtue of the description of her bounds in the Revised Statutes.

It will be obvious that an opinion, the evidence to support which is the claim of the interested party, in its Revised Statutes, is not conclusive.

I am not, however, prepared to say that, upon a critical examination, many of the islands lying adjacent to the Connecticut shore, and north of a line drawn from Fisher's Island to Lyon's Point, might not be adjudged to New York from possession or a long acquiescence in the jurisdiction of New York or from other causes. These islands — many of which are uninhabited — afford a fruitful field for litigation, and in case any line was fixed as the proper boundary, some will doubtless be found, the jurisdiction to which may be substantially settled, and which will prove exceptions to the rule.

That some part of the sound, however, is within the state of New York, has been so constantly asserted by the political department of the government of the state, and upheld by the courts as above shown, that it must be considered as settled so far as this state is concerned,

and any discussion of that question would be idle until these decisions are overturned.

Doubtless the decisions of Judges Livingston and Betts, before referred to, in *The Elizabeth*, 1 Paine's, C. C. 10, and *The Martha Anne*, Olc. 18, are in conflict with this view, but they cannot be considered as binding.

II. There is great difficulty, however, in drawing the actual line of jurisdiction, and probably nothing short of a commission, or a decision by the court of last resort in an action instituted to fix the boundary, would be conclusive.

As far as our courts have laid down a rule, two lines have been named, one following the boundary line of the state as laid down in the Revised Statutes, being a direct line drawn from Point Judith, or the center of the channel between Fisher's Island and Connecticut, direct to Lyon's Point, as suggested by Judges Welles and Edmonds in *Manley v. The People*, Judge Dickerson in Jackalow's case, and Judges Woodruff and Shipman in *Keyser v. Coe*, which would give about two-thirds of the sound to the state of New York.

And the other, avoiding the questions of a direct grant of the sound, and holding, that even if the sound were not granted to the two states of New York and Connecticut, that these states succeeded to the dominion of the king over these waters, being a bay, strait or arm of the sea, in which case the proper line would follow the thread of the sound, with such deflections as may be required to include the islands confessedly within our jurisdiction.

This seems to be the leaning of the court in the case of *Mahler v. The Norwich, etc., Trans. Co.*, 35 N. Y. 352.

It will be apparent, therefore, with such different lines laid down by judicial decision, and depending on such different rules, that the question as to the exact line must be considered as an open question, but with every desire to support all proper claim on behalf of the state to jurisdiction.

It would appear reasonable, that where the courts of this state have decided, as in these cases, that a line drawn in one of these ways would include all the sound belonging to the state of New York, that such decisions would be almost conclusive.

Either of these lines would pass a considerable distance south of the Bridgeport oyster-bed, and leave it, if not in the state of Connecticut, at least without the state of New York.

III. For the reasons above given, I have not discussed the questions which arise in case it should be held that the sound was the high seas.

The rights of the citizens of the two states to fisheries and other

privileges would, of course, change, and, except so far as land within known headlands might be considered as the property of Connecticut, her laws regulating fisheries would be of no effect.

Should such a conclusion be arrived at, innumerable questions would necessarily arise.

IV. In view of all these matters, and the conclusions to which I have arrived, a means of settlement of the disputed questions is rather a matter of policy than of law.

If our claim be a doubtful one, we have the advantage of the decisions thus far upon it in our favor.

The state, of course, may file a bill in the supreme court of the United States, to ascertain and establish the proper boundary between New York and Connecticut, in which she may ask to be restored to any rights of sovereignty over land or water of which she has been deprived, and that her title to such portion of the sound as she may claim may be quieted. *State New Jersey v. New York*, 5 Pet. 283; *State Rhode Island v. Massachusetts*, 12 id. 658; *State Florida v. Georgia*, 11 How. 293; *Same v. Same*, 17 id. 478; *Virginia v. West Virginia*, 11 Wall. 39.

In such an action, the pleadings and proofs will be assimilated to the necessities of the case, in such a manner as to produce substantial justice between the parties, and the court may direct an issue of law or award a commission of boundary. *Rhode Island v. Massachusetts*, 12 Pet. 658, 734; *Same v. Same*, 14 id. 210, 256; *State Georgia v. Florida*, 17 How. 478.

And it might be seriously doubted, whether any settlements by compact or agreement, between the two states which divided the sound, would be effective or finally approved; and, in accordance with the practice laid down in *State Florida v. State Georgia*, 17 How. 479, the United States would doubtless be allowed to intervene and represent the general public in the supreme court.

NEW YORK, *September 8, 1873.*

JOHN L. CADWALADER.

LETTER FROM HON. F. C. BARLOW.

STATE OF NEW YORK:
OFFICE OF THE ATTORNEY-GENERAL, }
NEW YORK, *January 8, 1874.*

DEAR SIR—Last year the legislature passed a similar resolution of inquiry about the Bridgeport oyster-beds. It was near the close of the session, and I was not able to leave, and so got Mr. Cadwalader to look into the subject, and I inclose his opinion. I think New York has no claim

to these oyster-beds. Whether, if they be in Connecticut, a law forbidding the citizens of other states to fish there would not be a violation of the constitution of the United States, is still an unsettled question. Of course, this latter question is not one which the state of New York should be called upon to litigate. The individual fishermen concerned must, in the nature of things, do that. Three thousand dollars was appropriated by the legislature last year for expenses of the boundary question between Connecticut and New Jersey. One thousand seven hundred and fifty dollars has been spent in *Thompson v. Whitman*,¹ in the supreme court of the United States, involving the last-named question (*i. e.*, the boundary between New York and New Jersey), which case has been argued in the supreme court but not yet decided.

If you want further information on the Connecticut question, I advise you to send for John L. Cadwalader, 11 Pine street, New York, who is a good lawyer and has thoroughly investigated it.

Yours truly,

F. C. BARLOW.

HON. D. PRATT.

LETTER FROM HENRY J. SCUDDER.

September 29, 1873.

MY DEAR CADWALADER—I cannot pass with propriety upon your elaborate opinion, except I examine the references and authorities. The brief period given to its reading assured me that you had explored many sources of information that I have not seen, or if I have, so long past that I am rusty on them. This I feel to be the true course: Let an action be commenced to determine the boundaries; this will permit one state to claim as much as the fishermen claim, and will eventuate in a definite line of territorial division. Upon a decree by the court of last resort all must be satisfied. Short of that no one will be, on one side. I observed you indicated this course, but I really think it deserves, and is entitled to, *inquiry*.

Most truly,

H. J. SCUDDER.

JOHN L. CADWALADER, Esq.

—[*N. Y. Assem. Doc's*, 1874, No. 30.

¹ See reference to this case on page 560, *ante*.—[P.

[IN N. Y. ASSEMBLY.]

March 9, 1874.

* * * *

Mr. Prince offered for the consideration of the House a resolution, in the words following :

Whereas, The boundary line between the States of New York and Connecticut, through Long Island sound, has never been settled and established ; and,

Whereas, The State of Connecticut has passed laws¹ giving to the citizens of that State certain exclusive rights relative to oyster beds in Long Island sound, claimed to be within her jurisdiction, to the great injury of the citizens of this State ; and,

Whereas, The Attorney-General has given his opinion, in response to a resolution of the Assembly, that such laws are in violation of the Constitution of the United States ; therefore,

Resolved (if the Senate concur), That the Attorney-General be authorized and requested to commence such proceedings in the United States courts as will result in a determination and establishment of said boundary line between New York and Connecticut, in Long Island sound ; and also to take such legal measures as will test the constitutionality of the laws of Connecticut giving exclusive rights to her citizens as to oyster beds, and best to protect and advance the interests of the citizens of this State, in that regard.

Said resolution being concurrent,

Ordered, That the same be laid upon the table.

* * * *

—[*N. Y. Assem. Journal*, 1874, p. 547.

The above resolution was subsequently adopted by both houses: See *Assem. Journal*, pp. 633, 742; and Senate do., pp. 367, 405, Mr. King moving the same in the Senate.

¹The reference seems to be to the following provision, found in the *General Statutes of Connecticut*, Revision of 1875, Title 16, Chap. 4, Part I, Article I, Sec. 26 (page 213):

No person shall take, rake, or gather any oysters in any of the waters of this State, on board of any boat or vessel, for himself or any employer, unless he and his employer are at the time and have been for six months next preceding, actual inhabitants or residents of this State.—[P.

[STATE OF NEW YORK.]

Chap. 323.

AN ACT making appropriations for certain expenses of Government,

* * * *

Passed May 5, 1874.

* * * *

For the Attorney-General, to pay the expenses of carrying on two suits in the United States Circuit Court between this State and the State of Connecticut, pursuant to concurrent resolutions of the Legislature of this State, one of which is to determine the boundary line between the two States, and the other to test the constitutionality of certain laws of the State of Connecticut with regard to oyster beds, the sum of one thousand dollars, or so much thereof as may be necessary.

* * * *

—[*N. Y. Laws*, 1874, p. 384.¹

[STATE OF CONNECTICUT.]

[House Joint Resolution No. 73.]

[149.]

Approved July 24, 1874.

RELATING TO STATE BOUNDARIES.

Whereas, The general assembly at its May session, A. D., 1861, passed a resolution authorizing the governor of this state to take suitable measures for the settlement of the New York boundary line, which said resolution was approved July 3d, A. D., 1861 ;

And whereas, no steps have been taken since the passage of said resolution leading to a satisfactory result, and said boundary line is still in dispute : therefore,

Resolved by this Assembly ; That the governor of this State is hereby requested and directed to take such immediate action as he may deem expedient for the purpose of carrying said resolution into effect.

—[*Conn. Private Laws*, 1874, p. 247.

[GOV. INGERSOLL TO CONN. GEN. ASSEMBLY.]

May 5, 1875.

* * * *

The western boundary line of the State, between it and the State of New York, is still in dispute. In 1856, and again in 1859, commis-

¹ A like appropriation "for the expenses of carrying on the suits now pending in the United States court against the State of Connecticut, etc., was made by ch. 198 of the Laws of 1876 (Supply bill, p. 184).—[P.

sioners were appointed by both States to ascertain and run the line. They failed to agree, and thereupon, in 1860, the Assembly of New York adopted, as the boundary, a line reported to them by the Commissioners of New York, but without the concurrence of the Commissioners of Connecticut. This State has not assented to such action, and its authorities have refused to recognize the line thus adopted by New York. Pursuant to the vote of the last General Assembly, I have brought the subject to the attention of the Executive of the State of New York, and trust that he will be vested by the Assembly of that State with authority, similar to that possessed by the Executive of this State, to adjust a disagreement which certainly seems to be a needless one.

A more serious controversy is likely to arise between the two States respecting our southern boundary along Long Island Sound, involving, as it does, the right of fishing in waters now claimed to be within our jurisdiction. A suit is pending in the United States Circuit Court, for the Southern District of New York, growing out of the seizure and condemnation of a New York vessel, by the authorities of this State, for an alleged violation of our law relating to the taking of oysters in the waters of this State. As this suit directly involves not only the constitutionality of our oyster law, but also a question of jurisdiction depending upon the boundary line between the two States, the Assembly of New York has directed the Attorney-General of that State to assume its prosecution, and has made an appropriation toward its expense, with special view to a judicial decision, by the Supreme Court of the United States, of this boundary question. I submit to your consideration whether this State should not, with the same view, make similar provision for the defense of the suit.

* * * *

—[*Conn. Sen. Journal*, 1875, p. 39.]

[IN N. Y. SENATE.]

January 11, 1876.

* * * *

Mr. Prince offered the following :

Whereas, The Attorney-General has heretofore been authorized and requested, by resolutions of the Legislature, to institute suits in the United States courts to determine the boundary line between New York and Connecticut through Long Island sound, and also to obtain a decision as to the constitutionality of certain Connecticut oyster laws ; and whereas, early action in these matters is of great importance to a large industrial interest in this State ; therefore,

Resolved, That the Attorney-General be requested to communicate to

the Senate at as early a day as practicable, information as to the condition of said suits and the probability of their final conclusion.

The President put the question whether the Senate would agree to said resolution, and it was decided in the affirmative.

* * * *

—[*N. Y. Sen. Journal*, 1876, p. 63.

February 29, 1876.

* * * *

The President presented the following:

* * * *

Also, a communication from the Attorney General, in response to a resolution of the Senate, relative to the boundary line between New York and Connecticut, through Long Island Sound; which was laid upon the table and ordered printed.

* * * *

—[*N. Y. Sen. Journal*, 1876, pp. 223, 224.

STATE OF NEW YORK.

No. 43.

IN SENATE.

February 29, 1876.

COMMUNICATION

From the Attorney-General in response to a resolution of the Senate relative to the boundary line between New York and Connecticut through Long Island Sound.

STATE OF NEW YORK :

OFFICE OF THE ATTORNEY-GENERAL, }
ALBANY, February 25, 1876. }

To the Honorable the Lieutenant Governor :

In response to the resolution of the Senate dated January 11, 1876, the Attorney-General would respectfully report that the Hon. Henry J. Scudder was employed by the late Attorney-General to prosecute certain actions, with a view to determine the questions in dispute, between the State of New York and Connecticut. What progress has been made is shown by the annexed letter from Mr. Scudder.

“NEW YORK, January 17, 1876.

“DEAR SIR.—I am in receipt of your favor of 13th instant, covering copy of resolution of the Senate, and beg to say in reply: The action of Henry Scott against John Ketchum, *et al.*, was instituted by

me in pursuance of your instructions, for the double purpose of determining the boundary line between the State of New York and Connecticut, and the constitutionality of the statutes of Connecticut prohibiting all persons not citizens and resident of latter State for six months, from taking oysters within what is claimed by Connecticut to be its territorial boundaries. The action was originally commenced in our Supreme Court. Considerable delay, after receiving your instructions, was necessarily incurred in finding the defendants in our jurisdiction. When this difficulty had been overcome, and the parties properly brought into court, a motion was entered to remove the cause to the federal court. This was argued at length in resistance, but was granted, and the suit passed into the United States Circuit Court. The late venerable and learned Lewis B. Woodruff was the judge of this court, at the time of the transfer, and so continued until his death, last summer. He was too ill for months preceding his death to discharge the duties of his office. The circuit was held by a district judge, and for many reasons, some not of a character to be disclosed, with due regard to the interest of the State in the proper carrying out of the policy of the State in this litigation, the action could not be brought to trial. Upon the calendar of the court now sitting, the case stands 285, and has not been reached, nor do I think it should be tried this term, and that for the reasons above referred to, and sufficient, I am persuaded to convince you of the importance of putting the case over until under the present admirable organization of the business of the circuit it can be so tried that no imputation, or doubt, may exist in either State, that it has not received the most elaborate and impartial consideration from all engaged in its disposition. You will pardon me if I am somewhat obscure in treating this portion of the subject, for the reason that pointed and explicit statements might admit of greater misinterpretation than these general ones. I can only rely upon your certain apprehension of the propriety of my views, and satisfactory assurance to the Senate, that they should be approved.

“The questions involved in this action are grave and interesting. In the course of their consideration, I have made very wide historical researches upon the subject of boundary. The result of these inclines me to submit, at some early day hereafter, pending the legislative session, and before the trial of this action, for your deliberation and possible conveyance to the Governor or Legislature, certain propositions that may be greatly for the interest of the State, and clearly for the benefit of those who are presently concerned in the decision of the case in hand. It is ever difficult to predict the final conclusion of litigation between strong contestants, and certainly that difficulty is heightened when States are parties. Upon the final conclusion of this

in hand, therefore, I may be pardoned for putting it at not earlier than two years, assuming the ordinary appeals and delays incident, as well to the magnitude of the interests concerned, the character of the parties, the convenience and rules of the courts, and usual contingencies in like cases.

“If I can more fully deal with the resolution of the Senate, or better explain to you any point in the subject-matter, I beg your early command. Until which I have the honor to remain

“Your obedient servant,

“HENRY J. SCUDDER.

“HON. CHARLES S. FAIRCHILD,

“Attorney-General.”

Mr. Scudder, in another letter, suggests the propriety of a further appropriation of \$1,000 for the expenses of this litigation, and states that the Legislature of Connecticut has appropriated \$2,000 to protect the interest of that State.

The Attorney-General respectfully recommends that such an appropriation be made.¹

Very respectfully,

CHARLES S. FAIRCHILD, —

Attorney-General.

—[*N. Y. Sen. Doc's*, 1876, No. 43.

[GOV. ROBINSON TO N. Y. LEGISLATURE.]

January 1, 1878

* * * *

The Legislature has heretofore passed resolutions directing the Attorney-General to take legal proceedings to determine the boundary line between New York and Connecticut through Long Island sound. The subject has been fully examined on behalf of the Attorney-General, and the result of such examination submitted to me. I am of the opinion that it is best that this question should be settled by a commission, to be appointed by the two States. I am informed that the Governor of Connecticut concurs in this view, and will so advise the Legislature of that State. I, therefore, recommend the appointment of commissioners to act with commissioners to be appointed by Connecticut, to determine the boundary line between the State of New York and Connecticut through Long Island sound.

* * * *

—[*N. Y. Sen. Journal*, 1878, p. 26.

¹ See foot-note, p. 576, *ante*.—[P.]

[GOV. HUBBARD TO CONN. GEN. ASSEMBLY.]

January 9, 1878.

* * * *

The boundaries of the State, both on the south and west, are, and for a long time have been, unsettled. This state of things has led, in many instances, to controversies of private right and conflicts of civil and criminal jurisdiction, with no common arbiter for their settlement. The State appropriated in 1875 the sum of \$2,000 in aid of a private litigation in the State of New York involving the question of our boundary lines through Long Island Sound. Similar action was taken, I am advised, by the State of New York. This suit has never been brought to trial, and, if it had been, would have contributed nothing to the settlement of the question. Attempts have been made at different times to adjust these controversies by public negotiation. All such attempts have hitherto proved unsuccessful. I beg to suggest whether it is not best, in the interests of peace and good neighborhood, to take some effectual measures at once for the settlement of these questions, and thus to have done with a dispute which, so long as it is unadjusted, will prove a source of mischief and ill-blood between the people of two sister States, long and intimately connected in commercial and social relations.

The Governor of the State of New York has recommended to the Legislature of that State the appointment of commissioners to treat for the settlement of the boundary line through Long Island Sound. I recommend the appointment of Commissioners on the part of this State to treat for the settlement of both our southern and western boundaries. In case either state shall fail to make such appointment for the settlement of both boundaries, or in case the Commissioners, if appointed, shall be unable to agree, I advise that proceedings for the determination of these questions be taken in the Supreme Court of the United States, the only judicial tribunal having jurisdiction of the parties and the controversy.

* * * *

—[*Conn. Sen. Journal*, 1878, p. 53

[STATE OF CONNECTICUT.]

[House Joint Resolution No. 149.]

[71.]

Appointing Commissioners to fix the Boundary Lines between the States of Connecticut and New York.

Approved March 13, 1878.

Resolved by this Assembly: That the governor be and is hereby authorized to appoint three commissioners on the part of this state to ascertain the boundary lines between this state and the state of New York, both upon the west and south, and said commissioners are hereby authorized and empowered to meet such commissioners as may be appointed and vested with similar powers by the legislature of the state of New York, and with them, as soon as may be, to ascertain and agree upon both of the said boundary lines, designating the same by suitable monuments at such places as they shall deem necessary; and said commissioners are authorized to employ necessary surveyors and assistants. In case of the death or resignation of said commissioners, or either of them, the governor is hereby empowered to fill the vacancy or vacancies so occurring. If the said commissioners shall be unable to meet commissioners on the part of the state of New York, clothed with similar powers, or, meeting them, shall be unable to agree with them upon both of the boundary lines aforesaid, they shall report such failure to the governor of this state, who shall thereupon and he is in that event hereby authorized and directed to take such steps as to him may seem necessary to have said boundary lines, both upon the west and south, finally fixed and determined by the supreme court of the United States. Said commissioners shall report their doings to the general assembly of this State for ratification, and shall be compensated at the rate of ten dollars each for every day of actual service, and their necessary expenses.

Resolved, That the secretary cause a duly certified copy of the foregoing resolution to be transmitted to the governor of the state of New York.

— [Conn. Private Laws, 1878, p. 77.]

A bill entitled "An Act concerning the limits and jurisdiction of the State of New York and the State of Connecticut," was passed by the Legislature of New York in May, 1878, but failed to receive the approval of the Governor. The next year the following act,

framed in accordance with his views, was passed, the State of Connecticut meanwhile bringing a suit in the U. S. Supreme Court, as authorized by the foregoing joint resolution of March 13, 1878. Further reference to this suit will be made hereafter. (See page 589.)

[STATE OF NEW YORK.]

Chap. 166.

AN ACT to provide for the settlement of the boundary lines between the State of New York and the State of Connecticut.

Passed April 16, 1879.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. The secretary of state, the attorney-general and the state engineer and surveyor are hereby designated and appointed as commissioners on the part of the State of New York to ascertain the boundary lines between this state and the state of Connecticut, both upon the west and south of the state of Connecticut, and the said commissioners are hereby authorized and empowered to meet such commissioners as have been or may be appointed, and vested with similar powers on the part of the state of Connecticut, under authority of the legislature thereof, and with such last-mentioned commissioners as soon as may be, to ascertain and agree upon both of the said boundary lines, designating the same by suitable monuments at such places as they shall deem necessary; and said commissioners hereby appointed are authorized to employ such surveyors and assistants as may be necessary. The said commissioners shall report their doings to the legislature of this state for its consideration and ratification.

§ 2. The sum of three thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury applicable to such purposes to pay the necessary expenses and disbursements of the said commissioners in the performance of the duties required by this act, and the comptroller is authorized to draw his warrant upon the treasurer for the moneys hereby appropriated, from time to time, as the same may be needed.

§ 3. This act shall take effect immediately.

[IN N. Y. ASSEMBLY.]

February 11, 1880.

* * * *

Mr. Speaker presented a copy of the report of the New York commissioners appointed to settle the disputed boundary line between the State of New York and Connecticut, pursuant to chapter 166 of the Laws of 1879, which was laid on the table and ordered printed.

* * * *

—[*N. Y. Assem. Journal*, 1880, p. 211.

STATE OF NEW YORK.

No. 53.

[IN ASSEMBLY.]

February 11, 1880.

REPORT

OF THE NEW YORK COMMISSIONERS APPOINTED TO SETTLE THE
DISPUTED BOUNDARY LINES WITH THE STATE OF CONNECTICUT.

Albany, February 11, 1880.

HON. GEORGE H. SHARPE,

Speaker of the Assembly:

DEAR SIR— I herewith transmit to the Legislature a copy of the report of the New York Commissioners appointed to settle the disputed boundary line between the State of New York and Connecticut, pursuant to chapter 166 of the Laws of 1879.

Very respectfully,

HORATIO SEYMOUR, JR.,

State Engineer and Surveyor.

REPORT

* * * *

To the Honorable, the Legislature of the State of New York:

By chapter 166 of the Laws of 1879, a copy of which is hereto annexed, the secretary of State, the attorney-general and the State engineer and surveyor were designated as commissioners on the part of the State of New York, to ascertain the boundary line between this State and the State of Connecticut, both upon the west and south of the State of Connecticut, and were empowered to meet commissioners vested with similar powers on the part of the State of Connecticut, under the authority of its legislature, and with them to ascertain and agree upon

both of the said boundary lines, designating the same by suitable monuments at such places as might be deemed necessary; and the said commissioners were required to report their doings to the legislature of this State for its consideration and ratification.

On the part of the State of Connecticut, Hon. Origen S. Seymour, Hon. La Fayette S. Foster and Hon. William T. Minor, three eminent citizens, were designated as commissioners, and the negotiations with these gentlemen have been of the most courteous and agreeable character.

In pursuance of the purpose for which they were appointed, the commissioners of the respective States have held several meetings and made such progress with the business intrusted to them as its importance, and their other duties permitted. They have met at Saratoga, at Albany, and twice at New York city.

In October last, the commissioners procured from the quarantine commissioners of the State, the steamboat controlled by those commissioners, and made a trip through Long Island Sound, for the purpose of making a personal inspection of the coast-line of Connecticut, and of the various islands contiguous to that coast in the Sound. The undersigned have also procured such information as they were able respecting the fisheries in the Sound and the rights claimed in such fisheries by the inhabitants of the respective States. The undersigned employed James T. Gardner, Esq., director of the State survey, as consulting engineer, in their inspection of the Sound and the examination of the various questions which have arisen connected with the object of the commission, and have received from him much valuable assistance.

The undersigned have assumed from the fact of the creation of a joint commission to settle the differences respecting the boundary lines between the two States, that it is the desire of each State to have those differences amicably and honorably adjusted, and to remove all cause for future controversies by establishing boundaries which, while just to both, should not derogate from the honor or the reasonably clear rights of either State.

The negotiations have been conducted in this spirit, and, unlike the former commissions, created for the same purpose, have resulted in an agreement.

At a meeting of the joint commission held in New York in December last, a definite understanding was reached in respect to the entire boundary in controversy. The line upon the west of the State of Connecticut is of little practical importance, and was agreed to be fixed and established as the same was surveyed, marked, and reported by a former New York commission in the year 1860. The question of locating a line through the Sound involved more serious and important

considerations, requiring an analysis of the old patents from the British crown. An examination of judicial decisions in the State and Federal courts bearing upon the subject, investigations concerning the facts of actual jurisdiction assumed or exercised by the respective States, a consideration of the point of Federal authority, and of the principles of international law applicable to the question, but upon the most careful deliberation, a line for that boundary was also agreed upon; and the agreements entered into respecting both lines are hereto annexed, and reported to your honorable body.

By this agreement, the line through the Sound begins at a point opposite Byram's Point, formerly called Lyon's Point, and runs substantially through the center of the Sound until it approaches Fisher's Island; where it deflects northerly and then runs easterly through the channel between Fisher's Island and the coast of Connecticut, so as to include that island within the boundaries of the State of New York. The agreement contains a proviso that the fixing of the territorial line between the two States shall not affect the rights of either State or its inhabitants in respect to fishing, either for shell fish or floating fish, in the waters of Long Island Sound, as such rights have heretofore existed, either by virtue of patents from the British Crown, or otherwise; and also a further proviso, that it shall not affect any grants of property rights heretofore made by authority of either State.

The undersigned have carefully examined the various royal patents under which the conflicting claims of the two States have arisen in respect to shell fishing in the waters of Long Island Sound, and respecting the Islands of the Sound. The claims on the part of the State of Connecticut are deduced from the patent granted by Charles the Second, king of England, on the 20th day of April, 1662, and the patent granted by Robert, earl of Warwick, March 19, 1631; and also from the award of settlement made by royal commissioners in 1664, in the matter of the contention between the colony of Connecticut and the duke of York, concerning Long Island, which award determined that island to be within the grant to the duke of York, and subject to his authority, and which was assented to by the colony of Connecticut.

On the part of the State of New York, the patents by which its rights are conferred are the patent from or by authority of James I, king of England, to Alexander, earl of Sterling, about the year 1614, the rights granted by which were subsequently conveyed by James the duke of York; the two patents from Charles II, king of England, to his brother James, the duke of York, the first dated March 12th, 1664, and the second, the 29th day of June, 1674, which latter patent was confirmatory of the former. The award or settlement made by the royal commissioners in 1664 is also largely relied upon on the part of the State of

New York, as well as the limitations and reservations in the Connecticut patent granted April 20th, 1662.

The boundaries and descriptions given in various patents, to which reference has been made, are mostly vague and uncertain, owing doubtless to the imperfect geographical knowledge possessed at that time, and it is not easy to determine from the language of those patents, nor from the award made by the royal commissioners in 1664, precisely where the boundary line was intended to be located between the Colony of Connecticut and the Province of the duke of York, or whether each was intended to be bounded on the Sound as "The Sea." The award, in terms only determines the right of the duke of York to Long Island, but by implication favors the title of the duke to the Sound and its islands.

A construction of these patents appears to be warranted which would carry the boundary line of New York to the coast of Connecticut, including within the limits of New York all the islands of the Sound, and that this was the construction originally given, seems probable from many facts and circumstances; but this construction is denied on the part of Connecticut, and the claim of the State is that the boundary, under a fair construction of the patents, and the rules of international law, is the center of the Sound.

It is also difficult to determine from the old patents whether the Sound was regarded as an inland arm of the sea, or as the open sea, although it is probable from the language of those patents that the Sound at that time was understood to be the open sea. Both the Province of New York and the State of New York seem to have claimed Long Island Sound and the various islands it contains to be within the territorial jurisdiction of the State and to have exercised political authority over it in accordance with such claim. The statute of New York which defines the boundaries of the State does not specify the course of the line from Sandy Hook to Lyon's Point with any particularity, but gives a general description as follows:

"In such manner as to include Staten Island, and the islands of Meadow on the west side thereof, Shooters Island, Long Island, The Isle of Wight, now called Gardner's Island, Fisher's Island, Shelter Island, The Gull Islands, and all the islands in the waters and bay of New York and within the bounds above described." 1 R. S. 65.

Cases have frequently arisen in the courts in which the question of the jurisdiction of New York over the waters and islands of Long Island Sound have been considered; but no decision has been rendered which gives authoritative judicial construction to the patents which have been referred to, or which can be regarded as defining the location of the boundary line.

In the case of *Mahler v. Transportation Company* (35 New York

Reports, 352), a very able and learned opinion was delivered by Judge Porter upon the questions under consideration; in which all the authorities bearing upon the question of jurisdiction are examined and considered. The learned judge holds, and the majority of the court concurred with him in his opinion, that Long Island Sound is not the open sea, but an inland arm of the sea, and may therefore be embraced within the jurisdiction of the respective States. He says, "that Long Island Sound was included within the territorial dimensions of the British empire at the date of the charter from Charles II to the duke of York is a proposition too plain for argument; it was an inland arm of the sea, washing no shores but those of the provinces and with no opening to the sea except a passage between the British headlands, less than five miles apart. * * * The rule is one of universal recognition, that a bay, strait, or arm of the sea, lying wholly within the dominion of the sovereign and admitting of no ingress from the ocean except by a channel between contiguous headlands which he can command with his cannon on either side, is a subject of territorial dominion. Within this rule, the islands at the eastern extremity of Long Island Sound are the *fauces terræ* which define the limits of territorial authority and make the line of separation between the open ocean and the inland sea." "The right of the king to the waters of these inland seas and bays, and his authority to grant or withhold them in his royal charters, was settled by the Supreme Court of the United States in the case of *Martin v. Waddell* (16 Peters, 367)."

He further says: "The question whether the waters of the Sound were embraced within the royal grant to the duke of York, is one which we are not called upon to determine; if they were, they passed under the subsequent grants to the States of New York and Connecticut; if they were not, they remained in the king until his rights were divested by the Revolution. The States contiguous to these, as to our other inland seas and bays, then succeeded to his dominion over their waters, and their property in them became absolute, subject to the public right of navigation." And he adds: "In the absence of any prior grant of the whole or any portion of these waters, each of the contiguous States succeeded to territorial dominion from its own shore to the middle of the Sound. So far their possession was co-terminous, the property on New York in the residue extending from shore to shore. Such is the settled rule applicable to the neighboring States bounded by a territorial inland sea." (Id. 356.)

The same opinion also expresses this important principle: "The State of New York has not relinquished to the Federal government its territorial rights or its general jurisdiction over the waters of Long Island Sound.

"The Supreme Court of the United States has adjudged that the cession by the States to the Federal authorities of admiralty and maritime jurisdiction over our inland seas and bays was not a cession of the waters, or of general jurisdiction over them; and that the States retain unimpaired the residuary powers of legislation and their rights of territorial dominion." (*United States v. Beavan*, 8 Wheaton, 336.)

The construction of the patents and the location of the boundary line were left undetermined by this case. In one reported case it was held by a single judge that the Sound was not embraced in the charter to the duke of York, and that consequently the State had no jurisdiction over its waters (*The Stoop Elizabeth*, 1st Paine's C. C. 10), but this case is not of controlling authority.

In another case a learned judge was of opinion that the waters and islands of Long Island Sound up to a line running directly from Fisher's Island to Lyon's Point (the south-west corner of Connecticut) are within the territorial jurisdiction and bounds of the State of New York, as declared in the Revised Statutes. *Manley v. The People* (3rd Selden, 295).

It thus appears that very little judicial light has been shed upon the question of the construction of the old patents, or the location of the boundary line between the two States.

A suit was commenced in the United States Supreme Court, by the State of Connecticut against the State of New York, in 1878, for the settlement of the boundary line through the Sound, which is now pending and at issue in that court. In case of the ratification of the agreement entered into by the joint commission, that suit will doubtless be discontinued, or a decree entered in it in conformity with the agreement.

In reaching the conclusion which is herewith reported to your honorable body, the undersigned have been guided by certain considerations which they deem of more importance than mere territorial extension a few miles, one way or the other, over the Sound. These are: First, that the Sound should be regarded as an inland arm of the sea, and not as the open sea, so that the jurisdiction of the respective States shall cover the entire Sound, up to the line mutually recognized as the boundary between them. Second, that it is more important to have some line definitely fixed and determined as the boundary between the States, so as to prevent conflicts of jurisdiction, and to give unquestioned authority to each State for judicial and police purposes, than the particular place where that line may be located.

The undersigned have not been able to perceive any substantial advantage to the State of New York from the extension of its jurisdiction to the coast of Connecticut, or from the title and possession of

the small islands which lie near the Connecticut coast, in the Sound, while for manifest reasons, it may be regarded as objectionable, upon the part of the State of Connecticut, to have those islands under the jurisdiction of the State of New York, and subject to its laws.

By reserving in the settlement of this line all the rights of fishing, as well for shell fish as for floating fish, as they have heretofore existed, to the inhabitants of the State of New York, irrespective of the location of the line, the undersigned believe that all the substantial rights in which the inhabitants of New York can be interested are preserved, and that the peace and good order of the respective States will be promoted by the ratification of the line which has been agreed upon by the commissioners.

All of which is respectfully submitted.

ALLEN C. BEACH,
Secretary of State.

A. SCHOONMAKER, JR.,
Attorney-General.

HORATIO SEYMOUR, JR.,
State Engineer and Surveyor.

Dated *December 29, 1878.*

MEMORANDUM.

Memorandum of agreement by and between the subscribers, commissioners of the States of New York and Connecticut, respectively, to settle the question of the boundaries between said States, being thereunto authorized by the resolutions of said States, respectively passed by them, as hereunto annexed. That is to say, we, Allen C. Beach, secretary of State, Augustus Schoonmaker, Jr., attorney-general, and Horatio Seymour, Jr., State engineer and surveyor, commissioners of the State of New York, and we, Origen S. Seymour, La Fayette S. Foster, and William T. Minor, commissioners of the State of Connecticut, have agreed, and do hereby agree, to fix, determine and establish the boundaries between our respective States, subject to the approval and ratification of the legislatures of our respective States, in the following manner :

We agree that the boundary on the land, constituting the western boundary of Connecticut and the eastern boundary of the State of New York, shall be and is as the same was defined by monuments erected by commissioners appointed by the legislature of the State of New York and completed in the year 1860. The said boundary-line extending from Byram Point, formerly called Lyon's Point, on the south, to the line of the State of Massachusetts on the north.

And we further agree that the boundary on the Sound shall be and is as follows: Beginning at a point in the center of the Channel about six hundred feet south of the extreme rocks of Byram Point, marked No. 0, on appended U. S. Coast Survey chart, thence running in a true south-east course 3 1-4 statute miles, thence in a straight line (the arc of a great circle) north-easterly to a point four statute miles true south of New London lighthouse, thence north-easterly to a point marked No. 1 on the annexed U. S. Coast Survey chart of Fisher's Island Sound, which point is on the long E. 3-4 N. sailing-course drawn on said map, and is about 1,000 feet northerly from the Hammock or N. Dumpling lighthouse, thence following said E. 3-4 N. sailing-course as laid down on said map easterly to a point marked No. 2 on said map, thence south-easterly toward point marked No. 3 on said map, so far as said States are coterminuous. *Provided*, however, that nothing in the foregoing agreement contained shall be construed to affect existing titles to property corporeal or incorporeal held under grants heretofore made by either of said States, nor to affect existing rights which said States, or either of them, or which the citizens of either of said States may have, by grant, letters-patent or prescription of fishing in the waters of said Sound, whether for shell or floating fish, irrespective of the boundary line hereby established, it not being the purpose of this agreement to define, limit or interfere with any such right, rights or privileges, whatever the same may be.

In witness whereof we have hereunto set our hands to this instrument and to a duplicate thereof, December 8th, 1879.

ALLEN C. BEACH,

Secretary of State.

AUGUSTUS SCHOONMAKER, JR.,

Attorney-General.

HORATIO SEYMOUR, JR.,

State Engineer and Surveyor.

Commissioners of the State of New York.

ORIGEN S. SEYMOUR,

LAFAYETTE S. FOSTER,

WILLIAM T. MINOR,

Commissioners of the State of Connecticut.

[STATE OF CONNECTICUT.]

[Senate Joint Resolution No. 33.]

[67.]

Approved March 12, 1880.

BOUNDARY LINE BETWEEN CONNECTICUT AND NEW YORK.

WHEREAS, An agreement has been made between commissioners appointed by the State of Connecticut of the one part, and commissioners appointed by the State of New York of the other part, a copy of which agreement is as follows, to wit:

MEMORANDUM of agreement [etc., as on page 590, *ante*], * *
now therefore, it is

Resolved by this General Assembly: SECTION 1. That said agreement be, and the same is hereby, approved and adopted by the state of Connecticut.

SEC. 2. The governor is authorized and requested to communicate the foregoing action of this assembly to the governor of the state of New York, and upon due notice being received of the adoption of said agreement by the state of New York, such notice shall, under the authority of the governor of this State, be filed in the office of the secretary of this State, and upon the same being so filed, said agreement shall become binding and operative, and in full force, and the boundary between this state and the state of New York shall be fixed and established as therein agreed.

SEC. 3. Upon the ratification of said agreement the governor is authorized, in concurrence with the executive of New York, to communicate to Congress the action of the two states on this subject, and to request the approval of Congress of the boundaries thus established.

—[*Conn. Private Laws*, 1880, p. 44.]

[STATE OF CONNECTICUT.]

[Senate Joint Resolution No. 37.]

[182.]

CONCERNING FISHER'S ISLAND.

Approved, March 25, 1880.

WHEREAS, Fisher's island lies near to the coast line of the state of Connecticut, and it is to the advantage of the state that said island should be within its jurisdiction, therefore,

Resolved by this Assembly: SECTION 1. That Origen S. Seymour, Lafayette S. Foster, and William T. Minor be, and they hereby are, appointed commissioners on the part of this state, with power to nego-

tiate with the state of New York or any commissioners which may be appointed by said state, and make an agreement between both states under which the boundary line lately agreed upon by the commissioners of the state of New York and this state may be so changed that Fisher's island may be set to and become a part of the state of Connecticut.

SEC. 2. Said commissioners shall report their doings to the general assembly of this state for ratification, and shall be compensated at the rate of ten dollars each for every day of actual service and their expenses, and in case of the death or resignation of said commissioners or either of them the governor is hereby empowered to fill the vacancy or vacancies so occurring.

SEC. 3. The governor shall cause a duly certified copy of this resolution to be transmitted to the governor of the state of New York.

—[*Conn. Private Laws*, 1880, p. 137.

[STATE OF NEW YORK.]

Chap. 213.

AN ACT to ratify and confirm the agreement in relation to the boundary lines between the state of New York and the state of Connecticut, entered into by commissioners on the part of said states.

Passed May 8, 1880.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The agreement for the settlement of the boundary lines between the State of New York and the State of Connecticut, entered into by the commissioners appointed for that purpose on the part of said States, respectively, a duplicate original of which is on file in the office of the secretary of State, and a copy of which has been reported to the legislature, is hereby ratified and adopted. The said agreement is as follows, namely: "Memorandum of agreement [etc., as on page 590, *ante*]. * * *

§ 2. The governor is authorized and requested to transmit a copy of this act to the governor of the State of Connecticut, and, upon receiving due notice of the adoption of said agreement by the State of Connecticut, the governor of this State shall cause such notice to be filed in the office of the secretary of State, and, upon the same being so filed, the said agreement shall become binding and operative, and in full force, and the boundary between this State and the State of Connecticut shall be fixed and established as specified and provided in said agreement.

§ 3. Upon the said agreement taking effect as herein provided, the

governor is authorized, in concurrence with the executive of Connecticut, to communicate to congress the action of the two States on this subject, and to request the approval of congress of the boundaries thus established.

[Gov. ANDREWS TO Gov. CORNELL.]

EXECUTIVE DEPARTMENT,

STATE OF CONNECTICUT,

HARTFORD, *June 4, 1880.* }

His Excellency ALONZO B. CORNELL, *Governor of the State of New York.*

SIR: I have the honor herewith to transmit to you a duly certified copy of the Resolution passed by the General Assembly of this State relating to the Boundary line between this State and the State of New York. In accordance with the second section of said Resolution I hereby make known to you that the agreement of the Joint Commission establishing the Boundary Line between the State of Connecticut and the State of New York has been approved and adopted by the State of Connecticut.

The people of both States may well be congratulated that this [word obliterated] boundary line, unadjusted for more than a hundred years, is now so happily settled.

I have the honor to be,

Your Excellency's Obedient Servant,

—[*Original M S. Letter.*

CHAS. B. ANDREWS.

[Gov. CORNELL TO Gov. ANDREWS.]

STATE OF NEW YORK :

EXECUTIVE CHAMBER,

ALBANY, *August 5, 1880.* }

SIR: Your letter of the 4th of June last, enclosing a certified copy of the resolution of the General Assembly of the State of Connecticut, ratifying the agreement of the joint commission establishing the boundary lines between the States of New York and Connecticut, was duly received. The congratulation expressed in view of the settlement of a question so long unadjusted, is especially fitting, and most cordially reciprocated.

By direction of the Legislature of this State, a certified copy of chapter 213, of the Laws of New York, passed May 8, 1880, entitled "An act to ratify and confirm the agreement in relation to the boundary lines between the State of New York and the State of Connecticut,

entered into by commissioners on the part of said States," is herewith transmitted. Pursuant to section 3 of said act, a memorial to Congress, in quadruplicate, is respectfully submitted for your concurrence, touching the joint action of the two States on the subject contained, and requesting the approval of the same by Congress.

While making this communication to Congress, it is suggested that in order to preserve a complete record of every proceeding relative to this matter it would not be inappropriate to deposit a copy of the memorial, duly authenticated, in the office of the Secretary of State, in each State. Accordingly, therefore, a suitable number of copies have been prepared and attested by me; and if commended to your judgment, be pleased to return two of them to me with your signature affixed, together with copies of the joint resolution of your General Assembly, for the purpose and uses mentioned.

Yours very truly,

ALONZO B. CORNELL.

His Excellency, CHARLES B. ANDREWS, *Governor of the State of Connecticut.*

[MEMORIAL TO CONGRESS.]

To the Congress of the United States:

In accordance with the concurrent action of the Legislature of the State of New York, and the General Assembly of the State of Connecticut, the undersigned respectfully communicate and make known to Congress that the agreement in relation to the boundary lines between the State of New York and the State of Connecticut, entered into by commissioners on the part of the said two States, has been formally ratified and confirmed, as specifically shown and set forth by the acts of the Legislatures of the respective States, true copies of which are hereto annexed.

And pursuant to said acts, in like terms adopted, it is hereby respectfully requested by us jointly, on the part of our respective States, that the action taken and done on the subject of the boundaries thus established, be approved by Congress.

(Signed)

ALONZO B. CORNELL,

Governor of the State of New York.

CHARLES B. ANDREWS,

Governor of the State of Connecticut.

August, 1880.

—[*Public Papers of Gov. Cornell*, 1880, pp. 95, 104.]

[IN CONGRESS.]

[Public — No. 46.]

AN ACT concerning settlement of boundary lines between New York and Connecticut.

Approved February 26, 1881.

Whereas, commissioners duly appointed on the part of the State of New York, and commissioners duly appointed on the part of the State of Connecticut, for the purpose of settling the boundary line between said States, did execute an agreement in the words following, to wit:¹

* * * * *

and

Whereas said agreement has been confirmed by the legislatures of said States of New York and Connecticut respectively: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the Congress of the United States be, and hereby is, given to said agreement, and to each and every part thereof; and the boundaries established by said agreement are hereby approved: *Provided, however,* That nothing herein contained shall be construed to impair or in any manner to affect any right of the United States or jurisdiction of its courts in and over the islands or waters which form the subject of said agreement.

DEPARTMENT OF STATE.

April 27, 1881.

A true copy,

SEVELLON A. BROWN,

Chief Clerk.

[GOV. ANDREWS TO GOV. CORNELL.]

STATE OF CONNECTICUT:

EXECUTIVE DEPARTMENT,

HARTFORD, *January 3, 1881.* }

His Excellency,

ALONZO B. CORNELL,

Governor of New York:

SIR:

I beg to inform you that in accordance with the provisions of special act 182 passed by the General Assembly of Connecticut at the January session 1880, a certified copy of which I have caused to be forwarded to you, I have appointed the Hon. Richard A. Wheeler, of Stonington,

¹ See page 590, *ante*.—[P.]

a member of the Commission created by said act, in place of the Hon. L. F. S. Foster, deceased.

I have the honor to be

Your obedient servant,

CHARLES B. ANDREWS,

Governor.

—[Original MS. Letter.

[GOV. CORNELL TO THE N. Y. LEGISLATURE.]

January 4, 1881.

* * * *

The long-standing controversy in regard to the boundary line between this State and Connecticut has finally been adjusted in accordance with the terms agreed upon by the Commissioners appointed by the Legislatures of the two States. The necessary documents have been officially exchanged by the Executives, who have also united in a petition to Congress requesting the approval and confirmation of such settlement by the United States.

* * * *

—[N. Y. Assem. Journal, 1881, p. 26.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
ALBANY, January 17, 1881.

To the Legislature:

Herewith is respectfully transmitted a certified copy of an act of the General Assembly of the State of Connecticut, providing for a commission to negotiate with the State of New York concerning Fisher's Island.

ALONZO B. CORNELL.

* * * *

—[N. Y. Assem. Journal, 1881, p. 53.

DETERMINATION OF THE NEW YORK AND NEW JERSEY
JOINT BOUNDARY LINE.

[GOVERNOR LOVELACE TO INHABITANTS OF STATEN ISLAND.]

Fort James, New York,
May 12, 1669.

Gentlemen

Having lately received a letter from my worthy Predecessor C^m Nicolls, wherein hee assures mee that his Royall Highnesse has declared his pleasure that Staten Island shall not att all belong to New Jersey but bee esteemed as part of New Yorke and appertaine to this Governm^t [here follows an order to cause a Town Meeting to be assembled, etc.] —[*N. Y. Orders, Warrants, Letters*, in office of N. Y. Sec^y of State, ii, 410.

[GOVERNOR LOVELACE TO CAPT. JAMES CARTERETT OF NEW JERSEY.]

September 18, 1672.

S^r:

I receiv'd yo^r Lett^r by y^e hands of M^r Jones; y^e Contents were a Narrative of what had past between one of yo^r Magistrates & my Marshall; I must confess I have heard something of that Story though imperfectly; neither did I give too much Credit to his Relation, finding him to bee too much transported, w^{ch} I can attribute to noe other reason, than what hee averrs, his hard Treatm^t; 'Tis true, I employ'd him to forewarne all persons (that had not that common Civility in them to desire Liberty of mee) to cutt & carry away Hay from Staten Island without my Approbaçon; but it seems M^r Hopkins (whether in contempt or Derision) p^rsum'd to make an Essay, whither the Propriety belong'd to his Royall Highness, or y^e Lord Proprieto^r & as my Servant averrs, when that was y^e Dispute, hee was soe confident as to decide it theirs (for that was the Terme) And upon that Conclusion perhaps us'd him more vigorously than some undecent Reply of my Servant might meritt.

S^r I hope there will not bee an Occasion of a Controversy of the Title of that Place after 8 yeares possession, together with a lawfull Purchase of the Natives, & not the least Contradiction from y^e Lord Proprieto^r; but if any pragmatick Person, out of any Officiousness or sinister Ends of his own shall intermeddle in that Affayre, I shall assure him to maintaine my Royall Masters Interest to that Place, to the utmost of my Ability; M^r Jones brought another Letter, but find-

ing the Superscription to bee Mr Hopkins his Hand, with whom I never had any Correspondence (neither desire I any) I refus'd the Acceptaçon. I have noe more at present, but that I am

Yo^r humble Servant

FR: LOVELACE.

—[*N. Y. Gen. Entries*, in office of N. Y. Sec'y of State, iv, 207.

Warrant to prepare a Patent for Sir George Carteret for East Jersey.

July 23, 1674.

WHEREAS the King my Sovereigne Lord and Brother hath bene pleased by his letters Patents under the Great Seal of England to give and graunt to me and my heires All that part of the main land of New England in America now called by the name of New York together with Long Island and severall lands and territories in the said Lr^s Patents more at large expressed: And Whereas I have thought fit to give and conferr upon Sir George Carteret Vice-Chamberlaine of His Ma^{ty} Household and his heires, All that tract of land adjac^t to New England and lyeing and being to y^e Westwards of Long Island and Manhatans Island, and bounded on the East part by the maine Sea, and part by Hudson's River, and extends Southwards as farr as a certaine Creeke called Barnegat, being about y^e middle betweene Sandy Poynt and Cape May, and bounded on the West in a streight lyne from the said Creeke called Barnegat to a certaine Creeke in Delaware River next adjoining to and below a certaine creeke in Delaware River called Rankokus Kill, and from thence up the said Delaware River to y^e Northermost branch thereof which is in 41 Degrees and 40 minutes of Lat. and on the North crosseth over thence in a streight lyne to Hudson's River in 41 Degrees of Latitude: These are to will and require you forthwith to prepare a bill to passe my signature conteyning a graunt of y^e aforesaid lands to the said Sir George Carteret and his heires, reserving the annuall rent of Twenty Nobles to me and my heires; and you are to insert such apt clauses as may make my said graunt effectuall in law to the said Sir George Carteret and his heires. Provided that this Warr^t be first entered with my Audit^r and for so doing this shalbe your Warr^t Given und^r my hand at Wydnsor this 23th of July 1674.

JAMES.

To S^r Francis Wynnington Knt: my }
 Attorney Gen^l or Sir John Churchill }
 my Soll^r Generall. }

—[*N. Y. Col. Doc.*, iii, 223.

[For a copy of the aforesaid Patent, see vol. i of this *Report on Boundaries*, p. 23.]

Governor Dongan to Sir John Werden.

New York. Feb. 18th 1684.

* * * *

Billop's Plantation is opposite to Amboy and, if vessells bee permitted to come there, and not enter at New York, it will bee impossible to hinder y^e putting goods ashore on Staten Island. There was a report that bee intended to sell it to one of East Jersey, I think it would doe well if you please to look into the last patent of East Jersey to see whether shipping bee obliged if they come into Sandy-Hook to make entry at New York, the Quakers making continual pretences to Staten Island disturbs the people, more than 200 families are settled on it. And in case His Royal Highness cannot retrieve East Jersey, it will doe well to secure Hudson's River and take away all claim to Staten Island.

* * * *

There is noe way to prevent [y^e trade] y^e Indians had with East Jersey, but by running the line from Hudson's River to Delaware and then take some course with the Indians not to goe into the bounds of East Jersey, the bounds being already settled on Hudson's River. I beleive wee shall have a dispute with Boston about the lands betweene Conecticut and Hudson's River, they pretending all along to the south sea as Conecticut did. If any Colony in these Parts will flourish this will soe: and I beleive it better to make an end of all disputes than to delay them.

* * * *

Serv^t THO: DONGAN.

—[*N. Y. Col. Doc.*, iii, 355, 356.]

[IN N. Y. COUNCIL.]

April 9th 1684, Post Meridiem.

* * * *

The Indians of Minisink being present

The Governor said that they haveing been allways friends to this Govern^t he wondred they had not been to see him, that the Mohawks & others had done it, that haveing sent for them about a little businesse he would give them 50 tokens & gave them four Duffle Coates etc, that the Duke haveing given some land to them of East Jersey to settle on & to be purchased wth the consent of the Indians he had sent for them to go along wth some of this place to run the line where that land is to be divided, & that they go up straight to Delaware River, that he would take no land but what he buys from the Indians & that they of East Jersey are not to buy any on o^r side of the line of partition.

That he expected some from East Jersey & then would have them to goe straight from Hudsons' River to Delaware River & that one

Sackem of each nation should go & 6 others, that he would have them stay untill they of East Jersey came & should have provisions untill then.

They answered, they would do so, but desired that they might go on the other side to Bergen and stay there untill they were sent for.

—[*N. Y. Council Minutes (MS.)*, v, 65.

June 30th 1686.

* * * *

Garven Laure Esq^r Dep. Govern^r of East New Jersey & John Skene Esq^r Dep. Govern^r of West New Jersey (with severall Gentlemen of both Govern^{ts} in their company) acquainted the hono^rabl. Coll. Tho. Dongan his Ma^{ty} L^t & Govern^r of New York & its dependences, wth their Intntions to r^{un} the lines of the three Govern^{ts}; to which he offered & proposed to them; that the most Northerly branch of Delaware River, according to the patent, should first be agreed upon & fixed—that, the first day of September next after the date hereof be the day appointed for the Surveyors to meet at the falls of Delaware River, & that which is the most northerly branch of Delaware River, if any controversie arise about it, be determined by the vote of two of these three Surveyors; George Keith, Andrew Robinson, & phillip Wells; & that what is concluded by two of the said Surveyors to be the limitts & bounds of the 3 Govern^{ts} be so deemed & reputed, & the Surveyors to give in their reports under their hands

all which was agreed upon & concluded

* * * *

—[*N. Y. Council Minutes (MS.)*, v, 159.

September 1, 1686.

* * * *

The following instructions were given to Phillip Wells Esquire Surveyor of his Ma^{ty} province of New York you are carfully & with exactness to run the line between this province & that of East Jersey; begining in the latitude of 41 d. & forty m. upon Delaware River. that being don you are to make the best mark you are able where the bounds of the Govern^{ts} fall & to give a parcheall report thereof; under the hands of your selfe & the other Surveyors Concerned with as much speed as conveniently may be into the Secretaries office And because it is very requisite to know the nature of the sayle you are allso to take notice of, & observe the nature of the Country & to give me a descrip-

tion of it. Given under my hand at ffort James in New York this
1st day of September 1686

To phillip Wells Esquire
Surveyor Generall of his
Ma^{ties} province of N. York.

* * * *

—[*N. Y. Council Minutes (MS.)*, v, 170.

Position of the Forty-first Degree of North Latitude on Hudson's River.

Recorded the 11th of Novemb^r 1686.

By two Sundry observations of the Sunns Meridionall Altitude made the eighth and twenty-ninth days of September One thousand six hundred eighty Six it appeared and was manifest to Phillip Wells George Keeth and myselfe observers that the fourtieth and one degree of Northern latitude upon Hudsons River is one-minute and twenty five Seconds to the Northwards of Younckers Milne and so falls upon the high Clifts of the point of Tapaan on the West side of said River. WITNESSE our hands hereunto putt

ANDREW ROBESON
PHILLIP WELLS

—[*Deeds* (in office of N. Y. Sec'y of State) viii, 49; *General Entries*, 1686, p. 49; *N. J. Archives*, i, 520.

[Gov. HAMILTON TO Gov. FLETCHER.]

February 13th 169 $\frac{3}{4}$. To His Excellency Benjamin Fletcher and the Honourable their Majesties Council of the Province of New York.

WHEREAS in the Time of Col. Dungan, the Surveyors of New York and the Jersies, did by a Consent of the respective Governors, meet to ascertain the Stationary Points, from whence the Division Line between New York and the Jersies, was to be drawn, conform to the Deeds granted by the then Duke of York to the Proprietors of the Jersies, that the Boundaries of each Province might be better known. And whereas, in Pursuance of the said Order, the respective Surveyors went out, and affixed a Station on Delaware River, in 41 and 40 Latitude, and another on Hudson's River in 41°, which is (conform to a Map made by the Surveyors) due West from Frederick Philipse's Lower Mills; but tho' the Stations were fixed, yet the Lines were not drawn.

May it please your Excellency,

That whereas, I am now making a Detachment of our Men for the Frontiers, out of the respective Counties, and that there are several

Plantations near the Line of Partition, which pretend Exemption from any Detachment as being in another Government, and perhaps use the same Shifts to York Government.

Your Excellency, to clear this Point, would please give Order to the Surveyor, to join with our Surveyor, at a certain Day, to mark out the Line from the said Station on Hudson's River, as far as there are any Plantations.

Your Excellency's most obedient Servant
AND. HAMILTON.

—*N. Y. Col. MSS.*, lxxxi, 120, No. 27; *N. J. Archives*, ii, 105.

[IN N. Y. COUNCIL.]

February 22, 169 $\frac{1}{2}$.

* * * * *
Coll. Andrew Hamilton Governor of the Jerseys having desired that the line of partition between the Province of East Jersey & this Province from the Stations formerly agreed unto by the surveyors of both Governments may be runn & marked to ascertain the right of some Plantacons and settlements neere the line, who at present avoid the paying of taxes or duty to either Government,

Ordered Coll. Stephen Cortlandt Coll. Nicholas Bayard William Nicoll Esq^{re} 1 and William Pinhorne Esq^{re} be a Committe of this Board to consider of an answer thereunto against thursday next.

* * * * *
—[*N. Y. Council Minutes*, vii, 55; *N. J. Archives*, ii, 106.]

Lords of Trade to the Earl of Bellomont.

April 29, 1701.

* * * * *
The settling of the Boundaries between New York and the Jerseys is a matter which your Lordship must necessarily first inquire into and give us an account of the pretensions on both sides; and what you conceive to be the state of the case, before we can lay it before the King. We desire you therefore to do so; and we shall afterwards represent what may be necessary.

* * * * *
The sending over a skilfull Surveyor as your Lordship desires, to draw correct maps would undoubtedly be of good use, but it would be

¹ At a subsequent meeting (March 9), Messrs. Cortlandt, Bayard and Nicoll were made such committee. — [P.]

chargeable; and till it may be convenient to propose such a charge the Engineer ought to be put upon doing it, so far as he can: as we have formerly hinted upon another occasion.

* * * *

—[*N. Y. Col. Doc.*, iv, 854, 856.

[MEMORIAL.]

April 2, 1705.

To his Excellency Edward Lord Viscount Cornbury Capⁿ Gen^l and Govern^r in Chief, of her Majesties Provinces of New jersey and Newyork, and Vice admiral of the same, &c^t

The humble memorial of Peter Fauconnier Collector and Receiver Gen^l of New jersey.

Sheweth.

That yo^r Excellencies Memorialist, think himself unadvoydably obliged by the duty of y^r office w^{ch} yo^r Excellency has been pleased to bestow upon him, in the Province of New jersey, to apply to yo^r Excellency (as Govern^r of both Provinces) and humbly to represent, of what ill consequence it is to said province of New jersey, in the assessment and recpte of y^e £2000 Taxe lately laid by y^e Gen^l assembly of that Province, on all y^e Inhabitants thereof, and on acco^t of another act relating to y^e militia, and indeed to this Province of New york in like cases, that the limits and true bounds of both provinces be yett undecided; so that the Planters that lives on both Frontiers be thereby exposed to pay Taxes to, and fined for not mustering in both provinces; (w^{ch} would be very hard) or both Provinces deprived of w^t one of them ought in justice to expect from them, for their proportion of Taxes &c^t by them due to y^e province they rightly belong to, if a true line was runn and ascertained between both.

For y^e readdress whereof yo^r Excellencies Memorialist, most humbly pray yo^r Excell. to issue out warrants, to the Surveyor Generall of Each Province, to go forthwith (while it is yet time) with the assistance of such other Persons yo^r Excellency shall see meet, and fully instructed of w^t the Patents of both Provinces containe, to run an exact line between both, so y^t upon a report of their proceedings, yo^r Excell^y ascertaining the true bounds of both y^e said Provinces, the Inhabitants thereof may be exactly known, and all disputes & controversies on that acco^t entirely put at an end for the time to come.

& yo^r memorialist shall ever pray &c^t

P. FAUCONNIER.

New york ap^l 2. 1705.

—[*N. Y. Col. MSS.*, 1, 55.

[COLONY OF NEW YORK.]

CHAP. CCCXLVII.

An ACT for paying and discharging several Debts due from this Colony, to the Persons therein named [etc.].

Pass'd the 23^d of December, 1717.

* * * And whereas the Partition Lines between this Colony and the Colony of * * * *New Jersey*, are necessary to be known and ascertained, in order that such of the Inhabitants of this Colony, whose Estates or Habitations are adjacent to, and border on the said Partition Lines, may peaceably, and without Molestation, enjoy the Fruits of their Industry; and that the Government may not be defrauded of the publick Taxes that may arise and become due from the said Inhabitants, by their pretending that they do not dwell within this Colony: And whereas there is not at this Time, any Money in the Hands of the Treasurer of this Colony, but what is appropriated to particular Uses, * * * In order therefore to pay the Claims and several Demands now made, * * * and to make proper and sufficient Provision for the Purposes before mentioned;

I. BE IT ENACTED * * * That Bills of Credit * * * be forthwith printed and signed, *to wit.*

* * * * *

—[*N. Y. Laws* (Liv. & Smith), i, 124.

AND *Be it further Enacted by the authority aforesaid*, That the quantity of Seven hundred and fifty ounces,¹ part of the aforesaid Plate left in the Treasurers hands, shall be applyed to defray that part of the Charge of Running, Surveying and ascertaining the Partition Line Limitt and Boundary between this Colony and the Colony of *New Jersey* which may be requisite for this Colony to pay, to be Issued by warrant under the hand and Seal of the Governour of this Province, for the time being, by and with the advice and Consent of his Majesties Council in such parts & proportions as shall be requisite for that Service, when the Survey ascertaining and Runing of the said Line Limitt and Boundary shall be began and Carryed on by the mutual Consent and agreement of his Excellency & Council of this Province and the Proprietors of the soil of the said Province of *New Jersey*, * * *

[here follows a similar appropriation for the survey of the Connecticut line] * * * which Lines being Run ascertained and agreed on by the Surveyors and Commissioners of each Colony, as aforesaid, shall forever thereafter be Deemed taken be and remain as the partition Line Limitt and Boundary of this Colony, and all bodys Corporate and

¹ Often subsequently referred to as 300 pounds.

Politick, and all other persons whatsoever within this Province, shall be forever Concluded thereby.

* * * *

—[*N. Y. Original Laws (MS.)*, in office of Sec'y of State, v, page 58 of said act.

[PROVINCE OF NEW JERSEY.]

CHAP. XXVII.

An ACT for running and ascertaining the Division Line betwixt this Province and the Province of New York.

[March 27, 1719.]

Sect. 1. WHEREAS many Disputes and Controversies have of late happened betwixt the Proprietors and Owners of Land in this Province of *New Jersey*, and the Owners of Land in the Province of *New-York*, which lie near to or adjoining upon the Division Line, as well as between the Officers of the Government, and a Number of lawless Men there, who Elude the Laws of both Provinces, and pay Taxes and Obedience to neither, pretending to be situate in each of them, to serve their evil purpose of Disobedience to the lawful Commands and Demands of the Officers of the Government. To prevent which for the Future, and in order that such of the Inhabitants of this Colony, whose Estates or Habitations are adjacent to and border on the said Partition Line, may Peaceably, and without Molestation, enjoy the Fruits of their Labour, and the Government may not be defrauded of the publick Taxes that are or may arise and become due from the said Inhabitants, by their pretending that they do not dwell within this Colony.

2. BE IT ENACTED by the Governor, Council and General Assembly, and it is hereby ENACTED and DECLARED by the Authority of the same, That there shall be two or more Commissioners, with the Surveyor General, appointed by his Excellency the Governor of this Province, or the Governor or Commander in Chief of this Province, for the Time being, by and with the Consent of the Council, who shall be empowered by a Commission under the Great Seal of this Province, to join with such Commissioners and Surveyors* as shall be appointed on the Part and Behalf of the Province of *New York*, Which said Commissioners and Surveyors so appointed and commissioned, as aforesaid, shall, on the Part and Behalf of the Province of *New Jersey*, Run, Survey, Agree on and Ascertain the said Line, Limits and Boundaries betwixt this Province of *New-Jersey*, and the said Province of *New-York*, according to the true Limits thereof, as near as conveniently can be done.

3. AND BE IT FURTHER ENACTED by the Authority aforesaid, That when such Commissioners as shall be appointed by his Excellency the Governor, or the Governor or Commander in Chief for the Time being, by and with the Advice and Consent of the Council, with the Surveyor General of this Province, have joined with such Commissioners and Surveyors as shall be appointed for and on the behalf of the Province of *New-York*, and have ascertained, run and agreed on the Line of Partition or Division betwixt this Province and the Province of *New-York*, they shall make Return of the same, under their Hands and Seals, to his Excellency the Governor, or the Governor or Commander in Chief of this Province, for the Time being, which Return shall be Filed and Recorded in the Secretary's Office of this Province. Which said Line of Division or Partition betwixt this Province and the Province of *New-York*, being ascertained, run and agreed on, and recorded, as aforesaid, shall forever hereafter be Deemed, Taken, Be, Remain, and Continue the Partition Line, Limit and Boundary betwixt this Province and the Province of *New-York*; and all Bodies Politick and Corporate, and all other Persons whatsoever within this Province, or Claiming any Right and Property therein, shall be Concluded by the same; any Law, Usage, Custom or Pretence to the contrary in any wise notwithstanding.

—[*N. J. Laws*, i, 1703-1752, p. 77; *Allinson's Compilation*, p. 61 (title and date, only.)

[IN N. Y. COUNCIL.]

May 2, 1719.

ORDERED that a Commission do Issue under the Great Seal of this province for Runing and ascertaining the Division Line Betwixt the province of New Jersey to Rob^t Walter and Isaac Hicks Esq^{rs} as Commissioners and Allen Gerard as Surveyor in behalf of this province.

ORDERED that a warrant do Issue immediately to the Treasurer of this province for the payment of one hundred and twenty pounds to Rob^t Walter and Issac Hicks Esq^{rs} Comm^{rs} for runing the Division Line betwixt this province and the province of *New York* [sic!] for Defraying the Charges they will be put to before and upon Running of the said Line out of the Money in the Treasurers hands appropriated for that purpose by vertue of an act of Assembly intituled an act for paying and discharging severall Debts due from this Colony the persons therein named and for Raising and putting into the hands of the treasurer of this Colony several Quantities of plate to be applyed to the publick and necessary use of this Colony and to make bills of Credit to the

value of forty-one thousand five hundred and seventeen ounces and one half of plate for that purpose.

* * * *

—[*N. Y. Council Minutes (MS.)*, xi, 589.

[COMMISSION.]

GEORGE by the Grace of God King of Great Brittain france and Ireland Defender of the faith &c

To ALL to whom these presents shall come Greeting:

KNOW YEE, that we Reposing Especiall Trust and Confidence in the Prudence Integrity and ability of our Trusty and Welbeloved subjects Robert Walter Isaac Hicks and Allan Gerard Esq^{res} Have Commissionated Assigned Authorized Impowered and Appointed as by these Presents do Commissionate Assign Authorize Impower and Appoint the said Robert Walter and Isaac Hicks Commissioners and the said Allan Gerard Surveyor for the Province of New York, That they the said Commissioners and Surveyor in Conjunction with the Commissioners and Surveyor or Surveyors Appointed or to be Appointed upon the Part and behalf of our Province of New Jersey Carefully and Diligently Inspect and Survey All or such of the Streams of Water that fformes the River Delaware Which they the said Commissioners or the Surveyor or Surveyors may Esteem Necessary to be Inspected or Surveyed in Order to find out and Determine which of the Streams is the Northermost Branch of the River Delaware, And that then when such Branch is so Discovered that the said Surveyor or Surveyors Carefully According to the best of their Knowledg and understanding Discover and find out that Place of the said Northermost Branch of Delaware River that Lyes in the Latitude of fferty one Degrees and fferty Minutes which is the North Partition Point of New York and New Jersey. AND for the better Preserving and Perpetuating the Knowledge of the said North Partition Point, Wee do hereby require the said Commissioners and Surveyors that they take Notice of the most Remarkable and Conspicuous Places near to the said North Partition Point Whether they be Rocks Hills Gullies Ponds Runs or Streams of Water and Observe on what Courses and Distances such Remarkable Places bears from the said North Partition Point All which the said Commissioners and Surveyors are also hereby Required Distinctly to Certifie under their Hands and Seals to our Governour or Commander in Chief of our said Province of New York to be filed and Recorded in our Secretary's office of New York And wee do by these Presents further Commissionate Authorize and Impower the said Robert Walter

and Isaac Hicks Commissioners and Allan Gerard Surveyor of our said Province of New York That in Conjunction with our Commissioners and Surveyor or Surveyors for the Province of New Jersey that Carefully they According to the best of their Knowledge Skill and Understanding as near as may be they shall find out and Discover that part on the West side of Hudson's River that Lyes in the fforty One Degree of Latitude, And that when that place is known which is the Furthestmost place of the Province of New Jersey that is Bounded by said Hudsons River then the said Commissioners and Surveyors According to the best of their Skill and Knowledge shall Run Survey and Mark out a Streight and Direct Line from that Part of Hudsons River in the Forty One Degree of Latitude unto that place aforesaid called the North Partition Point upon the Northermost Branch of Delaware which is in the Latitude of fforty One Degrees and fforty Minutes which Line being so Run and Marked out is for ever hereafter (Pursuant to an Act of the General Assembly of our said Province of New York past in the Fourth Year of our Reign Intituled an Act for Paying and Dischargeing Several Debts due from this Colony to the Persons therein named and for Raising and Putting into the Hands of the Treasurer of this Colony Several Quantities of Plate to be Applied to the Publick and Necessary use of this Colony and to make Bills of Credit to the Value of fforty One Thousand five Hundred and Seventeen Ounces and an half of Plate for that purpose) to be Deemed taken be and Remaine as the Partition Line Limitt and Boundary between our said Provinces of New York and New Jersey. And for the better Preserving and Perpetuating the Knowledge of that Part of Hudsons River that Lyes in the Latitude of fforty One Degrees and also of the Line of Partition or Division betwixt our Provinces of New York and New Jersey The said Commissioners Robert Walter and Isaac Hicks and Allan Gerard Surveyor shall take Notice not only of the Most Conspicuous and Remarkable Places and of the Courses and Distances they bear from the said place upon the West side of Hudsons River that Lyes in the fforty-one Degree of Latitude, As also likewise of All and Every the Remarkable Places where the said Line of Partition or Division Cutts and the Distances such Places are at from One of the Terminations of the Line either on Hudsons River in the Latitude of fforty One Degrees or on the said Northermost Branch of Delaware River in the Latitude of fforty One Degrees fforty Minutes all which the said Commissioners and Surveyor are hereby also required to Certifie and Return Distinctly under their Hands and Seals to our said Governour or Commander in Chief of our said Province of New York in Order to be filed and Recorded in our Secretary's Office of New York.

IN TESTIMONY Whereof we have Caused the Great Seal of our said Province to be hereunto Affixed and these our Letters to be made patent this first day of May in the fifth year of our Reign Annoque Domini One Thousand Seven Hundred and Nineteen WITNESS our Trusty and Welbeloved Robert Hunter Esq^r Captain General and Commander in Chief of our said Provinces of New York New Jersey the Territories and Tracts of Land Depending thereon in America and Vice Admiral of the same etc at our ffort at New York.

J. BOBIN Depty Sec^r

In the Absence of Jas. Alexander.

—[*N. Y. Commissions* (in office of N. Y. Sec'y of State) iii, 187.

[IN N. Y. COUNCIL.]

June 20, 1719.

* * * *

Upon the application of Capt. Walter & Coll. Heeks Comm^r and Allen Jurat Surv^r appointed for Running the Division Line betwixt this Province & the province of New Jersey

It is the opinion of this board that out of the funds in the Treasurers hands appropriated for that purpose they be allowed all their reasonable charges and thirty shillings a day Each during the time they shall be upon that service.

* * * *

—[*N. Y. Council Minutes (MS.)*, xi, 636.

November 12, 1719.

Upon producing an Account of Robert Walter and Isaac Hicks Esq^r Commissioners and Allane Jarratt Surveyor appointed etc etc amounting to one Hundred and fifty two pounds fourteen shillings and three pence

ORDERED a Warrant Issue to pay each of them twenty pounds in Part of the said Account and that the Residue of the Money (being sixty pounds) appropriated for that Service remain in the Hands of the Treasurer till the said Account is laid before the Governour Council and General Assembly at their next meeting.

—[*N. Y. Council Minutes (MS.)*, xii, 55.

[INDENTURE.]

This Indenture tripartite made the twenty fifth day of July in the fifth year of the reign of George over Great Britain France and Ireland King &c Annoq Domini 1719 Between Robert Walters of the City & Province of New York Isaac Hicks of Queens County in said province Esq^r Allan Jarrot of the City and Province aforesaid Esq^r Surveyor for and in behalf of the said Province of New York of the first part John Johnston and George Willocks of the Eastern Division of the Province of New Jersey Esq^r and James Alexander Surveyor General of the said Eastern Division of the second part and Joseph Kirkbride and John Reading of the Western Division of the said Province and James Alexander Surveyor General of the said Western Division of the third part. Whereas his said Majesty the King by Letters patents under the Great Seal of the Province of New York Did Comissionate Authorize and Appoint the said Robert Walters and Isaac Hicks comissioners and Allan Jarrot Surveyor of the Province of New York that they the said comissioners & surveyor in conjunction with the Comissioners & Surveyor or Surveyors appointed or to be appointed upon the part and behalf of the Province of New Jersey that they are fully and Diligently Inspect and Survey all such of the streams of water that form the River Delaware which they the said Commissioners or the Surveyor or Surveyors may Esteem New Jersey to be Inspected or Surveyed in order to find out and determine which of the streams is the Northermost branch of Delaware River and that then when such branch is so discovered that the Surveyor or Surveyors according to the best of their knowledge and understanding discover and find out that place of the said Northermost branch of Delaware River that lyes in the Lattitude of forty one degrees and forty minutes which is the North partition point of New York and New Jersey and for the better preserving and perpetuating the knowledge of the said partition point the said Comissioners and Surveyors by the said Letters patents are required to take notice of the most remarkable and conspicuous places near to the said North partition point whether they be rocks, hills, gullies, ponds, runs or streams of water and observe upon what course and distance such remarkable places bear from the said North partition point all which the said Comissioners are required by the said Letters patents Distinctly to Certify under their hands and seals unto the Governor or Commander in chief of the said Province of New York to be filed and recorded in the Secretarys office of the said Province of New York all which by the said Letters patents bearing date the fifth day of May in the fifth year of his said Majestys Reign and in the year of our Lord One thousand seven hundred and nineteen and remaining upon the records of the said Province of New York may more fully and at large appear. And whereas his said Majesty by

other Letters patents under the Great Seal of the Province of New Jersey did comissionate, authorize and appoint the said John Johnson and George Willocks comissioners for the Eastern Division of the said Province of New Jersey Joseph Kirkbride and John Reading comissioners for the Western Division of New Jersey and James Alexander Surveyor General of both Divisions of the Province of New Jersey aforesaid in conjunction with the Comissioners and Surveyor or Surveyors appointed or to be appointed upon the part and behalf of the said Province of New York that they ye said comissioners and surveyors carefully and diligently inspect and Survey all or such of the streams of water that formes the said River of Delaware which they the said comissioners or surveyor or surveyors may esteem necessary to be inspected or surveyed in order to find all and determine which of the streams of water is the Northermost branch of the said River and that then when such branch is so Discovered that the said Surveyor or Surveyors carefully according to the best of their knowledge and understanding Discover and find out that place of the said Northermost branch of Deleware River that lyes in the Lattitude of forty one Degrees and forty minutes which is the North partition point of New Jersey aforesaid and the point as well of the Line of partition or Division between the Eastern and Western Divisions as that place where the line of Partition or Division Between New York and New Jersey terminates and for the better *perpetrating* and preserving the knowledge of the said North partition point the said comissioners and surveyor for the Province of New Jersey are required by the said Letters patents to take notice of the most remarkable and conspicuous places near to the said North partition point whether they be rocks, hills, gullies, ponds, runs or streams of water and observe on what courses and distances such remarkable places bears from the said North partition point all which the said comissioners and Surveyor are further required as aforesaid Distinctly to Certify under their hands and seals unto the Guvernor or Commander in Chief of the Province of New Jersey aforesaid to be filed and recorded in the Secretarys office thereof All which by the said last recited Letters patents bearing date the Last day of March in the fifth year of his said Majestys Reign in the year of our Lord One thousand seven hundred and nineteen and remaining upon the publick records of the said Province of New Jersey may fully and at large appear. Now this Indenture Wittnesseth that the said comissioners and surveyors as well upon the part and behalf of the Province of New York as upon the part and behalf of the Province of New Jersey in pursuance of the trust reposed in them by the several and above recited Letters patents under the Great Seals of the respective Provinces of New York and New Jersey having carefully and diligently

inspected and informed themselves which of the several and respective Branches of said River of Delaware is the Northermost Branch thereof Do find and therefore by these presents Do certifie and declare that that stream or river which is commonly called or known by the name of the Fishkill is the Northermost branch of the said River Delaware and further that they the said comissioners and surveyors according to the best of their knowledge and information Do Esteem and believe the said Fishkill to be the biggest and deepest stream that forms the said River Delaware. And Whereas the said Allan Jarrot and James Alexander having taken repeated observations as well nigh adjoining to the said Fishkill or the Northermost branch of Delaware River as in sundry other places in order to discover that place of said Northermost branch that lies in the Lattitude of forty one Degrees and forty minutes and that they the said surveyors according to the best of their skill and understanding having discovered the same to be upon that place of the said Fishkill or Northermost branch of Delaware after mentioned Therefore they the said comissioners and surveyors Do certifie by these presents to all whom it may concern That the said North partition or Division point upon the Northermost branch of the River Delaware between the Provinces of New York and New Jersey (which likewise is the North partition point between the Eastern and Western Divisions of New Jersey) the Lattitude of forty one Degrees and forty minutes upon the East side of the said Fishkill branch is upon the Low Land in the Indian Town called Cashieglitok which Indian Town is distant from Thomas Swartwoots house at a place known by the name of Pinpeck near to Muchackemack River twenty nine miles and a quarter upon a straight course North fourty four degrees twenty minutes West by the Magnetical position or a course North fifty two Degrees twenty minutes West by the true position from John Dickers House at the place called *Tetendale* by said Machackemack River about twenty nine miles and three quarters upon a course North thirty five Degrees West by the Magnetical position or upon a course North forty three Degrees West by the true position and upon the several courses by the Indian path from said John Dicker's about thirty five miles and a half which point of intersection of the Lattitude of fourty one Degrees and forty minutes upon the said Fishkill or Northermost branch of the River Delaware is distant thirty eight chains (Reckoning four perches to a chain) from the mouth of a brook known by the Indian name of Lamachanock and at all times comeing to be called or known by the name of Stallion brook (which fall from the hills at the entering in of the Indian falls to the said town Cashieghtonk) upon a course nearly North five Degrees forty five minutes West by the Magnetical position and upon a course North thirteen Degrees forty five minutes West by

the true position which point of intersection is Ninety nine chains and a half reckoning four perches to a chain from a large stone or rock the greater length of its *Superficies* being about eleven foot and three inches and its broader part about seven foot three inches lying partly in and partly out of the water upon the bank of the said branch called Fishkill upon a course South ten degrees forty five minutes East by the true position which stone is marked with the letter **M** and one hundred and thirty seven chains distant from the mouth of the said brook upon a course north seventy eight degrees forty minutes East by the true position at which stone or rock the Low Land ends and the hills come close to the said branch or river Fishkill the courses and situation of the said brook and of the said River and hills from the said brook to the stone aforesaid will before appear by the draught to these presents annexed.

In Testimony whereof the said parties to these Indentures have put their hands and seals the day and year first above mentioned R. Walter ^{LS} John Johnston ^{LS} Joseph Kirkbride ^{LS} Isaac Hicks ^{LS} Geo Willocks ^{LS} Jno Reading ^{LS} Allane Jarratt ^{LS} Ja Alexander ^{LS}
In behalf of Eastern & Western Divisions of New Jersey.

Sealed and delivered in the presence of

JAMES STEEL
JOHN HARRISON

Province of }
New Jersey } Men^d that on the tenth day of Aug^t One thousand seven hundred and nineteen John Harrison of Perth Amboy in the said Province Esq came before me John Parker Esq one of his Majesties Councill in the said Province and did make oath upon the Holy Evangelist of Almighty God that he saw Robert Walters, Isaac Hicks, John Johnston, Geo Willocks, Joseph Kirkbride, John Reading Allan Jarrot and James Alexander Esq^{rs} Severally Execute and Deliver the within written Instrument as their respective act and deed

JOHN PARKER.

Province of New York }

Memorandum that on the tenth day of August One thousand seven hundred and nineteen John Harrison of Perth Amboy in the Province of New Jersey Esq came before the Hon^{ble} Lewis Morris Esq Chief Justice of the said Province of New York and made oath upon the Holy Evangelist of Almighty God that he saw Robert Walters, Isaac Hicks, John Johnston, George Willocks, Joseph

Kirkbride, John Reading, Allan Jarrot and James Alexander Esq^r Severally Execute and Deliver the within written Instrument as their respective act and deed.

Coram

LEWIS MORRIS.

STATE OF NEW JERSEY, }
DEPARTMENT OF STATE. }

I, Henry C. Kelsey, Secretary of State of the State of New Jersey, do hereby certify that the foregoing is a true copy of an indenture tripartite, dated July 25, 1719, between Robert Walters and als. of the province of New York and John Johnson and als. of the province of New Jersey, etc., as the same is taken from and compared with the original record (Recorded in Liber D² page 280, etc.) now remaining in my office.¹

(L. s.) In testimony whereof, I have hereunto set my hand and affixed my official seal, at Trenton, this 2d day of August A. D. 1881.

HENRY C. KELSEY,
Secretary of State.

[IN N. Y. COUNCIL.]

August 20, 1719.

* * * * *

The Petion of Stephen Delancey Lancaster Symes and Henry Wileman for themselves and others Seting forth that in the Year 1704 they Obtained a Grant of a Certain tract of Land called Minisinck. That the Proprietors of the Jerseys having heard of the Said Grant, did soon after give out that all the Low Lands did belong to them as being the Province of New Jersey w^{ch} pretence did render the Said Grant wholly useless to the Pet^r. Therefore pray that if the said Low Lands are taken from them, there may Be granted them preferrable to any other Persons Such Pieces and tracts of Land as may be found out in the Gift of the Crown as being in Equity Intituled to such.

ORDERED that the said Petition lye on the Table till such time as the Commissioners and Surveyors make Return.

* * * * *

—[*N. Y. Council Minutes (MS.)*, xii, 13.

¹ No copy of the foregoing "Indenture" has been found in the office of the N. Y. Secretary of State.—[P.

[ACCOUNT.]

New York, 18th September, 1719.

Account of wages and disbursements on Runing the Devision Line
between the Province of New york and New Jersey as followeth —

Captain Robert Walters from 21th June to 17th August at £1.10 p ^r diem.....	£84.	0.
Coll Hicks from 21th June to 17th August at £1.10 p ^r diem,	84.	0.
Allane Jarratt from 21th June to 17th August as surveyor at £1.10 d	84.	0.
To 8 lb of Chocolat.....	0.	16. —
Nutmegs, peper, &c.....	0.	7. —
7 Caggs	0.	16. 6
24 lb of Rice.....	0.	7. 6
3. bb ^l for Bacon 3 Gall ^s of Lyme Joyce	1.	2. 6
2. Kettles.....	1.	6. 6
½ O Sugar and 5 lb Tobacco.....	1.	8. 9
1. ax and some wooden bowles.....	.	11. 3
1. Lanthorn and a smal box.....	.	6. 6
6 lb of Green wax candles Grater and a lock... .	.	9. 9
Ingerbread and 2 doz of pipes.....	.	7. 6
12. Loafs of bread 8 bushels of bran & bisquet, .	.	16. —
3. Caggs C 1 empty barr ^l	13. 6
To Girths Buckles at Esopus.....	.	7. 6
To waggin Hire from Mahacamak.....	1.	2. —
p ^d M ^r Hardenbrook & bran for Horse.....	:	8. —
p ^d Van Waggener for passage & C	—	6. —
p ^d cartage provisions a york	—	3. —
	<hr/>	
	£11.	15. 9
260 lb Bacon at 6 ^d p ^r p ^d	6.	10. —
33. netts Tongues.....	1.	19. 6
2 Walletts and bringing down the Bacon	15. —
powder and shott.....	.	9. —
p ^d for peas.....	.	2. —
p ^d Maj ^r Harrison and his guide.....	7.	—: —
3. p ^r of Hopples and pasturage & storage.....	.	15. —
Expenses for shoing of horses and an Ax.....	.	13. —
	<hr/>	
	18.	3. 6
June 22 ^d Expenses at New York.....	—	15. 6
ditto 23 ^d p ^d at Esopus expenses at the water side	—	14. —
p ^d for a pewter pott for the plu- mett of the Instrument	—	4. 9

ditto	23 ^d p ^d at New York for the box to put the Instrum ^t in.....	:£— 7. 6	
	p ^d for a bushell of peas.....	— 5. 6	
	p ^d at Esopus for Expenses during stay there.....	3. 15. 6	
	p ^d Coll Hicks	:— 4. 6	
	p ^d Col Hamilton for passage up to New York and waggon Hire to Esopus and Mahacamaek.....	} 5. 10. —	
	p ^d at Esopus expenses at Return from Mahaca ^t	:— 12. —	
	p ^d at Mad ^m Corbetts to John Chap- man for to assist in runing the Line	} 3. —: —	
	p ^d boat Hire up and down to Mad ^m Corbetts	:— 16. —	
	p ^d for passage down to Esopus pas- turance for Horse.....	1. 3. —	
	shoing of Horse.....	: 6. —	
		<hr/>	17. 14. 3
	Alexand Magginn for 7 weeks serv- ice at £3 p mo	5. 12. 0	
	James Cromwell two months at 3 10,	7. 0. —	
	John Deckers	3. 0. —	
	26½ gall ^l of Rum at 5 p gall	6. 12. 6	
	Thomas Brasier.....	3. 0. 0	
	To p ^d for carring the Instrument up to the station.....	2. 0. 0	
	To Mr. Swartwoods.....	2. 0. 0	
	To 3 Hammocks.....	4. 19. 9	
	To 3 Horses 50 days at 2 p diem ..	15. 0. 0	
	To 3 Duffell Coats.....	3. 16. 6	53. 0. 9
		<hr/>	<hr/>
			£352. 14. 3

Errors excepted

R. WALTER

ISAAC HICKS

ALLANE JARRATT

[PETITION.]

September 24, 1719.

To The Honble Peter Schuyler Esq^r President & the other Gentlemen of the Councill of the Province of New York.

The Humble Petition of Allane Jarratte

Humbly Sheweth

That whereas your petitioner having been appointed by his Excell Robt Hunter Esq^r by letters patents under the Great Seal Surveyor for the province of New York and thereby commissioned with full power and authority in conjunction with the Surveyor of the provinces of New Jerseys, carefully and diligently according to the best of their skill and understanding, discover and finde out that place upon the Nothermost Branch of Delaware River that lies in the Latitude of forty one degrees and forty minutes and that to be the North partition point of the province of New York and New Jersey; and also carefully according to the best of their skill and understanding discover and finde out as near as may be that place on the west side of Hudsons River that lies in the Latitude of forty one degrees which shall be the furthest place of the province of New Jersey bounded by Hudsons River; and then in Conjunction with the Commissioners of both provinces to Run a direct Line from those two Stations (when determined) to be the partition Line between the two provinces.

Now your petitioner pursuant to the Great Trust reposed in him in behalfe of the province of New York by the said Commission, has in conjunction with Commissioners of both provinces and the Surveyor General of the New Jerseys proceeded from New York to Mahackmack, and from thence in conjunction with the Surveyor General of the Jerseys up the Ffysh Kill to the Latitude of forty one degrees forty minutes observed in July last by a Brass Quadrant of about twenty two Inches or thereabouts Radius, and the Latitude last mentioned determined and adjusted in this manner after four Repeated Observations wth the plumet at each end of the Quadrant found them not to differ from each other above half a minute or thereabouts the difference being so smal the Latitude was adjusted by a mean between the differences of the said observations as also allowing the obliquity of the Ecliptick to be a mean between $23^{\circ} 30'$ & $23^{\circ} 29'$ as may more fully appear by a Journal ready to be pduced and a Triparty Indenture executed by the Several persons concerned, for confirming the same.

From thence your petitioner in Conjunction with the Surveyor Gen^l of the provinces of New Jerseys proceeded to Madam Corbetts as they adjudged that place to be nigh the Station on Hudsons River, made Sundry observations the Last month in order to determine and adjust the Latitude of forty one degrees with the aforesaid Quadrant more

carefully and diligently (having the advantage of a good sun and clear weather) then the former they had up at the other Station; the First of which observations with the plummet at the End of the Quadrant (as it was in all the observations at the former Station) made this Station to fall near two minutes to the Northward of the place of observation or near Taphan Creek the Last of which Observations with the plummet about the middle or two thirds of the Quadrant made the station fall between two or three minutes to the Southward of the place of observation or near opposite to the Jonkers mills as has formerly been Reputed to be near the Station.

Your petitioner Conceiving a great difficulty to decide the true Latitude of forty one degrees in so wide differences of observations by so small an Instrument upon the same place, and not daring to relye on his own Judgment in so weighty an affair that so heighly concerns the care of this province for Taphan and sundry other Gentlemens Estates bordering on the above mentioned partition or devision Line, requiring a larger Instrument and the most Exquisite Exactness and niceness to determine, and also to vindicate himself from all future Reproaches & aspersions of being bribed or byast therein; could have no other Recourse then Lying this matter before the wisdom of this province, and at this time being prest upon by the Commissioners for discharging and Executing this Great trust reposed in him, and having given Security for the performance of the Same, and making matter of conscience how to come at the Exact truth by such an Instrument that discovers such a difference in these observations, Humbly prays that this Honourable Board would take it into Consideration and give your petitioner such Instructions to direct his Judgment in this affair as may seem most proper to your Great wisdom

And your petitioner as in Duty bound shall ever pray &c

ALLANE JARRATTE

[Endorsed:] Sept 24th 1719 Read & referred to any five or more of the Gent of the Council

Ja Alexander D Cl Con

—[*N. Y. Col. MSS.*, lxi, 187; *N. J. East Proprietors* (in *N. Y. State Library*), p. 13.

[IN N. Y. COUNCIL.]

September 24, 1719.

May it Please y^r Honour

In obedience of your Honours order in Council of this Day, Referring to us the annexed Petition of Allane Jarratt, we have in the Presence of M^r Alexand Survey Generall of the Province of New

Jerzy & D^o Johnston, one of the Comiss^{rs} for the said Province fully Examined the Petitioner upon the Several Particulars sett forth in his said Petition, and before we Proceed to Declare our opinion thereon, we take Leave to Report that the matters of fact appeared to us in the following manner, to witt

That By a fair Journall Produced to us by the Petitioner of all the severall observations taken at the Fish Kile & at Mad^m Corbets, The observations taken near the midle of the Quadrant made use of in that Service Differed from those taken at the Ends upwards of 4 minutes.

That this Discovery was not made untill they Observed at Mad^m Corbets, and that the Petitioner thereupon Imediately Declared to the said M^r Alexander in the Presence of Severall people then on the Spott, he could nither Rectify the wide Errors of the Instrument nor take upon him to fix the Station by it, the Same Varying so much in itself.

That notwithstanding the Methods proposed By M^r Alexander for Correcting the Said Errours, the Petitioner Declared he could not adventure to Settle a Lattitude that could be Depended upon by that Quadrant

That he being by Repeated Questions put to him in all the Various ways we then could think of askt Whether he could not find means to Proceed with that Instrument for fixing an Exact Lattitude, he Stile Declared that he could not take upon him to Doe it by this Instrument for the Reasins above mentioned. But that in Case one of five or Six foot Radius could be procured, Certified By able & skilful Matthe-maticant from Great Brettaine to be true and coreet, he would then be ready to ascertain the Station according to his best skill and that the Observations whereby the Latitude was settled upon the fish Kill ware taken at the Ends of the Quadrant and the Errors & Defects thereof not being Discovered at that Time he affirmed that the said North Partition Station upon the Fish Kill is wrong & Erroneous, Notwithstanding the Tripartite Indenture Mentioned in the said Petition to be Executed there upon that Occasion.

Vpon the Whole Matter, as the Petition^r was made Choice of for this Services as the best and ablest Mathematician of this Province, and he having not only by the Declaration in his Petition but by his Repeated Assurances before us of the Defect of the Instrument and alsoe his Declaring the Methods Proposed by M^r Alexander for Correcting them ware not satisfactory to him, and the Matter being of Such Importance that it Requires not only the best of Instruments but the nicest Skill and Exactness to Settle, Wee Cannot advise your Honour to order the said Surveyor to Proceed & fix the said Latitude By this Instrument, but Rather that he should be Directed to Sett forth and Certifie By Some Instrument under his hand and Seale that the Station Pretended

to be first at the fish Kill is wrong and Erroneous to the Ende that this Province may not at any time hereafter Receive any Prejudice By the aforesaid Tripartite Indenture Executed there by the Surveyors & Commissioners on both Sides before the Defects & Errors of the Quadrant by which that Station was fixt and Settled were Detected, and that all farther Proceedings Ought to be Staid untill a Correct Large Instrument be Procured for Settling the said Stations, all which is never the Less Humbly submitted by

Your Honours Most Obedt Serv^{ts}

New York Sep^t
the 24^d 1719

A D PEYSTER
GERARD BEEKMAN
RIP VAN DAM
JOHN BARBERIE
AD. PHILIPSE

—[*N. Y. Col. MSS.*, lxi, 189.

[PETITION.]

September 24, 1719.

To the Hon^{ble} Peter Schuyler Esq^r President and the rest of His Majesties Hon^{ble} Council for the province of New York.

The Humble Petition of Severall the Inhabitants of the province of New York for themselves and others, owners and proprietors of Lands Bordering upon the Partition Lines between the provinces of New York and New Jersey

Sheweth

That the assembly of this province haveing appropriated The Sum of £300 for Defraying their parte of the charge and Expençe in ascertaining and running the Pertition Line, Limit and Boundry, betwixt this province and The province of New Jersey The Petition^{rs} had reason to hope so great a work would have been carryed on and accomplisht with such Reciprocall Justice and Equality, that neither side would have reason to Complain. But having Grounds to apprehend that a due and Equall regard has not been had either for the Bennefitt of this His majesties Province in Gennerall or for us and others his Leige Subjects that have an Imediate Interest on the borders of that Line, They begg Leave to Lay before yo^r Hon^{rs} a state of That Case, and The Reasons of Their Just apprehentions, Reserveing to themselves the Liberty of adding what shall farther occur to their Knowledge, and of amending and explaining what is herein sett forth, which they most Humbly offer In the Following manner (vizth)

That by the Duke of York's Grant to the Proprietors of the Jerseys, They were bounded in the Latitude of 41^d & 40 minutes on the norther-

most Branch of Delleware River and on Hudsons River in the Lattitude of 41 Degrees and as this Grant was made In the year 1680 They Conceive the Tables Then in use ought still to be the rule in Settling those Lattitudes By which Tables (as they are credibly Informed) The obliquity of the Ecliptick was universally allowed to be 23 degrees and 30 minutes. That by a Draught of Geo: Keith then Surv^r of the Jerseys (ready to be produced) he Lays Downe the aforementioned northermost Branch of the Delaware River about 25 miles to the westward of the Fishkille. That in the year 1686 the Survey^r of New York and the Jerseys by consent of the Respective Governours ascertained the Lattitude of 41 degrees on Hudsons River to be due west from Frederick Phillips Lower mills. That Coll. Andrew Hamilton Gov^r of the Jerseys afterwards did owne the said Lattitude of 41 degrees on Hudsons River conformable to a Mapp made by the Survey^r to be due west from the said mills as by a Writing under his hand dated the 13th of February 169 $\frac{3}{4}$ and ready to be produced may appear at Large: That those Petitioners who held Lands to the northward of that Line by Virtue of grants or Pattents from the Jerseys, had by the Justice and Indulgence of this Gov^r New Grants for the same, and at Easier Quitt Rents than what they were to have paid to the proprietors, and others haveing by Lycence of the Jerseys Purchased Lands from the Indians and Sueing for Pattents Conformable to those Purchased were directed to take pattents from New York. Those Lands Lying to the northward of the Station then fixt That after the beforemençoned act of assembly was past here, an act of the Like nature was made in the Jerseys and John John Johnston and George Wollocks Esq^r Were appointed to be Commissioners who are Known to be Proprietors, and to have taken up Large Tracts on the Borders whilst this affair was In agitation.

That when it was proposed to name Commissioners for this province, The Gentlemen of the Council (as they are Informed) Were Generally of oppinion (except those Gentlemen Who are Proprietors of the Jersey) That Wee ought to follow the same Rule, (to witt) In Like Wise appointing such Persons as had an Imediate Interest In Lands bordering on the line. That notwithstanding (as they are further Informed) The Gov^r Comissionated Robert Walter and Isaac Hicks Esq^r: and thô we have a due Defference to the Carracters & Reputation of those Gentlemen ; Wee Concieve they were not duely elected Because our act of assembly Directs, That they should be appointed by the Gov^r and Council.

That the Survey^r for this Province Allane Jarratt (being approved of by the Council) was obliged to Execute a Bond for £100 conditioned to settle the Stations and Runn the Line and since this was (as they

are informed) Demanded at the motion of the Jersey gentlemen, and that neither their Survey^r nor any of the Comissioners had the Like required of them, It may Reasonably be concluded, This was Exacted with a View of Laying him und^r a necessity to fix the Lattitude Rather to the disadvantage of this province Than subject himsele to the penalty of said Bond. That the Comission^{rs} and Survey^{rs} of boath provinces setting out from this City, Went directly to Maghagkamek and Manissings Where they mett some other Gentlemen of the Jersyes and without seeking for the Right Branch, or Traceing of them (and Indeed almost every body Lookt upon the Season Impropper for soe doeing) They Imediately took Observation there, just as If they were Resolved to ffix the Lattitude on the Fish Kill, phapps wth a View to Secure for the Jersyes the Low Lands at the two Places abovementioned Which could scarcely be drawne in if the Propper Branch had proved so far Westward as Keith's Draugh Lyes it Downe, That altho such foggy Cloudy and rainy weather happened at that Time for about 25 Days successively, as the Like at that season was not Knowne in the memory of man (Just as If Heaven frowned on the Designes) They ffixt the Lattitude upon the fish Kille near a small creek which they Termed Station Brook, notwithstanding they seem'd Satisfyed That the said Fishkille is the maine River of Dellaware itsel^f, Which Lattitude was taken at the Ende of the small Instrument they made use of, and thô an Indenture was Executed of their proceedings there, They have been so just therein (as we are Informed) as to say That their Discovery was by information, That Indeed the Com^{rs} sent Capt. John Harrison a Jersey Gent on to Look what Branches there might be betwixt the Rivers of Delaware and Suskohamna, Who upon his return Reported there were none. Thô he was heard to owne that he mett wth one so Wide and Deep that he was obliged to make a float before he could gett over itt and Wee are creadibly Inform'd that Severall Christians are ready to depose there is one or more Considerable Branches to the Westward of the fish Kille; which tis possible Cap^t Harrison mist by reason he set out about 24 miles to the Southward of the Lattitude. That after the said Lattitude was Fixt on the Fishkill in the manner before mençoned The Survey^{rs} and only the Jersey Com^{rs} Went Mad^m Corbetts and made Repeated Observaçons there. But in so doing a discovery was made that the said Instrument was Erronious. For that the Lattitude taken at the middle Differed above four miles from Those taken at the Ende thereof and Since at the Fishkille use was made of the Ende, its Evident beyond contradiççon that the Station pretended to be Fixt there, Is Just So Much to the Northward of the True and Real Lattitude as the above Menconed Difference amounts to, That Complaintes and Démonstrances

of Such Weight have been offered at home against the act of assembly before mentioned, That it is uncertaine whether the same will be approved or disapproved of by his Majestie, tho the same was past here in the year 1717 and it's certain that in Case of a Disallowance, Every thing done by virtue of that act will be void, But tis Impossible to foresee what confusion and mischiefs might Issue if this affair should be Completed and the said act Rejected at the same Time.

That the fixing these Stations and Running the Line in the manner it has hitherto been Carried on, not only the Crowne, but Likewise many of yo^r Petition^{rs} will be in Danger of being Eneroached upon, and thô many of us have Spent their Labour and Substance upon their Severall Improvements for 30 or 40 years past. There seems but Little reason to Expect (in such case) the Like Justice and Indulgence would be shewn by the other side, as Was heretofore extended on the parte of this province (as is hinted above)

For These and Severall Reasons more especially for the Minutenes of the Instrument (being but 22 Inches Diameter) and Ist Varying so considerable in It's Selfe Yo^r Petition^{rs} offer they will readily be at halfe the Charge of an Instrument to be sent for from London propper and Large enough for Settling and fixing the True and exact Station Points Which Instrument being first Tryed and proved by able and Skillful artists at home and attested by them to be True and Correct; and the Obliquity of the Ecliptick settled as it Was Uneversially Received when the Grant was made to the Proprietors all Partys must then be Concluded by Such Determination.

Your Petitioners therefore most Humbly Pray that the Com^{rs} and Survey^{rs} of this Province may Severally Deliver in a Journall of their proceedings hitherto, and that wee may be favored with Coppyes thereof, and that all further proceedings may be Stayed, untill his Majesties allowance or Disallowance of the above mentioned act of Assembly is first signified and untill such an Instrument arrives here as is above Described

And Yo^r Petitioners as in Duty Bound shall ever pray &c.

[Signed by forty-seven persons.]

[Endorsed:] Petition of several of the Inhabitants of New York relating to the running the Jersey Line.

Sep^r 24th 1719

Read & referred & to Gent of this board or any five of them.

JA: ALEXANDER D C Coun.

—[*N. Y. Col. MSS.*, lxi, 191.]

BOUNDARIES OF THE STATE OF NEW YORK.



[IN N. Y. COUNCIL.]

September 24, 1719.

* * * * *
The Petition of several the Inhabitants of the Province of New York for themselves and others owners and proprietors of Lands Bordering upon the Partition Line between the Province of New York and New Jersey Being Read

ORDERED that any five or more of the Gent. of this Board be a Committee to Consider of the Said Petition

The Petition of Allane Jarratt Being Read

ORDERED that the Same Committee to whom the last Petition was Referred do Consider of the Same

* * * * *
An Acc^t given in by Cap^t Walters, Coll. Hicks and Allane Jarratt Com^{rs} and Surveyor for running the Division line between the Provinces of New York and New Jersey Was Committed to the Gent. of this Board or any five of them.

* * * * *
—[*N. Y. Council Minutes (MS.)*, xii, 26.

[IN N. Y. COUNCIL.]

October 1, 1719.

* * * * *
The Report of the Committee to whom was referred the Petition of Allane Jarratt Being Read

Ordered that all Concerned who desire Copys of it may have them and that they make their Objections if any in three weeks.

* * * * *
—[*N. Y. Council Minutes (MS.)*, xii, 33.

[MEMORIAL OF N. J. PROPRIETORS.]

[October 12, 1719.]

To the Honourable Lewis Morris, Esq; President of His Majesty's Council for the Province of New-Jersey, in Council.

The humble Memorial of the Proprietors of the Eastern and Western Division of said Province of *New-Jersey*.

Most Humbly sets forth,

That they have considered the Petitions of *Jarrat* and others, to the President and Council of *New-York*, and are very much surprised to find,

that the Persons now concerned in that Government, should put a Stop to the running and ascertaining the Line of Division and Partition, betwixt that and this Province, upon the groundless, weak, and untrue Suggestions of the Petitioners, and the visionary Whim and Cant of the Surveyor; after the same had been directed to be done by the Legislatures of both Provinces, and Commissioners had been appointed under the Great Seal of each of them for that Purpose; and had made (at a very great Expence) so considerable a Progress.

They begin with setting forth, that the Duke's Grant being made in the Year 1680, the Tables then in use, ought to be the Rule of settling the Latitude; and that by those Tables, the Obliquity of the Ecliptick, was universally allowed to be 23 Degrees, 30 Minutes.

1st, If that Way of Reasoning be conclusive, they should have mentioned the Grant in the Year 1664, (there being no such Grant in the Year 1680, that we know of,) and the Tables then in use; for if the Latitude mentioned in a Grant in the Year 1664, might be ascertained by Tables in use in the year 1680; they might as well be settled by any subsequent Tables, if they were right. The Truth of Tables, and not the Hypothesis on which they were made, or the Time of making them, being to be considered in a Case of this Nature: When that Grant was made by the Duke, it was upon a certain Knowledge, that there was a Place on *Hudson's* River, in the Latitude of 41° ; and another on *Delaware*, in the Latitude of 41° and $40'$. and the Province of *New-Jersey*, was, by that Grant, intended to extend so far North as these Latitudes really were; and the best and most proper Means for the Discovery of them, were to be made use of, without Regard to this or that Table.

2dly, The Authors of some of the Tables in the Year 1680, might be of Opinion, that the Obliquity of the Ecliptick was 23 and 30; and we suppose, calculated their Tables of the Sun's Declination accordingly; but it is the Tables of the Sun's Place that can only be made use of in this Case; And these Tables have no Concern with the Obliquity of the Ecliptick, whether made by those Authors or any else.

3dly, That the Obliquity of the Ecliptick, was, in the Year 1680, universally allowed to be 23° , $30'$. is a Position, that (with all due Deference to the Credit and Knowledge of the Petitioners Informers) we think is not true; for Mr. *Flamstead*, long before, found it to be 23 and 29; and about the Year 1680, publish'd his Doctrine of the Sphere; and through that Book, uses 23 and 29, as the greatest Obliquity; and so it's used by Sir *Isaac Newton*, in his Theory of the Moon: This was in *England*, by two as good Mathematicians as any in *Europe*: In *France*, Monsieur *Le Hire*, one of the Royal Academy of *Paris*, by Observations of the Sun near the Zenith, and out of all

Danger of Refractions of any Consideration, found it before that Time, to be 23 and 29; and, about that Time and since, it has been generally allowed to be so.

4thly, With all due Deference, as before, we have Reason to think, that the Tables the Petitioners mention, were not in use in the Year 1680, but decayed; and that the Opinions of *Flamstead*, *Newton*, and the most celebrated Mathematicians, of the Obliquity of the Ecliptick, being 23 and 29, obtained at that Time: And if we may use the Method of the Petitioners, to speak by Information, and reserve to ourselves the Liberty of altering and amending, we are informed, that in the Year 1682, (at the End of which, the Duke's Grant of Confirmation to the Proprietors pass'd,) the Tables then in use, were calculated according to the Obliquity of the Ecliptick, at 23 and 29; and then, according to what themselves have advanc'd, these Tables ought to be the Rule of settling the Latitude.

5thly, Admitting the Obliquity of the Ecliptick to be 23 and 30, or what greater Number of Degrees the Petitioners please; the Advantage or Disadvantage to them, would not arise from that Obliquity, but from the Time of the Year in which the Observations were made; and had they been made during the Time of the Sun's Declination to the Southern Tropick, the Petitioners would have complained; and according to their happy Way of Reasoning, inferred, that it was intended, by the Duke's Grant, that the Observations should be made after the Sun had pass'd the vernal Equinox; and before its Return to the Autumnal, because that Grant pass'd the 14th *March*, some small Time after the Sun had pass'd the vernal Equinox.

6thly. The Obliquity of the Ecliptick, Refraction of Rays and Things of that Kind, were proper Subjects of Debate, between the Commissioners and Surveyors of each Province, (to whom the Discovery of the Places of Latitude were intrusted) in order to use such Methods as they should agree to be most just and effectual for the obtaining of that End; and accordingly, such Debates were, and by Agreement, between them, the Obliquity was settled to be a Mean between 23 and 29, and 23 and 30; and pursuant to that Agreement, the Observations made, and the Station settled, though something to the Disadvantage of your Honour's Memorialists, the true Obliquity being 23 and 29, which *Jarrat* cannot chuse but know; and that the Consent of our Surveyor, to any Addition to it, was, in Compliance with *Jarrat's* Capricious, and to promote the Settlement and Discovery of those Latitudes, and the Line of Partition, by the Legislature, and all the Impartial of both Provinces, so earnestly desired, and not from any Belief or Knowledge he had, that such an Addition was just; and after these Matters have been discuss'd and agreed upon, and the Station settled, we hope it will

not be in the power of a few dissatisfied Persons, by Clamour and Noise, without Reason or common Sense, to defeat what is done in so solemn a Manner, and prevent what ought to be done, in pursuance of their Oaths and Commissions.

The Petitioners second Reason for what they call their just Apprehensions, that a due and equal Regard has not been had, &c. is, that by a Draft made by *George Kieth*, Surveyor of the *Jersies*, the northermost Branch of *Delaware River* is laid twenty five Miles to the Westward of the *Fishkills*.

1st. We deny that by any Map of *George Kieth*, any Branch to the Westward of the *Fishkill*, is laid down as the northermost Branch of *Delaware River*: There is a Map made by *Philip Wells*, Surveyor of *New-York*, which is called *George Kieth's*, that lays down a Branch to the Westward of the *Fishkill*, but does not determine whether that or the *Fishkill* is the northermost Branch.

2dly, If there was or is any such Map made by *George Keith*, as they say, we can't see what can be inferr'd from thence, other than that the Maker of such Map was made believe, there was such a Branch; but will no more prove there was such a Branch in reality, or any unfair Proceeding, as is suggested, than a Map (of which there are several) that lays down a large River, running from *Hudson's River* into *Hack-insack River*, making that Part of *Jersey* that borders on *Hudson's River* an Island, will prove, that there is, in Reality, any such River or Island as there laid down; nor will either of these Mistakes, prove any Unfairness or Partiality of Proceeding: Had there, indeed, been such a River, as is said to be laid down by *Kieth*, and had that River been the Northermost Branch of *Delaware*, and the Commissioners and Surveyors had fix'd the Station 25 Miles East of it, there had been just Reason of Complaint; but to infer an Unfairness of Proceedings, because a certain Person laid down a River in a Map, (which has no Being in *rerum Natura*) is such a Way of Reasoning, as can have no Weight with any Men of common Sense, not very much predisposed in the Petitioners Favour.

3dly, We beg Leave to inform your Honour, that if there had been any such River as is suggested to be laid down in the Map, the Proprietors of the Eastern Division, and the Commissioners of the *Jersey Side*, would not have failed to have found it out, and fix'd the Station upon it, it being very much their Interest to have it so: A Station so fix'd, giving to the Eastern Division of *Jersey*, above 300000 Acres of Land, which is worth more than so many Pounds, whereas the Low-Lands supposed to be acquired by the Station on *Fishkill*; and which the Petitioners, by their low and vile Reflections, suggest to be the Motive of (their imaginary) unfair Dealing, hardly amounts to 3000

Acres, and that not worth above *Sixty Pounds* per Hundred, which shews how little Ground there is, for the unreasonable Clamour they are encouraged to make on that Head.

That in the Year 1686, the Latitude of 41° , on *Hudson's* River, was ascertained to be due West from *Frederick Philipse's* Lower-Mills, by the Surveyors of *New-York* and the *Jersies*, by the Consent of the respective Governors of both those Provinces, is a very great Mistake, in fact, no such Thing being to be found extant, of Record, in either of the Provinces. Indeed, *Philip Wells*, Surveyor of the Province of *New-York*, and one *Andrew Robinson*, Surveyor of the Province of *West-Jersey*, which was then a distinct Province from *East-Jersey*, made some Attempts to fix the Latitude of 41° . on *Hudson's* River, and made a Report that they had so done, in which they made use of *Keith's* Name, in the Body of the Writing, to give a Colour to their Proceedings, but it was without *Keith's* Consent, and he never signed it; And the Latitude so ascertained by them, was not, as the Petitioners say, due West of the Mills, but one Minute and 25 Seconds to the Northward of them. How far Col. *Hamilton*, by some unguarded Expressions in any Letter of his, might give Occasion to wrest them to a Construction of owning a Thing that never was, we know not, but have no Reason to believe it on the Credit of the Relators, whose many Mistakes in Matters of Fact, gives us good Reason to believe, they are misinform'd in this; and it seems very odd, that the Petitioners for so considerable a Fact as the Agreements of Governors of Provinces, concerning the Settlement of Lines of Partition between them, could produce no better Proof, than an accidental Expression in a Letter wrote Seven Years afterwards. Besides, should it be true, that Col. *Hamilton* did own what never was, we can't think the Proprietors are to be concluded by his mistaken Sentiments, having had no Authority from them to make any such Acknowledgement; And if the Expressions of a Letter can be made use of, to conclude the Proprietors in an Affair of that Consequence; will not Col. *Dungan's* taking out a Patent from the Province of *New-Jersey*, (at the Time he was Governor of *New-York*) for the Lands he held in *Staten-Island*, with an equal Parity of Reason, conclude the Crown as to that Island? This was an Owning upon Record, and an Owning with a Witness.

Though we think that neither of these Ownings will conclude the Crown, or the Proprietors, yet we beg Leave to mention one, that (as we humbly conceive) in Law and Justice, ought to conclude both; and that is, the solemn Agreement made between Col. *Thomas Dongan*, when Governor of *New-York*, and *Gawen Lawrie*, Esq; Governor of *East New-Jersey*, in the Year 1684, who agreed and ascertained the Latitude of 41° , on *Hudson's* River, to be at the Mouth of *Tappan*

Creek, in the Meadows where it runs into *Hudson's* River: This was an Agreement not to be charged with Partiality, Craft, or Practice; both the Governors, with the Council of each Province, or the greatest Part of them, and several Gentlemen of Figure, of both Provinces, went on the Spot; the most eminent Lawyers of both Provinces, attended to advise, in case any Difficulty should arise in Construction of the Words of the Duke's Grant. The Surveyors of each Province were there, who understood astronomical Observations, and were Men skilful in their Professions; there were others of both Provinces, very able in mathematical Learning: The Observations they made were done with Instruments of Six Foot Radius, two of which they had nicely graduated; the Observations often repeated in the presence of both the Governors, Councils, and Persons there attending; so that all Pretence and colour of Fraud was taken away.

The Latitude fix'd with the nicest Exactness in that great Presence, and agreed to by the Persons concern'd and is extant of Record in this Province, as (we suppose) it is in that; this is an Owing we conceive, to be conclusive, and we humbly hope his Majesty's Goodness and Justice, will induce him to confirm what was done in so publick and solemn a Manner; nothing so free from all Objection being to be hoped for from a second Essay. However, we are not without some Hopes, the Justice and Prudence of the Government of *New-York*, in enforcing a Compliance, with the Directions and Intentions of the Legislature, will make Applications to His Majesty, needless on this Head, and prevent those Measures, we shall otherwise be under the Necessity of taking, and which the Justice of our Cause will warrant, what the Petitioners say, with Respect to the naming of Commissioners, by the Governor not duly elected, is an Arraignment of his Conduct, and an accusing him of Partiality in that Affair; but with how much Injustice, may appear from the Minutes of the Council-Book; by which it is plain, they were appointed by order of Council.

This is another Instance what Credit ought to be given to what they represent, and shews how willing and ready they are to Sacrifice the Reputation of a Person, who has deserved a much better Treatment. It is very true, that *John Johnston* and *George Willocks*, are Proprietors of *East-Jersey*, and the Province of *New-York*, could not be hurt by them, it being much more their Interest, to have the North Partition Point (as is before hinted) fix'd where the Petitioners have placed their imaginary River, than any of the Petitioners, or all of them put together; and that the Commissioners took up Land on the Borders of this Province, while this Matter was in Agitation, or some Years before, is a Mistake; and the Petitioners have been very much misinform'd, as they have been in all the following Articles.

That there was any Obligation on the Surveyor of *New-York*, to grant the Bond mentioned; is another Mistake, for the same was his own voluntary Offer, and made for this Reason: A little Time after his being appointed, and after the Commissioners had got Warrants to receive £.120, they were for agreeing with him for *Twenty Shillings* per Day, certain, which he would not accept, but said he would be upon the same Footing with the Commissioners, to have the Third of the £.300, appropriated for that Purpose, and they having got £.60 a Piece already; if the same could be procured to him, he would give Security for the Performance of the Work, or to refund the Money; and in Case of his Death upon the Work, his Executors to retain in their Hands, so so much as should be Satisfaction for the Work he had done; all which was but reasonable, and not for Performance of the Work alone, as is set forth in the Petition.

It was not without seeking for the right Branch, that the Resolution was taken of observing upon the *Fishkill*, as the Petitioners set forth, but with very good Reason; for before that Resolution, the Commissioners and Surveyors had Information from many, of the several Branches of *Delaware*, many of whom were willing to take their Oaths, that there was no considerable more westerly Branch of *Delaware*, that went near so far North as the *Fishkill*; but not being willing to trust to that, *John Harrison*, an *East-Jersey* Man, and a considerable Proprietor there, and no Proprietor of *West-Jersey*, (and his being so, was rather the best Qualification in the World, for him to find a Westerly Branch) was pitch'd upon, and agreed with, to go and view all the Branches betwixt *Delaware* and *Suskehanna* River.

And it was no Loss to have observed upon the *Fishkill*; for if the Latitude had been found there, and a more Westerly Branch found, there would have needed no more, than to have run a true West Line to that more Westerly Branch: It's another Mistake, that upon Capt. *Harrison's* Return, his Report was, that there was no Branch to the Westward of the *Fishkill*; for in his Report he gives an Account of several, with each of their Breadths; but there was not one of these above 30 Foot wide, whereas the *Fishkill*, at the Station Point, (which, as they own, is above 24 Miles further North than the Way Capt. *Harrison* went) was found, by measuring, to be 462 Foot over, and widens much below that.

As to any Branch that could be betwixt the Place that Capt. *Harrison* went from, and the Station Point, the River was particularry search'd by the Commissioners themselves, and no considerable Branch they found, but one of about two Chains over at its Mouth, which runs to the West and South, and which even Capt. *Harrison* cro's'd in his Way, he being assured it was the same, from the Information, both of Indians

that he met with, and of the white Man that was his Guide, who had gone from that Place where he cross'd it, down in Canoes, to the *Fishkill*; and besides, it is not likely that a Branch of two Chains over, should run more Northerly, than one of eight Chains over, and which is much deeper, and at the same Time, a very swift Stream; seeing that the *Fishkills* Course is generally North-westerly, and that Branch goes out to the West, and turns to the Southward.

There was not one of the *Jersey* Commissioners at Madam *Corbit's*, during the Time that the Surveyors together, took any Observation there; it's true, that Mr. *Willocks* came, according to his Appointment with the other Commissioners: After Capt. *Jarrat* had taken Observations enough, and was gone to *York*, and was present at some Observations made by Mr. *Alexander*, for his own Diversion; but no one Observation was taken by Capt. *Jarrat*, or Mr. *Alexander*, after *Jarrat's* return.

It's true, there was a Difference of four Miles in some of the Observations at Madam *Corbit's*; but from thence it cannot be inferr'd that the Instrument is erroneous, for if the Object Glass of the Telescope of the Instrument be not so plac'd, as that the Axis of the Glass is coincident with the Rays of the Sun shining thro' the Telescope, there will be a Variance, which, to do exactly, is beyond the Art of Man to do; but what ever that differs from the Truth, may be found out by only inverting the Telescope, and the Difference between that and the former Observation halved and added to the least, and subtracted from the greatest, gives the true Observation, which every one that is tolerably versed in the Knowledge of Glasses knows to be true, and this Method was followed at *Mackhacamack*; and Capt. *Jarrat* acknowledges this to be the Reason of the Variation, but can't conceive what's so notoriously known; and *James Alexander*, does positively say, that he has observed with all the Parts of that Instrument, and that the Mean of the several Observations at the same Place of the Quadrant with the Telescope both Ways, doth not differ one from another above one Minute and a Half: What they say is evident beyond Contradiction, is ridiculous in itself, and proves, beyond Contradiction, that the Petitioners know nothing of the Matter; for the Difference of the Observations between the *Fishkill* and Madam *Corbit's* no more prove that the Partition Point is placed four Miles to the Northward, than it does, that it's four Miles to the Southward.

We presume the Petitioners don't know the Difference between Radius and Diameter, for many of them have seen it, and could never mistake so far as to call Twenty-two Inches Radius as that Instrument is, but Twenty-two Inches Diameter, if they did.

As to Arguments offered against the Act, we know not what they are,

but if we may depend upon the Information of those who, we believe, know much more of that Matter than any of the Petitioners, they are not esteemed of Weight sufficient to answer the End intended by them, and are in no Likelihood of procuring the Repeal of it; and we are induced to believe our Information, not only from the Nature of the Act, but from the Conduct of the Governor, who would not have recommended the passing an Act of the like Nature to the Assembly of this Province, had he been under the least Doubt of the Disapprobation of that at *New-York*; nor do we conceive the Consequence attending such Repeal, with Respect to this Affair, can be any other than refunding into the Treasury, the Money spent on this Occasion; for we presume the Lines and Boundaries of this Government may be ascertained, without the Consent of that Assembly, if any Persons will be at the Charge of it; and that your Honour, or such Person as shall be intrusted with the Government of this Province, will be both willing and able to protect us in the Enjoyment of our Civil Rights.

They say, that by running the Line, the Petitioners will be in Danger of being encroach'd upon: Being in Danger of being encroach'd upon, is a Reason they should have blush'd at: If they could have made out they should be incroach'd on, it might have had some Weight; but surely they never could so far flatter themselves, with the Hopes of putting a Stop to an Affair of this Consequence, by their being in Danger of being incroach'd upon, except they had good Assurances, that, say what they would, it should be effectual, as we are pretty well assured they had, and shall be represented in its proper Time and Place: The Petitioners cannot say, they would be incroach'd upon if the Line was truly run, they making no Pretence to Land in *Jersey*; so that they durst not offer that; and if it was not truly run, *Jersey* might be in Danger of being incroach'd upon, as well as the Petitioners; and the natural Petition on that Head should have been, that the utmost Care should be taken to run it truly, and not to put a Stop to it.

They make a Flourish of the Justice and Indulgence of the Crown; which, we make no Question, all his Majesty's good Subjects will, at all Times, feel the proper and good Effects of, according to their Demeanour; but what they mean by Justice and Indulgence here, is the Conduct of the Person Governor of *New-York* at that Time, and is quite different from what they are pleased to call it; and we persuade ourselves, to just and impartial Men, will appear to be what it really is; to make which appear, we humbly pray, your Honour to receive the following Information: Some Dutch Farmers wanting Land, pitch'd upon a Place called *Tapan*, and applied to Col. *Dungan*; who being informed, the Land they had pitch'd upon, lay mostly in *Jersey*, used his Endeavour to alter the Station, by him so solemnly agreed on, and prevailed on the

Surveyor of *York* and *West-Jersey*, to join in making the Report, in the Year 1686, mentioned before; to which they could never get the Surveyor of *East-Jersey* to join: After, or about the Time of that Report, he grants the Lands desired, to the People of *Tapan*, for the Consideration they made him; which Lands lay mostly in the *Jersies*; and they settled down by Virtue of those Grants, and by the Countenance of that Governor (who had the *Vis major*,) held them, and do so to this Day. Some there were who held Lands by Jersey Rights within this Grant, and these were forc'd to comply, and take new Ones from that Government, which he gave for the full Quantity they held before; but to one of them, who held from *Jersey* a considerable Tract of Land, which would interfere with his Grant to *Tapan*, and who he was loth to dispossess altogether, lest it would shake his new Settlement, and bring the Validity of his Titles in Question, and thereby lay him under the Necessity of refunding the Money he receiv'd, he made a Grant for the whole Land; and both the Patents of *Tapan* and *Lockarts* lying in the Office together, he ordered a Day's prior Date to be put to the former, which was not discovered till long after; and so they hold the Land to this Day: And what Disputes that has occasioned between *Corbet* and *Meritt*, is no Secret. This giving away of the Jersey Lands, contrary to the most solemn Agreement made by himself, as before, and in this Manner, is the so much magnified Justice and Indulgence; and how far it deserves those Epithets, may one Day be determined.

They come at last to Proposals, and offer to be at half the Charge of an Instrument proper and large enough, to be approved and attested to be true and correct by able Artists, and the Obliquity settled, &c. As to the Obliquity, enough has been said already to shew the Weakness of that poor Pretence; and as to the Instrument, they neither tell what Instrument they mean by a proper Instrument, nor how large is large enough, nor who these skillful Artists shall be that are to try and attest it; but having reserv'd to themselves a Power of adding, altering or amending, we suppose, they'll think that Reservation gives them an Authority proper and large enough to make Use of, when this (none-such) Instrument arrives, to render it as wholly ineffectual for the Purposes of ascertaining the Station, as they have endeavour'd to do this; for there will be a necessity of certifying, that these are skillful Artists; and those that certify them such, will need another Certificate, to Certify their Judgments that so certify, and so on; and notwithstanding such Certificate of the Correctness of the Instrument, it won't be safe to proceed upon it till its tried here, and known to be so, or how correct the Errors of it in Case its not; and if so, such Certificate is needless; and with this good Instrument there may and will Differences happen in the Observations in different Parts of the Instrument; and all

that can be said on it (though confess'd to be true) will not prove satisfactory to any Person resolved not to proceed, and one Stroke of Cant, that *he cannot in Conscience proceed to determine the Latitude by it*, overthrows the whole Affair, and puts things into the same Condition they are at present; which is all that we expect from the Petitioners, or their Proposals; though we shall be always ready to comply with sincere, just and Practicable Proposals, whenever they appear from the Petitioners or any else, some of which we think to be, that the Commissioners and Surveyors proceed according to the Directions of the Legislature, their Oaths and Commissions, till they finish the Work; and if any or all of these will not or cannot proceed, that some others, more willing, able and knowing, be sought out, that both can and will; that the Commissioners and Surveyors of the Provinces concerned in the Station-Point on *Delaware*, meet, and try to find the Defects of the present Instrument, (if any such there be) and if they can, amend them, and rectify any Error occasioned by them; that if they think it impracticable by that Instrument to determine the Latitude, that then they stop their Proceedings till they get one by which they can; but that it be not stopt upon the bare Whim or Credit of any one Visionary among them: These Proposals are what we humbly conceive to be just and reasonable, and what we hope will be complied with; but if the Opposers of this good Work persist in their Endeavours to defeat and elude the good Intent of those Laws made on that Behalf, and a Stop is put on the side of *New-York*, without the Consent of the Rest concerned; we become humble Suppliants to your Honour, that it may be done on the Part of *Jersey*, for which we shall be ready and willing to defray the Expence.

As to Capt. *Jarrat*, his whole Conduct while concerned in that Affair, gave but too visible Indications of his Attachment to that Party, whose Endeavours have been to prevent the Running of those Lines; so that little less was expected from him than is come to pass; and we refer him to that Conscience he seems so tender of, which will not fail faithfully to lay before him the true Motives that prevailed upon him to make that Pretence; and with as great a Deference to him, as he has to that, take Leave to observe, that *Tapan Creek* does not lie two Minutes to the Northward of the Place of Observation; we are informed, hardly one; and that *Younkers Mill* lies about six Miles to the Southward of it, as we are informed; and if so, even this Extream of between two or three Minutes to the Southward of the Place of Observation, cannot reach these Mills: This is a Matter he can easily determine, if his Conscience is not disposed to contradict his Eyes.

Notwithstanding that Capt. *Jarrat* says, there is a wide Variation in the Observations, *to wit*, of between 4 and 5 Minutes, yet he is careful

to avoid saying, that the Instrument is erroneous; for he is sensible, that the best Instrument that ever was, may differ twice that Number of Minutes in the Observations, and at the same Time be perfectly good, (*viz.* as good as Man's Hands can make it,) for its ten Thousand to one, if the Glass-Grinder, do so grind the Object Glass, and center it, and the Instrument-Maker so place it in the Instrument, as to make the Axis of the Glass perfectly coincident with the Rays of the Sun; which if they do not exactly, (and to say its exactly, is beyond human Art) there must be a Refraction of the Rays; which made Astronomers, as particularly *Bulialdus*, upon the first Use of Telescopes, to such Instruments, say, that Glasses were not at all fit for such Instruments, because we could never know, whether the Ray came directly or refractedly to our Eye; and, no Doubt, they would have soon been disused, if a Method had not been found out to discover that; which since has been, and which perfectly shews, whether a Ray comes directly or not, and (if not) exactly, how much it is refracted; and that is, by having the Telescope moveable, so that if by looking thro' it, one Way you find your Object of one Height, so much as this is too high or too low, you can find out, by turning the opposite Side of your Telescope uppermost, and looking again to the Object; now so much as the Object appeared too low the first way, so much must it appear too high this Way, *et e Contra*; and of Consequence, the Difference betwixt the two Altitudes, is twice the Error, which halved, and added to the least, and subtracted from the greatest, will give the true Altitude, as well as if the Rays had come directly to the Eye.

Now Capt. *Jarrat* is sensible, that this is the Cause of the Variation of the Observations, and has owned, that that Method of correcting, which is so plain in itself, and which every one that has any tolerable Knowledge in Glass, knows to be perfectly true, is true in Theory, and to be used in Astronomy, for one's own private Satisfaction; but thinks its not to be put in Practice in this Case, not because it will not do, and discover as truly the Latitude sought, as if it was perfectly correct, but because he is pleased to say, some Estates are at Stake, so that if he should determine with that Instrument, he might be liable to future Reproaches of being bribed or byass'd; and therefore desires a larger Instrument, not to determine the Matter with more Truth, but to vindicate himself from the Aspersions of being bribed or byass'd; what suggested that Thought he best knows, and from this we may guess, how likely the Success is to answer the Expectation.

We are not surprized at this from him, but very much so at the Report of the Gentlemen of his Majesty's Council of *New-York*, who advise, that *Jarrat* should be directed to certify, by some Instrument under his Hand and Seal, that the Station pretended to be fix'd at

the *Fishkill*, is wrong and erroneous, to the End, that Province might not, at any Time, receive any Prejudice, by a tripartite Indenture, executed by the Surveyors and Commissioners, &c. before the Defects was discovered.

The Reasons which, upon the whole Matter, induced them to give this Advice, are as extraordinary; and with due Deference to the Characters of those Gentlemen, amounts to no more than an implicit Dependance on *Jarrat's* Word, without any Proof or Reason given for the Truth of what he says.

That is to say, *Jarrat* was made Choice of, as the ablest Mathematician, has, by the Declarations in his Petition, and Assurances before them, of the Defect of the Instrument.

And has also declared, that the Methods proposed by Mr. Alexander, are not satisfactory to him.

We humbly submit to your Honour's Judgment, whether this is any more, either in Words or Meaning, than that *Jarrat* said so; *Jarrat* says the Instrument is defective, and that he is not satisfied with the Methods proposed by *Alexander*; (and therefore) is this Ground sufficient to set aside all that has been done, and elude the good Intentions of two Provinces, upon the Credit of a Man, which, for any Thing they know, may be in the Wrong, and in all Probability is so? They say, he declared so in his Petition, and assured them so; there is nothing like it in his Petition, and *Alexander* protests, he does not remember that ever he told them so; he, indeed, tells them of wide Differences of Observations, but that does not prove a Defect in the Instrument; that may happen many Ways, and the Instrument be good enough. Has *Jarrat* said, these Differences proceed from the Defect of the Instrument? or given them any Proof that it is so? Or will he presume to say so? If he does, we desire he may be ask'd upon his Oath, (for his Conscience may get the better of his Memory) whether he took any of these Observations himself at *Corbet's*, that made this Discovery, or saw them taken? or knows any Thing about them, but by Information from another? And we advise him in this Case, to have some Regard to his Memory; because there are Men alive, that knows in what Part of the Province he was at that Time; and we desire these Honourable Gentlemen, together with their Petitioners, and Mr. *Jarrat*, to give any Proof if they can, that this Difference of Observations, proceeded from the Defect of the Instrument, and not the Mistake of the Observator; and such a Mistake that, for any Thing they do, or can know, might have been rectified by the Penetration and quick Sight of their able Mathematician *Jarrat*, had he been present: And we humbly submit it to the calmer Consideration of these Honourable Gentlemen, whether it had not been more prudent, as well as just, when that pretended Discovery

was made, to have referred it to the Examination and Report of the Commissioners and Surveyors of all the Parties concerned, who were intrusted with it, and whose proper Business it was, than to have made a report themselves, with so much Precipitation, in a Matter that no one Man of them are competent Judges of.

These Commissioners and Surveyors were upon Oath; and if upon Examination, they had found, that the Station had been wrong fix'd, would have rectified it; and in Case the Instrument had been so defective, that they could not with it, do what was intended; they would have said so; which would have been authoritative and conclusive: But further, *Jarrat* declared, what *Alexander* said was not satisfactory to him; it may be so, nor to the Gentlemen before whom he was; this is a very grave and short Way of answering any Thing: But can these Gentlemen be assured, that *Jarrat* spoke Truth, or what the Dissatisfaction proceeded from, whether from Want of Argument on the Side of *Alexander*, or Capacity on the Part of *Jarrat*? If they say the first, then they needed not to have used the Authority of *Jarrat*'s Declaration, but have determined upon their own Judgments; which we presume, would have been upon better Reasons than a *Say so*.

Such are the Reasons, and the Advice is correspondent; they advise, that *Jarrat* be directed under his Hand and Seal, to give the Lye to himself, and all the Parties to that Indenture; and upon his single Authority to certify, that the Station at the *Fishkill* (which they already call a pretended One) is wrong. Here are two Acts of Assembly that make the Determination of the Parties to that Indenture, binding upon both Provinces: Here is a Committee of the Council of one Province take upon themselves to overthrow this, by a Certificate of One Man, (without Proof or Colour of Reason but his say so; and that, as he must own, not from his own Knowledge, but from the Information of another) to make that Determination binding upon neither; how far the Success will answer these Endeavours, Time will discover.

Mr. ALEXANDER being present at the Committee, we have desired him to say what he thinks proper to these Matters, and is as follows:

'*James Alexander* declares, he does not remember that ever Capt. *Jarrat* said upon the Spot, that *he could not rectify the wide Errors of the Instrument, nor take upon him to fix the Station by it, the same varying so much in it self*: He remembers indeed, that he was very 'capricious in this Matter ever since he went to *Mahackemack*, and 'especially after the News of his Excellency's Departure, laying all the 'Blocks in the Way that ever he could invent, making Mountains of 'Mole-Hills, as in this Case: And whatever Dissatisfaction he shewed 'with any of the Observations when he came down to *York* (after the

‘last Observation he ever took with it) he declared himself to be perfectly satisfied with the Instrument, and perfectly to understand how to reconcile the Observations which was upon Thursday the thirteenth Day of *August*; and we expecting the Commissioners up the next Day, I was very loath he should go down to *York*; but he said, he wanted no more Observations, and that the next Day he would come up with them, and settle the Station: But Capt. *Walters* being sick, the Commissioners thought fit to delay the Time of meeting for a Week; so upon the Monday he came up again, and paid me the Compliment of saying, he just came up to acquaint me of it, and to bring me down: Mr. *Willocks* being there, we three adjourned the Time of meeting till the Seventh of *September*; and I went down to *York* with Capt. *Jarrat*; and we carried the Instrument along with us, having no further to do with it there, he seeming still perfectly satisfied, as before; In the Beginning of *September*, I saw him several Times, and he having the Gravel, declared, as soon as he was able he would be ready to go up and finish the Work: And I never heard of any Dissatisfaction he had, till Col. *Hicks* came to Town for to go upon the Line about the Seventh of *September*; and I then being sick, Col. *Hicks* and Capt. *Walters* came to see me, and told me, that *Jarrat* was in another of his mad Fits, and was saying to every Body the Instrument was erroneous, and that it differed four or five Minutes; I told them, that I knew, and he knew that long ago, and that the Instrument was not one Pin the Worse of that; but I could scarcely think he was in earnest.

‘And further, I being present at the Committee of the Honourable the Council of *New-York*, I don’t remember, that Capt. *Jarrat* said further to the Committee concerning what he told me at Mrs. *Corbet’s*, than that he was dissatisfied with these Differences, and that he told me of it before several People; and I think it was upon Interrogatories afterwards made by the Committee, that he declared, *he could neither rectify the wide Errors of the Instrument, nor take upon him to fix the Station by it.*

‘Whenever another Instrument of five or six Foot Radius does come, tho’ at the same Time it be a very good One, I could venture to lay the Price of that Instrument with Capt. *Jarrat*, that there will be four or five Minutes Difference in the Observations that shall be taken by it; and for the same Reasons then he cannot adventure to settle the Latitude by it, and of Consequence never.

It is impossible for the Art of Man, to make an Instrument perfectly true and correct; and if the line be stay’d till one be certified to be so, by able and skilful Mathematicians from *Great Britain*, it will be stay’d for ever; for the most that able and skilful Mathematicians can do, is to

find out the Errors of it, and give a Table of Equations, how to correct it; which Capt. *Jarrat*, if he will but take a little Pains, may easily make himself, for this Instrument; and, for the same Reason that Capt. *Jarrat* wants one now, of 5 or 6 Foot Radius; when such a one comes, he has as much Reason to say, the Work wants one of 11 or 12 Foot, and so on, to 23 or 24 Foot Radius.

Upon the Whole, tho' it must be confess'd to be the Interest of both Provinces, that these Stations be fix'd, and the Lines ascertained; yet, we think, they ought to be done with Justice and Truth on both Sides; and it being possible there may be a Defect in the Instrument, tho' no Manner of Proof yet appears for it, we hope the Council, who have not yet approved of the Report of the Committee, will suspend any Approbation of it, till the Commissioners and Surveyors have examined into the Matter, and made their Report on it, and that they do it with all proper Expedition: This, we pray, your Honour will be pleased to signify to them.

By Order of the Council of Proprietors,

Perth-Amboy,

October 12, 1719.

J. BARCLAY,

Dep. Reg.

—[*Memorial of East N. J. Proprietors, etc., Nov. 20, 1753; pp. 31, fo.*

Colonel Schuyler to the Lords of Trade.

New York 31 Oct 1719

* * * *

I send also to your Lordships a Copy of a Petition presented to me by Allane Jarret the surveyor appointed on behalf of this Province for running & ascertaining the division line between this Province & the Province of New Jersey with the Councils Report thereupon to me by which your Lordships will perceive there is a present stop put to those proceedings & unless I should compel him against the advice of the Council to proceed notwithstanding his Petition it could not be avoided & I do not see that I could justify such proceeding against express & positive declarations without offering an injury to his conscience and exposing this Province to all the wrongs that may consequently follow upon it besides the money given for that service is more than exhausted already by the issues first made & the demand now brought in. I take it to be a work of great importance to the King in which his Quitt Rents Lands & the property of his subjects are concerned and I had rather be over cautious then rash in such affair which is intended to be forever binding tho' I find the Proprietors of Jersey are much exasperated and I hope that before any resolution be taken timely notice will be given that both the Government here on the behalf of His Majesty & the Proprietors of lands holding under Patents from

this Government may lay before your Lordships what they have to say when they are thoroughly informed of the Proceedings of the Jersey Proprietors presuming they will make their application to your Lordships

I had the honor to receive your Lordships letter of the 7th of August last relating to the Boundaries of this Province on the French settlements His Excellency Gov^r Hunter I believe carried with him the best Map that has yet been made of Hudsons River. But of the Countries belonging to the five Nations no Map has yet been made nor is there any publick money to do it with the French have already settled at the back of us from Canada to Messassipie in the last war they attempted to make some Settlements among the five nations & its feared are every day gaining ground for want of ascertaining the Limitts & placing Garrisons at the Lakes & I humbly hope your Lordships upon these considerations will apply to His Majesty that his pleasure may be known concerning a Mapp of the Province and particularly of the frontiers. I am sorry there is no money in the Treasury here to defray the expence if there was I would not give your Lordships the Trouble of this request

Collonel Graham the late Surveyor General of the lands of this Province being lately dead I have ordered a commission to be prepared appointing Allan Jarratt whom I have before mentioned, a person agreed on all hands to be the most capable of any one in the Country so recommend^d to Governor Hunter who appointed him Surveyor for ascertaining the Bounds between this Province and Jersey & a man of a very fair reputation for honesty & integrity & sound understanding.

I am Y^r Lordships

Most humble & obedient Serv^t

P^r SCHUIJLER

—[*N. Y. Col. Doc.*, v. 531.]

[IN N. Y. COUNCIL.]

November 12, 1719.

* * * *

Vpon Reading the Petition of Allane Jarratt praying to be made Surveyor General of Lands in this Province, the President desired the Opinion of this Board what Person was best qualified for that Post the Majority of the Councill were of Opinion that the Petitioner is the best qualified for that Station and they are farther of Opinion that in the Commission to be Given him for that Office there ought to be a Clause that he makes use of no Deputys but Such as Shall be approved of by the Governour or Commander in Chief for the time being and the Councill of this Province.

* * * *

Upon producing an Account of Robert Walter and Isaac Hicks Esq^r: Commissioners and Allane Jarratt Surveyor appointed for running the Division Line between the Provinces of New York and New Jersey amounting to one Hundred and fifty two pounds fourteen shillings and three pence

Ordered a warrant issue to pay to each of them twenty pounds in Part of the said Account and that the Residue of the money (being Sixty pounds) appropriated for that Service remain in the Hands of the Treasurer till the said Account is laid before the Governour Council and General Assembly at their next meeting.

A Warrant was accordingly Signed for the Payment of twenty pounds to each of the Gent. before mentioned out of the Money appropriated for the Service aforesaid.

* * * *

—[*N. Y. Council Minutes (MS.)*, xii, 54.]

[WARRANT.]

No^o 69.

November 12, 1719.

Pay unto Robert Walter and Isaac Hicks Esq^{res} Comm^{rs} and Allane Jarratt Surveyor Appointed for the Running the Division Line betwixt this Province and the Province of New Jersey or to each of their Order the Summe of Twenty Pounds each for their Services in Running of the said Line out of the Money in yo^r Hands Appropriated for that purpose By Vertue of an Act of Assembly Intituled An Act for Paying and Dischargeing Severall Debts due from this Colony to the Persons therein Named And for Raising and Putting into the Hands of the Treasurer of this Colony Severall Quantities of Plate to be Applied to the Publick and Necessary uses of this Colony, and to make Bills of Credit to the Value of Forty One Thousand five Hundred and Seventeen Ounces and an half of Plate for that Purpose And for so Doing this shall be your Sufficient Warrant, Given as above.

To Coll. Abraham De Peyster

P. SCHUYLER.

Treasurer of y^e Colony of
New York

—[*N. Y. Treasury Warrants*, viii (not paged).]

[WARRANT.]

No 42.

July 14, 1720.

Pay unto Robert Walter and Isaac Hicks Esq^r: Comm^{rs} and Allane Jarratt Survey^r: Appointed for y^e Running y^e Division Line betwixt this Province and the Province of New Jersey or to each of their Order the

Sum of Twenty Pounds each for their Service in Running of the said Line, out of the Money in yo^r Hands Appropriated for that Purpose, By Vertue of an Act of Assembly Intituled an Act for Paying and Dischargeing Severall Debts due from this Province to the Persons therein named and for Raising &C &C

And for so Doing this shall be yo^r Sufficient Warrant.

Given as above

To Coll. Abrā. De Peyster Treas^r.

P. SCHUYLER

of y^e Colony of New York

—[*N. Y. Treasury Warrants*, ix (not paged).

[LEWIS MORRIS (OF N. J.) TO PRESIDENT SCHUYLER.]

March 31, 1720.

Much Honoured.

Tide and Wind which will stay for no man forces me to hurry away without being able to do mysele the honour of Waiting on you before I go w^{ch} I verry much regrate having (besides the Satisfaction of paying my regards to you) the Affaire of running the division lines between New Jersie and New Yorke to settle (If I can) with you.

the necessity of running them is Visible to all not willfully blind or whose frauds and Encroachments on Either Side have made it their Interest to Oppose it. we are both of us told by our Superiors that his Majestie thinks it necessary to know the limits and boundaries of his severall american Colonies: & what directions he has given concerning those under our care you are no Stranger to. I shall thinke it my duty in Obedience to his Majesties commands and in compliance wth the directions of the legislature in both Provinces to do what I can in order to Settle and discover the limits and boundaries of the Province of Jersie & hope your hon^r will be so farr assisting wth respect to y^e Line w^{ch} is a Limmit to both Provinces that his Majesties commands may be put in Execution and an End put to the Quarrells and Strifes which almost daily happen between the borderers w^{ch} at Present is a Verry great hinderance to the Settlement and Improvement of both Provinces and the Extending of his Majesties dominion. I am, with very great regard

Much Honoured

Your Verry Humble

Servant

LEWIS MORRIS

—[*N. Y. Col. MSS.*, lxii, 77.

[IN N. Y. COUNCIL.]

December 21st 1720.

* * * *

ORDERED that Cadwalad^r. Colden Esq^r. Surveyor General of this Province Do Examine a Quadrant formerly made use of by Allane Jarratt for the settling the Divisional Lines between the Provinces of New York and New Jersey, And that he make Report thereon to this Board.¹

* * * *

—[*N. Y. Council Minutes (MS.)*, xiii, 62.

[IN N. Y. GENERAL ASSEMBLY.]

June 23, 1721.

* * * *

The Petition of several of the Inhabitants of the Province of *New-York*, for themselves and others, the Owners and Proprietors of Lands bordering upon the Partition Line, between the Province of *New-York* and the Province of *New-Jersey*, was presented to the House, and read, praying they may have leave to bring in a Bill, for raising a Sum of Money sufficient to purchase a proper Instrument for observing, and thereby fixing the exact Station, Points of the Latitudes on *Hudson's River*, and most northerly Branches of *Delaware River*; and for defraying the Charge of trying the Instrument in *Great-Britain*, and transporting it to this Colony, in order that the Partition Line between the Provinces of *New-York* and *New-Jersey*, be truly run and ascertained.

Ordered That the Petition be taken into Consideration by this House.

* * * *

June 24, 1721

* * * *

The House taking into Consideration, the Petition [etc., as above],

* * * *

Ordered, That Leave be given to bring in a Bill accordingly.

* * * *

June 28, 1721.

A Bill, entitled, *An Act, for raising a Sum of Money, to be applied for defraying the Charge of purchasing, trying and transporting from Great-Britain, into this Province, an Instrument proper for observing Latitudes, in Order for the fixing of the exact Station Points, betwixt*

¹So far as now appears, no report was made by Surveyor General Colden.—[P.]

this Province and the Province of New-Jersey, on Hudson's River. and the most Notherly Branch of the River Delaware; was read the first Time, and ordered to be read a second Time.

* * * *

June 30, 1721.

* * Read the second Time and committed.¹

* * * *

—[*N. Y. Gen. Assem. Journal* (1691–1743), pp. 457–459.

[PROVINCE OF NEW JERSEY.]

CHAP. CCXXIII. *An Act for running and ascertaining the Line of Disallowed. Partition and Division betwixt this Province of New-Jersey and the Province of New-York.*

Passed February 18, 1747–8.

* * * *

This Act contained a suspending Clause; Nevill has omitted it in his Edition.

See Chap. CCCXCVI, by which the Running of this Line has since been provided for and effected.

—[*N. J. Laws* (Allinson's Compilation), p. 172.²

[N. J. COMMISSIONERS TO SPEAKER LIVINGSTON.]

June 25th 1748.

M^r Speaker of the Council.

Herewith is Delivered To you a Copy of an Act passed by the Governor, Council and Assembly of New Jersey, entituled *An Act for Runing and Ascertaining the Line of Partition and Division betwixt this Province of New Jersey and the Province of New York*, and herewith is showed to You an Exemplification of the Said Act under the Great Seal of New Jersey; and herewith is also delivered to you a copy of a writing which was delivered along with another Copy of the Said act to his Excellency George Clinton Esq^r Governor of New York; and herewith is also showed to you the Commission to us under the Great Seal of New Jersey mentioned in that writing, of the matters whereof you'll be pleased to Take notice; and be pleased to Communicate

¹ No further progress was made with this bill.—[P.]

² For a MS. copy (perhaps the original) of the act in full, which is very long, see *N. Y. Col. MSS.*, lxxvi, 35. See, also, *N. Y. Col. MSS.*, lxxviii, 12, for a long anonymous argument against this act.—[P.]

the Same writing with this and the Said copy of the act delivered to you, To his Majesties Council for the Province of New York. We are

Your most humble Servants

To Phillip Livingston Esq:
Speaker of his Majesties
Council for the Province
of New York.

JA: ALEXANDER
ROB: H: MORRIS.
ELISHA PARKER.

—[*N. Y. Col. MSS.*, lxxvi, 33. _____

[N. J. COMMISSIONERS TO GOVERNOR CLINTON.]

May it please your Excellency

As we are the persons appointed by the Government of New Jersey under the Great Seal of that Province for Runing and ascertaining the Line of Partition and Division between the Two provinces of New York and New Jersey on the part of New Jersey, as by the Commission for that purpose herewith Shewed unto your Excellency will appear, we think it our duty to deliver to your Excellency a copy of an act Lately passed in New Jersey Entituled "*An act for Runing and Ascertaining the Line of Partition and Division betwixt this province of New Jersey and the province of New York.*" In which your Excellency will observe a Clause Suspending its force till it has his Majesties Royall aprobation: and at the Same time we beg Leave to Inform your Excellency that the proprietors of East Jersey intend to apply themselves to his Majesty and pray his Royall assent to the Same.

What Induced the Legislature of New Jersey to pass the act above mentioned, was a Strong inclination they had to have the boundary Line between the two Governments reduced to a Certainty, in order to quiet the minds of the people Living nigh the places through which that Line will Run, and to put a Stop to the many disorders and quarrells that have Subsisted in that part of the Country, and which have been Carried to So Great a heighth as to Endanger the Lives of Several of his Majesties Subjects. And what made the passing this Law necessary was the frequent applications that had been made without Effect to the Government of New York, to Join in the Settlement of that Line in an amicable manner pursuant to acts of Assembly Still in force in both provinces for that purpose.

We are fully Sensible that your Excellency has neither Interest nor Inclination to oppose the Settlement of the true Boundary Line between the province under your Government and the Colony of New Jersey, and therefore we presume to hope that your Excellency will be So Good as to Communicate to us or the Government of New Jersey, any objections you may have to the act now delivered to you, that we

may have an opportunity of Obviating them, and of Convincing his Majesty and your Excellency, That New Jersey has nothing in View but the Settlement of the Line according to the true intent and meaning of the Grants under which the province is held; and as we Conceive we are able to Give Satisfactory Answers, to any Such objections, and as an application to his Majesty for the Royall assent to the Bill now passed for Runing that Line will be attended with a very Considerable Expence to the Proprietors of the Eastern Division of New Jersey; we therefore hope your Excellency and the Gentlemen Concerned in the Lands on the York Side of the Line will save them the Trouble & Expence of that application to England, by joining to Settle and fix the Station point on Hudson's River, and Runing the true partition Line from thence to the Station already fixed on the River Delaware, and In hopes that your Excellency and those Gentlemen will be pleased to Communicate to us your Consent to that in two months, we will so long delay Sending home the act for his Majesties Royall approbation, or any longer reasonable time that's desired.

We shall deliver to the Speaker of his Majestie's Council and the Speaker of the house of Assembly of the province of New York, Coppies of the Said act lately passed for runing the Said Line, and Coppies of what we now write to your Excellency, to be by them Communicated to their respective Houses. we are Your Excellencie's most obedient humble Servants.

June 25th 1748

Signed ROBT HUNTER MORRIS
ELISHA PARKER
JA: ALEXANDER

To his Excellency the honourable George Clinton Esq: * *

—[*N. Y. Col. MSS.*, lxxvi, 34.

[IN N. Y. GENERAL ASSEMBLY.]

June 28, 1748.

* * * *

The House being informed, that the Honourable *Robert Hunter Morris*, Esq; Chief Justice of the Province of *New-Jersey*, and *Elisha Parker*, Esq; from the said Province, were attending at the Door; they were called in, and shewed to the House, a Commission under the Great Seal of the Province of *New-Jersey*, appointing them, together with *James Alexander*, Esq; Commissioners on the part of the said Province of *New-Jersey*, for running and ascertaining the Line of Partition and Division, between the Colony of *New-Jersey*, and the Colony of *New-York*, and at the same Time, delivered to the House, the

Copy of an Act, passed in the Province of *New-Jersey*, entitled, *An Act, for running and ascertaining the Line of Partition and Division, betwixt this Province of New-Jersey, and the Province of New York*; and desired, that if the House had any Objections to the said Act, they would be pleased to communicate them, either to them the said Commissioners, or to the Government of *New-Jersey*; and then withdrew.

Ordered, That the said Copy be read To-morrow.¹

* * * *

—[*N. Y. Gen. Assem. Journal*, 1743-1766, p. 241.]

[GOVERNOR CLINTON TO THE LORDS OF TRADE.]

My Lords

I some time since received a Copy of an Act passed by the Legislature of New Jersey for running the line of partition and Division between that Province and this, and at the same time was informed that the Jersey Proprietors intended to Apply for His Majesty's Royal approbation of the same.

There have been many disorders committed on the Borders of these Provinces occasioned by the Lines remaining unsettled. Of some of those Disorders I had information given me by the late Governour of New Jersey by whom I was requested to join in the Settlement of the Line pursuant to Acts then and still in Force in both Provinces for that purpose which I should have readily done but upon Enquiry into the matter I found that the sum of three thousand² pounds formerly raised in this Province by Act of the Fourth of King George the first, had been long ago drawn out of the Treasury and paid to Commissioners and Surveyors employed in that Service, who began but never completed the Work, and are since Dead and no other Money was ever appropriated in this Province for that service that I can learn.

I also found that all the Lands along the Line for many Miles within this Province were granted away to Private Persons upon trifling Quit Rents to the owners of the lands. I referred the matter and recommended an Amicable Agreement between them and the Jersey Proprietors who held a Meeting for that purpose but nothing was agreed upon.

As it does not appear to me that the Interest of the Crown or of this Province in General are any way concerned in the Matter, but only the Patentees of the Lands along that line, I shall decline giving Your Lordships any trouble in the Affair, leaving it to the particular persons concerned to take such steps as they shall think proper.

¹ Consideration was further postponed until after September first.—[P.]

² Elsewhere three *hundred*.—[P.]

Thus much I thought it necessary to say in Order to Explain the Reasons of my Conduct in this Affair, and am with great Esteem My Lords,

Your Lordships most humble
& obedient Servant

G. CLINTON.

Fort George, in the City of
New York the 7th October 1748.

To the Right Hon^{ble}

The Lords Commiss^{rs} for Trade & Plantations.

—[*N. Y. Col. Doc.*, vi, 454.]

October 20, 1748.

* * * *

A Petition of a great Number of the Freeholders of this Colony Proprietors of Lands, bordering on the Partition Line, between this Colony and the Colony of *New-Jersey*, was presented to the House, and read, setting forth, That they had taken Notice of a Paragraph in the *New-York Gazette*, or, *Weekly Post-Boy*, of the 4th of *July* last; whereby it appeared, that Commissioners from the Province of *New-Jersey*, had attended the honourable House, with the Copy of an Act, passed in the said Province of *New-Jersey*, for running and ascertaining the Line of Partition and Division, betwixt the Colony of *New-Jersey*, and the Colony of *New-York*, and desired, that if the House, had any Objections to the said Act, they would be pleased to communicate them, either to them the said Commissioners, or to the Government of *New-Jersey*; that the Petitioners having since obtained a Copy of the said Act, do find sundry Things, set forth therein for Facts and Truths, which they conceive to be otherwise, and therefore humbly praying, that the honourable House will be pleased to grant them a Hearing on the subject Matter of the said Act.

Ordered, That the Petitioners be heard by themselves and their Council, if they think fit, on the subject Matter of the Act, passed in the Colony of *New-Jersey*, for running and ascertaining the Line of Partition and Division, betwixt the Province of *New-Jersey* and this Colony, and that the said Hearing be on Friday the 28th instant.

* * * *

—[*N. Y. Gen. Assem. Journal*, 1743-1765, p. 247.]

October 28, 1748.

* * * *

The House being inform'd that the Petitioners against the Act lately passed in the Province of *New-Jersey*, * * were attending at the Door, with their Council, they were called in, and after being fully heard, * * they were directed to withdraw.

Resolved, That the several Matters which the said Petitioners have offered * * be taken into Consideration by this House, To-morrow.

* * * *

—[*N. Y. Gen. Assem. Journal*, 1743-1765, p. 251.]

October 29, 1748.

The Order of the Day being read, * * the House proceeded on the Consideration thereof accordingly.

Resolved, That it is the Opinion of this House, that the several Objections made by the aforesaid Petitioners, against the Act lately passed in the Province of *New-Jersey*, for running and ascertaining the Line of Partition and Division betwixt the Province of *New-Jersey*, and this Colony, are strong and well grounded.

Ordered, That the Petitioners do, if they think fit, prepare authentick Copies of all such Writings as may be necessary for opposing the aforesaid Act lately passed in the Province of *New-Jersey*, for running and ascertaining the Line of Partition and Division, betwixt the Province of *New-Jersey*, and the Province of *New-York*; and,

That the Speaker do, as soon as may be afterwards, transmit the same to Mr. *Charles*, Agent for this Colony in *Great-Britain*, with Directions to oppose the said Act, when it shall be transmitted for his Majesty's Royal Assent.

A Motion was made by Col. *Morris*, that the Expence of any Application to be made against his Majesty's giving his Assent to a Bill for running the Line between *New-York*, and *New-Jersey*, *ex parte*, and of any Solicitation thereon, be borne by the Persons owning the Lands adjoining to the said Line; and a Debate arising thereon, Mr. *Gale* moved that the previous Question be first put, whether the Question on Col. *Morris's* Motion should be now put; and the said previous Question being accordingly put, it was carried in the negative in Manner following, viz. [Ayes 3; Noes, 15.]

* * * *

—[*N. Y. Gen. Assem. Journal*, 1743-1765, p. 251.]

September 6, 1750.

* * * * *
 Mr. Speaker laid before the House, several Letters and other Papers, which he had received from Mr. *Charles*, Agent for this Colony in *Great-Britain*; which being read,

Ordered, That the said Letters and Papers lie on the Table for the Perusal of Members.

* * * * *
 —[*N. Y. Gen. Assem. Journal*, 1743–1765, p. 278.

September 18, 1750.

* * * * *
 A motion was made by Col. *Schuyler*, That Mr. Agent *Charles's* Letter of the 25th of *January*, 1749–50, wherein he desires to be informed, whether the Expence of opposing the *Jersey Act*, * * is to be borne by the Publick, or by particular Persons; be read: And the said Letter being accordingly read;

* * * * *
Resolved, That the Expence of opposing the Act, passed in *New-Jersey*, for running the Partition Line, between that Colony and this, be made a provincial Charge, and be borne by the whole Colony.

* * * * *
 —[*N. Y. Gen. Assem. Journal*, 1743–1765, p. 282.

[AGENT ROBERT CHARLES TO SPEAKER JONES.]

Lesterfields London 1st March 1753.

Sir * * * * *
 The Hearing at the Board of Trade, upon the Act passed in New Jersey, for running the Division Line between that Colony & New York, is putt off till April.

I am with great Regard * *
 R. CHARLES

Hon^{ble} David Jones Speaker

—[*N. Y. Col. MSS.*, lxxvii, 69.

[AGENT ROBERT CHARLES TO GOVERNOR DE LANCEY.]

Lesterfields London 13th June 1753

Upon the success^l I have had in opposing the Act of N Jersey, of which I have given a particular Account in my Letters to M^r Speaker,

^l See preliminary Report of Lords of Trade, made June 7, 1753 (being nearly identical with final report of July 18, 1753), *N. Y. Col. Doc.*, vii, 773.—[P.]

to which I pray you to be referred, I think it necessary to apply myself to you, as one able to judge well and soundly for the Publick, and to lay before you what may not so properly be communicated to Many.

I have acquainted M^r Speaker with the use made of a certain Letter whereof your Brother will furnish you with a Copy, I think I can easily guess at the Adviser & Penman of it, the Injury resulting to the Publick from such Advice may possibly at a proper time deserve publick Consideration

The Injury that may be done to Individuals from y^e Endeavour to expose the Minysinck Patent & other Grants to a Ministerial Revision here will likewise require Attention. The Book produced on this Occasion consisted of a Collection of Variety of Papers Draughts & Maps, authenticated on the Oath of James Alexander Esq^r; part of this oath was read, & the Clerk reading further than a particular Place pointed out to him, I think there is the oath of R. Hunter Morris Esq^r: likewise in proof of this Collection. Some Copies of Patents were read, expressing no number of Acres granted, & of others where the Bounds are left indefinite, and Maps were Shewen to illustrate these Grants, of the Validity of which I soon perceived a Doubt came to be entertained, but that was not the Business of the Day, tho' it might be the kind Intention of those who had thus staged them for publick Review. I intend to come at a Copy, if possible, of this whole Affidavit, tho' I doubt whether it will be granted; but as the valuable Collection contained in this Book is under the Seal of New York with a Certificate of the Governor prefixed, I apprehend some Entry must be made hereof in the Secretarys Office, or stand upon some Record in your Government which would be well worth searching, for I apprehend that a thorough Disquisition into this Affair upon the Spott would bring no Credit to the Compilers of this Collection.

The clandestine Entry on the Records of your Government of the Return of the Jersey Survey, 25 years after the Transaction,¹ in Opposition to the Proceedings in Council for annulling the Same should likewise in my humble Opinion be enquired into, &, if it can be legally done, that Entry ought to be expunged.

The Act of New Jersey being now sett aside, it may be a Question, whether on the Offer I have made in behalf of New-York to joyn in a Commission under the Great Seal for running the Partition Lines, the Jersey Proprietaries will come into the Proposal, for possibly they may still insist on the Validity of what was done in 1719, tho' it has received no Confirmation from the Crown; I on the other hand will joyn in no Commission unless all the Boundaries are left to be ascertained on the Foot of the Original Grants.

¹ See foot note on page 615, *ante*.—[P.]

I have been surprized to find the Notion so general in your Colony, that the Latitude of 41 & 40, & not the Branch of Delaware supposed to lie in that Latitude, is the northern Boundary of Jersey—The Petition of divers Persons to M^r President Schuyler in the year 1719, in opposition to the Jersey Proprietaries, considers it in this Light. Gov^r Hunter & the Council, who joyned in a Memorial¹ in answer to Objections made against the Confirmation of your Act of 1717, consider it in like manner. I could wish that you would review these Proceedings, and as in the Petition mention is made of divers Maps & Draughts, it would be well that they could be come at & examined; I have had none sent me that would bear publick View, & have therefore been obliged in a great measure to grope out my own Way.

From the Researches I have made, it is evident to me, that about the time of these Grants, Places & remarkable Land Limits were all laid down much more northerly than later Observations have placed them, this holds true with respect to the Forks of Delaware, and as that River, in My Opinion, was then but little known beyond that great & remarkable Division, I had early a strong Prepossession that the odd Minutes of Latitude, tacked to the Description of a Branch of this River must have been given from some Knowledge or Belief that this remarkable Division lay in 41 & 40; I have indeed yet mett with no authentick old Maps that fully establish this Construction: But a modern one, taken from ancient ones, has come into my hands, published by Direction, & under the Inspection of M^r Paris, Sollicitor for M^r Penn in the Dispute between him and Lord Baltimore (now Sollicitor for the Jersey Interest) with a View to M^r Penns Cause; this is said to be “A Map of Virginia according to Cap^t John Smiths Map published Anno 1606, Also of the adjacent County called by the Dutch Nieu Nederland Anno 1630 By John Senex 1735” By which Map the only remarkable Division of Delaware, there called River May, after that of Skuykill below Philadelphia is there expressly laid down in the very Latitude of 41 & 40, New York, then called New Amsterdam being laid down in 41 D I think I shall be able to trace the Source from whence this map was taken, & besides my Searches here, I have wrote into Holland to find out the Draughts & Maps which the Amsterdam Company had of this Country at the time it was surrendered to the Crown.

If this Exposition of the Boundary can be maintained, the Jerseys will be pared very considerably, and to strengthen this Exposition, I hope it may be made out, that beyond the Forks the River was never called Delaware, but Fishkill, on which head I send you a few concise thoughts which I drew up & putt into the hands of some friends. I

¹ No copy of this Memorial has been found.—[P.]

am aware that an Objection still lies behind viz^t that as the Grant gives by Latitude a more northern Boundary on Delaware than on Hudsons River, it must appear strange to make that on Delaware appear more Southerly, as the Forks are said by modern Observation to lye nearly in 40 & 40. This has its Difficulty, but as the Latitude on Hudsons River admits of no Dispute, it must be contended that the Branch of Delaware, and not the Latitude by which that Branch is described, is the true and only Northern Boundary, and that the Duke of Yorks Grant is limited by Delaware River.

It will give me great Pleasure to have your thoughts on this Subject, as well as on the proper Method for executing the Commission that may be issued. Much will depend on the Choice of able Men for that Purpose. The Jersey Proprietaries spare neither Cost or Pains to carry their Point, & I hope your Governm^t will shew themselves equally resolute to maintain theirs.

* * * *

Your obliged & most obed^t humble Servant

R CHARLES

—[*N. Y. Col. MSS.*, lxxvii, 106.

[OPINION OF MR. CHARLES.]

June 13, 1753.

That the *Forks of Delaware* are the Ne plus ultra of the Northern Boundary of Jersey. — And that the Latitude of 41 Deg. & 40 M. on Fishkill River is an erroneous Boundary, is evident.

1st Because King Charles's Grant to the Duke of York is confined to Delaware Bay & River — where that Bay & River do not exist, this Grant cannot operate. — Now all the Lands from the Forks of Delaware to the Latitude of 41 & 40 on Fishkill River (a Distance of about 70 Miles on a streight Line) are manifestly not on Delaware River. For this River is not formed till the Conjunction of the two Streams at the Forks; there Delaware River begins. Which Exposition is supported even by our adversaries, for the Return of the Jersey Survey expressly says that, *the Fishkill is the biggest & chiefest Stream that forms the River Delaware.*

2^{d^y} Because the Kings Grant to the Duke giving him no Lands lying on Fishkill River, the Duke could grant none to the Proprietaries of Jersey.

3^{d^y} Because by the Dukes Grant to these Proprietaries, the *Branch* itself and not the Latitude is the northern Boundary, the Latitude is only descriptive of the Branch, which is said to lye in 41 & 40, & the Boundary is *as far as* this Branch, but not up the Branch or to any part of it.

4^{thly} Because the Forks of Delaware are a most remarkable natural Boundary, which at the time of the Grant might be well known & therefore referred to, tho' there might be a mistake of the Latitude in which they were thought to lye.

5^{thly} Because these Forks by the ancient Geography of the Country (the only Guide to the Grant) are laid down in 41 Deg. & 40 minutes, which if clearly made out must putt an End to the Controversy.

Note. These Forks by modern observation lye almost exactly a Degree to the southward, to witt, in the Latitude of 40 & 40.

New York City lies nearly in the same Latitude of 40 & 40, tho' formerly laid down in 41 Deg.

By confining the northern Boundary to these Forks instead of the Latitude in which they were thought to lye, a more natural and consistent Boundary is established, than that monstrous One contended for by the Jersey Proprietaries, which on the face of every Map must appear unnatural and absurd.

[Endorsement:] M^r Charles Reason for the Forks of Dala being the *Ne plus ultra* of Jersey inclosed & referred to in his Lre of 13 June 1753

—[*N. Y. Col. MSS.*, lxxvii, 107.

[IN N. Y. GENERAL ASSEMBLY.]

June 28, 1753.

* * * *

Gentlemen,

The inclosed Papers I have laid before his Majesty's Council, who are of Opinion, that as the Matter has been heretofore under the Consideration of the General Assembly of this Province, I should lay them again before the House, for their further Consideration.

G. CLINTON.

Flushing, June 28, 1753.

* * * *

A Representation of *Theodorus Snediker*, and *Samuel Gale*, Esquires, Representatives for the County of *Orange*, to his Excellency; setting forth, in Behalf of the People who live in that Part of the County of *Orange* which lies nearest to the Government of *New-Jersey*, the great Hardships and Inconveniencies which they are Continually Exposed to, by the sinister and irregular Practices of the Agents for the Proprietors of *New-Jersey*.

* * * *

And a Copy of a Minute of the Council of Proprietors of the Eastern Division of *New-Jersey*, held at *Perth-Amboy*, the 29th *March*, 1753;

in which it was concluded, that the Proprietors would defend the Proceedings of their Agents.

And then, A Petition of the Freeholders and Inhabitants of *Orange* County, was presented to the House; setting forth, that by Reason of the Delay in the Settlement of the Line between this Colony and the Province of *New-Jersey*, they are daily put to incredible Hardships:

* * * *

And the said Representation, [etc.], being severally read,

Resolved, That as the Matters in Dispute * * * are now depending before the Lords Commissioners for Trade and Plantations, his Excellency be humbly addressed, to write to the Governor of *New-Jersey* on that Head, and to take such other Methods as he shall judge proper, * * * until the Matters in Dispute with Respect to the said Boundaries shall be finally determined.

* * * *

—[*N. Y. Gen. Assem. Journal*, 1743–1765, p. 347.

[GOVERNOR BELCHER TO GOVERNOR CLINTON.]

Sir:

Your favour of the 1st of this Month, came to my hands the 9th with the inclosed minute of the Assembly of your Province respecting a Dispute between some people of New York and others of New Jersey about their lands.

His Majesty's Council of this Province, are to meet me here the 21st of the next month, when I shall lay before them, what I have received from your Excellency in this matter, and taking their Advice upon it, I shall immediately Communicate the same to You, and shall be ready to do every thing in my power, to promote a good Agreement, between the King's Subjects of both Provinces.

I am with much Respect * *

Elizabeth Town N J

J BELCHER

July 11 : 1753.

—[*N. Y. Col. MSS.*, lxxvii, 141.

[REPORT OF LORDS OF TRADE, JULY 18, 1753.]

To the King's Most Excellent Majesty:

May it please your Majesty: We have lately had under our consideration an act passed in your Majesty's province of New Jersey, in 1747–8, entitled, "An act for running and ascertaining the line of partition and division betwixt this province of New-Jersey, and the province of New York."

And having been attended by Mr. Paris, solicitor in behalf of the

proprietors of the eastern division of New-Jersey, with Mr. Hume Campbell and Mr. Henley, his counsel in support of the said act; and by Mr. Charles, agent for the province of New-York, with Mr. Forrester and Mr. Pratt, his counsel against the said act; and heard what each party had to offer thereupon; we beg leave humbly to represent to your Majesty, that the considerations which arise upon this act are of two sorts, viz. such as relate to the principles upon which it is founded, and such as relate to the transactions and circumstances which accompany it.

As to the first, it is an act of the province of New-Jersey, interested in the determination of the limits, and in the consequential advantages to arise from it.

The province of New Jersey, in its distinct and separate capacity, can neither make nor establish boundaries; it can as little prescribe regulations for deciding differences between itself and other parties concerned in interest.

* * * *

As we are of opinion that the present act, without the concurrence of other parties concerned in interest, is unwarrantable and ineffectual, we shall in the next place consider what transactions and proceedings have passed towards obtaining such concurrence.

* * * *

With regard to the transactions on the part of New-York, we beg leave to observe, that whatever agreements have been made formerly between the two provinces for settling their boundaries; whatever acts of assembly have passed, and whatever commissions have been issued by the respective governors and governments; the proceedings under them have never been perfected, the work remains unfinished, and the disputes between the two provinces subsist with as much contradiction as ever; but there is a circumstance that appears to us to have still more weight, namely, that those transactions were never properly warranted on the part of the crown; the crown never participated in them, and therefore cannot be bound with respect to its interests by proceedings so authorized.

* * * *

This being the case, it appears to us that governor Hunter ought not to have issued his commission for running the line above mentioned, without having previously received the royal direction and instruction for that purpose; and that a commission issued without such authority, can be considered, with respect to the interests of the crown, in no other light than as a mere nullity: and even with respect to New-York, we observe that the said commission is questionable, as it does not follow the directions of the above-mentioned act, passed in 1717, which

declares, that the commission to be issued, shall be granted under the joint authority of the governor and council of that province.

* * * *

It has been alleged that the crown, by giving consent to the aforesaid act, passed in New-York in 1717, for paying and discharging several debts due from that colony, &c. concluded and bound itself with respect to the subsequent proceedings had under the commission issued by governor Hunter; but the view and purport of that act appear to us so entire, and so distinctly formed for the purpose of raising money and establishing funds; so various and so distinct from any consideration of the disputes subsisting in the two provinces, with respect to the boundaries; that we cannot conceive a single clause in so long and so intricate an act, can be a sufficient foundation to warrant the proceedings of governor Hunter subsequent to it, without a special authority from the crown for that purpose; and there is the more reason to be of this opinion, as the crown, by giving its assent to that act, can be construed to have assented only to the levying money for a future purpose; which purpose could not be effected by any commission but from itself; and, therefore, can never be supposed to have thereby approved a commission from another authority, which was at that time already issued, and carrying into execution, previous to such assent.

We further beg leave humbly to represent to your Majesty, that the line of partition and division between your Majesty's province of New-York and colony of Connecticut, having been run and ascertained, pursuant to the directions of an act passed at New-York for that purpose, in the year 1719, and confirmed by his late Majesty in 1723; the transactions between the said province and colony, upon that occasion, have been alleged to be similar to, and urged as a precedent, and even as an approbation of the matter now in question: but we are humbly of opinion that the two cases are materially and essentially different. The act passed in New-York, in 1719, * * recites, that in the year 1683, [etc., giving summary of proceedings, including royal confirmation in 1700]. From this recital it appears to us, that those transactions were not only carried on with the participation, but confirmed by the express act and authority of the crown; and that confirmation made the foundation of the act passed by New-York, for settling the boundaries between the two provinces; of all which authority and foundation the act we now lay before your Majesty appears to us to be entirely destitute.

Upon the whole, as it appears to us that the act in question cannot be effectual to the ends proposed; that your Majesty's interest may be materially affected by it, and that the proceedings on which it is founded were not warranted in the first instance by the proper author-

ity, but carried on without the participation of the crown; we cannot think it advisable to lay this act before your Majesty, as fit to receive your royal approbation.

Which is most humbly submitted,

DUNK HALIFAX,
J. GRENVILLE,
JAMES OSWALD,
ANDREW STONE.

Whitehall, July 18, 1753.

—[*Smith's Hist. of N. Y.*, i, 239 (N. Y. Hist. Soc. Ed., 1829).

[THOUGHTS, ETC. — Agent ROBERT CHARLES?]

Nov. — 1753.

Thoughts upon this Question

How shall the Province of New York take the Benefit of the Report of the Lords Commissioners of Trade and Plantations made to his Majesty on the 18th July 1753?

In answer I observe first, That according to the Tenor of their Lordships' Report nothing has been done to bind the Crown in the Points of Jurisdiction, Seignory, or Property as to its Right of and in the Province of New York, nor can be done, unless by Commission Issued judicially to determine its Rights in these Points or Agreements between both Colonies Confirmed by Royal Assent.

Secondly, that all the Acts of New York and New Jersey, and Governor Hunter's Commission, the Tripartite Deed and the Observation of Latitude and Random Line in 1719, and all Acts of New Jersey and even of New York (having been transacted without the Participation of the Crown) either at that time, or before, or since, are not Conclusive and binding, either upon the Crown, or Parties Claiming in Right of the Province of New York or New Jersey, but the Controversy between both Provinces is reduced by their Lordships' Report to just the same state, as if the Duke's Grant to John Lord Berkely and Sir George Cartaret had not been a Year old. This Second Observation is but a Consequence of the first, but deduced with a more particular and pointed Application.

Thence

I Query, whether it will not be the Interest of the Province of New York, to take the first Opportunity to declare its Consent to joyn in Application to his Majesty with the Province of New Jersey for a Commission to ascertain that Line and to bear one half of the Expense.

It seems to be the Interest of both Provinces, to these Ends

1st To Preserve the Public Peace.

2^{dly} To ascertain the Rights of Jurisdiction & Government

3^{dly} To fix the Limits of the Seignory and Property of the Crown

4^{thly} The Private Property of the Lands on each side.

It seems proper to be done *speedily*, because possibly

1st New Jersey will now think it their Interest to Consent to it, tho' Every mention of this in private Conversation for several years past has been Treated with disdain.

2^{dly} If they refuse it, it will Enable New York to retort the Charge of Delay on New Jersey and lay the Consequences of it at their Door.

3^{dly} It may prevent their Attempt (pursuant to the Memorial of the New Jersey Proprietors to their Governor of 20th November 1753) to extend their Jurisdiction to the Random Line of 1719, which *if opposed* will probably occasion Bloodshed or *if not opposed* will put a great Number of Possessions within their Province, in the Power of their Courts and doubtless occasion an Ejectment of the New York Tenants against whom they have got judgment.

4^{thly} It seems that no time can be more favourable to New York than the present time, while the weight of their Lordships' Arguments will be more sensibly felt, both at home and within this Province, than probably hereafter, when matters are more cool and the Present Impression abated or worn out.

5^{thly} A Principal Reason is this, that New York is less attentive to its Interest, than New Jersey and it is Evident, that within a few Years they have gained much Ground of New York and with the utmost Art, Vigilance and Expence are settling themselves along that Line that they pretend to have settled by their Observations in 1719.

6^{thly} New York can hardly imagine any Conjunction more favourable to its Interests than the present, when probably their Lordships' Reasons will have their full weight with the *Commissioners* and perhaps may have some influence on the *Commission itself*, which may direct the Line to be run from Delaware River, where that Branch joins the River, that hath an Extension to the Latt. of 41° 40^m and if Two or more branches extend to that Latitude then from the northermost of them to the Latitude of 41° on Hudson's River. Whether the legal sense of the Words *to the Branch* or *as far as the Branch* or whether the term of 41° 40^m on the Branch expresses the Term *ad quem* from Cape May and *a quo* to Hudson's River may as well be determined in England as in America. And if this point pass in favour of New York and the Commission so direct, the Commissioners will have little more to do, than to fix one Latitude and one Line. The Term at the Forks will be fix'd by Inspection, and it will not be very material which of the Forks is the northermost branch, and no Branch is pretended more northerly than these.

As to the Commissioners

Care should be taken, that neither New Hampshire, Massachusetts's Bay, Connecticut nor Pennsylvania furnish any of Them.

—[*N. Y. Col. MSS.*, lxxviii, 11.

[IN N. Y. COUNCIL.]

July 28th 1753.

* * * *

His Excellency laid before the Board a Letter of the 11th Instant, from Governor Belcher advising the Receipt of his Excellency's Letter of the 1st Instant, with the inclosed Minute of the Assembly of this Province,¹ respectg a Dispute between some People of New York, and New Jersey, about their Lands, who live upon the Borders of the two Governments: Which Papers he will lay before the Council of that Government on the 21st of next Month, and communicate to his Excellency their Advice thereupon.

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 91.

To His Excellency JONATHAN BELCHER, Esq; Captain General and Governor in Chief of the Province of New-Jersey, and Territories thereon depending in America, Chancellor and Vice-Admiral in the same.

The Memorial of the Council of Proprietors of the Eastern Division
of *New-Jersey*.

[November 20, 1753.]

May it Please Your Excellency,

IN Obedience to Your Excellency's Order in Council, of the 22d Day of *August* last, by which your Excellency ordered the Secretary, to serve upon your Memorialists, a Copy of Governor *Clinton's* Letter of the first of *July* last, inclosing a Copy of a Minute of the Assembly of *New-York*, of the 28th Day of *June* last; and to acquaint your Memorialists, that your Excellency expected an Answer thereto, at the Meeting of the Council on the 21st Day of *November* then next: Your Memorialists now beg Leave, humbly to lay before your Excellency, their Answer thereto, as follows;

I. King CHARLES the Second, by Letters Patent, bearing Date the 12th of *March*, 1663-4, granted to his Brother JAMES Duke of YORK, in Fee sundry Tracts of Land in *America*, whereof the now Province of *New-York*, and the now Province of *New-Jersey*, were Part.

¹ That of June 28; see page 655, *ante*.—[P.]

II. JAMES Duke of YORK, by Deeds of Lease and Release, dated the 23d and 24th of *June*, 1664, granted to JOHN LORD BERKLEY, and Sir GEORGE CARTERET, in Fee, the now Province of *New-Jersey*, described as follows, *viz.* "All that Tract of Land adjacent to *New-England*, and "lying and being to the Westward of *Long-Island* and *Manhattan's* "Island, and bounded on the East Part by the main Sea, and Part by "*Hudson's* River, and hath upon the West *Delaware* Bay or River, and "extending Southward to the main Ocean as far as *Cape-May*, at the "Mouth of *Delaware* Bay, and to the Northward as far as the norther- "most Branch of the said Bay or River, which is in $41^{\circ} 40'$ of Latitude, "and crosseth over thence in a streight Line to *Hudson's* River, in " 41° of Latitude."

III. Sir *George Carteret*, and the Assigns of Lord *Berkley*, by Deed quintipartite, dated the first Day of *July* 1676, divided *New-Jersey* between them, by a Line from *Little Egg-Harbour*, to the North Partition Point of *New-Jersey* on *Delaware* River; by which Deeds of Partition the Eastern Part was released to Sir *George Carteret*, and the Western to the Assigns of Lord *Berkley*: By which it appears, that *West-New-Jersey* had no Concern with the Line between *New-Jersey* and *New-York*, except only in the North Partition Point on the Northernmost Branch of *Delaware*.

IV. *East-New-Jersey*, by sundry mean Conveyances under Sir *George Carteret*, became vested in twenty-four Persons, commonly called the twenty four Proprietors of *East-Jersey*; to whom the said *James Duke of York*, by Deed dated the 14th of *March*, 1681-2, after reciting the said Grant to Lord *Berkley* and Sir *George Carteret*, and the said quintipartite Deed of Partition, released and confirmed *East-New-Jersey*, according to the Bounds agreed on by the said Partition Deed, with all Islands, Bays, Rivers, &c. and all Royalties and Powers of Government, in a more full and express Manner than they before had been granted.

V. In and before the Year 1671, the Latitude of 41° upon *Hudson's* River, was esteemed to extend beyond *Haverstraw*, which is about fourteen Miles Northward from the Mouth of *Tapan* Creek: For it appears, that the Lands at *Haverstraw*, and all the Lands fronting on the West Side of *Hudson's* River, Southward from *Haverstraw* to the Mouth of *Tapan* Creek, were either purchased of the Indians as in *New-Jersey*, or granted by Patents under the Seal of *New-Jersey*; and those Lands were actually settled and improved, and continued under the jurisdiction of *New-Jersey*, 'till the Year 1684.

VI. In the Year 1684, or 1685, *Thomas Dongan*, then Governor of *New-York*, and *Gawen Lawrie*, then Governor of *East-New-Jersey*, with their respective Councils, met together at or near *Tapan*: and after sundry Observations for finding the Latitude of forty one Degrees

on *Hudson's* River, agreed that the Station Point between *New-York* and *New-Jersey*, should be the Mouth of *Tapan* Creek, where it falls into *Hudson's* River, and that a streight Line from the Latitude of forty one Degrees, and forty Minutes, on the northermost Branch of *Delaware*, should be run there for the Partition Line. This Agreement we have often heard was upon Record in *New-Jersey*, but after the utmost Search, your Memorialists cannot find it; but believe it must have been recorded in the Minutes of the Governor and Council of *East-New-Jersey*, during the Government of the twenty four Proprietors; which Minutes none of your Memorialists ever saw, nor are they to be found in any publick Office in *New-Jersey*, nor any where else that your Memorialists know of: But tho' your Memorialists can find no Instrument on Record of every Part of the above Agreement, yet they can point to other Matters on Record preparatory to it, and reciting and referring to it, both in *New-York* and *New-Jersey*, within less than two Years of that Time; which your Memorialists think will leave no doubt but that such an Agreement was, notwithstanding the next following Article.

VII. *Andrew Robinson*, Surveyor General of *West-New-Jersey*, and *Philip Wells*, Surveyor General of *New-York*, certify in these Words, "By two sundry Observations of the Sun's meridional Altitude, made the eighth and twenty ninth Days of *September* 1686, it appeared, and was manifest to *Philip Wells*, *George Keith* and my self, Observers, that the fortieth and one Degree of Northern Latitude upon *Hudson's* River, is one Minute and twenty five Seconds to the Northwards of *Yonkers* Mills, and so falls upon the high Cliffs upon the Point of *Tapan*, on the West side of said River." As by the Record thereof in the Secretary's Office of *New-York*, in Book of General Entries 1686, Page 49, appears.

Upon which your Memorialists beg Leave to observe,

1st, That no Authority appears to have been given for taking the two Observations certified.

2dly, It appears not by that Certificate, that it had any relation to the Partition Line between *New-York* and *New-Jersey*.

3dly, It appears that the Certificate was made *ex parte*; for *Andrew Robinson*, Surveyor General of *West-Jersey*, had no Concern with the Partition Point upon *Hudson's* River, for Reasons under the third article before.

4thly, By actual Surveys since made, it appears, that the Place for the Latitude of 41° so certified, is four Miles and forty five Chains South from the Mouth of *Tapan* Creek; then lately agreed on for the Station Point, as by the 6th Article.

5thly, Your Memorialists have Reason to believe, that the Observa-

tions so certified, were made with a wooden Quadrant; which is quite unfit for observing the Latitude of a Place to a nearer Exactness than five Minutes.

6thly, Two Observations were too few, even with a good Instrument, to draw any certain Conclusion from, in such a Point.

VIII. In the Year 1717, the Legislature of *New-York* pass'd an Act, wherein, amongst other Things, they appropriated 300 *l.* for the Charge of running the Line, with Consent of *New-Jersey*; and other 300 *l.* for running the Line of *Connecticut*; and enact, that the Lines so run shall be conclusive. This Act had the Royal Assent on the 19th of *May*, 1720.¹

IX. In the Year 1718, the Legislature of *New-Jersey*, pass'd an Act for appointing Commissioners and Surveyors for running the Line with Consent of *New-York*; and enact it to be conclusive. And Another Act for running the Line between *East* and *West-Jersey*, and for raising the Charge of running both Lines upon the Estates of the general Proprietors.

X. In *May* 1719, Commissioners and Surveyors for *New-York*, for *East-New-Jersey*, and for *West-New-Jersey*, were appointed by Commissions under the great Seals of the respective Provinces, for running the Line between *New-York* and *New-Jersey*.

XI. On the 25th of *July*, 1719, after many Observations of the Latitude, all the Commissioners and Surveyors so appointed, did, by Indenture tripartite, fix the North Partition-point on the Northermost Branch of *Delaware*; which they found to be that Branch called *the Fish-kill*, and exactly describe the Place of the Point: Which being done, the Commissioners for *West-Jersey* had no further Concern with the Line; as by the said Indentures, executed by every one of the said Commissioners and Surveyors, and recorded in *New-York*, in *East-Jersey*, and in *West-Jersey*, appears.

XII. The Commissioners for *West-New-Jersey*, having no further Concern with the Line, departed; and then the Commissioners and Surveyors of *New-York* and *East-Jersey*, made an Estimate how the Line should run from the said North Partition-point so fixed, to the Partition-point on *Hudson's* River to be fixed; and esteemed that that Line would fall 120 Chains North-Easterly, on a Perpendicular to it, from *Thomas Swaartwoot's*, at *Mackhackamack*, (where they then were, and from which they had already traversed to the said North Partition point.) and appointed *John Harrison* and *John Chapman*, two Deputy Surveyors, to run and mark it to *Hudson's* River, from the End of the said 120 Chains; which they did accordingly, marking the Num-

¹See *N. Y. Col. Doc.*, v, 539.—[P.]

ber of Miles at the End of each Mile from the said 120 Chains; and which Line so run and mark'd, fell upon *Hudson's* River, about Five Miles to the Northward of the Mouth of *Tapan* Creek, aforesaid.

XIII. In *August*, 1719, the Surveyors of *New-York* and *East-Jersey*, went to *Corbet's* old House on *Hudson's* River, which is about One Mile South from the Mouth of *Tapan* Creek, and there made many Observations for finding the Latitude of 41° . But, thro' Sickness, the Commissioners came not; so that no Agreement was concluded as to that Station-point. By the Mean of all those Observations, the Surveyor for *East-Jersey*, computed that the Place of Observation was 57 Seconds, and 51 Thirds Northward of the Latitude of 41° , and that to be 89 Chains and 60 Links.¹

XIV. The Surveyor for *New-York*, was prevailed on to decline proceeding in the said Work: And, for a Colour, sundry Objections were made by him and other Persons, to what had been done, and to further proceeding; Copies whereof are hereunto annexed; * * and soon afterwards, the President and Council of *New-York*, ordered all the Remainder of the £.300. appropriated for that Service, to be paid to the Commissioners and Surveyor of *New-York*, tho' little more than Half the Work was done by them; and they had undertaken to do the Whole for that Sum: which was fully sufficient for performing the whole Work.

XV. On the 12th of *October*, 1719, the Proprietors of *East-New-Jersey*, presented a Memorial to the Commander in Chief of *New-Jersey*, shewing the Weakness and Untruths of the said Objections; which Memorial was by him, laid before the Council of *New-Jersey*, and a Copy thereof ordered to the President of the Council of *New-York*; * * *

XVI. Many Riots and Quarrels happening about that time at *Mack-hackamack*, which is Part of *Minisinks*, between the *Swaartwoots*, settled under *New-York*, and the *Westfalls*, settled under *New-Jersey*: The President of *New-Jersey*, in 1719, and 1720, wrote sundry Letters to the President of *New-York*, pressing the running the Line, to prevent the like Riots and Quarrels for the future; but they had no Effect.

XVII. In *August*, 1720, Governor *Burnet* arrived, with one Commission to be Governor of *New-York*, and another Commission to be Governor of *New-Jersey*: To whom Complaints were severally made, by the said *Swaartwoots* and *Westfalls*, of the Riots mutually committed on each other: And after several Letters from him, recommending to them, mutually to keep the Peace, to no Effect; he ordered a Hearing of all Parties before him, in *October*, 1721, when after a solemn Hearing of their Pretences, both Sides were ordered to be bound to

¹ We have not been able to find any original records corresponding with the statements in XII and XIII.—[P.]

their good Behavior; and it was recommended to both Parties to bring their actions at Law; which they accordingly immediately did, in the Supreme-Court of *New-York*; and wherein JAMES ALEXANDER, was of Council for the *Swaartwoots*, on the Part of *New-York*.

XVIII. In *October*, 1722, one of those Causes came to Trial, when, by Consent of the Court, and of the Parties, all the said Causes were referred, by Rule of Court, to the Determination of LEWIS MORRIS, then Chief-Justice, and to ROBERT WALTER, then Second-Judge of the Province of *New-York*, which ROBERT WALTER, had been one of the Commissioners aforesaid, in Behalf of *New-York*.

XIX. The said Referees having found, upon the Evidence of the said JAMES ALEXANDER, who had been Surveyor for *East-New-Jersey*, in the Proceedings concerning the Line in 1719, that notwithstanding the Commissioners and Surveyors had estimated the Line of Partition would run 120 Chains North-Eastward of *Swaartwoot's*, as in Article 12 before; that yet, by the Observations before, in Article 13, the true Line would, most probably, fall between *Swaartwoot's* and *Westfall's*: And the said Arbitrators, finding that *Westfalls* had taken away the Grain of *Swaartwoots*, North-Eastwards of the true Line; and that *Swaartwoots* had taken away the Grain of *Westfalls*, to the South-Westwards of the true Line; they awarded for the Plaintiffs, in every of the Actions, as by the Award, filed in the Term of *October*, 1723, appears; which put an End to these Disturbances at *Mackhackamack*, and prevented the committing of any more there: Nor did any Contest afterwards arise concerning the Line, till the Year 1740, that your Memorialists ever heard of.

XX. The Owners of the Patent of *Cheescocks*, in *New-York*, which bounds for about Sixteen Miles along the Line between *New-York* and *New-Jersey*, intending a Partition of that Patent; They, in order to be as certain as possible of the Property of what they divided amongst them, employed *Charles Clinton*, their Surveyor, to discover where the Line would run abreast of their Patent by the said Observations of 1719; which he did in *April* 1738; and no Encroachments have ever since been made on either Side so far as that Patent bounds.

XXI. Your Memorialists, at their sole Expence, have since, run most of the Rest of that Line.

XXII. In the Year 1740, the Magistrates of *Orange County*, pretending to have received a Letter from the Honourable GEORGE CLARK, Esq; then Lieutenant Governor of *New-York*, a Gentleman considerably interested in the *Minisink* Patent; which, they pretended, authorized them to exercise Jurisdiction beyond the said Line, by the Observations of 1719: Under Colour thereof, they then began to exercise Jurisdiction beyond that Line; obliging many People settled under *New-Jersey*,

to train in the Militia of *Orange* County, and to pay Taxes, and do other Duties; and upon their Refusal so to do, fined and distrained them; which greatly oppressed the People of *New-Jersey*, within some Miles of that Line: * * *

* * * *

XXVIII. Your Memorialists finding all these and many other their Endeavours, for accomplishing the running the Line, pursuant to the Acts of both Provinces, to be ineffectual, and remembering that the Province of *New-York* had, in the Year 1719, made an Act for running the Line of *Connecticut*, *exparte*, in Case the Colony of *Connecticut* would not join amicably in the doing of it; to which Act the Royal Assent was had, and which Act had induced *Connecticut* to join amicably in settling that Line; Your Memorialists then thought, that that Method which *New-York* took with *Connecticut*, would be the most rational Method for putting an End to the Grievances so much and so often complained of without redress: And in Order to it, on the seventh of *September* 1744, a Memorial was presented to the Governor of *New-Jersey*, by your Memorialists, signifying their Intention of pursuing that Method, and praying his Recommendation thereof to the next Assembly, and to order such Notice thereof to the Government of *New-York*, as he should think proper.

* * * *

XXXII. In *March* 1745-6, three of your Memorialists Members, having been appointed to confer with a Gentleman of the Law of *New-York*, (who had been of Council for your Memorialists for many Years) concerning the Actions commenced near the Line: Upon that Conference he declined being concerned as Council therein, but signified his Willingness to become a Mediator in that Affair; which being reported to your Memorialists, they appointed the said three Gentlemen, or any two of them, to be a Committee, to treat with *New-York* in Writing, by the Means of that Gentleman as a Mediator: And accordingly, by Letter of the 10th of *April*, 1746, they communicated their Powers to that Gentleman, with sundry Propositions for amicably settling the Line; both which that Gentlemen delivered to the Gentlemen of *New-York*, concerned in the Line, in order for their Answer thereto: And tho' an Answer was often called for from the proposed Mediator, for above a Year after the Delivery thereof, yet he as often declared he had have received none. * * * But the Oppressions and Complaints of the People of *New-Jersey* still continuing, and no Hopes whatsoever, remaining of the People of *New-York's* agreeing to the settling of the Line amicably without an Act; therefore, the Governor, Council and Assembly of *New-Jersey*, in *February*, 1747-8, pass'd an Act for running the Line *exparte*, if *New-York* would not join in the doing of it;

to be in Force when the Royal Assent was had thereto; providing, that your Memorialists should be at the whole Charge thereof. The enacting Part of which Act, was made agreeable to the said Act of *New-York*, for running the Line of *Connecticut*, Exparte, mentioned in the Twenty-Eighth Article; and Commissioners were appointed for running the Line, with Consent of *New-York*, pursuant to the Act of 1718, mentioned in the Ninth Article.

XXXIII. The Assembly of *New-York* had no Agent in *London* for a Dozen Years before; but on the 19th of *March*, 1747, they voted £.200, for an Agent; and on the 9th of *April* following, the Agent is requested by them, to use his Endeavours to hinder the Royal Assent to the said Act, until they were heard against it: And £.200, has yearly been voted ever since to that Agent, of the public Monies of that Province, which to many People seemed extraordinary; seeing, by the *New-Jersey* Act, it was expressly provided, that the whole Charge of negotiating the Royal Assent of that Act, should be at the private Expence of your Memorialists, the Owners of the Soil on the *New-Jersey* Side of the Line: And whatever Reason was for your Memorialists to be at the whole Charge on that Side, there was like Reason for the Owners of the Soil in *New-York*, to be at the whole Charge on that Side.

XXXIV. On the 28th *June*, 1748, two of the *New-Jersey* Commissioners for running of the Line, served the Governor of *New-York* with a Copy of the Act, by shewing him an Exemplification of it under the Great Seal of *New-Jersey*, and delivering him a Copy, and by shewing him their Commission; and at the same Time delivered to him a Letter signed by them, containing the Purpose of that Service; and requesting, if any Objections were to the Assent to the Act, to communicate them, hoping they could obviate them to his Excellency: And if in two Months, that Government would signify their Consent to run the Line amicably, by the Acts of 1717, and 1718, that they would wait so long, or any further reasonable Time, before sending home the Act for the Royal Assent.

XXXV. On the same 28th of *June*, 1748, the same Persons served, in like Manner, the said Act, on the President of the Council, and the Speaker of the Assembly of *New-York*; and gave to each of them a Copy of the said Letter to the Governor of *New-York*, with a Letter containing the Purpose of the Service, and requesting the communicating them to their respective Houses then sitting. And on the same Day, the Assembly of *New-York*, by their Minutes, own the said Service; and on the next Day, make a Minute, deferring the Consideration of the Matter, till their next Meeting, after the first of *September* next, without any Desire of enlarging the Time of two Months before proposed, or Offer of communicating any Objections to the said Act.

XXXVI. Your Memorialists being then left without any the least Hopes of getting the Line run amicably, by Virtue of the Acts of 1717, and 1718, without his Majesty's Approbation of the said Act, procured Proofs under the Great Seals of *New-York*, and *New-Jersey*, of most of the preceding Facts, and in the Winter of 1748, transmitted duplicates of them, and of the said Act, by the Captains *Bryant* and *Waddell*, to Mr. *Paris*, their Agent at *London*, in Order for obtaining the Royal Assent. And tho' Mr. *Paris* used his utmost Endeavours for that Purpose, and to bring the Matter to a Hearing; yet the *New-York* Agent got the Time of Hearing put off from Time to Time, for Four Years running, to the very great Charge and Delay of your Memorialists; and which Charge and Delay, its improbable, would have arisen, if the Charge of procuring those Delays had been at the private Expence of the Gentlemen concerned in the Line on the *New-York* Side: And during all that Time, neither the Gentlemen of *New-York*, nor their Agent in *England*, offered any Objections to the said Act, to your Memorialists or their said Committee, or their Agent in *London*; nor made any Proposition whatsoever, of any other Method more proper for ascertaining the Line; nor did the *New-York* Agent, on the two Hearings before the Lords of Trade, offer any one Piece of Evidence from *New-York*, that the Want of could have given Cause for his said Multitudes of Delays; but insisted on the reporting against the Act from what appeared on the Face of it, without any extrinsick Evidence; and upon reporting against the Proceedings of the Year 1719, herein before set forth, and recited in the said Act: Against both which, the Lords of Trade were pleased, on the 18th of *July* last, to report; and your Memorialists learn from Mr. *Paris*, that he is upon petitioning for a Re-hearing of the Matters reported before the Lords Committees for Plantation Affairs, and has given Security accordingly.

XXXVII. Numbers of People having, from Time to Time, settled near to the Line, by the Observations of 1719, without Title from either *New-York* or *New-Jersey*; your Memorialists have, from Time to Time, obliged such of them as were on the South-West Side of that Line, either to purchase, or lease the Land they had settled upon; and such as would do neither, or such as pretended Title under *New-York*, brought Ejectments against them, and obtained Judgments thereon, as before; and from Time to Time, made Partitions and Appropriations of those Lands, pursuant to the Laws of *New-Jersey*, as it was and is lawful for your Memorialists to do.

* * * *

XLII. To enumerate all the Cruelties and Abuses committed by People of *New-York* upon People of *New-Jersey*, South-westward of the Line by the Observations of 1719, since the said pretended Letter

in the Year 1740, mentioned in Article XXII. would swell this to a large Volume: But your Memorialists have chosen only the preceeding few Instances, as some of the most cruel and enormous, of which your Memorialists have, and can produce sufficient Proofs; and of all those before the Year 1748, Proofs were transmitted to *England* with the said Act.

XLIII. As the Line run and mark'd in 1719, (as in No. XII. before,) was run by Order of the proper Commissioners and Surveyors of both Provinces, as the Line of Division, according to the best of their Judgment at that Time; and as no Line before nor since was ever run with equal or greater Authority; its humbly conceived that Line ought to have remained, and does now remain the Line of the two Provinces, till another Line be run for it with equal or greater Authority; and we know of no other Limit to the Jurisdiction of both Provinces but that. And tho' your Memorialists, in asserting their Properties, have not gone farther Northward than the Line by the Observations of 1719, which Line has no publick Authority, but a tacit Consent of your Memorialists, and of sundry of the Owners of Patents in *New-York* Province, joining on the Line of *New-Jersey*, (as in No. XX. before,) and the private Opinion of the Judges of the Supreme Court of *New-York*, in the Cases of *Swaartwoots* and *Westfalls*, founded upon the Evidence of the Surveyor of *East-Jersey*, (as in No. XIX. before:) For as the Matters then in Controversy, were referred to them in their private Capacities, and not in their publick Capacities, they thought it just to deviate from the said run and mark'd Line in 1719, and to examine where most probably the true Line would fall, and thereon founded their Award. Your Memorialists say, they humbly conceive these are no sufficient Reasons why your Excellency should not assert and exercise the Jurisdiction of this Province, up to the said Line, so run and mark'd in the Year 1719, which falls on *Hudson's* River, about Seven Miles Northward of the Place, where, by the Observation of 1719, the Line should fall; and should *New-York*, think this an Encroachment on, and prejudicial to them; these Inconveniences might, and may easily be removed, by running the true Line. But while they refuse to join in that, and do absolutely oppose the running any Line, if they can shew no Line ever run with equal Authority, then that Line ought in Reason, to remain the Temporary Line, especially as it was carefully run and mark'd, and the Places through which it went, are notorious, and well known to this Day, by all the People inhabiting near it; and who have (very few excepted) all settled there since the Year 1719.

XLIV. If the Line run and mark'd in 1719, is not to be the temporary Line of Jurisdiction of the two Provinces, 'till the true Line be finally settled, we should be glad that *New-York* would show better Reasons

for any other Line to be the temporary Line: For, without some certain Line be allowed to be the temporary Line, it's impossible to judge what is an Encroachment of either Side.

XLV. As your Memorialists have asserted their Rights only up to the Line by the Observations of 1719, (which is about seven Miles upon *Hudson's River*, southward of the Line run and mark'd in 1719) and as Part of that Line was first run by People of *New-York*, as in No. XX. before, and most of the rest run by your Memorialists, as in No. XXI. before; and as all settled Southwestward of that Line, are either settled under *New-Jersey* Titles, or your Memorialists have recovered Judgments against such as have refused to hold under *New-Jersey*, while your Memorialists extend their settlements no further Northward than to that Line, they cannot be justly accused of any Encroachment on *New-York*. But *New-York*, by their Conduct since 1740, have given great Causes of Complaint to the People of *New-Jersey* settled Southwestwards of that Line, as by the Facts herein before set forth, appears, and tho' complained of from Time to Time, as before, yet no Redress is hitherto had.

* * * *

ALL which Matters and Things herein before set forth, Your Memorialists do aver, and are ready to prove in such Manner as Your Excellency shall think fit to appoint: And are,

*May it please Your Excellency,
Your Excellency's most Obedient,
and most Humble Servants,*

By Order of the Council of Proprietors of *East-New-Jersey*,

ANDREW JOHNSTON, *President.*

*Perth-Amboy,
November 20, 1753.*

Lieutenant-Governor De Lancey to the Lords of Trade.

New York 24th Dec 1753

* * I shall make it my business now the hurry of affairs is somewhat at an end by the recess of the Assembly to state to your Lordships the controversy this Province or rather His Majesty has with the Jerseys I shall only give a hint of it now, for it is not possible to give your Lordships a clear conception of it without Draughts — There was a Line (antecedent to that which the Jersey Proprietors now contend for) which was esteemed the Jersey Line and upon this Line were the New York Patents of Wawayanda, Minisink and other bounded so that they cannot be extended further Southward, and if Jersey does not extend

further up Delaware River than to the Northern Branch which is the Terminum ad quem and is in my humble opinion the genuine construction of the Grant from the Duke of York then all that large intermediate Triangle is still in the Crown and the Jersey Proprietors are only intruders on the King, and out of all these Lands there may a Quit Rent be reserved to His Majesty which will be a very considerable addition to His Majestys Revenue without depriving the Proprietors of their possessions and which [His] Majesty may either annex to this Government or leave to Jersey there is a committee of the Council and Commissioners for that with the Massachusetts Bay that of New Hampshire.

* * *

—[*N. Y. Col. Doc.*, vi, 817, 818.

[IN N. Y. COUNCIL.]

January 31st 1754.

* * *

His Honor communicated a Letter of the 10th ult^o from Governour Belcher (of New Jersey) acquainting his Honour with the Receipt of a Letter from M^r Clinton and papers inclosed relative to the Dispute between Persons living on the Borders of the two Governments, about their Lands, which Letter and papers he had laid before the Council of that Province, who referred them to the Council of Proprietors of the Eastern Division of New Jersey. In answer whereto these Gentlemen had lately laid before him (Gov^r Belcher) a Memorial respecting the said Dispute, desiring the same might be printed, of which he had desired M^r Alexander to deliver to his Honour one of the printed Copies, with the proper affidavits for supporting the several Allegations and Facts, and that he should be glad amicable and consiliating measures might be concerted and fallen upon by both Governments, that the Borderers may be made easy till his Majesty's Pleasure should be known in the Matter, to Contribute whereto nothing should be wanting in his Power.

Also another Letter¹ from Governor Belcher of the 21st ult^o desiring an Answer to the above, and repeating his Inclination that amicable measures might be taken by both Governments to make the Borderers easy till his Majesty's Pleasure be known in this Affair.

Also another Letter from the Sherif of Orange County of the 23^d Instant, and another from five of the Justices of that County of the 22^d Instant, giving a particular account of the Disturbances which have lately happened between the Inhabitants of that County and those of New Jersey, and desiring his Honor's Directions how they should

¹ These letters have not been found.—[P.]

behave in case of future Riots which they are Dayly in expectation of.

The Board being of Opinion it is absolutely necessary a Line of peace should be fixed and agreed on by the two Governments to prevent any further disputes and disorders between the inhabitation of both Provinces, until the Controversy shall be finally determined in a Legal Course, It is therefore ordered that the said Papers together with the Memorial of the Council of Proprietors above mentioned, be Referred to a Committee of the following Gentlemen or any three of them Viz: M^r Kennedy, M^r Murray, M^r Holland, M^r Chambers, And M^r Smith, that the said Committee do examine into the Claims of the Patentees of Minisink and Wawayanda, and Report their Opinion where such Line of Peace should be fixed; and further that they make Enquiry into the Disturbances aforesaid between the Borderers, and Report their Opinion as to what they may think proper to be done thereupon.

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 138.

March 4, 1754.

* * * *

Mr Murray Chairman of the Committee appointed by order of the 31st day of January last, * * * presented to his Honour the Governor, the Committees Report on the matters referred to them bearing date the first Instant, which being read, was on the Question being put, agreed to and approved of, and ordered to be entered in the minutes and is as follows,

May it please your Honour.

In obedience to your Honour's Order in Council on the thirty first day of January last, * * *

We therefore having examined the claims of the said Patentees of Minisink and Wayayanda, and made diligent Enquiry concerning the late disturbances: Do humbly Report to your Honour.

That the Province of New Jersey was originally part of this Province of New York, and that the Rights of that Province depend upon Grants of his Majesty King Charles the Second, to his Brother the Duke of York, (afterwards King James the Second) and from the said Duke of York, to John Lord Berkely and Sir George Carteret, under whom the persons called the Proprietors of East and West Jersies claim:

That we do not take upon ourselves to determine the Limits and Boundary of the Lands granted as aforesaid, which appear to us to have been long controverted; but most humbly Submit it to his Majesty, (who in right of his Crown is greatly concerned in that dispute) to determine it by such method as to his Majesty shall seem most proper:

but as a Line of Peace appears to your Honour and to us, to be absolutely necessary to be fixed and settled with all possible speed, in order to prevent any further breach of the publick peace by the Borderers on the disputed Line; We beg leave to inform your Honour:

That a Line was agreed to some time in the year 1686, between Thomas Dongan Esq; then Governor of New York, and the Governor of New Jersey, to be run from a certain place on Hudsons River, due West from Frederick Philipse's lower Mills, and to extend from thence to certain marked Trees on Delaware River: but we don't find that the said Line has ever been actually run, nor has the exact place where those marked Trees then stood, hitherto appeared to us with sufficient proof nevertheless we find,

That after that Line had been agreed to, a Line was thereupon supposed to be a Division Line fixing the Jurisdiction of the two Governments, and was supposed to extend from that place on Hudsons River, to the Southward of Great and little Minisink, thence crossing the East Branch of Delaware River, to the West branch thereof, where the said marked Trees stood; and in consequence thereof great part of the vacant Lands between Hudson's River, and the said East Branch, were long before the year 1719, Granted by Letters Patents under the Great Seal of this Province, as Lands within the same; and so bounded as by express Terms or necessary implication, to extend Southerly to such supposed Partition Line: among which are the Patents of Wawayanda and Minisink.

We also find that his Majesty's Subjects inhabiting within the province of New York, have at divers times since the year 1686, made Settlements bordering on the said Supposed Line, and have always since paid their Taxes and performed their duties in the Militia of this Province; enjoyed their priviledges in choice of Representatives in General Assembly, and of other Officers, and many of them have served in Civil and Military Offices, and have had the protection of this Government, as holding their possessions within the same, conformable to such supposed partition line. And that this Province claimed and exercised Jurisdiction to such supposed partition Line, also appears,

1st By An Act passed in the third year of King William and Queen Mary 1691 "to divide this Province and Dependences into Shires and "Counties;" "in which the County of Orange is declared" to begin "from the Limits and bounds of East and West Jersey on the West side "of Hudsons River, along the said River to the Murderers Creek or "bounds of the County of Ulster, and Westward into the Woods as far "as Delaware River."

2^{dly} By An Act of the 13th of King William 1701, "for the more regular proceedings in the Elections of Representatives for the several

“Cities and Counties within this Province” in which it is declared that disputes had arisen between the Counties of Orange and Ulster, relating to Wagachemack and Great and Little Minisink, and therefore those places are by this Act annexed to the County of Ulster, until the bounds between the Counties of Orange and Ulster should be settled; and the Inhabitants of those places, were thereby impowered to give their votes for Representatives in the County of Ulster.

3^{dly} By An Act of the 8th of Queen Anne 1709 “to settle and ascertain the bounds and limits of the County of Orange,” whereby it was Enacted “That the County of Orange should extend from the limits “and confines of the province of New Jersey on the West side of Hudsons River, along the said River, to the line of the County of Ulster, “and Westward so far as Delaware River.”

And as at the times of passing these Acts, there was no line of Division between the two provinces that we know of, except that of 1686, We conclude this must have been the line which the Legislature of this Province esteemed the limits of the two Governments.

We do not find that the Government of New Jersey did make any pretensions to the jurisdiction of, or that the proprietors of New Jersey did claim any right to, any Lands beyond the said supposed Line, for upwards of thirty years after the same was agreed to as aforesaid. But of late years We find that the said proprietors of New Jersey, have made many Encroachments; and that that government hath extended its Jurisdiction to the Northward of such supposed partition Line, by virtue of sundry pretences of Right, which appear to us to be very detrimental to the Interest of his Majesty, and the just Right of his Subjects within this Province, which have been the cause of much disorder, and the frequent breach of the publick peace; and more such mischiefs, are likely to ensue, unless effectual measures be speedily taken to prevent them.

Particularly We find,

1st That Breaches of the Peace are frequently committed by persons Inhabiting near the Borders of the said disputed Line, which take their rise from the Clashing and Interfering of the Jurisdiction claimed and exercised by both Governments.

2^{dly} That Justices of the peace of both provinces have been apprehended and committed to Goal, for executing the authority which they derived from their respective Governments.

3^{dly} That the Borderers frequently oust each other from their Respective Possessions.

All which Acts are attended with force and violence on both sides; and as these disorders arise from the late extension of Possession and Jurisdiction on the part of New Jersey, several Miles within this

province farther Northward than the line agreed to as aforesaid in the year 1686; there is no reason to hope from anything that appears to us, that they will cease, till at least some Temporary line or limit be set to the Jurisdiction and Authority of both Governments.

As to the long Memorial laid before Governor Belcher by the Council of Proprietors, which seems to Aim at establishing the Line of 1719. We did not think it necessary to consider the numerous particulars thereof at present; in as much as by the Copy of a Report from the Lords Commissioners of Trade, to his Majesty dated the eighteenth day of July last, upon the Act of Assembly of New Jersey passed in 1747|8, (which your Honour was pleased to lay before the Council for the perusal of this Committee) We find that their Lordships after having heard the Sollicitors and Council on both sides, represent to his Majesty, that it appears to them Governor Hunter ought not to have issued his Commission for running that line, without having previously received the Royal direction and Instruction for that purpose; and that a commission issued without such Authority, can be considered with respect to the Interests of the Crown, in no other Light than as a meer nullity; and in the conclusion of the said Report, their Lordships declare, that as the Act in Question could not be effectual to the ends proposed; that his Majesty's Interest might be materially affected by it; and that the proceedings on which it was founded, were not Warranted in the first instance, by the proper Authority, but carried on without the participation of the Crown, they could not think it advisable to lay the same before his Majesty, as fit to receive his Royal Approbation.

Upon the whole we are humbly of Opinion

1st That as great Numbers of Freeholders and Inhabitants, hold their Lands under Grants from this Province, long before the year 1719, so far Southward as the Line in 1686, They should and ought to be protected by this Government in the quiet Enjoyment of their Possessions.

2^{dly} That your Honour be pleased to signify to Governour Belcher, the utmost willingness, on the part of this Government, to do everything in its power to give ease to the Borderers on the Respective Provinces, Consistent with the just rights of the Crown, and the Inhabitants of this Province; and to join with that Government in running a Temporary Line of Jurisdiction and Peace, conformable to the said line agreed on in the year 1686; and that your Honour be pleased also to Signify to Governor Belcher, your Readiness to concert measures with him for this purpose,

3^{dly} That your Honour be pleased on the part of this Governm^t to declare the utmost readiness to join with that Government, in the

speediest application to his Majesty, to Authorize and direct the Settlement of a true partition line between both Provinces.

And Lastly if the Government of New Jersey shall agree to the running such line of peace, that your Honour do recommend to the General Assembly at their next meeting, to provide for the one-half of the expence thereof. And if that Government will join with this in an application to his Majesty, for the final Settlement of a Partition Line between the two provinces: then also to provide for the one-half of the expence that may attend the same,

All which is nevertheless humbly Submitted

By order of the Committee

New York 1st March 1754.

JOS: MURRAY Chairman

Mr Alexander dissenting to the said Report, his Dissent is entered accordingly, with leave to enter his Reasons for such Dissent, laying the same before his Honour in Council at the next Meeting.

The Council advised his Honour to send a copy of the said Report to Governor Beleher.

—[*N. Y. Council Minutes (MS.)*, xxiii, 146.

March 13th 1754.

* * * *

Mr Alexander presented to his Honour his Reasons in Writing against the Report of the Committee dated the first Instant relative to the disputes between the Borderers on this Province and the Province of New Jersey, and the said Reasons being read were ordered to be entered and are as follow, Viz^t

Mr Alexander's Reasons for his Dissent

1st For that he humbly conceives where an affair is Referred to a Committee, all Transactions before them of moment that concern that affair, ought to be Reported for the approbation or disallowance of the Council. But sundry things of moment (as he conceives) were Transacted before the Committee, whereof no mention is made in the Report, which he thinks there should have been, and particularly the following;

On February 4th last Mess^{rs} Scot and Mackevers, two of the attorneys for New York, appeared before the Committee, and acknowledged that they had with M^r Alsop the other Attorney, upon the Recommendation of the Committee, signed the Letter of February 2^d to Mathews and Sacket, whereof Copy was there before the Committee; And thereon the said Alexander then acknowledged, that he signed the Letter of February 2^d to Richard Gardner, whereof copy was then also

before the Committee, at which time also the said Committee, acknowledged they had recommended as before.

On which said 4th of February a paper Intituled proposals &c^s then before the Committee was acknowledged by the said Scot and Mackevers, to have been signed by them, and the said Alsop, which paper was then delivered to the said Alexander in presence of the Committee.

That on the 12th of February last, it appeared to the said Committee, that on the eighth day of that Month, the said Alexander had sent to the Chairman of the Committee, a copy of a minute of Council of New Jersey of February 7th approving of the said Letters of February 2^d with additions, and by Letter therewith had requested that a Committee should be without delay Summoned, with one or more of the gentlemen who signed the Letter of February 2^d to Mathews and Sacket, that the matters of that minute might be as solemnly acknowledged before them, as the said matters acknowledged on the 4th of February, and that it might be delivered to one or more of the said Gentlemen concerned for New York, in presence of the Committee; and that the Chairman would be pleased to bring the said paper with him for that purpose, which paper was brought by another Gentleman of the Committee, and to which the said Alexander then added a Declaration dated the 11th of February and which paper with the said Declaration were acknowledged by the said Alexander, in presence of the Committee, and as neither of the said Gentlemen concerned for New York, appeared, it was left with the Clerk of the Committee, in order to be delivered to some of the said Gentlemen. Which Clerk afterwards declared in the presence of the Committee, on the 25th that he had delivered a copy thereof to one of them.

That on the 25th day of February last, it appeared to the said Committee, that the said Alexander had on the 23^d day of that Month, delivered to the Chairman of the Committee, a paper purporting to be an Answer by Samuel Nevill and him, to the said paper Intituled proposals &c^s delivered to him on the 4th requesting that a Committee might be Summoned, with some of the said Gentlemen concerned for New York, in order that the said Answer might before the Committee be acknowledged and delivered in like manner as the Proposals had been, and to bring the said answer with him for that purpose; On which 25th day of February the said Answer was by the Chairman accordingly brought, and in presence of the Committee acknowledged by the said Alexander, and delivered to some of the Gentlemen concerned for New York then attending; at which time the said Alexander also in presence of the Committee, read and then delivered to the said Gentlemen, a Memorandum Certified by him: of what had passed in the Council and Committee of Council of New Jersey, concerning that

answer, the substance of which the said Alexander declared he had verbally acquainted the Chairman with on the 23^d, which was not denied by the said Chairman.¹

2^d For that many facts are set forth in the said Report; the proofs whereof the said Alexander humbly conceives, ought to appear to the Council to enable them to Judge of the Report, and to agree, or dissent to it; especially as sundry of the Council were not present at the Committee when those proofs appeared to them, and as its alledged that those proofs are in the hands of the said Gentlemen concerned as Attorneys for New York; its conceived they should have attended the Council with the proofs of these facts.

3^d For that instead of Reporting what they did not find, concerning the Jurisdiction and Claims of New Jersey for thirty years after 1686 &c, he humbly conceives the Committee ought to have enquired into those matters, and Reported *what they did find* upon that enquiry which had they been pleased to do, they might have found by the Minutes of Council of New York of 1686,² pointed to in the said Answer to the proposals delivered the 25th of February last, that New Jersey not only then claimed a line from the Latitude of 41' 40 on Delaware to 41 on Hudsons River, as the line of their property and Jurisdiction, according to the several Deeds from the Duke of York, (and which line was discovered by the observations in 1719) but likewise that that Line was then agreed to be so, by the Governor and Council of New York, and then directed by them to be run; and consequently that claim and right both to Soil and Jurisdiction up to that Line continued not only for thirty years after 1686, but continues to this day; and as actual Possession best shows who claims, Would the Committee have enquired of or concerning the several actual Possessors of the Lands Southwestwards

¹ The references in the above paragraph are to papers which we have been unable to find, but which seem to be certain of those annexed to the Memorial of the Council of Proprietors of the Eastern Division of New Jersey, dated Nov. 20, 1753, viz.: No. 12, "The said Proposals of the New York Attornies," and No. 13, "The said Answer to them." The N. Y. State Library copy of the said Memorial, etc., lacks Nos. 8-15, both inclusive, of the annexed papers, a list of which, however, appears in No. 17 (middle of page 54). We had hoped to gain access to a copy of these missing papers through Wm. A. Whitehead, Esq., of Newark, N. J., to whom we have been indebted for special favors of this kind; but illness unfortunately prevents him from searching for them up to the time of printing these pages.—[P.]

² For a similar reference to the *N. Y. Council Minutes*, of 1686, see No. 17 annexed to "Memorial," etc., of Nov. 20, 1753 (last paragraph of page 58). These statements seem not fully warranted by the original *Minutes*, as recorded in the office of the N. Y. Sec'y of State, and we are would gladly see a copy of "No. 13," for the sake of any quotation or recital therein, not included in the transcript of *Minutes* given on pp. 601, 602, *ante*. See preceding note.—[P.]

of the Line by the observations of 1719, abreast of the great and little Minisink Patents, and within fourteen miles of the said line, and so far as to the South end of Minisinks Island, who are about 40 families in Number, by what titles they claimed or held their Possessions? and how long? he has good reason to believe that the Answers would have been, *under New Jersey some for forty years past and others more and some less*: without any exception but of four families lately got into possession there, whereof two have possessed themselves of the very Lands that the Westfalls were formerly possessed of under New Jersey, and mentioned in Articles 16 to 19 of the Memorial; and now he is informed that those New possessors claim them as part of the Little Minisink Patent; and two other families at Matchippaconck, formerly Tenants to the owners of that land under New Jersey Title, who (on the Refusal to continue their leases) about five years ago applied to one of the owners of the Great Minisink Patent for Protection, and who has protected them there ever since as part of the great Minisink patent against former Owners of that Land under New Jersey; and would the committee have enquired who were Possessed abreast of the Patent of Hardenbergh and Company, they might have found one family in Possession under New Jersey, at the very Station point on Delaware discovered in 1719, but none in Possession under New York Southwestward of the Line there. And would the Committee have enquired of or concerning the Titles of those in Possession, Southwestward of the Line by the observations of 1719, abreast of that part of the Wawayanda Patent which is Westward of the drowned Lands, being about one half of its Length along the line, and so far Southward as the Oppressions and threats of New York have within 13 years last extended, who are far above one hundred families in Number, they might have found them possessed under New Jersey Titles, with one single exception onely of one family, who settled there last year; So that along the line from the Station on Delaware discovered in 1719, for about three Miles abreast of Hardenbergh's patent, about thirty two Miles abreast of the Minisinks Patents, and about 8 Miles abreast of Wawayanda Patent, making in all about forty three miles of the length of the Line (which space has been the very scene and almost the whole of the Scene of all the New York Oppressions complained of for 13 years past; for no one breach of the peace hath he heard of to his Remembrance to the Southeastward concerning the line, except those in the 30th 40th and 41st Articles¹ of the Memorial) no more than the said five families under New York Title have as yet got into Possession for above 30 Miles down Delaware,

¹ Several of the "Articles" mentioned by number in this paragraph were omitted from the foregoing reprint of the principal parts of the said Memorial, on pp. 661-671, *ante*.—[P.

from the Station point of 1719 and for about 43 Miles along the line from that Station point; at least it appeared so in February last, when those matters were strictly enquired into on the part of New Jersey, — And for Brevity the said Alexander Refers to Articles 20,, 29, 30 and 37 of the Memorial; for what the Committee might have found as to actual Possession abreast of about thirty two Miles, the Remainder of the Line, and would the Committee have made enquiry who were the Aggressors in the many Breaches of the peace on the Borders; he humbly Conceives they must have found *the People of Orange County, to be the continued Aggressors*, without any resistance or reprizal by New Jersey for above 13 years Oppression, without Redress of their Complaints until the 16th of January last; after the second, late great, and forcible irruption of Numbers of Orange people into New Jersey, and for apprehending some of those Rioters a third Irruption of Orange Men, to the Number of about 60 persons followed on the 19th and had not some of the Ringleaders in those Riots been apprehended by the Authority of New Jersey, more like Irruptions might very probably have since happened. He begs thro' the whole of this to be understood, that by New York and Orange men, and all whom he charges with Oppressions and wrong he means only people of the Minisink and Wawayanda Patents, and even not all of them, for he has reason to believe that many of the Wawayanda Patent, do abhor the Oppressions under which New Jersey has so long groaned and complained without Redress, And that a great Majority of the Wawayanda men who assisted the Minisink mer in the three late Irruptions into New Jersey since December 12th last, did not give that assistance until by force and threats they were compelled thereto,

4^{thly} For that he believes the proofs to Support the 3^d fact Reported be found to witt, *That the Borderers frequently Oust each other from their Respective Possessions* cannot be sufficient to prove that Fact, because, tho' he admits the fact may be true as to the said four families abreast of the great Minisink patent and little Minisink Patent, who may have Ousted the prior New Jersey Possessors as before, yet he is far from believing that any of New Jersey has ousted any person claiming under New York of their possessions, even tho' wrongfully and injuriously taken and detained, so passive have the people of New Jersey hitherto been, to the many wrongs they have suffered, and so often complained of for 13 years past without Redress, as by the Memorial appears.

5^{thly} Admitting that the Supposed Line to which its alleged that the Patents of Wawayanda and Great Minisinks extended, were established so far Southward as the Jurisdiction of New York has lately by force and Violence been extended, viz: to the South end of Minisink Island

which is above thirty Miles below the Station point on Delaware, discovered in 1719, Yet the said Alexander neither knows nor believes that the Crown, would be one penny benefited by that extention, nor that if the line was fixed according to the observations of 1719, that it would be one penny detrimental to the Interest of his Majesty as to Quit rents, Escheats or otherwise, except in that single point discovered by the Lords of Trade, *the chance of Vacating those New York Grants on the Line as Exorbitant* as in page 30 and 31 of the Memorial, which the Establishing the supposed line above thirty miles down Delaware, below the Station point discovered in 1719, would give a most reasonable chance for..

6th As the Report proposes a Line to be run for a Temporary Line which its alledged was agreed to in the year 1686, in the manner as is supposed in the Report, (which Line and the markt Trees mentioned in the report, the said Alexander declares he never to his Remembrance heard of, till hearing that Report Read,) he apprehends that it would be injurious to the characters of the Governor and Council of New York, to suppose that they should expect that such a supposed Line should be agreed to on the part of New Jersey, without sufficient proofs appearing to them that such a Line was really agreed to as is supposed! WHEREFORE the said Alexander begs leave humbly to desire that the said Gentlemen Attornies for New York, may be ordered to give him a List of those proofs, and to point to such of those proofs as are on Record by Book and Leaf, and to produce such as they have which are not on Record; and give copies of such of them as may be desired on sight thereof, (for which the said Alexander will be ready to pay them) that the same may be considered on the part of New Jersey; and a reasonable Answer given to this Proposal.

Mr Alexander owns he is Interested in this matter, and accepted of being one of a Committee on the part of New Jersey on this affair, as appears in Article 32^d of the printed Memorial, from whence it may be imagined, he has a bias in behalf of New Jersey, and for which Reason he supposes he was not summoned to Act with the Committee of this Board on this matter. But as his Interest in New York appearing by N^o 7¹ annexed to that Memorial, nearly ballances his New Jersey Interest, he conceives himself more disinterested in this case than sundry Gentlemen of the Committee that made this Report, who are considerably Interested in the New York Patents along the line, without any New Jersey Interest to ballance that, and as he was duly Summoned to this Council, without any notice of what was to be debated in it, he

¹ This "No. 7" is a letter from Mr. Alexander to his partners in interest in the *Minisinks* and *Warayanda* Patents, dated New York, Nov. 13, 1753.—[P.

conceives he has at least as good a right, as those more Interested Gentlemen, to deliver his sentiments on this head.

March 4th 1754.

JA : ALEXANDER

Ordered that the said Reasons be Referred to the Committee by whom the said Report dated the 1st Instant was made, and particularly that the said Committee declare their opinion and advice concerning the order requested in the sixth Article of the said Reasons.

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 152.

[LIEUT. GOV. DE LANCEY TO GOV. BELCHER.]

New York, 15 March 1754.

Sir

I am now to answer two of your Excellency's letters in relation to the disputes on the Borders between the inhabitants of this Province & the Jerseys. I hope your Excellency will excuse this long delay owing to the following reason. I have a small share in the Minisnick patent, which is bounded on the old supposed Jersey line and therefore was unwilling to take any steps in this matter, but upon full consideration & by the advice of his Majesty's Council & they took a considerable time to prepare & draw up a Report, which you will receive with this letter; to this Report Mr. Alexander who is of his Majesty's Council here as well as in Jersey and a considerable proprietor of East Jersey entered his dissent and had time to give his reasons which are entered in the Minutes of Council & are referred to the Committee who drew the Report; when they shall have made the Report upon Mr. Alexander's reasons, I will transmit both to your Excellency. I shall add nothing to the Report, but only observe to your Excellency, that I conceive, that the Forks of Delaware are the Ne plus ultra of the Northern Boundary of Jersey on that side and therefore that all the lands lying between them & the South end of Minisnick Island are still in the disposal of the Crown, which his Majesty may either annex to this Province or to Jersey and I flatter myself when your Excellency shall have considered the description of Jersey in the Duke of York's patent, you will come into the same opinion. I hope your Excellency will make no difficulty to agree to the line of peace as mentioned in the Report of the Committee of his Majesty's Council of this Province, so that his Majesty's subject in that part of the Country may know where to yield obedience and pay their Taxes and this to be done without prejudice to private Property.

I do further propose that Nolle prosequis be granted from both Gov-

ernments to put an end to the prosecutions that are now carrying on in each Province.

His Excellency

Gov: Belcher

—[*N. Y. Col. MSS.*, lxxviii, 84.

[IN N. Y. COUNCIL.]

April 4th 1754.

* * * *

Mr Alexander acquainted this Board, that on the 23^d day of March last, his Excellency the Governor of New Jersey and the Council of that province, Ordered a copy of the Report of this Board (which was approved the 4th of March last) to be served on the president of the Council of proprietors of East Jersey, in order to their making an Answer to the same.

That the copy of the said Report being laid before the said Council of Proprietors, they observed that they could not make answer to the same, so fully as they desired, without copies of those proofs mentioned in the 6th Article of his the said Alexander's reasons for his Dissent to the said Report; wherefore humbly requested of this Board such order for those proofs, as in the said 6th Article is desired.

Mr Alexander takes this opportunity to acknowledge one mistake in fact in the third reason for his Dissent Viz: *that two Men at Matchipacunk, held their plantations as part of the Great Minisink Patent.* But since that Dissent, he has been well informed that these two Men being sensible of the injustice they had done, made satisfaction to, and purchased of the New Jersey owners of those Lands, some time before the said Dissent.

Ordered that what is now offered by Mr Alexander, be Referred to the same Committee to whom the Reasons offered by Mr. Alexander against the Report of the Committee of this Board, dated the first, and confirmed the fourth day of March last, are Referred.

—[*N. Y. Council Minutes (MS.)*, xxiii, 170.

[IN N. Y. GEN. ASSEMBLY.]

April 16, 1754.

Mr. Speaker laid before the House several Letters which he had received from Mr. *Charles*, Agent for this Colony, in *Great-Britain*; which being read,

Ordered, That the said Letters lie on the Table for the Perusal of Members.

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—[*N. Y. Gen. Assem. Journal (1743-1765)*, p. 376.

[IN N. Y. GEN. ASSEMBLY.]

April 24, 1754.

* * * *

A Message from his Honour by Mr. *Banyar*, Deputy Secretary; which being read, is in the Words following, viz.

Gentlemen,

The Division Line between this Government and the Province of *New-Jersey*, not being settled, has lately given rise to great Tumults and Disorders, among the People of *Orange County* and the adjacent inhabitants of *New-Jersey*, and may produce worse Evils, unless prevented by a timely Care. Nothing can answer this Purpose so effectually, I think, as the fixing a temporary Line of Peace between us, until his Majesty's Pleasure shall be known in this Matter. Governor *Belcher* assures me of his sincere Desire, that amicable and conciliating Measures may be fallen upon by both Governments, to make the Borders easy; and I have proposed to him the running such Line, conformable to the Opinion of his Majesty's Council, signified in their Report to me, which I shall order to be laid before you, and if it receives his Approbation, I shall forthwith appoint Commissioners for running such Line of Peace, and apply to that Government to do the like on their Part; the Expences of which I must recommend to you to provide for.

* * * *

JAMES DELANCEY.

Fort George, New York,

April 24, 1754.

—[*Idem.*, p. 379.

April 25, 1754.

* * * *

Resolved, That this House do agree with his Honour and the Council, in the Expediency of settling a temporary Line of Division between this Colony, and those of *New-Jersey* and the *Massachusetts-Bay*, to ascertain the Jurisdiction of the respective Governments, until a final Partition Settlement can be made.

Resolved, That an humble Address be presented to his Honour, that he will be pleased to use his Endeavours for settling such temporary Lines, and to assure him, that this House, will make good any reasonable Expence, that may attend the same on the part of this Colony.

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—[*Idem.*, p. 380.

April 26, 1754.

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Capt. *Richard* reported * * that his Honour was pleased to say, he would use his best Endeavours to have such temporary Lines settled.

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—[*Idem*, p. 381.]

[GOVERNOR BELCHER TO GOVERNOR DE LANCEY.]

Sir:

In due Time I received your Honours Letters of 15: of March & 22: of April past.

As to the Dispute that has so long subsisted & still does between the Proprietors of East New Jersey & the Minisinek Patentees of New York it is a curious Affair & of great Importance to both Governments. I shall not therefore act therein without the Advice of His Majesty's Council of this Province but shall take the first convenient Opportunity to Lay your Honours Letters together with the Papers sent me by Mr. Alexander in this Matter before them & thus I this Day write him & that it will be wise & Prudent in both Governments to represent these things to His Majesty & earnestly to pray His Aid & Assistance for a final Settlement of the Boundary between the two Provinces for establishing Peace and Good Order and Friendship among the several Inhabitants.

At the last meeting of the Assembly of this Province I laid before them your Honours Letter of 22^d of April with what it enclosed & in my Speech to them at the opening of the Session & in my Message at the Close of the same I did all in my Power to shew them the reasonableness of what you write & to bring them into sending a Commissioner to the intended interview at Albany but all to no Purpose as your Honour will find by my Speech their Answer & my Replication which are ordered to go into the Publick Prints. I am sorry for the Result in this Matter which I am afraid will be looked upon by the King & His Ministers as a great Neglect of their Duty to his Majesty & of that tender Regard which they ought to have of the future Safety & Welfare of themselves & their Posterity. I remain with much respect

Elizabeth Town (N. J.)

Sir

May 3, 1754.

Your Honours

Most Obedient & Most Humble Serv^t

J. BELCHER.

Lient. Governour De Lancey.

—[*N. Y. Col. MSS.*, lxxviii, 109.]

Lieutenant-Governor De Lancey to the Lords of Trade.

New York, 21 May 1754.

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I now send your Lord^{pp} some papers relating to the division line, between New Jersey and this Province, with a copy of an ancient Map, said to be signed by Andrew Hamilton, who was then Gov^r of East Jersey. I have drawn two lines on the Map, to distinguish in a triangle, the Lands that are as I conceive still in the crown. I shall make no observations on King Charles Second's Grant to the Duke of York, but will suppose the Duke had a right to grant the lands, which he did grant to Lord Berkely and Sir George Carteret, and then it is to be considered how far the Duke's Grant to them, did extend up Delaware River. The bounds from Cape May at the mouth of Delaware River are "extending to the Northward as far as the Northernmost Branch of the said Bay, or the River of Delaware, which is in forty one degrees and forty minutes of Latitude." Here I would only observe, that the Northernmost Branch of the said Bay or River, is the terminus ad quem, the place at which they must stop: the words, as far as, being the same in sence as, usque ad, which is always exclusive of the place to which you go; so that from Cape May, to the Northernmost Branch of Delaware River is the whole extent of the Western boundary of Jersey. As for these words, which is: *in forty one degrees and forty Minutes of Latitude*, I do not take them to be part of the description of the Boundary, they are only affirmative words of computation, or rather conjecture of the latitude wherein the Northernmost branch or the Forks of Delaware lye. For instance, if a grant was made of all the lands from London Bridge to Greenwich, *which is ten miles*; here the mistaken computation made of the distance, will not carry the grant beyond Greenwich. London Bridge being the terminus a quo, the place whence, and Greenwich the terminus at quem, the place to which; and these two make the extent of the Grant, and are always understood to be exclusive. So of the western boundary of Jersey, the main Ocean at Cape May, at the mouth of Delaware Bay, is the terminus a quo, and the Northernmost branch of the said Bay or the River of Delaware, is the terminus ad quem, which make the extent of the Jersey grant on the West. For Delaware River is formed by the two branches joining into one Body at the forks of Delaware, may properly enough to be said to be the ne plus ultra, of Jersey on that side. For the mistaken computation of distance or latitude, cannot enlarge the extent of a Grant, words of that sort being not descriptive but conjectural.

It is said, as the Patents of Wawayanda and Minisink are bounded on the Jersey line, his Maj^{ty}'s interest can not be concerned, let the

line run where it will, but this is a mistake; for the Jersey line on which these Patents were bounded, was the supposed line marked in the Map, which was at that time understood to be the line, and they cannot be extended Southward, even if the real line of Jersey is to run from the Forks of Delaware, *or the head of Delaware Bay*, to the Station on Hudson's River opposite to the lower Yonkers; the King's intention being to grant lands no further than the then supposed line.

I wrote to Gov^r Belcher to propose a line of peace between the two provinces, to put a stop to the disputes and disorders that are committed on the Borders; in which letter I thought it my duty, as his Majesty's servant, to tell him my opinion that the forks of Delaware, were the ne plus ultra of Jersey on that side. This paragraph has drawn upon me a pretty extraordinary proposal from the Jersey proprietors, which was delivered to me by M^r Alexander. I shall make no reflections on it, but submit the propriety of it to your Lord^{sh}s consideration. I must inform your Lord^{sh}s that M^r Alexander is a member of his Maj^{ty}'s Council for this Province and for the Province of Jersey, and a considerable proprietor, and a chief Manager in behalf of the Jersey proprietors. I leave it to your Lord^{sh}s to consider how consistent this is, while there is this controversy subsisting between the two Provinces, and between the Proprietors and his Majesty. I inclose the report of a Committee of his Majesty's Council on the disturbances between the people living on the borders of the two Govern^{ts} and the opinion of the Committee for establishing a line of peace, until the partition line be fixed between both provinces, and M^r Alexander's reasons for his dissent to the said Report. Your Lord^{sh}s will perceive the opinion of His Maj^{ty}'s Council to be, that the line of peace, should run according to the supposed line, and the reasons upon which they ground their opinion, and if they appear satisfactory, I hope directions will be given to the Gov^{rs} of the two provinces, that the line be so fixed & ascertained as a line of peace, until His Maj^{ty}'s right be finally settled in such a legal course, as his Majesty shall think proper.

I am very backward to take any steps to protect the Freeholders and Inhabitants in the quiet enjoyment of their possessions up to the supposed line, as the Council advise. The Reason, My Lords, is, that I am concerned in the Minisink Patent, and so are my Brothers and sisters, as Devises of my Father, who held two shares in that Patent. Nor shall I take any steps without the advice of the Council. I beg your Lord^{sh}s will be please to direct me on this head.

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·JAMES DE LANCEY.

Lieutenant-Governor De Lancey to the Lords of Trade.

New York. 5 June 1754.

My Lords,

On the 21st of last Month (May) I had the honor of writing to your Lord^{ships} and inclosing several papers relating to the controverted line of Division between this Province and New Jersey, a duplicate of which letter I now send, with a Copy of Keith's Map, and a paper I received from M^r Alexander ; the other papers relating to this matter mentioned in that letter, are entered in the Minutes of Council Commencing the 11th January, and ending the 17th May 1754, Copies of which I now send your Lord^{ships}, with the Journal of the Council's proceedings in the two last sessions of General Assembly, the votes of the Assembly, and ingrossed copies of the Five Acts passed ; among the Acts there are not any I think that require particular observation.

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—[*N. Y. Col. Doc.*, vi, 843.

Lords of Trade to Lieutenant-Governor De Lancey.

* * * *

The papers you have sent us relative to the points in dispute between New York and the Neighbouring Provinces with respect to boundarys, more especially with respect to the line of division between New York and New Jersey and the observations which you make in your letters upon these disputes will be of great service to us when that point comes under our consideration it appears to us in the general light in which We see this affair at the present that it will be for his Majesty's service and for the peace and interest of both Provinces that a temporary line of Jurisdiction should be establish'd by his Majesty's authority until the true line of property can be ascertained and therefore we shall shortly take this matter into Our consideration and lay our thoughts fully upon it before his Majesty. In the mean time we do earnestly recommend to you as we have also done to the Governor of New Jersey to every legal and proper measure that can be thought of to preserve the publick peace in those parts and prevent that mishief we have reason to fear might be occasioned by this unhappy dispute.

* * * *

Whitehall
July 5 1754

DUNK HALIFAX
JAMES OSWALD
ANDREW STONE

—[*N. Y. Col. Doc.*, vi, 846.

[IN N. Y. COUNCIL.]

July 25th 1754.

* * * *

The Petition¹ of several of the owners and proprietors of the Patents of Minisink and Wawayanda, some of them chosen Trustees to Act for and in the names of the rest of the proprietors in their behalf, and in behalf of all his Majesty's Subjects residing in this Government near the controverted Line between New York and New Jersey: was presented to the Board and read Setting forth sundry matters relating to the Encroachments of the people of New Jersey on Lands within and under the Jurisdiction of this province, and the extending the Jurisdiction of that Government into this province as far Northward as the pretended Line of 1719, referring to several Affidavits for proof of the Facts set forth in the said petition: and praying his Honour (if it should seem meet) would be pleased to issue a Proclamation of such Tenour and import, or to grant such Relief in the premises, as the Exigency of the petitioner's Circumstances may require.

Ordered that the said Petition be Referred to the same Committee who made Report on the 4th of March last relating to the said Controverted Line, and that they do consider of the Petition and the Affidavits referred to, and Report with all convenient speed what they think necessary to be done thereupon.

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 209.

To His Excellency Jonathan Belcher, Esq; Captain General and Governor in Chief of the Province of New-Jersey, and Territories thereon depending in America, Chancellor and Vice-Admiral in the same.

The Humble Representation of the Council of Proprietors of the Eastern Division of *New-Jersey*.

[August 20, 1754.]

May it please Your Excellency,

WE render your Excellency our hearty and sincere Thanks, for your Excellency's referring to us, on the 23d of *March* last, the Report confirmed in the Council of *New-York*, on the 4th of *March* last, and the Letter of His Honour the Lieutenant Governor of *New-York* to your

¹ Aug. 22, 1754.—A similar petition or "Memorial" was presented to the General Assembly and referred to a committee to examine and report thereon, which report was made Oct. 29, 1754.—[P.]

Excellency, of the 15th of *March*, with the said Report; as by this your Excellency's Favour, we have an Opportunity of answering both the said Report and Letter.

WE assure your Excellency, that we shall, with all the Speed in our Power, prepare our Answer to the said Report and Letter, not doubting but that we shall be able, fully to obviate all the Matters therein of any Moment. At present we beg Leave only to represent to your Excellency, that at our Half-yearly Meeting in *March* last, upon reading the said Report and Letter, two Things therein advanced, more especially surprized us, and which we greatly doubted the Truth of, for the Reasons contained in Numb. 13,¹ annexed to our Memorial.

THE first Thing we allude to, is contained in the Report of the Council of *New-York*, and is in Substance,

That in 1686, a Line was agreed to, between Thomas Dongan, then Governor of New-York, and the Governor of New-Jersey, to run from a Place on Hudson's River, due West from Frederick Philipse's Lower Mills, and to extend from thence, to the Southward of Great and Little Minisink, to certain markt Trees on the West Branch of Delaware River; and its proposed and insisted on, that that Line be agreed to and run, as a temporary Line between New-York and New-Jersey.

THE second Thing is contained in the said Letter of the Lieutenant Governor of *New-York*, to Your Excellency; in which his Honour conceives, *That the Forks of Delaware, are the Ne plus Ultra of the Northern Boundary of New-Jersey on that Side; and that therefore, all the Lands lying between them, and the South End of Minisink Island, are still in the disposal of the Crown, which his Majesty may either annex to this Province, or to Jersey.*

As to the first Article, we, at our said Meeting, conceived, That the Reasonableness of what was therein proposed and insisted on, depended greatly upon the Truth of the Fact, *That such a Line as alledged was agreed to in 1686; which, till that Report was read, we never heard had been pretended to.* We thought it would be injurious, to the Characters of the Governor and Council of *New-York*, to suppose they should expect, such a Line would be consented to by *New-Jersey*, without producing sufficient Proofs of such Agreement.* WHEREFORE, on the 28th of *March* last, we resolved, that one of our Number, should in the most respectful Manner, acquaint the Lieutenant Governor and Council of *New-York*, with your Excellency's said Reference to us, and humbly request an Exhibit of the Proofs supporting the said Fact, directing to such of them as are on Record by Book and Leaf, producing such of them as are not recorded, and to beg Copies of those that

¹One of the missing documents referred to in foot notes on page 679.—[P.]

on Sight thereof might be desired, we paying for such Copies; that those Proofs might be considered on the Part of *New-Jersey*, and a reasonable Answer given to that Proposal.

THE Person we intrusted to make that Request, has now reported to us, that he did make it accordingly on the Fourth of *April* last; but that he has not hitherto been favoured with any Answer thereto.

WITH Respect to the second Point, *That the Forks of Delaware are the Ne plus Ultra of New-Jersey, &c.* we observe, that it is notorious, that *Delaware* River has many Forks, perhaps several Hundreds, below and above the Latitude of $41^{\circ} 40'$, on the Northermost Branch of it; up to which Latitude *New-Jersey*, for ninety Years past, has always been deemed by the Deeds thereof to extend, and that it hath been allowed such Extension, by many solemn Acts of both Provinces; to which, by our Memorial, and the Papers annexed to it, we refer; and as it is uncertain, which of those *Forks* is meant by his Honour, we think, that before a full Answer can be expected, those *Forks*, concerning which his Honour writes, should be particularly described and designated from the rest; and why those rather than any of the rest; or why any one *below* the said Latitude (if one below it be meant) should be preferred to a Fork *above* that Latitude; especially as the Deeds of *New-Jersey*, are all from a Subject to other Subjects; and therefore in Matters doubtful, to be construed most strongly and beneficially for the Grantees: And as there's no Mention of any *Forks*, in the Deeds of *New-Jersey*, we think it but reasonable, that it should be declared what Facts and Reasons there are to support this Conception; and what are the Proofs of those Facts; and that a Sight, and Copies of such of them as are desired, should be given us, on our paying for them: Wherefore, on the said Twenty-eighth of *March*, we verbally resolved, that one of our Number should signify to his Honour, our Expectations of an Exhibit of the Facts and Reasons in Support of the Conception in his Letter; which one of our Number now reports to us, that he did on the said fourth of *April*; but that he has not hitherto been favored with such Exhibit.

WE beg Leave also, to represent to your Excellency, that since our said Half-Yearly Meeting, on further considering the said Report of the Council of *New-York*, of *March* last, we find sundry other Matters therein advanced, represented in such a light, as the Truth of Facts will not warrant; and particularly these:

1st, *That the Subjects of New-York, have at divers Times since the Year 1686; made Settlements bordering on the said supposed Line of 1686; and have always since paid their Taxes, &c. to New-York.*

2dly, *That great Numbers of Freeholders and Inhabitants held*

their Lands under Grants from New-York, long before the Year 1719, so far Southward as the said line of 1686; and therefore ought to be protected by that Government, in the quiet Enjoyment of their Possessions.

As to which Facts, we thought it our Duty to make, and have accordingly made, strict Enquiry; and upon that Enquiry found, as to the supposed Line of 1686; which the Council of *New-York* have been pleased to describe, *from a Place on Hudson's River, due West from Frederick Philipse's lower Mills*; that that Place, is about Four Miles Southward of the Place; where (by the Observations of 1719,) the Latitude of 41° , was found to be, and about Six Miles Southward from the Mouth of *Tapan* Creek: The Report further describes that supposed Line, to extend *from thence to the Southward of Great and Little Minisink*. What the Bounds and Situations of these are, they have not been pleased to mention; but what's called *Minisink*, we believe, extends about Fifty Miles down *Delaware* River, below the Station Point discovered there in 1719, by the Commissioners and Surveyors of both Provinces upon their Oaths, for the Latitude of 41° , $40'$. How far more Southerly than the End of Fifty Miles from the Station Point, the supposed Line of 1686, extends, the Council of *New-York* have not been pleased to declare: As to the *certain mark'd Trees* (which in the said Report are alleged to be) *on the West Branch of Delaware River*, we have not been able to discover any Person that ever heard (and much less knew) any Thing of them, before the making of that Report. We have also discovered, that the Line run and mark'd in the Year 1719, by Authority from both Governments was nearly Seventy Five Miles long, from *Hudson's* to *Delaware* River; that it ran along the Patents of *Tapan* about four Miles; along *Honan's* Part of *Honan* and *Hauden's* Patent, also about four Miles; along *Cheescok's* Patent, about sixteen Miles; along the Patent of *Wawayanda*, also about sixteen Miles; along the *Great and Little Minisink* Patents, about thirty-two Miles, and along the Patent of *Hardenberg* and Company, about three Miles; in all about seventy-five Miles to the Station Point on *Delaware*.

THAT the Lands at *Tapan*, and for fourteen Miles Northward of the Mouth of *Tapan* Creek, along *Hudson's* River, and Southward from thence, were first settled as in *New-Jersey*, and continued to be esteemed as such for many Years, till a Part was yielded up in 1684, on the Agreement then made, that the Division Line between the two Provinces, should begin at the Mouth of *Tapan* Creek, as in N^o. 13, annexed to our Memorial appears; wherefore we apprehend, that no Settlements there, Southwestwards of *Tapan* Creek, or of the Line by

the Observations of 1719, can be assigned in Support of the said two Facts, because they were first made under *New-Jersey*.

* * * *

WHEREFORE, we conceive, no Settlements to support the said Facts, can be assigned, for the Eight Miles abreast of the *Tapan* and *Honan's* Patents; nor for the Sixteen Miles abreast of the *Cheescocks* Patent; nor for the said Ten Miles abreast of the *Wawayanda* Patent; nor for the Thirty-two Miles abreast of the *Minisink* Patents; nor for the Three Miles abreast of *Hardenberg's* Patent; which make 69 of the 75 Miles along the Line: So that the Settlements that can be assigned, if any there are, must be within the remaining Six Miles, lying 24 Miles from *Hudson's* River, and 45 from the Station Point on *Delaware*; to wit, between the Drowned Lands, and the Mountains on the East Side thereof, abreast of that Part of the *Wawayanda* Patent.

As to those Six Miles, we have made the best Enquiry in our Power, concerning the Settlements there, to discover if any Thing could be assigned to support the said Facts; and we find, that neither before, nor in the Year 1719, nor for several Years afterwards, were there any Settlements there, under the *New-York* Title, South-westwards of the Line by the Observations of 1719. * * *

WHEREFORE we become humble Suitors to your Exeelleney, that you would, in the most strong, urgent and effectual Manner, demand and insist upon, from his Honour the Lieutenant Governor and Council of *New-York*, not only a Compliance with those Things requested on the fourth of *April* last, and their Answer to the Questions herein before put concerning the same; but also their Delivery of a List of the Names of those Settlers, that appeared to them, to support the said two Facts reported; with the Times of their Settlement, and under what *New-York* Patents; and that they point out, where the Southermost Part of *Great* and *Little Minisink* is, and how far Southward of that extends their supposed Line of 1686: That they would be pleased to compare, their Proofs of their supposed Line of 1686, (which are inconsistent with our Deeds, and incumbent on them to produce) with our Proofs already pointed to in N^o 13, of the real Line (agreeable to our Deeds) agreed to, in and before that same Year 1686: That they would be pleased to show, why their supposed Line of 1686 (inconsistent with our Deeds) should be preferred to that real Line of 1686, (agreeable to our Deeds, appearing by the Proofs in said N^o 13) That they would be pleased to show, why a line in 1686, (if agreed to as they say) but never run nor ascertained, should be preferred to the Line agreed on, run and markt in the Year 1719, by the same and a much greater Authority. And as by the Proceedings of *New-York*, for thirteen Years past, they have denied, and still do deny, the Latitude of 41° 40'

on *Delaware*, in our Deeds, to be a mutual Limitation of the Bounds of *New-York* and *New-Jersey*, and esteem that Limitation of no Force against *New-York*; that they would be pleased to show, why it ought to be of any Force against *New-Jersey*? And if of no Force, why (according to the Words in our Deeds set forth in Article II. of our Memorial) *New-Jersey* should not extend *Northward*, AS FAR AS, *the northermost Branch of Delaware River*? which we suppose is not less Northward than its Fountain, which is about eighty Miles Northwards of the Latitude of $41^{\circ} 40'$ discovered in 1719; and which would include in *New-Jersey*, all the *New-York* Patents along the Line of 1719, except a few Acres of the *Tupan* Patents, and a very small Part of *Hardenberg's* Patent; And suppose, that the Latitude of $41^{\circ} 40'$, is no mutual Limitation, and suppose also, that the Word *Branch* in our Deeds, should be adjudged to mean *Forks* (which we do not apprehend it can) then why the *Fork* made by the First Brook that falls into *Delaware* below its Fountain, should not be the *Fork* meant in our Deeds. It seems something unaccountable to us, that the People of the *Minisink* and *Wawayanda* Patents, should have been at so much Pains for thirteen Years past, to make void those Words in our Deeds (*which is in $41^{\circ} 40'$ of Latitude*) for were it not for those Words, the said two Patents, we think, would be entirely and unquestionably included in *New-Jersey*, as the Deeds thereof are from a Subject to other Subjects: And as the People of those two Patents, have now for thirteen Years past (by their unneighbourly behaviour to *New-Jersey*) insisted, that these Words are of no Force; we humbly conceive it would be but just as to them, that those Words should be adjudged so; and consequently, that *New-Jersey* extends Northward, *as far as the northermost Branch of Delaware extends*, and that the Lands of these two Patents are in *New-Jersey*.

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WE beg leave also, to represent to your Excellency, that the Council of *New-York*, by their said Report of *March* last, do say, they find, "That the Borderers frequently oust each other from their respective Possessions." As to which Fact, we have made the strictest Enquiry in our Power, and have found nothing to support it, but those four Things, set forth in Page 38, of N^o. 11. annexed to our Memorial; all perpetrated on People of *New-Jersey*; and no one Instance have we been able to discover, of any Person of *New-Jersey*, that ever ousted any Person of *New-York* from his Possession; wherefore we beg of your Excellency, that you would in like Manner demand of the Lieutenant Governor and Council of *New-York*, that they would name what Person or Persons of *New-York*, has or have been ousted by any Person or Persons of *New-Jersey*; with the Place or Places, and Time

where and when; that we may also be enabled to enquire into that Matter, and make the Truth appear by our Answer.

We are,

May it please your Excellency,

Your Excellency's most obedient, and most humble Servants.

By Order of the Council of Proprietors of *East-New-Jersey*,

ANDREW JOHNSTON, *President.*

Perth-Amboy, August 20th, 1754.

—[*Doc. No. 16, annexed to Memorial of East N. J. Proprietors, of Nov. 20, 1753.*

[IN N. J. COUNCIL.]

August 23, 1754.

* * * *

MR. KEMBLE, Chairman of the Committee, to whom the References were Yesterday made, concerning the Line of *New-York*, made Report in the following Words:

May it please your Excellency,

IN Obedience to your Excellency's Order in Council of Yesterday, referring to us the Representation of the Council of Proprietors of the 20th Instant, and to enquire what Proceedings have been concerning the Line of *New-York* and this Province, since the Report made to your Excellency, on the Twenty-second of *February* last; we have accordingly enquired into the same; and from sundry Proofs produced to us, we find, and do humbly report to your Excellency,

THAT on the Twenty-third Day of *February* last, Mr. ALEXANDER delivered to the Chairman of the Committee of Council of *New-York*, the *Answer* to the *Proposals* of the Attornies for the *New-York* Patents along the Line; * *

WE find, that the said *Answer*, demanded of the said Attornies to produce the Proofs they had, to support their pretended Line of 1684, to Little *Minisink* Island; and shewed the Improbability of their having any sufficient Proofs to that Purpose: And tho' the said *Proposals* demanded the said *Answer* with the utmost Speed; and tho' the *Answer* was solemnly delivered to them, as before, within *Twenty-two Days* after the Delivery of the *Proposals*; yet now, above *Twenty-two Weeks* have elapsed, and none of the Proofs demanded have been shewn; nor has any Apology been made for the Delay; nor have they signified, whether the said *Answer* to the *Proposals* was to them satisfactory, tho' by a Letter of *March* 30th last, they were reminded of that Matter.

* * * *

WE find that by a Letter * * of *March* 15th last, his Honour the Lieutenant Governor of *New-York*, transmitted to your Excellency, a Copy of a Report of the said Committee of Council of *New-York*, made the 4th of *March*; which Letter and Report, your Excellency laid before this Board, on the Twenty-third of *March* last, whereon they were referred to the Council of Proprietors of *East-New-Jersey*.

WE find, that on the Second Day of *April* last, the said Attornies for *New-York*, were, by a Letter, notified, that the said Council of Proprietors, or Persons named in their Behalf, were ready to give Security, in any Sum, to pay Half the Charge of obtaining and executing his Majesty's Commission, for settling the Bounds between *New-York* and *New Jersey*, on the like Securities being given on the Part of *New-York*.

WE find, that on the Sixth of *April* last, were printed and published, by the Leave of your Excellency and this Board, to be annexed to the Memorial of the Council of Proprietors, of *November* 20th last; the following Papers, *viz.* N^o. 8. Being the Letters of *February* 2d last. N^o. 9. The Minute of this Board of *February* 7th, approving the same. N^o. 10 and 11. The Proceedings of this Board, on the 21st and 22d Days of *February* last. N^o. 12. The said *Proposals* of the *New-York* Attornies. N^o. 13. The said *Answer* to them: To which were also added, N^o. 14. The said Letter of *March* 30; and, N^o. 15. The said Letter of *April* 2d; and on the same Day, two Copies thereof were delivered to the Lieutenant Governor of *New-York*; and soon afterwards, other Copies to the Gentlemen of the Council, and to many Gentlemen of the Assembly of *New-York*.

WE find, as to the Paragraph, of his Honour Lieutenant Governor DE LANCEY's said Letter, to your Excellency of *March* 15th, in these Words,— 'I do further propose, that *Noli prosequi's* be granted from 'both Governments, to put an End to the Prosecutions that are now 'carrying on in each Province.' That the said Council of Proprietors, in *March* last, on considering the same, were of Opinion, that it would be to very little Purpose, to have *Noli prosequi's*, as to the Prosecutions then carrying on, unless both Sides were some Way or other, secured from the like Prosecutions for the future: Wherefore, by Virtue of the said Reference to them, they impowered one of their Number to confer with his Honour on that Matter, and on the Ways and Means of that Security; and if reasonable, they named, who on their Part, should agree to it in Writing: But that if such Security was not found and agreed to, that then they should decline agreeing to *Noli prosequi's*, as to those Prosecutions then carrying on; and assign that Refusal, of such Security on the Part of *New-York*, as the Cause of their so declining.

WE find, that on the fourth Day of *April* last, the Person so impowered, humbly requested of his Honour, a Conference with him on that Matter; but that his Honour declaring, he was then pre-engaged, that Person then delivered to him in writing, the Substance as before, of what he was ordered to confer with him upon; begging, that as soon as his Honour could, he would be pleased to appoint the Time and Place for conferring thereon: And that on the Sixth of *April*, the said Person, by Letter to his Honour, repeated the last Request; and on the sixteenth of *April*, by another Letter, did the same; but his Honour hath hitherto been pleased to decline any Conference on that Matter. This seemed to us so extraordinary, (as the Matter had been referred, by your Excellency and Council, to the Council of Proprietors; and his Honour fully acquainted with that Reference,) that we were induced to think, his Honour's declining to confer, *on his own Proposal of mutual Noli prosecute's*, arose from the Hurry of other Affairs, until we saw the Proofs of the Irruptions of *May* and *June* last, herein after set forth; and the Letter of *June* 5th, wherein his Honour refuses to have any Conferences with the Council of Proprietors, or the Person they had so appointed, touching these Matters. And had there been even no such Reference; yet, in the Nature of Things, the Council of Proprietors, as Part-Owners, and representing the other Owners of the Soil, on the *New-Jersey* Side of the Line, must have the greatest Concern in every Thing that relates to that Line: And his Majesty, and the whole Legislature of *New-Jersey*, have been so much of that Opinion, that by one Act (mentioned in Article IX. of the Memorial) which has the Royal Assent; and by another Act mentioned in Article XXXII. the whole Charge of settling that Line, is to be paid by the said Proprietors; which would have been unjust to them, if any other Persons had any Interest of Moment therein on that Side: And Reason dictates, that they who have the Whole, or greatest Interest in a Thing, have the best Right to treat of all Matters relative thereto.—That his Excellency Governor CLINTON, was justly of these Sentiments in 1743; his Honour cannot, on Reflection, but remember, when his Excellency referred the Complaints of *New-Jersey*, to his Honour, and other the Owners of the Soil on the *New-York* Side of the Line, as by Article XXVII. of the Memorial; and for Want of their Consent, Governor CLINTON never gave any Redress to these Complaints, tho' he abhorred the Matters complained of, and heartily inclined to have redressed them; as we have great Reason to believe.

* * * *

WE have also considered the said Report of the Council of *New-York*, of *March* 4th; and Letter to your Excellency therewith of *March* 15th; together with the Representation of the Council of

Proprietors of *East-New-Jersey*, concerning the same; and find no Impertinence nor Indecency in the said Representation; and are of Opinion, that the several Questions and Explanations, therein requested to be answered and made, by his Honour the Lieutenant Governor of *New-York* and Council, are proper and reasonable.

WE think, the said Report and Letter, are now deserving of a few more Remarks, than the Council of Proprietors have made upon them; and therefore, beg Leave to say, that one third Part of the Council of *New-Jersey*, are Proprietors of *East-New-Jersey*; and consequently part Owners of the Soil on the *New-Jersey* Side of the Line: And as many actions are now depending in *New-Jersey*, and more may be brought, in Relation to the Line of *New-York* and *New-Jersey*; which possibly may come before your Excellency and Council, to judge upon in the last Resort in *America*; your Excellency and Council, have endeavoured to avoid entering into the Merits of the said Line, or doing any Thing that might draw the other two Thirds of the Council, into prejudging those Causes that may be brought before them concerning it.

THERE are also many Actions now depending in *New-York*, and more may be brought, in Relation to the said Line, which possibly may come before the Governor and Council of *New-York*, to judge upon in the last Resort; we are sorry to see, that the interested Part of that Board, in the Lands on the *New-York* Side of the Line, who (including the Lieutenant Governor,) are half the Number of those that have been concerned in the said Report, should have (by that Report,) with the disinterested Part of that Board, entered into judging of the Merits of that Matter.

THE Memorial of the Council of Proprietors, was made by the Owners of the Soil on the *New-Jersey* Side, in Answer to Complaints of them, to the Governor, Council and Assembly of *New-York*, by the Owners of the Soil on the *New-York* Side of the Line; and as the Memorial contained a full Answer to those Complaints, and a large State of the Case concerning the Line, and numerous Complaints against the Owners of the Soil, on the *New-York* Side of the Line, (at least of the People of *Minisink* and *Wawayanda*) it seems to us, that it became the duty of the Governor and Council of *New-York*, to refer the Memorial to the Concerned on the *New-York* Side, to answer the State of the Case, and to justify or deny the Matters complained of therein; and not become Parties themselves, by stating a new Case, and entering into giving their Opinions thereon, and not taking Notice of the Complaints in the Memorials; tho' many of them are of Crimes of an atrocious and barbarous Nature.

Tho' that Reference was not made, to the Owners of the Soil on the *New-York* Side, as we think it ought to have been, yet by the Com-

mittees recommending to their Attornies, to enter into the Letters of *February 2d*; and to give the Proposals of *February 4th* to answer; it seem'd, that the Owners of the Soil of both Sides were to carry on the Controversy, in order for an amicable Agreement; but why the Committee took the Matter out of the Attornies Hands into their own, after the *Answer* to the *Proposals* had been nine Days delivered to them, instead of obliging the Attornies, to reply to the *Answer*, that Committee best knows; to us, we must say, it seems very strange.

WE observe, that the said Report of *March 4th*, contains one Paragraph of the Report of the Lords of Trade, concerning this Matter; we beg Leave to insert another, *viz.* "The established Limits of 'its [*the Province of New-Jersey meaning*] Jurisdiction and Territory, are such as the Grants under which it claims have assigned;---- if those Grants are doubtful, and Differences arise, upon the Construction or upon the Matter of them, we humbly apprehend, that there are but two Methods of deciding them; either *by the Concurrence of all Parties concerned in Interest*; or, *by the regular and legal Forms of judicial Proceedings*; and it appears to us, that the legal Method of Proceeding, must be derived, from the immediate Authority of the Crown itself, signified, *by a Commission from your Majesty under the great Seal*; the Commission of subordinate Officers, and of derivative Powers, being neither competent nor adequate to such Purposes."

As to the first Method, *viz. the Concurrence of all Parties concerned in Interest*; the best Course to obtain that, it seems to us, would have been, that both Sides should be fully informed of the Points in Controversy, and of the Truth of Facts concerning those Points; which, we believe the Proprietors of *East-Jersey*, by their Memorial and Papers annexed, have sincerely endeavoured; we wish we could say so on the Part of *New-York*; but the Delays of communicating the *Proofs* of their *Pretensions*, and their *late violent and unneighborly Proceedings*, herein set forth; give little or no Hopes of settling the Bounds between the two Provinces in that Method;---what then can remain to be done, but to proceed in the only other Method pointed out by the Lords of Trade; *by the regular and legal Forms of judicial Proceedings, by a Commission from his Majesty under the great Seal?* The Proprietors of *East-Jersey*, by the Letter N^o. 15. of *April 2d* last, annexed to the Memorial, have offered to join in that only other Method, and to give sufficient Security, in any Sum to be agreed on, to pay Half the Charge of obtaining and executing that Commission; on the like Security being given on the Part of *New-York*; but now above four Months are elapsed, and no Answer whatsoever given to that *Proposal*, but instead of it, *new Irruptions into New-Jersey, and distressing the New-Jersey People, by long and needless Attendances at their Courts, and*

REFUSAL TO CONFER *on the Methods for putting an End to those unneighborly Proceedings*; which have no tendency whatsoever to the Settlement of the Line, but needlessly create *great Expence*; and tend to *Bloodshed and Murders*.

WE find, that the said Report of *March 4th* alledges, "That the Government of *New-Jersey*, hath extended its Jurisdiction, to the Northward of the supposed Line of 1686, by Virtue of *sundry Pretences of Right*;" as to which, it appears to us, that the Government and Proprietors of *Jersey*, have been always uniform in their Pretensions concerning the Line, *viz. that 'tis to run from the Latitude of 41° on Hudson's River, to the Latitude of 41°. 40'. on the Northernmost Branch of Delaware*; agreeable to the Bounds of the Deeds thereof, in Article II. of the Memorial.—We find, that it was agreed it should run so, by the Governor and Council of *New-York* in 1686, by the Minutes of Council of *New-York*, set forth in Page 42, N°. XIII. annexed to the Memorial; and that it was also agreed to run so, by all the Commissioners and Surveyors of *New-York* and *New-Jersey*, in 1719, appointed by Acts of the General Assemblies of both Provinces; as from Article VIII, to XIV. of the Memorial; and that even the Fore-fathers of the present Owners of the *Minisinks* and *Wawayanda* Patents, did not pretend any Thing to the Contrary, as appears by their Petition, N°. 3, in Pages 15 and 16, annexed to the said Memorial: But the *Pretenses of New-York*, NOW, to the Contrary, seem *very various*: For, the Attornies for *New-York*, by the Proposals, N°. 12, on the 4th of *February*, alledge, *the Line was agreed in 1684, to run from the Southernmost End of Little Minisink Island in Delaware*, (which is about forty Miles below the Latitude of 41°. 40'. discovered in 1719,) *to over against the Yonkers on Hudsons River*, (about four Miles below the Latitude of 41°.)-----The Council of *New-York*, by their said Report of *March 4th*, say, *that a Line was agreed in 1686, between the Governor of New-York, and the Governor of New-Jersey, to extend from a place on Hudson's River, West from the Yonkers, to the Southward of Great and Little Minisinks*; but how much Southward, they do not ascertain; and as *Minisink* extends Southwards about fifty Miles below the Latitude of 41°. 40', discovered in 1719, it must be somewhere Southward of those fifty Miles.-----His Honour Lieutenant Governor DE LANCEY, by his said Letter to your Excellency, of *March 15th*, is pleased to say, *that he conceives the Forks of Delaware*, (the Place now known by that Name, being about 80 Miles, below the Latitude of 41°. 40. discovered in 1719,) *are the NE PLUS ULTRA, of the Northern Boundary of Jersey on that Side*; it seems to us very strange, that those Gentlemen, should within six Weeks, differ so much from each other in their *Pretensions*; and now for above four Months, after a Demand of them severally;

delay giving any *Proofs* or *Reasons* for those *various Pretensions*; which *Proofs* and *Reasons* they ought severally to have had ready to produce, before they set up those *Pretensions*.

As by all those *various Pretensions* of *New-York*, they deny the Latitude of 41°, 40', on the Northermost Branch of *Delaware*, to be a *mutual Limitation* there to the two Provinces; we should be glad (when that *Limitation* is out of the Deeds,) that the said Gentlemen would point out, what can hinder *New-Jersey* to extend Northward as far as the Northermost Branch of *Delaware* extends; and why the Jurisdiction of *New-Jersey* should not be extended there: For, while they themselves deny that *Limitation* to be of Force, Nothing to us appears to hinder its so extending, and that with much better Reason, than any that we know of, for their said *three various Pretensions*.

THIS Extension of the Jurisdiction of *New-Jersey*, with Submission to your Excellency, we think the more reasonable, for that many and great Sums, for Thirteen Years past, have been, by the People of the *Minisink* and *Wawayanda* Patents, levied from the People of *New-Jersey*, for Taxes, and by Distresses; for which we see no other Way of compensating the Province of *New-Jersey*: Nevertheless, if any good Reasons the Lieutenant Governor and Council of *New-York* will show, why the Jurisdiction of *New-Jersey* should not be so far extended, we doubt not they will have all due Weight.

By Order of the Committee,

August 23d, 1754.

PETER KEMBLE, *Chairman*.

Which being read, was approved of by the Board;

Ordered, That Leave be given to print the same; and also the Representation: And it is humbly requested of his Excellency, that he will please to write to the Lieutenant Governor of *New-York* thereupon; and that printed Copies thereof be delivered, with his Excellency's said Letter.

—[*Doc. No. 17*, annexed to *Memorial of East N. J. Proprietors*, of Nov. 20, 1753.]

[IN N. Y. COUNCIL.]

September 7th 1754.

* * * *

His Honour Communicated a Letter from Governor Belcher of the 27th Ultimo,¹ inclosing a Copy of a Representation of the Council of proprietors of the Eastern Division of *New Jersey*, to his Excellency Governor Belcher of the 20th Ultimo, and a Report of a Committee of

¹ This letter (N. Y. Col. MSS., lxxix, 16) is one of "The Missing Historical Records" described by the N. Y. Sec'y of State in his circular of March 26, 1877.—[P.]

the Council of that Province, to Governor Belcher dated the 23^d of August, both in Answer to the Report of a Committee of the Council of this province, dated the 1st and entered the 4th of March last, Relating to the disturbances among the Borderers on the two provinces, and proposing a Line of peace until the final Settlement of the true division Line.

Ordered that the said representation, and the Report of the Committee of the Council of New Jersey, be Referred to the Committee of this Board who made the said Report of the 4th of March last, and that they make Report thereupon with all convenient speed.

—[*N. Y. Council Minutes (MS.)*, xxiii, 218.

[GOVERNOR BELCHER TO LIEUT. GOVERNOR DE LANCEY.]

[Sept. 12, 1754.]

Sir:

I reciev'd by the Post your Favour of the 7: Instant, & am in the first Place to ask your Honours Pardon for the Mistake, I made in my last, calling the Letter I referred to, the 13:; when I should have said the 3^d: & which Letter I sent to the care of Mr. Alexander & the 8: of May he writes me thus:

“I had this day the Favour of your Excellencys Letter of the 3: Instant, “inclosing one to His Honour L. Governour De Lancey, which I sent to “the Secretarys Office, where he commonly calls every Day”—however as Your Honour desires, I now inclose you a Copy of that Letter.—

As we are both serving one & the same just and good Master, I hope we have his Honour & Interest at heart, as well as the Peace & Welfare of His good Subjects, of the Provinces, where we have the Honour severally to preside; & this according to the best Judgment we can make of things, in their Present Scituation, so your Honour will give me Leave, to repeat, that I think it best, to pursue the most Pacific measures, in Order to a Subsision or Suspension of the present Difficulties, relating to the Boundaries between the two Provinces, & to Facilitate this I shall lay your Honours Letter of the 7: Instant before His Majestys Council of this Province at their next meeting me, which is to be the 1: of the next Month, & then I shall write your Honour again in this Affair & will onely add, as a further Argument to a Coalition, that, considering how the Kings Provinces, on this Continent are almost universally attacked, in the most Barbarous Manner, by the Perfidious French & their Indians, certainly we ought not to be tenacious, by disputing among ourselves in things, that may certainly be travers't & adjusted at a more convenient Season. —

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You may be sure, Sir, as we are so near Neighbours, I shall always be glad to cultivate the best Friendship betwixt us; & which will have a Natural Tendency to serve our Royal Master and the People, under our several Cares, in the best Manner.

I wish you much Health, with Ease in your Administration, & am

Sir

Elizabeth Town (N. J.)

Your Honours

Sept. 12. 1754.

Most Obedient & Most Humble Serv^t

L. Governour De Lancey.

J. BELCHER.

—[*N. Y. Col. MSS.*, lxxix, 35.

[IN N. Y. COUNCIL.]

September 16th. 1754.

* * * *

His Honour Communicated to the Board a Letter from Governor Belcher of the 12th Instant, on the subject of the Line between the two provinces, assuring his Honour “that he thinks it best, to pursue the most pacific measures in order to a suspension of the difficulties relating to the Boundaries between the two provinces.

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 219.

[IN N. Y. GENERAL ASSEMBLY.]

October 29, P. M., 1754.

Mr. *Nicoll*, from the Committee, to whom was refered, the Memorial of sundry of the part Owners and Proprietors of the Patents of *Minisink* and *Wawayanda*, * * * reported,

That it appeared to them, in the Year 1686, two Stations were fixed as the terminating Points of the Line of Division (to be run through the same, as far as they can discover, never was run) between the Provinces of *New-York* and *New-Jersey*, viz. The one on the northwardmost Branch of *Delaware River*, in 41 Degrees, 40 Minutes north Latitude, and the other on *Hudson's River*, 41 Degrees, 0 Minutes, north Latitude, which is due West from the lower *Yonkers Mills*.

That the Stations so fixed as aforesaid, were settled and adjusted by the Surveyors of both Provinces, by Virtue of the Authority of their respective Governments, and with the Consent and Approbation of the Proprietors of *East-New-Jersey*. That as to the Station on *Hudson's River*, it appears so certainly designated by Names of Places well known as may easily be found. As to that on *Delaware River*, notwithstanding it appears to have been fixed in 41 Degrees, 40 Minutes north Lati-

tude, on the most northwardly Branch of *Delaware River*, yet, which is the most northwardly Branch of that River, or what Part thereof is in the Latitude of 41 Degrees, 40 Minutes, they cannot certainly discover. However, they find that *Minisink* (a Place well known) and the Lands to the Northward thereof, have been held under this Province, by Patents granted by the Governors thereof, for near seventy Years, and which are bounded South by *New-Jersey*.

That the Governments and Inhabitants of both Provinces, esteemed the southward Bounds of those Lands, both at the Time of their being granted, and for many Years after, to be the Bounds between them.

That the Government, and inferior, civil and military Officers of this Province, in the Extension of their Jurisdiction and Command, and the Inhabitants of this Province in the Extension of their Possessions, have ever since the Settlement of the Stations aforesaid, in the Year 1686, advanced Southward as far as, and limited themselves as near as possible by, the Bounds aforesaid.

That the People of *New-Jersey*, for many Years after the Fixation of the said Stations, in the Settlement of their Lands, did not extend Northward beyond the said Bounds; nor did the Government of *New-Jersey*, or its inferior Officers, ever till of late Years, pretend to exercise Jurisdiction to the Northward of the said Bounds.

That the People of *New-Jersey*, have from Time to Time, for a considerable Time past, collected themselves in large Bodies, and with Violence have ousted divers of his Majesty's Subjects, holding Lands under this Province, to the Northward of the said Bounds, and taken Possession of their Lands, and do now forceably hold the same.

* * * *

Ordered, That the said Report be taken into Consideration on *Friday* next.

—[*N. Y. Gen. Assem. Journal*, 1743-1765, p. 393.

November 8, 1754.

* * * *

The Order of the Day being read, * *

Ordered, That Col. Beekman and Capt. Winne, wait upon his Honour the Lieut. Governor, and lay before him the said Report, with the Evidences, relating to the Outrages and Insults complained of, and desire, that he will be pleased to use the best Means in his Power, for protecting his Majesty's Subjects of this Province, and their Possessions, from such Insults and Outrages, and to exercise the Jurisdiction of this Province, as far Southward as the Bounds described in the said Report, until a final Settlement can be made, and his Majesty shall be

pleased to declare his Pleasure, with Respect to the future Jurisdiction of this Province.

* * * *

Col. *Beekman* reported, That Capt. *Winne*, and himself, had waited on his Honour the Lieut. Governor, * * * And that his Honour was pleased to say, that he would consider thereof, and lay the same before his Majesty's Council.

* * * *

—[*Idem*, p. 404.]

[IN N. Y. COUNCIL.]

November 14. 1754.

* * * *

His Honour Communicated to the Council a Message from the General Assembly of the 8th Instant, with the Report of a Committee of that House, of the 29th Ultimo, appointed to examine into the allegations of the Memorial of sundry of the part owners and proprietors of the Patents of Minisink and Wawayanda and the other patents within this province bounded on the Jersey line: complaining of the Hardships the people of this province living near the said Jersey line labour under, from the encroachments of the people of that province: In which Message the General Assembly desire his Honour will be pleased to use the best means in his power, for protecting his Majesty's Subjects of this province, and their possessions from such Insults and Outrages; and to exercise the Jurisdiction of this province, as far Southward as the bounds described in the said Report: until a final settlement can be made, and his Majesty shall be pleased to declare his pleasure, with respect to the future Jurisdiction of this province.

Which Message and Report were Read and his Honour also laid before the Board sundry Affidavits delivered to him with the said Message some of which were read.

And thereupon it was ordered, that the said Message Report and Affidavits be Referred to M^r Kennedy, M^r Murray, M^r Holland, M^r Chambers and M^r Smith or any three of them who are appointed a Committee for this purpose, and to Report their opinion on the said papers with all convenient speed.

* * * *

His Honour then laid before the Board a Letter of the 5th of July last from the Right Honourable the Lords Commissioners for Trade and plantations, * * * — And touching the dispute between this province and New Jersey, relative to the partition Line, their Lordships Declare their opinion that a Temporary Line of Jurisdiction should be established by his Majesty's Authority until the true

line of property can be ascertained, and earnestly recommend the taking every legal measure to preserve the publick peace, and prevent the mischief that may be occasioned by the unhappy dispute on this matter. In which Letter also their Lordships take notice of the Assemblys assuming the executive part of the Government by granting the Revenue only from year to year for the support of Government, and express their sentiments very fully in relation to such annual support: And as to the Emission of Bills of Credit, if the supply and support of the Government on the present Emergency in the usual ways should be attended with such Difficulty as might induce the Governor to fall upon this method, the Bills ought not to be made a legal tender, and the Interest from the Loan of them, should be applied to the Services of the Government, in the manner prescribed by the Kings Instructions. But no such Act to be assented to by the Governor without a clause be inserted therein suspending its effect till his Majesty's pleasure be known.

His Honour desiring the Opinion of the Council on the said Letter, they advised him to communicate such parts of it as he should think proper, to the General Assembly either by Extracts of the said Letter, or Message to the House.—

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 228.

[GOVERNOR BELCHER TO LIEUT. GOVERNOR DE LANCEY.]

[Nov. 23, 1754.]

Sir:

On the twelfth Day of Sept: last I wrote to your Honour since which I have received no Answer from you; I have a Letter before me from the Lords Commissioners for Trade and Plantations dated the Fifth Day of July last Copy of one Paragraph¹ whereof I send you, In which their Lordships recommend the Preservation of the Peace of the Provinces of New York and New Jersey upon their Present Disputes Concerning the Line of Division which I shall do my Utmost to Comply with, Consistent with my Duty to his Majesty and the Trust he has reposed in me for the Protection of the People of this Province Committed to my Care.

I am heartily Sorry that the Agreement of February 2^d last N^o 8 Annexed to the Memorial of the Proprietors of East Jersey was not approved of by you and the Council of New York, as it was by me and the Council of New Jersey as Appears by N^o 9 and that the Irruptions of the 17th of May last by People of New York should have been made into this Province in breach of the said agreement as Appears by N^o 17

¹ See quotation, at end of this letter.—[P.]

Page 55 it also gives me no small Uneasiness that the People of your Province still Continue to decline their Joining in Endeavours to obtain his Majestys Commission for determining that Dispute, as was requested by No 15, which delay adds not a little to the presumption, that such a Scheme was Projected and is still Carrying on as is set forth in P. 50 of N^o 16.

There seems so much Difference in Opinion Concerning what shall be the Temporary Line that I have little hopes that the Peace of both Provinces Will be preserved without Entring into an Agreement of the Nature of That of February the 2^d by which both Parties were to remain in Quiet under the laws of their respective Provinces and unless they do also Consent to join in obtaining the Commission as was proposed by N^o 15 both which Matters as they have been heretofore, so they are now ready to be agreed to on the part of New Jersey, which with Nolle Prosequis Mutually to be granted, and Actually Carrying the Commission bona fide into Execution, seem to me the most Probable means of Restoring and Preserving the Peace of both Provinces Especially as the Running a Streight Line from Either of the Disputed Places on Hudsons river to any part of Delaware will Affect and greatly Injure Many of the honest Purchasors and Setlers Near the Line and to Run to the Southward of Minisinks on Delaware, will include many Hundreds of Familys: in New York Government, who have long held and Possessed their Lands under New Jersey Title. I beg Your Honour will Consider of the above Matter and give a Speedy Answer to

Sir

Elizabeth Town
Nov^r 23^d 1754.

Your most Humble Servant
J. BELCHER

To the Hon^{ble} James De Lancey Esq^r
Lieutenant Governour of New York.

“It gives us great Concern, to find by your Letter of the 28th of December, that any Riots and Outrages, have been Committed, on Acc^t of the Disputes between N. York and N. Jersey, relative to the Line; we think it highly necessary, for the preservation of the peace, that some Temporary Line of Jurisdiction, should be established, by his Majestys Authority, untill the true Line, properly can be ascertained; and we shall shortly, take this matter, into Consideration, and lay our thoughts upon it, before his Majesty, in the meantime, we earnestly recommend to you, as we have already done, to the Governour of N. York, to take every prudent and Legal method, to preserve peace and quiet, among his Majestys Subjects. —

—[*N. Y. Col. MSS.*, lxxix, 83.

A PARAGRAPH of the Opinion and advice of the Council of New Jersey to his Excellency Jonathan Belcher Esq: Governour &c : November 23^d 1754.

AND WHEREAS the pretences of New York as to the Bounds of New Jersey on Delaware River are so Various, as by the New York Attorneys to be pretended, to Little Minisink Island, above thirty Miles below the Latitude of 41°. 40'. Discovered in 1719; by the Council of New York, about Fifty Miles below said Latitude; by the Lieutenant Governour of New York about Eighty Miles; by the Assembly of New York, to some place they know not where, but so that it Includes Minisinks, a Country of large Extent, whereof the greatest part is in New York, and the smallest part of it in New Jersey; which smallest part, Extends about Fifty Miles on Delaware, below the Latitude of 41°. 40'. discovered in 1719; and they have desired the Lieutenant Governour of New York, to Exercise the Jurisdiction of New York, as far Southward as those Bounds, as by their Votes of October 29th and November 8th last appears — AND WHEREAS by the Memorial and other Publications of the Council of Proprietors of East New Jersey long Published, and particularly by N^o. 16; it appears to be Averred and not hitherto denied by New York, that from the Latitude of 41°. 40'. Discovered on Delaware in 1719, along a Line to the Latitude of 41°. on Hudsons River by the observations of 1719. all the Settlements Southwestwards of that Line, were Originally made under New Jersey Titles, and so have been ever held, with a very few Exceptions; and for forty five Miles thereof from Delaware, without any Exception, now, but of two Plantations, whereof one was taken from the New Jersey Owner by force, and the other was Setled but last Year, and for other Sixteen Miles of the said Line, to witt a Breast of Cheescocks Patent, without any one Exception; which with the said forty five miles, makes Sixty one of the Seventy five Miles the whole length of that Line; and should the desires of the Assembly of New York be put in Execution, many hundreds if not Thousands of Families of New Jersey, may be Subjected to New York, to their utter ruine. AND WHEREAS the Protection of the People setled under the Jurisdiction of New Jersey, is by his Majesties Commission Committed to your Excellency, and thereby we humbly Conceive (as far as in your Power is) they ought to Receive that Protection, against the Invasions Desired as aforesaid, And Whereas we have great reason to believe, as well from the above proceedings of New York, as from the affidavit of Collonell Dekey of October 24th, that one or more Invasions, will Speedily be upon the People Settled under and yielding Chearfull Obedience to this Province Southwestwards of the said Line by the Observations of 1719; wherefore we are humbly of Opinion, that your Excellency should Acquaint,

Abraham Van Camp Collonell of the Regiment of Militia and Judge of the County of Sussex, with the Premisses; with Orders to him, to acquaint all officers Civil and Military, within the said County with the same, and that they be diligent in their Severall Duties, for the Protection of the People settled under, and Yielding Obedience to New Jersey, Southwestwards of the said Line by the Observations of 1719; but at the same time, that they be Carefull not to disquiet any Persons Settled under New York Northeastwards of the said Line, not even those who have Settled Southwestwards of the said Line, and do yield Obedience to New York, tho' within this Province, untill further Orders.

And we are further of Opinion, that your Excellency send to the Lieutenant Governour of New York, a Copy of your Excellency's Order to Collonell Van Camp, hoping that he will give the like Orders in Orange County, and that thereby the peace of both Provinces may be preserved, which in our Opinion, according to the Advice of the Lords of Trade to your Excellency, is the most "prudent and Legal" method to preserve peace and quiet among his Majesties Subjects."

Sir.

Elizabeth Town Nov^r 23^d 1754.

above you have a Copy of the Advice of Council to me, relative to the disputed Line between this and the Colony of New York, and I desire and Order you to conduct yourself agreeable to the matters therein Recommended for your care and managem^t:

To Abraham Van Camp, Esq^r
Coll^o of the Regiment for
the County of Sussex.

—[*N. Y. Col. MSS.*, lxxix, 84.

[IN N. Y. COUNCIL.]

November 26th 1754.

* * * *

His Honour communicated a Letter from Governor Belcher of the 23^d Instant. In which (after taking notice of a paragraph of a Letter from the Lords of Trade dated the 5th July last, wherein their Lordships recommend the preservation of the peace in both Governments, which M^r Belcher says he will do his utmost to comply with) he says he has little hopes that the Peace of both provinces can be preserved, without entering into an agreement of the nature of that of the 2^d February, by which both parties were to remain in quiet, under the Laws of their respective Governments; and joining in obtaining the Commission as

was proposed; and granting Noli prosequis mutually. On which points Mr Belcher desires an Answer.

Which Letter was read, together with the paragraph referred to above.

Also the Copy of a paragraph containing the advice of his Majesty's Council of New Jersey to Governor Belcher on the 23^d November Instant, in which, after a recital of several matters relative to the said Controversy, they advise his Excellency Governor Belcher to acquaint Abraham Van Camp Colonel of the Militia for the County of Sussex, with the said matters, and to direct him to acquaint the Officers Civil and Military of that County to be diligent in their duty, for protecting the people settled under New Jersey, Southward of the Line of 1719: but not to disquiet any persons, settled under New York, Northwards of that Line, nor even such who are settled Southwestwards of the said Line, and yield obedience to New York, tho within New Jersey, till further orders, And to send Copies of the order he should give to Col^o Van Camp to the Lieutenant Governor of New York hoping he will give the like orders in Orange County,

Which was read together with a copy of a Letter or order to Col^o Van Camp in consequence thereof

Ordered that the said papers be referred to the same Committee, to whom the other papers relating to this controversy are Referred and that they make Report, on the several matters before them, with all convenient Speed.

* * * *

—[*N. Y. Council Minutes (MS.)*, xxiii, 233.

[IN N. Y. GENERAL ASSEMBLY.]

December 3, 1754.

* * * *

Resolved, That when his Majesty shall have settled the Station Points from, and to which the Line of Partition between this Colony and the Province of *New-Jersey*, is to be run, this House will make Provision for defraying one Half the Expence of running the said Line.

* * * *

—[*N. Y. Gen. Assem. Journal*, ii, p 423.

[COLONY OF NEW YORK.]

AN ACT for submitting the Controversy between the Colonies of New York and New Jersey relating to the Partition Line between the said Colonies to the final Determination of his Majesty.

Passed December 7, 1754.

WHEREAS, it is absolutely necessary for the Peace and Tranquility of this Colony and the Province of New Jersey and for the Regular administration of Justice within the same that Some Certain Line both of property and Jurisdiction be Settled and determined as and for the Division Line between this Province and New Jersey for ever AND altho' his most Gracious Majesty hath the sole and absolute Right of fixing and Determining such Line of Jurisdiction as aforesaid Yet it is Conceived that either the consent of all the parties Interested or in the Room thereof an act or Acts of the Respective Legislatures of this Colony and of New Jersey is or are absolutely necessary in order to Render Such Determination binding and effectual with Respect to private property as the same is Claimed by the Respective Inhabitants of this Colony and New Jersey in virtue of their several Titles under the Crown AND WHEREAS the multiplicity of Rights and the State and Condition of the Same as well on the part of those Claiming under this Colony as of those Claiming under New Jersey render it impossible to obtain such Consent as aforesaid AND WHEREAS the several places in which the stations ought to be fixed for the Partition Line between this Colony and New Jersey are the only matters in Controversy between this Colony and New Jersey and are to be fixed and adjusted upon a proper Construction of Certain Patents or Grants of the Crown and Acts of Assembly of this Colony and of New Jersey and other Deeds in Writing and Matters of Written Evidence which may as well be done in England as in this Colony or New Jersey AND WHEREAS it is conceived that an humble submission of the Controversy Relating to the Line of Property between this Colony and New Jersey to his most Gracious Majesty will be the most effectual means to secure ample and Compleat Justice to the Parties Interested in the said Controversy

BE IT therefore Enacted by the authority aforesaid that the Fixing and location of the stations of such Division Line of Property as aforesaid between this Colony and New Jersey shall be and is hereby humbly submitted to be finally and absolutely settled and determined by his most Gracious Majesty in such manner as to his said Majesty shall seem fit and Right which stations of the said Division Line of property between this Colony and New Jersey whensoever the same shall be fixed settled and determined in manner as aforesaid shall be fully absolutely and Compleatly binding upon and Conclusive to the

Claim Rights and Interests of all and every person or Persons whatsoever Claiming or to Claim any share part or Proportion of and in the several Patents heretofore Granted by the Crown within this Colony that Border on New Jersey either by the Express word of such Patents or by Necessary Implication and their heirs and assigns for Ever and shall on the part of this Colony and all his Majesties Subjects Dwelling and Residing or Claiming Lands within the same be and Remain the Stations of and for the Division Line of property between this Colony and the Province of New Jersey for Ever PROVIDED ALWAYS that the Patentees and Proprietors of the Respective Patents of Minisink and Wawayanda do not extend their Claim further than the Supposed Line in the Year Sixteen hundred and Eighty six

* * * *

BE IT FURTHER ENACTED by the authority aforesaid that after the said Stations Shall be so fixed Settled and determined as aforesaid a direct Line between the said Stations (to be Run by such Persons and in such manner as his said most Gracious Majesty Shall be pleased to appoint and direct) shall be Enure Continue and Remain to this Colony and all Persons dwelling Residing holding Possessing or Claiming Lands by Title within and under the same as for the Division Line of Property between this Colony and New Jersey for ever

—[*Original Laws (MS.) in office of N. Y. Sec'y of State, vol. 14 (not paged or numbered).*]

—————

Lieutenant-Governor De Lancey to the Lords of Trade.

* * * *

I should be glad if the observations I have made on the disputes between New York and New Jersey can be of any service; His Majesty is greatly concerned in that controversy, and I am surprised, that the construction I put on the Duke of York's grant of Jersey, had not been taken notice of before, since it appears so very obvious. I hope a temporary line of Jurisdiction will soon be settled by His Majesty's authority, that so the Mischief which is justly apprehended from the heat and violence of the Jersey Proprietors may be prevented. I inclose your Lord^{pp}s a printed copy of the Report of the Council on the Steps taken by the Jersey Proprietors, to whom I had referred the consideration of those matters and your Lord^{pp}s will find in pages 20 and 21. of the printed proceedings of the Assembly, the Report of a Committee of that house on the Jersey line, and in page 37. the

Message of the house to me on that subject, which seem to me to evince the necessity of the speedy settlement of a temporary line; and from these papers it will appear, that both, the Council and Assembly advise me to exercise the Jurisdiction of this Govern^t up to the supposed line of the year 1686, which I shall endeavour to do in the best manner I can, yet so as to avoid if possible any mischief.

* * * * *
15 Dec^r 1754.

—[*N. Y. Col. Doc.*, vi, 927.]

[IN N. Y. COUNCIL.]

December 17th 1754.

* * * * *
M^r Murray from the Committee appointed to take under their consideration, and to make Report upon the several papers, referred to them, relative to the Division Line, between this province and New Jersey, and the Disturbances which have happened among the Borderers touching the same, Presented to his Honour the Committees Report on the said Matters, which was read and on the Question being put, agreed to and approved of, M^r Alexander and M^r Kennedy dissenting thereto, and ordered to be entered in the Minutes, which is as follows Viz^t

To the Honourable James De Lancey, Esq^r; his Majesty's Lieutenant Governor and Commander in Chief in and over the Province of New York, and Territories depending thereon in America.

May it please your Honour.

In obedience to your Honour's Several Orders in Council, of the 13th March, 4th April, 25th July, 7th and 16th September, 14th and 26th November, Last, referring to us the several Letters and papers therein mentioned, Viz, the Reasons Offered by M^r Alexander for his Dissent to our Report of the 4th of March last: the Request of the Proprietors of New Jersey Signified by M^r Alexander, for Copies of the Proofs upon which we Grounded our said Report: the Petition of the Patentees of Minisink and Wawayanda, of the 25th of July, last: A Letter from his Excellency Governor Belcher of the 27th August last: accompanied with a Representation of the Council of Proprietors of East New Jersey of the 20th and an order of his Excellency in Council on the 22^d referring the said Representation to a Committee of his Majesty's Council of the Province of New Jersey, and their report thereupon of the 23^d of the same Month: two Letters from Governor Belcher of the 3^d May; and 12th September last: A Mes-

sage from the General Assembly of this Province, to your Honour, of the 8th ult. With a Report of a Committee of that House on the 29th October preceding, and sundry Affidavits: and two Letters from Governor Belcher of the 23^d ult. with Copies of the advice of his Majesty's Council of New Jersey; and a Letter, or Order to Col. Van Camp, of the same Date: all which relate to the Controversy between the two Provinces, with respect to the Partition Line, and the Disturbances that have happened among the Borderers, concerning the different Claims of Jurisdiction and property: We have duly weighed and Considered of the same, and as to such Matters contained in the said Papers, as we conceive require any Answer, We humbly beg leave to report unto your Honour as follows — To begin with Governor Belcher's said Letter of the twenty-seventh day of August Last we observe — 1st that the said Letter is intirely evasive, and Contains no direct Answer to the Offers and Proposals made by your Honour on the part of this Government, to the Government of New Jersey, and humbly recommend by us, in our said Report of the fourth of March last, wherein we reported our Opinion "That your Honour would be pleased to Signify to Governor Belcher, the utmost Willingness on the part of this Government, to do everything in its power to give Ease to the Borderers on the respective Provinces, consistent with the just Rights of the Crown, and the Inhabitants of this Province;—and to join with that Government in running a Temporary Line of Jurisdiction and Peace, Conformable to the Stations agreed on in the Year 1686; and also to signify to Governor Belcher, your Readiness to concert measures with him for that Purpose: and further on the part of this Government, to declare the utmost Rediness to join with that Government, in the speediest Application to his Majesty, to authorize and direct the Settlement of a true Partition Line between both Provinces." And that Governor Belcher, in not Answering to the said Proposals, has frustrated the good Intentions of the Government of this Province in those Particulars.

2^d That the following words in Governor Belcher's said Letter, of the Twenty Seventh of August Last, (Viz) "I say upon the whole, if the Government of New York, will not fall into mild and Peaceable Measures, I mean into a Temporary Line, or Noli Prosequi's I must in Duty to his Majesty, and in a just and tender Regard to the People under my Care, do all in my Power for Supporting his Majesty's Honour and Interest, and the Happiness and Tranquility of the People of New Jersey: and if finally this Affair should be attended with fatal Consequences, our Superiors will Judge who have been Culpable or Contributed thereunto;" give us great Surprize, as they Carry in them a threatening Aspect, and tend to destroy that Union between the two

Provinces, which his Majesty's Interest in, and the Welfare of the Inhabitants of the same, necessarily require. —

3^{dly} That the said menacing Passage of Governor Belcher's said Letter, most strongly insinuates that the Government of this Province, has wilfully avoided to "fall into mild and peaceable Measures, and the Settlement of a Temporary Line."

4^{thly} That such Insinuation as aforesaid is evidently groundless and unjust; especially as the first advances towards "mild and peaceable Measures, and the Settlement of a Temporary Line," were made by the Government of this Province, by your Honour's said Letter of the Fifteenth of March Last, and our said Report of the fourth of the said Month, and treated with great Neglect by the Government of New Jersey,

5^{thly} That such Conduct on the part of the Government of New Jersey, manifestly tends to obstruct such "mild and peaceable Measures, and the Prudent and Legal Methods to preserve Peace and Quiet among his Majesty's Subjects," which have lately been recommended in the Strongest terms, by the right Honourable the Lords Commissioners for Trade and Plantations, both to your Honour, and Governor Belcher.

And to the said representation of *the Persons who Stile themselves, the Council of Proprietors of the Eastern Division of the Province of New Jersey*, and the Report of the Committee of the Council of that Province: We Observe in general, that it does not appear to us, that your Honour's said Letter, and our said Report, were ever referred by Governor Belcher, or by Order in Council, either to a Committee of his Majesty's Council of New Jersey, or to the said Persons, who call themselves, the Proprietors of the Eastern Division of that Province, nor how the same fell under their Consideration: saying only, that M^r Alexander informed your Honour, that our said Report had been referred to the above mentioned Council of Proprietors, and they in their Representation say, that the said Report and Letter, were referred to them: However we shall proceed to observe more Particularly,

1st That the Government of this Province, cannot take notice of the above mentioned *private* Persons, by Whatever Name they may think Proper to distinguish themselves: Neither do we conceive, that the *Representation, of Private Persons*, relating to matters of Government between the two Provinces (however important it may seem to Governor Belcher, and altho' it be recommended in his said letter of the Twenty Seventh of August last, to your Honour's Consideration) can properly merit the Notice of the Government of this Province, but, 2^{dly} As the Government of New Jersey, has paid so great a Regard to those *private* persons, as to make their said Representation, a part of the *Government Transactions* of that Province: We further beg Leave

to observe, that the said *private* Persons, in their said Representation, fully prove that the Government of New Jersey, instead of taking into Consideration your Honour's said Letter, and our said Report, (which we conceive Contained Matters worthy of their Attention,) suffered them to fall into the Hands of those *private* Persons, who, tho' they assume the Stile and Title above mentioned, have never, as we can discover, been authorized by his Majesty, to assume any share of the publick Administration or Government of that Province.

3^{thly}. that therefore, notwithstanding the variety of evasive Arguments, and pretended Matters of fact alleged and contained in the said representation, your Honour's said letter, and our above mentioned Report, remain to this day, unanswered by the Government of New Jersey, unless the same should appear to be answered, by the above remembred Report of the Committee of his Majesty's Council of the Province of New Jersey,

4^{thly}. That such Reference as aforesaid to private Persons, in an Affair wherein the Crown of Great Britain, and the peace of both Governments are so evidently concerned, argues in the Government of New Jersey, a great neglect of his Majesty's Rights and Interest committed to their Care; and is inconsistant with the Relation they bear to his Majesty, to whose Authority the Governments of both Provinces are immediately Subordinate,

5^{thly}. That altho the Committee of his Majesty's Council of New Jersey, in their Report of the twenty third of August Last, are pleased to say, "They have Considered the Report of the Council of New York of March the fourth, and your Honour's said Letter to their Governor therewith, of March the fifteenth, together with a Representation of the Council of proprietors of East New Jersey concerning the same, and find no Impertinence nor Indecency in the said Representation;—and were of Opinion that the several Questions and Explanations therein requested to be answered, and made by your Honour and the Council of this Province, are proper and reasonable &c," Yet we Beg leave to differ in Sentiments on that Head from those honourable Gentlemen of his Majesty's Council, and take Leave to declare, that in our Opinion there are many Impertinances and Indecencies in the said Representation; and that the said Proprietors had not any Right or Authority to ask of your Honour, or this Board, the several Questions and Explanations therein mentioned.

6^{thly}. We further conceive, that it would have been proper for the Government of New Jersey, to give a direct Answer to the above-mentioned Proposal of this Government, relating to the fixing of a Temporary Line, agreeable to the Stations of 1686; and to enquire whether or no such Temporary Line, would be conformable to the ancient continued and reputed Jurisdictions of the two provinces. For if the Govern-

ment of this Province, has held and Exercised an ancient continued and reputed Jurisdiction, as far Southward or South Westward as to a direct Line between those stations, till the Late Incroachments of New Jersey, as is insisted on in our said Report, it clearly follows, that as the two contending Provinces, are equal and distinct in their Respective Jurisdictions, (neither having a power over the other,) each Government ought therefore to continue in the Exercise of its ancient Jurisdiction, untill his Majesty, shall be pleased finally to determine the Controversy. Whence we conceive,

7^{thly}. That both the said private Persons who call themselves the Council of Proprietors, and the said Committee of the Council of New Jersey, (instead of insisting upon the place where, by the Construction of the New Jersey Grants, the said Line ought to be run; or that the Line of 1719 was run by Proper Authority, Conformable to the said Grants; or contending that no Stations were fixed in the year 1686; or if they were, demanding the Evidence of such stations, or that the Claimers of the controverted lands on the Part of this province, should be compelled to produce such Evidence in Support of the said Stations; or that a great part of the Lands in Controversy to the Northward, or Northeastward of the said Stations; are held by *private* Titles, under the said *Private* persons, and many other matters of equal Importance; all which we conceive are nothing to the purpose, if the Government of this Province has exercised an ancient and continued Jurisdiction as far Southward, or Southwestward, as the places where those stations are said to have been fixed): We say, that instead of insisting on these Matters, which are the subject of the said Representation and Report, the Government of New Jersey, in answer to your Honour's said Letter, and our said Report, should either have denied that such has been the ancient and Continued Jurisdiction of this Province, as was insisted on in our said Report, or should have Confessed such Jurisdiction; and in Order to render it, and consequently the Jurisdiction of New Jersey the more certain and determinate, should have consented to the running of a Temporary Line, conformable to such ancient and Continued Jurisdiction, or in other words, agreeable to the places wher the said Stations of 1686, are said to have been fixed; as was proposed by our Report, Which we conceive to be the more necessary, because,

8^{thly}. That some certain Temporary Limits to the two Provinces, are absolutely necessary to preserve peace among the Borderers; and because we conceive that the Government of the respective Provinces, have no power (without his Majesty's particular Directions,) to agree to any other Temporary Line, than such as will be consistent with their respective ancient and continued Jurisdictions, it being inconsistent with the duty of either Government, to cede any part of such their

Jurisdiction, in the Settlement of a Temporary Line, without such Directions as aforesaid for that purpose.

9^{thly}. We are of Opinion, that as on the part of the Government of New York, it hath been asserted and proved by Acts of Assembly, and otherwise, that this Government hath held and exercised Jurisdiction as far Southward as the Stations of 1686; and the same hath not been denied by the Government of New Jersey, therefore it ought to be taken to be true. And we further conceive, that their neglect to answer the Government of this Province, relating to those Particulars, is owing to too great a Precipitancy in the Committee of his Majesty's Council of New Jersey; or in other Words, to their not taking more time well to weigh, and duly Consider the said Acts of Assembly, and the reasons given, and proposals made by us in our Report of the fourth of March last, and in your Honour's Letter of the fifteenth of the said Month, and the several matters contained in the said Representation: for it appears, that the said Representation was on the Twenty second day of August Last, referred to the Board of Council of New Jersey, or any three of them, to consider of the same, and to report their opinion thereon, &c. And the very Next day, the report of the Committee of the said Board, on the Several Matters referred, was delivered in to the Governor and Council of New Jersey, and approved of by them: and we conceive, it was hardly possible for the Committee of the Council of New Jersey, in so short a time, maturely to Consider of and enquire into, the long detail of disputable facts, and the Several matters referred to them, and to draw their Report thereon. And therefore,

10^{thly}. That if finally this Affair should be "attended with fatal Consequences, our Superiors (we conceive) will have the strongest Reasons to judge the Government of New Jersey extremely culpable," in delaying the Settlement of a Temporary Line.

11^{thly}. We also conceive, that the particular matters of the said Representation and Report, are calculated with a View to create a delay in the settlement of a Temporary Line, and that in such a manner, as to cast the blame upon the Government of this Province, and this we think appears from the Insinuation in the said Representation and Report, that they cannot give any answer relating to the Stations of 1686; untill they are furnished with Copies of the Evidence in support of the said Stations: Notwithstanding that from the Reasons above alledged, it appears that the Authenticity of those Stations, are not the present matter in Question between the two Governments; but only whether or no the ancient Jurisdiction of this Government, doth extend as far Southward, or Southwestward, as the Places where those Stations are said to have been fixed; and in Particular, whether Waghakamack, and

Great and Little Minisink; (the places which by the late Ineroachments of New Jersey, have been wrested from the Hands of this Government,) are included within such ancient Jurisdiction: so that, as the said Copies (were they furnished with them) could be of no service to them in this particular Case; we do therefore conceive, that their pretended Inability to Answer the abovementioned Offers and proposals of this Government, without such Copies, is urged purely as an Excuse for their affected delay in the Settlement of a Temporary Line, whence also we observe,

12^{thly}. That neither the Governor of New Jersey, nor the said private persons, nor the Council of New Jersey, can have any Right to demand such Copies; which are Impertinent to what is really the matter in dispute at present between the Governments of the two provinces.

13^{thly}. Neither (were such Copies pertinent to the present matter in dispute) do we conceive, that the Government of this Province, has any right to compel its inhabitants to furnish their Opponents with Copies of the Private Evidences of their Titles: and if this Government had such Right, we humbly conceive it would be unreasonable to compel them to such discovery, coram non judice, Viz, either before the Governor or Council of New Jersey, or those private Persons, who call themselves the Council of Proprietors.

14^{thly}. We humbly conceive, that notwithstanding what is alleged in the said Representation and Report, it was the duty of the Government of this Province, to do what they have done on the part of this province: and that it would have argued in the Government of this Province, an inexcusable Neglect of his Majesty's Interest, and of the Jurisdiction of this Province, had they referred the Controversy to private persons; which however, it is insinuated on the part of New Jersey, they ought to have done, and we are also humbly of Opinion, that it would redound more to the Honour of the Government of New Jersey, and to the Ease and Tranquility of both provinces, were the private Claimers of the Lands, on the part of New Jersey, denied that participation in the Government Acts of New Jersey relating to the present Controversy, in which they are too much indulged and encouraged, as appears by their said Representation being made a part of the publick Transactions of that Government.

15^{thly}. We further observe, that the Committee of the Council of New Jersey have taken very unwarrantable and Indecent Liberties with the Council of New York, too many to be enumerated, But one we think in Justice to ourselves we cannot pass by unnoticed, wherein they Charge us with becoming parties, by stating a new Case, and giving our Opinions thereon, &c. Whereas in our said Report, we declared that we did not take upon ourselves to determine the Limits and

Boundaries of the Lands granted as aforesaid, which appeared to us to belong controverted, but most Humbly submitted it to his Majesty, who in Right of his Crown, is greatly concerned in that dispute, to determine it by such methods as to his Majesty should seem proper. but for settling a Line of peace, we informed your Honour, what then appeared to us; and as to the Stating a new Case, as they call it, it is a great mistake; for the case we stated, is the oald case of the ancient Jurisdiction of this Province from 1686, which is proved also by several Acts of Assembly of this province mentioned in our said Report, and yet no Notice is taken of either of the said Acts by the Council of New Jersey, but the Case that they have stated is new, being founded upon a Supposition that the Line of 1719, was the true Division Line of the two Provinces; altho' that Line was in it self a meer Nullity, as was declared by the said Lords Commissioners for trade and Plantations, in their Report to his Majesty relating thereto. Whence we conceived the Necessity of recurring to the Stations of 1686, or in other Words, to the ancient and continued, Extent of the Jurisdiction of this Province, as the only Standard, (until his Majesty shall be pleased to erect another,) for Setling the Extent of Jurisdiction and property between the two provinces. Nor do we conceive, that the Government of this Province has erred in giving its Opinion for a Temporary Line, which we were obliged to do by the duty of our Stations, as it is a Case, in which both the Honour and Interest of his Majesty, and the welfare of his Subjects committed to the care of the Government of this Province, are most immediately concerned. And what notice the Government of New Jersey did expect would have been taken by the Government of New York, of the Complaints of *Private* Jerseymen, as contained in the said memorial, especially as they were so badly founded, as is above mentioned, we cannot discover; But as it would in our opinions, have reflected dishonour on the Government of this Province, had any Notice been taken of a memorial of *private* Persons belonging to *another* Province, Relating to matters of Government, and the Jurisdiction of *this* Province: so we humbly conceive, That the Government of this Province, has acted with a proper dignity, in disregarding the said memorial. Tho' we could add many more observations, on the matters of Governor Belcher's first mentioned Letter, and of the said Representation and Report, were those matters of any moment or Significancy in the present Controversy; yet there are sundry Passages in the said Report of the Committee of the Council of that Province, which we cannot properly observe upon, without infringing the decency that is due from one Government to another. We hope however, that we have Sufficiently Observed on them, to shew that the Government of New Jersey will neither con-

ness, or deny, the abovesaid Extent of the ancient and Continued Jurisdiction of the Government of this Province; and have hitherto given no Answer to the above mentioned Offers and proposals of the Government of this Province, relating to the running of a Temporary Line.

And as to the other Offer and Proposal of the Government of this Province of a joint application to his Majesty for Obtaining a final Settlement of the Controversy: We observe, that the Government of New Jersey has also been hitherto entirely silent relating thereto, except the notice taken by the said Report, of the committee of the Council of New Jersey, of a private Proposal, on the part of New Jersey, to private persons, on the part of New York, prior to the said offer of this Government, can be considered as an Answer thereto: as to which private Proposal, we observe, that it was of such a Nature as rendered it impossible for those to whom the said proposal was made, considering the state of the Rights, on the part of New York, to enter into the security that was proposed by the private persons on the part of New Jersey; and therefore that the Proposal was entirely useless,

Upon the whole of the above Observations, we do humbly report to your Honour, that the Government of New Jersey, either by the said first above mentioned Letter of Governor Belcher, or by the said Representation and Report, have made no Answer to the abovesaid Offers and Proposals made by the Government of this Province to that Government; and that therefore, if any Riots have happened among the Borderers, since the making of the said Offers and Proposals, or if any Violence should ensue, in Consequence of a due Extension of the Jurisdiction of this Province: We are humbly of Opinion, they will all be chargeable to the Account of the Government of New Jersey; and doubt not but it will be so Considered by our Superiors.

We come now to the report of the Committee of the General Assembly of this Province; and do humbly Report unto your Honour, that we have Considered the same, and observe its Agreement with our Sentiments, relating to the Stations of 1686, and the Extent of this Province, both with respect to Jurisdiction and Property, as far Southward as those Stations.

We have also considered the Several Affidavits with Which it was attended, and the message of that House, relating to both: And do thereupon humbly Report unto your Honour, that since the above mentioned Offers and Proposals made by the Government of this Province, to the Government of New Jersey, several most enormous Riots have been committed by the People of New Jersey within the Jurisdiction of this Province; and Particularly, the one mentioned in the said Report of the Committee of the House, to have been committed at the House of Col! Decay, one of his Majesty's Justices of the

Peace in Orange County, within this Province: and we do also find by sundry Peices of Evidence, lately produced to us, since the said Offers and proposals made by this Government, that Major Jacobus Swartwout, another of his Majesty's Justices of the peace in Orange County aforesaid, has been apprehended, and for a long time Confined in a Loathsome Goal within the Province of New Jersey, for Matters principally relating to the Controversy between the two Provinces: For altho' he is sued, as we are informed, in several Actions in which Bail is insisted upon in Large Sums, yet all of them, except one, are brought against him by New Jersey Rioters, whom he from time to time had apprehended in the Lawfull Execution of his Authority, as one of his majesty's Justices of the Peace. And as the one Suit above mentioned, (being on a private Contract of an old Standing) might long ago have been brought against him in this Province; we Conceive that the same was brought in New Jersey, in Order to Give colour to his Confinement, and deprive him of th Opportunity of Getting Bail.

The next Thing which demands our Attention, is the Extraordinary Conduct of the Government of New Jersey, in the two Letters of Governor Belcher of the Twenty third of November Last: and before we observe particularly upon them we beg Leave to make one General Remark. We have in our opinions fully shewn that the Government of New Jersey have Hitherto evaded giving any answer to the Offers and Proposals made by the Government of this Province, in the month of March last. This Conduct is indeed Astonishing. But we are more Surprized that after a Silence of near nine Months, that Government at Length, instead of accepting or denying those proposals, should Issue Orders to their Subordinate Officers, to exercise a Jurisdiction within the ancient Jurisdiction of this Province, and require the Compliance of this Government therein.

With regard to the Opinion of the Council of New Jersey contained in one of the said Letters, we observe,

1st That the Station of the year 1686 on Delaware, appears from our said Report, and from the Report of the Committee of the General Assembly of this Province, to have been fixed at such a Place on Delaware River, as that a Direct Line from the Other Station on Hudson's River, to the same will include Great and Little Minisink and Waghacamak. Which station on Delaware, appears to have been fixed on the then esteemed Northwardmost Branch of Delaware, and on such part thereof as at that time was found by the Surveyors of East and West Jersey, and New York, to be in the Lattitude of 41° and 40' North: But whether or no that Place is so much Lower, or less Northward than the Place which is pretended in the said Opinion, to have been found by the Observations in 1719, to be in the Latitude of

41° : 40' North, We do not know: Neither do we think it at all Material, and we are the more Surprized to observe, that the Government of New Jersey will so repeatedly refer to the Line of 1719, instead of the ancient Jurisdiction of the two Provinces, when the said Line not only appears to be a random Line, as the Proprietors of East New Jersey call it, to have been run without Authority, to be eroneous in it self, not assented to by all the Parties interested ; but also to have been disapproved of by the Honourable Board of Trade and Plantations as a meer Nullity. And we Conceive, that should the Government of New Jersey drop its Pretensions to that Line, as the same was Reported by the said Honourable Board to be unworthy of his Majesty's Royal Sanction, it would argue in that Government, a decent and reasonable Submission to the Reference of his Majesty to that Honourable Board, and to the Report of their Lordships, whom his Majesty has been pleased to Commissionate for the Care and Inspection of Plantation Affairs.

2^{dly}. That in Whatever Light the Government of New Jersey may Consider the Conduct of the Assembly of this Province : We Conceive, that they have acted as their Duty to his Majesty, and the true Interests of the people they represent did require of them, in desiring your Honour to exercise the Jurisdiction of this Province as far Southward as to the Stations of 1686; because it evidently appears that such was the ancient and Continued Jurisdiction of this Province : Which Jurisdiction, we Humbly conceive, the Government of this Province cannot either retrench, or Suffer to be encroached on, without counteracting its Duty to his Majesty, and that Right of Protection which the people of this Province, may Justly Claim of the Government to which they are Subject.

3^{dly}. As the Committee of the Council of New Jersey, have in the said Report charged the Government of this Province with becoming Parties to the Controversy, we are the more Surprized, that the Government of New Jersey should enter into an Inquiry of the private Titles to the Controverted Lands, and Suffer such matters to influence the Government Transactions of that Province: For to us it Appears that nothing of that Kind ought to have any Weight in determining the Temporary Extent of the Respective Jurisdictions of the two Provinces; the Sole matter of Enquiry being, how far the Governments of both Provinces have hitherto exercised Jurisdiction. And as it has been asserted on the part of this Province, and not denied by the Government of New Jersey, and is undeniably true in itself, that the Government of this Province has, till the late Encroachments of New Jersey, held and Exercised Jurisdiction so far Southward, or South-westward as the places where the Stations of 1686 are said to have

been fixed: We are of Opinion, That this Province is intitled to a Temporary Line, or in other words, to its ancient Jurisdiction, agreeable to those Stations, Notwithstanding it is pretended that many Persons who hold under New Jersey Titles, will thereby be included within the Jurisdiction of this Province, and if the proprietors of East New Jersey, have granted Lands within the Ancient Jurisdiction of this Province; which they ought not to have done; such Grants can never be a sufficient Reason to excuse the Government of this Province to his Majesty, for retrenching its ancient Jurisdiction, in order to leave the People holding under such Titles within the Jurisdiction of New Jersey.

4^{thly}. As to the Pretence of the Great Number of Settlements under New Jersey Titles upon the Controverted Lands, we are of opinion that most of those Settlements which (have been made of late Years) were designed purely to facilitate the Encroachments of New Jersey on this Province: And therefore do humbly conceive, That in order to Prevent the Evil Intent of those Settlements, the Government of this Province ought most Vigorously to assert its ancient Jurisdiction. Neither do we conceive, That those Settlements so unjustly made, can by any means intitle the persons holding them to the protection of the Government of New Jersey; That such was the Design of the said Settlements, as is above Mentioned, appears from this, That it is as we have been informed, the daily practice of the proprietors of East New Jersey, to take up all the Lands in Controversy they Possibly can, and grant them to any persons Whatsoever who are willing to accept of a Term for Years, of 99 Acres or Some other particular Quantity of Land, and a Freehold in one acre in the Hundred; in Order to make such Persons Freeholders of the new County Called Sussex, lately erected as in New Jersey; a great part of which extends Northwardly within the Ancient Jurisdiction of this Province.

5^{thly}. We conceive, That the Government of this Province, has been extremely forbearing, notwithstanding the many Insults offered to it by the Province of New Jersey, and are therefore astonished that the Council of that Province, should pretend they have reason to Expect one or more Invasions from the People of New York, who, as far as we can discover, have never extended their Possessions beyond the ancient Jurisdiction of this Province; neither could they possibly receive any Encouragement from the Government of this Province, should they attempt to do it: And therefore the directions Given by Governor Belcher to Col. Vancamp, and the other Civil and Military Officers of Sussex County, under such pretence of danger, as they necessarily tend to abridge the ancient Jurisdiction of this Province, and are founded on meer Pretence, ought not to be regarded by the Government of this

Province. and we do humbly conceive, That the Government of this Province, instead of Giving the like Directions to the Civil and Military Officers of Orange County, is, by such the Conduct on the part of New Jersey, necessarily constrained to exercise its ancient Jurisdiction with all possible Vigour.

As to the other Letter from Governor Belcher to your Honour of the same date, we are fully of Opinion with him, that a Compliance with the Directions of the Honourable Board of Trade and Plantations is absolutely necessary. But we conceive, that the Method proposed by Governor Belcher, is impracticable in itself, and inconsistent with the Honour of his Majesty's Government of this Province, and the above-mentioned Directions of the said Honourable Board.

It is Impossible in itself,

1th. Because there are many Persons, as we have been Informed, who have been obliged to purchase Peace of the Proprietors of East New Jersey, by accepting of Titles under them; which Persons still esteem themselves to be Subject to the Government of New York. It would therefore be absurd to Suppose that the Government of this Province, should Join with that of New Jersey, in compelling those Persons to Submit to that Government.

2^{dly}. Because Should the present Temporary Jurisdiction of the two Provinces, be limited to the Settlements held by Title under them Respectively, such Jurisdiction would be continually varying: For if the People of New Jersey, should continue to take into Possession the Lands in Controversy, which they might still do, notwithstanding such Settlement of Jurisdiction as aforesaid, the Jurisdiction of that Province would be continually increasing.

3^{dly} Should the Temporary Jurisdictions of the Provinces be settled in the Manner proposed by Governor Belcher, as it would give the Proprietors of East New Jersey an Opportunity of taking into Possession the unimproved Lands in Controversy, and so vice versa (from opposing which, the Governments of both provinces would absolutely be prevented by such Settlement of Jurisdiction) so this inconvenience ought, we humbly conceive, to be particularly guarded against; especially as it has been the notorious and publicly avowed Practice of the proprietors of East New Jersey, and their Agents, ever since the Controversy has subsisted, to take into possession as much of the un=Improved Lands in Controversy, as they Possibly Could; and we have great reason to fear, that this is the very End proposed by the Offer made of Settling, for the present, the Temporary Jurisdiction of the two Provinces, in the manner mentioned in Governor Belcher's said Letter.

That should the proposed Settlement of a Temporary Jurisdiction, take place, it would reflect Dishonour on his Majesty's Government of

this Province, will Sufficiently appear by considering, that such Settlement must necessarily abridge the ancient and continued Jurisdiction of this Province: For if what is alledged on the Part of New Jersey be true (which however we do deny) it is certain that many Possessions within such ancient and Continued Jurisdictions, are held by pretended Titles under New Jersey, which Possessions, should such Settlements take place, would be immediately discharged from the Jurisdiction of this Province, and be subjected to that of New Jersey, Which abridgment of the ancient Jurisdiction of this Province, we humbly conceive, would be dishonourable in the Government thereof to consent to: Neither do we conceive, That such Settlement of the Temporary Jurisdiction of the two Provinces, would be consistent with the directions of the said Honourable Board of Trade and Plantations; Because it would not, for the Reasons abovementioned, tend to preserve peace and Quiet among his Majesty's Subjects, residing on and claiming the Controverted Lands, which however appears to us, to be the design of the said directions.

And we do further conceive, that Should the Governments of the two Provinces, take upon them to make the proposed Settlement of a New Temporary Jurisdiction, they would assume what by the said Directions is apparently reserved to be done by his Majesty.

Whence upon the whole it appears to us to be necessary, that both Governments should Join in Supporting the ancient and continued Jurisdiction of the two provinces: Which, on the part of this Province, appears to be as far Southward as the places where the Stations of 1686 are said to have been fixed: But, as the Government of New Jersey, have not hitherto confessed or denied such ancient Jurisdiction as aforesaid in this Province, but in the Room thereof has proposed a new and impossible Settlement of a Temporary Jurisdiction, which the Government of this Province cannot, we think, comply with, for the Reasons abovementioned; and as many fatal Consequences daily follow, from the want of Reducing the ancient Jurisdiction of this Province to an exact Precision, by running a Line Conformable thereto;

We do therefore heartily Join with the General Assembly of this Province, and are humbly of Opinion, That it is Necessary that your Honour use the best means in your Power, for protecting his Majesty's Subjects of this Province, and their Possessions, from the daily Insults and outrages committed against them by the People of New Jersey; and to exercise the Jurisdiction of this Province so far Southward as to a direct Line between the said Stations of the year 1686, until a final Settlement can be made, and his Majesty shall be pleased

to declare his pleasure, with respect to the future Jurisdiction of both Provinces.

And this we are humbly of Opinion, may be best done in the following manner:

1st As the above offers and proposals of the Government of this Province, have remained unanswered, ever since the Month of March Last, in Consequence of which delay many Riots have been committed from time to time within this Province, by People Claiming under New Jersey; and as from what has appeared to us, there is great Reason to believe, that the said several Riots have been Committed by Persons in the pay, and under the Directions of the Proprietors of East New Jersey, against the People holding under this Province, and as many Persons holding under New York, have by Threats and other Sinister means, been driven to take Grants and Leases for their Possessions from and under New Jersey; and as, for the Reasons aforesaid, it appears to us, that the Government of New Jersey is so much under the Influence of the persons, who Call themselves the Council of Proprietors of East New Jersey, as to leave us no hopes of its agreeing to a Temporary Line, consistent with the ancient Rights of this Province; that your Honour do therefore Immediately issue a Proclamation, of such Tenor and Import as will best serve to Support the Jurisdiction of this Province, and Protect the persons holding under the same, so far Southward as to a direct Line between the Stations of 1686, until a Temporary Line of Jurisdiction can be fixed and agreed on between the two Provinces.

2^{dly} That your Honour do give Immediate orders to his Majesty's Attorney General of this Province, to prosecute all persons that have been any Ways aiding abetting, and assisting in such Riots, since the said Month of March Last; and in particular in the Riot committed on the said Major Swartwout, at the Church of Waghacakamak, mentioned in some of the Affidavits Referred to us; and also those Persons who with armed force, beset the House of the said Col. Decay, in the manner mentioned in other of the said Affidavits referred to us.

3^{dly} That your Honour Furnish Governor Belcher with Copies of the Act of Assembly of this Province, for Submitting the Final Determination of the Controversy to his Majesty; and of the Vote of the House of Assembly relating to the Charges attending the Same; of this Report, and of the Report of the Committee of the General Assembly, and of the Message of that House to your Honour, on the said Last mentioned Report; to the End that your Honour may be Informed of the Result of the Government of New Jersey, Concerning the same; and Lastly, That your Honour be pleased to lay before His

Majesty, the whole Transactions relating to this Important Affair. All which matters are nevertheless humbly Submitted to your Honour.

By order of the Committee

JOS. MURRAY Chairman

New York

17th December 1754

—[*N. Y. Council Minutes (MS.)*, xxiii, 239; *N. Y. Col. MSS.*, lxxix, 102.

[IN N. Y. COUNCIL.]

December 18th 1754.

* * * *

His Honour was pleased to take Notice to the Board, that in Consequence of the Report of the Committee made yesterday in Council, he was of opinion it might be proper to order a proclamation to apprehend, And the Attorney General to prosecute, the persons Concerned in the late Riot at Colonel Thomas De Key's House in Orange County: But that he did not incline to Issue a proclamⁿ to assert and exercise the Jurisdiction of this province as far Southward as the Line of 1686, mentioned in the said Report: until he had sent to Governor Belcher a Copy of the said Report, and of the other papers, and wrote to him thereupon. And that the proclamation he should be willing to Issue on that head, should be of such a Nature as to restrain any Violent proceedings against the people settled to the Northward of that Line, under New Jersey and only to Compel those persons to submit to the Jurisdiction of this province, Suffering them to continue in their possessions peaceably, until removed in a regular Course of Judicial proceedings, of all which the Council approved: but M^r Alexander dissented to the opinion of the Board which is entered upon his Motition.

Mr. Murray informed the Board that the Committee that made the Report in Council yesterday, were of opinion, that as the Government of New Jersey had published the proceedings there, relating to the Controverted line, it might be proper those of this Government should also be printed, Whereupon it is ordered by his Honour with the advice of this Board, that the two Reports confirmed in Council on the 4th March last, and the 17th Instant, be published, with such other papers touching the Facts set forth in the said Report, as the Gentlemen who were of that Committee or any three of them shall think proper to direct.

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—[*N. Y. Council Minutes (MS.)*, xxiii, 256.

Lords of Trade to Lords Justices.

To their Excellencies the Lords Justices.

May it please your Excellencies.

We have had under our consideration, an Act passed by His Majesty's province of New York in December last, intituled ;

"An Act for submitting the controversy, between the Colonies of New York and New Jersey, relating to the partition between the said Colonies to the final determination of His Majesty" —

And having been attended by M^r Charles Agent for the Province of New York, and by M^r Paris, Agent for the proprietors of East New Jersey, and heard, what each party had to offer upon this Act, we beg leave humbly to represent to your Excellencies :

That the controversy between the provinces of New York and New Jersey, concerning the true boundary line between them, from which this Act takes its rise, has subsisted many years, and various Acts and proceedings have at different times been had, and done thereupon, with a view to ascertain this boundary, but without effect. In the year 1748. the Legislature of New Jersey passed an Act, entitled :

"And Act, for running and ascertaining the line of partition and division betwixt this province of New Jersey and the province of New York" — but it appearing to us, upon a consideration of this Act after hearing of the parties interested by their Counsel, that the proceedings on which it was founded, being not warranted by His Majesty's Authority, it could not be effectual to the ends proposed by it, and the object of it being to set up an *exparte* determination it would be unjust; we did in our representation of the 18th of July 1753. humbly lay it before his Majesty for his Royal disallowance, humbly offering it as our opinion, that the only method, by which the matter in dispute could be properly and effectually decided, would be, a Commission to be issued by his Majesty for that purpose.

It appears from the letters and papers, which we have since received from the Governors of New York and New Jersey, that great outrages have from time to time been committed on the frontiers of the Two provinces, to the prejudice of His Majesty's service and the disturbance of the public peace; and although various propositions have been made by persons authorised on both sides, for determining the controversy, yet, none of them have had effect, nor is there any room to hope that the parties interested will concur in any effectual measure for deciding the dispute.

The Act, which we now humbly lay before your Excellencies appears to us to be liable to several objections ; it is improper as the method of determination which it proposes is unusual and contrary to the con-

stant practice in cases of the like nature; questions of disputed boundary, whereby private property may be affected, having never been determined by the Crown in the first instance but always by a Commission from His Maj^{ty}, with liberty to all parties which shall think themselves aggrieved by the Judgement of the Commiss^{rs}, to appeal to His Maj^{ty} from their decision. It is also improper, because, altho' the very object of the Act, is to submit the matter in dispute, as far as private property is concerned, to the determination of His Maj^{ty}, yet it previously ascertains in some degree the limits of private Right and property, by declaring that certain patentees, therein mentioned shall not extend their claim beyond a limit therein described; and if it was not liable to these objections, yet it would be ineffectual, as the proprietors of New Jersey, have not consented to the method of decision therein proposed. For all which reasons we humbly beg leave, to lay the said Act before your Excellencies, for your Excellencies disallowance.

* * * *

All which is most humbly submitted.

DUNK HALIFAX.
 J. GRENVILLE.
 JAMES OSWALD.
 FRAN: FANE.

Whitehall
 June 12. 1755.

—[*N. Y. Col. Doc.*, vi, 952.

Additional Instruction to Sir Charles Hardy.

August 12, 1755.

* * * *

WHEREAS it has been represented unto us, that a controversy has for many Years subsisted between his Majesty's Provinces of New York & New Jersey concerning the true line of partition between the said provinces, on account of which great outrages have from time to time been committed on the Frontiers of the said provinces, to the prejudice of His Maj^{ty}'s service and the disturbance of the public peace, and whereas it is of the greatest importance to the tranquility and welfare of the said provinces, that a line of property and Jurisdiction should be speedily settled between them, which can only be done by a Commission to be issued by His Majesty for that purpose, with liberty to all parties who shall think themselves aggrieved by the Judgement of the Commissioners thereby to be appointed, to appeal from such Judgement to His Majesty in his privy Council; and whereas the Agent for the Proprietors of New Jersey, has declared himself willing to concur on their behalf in this measure, as the only proper and effectual means of determining the matter in dispute, and has offered to give ample security that the

said proprietors shall and will defray one half of the expence of obtaining and executing such a Commission; you are therefore hereby authorized and required earnestly to recommend it, in His Majesty's name, to the Assembly of the Province of New York, under your Govern^t, that they do make speedy and effectual provision for defraying the other moiety of the expence of obtaining and executing such commission, as aforesaid, whenever His Majesty shall be graciously pleased to issue the same.

—[*N. Y. Col. Doc.*, vi, 960; *N. Y. Gen. Assem. Journal*, ii, 471.

Governor Hardy to the Lords of Trade.

Fort George N York 27 Nov^r 1755

My Lords

I have received the Lords Justices additional Instructions to recommend to the Assembly of this Province to make effectual Provision for defraying the moyety of the expence of obtaining and executing His Majestys Commission for settling the controversy subsisting between this Province and New Jersey. The Assembly are to meet on tuesday the 2nd of December when I shall lay before them this matter.

I have also received the Lords justices order for repealing an Act passed in this Province in December last for submitting the controversy subsisting between this Province and New Jersey to the final determination of His Majesty.

* * * *

—[*N. Y. Col. Doc.*, vi, 1020.

[IN N. Y. COUNCIL.]

December 1st 1755.

* * * *

His Excellency laid before the Board the Lords Justices Order for repealing An Act passed in this Province in December 1754. which was read and ordered to be entered and is as follows.

AT THE COUNCIL CHAMBER WHITEHALL

the 24th day of June 1755.

* * * *

WHEREAS by Commission under the Great Seal of Great Britain, the Governor, Council and Assembly, of his Majesty's Province of New York, are authorized and empowered to make, constitute and ordain Laws, Statutes and Ordinances, for the Publick Peace, Welfare and good Government of the said Province, which Laws, Statutes and Ordinances are to be, as near as conveniently may be, agreeable to the Laws and Statutes of this Kingdom, and to be transmitted for His

Majesty's Royal approbation or Disallowance — And Whereas in pursuance of the said Powers, An Act was passed in the said Province, in December 1754, and transmitted Entituled as follows Viz:

“An Act for submitting the Controversy between the Colonies of New York and New Jersey relating to the Partition between the said Colonies to the final Determination of His Majesty.

Which Act, together with a Representation from the Lords Commissioners for Trade and Plantations, proposing the Repeal thereof, having been referred to the consideration of a Committee of the Lords of His Majesty's most Honourable Privy Council for Plantation Affairs, The said Lords of the Committee did this day report to the Lords Justices as their Opinion, That the said Act ought to be repealed — The Lords Justices taking the same into Consideration, were pleased, with the Advice of his Majesty's Privy Council, to declare their Disallowance of the said Act: And pursuant to the Lords Justices Pleasure thereupon expressed, the said Act is hereby repealed, declared Void and of none effect. Whereof the Governor, or Commander in Chief of His Majesty's Province of New York, for the time being, and all others, whom it may concern, are to take Notice and Govern themselves accordingly.

W. SHARPE.

—[*N. Y. Council Minutes*, xxiii, 280; *N. Y. Col. MSS.*, lxxxi, 42.

[IN N. Y. GENERAL ASSEMBLY.]

January 8, 1756.

* * * *

A Message from his Excellency the Governor, * *

Gentlemen,

I send you a Copy of an additional Instruction from their Excellencies the Lords Justices, given at *Whitehall*, the 12th Day of *August* last; directing me to recommend to you, in his Majesty's Name, to make speedy and effectual Provision, for defraying one Moiety of the Expence of obtaining and executing his Majesty's Commission for settling the true Line of Partition between this Province and the Province of *New-Jersey*. * * And as * * it appears that the Agent for the Proprietors of *New-Jersey*, hath offered to give ample Security for defraying a Moiety of such Expence; I earnestly recommend it to you, in his Majesty's Name, to make immediate Provision for defraying the other Moiety thereof; * *

CHARLES HARDY.

—[*N. Y. Gen. Assem. Journal*, ii, 470.

MEMORIAL OF PART OWNERS AND PROPRIETORS OF PATENTS OF MINISINK AND WAWAYANDA, DATED FEBRUARY 10, 1756.

[For the text of this Memorial, see under N. Y. General Assembly, February 18, 1757, *post.*]

Governor Hardy to the Lords of Trade.

Fort George New York

23^d Feb^r 1756

* * * * *

I have some time ago laid before the Assembly his Majestys Instructions for making a provision for defraying the charges of His Matys Commission for determining the Line between this & the Province of New Jersey They express to me great difficultys they are under to make the Provision directed and urged the great expence it would draw on this Province (as other Lines are equally disputed but more particularly between us & the Massachusetts) and at this time when they are at such heavy expences for the public Service; I have argued and urged the Point strongly with the Speaker, and many of the Members but at present nothing has been done in it

I have endeavored to inform myself of the merits of this dispute, between the two Provinces, and find all partys agree the determination of the Line depends alltogether upon the construction of the Duke of Yorks Grant I beg leave to refer it to your Lordships opinion if this Point may not be better discussed, and more equitably determined by persons under his Matys Commission in England than by Commissioners appointed abroad. On the side of this Province His Matys Interest is greatly concerned should the determination be made in favor of and confirmed [according] to the claim of New York by which his Maty would have a great acquisition of ungranted Lands that would be readily taken up, agreeable to His Majestys Instructions, and I am informed might produce Quit Rents to the Crown of near £2000 Sterling per annum; on the other hand should the Claim of New Jersey be confirmed, the acquisition of this ungranted Land would fall to the proprietors of East New Jersey, As His Matys Interest is so principally concerned in this Dispute, I thought it my duty thus briefly to lay it before your Lordships. * * * *

—[*N. Y. Col. Doc.*, vii, 37, 38.]

Albany the 2^d of August 1756

My Lords

* * I shall not fail of recommending again to the Assembly to make Provision for defraying the charges of His Majestys Commission for determining the Line in dispute between this Province & New Jer-

sey but I cannot flatter myself with much success. The like dispute subsisting between this Government and the Massachusetts is attended with greater evils & until settled, we cannot expect to preserve Peace & good order upon our own Borders * *

—[*N. Y. Col. Doc.*, vii, 121.

Fort George, N York 2^d [December] 1756

* * * *

As this sessions has been long, I thought it most adviseable to deferr pressing the Assembly to pass Laws for defraying a moiety of His Majestys Commission for determining the disputed Line between this Province & New Jersey, and for annulling the exorbitant Grant of Lands, to a convenient time at their next meeting.

* * * *

—[*N. Y. Col. Doc.*, vii, 202, 204.

[IN N. Y. GENERAL ASSEMBLY.]

Fiatbush, February 16, 1757.

* * * *

A Message from his Excellency * *

* * * *

Soon after my coming to the Government, I recommended a Provision to be made for defraying the Expence of his Majesty's Commissions, for determining the Controversies with *New-Jersey* and *Massachusetts-Bay*, concerning their Boundaries, the unsettled State of which, hath already been productive of much Mischief, and is an Evil daily increasing, * * As no such Provision has yet been made, and the Right Honourable the Lords Commissioners for Trade and Plantations, are of Opinion, that the only proper and effectual Method of determining these Disputes, will be by a Commission in the Nature of that, upon which the Limits between the *Massachusetts-Bay* and *New-Hampshire* were settled. I have their Lordships repeated Directions, to recommend it again to your Consideration, and to acquaint you, that as this is a Matter of high Concernment to the Peace and Quiet of Government, and the Lives and Properties of his Majesty's Subjects; His Majesty does expect that you will forthwith make a proper Provision for the Expence of such Commissions, that there may be no further Delay in a Matter of so great Importance.

* * * *

CHARLES HARDY.

—[*N. Y. Gen. Assem. Journal*, ii, 523.

February 18, 1757.

* * * *

The humble Address of the General Assembly of the said Province.

May it please your Excellency.

* * * *

We shall with the greatest Alacrity, furnish the Quota of Men requested of this Colony, * *

We wish we could with the same Conviction, engage for what we apprehend will be a heavy Expence, the settling the Boundaries of this Colony, controverted on every Side by every Neighbour, *Connecticut* only excepted ; but we humbly would observe to your Excellency, that *a Line of a much more serious Nature, at present engages our whole Attention, and justly claims the Substance we have to spare.* Surely those vested with the Powers of Government in the different Colonies, can preserve Peace and Order on their respective Borders, by a wise Agreement of Forbearance, at least till we have repelled the common Enemy, and can with Propriety say, that we have Lands to divide, or Jurisdiction to settle! But still if it be the Pleasure of the Right Honourable Lords Commissioners for Trade and Plantations, that this Affair be brought to an immediate Determination, we most humbly intreat your Excellency to represent to their Lordships, the *Money arising by Quit-Rents, as a natural Fund to discharge the Expence which may attend that Service ;* this we humbly hope, will meet with their Lordships Approbation, as that very Fund is so deeply interested in the Issue of those Controversies.

* * * *

—[*N. Y. Gen. Assem. Journal*, ii, 524.

February 18, 1757.

* * * *

A Motion was made, by Col. *Delancey*, in the words following, *viz.*

“I move, that the Memorial of the Part Owners and Proprietors of the Patents of *Minisink* and *Wawayanda*, near the *Jersey* Line, presented to this House, the 13th Day of *February*, 1756, be ordered to be printed immediately, as it will explain the Nature of the Controversy, between the Crown and the *New-Jersey* Proprietors, and shew the Value of the Quit-Rents that will be added to the Revenue of the Crown, if the Line be run as the Memorial asserts.”

Ordered, That *James Parker*, publick Printer of this Colony, do print the said Memorial.

Which Memorial is the Words following, *viz.*

To the Honourable the House of Representatives of and in the Colony of NEW-YORK.

The MEMORIAL of us the Subscribers, being Part-Owners and Proprietors of the Patents of *Minisink* and *Wawayanda*, bordering on the Crown Lands in this Colony, that lie between the said Patents and the true Line of Division between this Colony and the Colony of *New-Jersey*, in behalf of Ourselves, and the other Owners and Proprietors of the said Patents, and the Owners and Proprietors of the other Patents ranging with the said Patents of *Minisink* and *Wawayanda*, between *Hudson's* and *Delaware* Rivers.

HUMBLY RELATES,

That your Memorialists have been informed, that his Excellency Sir CHARLES HARDY, Knight, has lately laid before this Honourable House, an additional Instruction from his Majesty, requiring him to apply to this Honourable House, for a Provision on the Part of this Colony, to defray One Half of the Expence that may accrue upon a Settlement of a Line of Partition, between this Colony and New Jersey, by Commissioners to be hereafter appointed by his Majesty for that Purpose.

That your Memorialists have also been informed, that in Consequence thereof, a Proposal has been made in this Honourable House, to subject your Memorialists, and the other Persons interested in the said Patents of *Minisink* and *Wawayanda*, and the other Patents ranging with them in this Colony, (a Part whereof only falls within the exorbitant Claim of the Proprietors of East *New-Jersey*,) to One Half, or some other considerable Proportion of the Sum to be provided on the Part of this Colony, for defraying such Expence as aforesaid: Which Proposal, should it take effect, would, as your Memorialists conceive, and hope they will be able to evince to this Honourable House, be a Burden too heavy and unequal, considering the proportionably small Interests of your Memorialists, and those whom your Memorialists represent in this Matter, to be imposed on them.

In order whereto, your Memorialists beg Leave to elucidate the following Points, *viz.*

1st, That the Claim of this Colony in Behalf of the Crown, and the Right of the private Owners of the above mentioned Patents, which only in Part interfere with the *New-Jersey* Claim, are intirely distinct in their Natures; and that the former, extending a great many Miles more Southerly upon the Pretensions of *New-Jersey*, than the latter, the Crown is principally, nay, almost wholly, interested in the Determination and Event of the Controversy.

2dly, That the Persons holding Lands under the Government of this Colony, in Virtue of the above mentioned Patents, did obtain their Titles to the same, in a Dependance on certain public Acts of Government and Legislature; and therefore ought to be supported in their Rights by the Legislature of this Colony.

3dly, That the Interest of his Majesty, and the general Interest of this Colony, are greatly concerned in the Event of the Controversy. And, therefore, that the Expences on our Part, ought to be defrayed by the Colony, and not by any particular Number of its Inhabitants.

4thly, That the true Interest of his Majesty, and of the Inhabitants of this Colony in general, requires, that the respective Jurisdictions of the two Colonies be ascertained; and as a Determination of that Point (which ought doubtless to be at the public Expence) will naturally induce a Settlement, with Relation to private Property, it would be a Hardship to tax any particular Persons, (however consequentially interested in such Determination) for paying the Charges on the Part of this Colony, to accrue thereon.

5thly, If the Line should finally be settled in Favour of this Colony, the private Owners of the above mentioned Patents would gain nothing thereby; and if the Settlements should turn in Favour of the *New-Jersey* Claim, would necessarily be considerable Losers. For which Reason also, your Memorialists humbly conceive, they ought not to be taxed towards such Settlement.

* * * *

In Proof of the fourth Point, your Memorialists beg Leave, briefly, to mention the publick Disorders that have arisen in process of Time, from the unsettled State of the Jurisdiction of the two Colonies, to the Disadvantage of his Majesty's Interest in Breach of his Peace, and to the manifest Injury of *this Colony* in general. And,

1st. It appears by a Letter from Governor HAMILTON of *East-Jersey*, to Governor FLETCHER, of *this Colony*, dated *February 13, 1693-4*, and produced also to the said Committee of this Honourable House, That by Reason of the unsettled State of the Boundaries, between the two Colonies, and, consequently, of their Jurisdiction; the respective Governments were unable to make such Detachments, as his Majesty's Service, and the Defence of the Frontiers against the Enemy then required, "There being several Plantations near the Line of Partition, (that is, near the Place where, as it was then esteem'd, it ought to run) which pretended an Exemption from a Detachment in either Government.

2dly. That altho' from the Time of the Settlements of the Stations, in 1686, till the year 1719, the Government of *this Colony* gave full Evidences of a Jurisdiction, as nearly as possible, agreeable to those

Stations, by the Acts of Assembly above mentioned, by levying of Taxes, and appointing Officers, both Civil and Military, and by granting of Patents, with a Reference to those Stations; and altho' none of the Counties of *New-Jersey*, except *Bergen*, and the most extreme Part of *Morris* County, (as your Memorialists conceive, will appear, on Examination of the Acts of Assembly, erecting the several Counties in *New-Jersey*) did, in their Boundaries, approach near to a direct Line, from the *South End* of *Great-Minisink* Island, to the Latitude of 41. d. on *Hudson's* River, until the late Erection of the new County in *New-Jersey*, called *Sussex*; yet the Want of such Line, or in other Words, the Neglect, effectually to settle the respective Jurisdictions, by running such Line, was declared in an Act of the Legislature of *New-Jersey*, passed in the year 1718, for running and ascertaining the Division Line between *that Colony*, and *this Colony of New-York*, to have occasioned many Disputes between the Owners of the Lands in the two Colonies lying near such Line, *as well as between the Officers of the Government, and a Number of lawless Men, who eluded the Laws of both Governments, and paid Taxes and Obedience to neither*, under pretence of being situated in each of them.

3dly. That the Want of such a Line was, as your Memorialists conceive, the only Occasion of passing the said Act, (there being not the least Mention of it in the Settlement of Stations) as also of a clause in an Act of the Legislature of *this Colony*, passed in 1717, for paying the Debts of the Colony, whereby a Provision was made for defraying the Expences of running such Line, and an implied Authority given to the Governor, with the Advice of Council, to appoint Commissioners and Surveyors for that Purpose: And therefore, that had a Line been originally run, agreeable to the Stations of 1686, it would have fully settled the Jurisdiction of the two Colonies; and consequently prevented the flagrant Abuses, which have been made of the said Acts, by the Proprietors of *East New-Jersey*, in contempt of the Government and Jurisdiction of *this Colony*: Which, as they are well known, your Memorialists only beg Leave, concisely, to collect them in the following Manner, *viz.*:

1st. Governor HUNTER, at that Time, being Governor of both Colonies, and *notoriously* under the Influence of some of the Proprietors of *East New-Jersey*, was prevailed upon, in Quality of Governor of *New-Jersey*, and in Consequence of the Power given him by the said Act of *New-Jersey*, to appoint two Commissioners, with the Advice of the Council, most, if not all of which Board, were then Proprietors of *East New-Jersey*: Which Commissioners, in conjunction with the Surveyor General, were to be impowered, by Commission under the Great Seal of the said Colony, to join with such Commissioners and Surveyors, as

should be appointed on the Part of this Colony, for running the said Line: Your Memorialists say, that, in Consequence thereof, the said Governor HUNTER, was induced to appoint Dr. *John Johnston*, and *George Willocks*, Commissioners, and *James Alexander*, Esq; Surveyor General of *New-Jersey*, Persons all greatly interested in the *Eastern Division of that Colony*, and men of great Sagacity, to execute the said *important Trust*. And this was the first Abuse.

2dly. The same Governor HUNTER, in the Quality of Governor of this Colony, was induced, contrary to the Advice of the Council, excepting the said *John Johnston*, who was also of the Council of this Colony, and without the Consent of his Majesty, or of the private Owners of the Land on the Part of this Colony, and contrary to the said Act of Assembly, to appoint two Gentlemen of this Colony, viz.: Col. *Isaac Hicks*, and Captain *Robert Walters*, Persons no ways interested in the said Patents within this Colony; and tho' of unspotted Reputations, yet by no Means qualified for such Employments, in Conjunction with *Allin Jaret*, Surveyor General of this Colony, to run the said Line on the Part of this Colony. And this was the second Abuse. In consequence of such unwarrantable Appointments, little else could be expected, than the utmost Stretch of Authority, in Favour of *New-Jersey*. And accordingly,

See the Petition hereafter mentioned to have been signed by upwards of 40 of the owners of the said Patents within this Colony.

3dly. That in the year 1719, the said Commissioners and Surveyors, instead of running a Line agreeable to the Stations of 1686, or to the true Boundaries above related, of the Grants to the Proprietors of *New-Jersey*, having, for Reasons best known to themselves, determined the *East Branch of Delaware*, to be the Northernmost Branch, without any actual Attempt made by them (which the Duty or their Offices however required) to discover a more Northerly Branch, if any such there were; and that the Boundary ought to be, in open Defiance to common Sense and the Rules of Law, in the Lat. of 41 d. 40 m. on that Branch. And having also, by an Instrument, much too small for the Purpose, and undoubtedly erroneous, found that the Lat. of 41 d. 40 m. on the said *East Branch*, was at Cashicktonk; therefore, lest *New-Jersey* should be deprived of the Benefit of so advantageous a Discovery, the said Commissioners and Surveyors took Care, immediately, to execute an Indenture tripartate, purporting the Settlement of the Station on *Delaware*, to be at Cashicktonk aforesaid. As by the said Indenture, surreptitiously entered of Record in the Secretary's Office of this Colony, in the Manner hereinafter mentioned, may appear. Which was the third abuse.

4thly. That in endeavoring to fix the Station on *Delaware*, in the Absence of the Commissioners of *New-York*, the Instrument was found to be erroneous; and our Surveyor refused to attempt any Thing further with it: And did thereupon, prefer his Petition to *Peter Schuyler*, Esq; then President of this Colony, and to the Council, setting forth the Reasons which incapacitated him from proceeding compleatly to execute his Commission; and therefore, pray'd further Directions of the Council Board. Which Petition was back'd with another Petition to the like Purpose, signed by above forty Persons, interested on the Part of *New-York*. And being refered to a Committee of the Council, they, upon the whole Matter, reported, that they could not advise his Honour to give any further Instructions to our Surveyor, to proceed with so erroneous an Instrument; but on the Contrary, "That he should be directed to set forth, and certify, by some writing under his Hand and Seal, that the Station pretended to be fix'd at the *Fish Kill*, was wrong and erroneous. To the End this Colony might not, at any Time thereafter, receive any Prejudice by the aforesaid tripartite Indenture, &c.," as by the said Petitions and Report in the Secretary's Office of this Colony, may appear. And tho' the Proprietors of East and West *Jersey* did, some Time after, in a Memorial presented to Governor MORRIS of *New-Jersey*, combat the Reason alledged on the Part of *New-York*, concerning this Matter; yet the two Governments never came to any final Determination. And thus the erroneous Station of 1719, at Cashicktonk, remained unconfirmed, until the year 1738; this Colony still continuing the Exercise of its ancient Jurisdiction. In which Year, an Act of the Assembly was passed in *New-Jersey*, erecting *Morris* County; Part of which included some of the Lands lying within the ancient Jurisdiction of this Colony at *Minisink*. Which Act, being passed in Defiance of such ancient Jurisdiction of this Colony, and in consequence of one erroneous Station, fix'd by Persons, some of whom were Parties interested, and others incapable, and not qualified according to Law, (and therefore, had no Authority to act) and opposed, before its confirmation, by the Government; Surveyor, and Inhabitants of this Colony; is the fourth Abuse of the above mentioned Acts of both Colonies.

5thly. That *George Clark*, Esq; *Lieutenant Governor* of this Province, did assert the ancient Jurisdiction of this Colony, as soon as Encroachments were made on it, in Virtue of the Erection of *Morris* County aforesaid; and did, by a Letter dated *July* 7th, 1740, and directed to *William Cool*, *William Cortraet* and *Peter Cickendall*, Esqrs, then Justices of the Peace in *Orange* County, require them to exercise their Authority, in repelling those Encroachments, and in asserting their Jurisdiction, in the same Manner as they had done for twenty Years past.

From which Time until this Day, many Acts of Violence have ensued, on the Exercise of Jurisdiction, by both Governments against each other. Which, as your Memorialists conceive, are chargeable to the Account of *New-Jersey*, as arising from their Infringement of the Settlement of 1686, and their Encroachments on the ancient Jurisdiction of this Colony, under Colour of one *erroneous* Station, fix'd at *Cashicktonck* aforesaid not warranted by the said Acts of Assembly, and rejected by the Government of this Colony. And this is the fifth abuse.

6thly. That, in order the better to countenance the unjustifiable claims of *New-Jersey*, and in manifest Opposition to the very Spirit and Design of the above related Report of the Council of this Colony, the said tripartite Indenture, so long after its Date as in the Year 1744, appears on the public Records of this Colony; the Hand-writing of which Entry, were it necessary, could be very easily proved; as well as the Interests, Connections, and Relations in Life of the Person who wrote it. Thus much however is certain, that it was neither entered by the proper Officer, nor warranted by any Act of Government; and is, therefore, a Record, which must necessarily be disowned by the Government of this Colony, as being an evident Piece of Forgery. Your Memorialists, indeed, conceive it dishonourable, to the highest Degree, even to cite such a Record as Evidence; and yet, the proprietors of *East New-Jersey*, have not been ashamed to do it in their Memorial to Governor BELCHER. And this concludes the sixth Abuse.

7thly. That, not even content with this, the Proprietors of *New-Jersey*, in 1747-8, obtained an Act of that Colony, for giving a Sanction to the aforementioned Abuses, by running a Line *Exparte*, if this Colony should not think proper to acquiesce in their unreasonable Proposals: And therefore, upon their not meeting with the Concurrence of the Legislature of this Colony, they sent home the Act for his Majesty's Royal Assent. And such was the seventh Abuse. The Fate of the said Act, however, at the Board of Trade, is well known to this *Honourable* House; and is now fully determined by his Majesty's said Instruction: Whereby, it is plain, that the Crown intends to settle the Boundaries between the two Colonies, by Commission.

8thly. That in Consequence of the said erroneous Station at *Cashicktonck*, and in Contempt of the ancient Jurisdiction of this Colony, the Government of *New-Jersey*, taking Advantage of the Necessity to which both Colonies are reduced of fortifying their Frontiers along *Delaware*, against the Irruptions of the savage and perfidious Indians; have, as your Memorialists are informed, made an Offer of extending their Chain of Block-houses, as far as *Cashicktonck*; and generously leaving a smaller Extent of Country to be fortified by this Colony. A plausible Pretext this, to oust the Government of this Colony of its ancient

Jurisdiction; and indubitably designed, as a colourable Reason, for a Determination of the Controversy in their Favour; upon a Supposition, that those who will resolutely defend the Lands in Controversy, in a Time of general Danger, are best intitled to reap the happy Fruits of their own Valour! But your Memorialists have the utmost Reason to rest assured, that a Disguise so thin, will be easily penetrated, by the Wisdom of this Honourable House. And this evinces the eighth Abuse. The further to demonstrate which, your Memorialists beg leave to mention a single Fact; of which they are informed, by one of the Members of this Honourable House, *viz.* That *Richard Gardner*, the principal Agent for the Proprietors of *East New-Jersey*, in their Encroachments on this Colony, and who lives in the very Heart of the Controversy, on a Plantation formerly held under, and lately wrested from this Colony, not more than 7 or 8 Miles from *Goshen*, and about 20 Miles from the Frontiers of the two Colonies on Delaware; having, some Time ago, met with a Party of *Jersey Men*, who were sent to garrison the Frontiers of *New-Jersey*, did, in Virtue of an Order of Government, direct the said Party to return to his House, which he employed them in fortifying, by incircling it with Stockadoes, at the public Expence of that Colony. Which Fortifications, by Reason of its distant Situation from the Frontiers, and its being in the Heart of the Controversy, is probably, designed principally, to support the Encroachments of *New-Jersey*, on this Province; especially, if it be considered, that the Command of it is given to the chief Agent of the Proprietors of *East New-Jersey*; to whom they are greatly indebted for their late unjustifiable Aquisitions.

From all these Matters adduced in Support of the fourth Point, your Memorialists conceive, that for the Want of a Settlement of the Jurisdiction of the two Colonies, agreeable to the Stations of 1686, his *Majesty's* Interest, the Honour of his Government of this Colony, the Jurisdiction and public Peace and Tranquility thereof, and the Rights of its Inhabitants, have been, in many Instances, unlawfully invaded and trampled upon, even by the Government of *New-Jersey*, and that upon the most idle Pretences.

These are Evils of a public Nature; to repel which, demands the united Efforts of the whole Colony: Wherefore, as it is necessary for the public Weal, that the Jurisdiction of this Colony should be properly Ascertained; so also, as it is a Matter of general Concern, your Memorialists do humbly conceive, it ought to be at the general Expence. That altho' some particular Persons, unfortunately feel the evil Effects of the Encroachments of *New-Jersey* on the Jurisdiction of this Colony, more immediately than any other Members of the Community; yet, as the Matter Concerns the Honour of this Government, all those who enjoy the happy Consequences of its Care and Protection, ought to con-

tribute to its Support, by asserting and maintaining its rightful Jurisdiction. And therefore, that altho' by determining the Line of Jurisdiction, the Question of Property, will, consequently be determined; yet the public, and not the private Owners of the controverted Lands, ought equitably to bear the Burthen.

In Support of the fifth Point, your Memorialists beg Leave to observe, that if upon a final Determination of the Boundary between the two Colonies, *New-Jersey* should be confined by a Line from the Head of *Delaware* Bay, or from the Forks of *Delaware* to the Latitude of 41 d. on *Hudson's* River, yet those Patents in this Colony, that range along a Line from the lower End of *Great Minisink* Island, to that Latitude, (which was formerly supposed to be the Boundary) will have no greater Extent of Land, than what they have purchased of the native *Indian* Proprietors, and for which they obtained those Patents: And how much soever the Crown, or the Public, may be Gainers by the vacant Lands, in such Case, the Owners of those Patents being confin'd by the last mentioned Line, will have no more than is really their own: Besides, as the Government of this Colony conceived, and by the said Patents did, in Effect, declare, the Lands granted by them, to be within this Colony; if that should actually appear to be Truth, upon a final Settlement, your Memorialists conceive, the Owners of the said Patents, are clearly intitled to hold them, without any further Charge, than what accrued on the obtaining of those Patents. And, on the contrary, should the Station on *Delaware*, be extended to *Cashicktonk*, they must necessarily be great Losers: In which Case, as they settled the said Lands under the Government of this Colony, it will be a sufficient Hardship for them to be deprived of Part of those Lands, without being obliged to pay One-half, or any other great Proportion of the Expence of a final Settlement, out of their own Pockets. So that, seeing they cannot be benefited, but may possibly be prejudiced, by a final Settlement, and seeing that the controversy is publick in its Nature, the whole Burthen of it ought, as your Memorialists conceive, to be borne by the Colony in general, and no Part of it by the Owners of those Patents in particular.

* * * *

Wherefore, upon the Whole, your Memorialists humbly supplicate this honourable House, that the Methods to be taken, for providing for the Expence of a final Settlement, may be made as easy to your Memorialists, and those whom they represent in the Premises, as the Nature of the Case can possibly admit of; and that this honourable House, would be pleased to use its Interest, in procuring such Settlement, in a Manner most consistent with Justice, and the Rights of all the Parties interested in the Events of the Controversy: And also, that, as your

Memorialists, and those whom they represent in the Premises, labour under great Disadvantages, by Reason of the Power of the Proprietors of *East New-Jersey*, and their Enjoyment of most of the Posts, of the highest Importance in *New-Jersey*, and in particular by the great Authority of JAMES ALEXANDER, Esq; a principal Proprietor in *East New-Jersey*, and of his Majesty's Council in both Colonies; who imagining the said Proprietors to have a Title to all the Lands, as far Northward as the said erroneous Station, at Cashightonck, has, from Time to Time, endeavoured to obstruct your Memorialists in the Prosecution of those Measures, which to them seemed most advancive of their true Interest; as will appear by the Interview between him and Col. DEKAY, an Inhabitant of this Province, mentioned in the above remembered Report of the Committee of this honourable House, and also, by his Reasons, entered the last Session, in the Minutes of the Council of this Colony, against the passing of a Bill, of the same Tenor with the above mentioned Bill, now before this honourable House. That therefore, in Tenderness to the Owners of the said Patents within this Colony, this honourable House would be pleased, by the great Weight of its Authority and Influence, to urge forward, with all possible Expedition and Justice, the final Settlement of a Controversy, so apparently injurious to a vast Number of its Constituents. And thus your Memorialists humbly beg Leave to Conclude this their long Memorial; with praying the Excuse of this honourable House; for trespassing so much on their Time, seeing, that to have aimed at more Brevity, in the Hurry with which it has been drawn up, might have been attended with some fatal Omission.

NEW-YORK, February 10, 1756.

—[*N. Y. Gen. Assem. Journal*, ii, 525.

[IN N. Y. COUNCIL.]

December 2nd 1762

* * * *

His Excellency communicated a Petition signed by John Morin Scott and others, part Owners and Proprietors of Lands lying within such Parts of this Province, the Bounds between which and the neighbouring Colony of New Jersey are still in dispute, in behalf of themselves and the other part Owners and proprietors of such Lands: Praying His Excellency to recommend to the General Assembly now sitting, the bringing in a Bill for submitting the Controversy concerning the Boundary Line between this Colony and the Colony of New-Jersey, to such a Method of Decision, as His Majesty shall think proper by his Com-

mission to appoint; and for making Provision for defraying one-half the Expence thereof.

The Council humbly advised His Excellency to recommend to the General Assembly to make the necessary Provision for the final Settlement of the Partition Line between the said two Provinces; and for this Purpose, to send a Message to the two Houses now convened.

* * *

—[*N. Y. Council Minutes (MS.)*, xxv, 464.

[IN N. Y. GEN. ASSEMBLY.]

December 9, 1762.

* * *

A Memorial of several of the Owners of the Patents of *Honan* and *Hawden*, *Wawayanda*, *Cheescoks* and *Minisink*, was presented to the House, and read, setting forth, That the Memorialists had been informed that a Bill depending before the Honourable House, for submitting the Controversy concerning the Boundary Line between this Colony and the Colony of *New-Jersey*, to such a Method of Decision as his most gracious Majesty shall think proper to appoint, but that the said Bill meets with Obstruction, by Reason that the Provision for defraying the Expence thereof, is not limited: That the Memorialists being sincerely desirous of having that Line settled, and being willing to remove every Objection against the passing of the said Bill, therefore humbly beg Leave to declare their Readiness and Willingness, in Case the aforesaid Expence should exceed the sum of *Fifteen Hundred Pounds*, that the Surplus beyond that Sum should, if the Legislature of this Colony think fit and reasonable, be levied in proportion, by a Tax or otherwise, upon the several Patents aforesaid; and humbly praying that the said Bill which concer[n]s the publick Interest of this Colony, as well as the Property of many of its Inhabitants, may be passed into a Law.

Whereupon,

The ingrossed Bill, entitled, *An Act for submitting the Property of the Lands which are held or claimed by Grants under the great Seal of this Colony, and are affected by the Controversy about the Boundary or Partition Line, between this Colony and the Colony of New-Jersey, to such a Method of Decision as his most gracious Majesty shall think proper by his royal Commission, or otherwise, to appoint, and for defraying the Expence to accrue on the Part of this Colony, on the final Settlement of the said Line*; was read the third Time.

Resolved, That the Bill do pass.

* * *

—[*N. Y. Gen. Assem. Journal*, ii, 717.

[COLONY OF NEW YORK.]

An ACT for submitting the Property of the Lands which are held or claimed by Grants under the Great Seal of this Colony, and are affected by the Controversy about the Boundary or Partition Line between this Colony and the Colony of New-Jersey, to such a Method of Decision as his most Gracious Majesty shall think proper, by his Royal Commission or otherwise, to appoint, and for defraying the Expence to accrue on the Part of the Colony on the final Settlement of the said Line.

Pass'd the 11th of December, 1762.

WHEREAS the Boundary or Partition Line, between this Colony and the neighbouring Colony of *New-Jersey*, has not hitherto been duly ascertained, from the Station on *Hudson's* River, to the Station on *Delaware* River; And by Reason of the unsettled State of the Limits of the two Colonies, not only the Extent of their respective Jurisdictions remain uncertain, and the due and regular Administration of Government in both Colonies is by that Means greatly impeded; but also frequent and dangerous Riots have been occasioned, and are still likely to arise between the Borderers, as well concerning the Extent of the respective Jurisdictions as the Property of the Soil, to the great Disturbance of the publick Peace, and the manifest Discouragement of his Majesty's good Subjects in the Settlement and Improvement of that Part of the Country. And altho' on the Part of this Colony it is insisted on by many, that a very great Part of the Lands contended for by this Colony do still vest in his most gracious Majesty; yet as the Residue of the said Lands are held or claimed as private Property by divers of his Majesty's Subjects, in Virtue of Grants issued under the Great Seal of this Colony: To the intent therefore that the said Controversy, as far as it concerns the latter, may, together with the Boundary or Partition Line between the two Colonies, be finally settled and determined.

I. BE IT ENACTED by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That all and singular the Messuages, Lands, Tenements, and Hereditaments, and all Right, Title, Interest and Property in and to the same, which are held or claimed by any of his Majesty's Subjects, by virtue of any Grant or Grants under the Great Seal of this Colony, and are, can, shall, or may be in any wise affected by the said Controversy concerning the Boundary, or Partition Line between this Colony and the Colony of *New-Jersey*, are hereby fully and absolutely, to all Intents, Constructions, and Purposes in the Law whatsoever, submitted and made subject to the same Method of Decision as his most Gracious Majesty shall think proper, by his Royal Commission or otherwise, to

institute and appoint for the final Settlement and Determination of the Boundary or Partition Line between the said two Colonies. And that all and every Determination and Determinations to be made by any Person or Persons whatsoever, by Authority derived from his most Gracious Majesty, by his Royal Commission or otherwise, that shall in any wise concern the said Line, on the Controversy that has hitherto subsisted relating to the same, and whereby the Right, Title, Interest, and Property of the said Messuages, Lands, Tenements and Hereditaments, so held or claimed by such Grants as aforesaid, or any Part or Parcel thereof, shall be intended to be bound and determined; shall fully, completely, and absolutely bind, and for ever determine the Right, Title, Interest, and Property of the said Messuages, Lands, Tenements and Hereditaments, to all Intents, Constructions, and Purposes in the Law whatsoever; any Law, Usage, or Custom to the contrary thereof, in any wise notwithstanding.

II. AND to the End that sufficient Provision may be made, on the Part of this Colony, for Payment of the one equal Half Part of the joint Expence to accrue on the final Settlement of the said Controversy, and the Boundary Line between the said Colonies; and also for paying of the particular Expences that shall or may accrue, on the Part of this Colony, in prosecuting the said Controversy to a final Settlement; BE IT ENACTED by the Authority aforesaid, That *John Cruger, Henry Holland, Frederiek Philippe, John Morine Scott, William Bayard, and Benjamin Kissam*, Esquires, or the Majority of them, or the Majority of the Survivors of them, are hereby nominated and appointed Agents, to manage the said Controversy on the Part and Behalf of this Colony. And also, that the said Managers, or the major Part of them, and the major Part of the Survivors of them, shall, and are hereby authorized to pay, lay out, and expend, from Time to Time, from and out of the public Monies in the Treasury of this Colony, all such Sum and Sums of Money as shall, from Time to Time, be necessary to defray, as well the one Half of the said joint Expence, as the particular Expences aforesaid. Which Sum and Sums of Money shall, from Time to Time, upon Application of the said Managers, or the major Part of them, or the major Part of the Survivors of them, as Occasion shall require, be drawn out of the said Treasury by Warrant or Warrants of his said Excellency, or the Commander in Chief of this Colony for the Time being, by and with the Advice of his Majesty's Council, in Favour of the said Managers, or the major Part of them, and the major Part of the Survivors of them. And also, that the said Managers, and the Survivors of them, shall, from Time to Time, account upon Oath, for and concerning the Execution of the Trust hereby reposed in them, to his said Excellency, or the Commander in Chief for

the Time being, his Majesty's Council, or the General Assembly of this Colony, when by them, or any of them, they shall be thereunto required. *Provided always*, That if his Excellency the Governor, or the Commander in Chief for the Time being, and the Council, and General Assembly of the said Colony of *New-Jersey*, do not within one year next after the Publication of this Act, pass an Act for submitting and subjecting all the Messuages, Lands, Tenements, and Hereditaments, and the Rights, Titles, Interest, and Property thereof, held or claimed by any of his Majesty's Subjects, as being and lying within the said Colony of *New-Jersey*, to the same Method of Decision, and to be bound and determined by such Determination and Determinations, as in and by this Act is mentioned and directed, concerning Lands held or claimed by any of his Majesty's Subjects, by Virtue of Grants under the Great Seal of this Colony; that then and in such Case, and immediately thenceforth, this Act, and every Article, Matter, Clause, and Thing in the same contained, shall be absolutely null and void, and of no Effect, to all Intents, Constructions and Purposes in the Law whatsoever, as if the same had never been made and passed: Any Law, Usage, or Custom to the contrary hereof in any wise notwithstanding.

—[*N. Y. Laws*, 1691-1773 (Van Schaack's Ed.), p. 421.

[IN N. Y. COUNCIL.]

June 8, 1763.

* * * *

His Excellency laid before the Board a Copy of an Act passed on the third Instant by the Legislature of the Province of New Jersey entitled [An Act for submitting the Property of Lands which are held or claimed by any of His Majesty's Subjects as lying within this Colony, and are affected by the Controversy about the Boundary or Partition Line between this Colony and the Colony of New York, to such a Method of Decision as His most gracious Majesty shall think proper by his royal Commission or otherwise to appoint.] By which Law, the like Provision is made with respect to the determination of the Partition line between the two Provinces, and defraying the Expence thereof, as is made by the Act passed in this Colony for the like purpose

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—[*N. Y. Council Minutes (MS.)*, xxv, 481.

[COLONY OF NEW JERSEY.]

CHAP. CCCXCVI.

An ACT for submitting the Property of Lands which are held or claimed by any of His Majesty's Subjects as lying within this Colony, and are affected by the controversy about the Boundary or Partition Line between this Colony and the Colony of New-York, to such a Method of Decision as His most gracious Majesty shall think proper by his Royal Commission or otherwise to appoint.

Passed Feb. 23, 1764.

WHEREAS The Boundary or Partition Line between this Colony and the neighbouring Colony of *New-York*, has not hitherto been duly ascertained; and, by Reason of the unsettled State of the Limits of the two Colonies, not only the Extent of their respective Jurisdictions remain uncertain, and the due and regular Administration of Government in both Colonies is by that Means greatly impeded; but also frequent and dangerous Riots have been occasioned, and are still likely to arise between the Borderers, as well concerning the Extent of the respective Jurisdictions, as the Property of the Soil, to the great Disturbance of the publick Peace, and the manifest Discouragement of his Majesty's good Subjects in the Settlement and Improvement of that Part of the Country: AND WHEREAS the Governor, the Council and General Assembly of the Province of *New-York*, did, at their Session held in *December*, in the Year of our Lord One Thousand Seven Hundred and Sixty-two, pass a Law entitled,¹ * * * * * Wherein full and adequate Provisions are made on the Part of that Province for the Purpose of settling and adjusting the said Partition Line, and putting an End a Controversy dangerous to the Peace of both Colonies: AND WHEREAS the Property of all the Lands within this Colony are held or claimed by some or other of His Majesty's Subjects, in consequence of divers Grants and mesn Conveyances from and under his Royal Highness *James Duke of York*, (afterwards King *James the Second*) the original Proprietor thereof: To the Intent, therefore, that the salutary Work so well begun on the Part of the Colony of *New-York* might have a happy issue, the Legislature of this Colony did, at their Session in June last, pass a Law, entitled, * * * [same title as that of this Act] but there arising some Difficulties at the Plantation Office about one of the Agents therein appointed, and another of them being since deceased, it is thought most expedient to annul the said Law, and by a new one to appoint other Agents; which said Law, and every Part thereof, is hereby declared null and void to

¹ For said title, see page, 747 *ante*.—[P.]

all Intents and Purposes : But that the said Controversy, as far as it concerns the Property of the Lands held and claimed by any of His Majesty's Subjects, as lying and being within this Colony, may, together with the Boundary or Partition Line between the two Colonies, be finally settled and determined ;

Sect. 1. BE IT ENACTED * * * That all and singular the Messuages, Lands, Tenements and Hereditaments, and all Right, Title, Interest and Property, in and to the same, which are held or claimed by any of His Majesty's Subjects, as lying and being within this Colony, and are, can, shall or may be in anywise affected by the said Controversy, concerning the Boundary or Partition Line between this Colony and the Colony of *New-York*, are hereby fully and absolutely, to all Intents, Constructions and Purposes in the Law whatsoever, submitted and made subject to the same Method of Decision as His most gracious Majesty shall think proper by his Royal Commission or otherwise to institute and appoint, for the final Settlement and Determination of the Boundary or Partition Line between the said two Colonies: And that all and every Determination and Determinations, to be made by any Person or Persons whatsoever, by Authority derived from His most gracious Majesty, by his Royal Commission or otherwise, that shall in anywise concern the said Line, or the Controversy that has hitherto subsisted relating to the same, and whereby the Right, Title, Interest and Property of the said Messuages, Lands, Tenements and Hereditaments so held and claimed as aforesaid, as lying and being within this Colony, or any Part or Parcel thereof, shall be intended to be bound and determined, shall fully, completely, and absolutely bind, and for-ever determine the Right, Title, Interest and Property of the said Messuages, Lands, Tenements and Hereditaments, to all Intents, Constructions and Purposes in the Law whatsoever; any Law, Usage, or Custom to the contrary thereof in anywise notwithstanding.

2. AND, to the End that sufficient Provision may be made on the Part of this Colony, for Payment of the one equal Half Part of the joint Expence to accrue on the final Settlement of the said Controversy and the boundary Line between the said Colonies; and also for paying of the particular Expences that shall or may accrue on the Part of this Colony in prosecuting the said Controversy to a final Settlement ; BE IT ENACTED *by the Authority aforesaid*, That *John Stevens, James Parker, Henry Cuyler, junior, William Donaldson and Walter Rutherford*, Esquires, or the Majority of them, or the Majority of the Survivors of them, are hereby nominated and appointed Agents, to manage the said Controversy, on the Part and Behalf of this Colony ; and also, that the said Agents, or the major Part of them, and the major Part of the Survivors of them, shall and are hereby authorized

to pay, lay out and expend, from Time to Time, from and out of the publick monies in the Treasury of this Colony, all such Sum and Sums of Money as shall from Time to Time be necessary to defray, as well the one Half of the said joint Expence, as the particular Expences aforesaid; which Sum and Sums of Money shall, from Time to Time, upon Application of the said Agents, or the major Part of them, or the major Part of the Survivors of them, as Occasion shall require, be drawn out of the said Treasury by Warrant or Warrants of His said Excellency, or the Commander in Chief of this Colony for the Time being, by and with the Advice of His Majesty's Council, in Favour of the said Agents, or the major Part of them, and the major Part of the Survivors of them; and also, that the said Agents, and the Survivors of them, shall, from Time to Time account upon Oath, for and concerning the Execution of the Trust hereby reposed in them, to his said Excellency, or the Commander in Chief for the Time being, His Majesty's Council, or the General Assembly of this Colony, when by them, or any of them, they shall be thereunto required.

—[*N. J. Laws* (Allinson's Compilation), p. 263.]

After an interval of more than three and a half years, the proposed Commission for the arbitration of the boundary matters in dispute between the two colonies was appointed by the Crown, as appears from the following document:

[COMMISSION.]

[October 7, 1767.]

GEORGE THE THIRD BY THE GRACE OF GOD of Great Britain France and Ireland King Defender of the faith and so forth To our Trusty and welbeloved John Temple Esquire Surveyor General of the Customs for the Northern District of America Peter Randolph Esquire Surveyor General of the Customs for the Southern District of America Charles Stewart Esquire Surveyor General of the Customs for the District of Quebec Andrew Elliot Esquire Receiver General of our Quit Rents in the Province of New York Chambers Russell Esquire Judge of the Court of Vice Admiralty for the Province of the Massachusetts Bay William Allen Esquire Chief Justice of the Province of Pennsylvania Samuel Holland Esquire Surveyor General of Lands for the Northern District of America William De Brahm Esquire Surveyor General for the Southern District of America, Andrew Oliver Esquire Secretary of the Province of the Massachusetts Bay Charles Morris Esquire Surveyor of Lands and one of the Council of the Province of Nova Scotia Payton Randolph Esquire Attorney General and one of the Council of

Virginia Benjamin Franklin Esquire of the Province of Pennsylvania, and Jared Ingersoll Esquire of the Colony of Connecticut Greeting. Whereas the Boundary or Partition Line between Our Colonies of New York and Nova Cæsarea, or New Jersey from the Station on Hudsons River to the Station on Delaware River hath not hitherto been duly ascertained * * And Whereas our said Colonies of New York and New Jersey have by Acts passed in their respective General Assemblies concurred in Submitting the Property of Lands in both Colonies to such a Method of Decision as to us by Our Royal Commission or otherwise should seem meet, * * of which Acts of Assembly laid before Us in our Council We have been graciously pleased to Declare our Royal Approbation, Know Ye therefore that we * * do by these Presents Nominate Authorize and Appoint you the said John Temple Peter Randolph Charles Stewart Andrew Elliot Chambers Russell William Allen Samuel Holland William De Brahm Andrew Oliver Charles Morris Payton Randolph Benjamin Franklin and Jared Ingersoll or any five or more of you to be our Commissioners for ascertaining settling adjusting and Determining the Boundary aforesaid between our said two Colonies of New York and New Jersey in such manner as from sufficient Evidence produced to you shall appear Just and Equitable Our Will and pleasure therefore is that after Notice shall be given to you or each of you or left at your respective Places of abode by any two of the Agents named on the part of the Colony of New York and any two of the Agents named on the part of New Jersey jointly (not separately) for managing the said Controversy of this Our Royal Commission to you directed and of the Day by the said Agents jointly Assigned and appointed for holding the first meeting at our City of New York within Our said Colony being most Conveniently Situated for that purpose * * you do repair to, our said City on the Day so appointed and there hold your first meeting * * And we do direct that at the first meeting at which five of you shall be present you do make Choice of one or more Clerk or Clerks to enter your Minutes and proceedings and also make Choice of one or more Skilfull Persons as Surveyors to make and prepare Drafts and plans of the Country or Boundaries as from time to time there shall be occasion and to discover Survey and mark out such River or Rivers Branch or Branches thereof Latitude Lines or Stations as you shall think necessary * * And our further Will and pleasure is that in Case either of our said Colonies shall neglect to send to you our said Commissioners at your first or second Meeting when five of you shall be present a plain and full State in Writing signed by Two or more of the Agents named on each side as aforesaid of the Demand or pretensions of our said Colonies respectively describing where and in what place the Boundaries in Question

do begin or terminate * * and to what other Station or Stations the said Boundaries ought to run * * that then in each or either of these Cases you our said Commissioners or any five of you do proceed Exparte in the Execution of this our Commission * * And our further Will and pleasure is that when you shall have made your final Determination * * the said Colonies or either of them who shall think themselves aggrieved may by Two of their Agents as aforesaid Enter their Appeal to us in Our privy Council with a Declaration what parts of the Determination made by you they respectively abide by or Appeal from But if either of our said Colonies shall not Enter their respective Appeals against such Determination at such last Meeting our Will is that then no Appeal shall be afterwards received or admitted and in Case neither of our said Colonies shall then Enter any Appeal the Determination of you (being Confirmed by us in Council) shall be final and Conclusive to both our said Colonies * * And Lastly Our Will is that the Charge of this Commission and of carrying it into Execution and of you our Commissioners your Clerks Surveyors and Officers be born and paid in equal Moieties by each of Our said Colonies as in the aforementioned Acts of their respective General Assemblies is stipulated to be done and performed In Witness whereof we have Caused these our Letters to be made Patent Witness Ourself at Westminster the Seventh day of October in the Seventh Year of Our Reign — By Writ of Privy Seal

YORKE & YORKE

—[*N. Y. Commissions* (MS.), iv, 173.

[COLONY OF NEW YORK.]

CHAP. MCCCLIII.

An ACT to remove Doubts and Scruples, concerning an Act, entitled, *An Act for submitting the Property of the Lands, which are held or claimed by Grants under the Great Seal of this Colony, and are affected by the Controversy about the Boundary, or Partition Line, between this Colony, and the Colony of New-Jersey, to such a Method of Decision, as his most gracious Majesty shall think proper, by his Royal Commission, or otherwise to appoint, and for defraying the Expence to accrue on the Part of this Colony, on the final Settlement of the said Line.*

Pass'd the 6th February, 1768.

WHEREAS by a certain Proviso in the said Act contained, it was and is declared, That if his Excellency the Governor, or the Commander in Chief, for the Time being, the Council, and the General Assembly of the said Colony of *New-Jersey*, should not, and did not, within one Year

next after the Publication of the said Act, pass an Act for submitting and subjecting all the Messuages, Lands, Tenements, and Hereditaments, and the Rights, Titles, Interests and Property thereof, held or claimed by any of his Majesty's Subjects, as being and lying within the said Colony of *New-Jersey*, to the same Method of Decision, and to be bound by such Determination and Determinations, as in and by the said Act of the Governor, Council, and General Assembly of this Colony, is mentioned and directed, concerning Lands held or claimed by any of his Majesty's Subjects, by Virtue of Grants under the Great Seal of this Colony; that then, and in such Case, immediately thenceforth the said last mentioned Act, and every Article, Matter, Clause, and Thing, in the same contained, should be absolutely null and void, and of no Effect, to all Intents, Constructions and Purposes in the Law whatsoever, as if the same had never been made and passed: Any Law, Usage or Custom to the contrary thereof, in any wise notwithstanding; which last mentioned Act was made and passed the eleventh Day of *December* [1762], in the third Year of his present Majesty's Reign.

AND WHEREAS altho' an Act of the Legislature of the said Colony of *New-Jersey* was made and passed for the Purposes mentioned in the said Proviso of the said Act of the Governor, Council and General Assembly of this Colony, within the Time limited in the said Proviso; yet the said Act of the Legislature of the Colony of *New-Jersey*, did not receive his Majesty's Royal Assent, and thereupon after the Expiration of the said last mentioned Act, and after the Expiration of a Year in the said Proviso mentioned, another Act of the Legislature of the said Colony of *New-Jersey* was made and passed for the Purposes in the said first mentioned Act of the Legislature of *New-Jersey* mentioned: Whereupon certain Doubts and Scruples have arose concerning the Operation of the said Act of the Governor, Council, and General Assembly of this Colony: Therefore, in order to remove the same;

I. BE IT ENACTED by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That the said Act of the Governor, Council, and General Assembly, of this Colony, and all, and every Article, Clause, Matter and Thing, in the same contained, except the said Proviso, is, and shall be, and is hereby declared to be in full Force, Power and Virtue, from the Day of the making and passing the same, to this Day; and shall so be, continue and enure, from henceforth for ever, to all Intents, Constructions, and Purposes in the Law whatsoever, as if the same Proviso had never been inserted therein, any Clause, Matter or Thing whatsoever in the said Proviso, or any Part thereof, in any wise notwithstanding.

PROCEEDINGS OF THE ROYAL COMMISSION.

The sessions of the Commission were held at the room usually occupied by the Chamber of Commerce in the Exchange at the foot of Broad street in the city of New York, beginning on the 18th of July, 1769,—nearly two years after the Commission was appointed,—and continuing until the final determination was given, on 7th of October following. Of the thirteen commissioners appointed, any five of whom were authorized to adjudicate the case, seven were in attendance, to wit: Messrs. Stewart, Morris, Elliot, Holland, Oliver, Peyton Randolph and Ingersoll. John Jay, then just admitted to the bar, was Clerk of the Commission.

Additional particulars of interest relative to the commissioners and their proceedings, as narrated by Mr. Wm. A. Whitehead, may be found on pages 174–185 of volume viii of the *N. J. Historical Society Proceedings*.

[STATEMENT BY THE AGENTS OF NEW YORK.]

[July 18, 1769.]

To the Honorable his Majesty's Commissioners for settling the Partition Line between the Colonies of New York & New Jersey.

A Plain and full state of the Demands and Pretensions of his Majesty's Colony of New York against the Proprietary Colony of Nova Caesaria or New Jersey (respecting the Boundary Line to be settled and ascertained between the said two Colonies) for the Honourable his Majesty's Commissioners appointed by Letters Patent under the great Seal of Great Britain bearing date the seventh Day of October in the seventh Year of the reign of his Majesty King George the third for ascertaining settling and determining the Boundary line between the said two Colonies prepared by us the subscribers nominated as agents by Act of Assembly of the Colony of New York and to be exhibited to the said Commissioners at their first Meeting appointed as in and by the said Commission is directed to be held at the City of New York on the eighteenth Day of July in the Year of our Lord one thousand seven hundred and sixty nine, viz:

1st: His late Majesty King Charles the second being in right of his crown of England seized of the sovereignty Seignory and property of the Southwestern Coast of North America from the Southwest Cape of Delaware Bay commonly called Cape Hinlopen as far as and including Connecticut River and the lands extending back from the said Coast into the Country as far back as to the respective first spring

Heads or Sources of Delaware River Hudson's River and Connecticut River except such parts thereof as may have been granted by the Crown if any such had been then granted did by his Letters Patent under the great Seal of England bearing date the twelfth day of March in the sixteenth Year of his reign 166 $\frac{3}{4}$ give grant ratify and confirm in fee simple unto his Brother James Duke of York afterwards King James the second of England among other Tracts in the said last mentioned Letters Patent mentioned and described "All that "Island or Islands commonly called Matawacks or Long Island situate "and being to the West of Cape Cod and the Narrow Hygansets and "butting upon the main Land between the two Rivers there called and known by the names of Connecticut and Hudson's River* *Together also with the said River called Hudsons River and all the Lands from the west side of Connecticut River to the East side of Delaware Bay*

2^d! The said James Duke of York thus seized of the premisses granted by the said Letters Patent of King Charles the second by Lease and Release dated the twenty third and twenty fourth Days of June in the sixteenth Year of the reign of King Charles the second did grant in fee to John Lord Berkley Baron of Stratton and to Sir George Carteret of Saltrumas Tenants in common in equal Moieties "All that Tract of "Land adjacent to New England and lying and being to the Westward "of Long Island and Manhattens † Island and bounded on the East part "by the main Sea and part by Hudsons River and hath upon the West "Delaware Bay or River and extending Southward to the Main Ocean "as far as Cape May at the Mouth of Delaware Bay *and to the Northward as far as the Northermost Branch of the said Bay or River which is in forty one Degrees and forty minutes of Latitude* and "crosseth over thence in a Straight line to Hudsons River in forty one "Degrees of Latitude"

3^d! The Dutch who it is well known were at the time of the grant of the said Letters Patent and Lease and Release in possession of that part of the Territories thereby granted to which the line in controversy can have any relation surrendered the same on the twenty seventh of August 1664 to Coll. Nichols appointed the Dukes Governor of his Teritoris in America which Territories were confirmed to the Crown of England by the third Article of the Treaty of Breda in 1667 and afterwards in 1673 in the war between England and the United provinces were repossessed by the Dutch and were finally surrendered & Confirmed to the Crown of England by the Treaty concluded with the United provinces at Westminster the ninth of February 167 $\frac{3}{4}$

* Note, the scored Words are the only Part of the Bounds of this Patent which affect the Boundary.

† The Island on which the City of New York is built.

Therefore the said James Duke of York to remove all Doubts (concerning the Operations of the aforesaid Letters Patent from King Charles the second to him) that might arise from the aforesaid possession of the Dutch and their aforesaid surrender to the Crown of England by the Treaty of Westminster obtained other Letters Patent under the great Seal of England bearing Date the twenty ninth Day of June in the twenty sixth Year of his MAJESTY'S reign anno 1674 whereby Charles the second grants to him in totidem verbis as in the aforesaid Letters Patent of the twelfth of March in the sixteenth Year of his reign—

4th On the twenty eighth and twenty ninth Days of July 1674 (John Lord Berkley being then dead) Sir George Carteret to remove the like doubts as to his Interests under the above mentioned Lease and Release from the Duke of York to the said Lord Berkley and Sir George Carteret and to vest himself with the greatest part of New Jersey procured a Lease & Release of the last mentioned dates to be executed by the Duke of York to him for parcel of the Lands granted by the said first mentioned Lease and Release thereby to Vest him with the said parcel in severalty in fee simple under the following description to wit "All that Tract of Land adjacent to New England and lying and "being to the Westward of Long Island and Mauhattens Island bounded "on the East part by the Main Sea and part by Hudsons River and "extends Southward as far as a certain Creek called Barnegat being "about the Middle between Sandy point and Cape May and bounded "on the west in a Straight Line from the said Creek called Barnegat "to a certain Creek in Delaware River next adjoining to and below a "certain Creek in Delaware River called Rankokus Kill and from thence up the said Delaware River to the Northermost Branch thereof WHICH is in forty one Degrees and forty Minutes of Latitude and on the North Crosseth thence in a Straight line to Hudsons River in forty one Degrees of Latitude.

5th James Duke of York on the Demise of King Charles the second on the Sixth day of February 1684 succeeded to the Crown by the Stile and Title of King James the II^d [of England and Vth of Scotland.]

6th By this Succession his Title as a grantee of all the Lands which remained (of those that were granted to him by the aforesaid two Letters Patent from King Charles the second after the execution of the said two sets of Leases and Releases by him) Merged in his Crown right and from the time of the said succession he and his Royal Successors Kings & Queens of England and great Britain have in right of their Crown Stood seized of the Sovereignty Seignory and property of all the said remaining Lands as parcels of the Colony of New York excepting the property of such parts thereof as have been granted to

divers Subjects under the great Seal of the Colony of New York and such other parts thereof as have by settlement fallen within the Colony of Connecticut —

7th Besides those Lands which (Exclusive of what may have passed by the said two sets of Leases and Releases and exclusive Also of the said Lands fallen within the Colony of Connecticut as aforesaid) were granted by the said two Letters Patent of King Charles the second to the said Duke of York The Colony of New York has always been deemed and esteemed to extend Northward without Limitation so as to include within its confines and Territories all the Lands that are not included in either of the Colonies of Connecticut or Massachusetts Bay or New Hampshire on the one side or the Colonies of New Jersey or Pennsylvania on the other side. Therefore

8th All the Lands which are included in the Colony of New York as herein is immediately above described which have not been granted away to subjects by Letters patent under the Great Seal of the said Colony of New York do now vest in point of sovereignty Seignory & property in his present Majesty King George the third

9th All the Lands which by Virtue of the aforesaid two sets of Leases and Releases from James Duke of York constitute the Colony of New Jersey do now in point of Seignory and property wholly and exclusively vest in the Heirs or assigns of the said John Lord Berkley and Sir George Carteret or of one of them the sovereignty thereof only being in his present Majesty as by the first distinction here after mentioned will appear; and

10th To explain what we understand by the Terms Sovereignty Seignory and property in the 8th & 9th Points we observe that by sovereignty we mean the supream and Sole Government and Dominion vesting in his Majesty in the right of his Crown By seignory the right to rents reserved Escheats forfeitures &c And by property that exclusive right of possession and use in Lands which enables the Owner to dispose of them as he pleases —

11th The Latitude of forty one Degrees on Hudsons River was undoubtedly intended as a station in the boundaries of the Two above-mentioned sets of Leases and Releases from James Duke of York (under one or both of which the Proprietaries of New Jersey are supposed to claim) being by both the said Leases and releases fixed as the Stationary point of Boundary for Nova Cæssaria or New Jersey on Hudsons River

12th Another stationary point of Boundary is clearly fixed by the said two sets of Leases and Releases on the Northermost Branch of Delaware River and a streight Line from one of the said stationary points to the other is also expressly given by the said two sets of

Leases & releases *as and for the Northern Boundary of New Jersey* therefore —

13th All the Lands lying to the Northward of the said Northern Boundary are clearly included within his Majesty's Colony of New York. But

14th The Course of this Line or boundary is (as we conceive) the Matter in Controversy and the subject Matter of his Majesty's Royal Commission upon which the following Question arises to wit —

From what point on Delaware to the Latitude of 41° on Hudsons River was the said Straight Line or Boundary expressed in the said several Grants from the Duke of York to the proprietors of New Jersey intended to run —

In order to the proper determination of this Question we conceive it necessary in reference to the said Line or Boundary upon which the Question arises to take the following Distinctions in stating the Claim and pretensions of the Colony of New York against the Colony of New Jersey to wit —

1 That tho' with respect to the Sovereignty of both Colonies his Majesty's Interest stands Indifferent in the present controversy —

And tho' also his right of Seignory as the Chief Lord or Lord Paramount to the proprietaries of New Jersey is equal as to its Nature with his Seignory in the Colony of New York as to the Lands therein already granted or hereafter to be granted yet in point of Value it is vastly inferior in the Colony of New Jersey to what it is and may be in the Colony of New York a certain small sum in gross being payable (as appears by the said two releases) as the Chief Rent for all the Colony of New Jersey, whereas the Quit rents being reserved on each particular patent in the Colony of York are or may be of much greater Value as they will be increasing in Value in proportion to the Lands that may from time to time be granted as in the Colony of New York besides which the Government Seignory and property of all the Duke of Yorks Territories having passed to him by the said two letters Patent of King Charles the second and the Government Seignory and property of the Colony of New Jersey having passed to the proprietaries thereof by the Dukes said Grants to the said proprietaries and they having surrendered to the Crown nothing more than the Government of the said Colony * All Escheats forfeitures &^a by the under Tenants of Lands in that Colony must enure to the benefit of the proprietaries in whom the Seignory of the said Colony now is whence it follows that in point of

* Note this Surrender was made to Queen Ann on the 22^d April 1702 by William Dochwra in the name and Behalf of the Proprietors of East New Jersey & by Sir Thomas Lane on the Part and Behalf of the Proprietors of West Jersey —

Seignory the Crown is interested on the part of the Colony of New York against the Colony of New Jersey—

2^d! That in Point of property the Crown has not the least Imaginable Interest in the Colony of New Jersey whereas his Majesty is or may be in point of property greatly interested on the part of the Colony of New York in respect of such Lands as remain ungranted by the Crown within that Colony—

Under the Influence of those two distinctions and the operation of the above stated Train of Facts which precede them we state the Claim and pretensions of the Colony of New York against the Colony of New Jersey as follows that is to say.

1st! The Stationary Point or Boundary on Hudson's River being intended to be fixed by the grants above mentioned from the Duke of York to the Proprietaries of New Jersey in forty one Degrees of North Latitude We in behalf of the Colony of New York and in respect of the Kings Seignory and property and in Case it should be determined that stations were not fixed in the Year of our Lord 1686 so as to bind all parties do claim as a boundary between the Colony of New York and the Colony of New Jersey a Straight and direct Line from the Latitude 41° 0'0 on Hudsons River to the Head of Delaware Bay which we assert to be at Reedy Island a Spot well known and distinguished in all the Accurate Maps of the Country and such Line we contend is the rear Line of the Tract that was granted by King Charles the second to James Duke of York because that the words of both of the above mentioned Patents to the Duke of York are "All the Land "from the West side of Connecticut *River* to the East side of Delaware *Bay* and therefore cannot by any possible construction admit of an extent of land beyond the *Head of the Bay and along the River Delaware Bay and River* being things as Geographically different as *River* and Ocean whence we insist that whatever may be the boundary intended by the several grants from the Duke of York to the Proprietaries of New Jersey ; Yet the Operation of those grants must necessarily be confined to the bounds assigned to him by his Patents from the Crown. But

2^d! If against the Letter of those Patents it were possible to conceive that all the Lands between Delaware Bay and River on the one side and Connecticut River on the other up to their respective Sources passed to the Duke of York Yet we contend that even in such Case the Boundary in Construction of the Dukes several aforesaid grants to the Proprietaries of New Jersey would be a direct Line *from* the Stationary Point on Hudsons River *to* the Spot or place which is now commonly called the Forks of Delaware or which is the same thing that Course reversed—

This construction we will support first by intrinsic Evidence in the words of those grants and secondly by extrinsic proof Drawn from Different Quarters —

1st: From the Words of those grants tho' certain Degrees of Latitude are therein mentioned as well on Delaware River as on Hudson's River Yet the words *to Hudson's River in forty one Degrees of Latitude* plainly and necessarily import that the Latitude itself on Hudsons River was to be the Boundary but the words in the same Grants that respect the Boundary on Delaware are of quite different Frame they are up the said River Delaware in the one *as far as* and in the other to the Northermost Branch thereof which necessarily import that the beginning of the Northermost Branch of Delaware is the Boundary there and that the words *which is in forty one Degrees & forty Minutes* (being relative Terms and plainly refering to *which Northermost* or beginning of the Norther Most Branch) are added as descriptive of the beginning of the Northermost Branch or the Spot where the Boundary was intended to be ; and therefore the beginning of the branch and Not the Latitude being intended to be the Boundary and the Latitude being only descriptive if such Latitude was mistaken in the description and the beginning of the then esteemed Northermost Branch can be shewn that and not the True Latitude must be the boundary ; and Therefore

2^d: Our extrinsic Proofs will be calculated to shew that the beginning of the Northermost Branch of Delaware in the estimation and intention of the Duke of York and his grantees was at the place now called the Fork of Delaware— These extrinsic proofs we shall introduce principally under the influence of this observation to wit that considering the Dates of the grants from the Duke of York to his Grantees considering also that both Grantor and Grantees were in England at the time of those Grants they must have been framed Not by actual observations & mensurations on the Spot but from a View of Maps which Maps must (considering the above mentioned possession of the Country by the Dutch) have been Antient Dutch Maps or Maps compiled from them by the English —

Having thus stated our demends and pretensions against New Jersey as far as respects the Seignory and property of the Crown to consist either in a line running on a Course from the given Latitude on Hudsons River to the Forks of Delaware until such a line Intersects the above mentioned line from the Head of Connecticut River to the Head of Delaware Bay and from the said place of Intersection along the last mentioned line to the head of Delaware Bay or in a Straight line from the given Latitude on Hudsons River to the Forks of Delaware We proceed to state the Quantum of the Seignory and property in the

Crown which is affected by this Controversy and this we shall do by shewing that a vast Body of Land lying upon either of those suppositions within the Colony of New York still remains vested in point of property in the Crown —

In support of this we insist and shall prove that in the Year 1686 East and West Jerseys being then distinct Governments they in Conjunction with the Government of New York fixed and agreed on a Station on the west side of Hudsons River Due West of Frederick Philips's lower Mills which to this Day are standing on the east side of the said River which Station was then esteemed to be in the Latitude of forty one Degrees on Hudsons River And Also another Station on Delaware River at certain Marked Trees and that a Straight line from the said Station so fixed on Hudsons River to the said Trees had such line been actually run would have been on a Course North sixty two Degrees West according to natural position and that in reference to those Stations and the said necessarily supposed line from the one to the Other of them all the Patents within this Colony that are expressly or implicatively bounded on the line of Partition are limited and as far Southward as those Stations this Government has uninterruptedly exercised its Jurisdiction untill of late Years a considerable Tract of Country Near and about Minisink was by Violence on the part of New Jersey torn from the Jurisdiction of the Colony of New York —

These facts we shall prove by a great Variety of Evidence extracted from Antient Maps public Records And Acts of Legislatures of both Colonies and the Testimony of Witnesses whensoever the same shall on a reasonable Day to be fixed by the Commissioners be required —

Conclusion.

And we beg Leave to name John Morin Scott & Benjamin Kissam as two of the Agents on the part of New York residing in the City of New York on whom any Notice, Summons or Final Judgment as in the Commission mentioned may be served.

Signed

JOHN CRUGER
HENRY HOLLAND
W^m BAYARD
JN^o MORIN SCOTT
BENJ^m KISSAM

New York, July 18th 1769

—[*N. Y. Col. MSS.*, xcvi, 120. (First leaf mutilated and words supplied from *N. Y. and N. J. Boundary Papers*, vol. iii, in *N. Y. Hist. Soc. Library*.)

These several Matters the Agents for New-Jersey, conceive abundantly prove the Assertion in their Claim, that King Charles the Second about the Time of granting the said Letters Patent, dispossessed the Dutch by an armed Force, of that whole Tract of Country then called New Netherland; And, that notwithstanding the Words in the Royal Grant, "to the East Side of Delaware Bay;" the Duke soon after took into his Possession, agreeable to the true Intent and Meaning of the said Grant, as is contended on the Part of New-Jersey, not only all the Lands between Connecticut River and Delaware Bay, and River, up to Schenectady, but of the three lower Counties, and of such Parts of the Province of Pennsylvania as had been in the Possession of the Dutch, on the West Side of the said Bay and River of Delaware, and by himself, his Governors and Agents, exercised Acts of Propriety and Powers of Government therein.

The Agents of New Jersey in their Claim, in the next Place assert, "That Lord Berkely and Sir George Carteret, immediately took Possession of the Province of New-Jersey, and in 1665 sent over Philip Carteret their Governor, to settle and improve the said Colony; and "that in or before 1671, the Settlement under New-Jersey, extended "from the Sea Coast up along Hudson's River, to Haverstraw."

To prove this, they have produced,

* * * *

The Re-conquest of the Country by the Dutch, in 1673; the Surrender to the English in the Year following; the second Grant of the same to the Duke, and the several Conveyances from the Duke to the Proprietors, are in Proof from the following Exhibits and Admissions, viz.

* * * *

The New-Jersey Agents, have further given in Evidence,

18. A Quintipartite deed of Partition, between the Proprietors of East and West-Jersey, reciting the first Letters Patent from King Charles the Second, to the Duke of York, and the Conveyance to Berkely and Carteret, and releasing the Eastern Moiety of New-Jersey, thereafter to be called East New-Jersey, to Sir George Carteret; and the Western Moiety thereof, thereafter to be called West New-Jersey, to Edward Byllynge, William Penn, Gawen Lawrie and Nicholas Lucas: In which Deed of Partition, East New-Jersey is described to extend along Hudson's River, to that Part of the said River, *which is in Forty-one Degrees of Latitude, being the furthestmost Part of the said Tract of Land and Premises, which is bounded by the said River;* and crossing over from thence in a straight Line, extending from that Part of Hudson's River aforesaid, to the Northermost Branch or *Part* of the before-mentioned *River, called Delaware River,* and to the most

Northerly Point, or Boundary of the said Tract of Land and Premises, so granted by his Royal Highness James Duke of York, unto the said Lord Berkely and Sir George Carteret.

* * * *

The Duke of York, by his Deed, reciting among other Things, his first Grant from King Charles the Second, his Conveyance to Berkely and Carteret ; King Charles Second Letters Patent, the Quintipartite Deed ; the Conveyance from John Earl of Bath, and others, to William Penn, and eleven others ; and that they each conveyed one Half of their respective Parts, to twelve others, in Fee, granted and confirmed by this Deed, East New-Jersey, to the said twenty-four Proprietors, describing the same to be all that Easterly Part, Share and Portion ; and all those Easterly Parts, Shares, and Portions, of the said whole and entire Tract of Land and Premises, before mentioned, extending Eastward and Northward, along the Sea Coast and the said River, called Hudson's River, from the East Side of a certain Place or Harbour, lying on the Southerly Part of the same Tract of Land, and commonly called or known in a Map of the said Tract of Land, by the Name of Little Egg-Harbour, to that Part of the said River, called Hudson's River, which is *in Forty-one Degrees* of Latitude, being the *furthermost Part* of the said *Tract of Land and Premises*, which is *bounded* by the *said River*, and crossing over from thence in a straight Line, extending from that Part of Hudson's River aforesaid, to the *Northernmost* Branch of the aforementioned *River*, called *Delaware River*, and to the *most Northerly Point or Boundary* of the said *entire Tract of Land and Premises*, now called the *North Partition Point* ; and from thence, that is to say, from the North Partition Point, extending Southward unto the most Southerly Point, by a straight and direct Line, drawn through the said Tract of Land, from the said North Partition Point, to the said South Partition Point.

* * * *

The Agents for New-Jersey relying on these Proofs, as fully sufficient to shew that the Boundary or Partition Line between the Provinces of New York, and New Jersey, is and ought to be a straight Line drawn from the Latitude of Forty-one Degrees on Hudson's River, to the Latitude of Forty-one Degrees and Forty Minutes on the northernmost Branch of the River Delaware ; they will next proceed to state the Evidence they have offered to the Commissioners in support of what they have advanced in the latter Part of the State of their Claim, viz. That the Claim now made by the Province of New-Jersey, was not only undisputed, but universally agreed to and acknowledged for the Course of at least Ninety Years after the first Grant thereof, made by the Duke of York,

And did show,

1. A Minute of Council of New York, [June 30, 1686], by which it appears that the Governors of New-York, and East and West-Jersey, agreed to run the Lines between the three Governments, and that the most *Northerly Branch of Delaware River*, according to the Patent, should *first* be agreed upon and fixed, that the first of September then next, was appointed for the Surveyors to meet at the Falls of *Delaware*, and the most northerly Branch of Delaware River, if any Controversy arise about it, was to be determined by two of the three Surveyors, George Keith, Andrew Robinson and Philip Wells; and that which should be concluded by two of the said Surveyors, to be the Limits of the three Governments, to be so deemed and reputed.

2. Minutes of Council, of New-York, [Sept. 1, 1686], by which it appears, that Philip Wells, the Surveyor General of the Province of New-York, was directed by the Governor and Council of New-York—
“carefully and with Exactness to run the Line between this Province
“and that of East-Jersey, *beginning* in the Latitude of *Forty-one*
“*Degrees and Forty Minutes* upon *Delaware River*.”

Nothing final being done in Pursuance of this agreement.

3. An Act of Assembly passed in New-York [Dec. 23, 1717] making provision for running the Line between the Provinces of New-York and New-Jersey, and declaring that such Line when run should be deemed the Partition Line for ever.

Apprehensive that Objections would be made against this Act on the Part of New-York, the Agents for New-Jersey, thought proper here, to open and set that Transaction in its true Light, which they did by the four next following Exhibits.

* * * *

The Agents for New-Jersey have further given in Evidence,

8. An Act passed in New-Jersey, for settling and running the Partition Line between that Province and the Province of New-York.¹

9. A Commission under the Great Seal of the Province of New-York, [May 1, 1719], appointing Robert Walter and Isaac Hicks, Commissioners, and Allane Jarrett, Surveyor, on the Part of New-York,

* * * *

10. A like Commission [March 31, 1719] under the Great Seal of the Province of New Jersey * * * *

11. A Tripartite Indenture * * [July 25, 1719],

12. A petition of Allane Jarratt * * [Sept. 24, 1719].

Here the Agents for New-Jersey, rested their Proofs, conceiving they have fully supported their Claim, and shewn that a Line from the Latitude

¹ The date of this Act is given in the margin of the “Brief” and in certain other documents, as “1717;” but the Act seems to be really that of March 27, 1719.—[P.

of Forty-one Degrees on Hudson's River, to the Latitude of Forty-one Degrees and Forty Minutes on the Northermost Branch of Delaware River, is the true Boundary and Partition Line between the two Provinces; and as such, has been acknowledged, and universally agreed to by both Provinces for a long Course of Years.

In Opposition to the foregoing Claim and Proofs, The Agents for New-York, have made several Objections which we shall state and consider in their Order.

The first Question made in this Case, arises on the Construction of the Grants from King Charles the Second to the Duke of York, in 1664 and 1674. It is contended by the Agents for New-York, That the said Grants were bounded and confined by a straight and direct Line, from the Head of Connecticut River, to the Head of Delaware Bay; * * And therefore cannot by any possible Construction, admit of an Extent of Land beyond the Head of the Bay, and along the River Delaware; * * *

To this Objection the Agents for New-Jersey, answer.

* * * *

Although the Agents for New-Jersey, flatter themselves that they have fully proved, that Bay and River in the Patents, had one and the same Meaning, and that they could rely on what has already been offered on this Head; yet they pray to be indulged, in considering this Objection in another Light, and making a few further Observations upon it.

* * * *

The Agents for New York, sensible of the Insufficiency of their first Objection, which, had it been well founded, would at once have determined this Controversy, and saved themselves much Expence and Trouble, proceed to their second Objection, * * *

To conclude: The Agents for New-Jersey conceive that they have fully answered and refuted all the different Pretensions set upon the Part of New-York; And flatter themselves that, notwithstanding the many Attempts of the Agents for New-York, to divert the Attention of the Court, from the real Points in Controversy, they have clearly shown, that the Latitude of 41° on Hudson's River; and $41^{\circ} 40'$ on Delaware River, were intended by the Grantor and Grantees, at the Time of making the first Grant of New-Jersey, to be, the Stationary Points of the Line of Division between the two Provinces.

That every former Attempt of the Governments to settle the Line, as well by Agreements of the respective Governors, as in virtue of Acts of the Legislature of both Colonies, has been declarative that this was the only Construction put upon the Duke's Grant, the words of which cannot other Ways be satisfied;

AND THEREFORE pray, that a straight and direct Line from the said Latitude of *Forty-one* Degrees on Hudson's River, to the Latitude of *Forty-one Degrees and Forty Minutes* on Delaware River, may be settled and ascertained, as the Northern Boundary of New-Jersey, and the Line of Partition between the two provinces.

NEW-YORK,
September 28, 1769.

JOHN STEVENS,
JAMES PARKER,
WALTER RUTHERFURD.

—[*Brief of the Claim, on the Part of the Province of New-Jersey,* folio, — pp. 1, 3, 5, 7, 9, 11, 12, 13, 14, 17, 22, 44.

[FINAL DETERMINATION.]

[October 7, 1769.]

AT A MEETING of the Commissioners appointed by his most Gracious Majesty's Commission to Settle the Boundary Line between the Colonies of New York and New Jersey held at the Long Room Called the Chamber of Commerce in the City of New York, the 7th day of October, 1769,

PRESENT.

CHARLES STEWART, Esq., President,
ANDREW ELLIOT, Esq.
SAMUEL HOLLAND, Esq.
ANDREW OLIVER, Esq.
CHARLES MORRIS, Esq.
JARED INGERSOLL, Esq.

THE AGENTS on the part of both Colonies, having offered to the Court all that they thought necessary or proper in Support of their respective Claims, and the Court having Considered the Same, Do FIND

THAT King Charles the Second by his Letters patent bearing date the twelfth day of March, 1664, did Grant and Convey to his Brother the Duke of York, All that Tract of Country and Territory now Called the Colonies of New York and New Jersey; and that the said Duke of York afterwards by his Deed of Lease and Release bearing Date the 23d and 24th days of June, 1665, did Grant and Convey to Lord Berkley of Stratton and Sir George Carteret, that part of the Aforesaid Tract of Land Called New Jersey. The Northern Bounds of which in said Deed are described to be "to the northward as far as the Northernmost Branch of the said Bay or River of Delaware which is in 41 deg. 40 min. of Latitude and Crosseth thence in a Straight Line to Hudson's River in 41 deg. of Latitude."

We further find among the many Exhibits a Certain Map compiled

by Nicholas John Vischer, and published not long before the aforesaid Grant from the Duke of York, which we have reason to believe was Esteemed the most Correct Map of that Country at the Time of the said Grant, on which Map is Laid down a Fork or Branching of the River then Called Zuydt River or South River now Delaware River in the Latitude of 41 deg. and 40 min., which Branch we Cannot doubt was the Branch in the Deed from the Duke of York called the Northernmost Branch of the said River, and which in the Deed is said to lye in the Latitude of 41 deg. and 40 min. And from a Carefull Comparison of the several Parts and Places Laid down on the said Map, some of which, more Especially towards the Sea Coast and on Hudson's River We have Reason to believe were at that time well Known. The Distance of the said Branch from the Sea Shore on the South, and the Relative situation of the same with regard to other places and the Lines of Latitude as they appear to be laid down on the said Map at that and other places in the Inland Country: We are of opinion that the said Branch so laid down on the said Map is the Fork or Branch formed by the Junction of the Stream or Water Called the Mahackmack with the River Called Delaware or Fishkill and that the same is the Branch Intended and referred to in the before mentioned Deed from the Duke of York, as the Northern Station at the River Delaware, which Fork or Branch We find by an observation taken by the Surveyors appointed by the Court, to be in the Latitude of 41 deg. 21 min. and 37 seconds.

We are further of opinion that the Northern Station at Hudson's River being by the Words of the said Deed from the Duke of York, Expressly Limited to the Latitude of 41 deg. should be fixed in that Latitude, which Latitude we have caused to be taken in the best manner by the Surveyors appointed by the Court, and which falls at a Rock on the West Side of Hudson's River marked by the said surveyors, being 79 Chains and 27 Links to the Southward on a Meridian from Sneydon's House, formerly Corbet's.

IT IS THEREFORE the final Determination of the Court That the Boundary or Partition Line between the said Colonies of New York and New Jersey be a direct and straight Line from the said Fork at the Mouth of the River Mahackimack in the Latitude of forty-one Degrees twenty-one Minutes and thirty-seven Seconds to Hudson's River at the said Rock in the Latitude of forty-one degrees as above described.

(Signed)

CHA. STEWART,
ANDREW ELLIOT,
ANDREW OLIVER,
JARED INGERSOLL.

Samuel Holland and Charles Morris, Esquires, two of the members of the Court not Concurring in a part of the foregoing determination, viz., That part respecting the Station at Hudson's River, desired to have their Reasons for such their Dissent entered on the Minutes of our Proceedings, which was allowed and they are as follows :

THE Northern Boundary of the province of New Jersey is the matter Submitted to our Consideration and to Ascertain the Extremities of the Partition Line upon Hudson's and Delaware Rivers.

In doing this We are to proceed upon Principles of Justice and Equity, having respect to the Proofs. This we apprehend to be [the] Language and Intent of [our] Commission and It is Necessary It should be so because the Country was but little known at the Time The Grants to the Duke of York were made, and We must of necessity have recourse to the ancient Maps which were in being at Time of making these Grants.

It is difficult to ascertain with precision what Lands passed to the Duke of York by his Grant, Either from the Express Words of the Grant or by any Maps of the Country that appear to us to have been then extant. Nor is it probable That the Duke or his Grantees were better Informed when He Conveyed New Jersey to Berkley and Carteret; the best Lights We have on this Matter are the Maps of Vischer.

The Words relative to the Latitude in the Grants to Berkley and Carteret are Words of Description concerning the Northernmost Branch of Delaware, and We do not find upon Inquiry any Branch in the Latitude mentioned. A Branch nevertheless Seems to be Intended. The Branch nigh to that Latitude is Mahaekamaek and which, from a View of this Ancient Map we are Induced to believe was the North Partition point intended by the Parties, and think in Justice and Equity ought to be so determined, because a Line from Hudson's River to the Branch at Easton, claimed on the part of New York, or to that of the Poughpaxtonk and Mohawk Branches claimed by New Jersey, would Involue many of his Majesty's subjects in Absolute Ruin who hold respectively under Each Government.

It is therefore upon this principle The Point on Hudson's River we apprehend ought also to be fixed, for as It appears by Vischer's Map that the Latitude of forty-one on Hudson's River, which Map We apprehend was the Guide and direction to the Duke in forming his Grants to Berkley and Carteret. This Map, ascertains the Latitude of forty-one on the upper part of the Manhattan's Island.

If the Country therefore was vacant we should not Hesitate in Declaring that the Latitude of forty-one as laid down in the ancient Maps would in Equity be the Station on Hudson's River, and more Especially because We have had abundant Experience in our own Departments to

Observe that the Ancient Geographers find their Latitudes in these parts of the Continent Several Miles more Southerly than are found to be by more modern Observations. In Tenderness therefore to the New Jersey Settlers We are Inclined to a more Northern Station and in settling the place where, Consider that before the Contested Territory was planted, a Place due West of Frederick Phillips Mills gained the Reputation as the Station Point upon Hudson's River, and a Line from this Station which appears to be anciently fixed by the Governments concerned will be the Least detrimental to the Settlers, and one more Northerly will Comprehend many Farms in a populous Neighborhood held under New York by ancient Patents. We cannot help being of Opinion That a Line thence to the Mahackamaek Branch will be the most Just and Equitable of any We can fix upon agreeable to the design of the royal Commission which We imagine will be most Conformable to his Majesty's Gracious intentions to his Subjects in both Provinces.

(Signed) SAMUEL HOLLAND,
CHARLES MORRIS.

The aforewritten is a true Copy of the Original Enters. Ex^d by
(Signed) John Jay, Clk.

—[*N. Y. and N. J. Boundary Papers*¹ (in Library of N. Y. Hist. Soc.), vol. iii; as printed in *N. J. Hist. Soc. Proc.*, viii, 180.

¹Mr. William Kelby, of the N. Y. Historical Society Library, has kindly furnished the following memoranda:

“Of the thirteen Commissioners appointed by the King to settle the N. J. Boundary but four were present on July 18, 1769, viz.: Andrew Elliot, Samuel Holland, Peyton Randolph and Jared Ingersoll. Not having a quorum they adjourned. On the twentieth they organized with Charles Steuart [or Stewart] as President. The other members present were Elliot, Holland, Oliver, Randolph, Ingersoll. Charles Morris appeared for the first time July 25.

“The Commission met *July* 18, 19, 20, 22, 24, 25, 26, 27, 28, 31. *August* 1, 2, 3, 4, 5, 7, 8, 9, 11, 12, 14, 15, 16, 17, 22, 23, 24, 25, 26, 28, 29, 30, 31. *September* 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30. *October* 2, 3, 4, 5, 6, 7.

“Of the seven Commissioners who attended,
Charles Steuart was absent July 18, 19.

Andrew Elliot	“	July 19, August 29, 31, September 13, October 4.
Samuel Holland	“	August 29, 30, 31, September 1, 2, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16.
Andrew Oliver	“	July, 18, 19, October 2.
Charles Morris	“	July 18, 19, 20, 22, 24.
Peyton Randolph	“	September 8. He was present for the last time on September 16, when he probably went home.

Jared Ingersoll attended all the meetings.

“The Court adjourned October 7 to meet at Hartford, Connecticut, December

[IN N. Y. COUNCIL.]

November 29, 1769.

* * * *

Upon reading this day at the Board two Petitions (the first dated the 19th October and the other the 28th Instant)¹ of the Agents appointed on the Part of this Province for managing the Controversy concerning the Line of Division between New York and New Jersey; by the first of which Petitions and the Account thereunto annexed, it appears there was then a Balance due on the Part of this Province of £1236.12..0; And by the Second of the said two Petitions, it appears that some of the Managers will be obliged to attend the approaching Meeting at Hartford, in order to present to the Court their Appeal from the Judgment of the Commissioners in the said Cause to his Majesty in his Privy Council, and to see the Proceedings properly closed, and to discharge the proportion of Expence that will accrue in Consequence of the said Meeting; and that in the Opinion of the said Managers, not less than six hundred Pounds will be sufficient to answer this Purpose— And therefore the Petitioners pray Warrants for the Sums mentioned in the said Petitions respectively—

His Honour the Lieutenant Governor having desired the Opinion of the Board thereon, and the Managers attending, being called in, and asked if a Warrant should issue an Account for £1000, it would be sufficient for the present and induce them to prosecute their Journey to Hartford; they Answered in the Affirmative, the Council thereupon advised his Honour the Lieutenant Governor to issue a Warrant for that Sum, and the following Warrant was signed by the Lieutenant Governor accordingly.

* * * *

—[*N. Y. Council Minutes* (MS.), xxvi, 166.

8. But two members, Oliver and Morris, were present on that day. December 9 and 11, four met, viz.: Elliot, Oliver, Morris, Ingersoll. There being no prospect of a quorum, they adjourned to meet at New York, July 4, 1770. At the appointed time (July 4) Andrew Elliot was the only one present. He made a memorandum that a meeting would be called 'on the first Tuesday in May next,' 1771. Here ends the record with a certificate of the Clerk, John Jay, dated February 6, 1773."—[P.

¹Neither of these Petitions has been found; though a similar one dated September 29, 1769, is on file (*N. Y. Col. MSS.*, xcv, 136). This was for a then further allowance of £1500, which was granted (*N. Y. Council Minutes*, xxvi, 158).—[P.

February 28, 1770.

* * * *

M^r Scott and M^r Kissam in behalf of themselves and the other Managers of the Controversy respecting the Line of Division between New York and New Jersey, having made Application to the Board for Warrants for payment of the Balance stated and due as appears by their two Petitioners now before the Board; the Council were of Opinion that previous to the issuing of any further Warrant, the Accounts be audited, and that Notice be given to the said Managers that they may attend for this purpose on Fryday the ninth day of March next.

—[*N. Y. Council Minutes* (MS.), xxvi, 176.

AT THE COURT AT ST. JAMES'S

[L. s.]

the 27th day of April 1770

Present

THE KING'S MOST EXCELLENT MAJESTY

Arch Bishop of Canterbury * * [and eleven others].

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 7th of this instant in the words following, Viz:—

“YOUR MAJESTY having been pleased by your order in Council of the 14th of February last to refer unto this Committee a Letter to the Right Honourable the Earl of Hillsborough, one of Your Majesty's principal Secretaries of State, dated the 11th of December 1769, from four of the Commissioners who were appointed, amongst others, by Commission under the Great Seal of Great Britain, to ascertain, Settle and Determine the Boundary Line between the Colonys of New York and New Jersey, together with Minutes of the Proceedings of the said Commissioners, at their adjourned meetings on the 8th 9th and 11th of December, 1769,—and your Majesty having been pleased by your order in Council of the 5th of this Instant to refer unto this Committee the humble petition of your Majesty's Colony of New York, by Robert Charles Esquire agent for the said Colony, and William Bayard of New York Esquire now in London one of their agents for managing the Controversy of the Disputed Boundaries, between the said Colony, and the Colony of New Jersey, humbly Praying, that your Majesty will be pleased to direct, that the Commissioners who shall be present at the next meeting or the Major part of them, shall have the same power of Receiving appeals, and of attesting Copies of the proceedings, and of Returning the said Commission

“to your Majesty in Council as is by the said Commission given unto
 “any five or more of the said Commissioners, and that the appeals then
 “do be made, and the Copies of the proceedings so attested, and the
 “Commission so returned, shall be as valid to all Intents and purposes
 “as they respectively would have been, in Case if the appeals had been
 “entered with, and the proceedings had been attested, and the return
 “of the Commission signed, by five of the said Commissioners, * *
 “The Lords of the Committee, in obedience to your Majesty’s said
 “order of reference, this day took the said Letter and petition into
 “Consideration, and were attended thereupon as well by the Agents of
 “New York, as by the agent for the Colony of New Jersey, and do
 “agree humbly to Report as their opinion, upon the joint request of the
 “agents of both of the said Colonys, that it may be adviseable for
 “Your Majesty to direct,” * * [etc., as above proposed].

HIS MAJESTY taking the said Report into Consideration, was pleased with the advice of His privy Council, to approve of what is therein proposed to be done, and accordingly to order, as it is hereby ordered, that the same be duly and Punctually complied with, and carried into Execution;—Whereof the Governors or Commanders in Chief of the said Colonies of New York and New Jersey, for the time being, the said Commissioners, and all others whom it may concern, are to take Notice and govern themselves accordingly.

PHIL: SHARPE.

—[*N. Y. Col. MSS.*, xcvi, 75.

[PETITION.]

To the Honourable Cadwalader Colden Esq^r. His Majesty’s Lieutenant Governor, and Commander in Chief of the Province of New York and the Territories depending thereon in America.

In Council.

The Petition of the Subscribers.

Humbly Sheweth.

That the Agents appointed by the Colony of New Jersey, for managing the Controversy respecting the division Line between that Colony and the Colony of New York; having signified their willingness to settle the Controversy in an amicable manner. And the General Assembly of the Colony of New York approving of such a method, did desire the Agents appointed on the part of New York, for managing the said Controversy, together with the Committee of Correspondence, and M^r. De Noyelles to consult with the Agents of the Colony of New Jersey, on the most salutary Measures to be pursued for the settlement of that Line. That several conferences have been had and a Plan for

the final Settlement of the said Line has been agreed upon. Which Plan if agreed to by the Legislatures of the respective Colonies is to be laid before His Majesty for his Royal approbation.

That the better to carry the said Plan into Execution, it was esteemed absolutely necessary that several Surveys should be made; and James Parker, John Stevens and Walter Rutherford or any two of them, on the part of New Jersey and John De Noyelles, and William Wickham, on the part of New York were appointed by the said agreement to see the said Surveys performed.

And your Petitioners do further shew that they have been Informed that some of the Inhabitants in the County of Orange intend to prevent the said Surveys from being made.

YOUR PETITIONERS therefore most humbly pray that such aid and assistance may be given them in the premises as may be thought just and reasonable.

AND YOUR PETITIONERS as in duty Bound shall ever pray &c.

New York 8 May 1770.

JOHN DE NOYELLES
Wth WICKHAM.

—[*N. Y. Col. MSS.*, xcvi, 81.

[IN N. Y. COUNCIL.]

May 9, 1770.

* * * *

The Petition of John De Noyelles and William Wickham, was presented to the Board and read, setting forth. * * [etc., as above].

On due consideration whereof it is Ordered By his Honour the Lieutenant Governor, by and with the advice of the Council, that a Warrant issue authorizing the several Persons abovementioned, to cause the said Surveys to be performed accordingly; and requiring the Majistrates, Justices of the Peace Constables and other Officers of the said County of Orange, to aid and assist them in the premisses. And it is further Ordered that his Majesty's Attorney General of this Province do prepare the Draft of such Warrant, and lay the same before his Honour the Lieutenant Governor with all convenient speed

A true Copy Examd By

GEO. BANYAR D Cl Con

—[*N. Y. Col. MSS.*, xcvi, 82.

[THE ATTORNEY GENERAL TO THE LIEUTENANT GOVERNOR.]

May it please your Honor

Pursuant to your Honors Order in Council of the Ninth Instant, I have prepared and herewith lay before your Honor the Draft of a War-

rant authorizing John De Noyelles and William Wickham Esquires, in Conjunction with others, to cause some Surveys to be made for the better carrying into Execution a Plan for the Settlement in an amicable Manner; the Controversy between this Province and New Jersey, respecting the Division Line between the two Colonies.

It is not for me to judge of the Propriety of the Governments interposing in this Manner, while the Controversy yet hangs sub judice, to be determined by his Majesty in Council; waving therefore that Consideration, permit me to mention to your Honor that I have some Doubts of the Propriety of this Warrant in other Respects.

1. As it does not express what survey's in particular are to be made, but is general, leaving it discretionary in the Gentlemen, to survey where they please.
2. It is not clear to me, that should the Gentlemen be sued as Trespassers, by the Persons into whose Lands they may go in making these Surveys, that they could justify under this Warrant.

If I may be excused in further giving my Sentiments on this Subject, I would beg leave to suggest to your Honor that (if Government does interpose) I think it would be better to go no farther than to Order the Majistrates and other Officers of the Counties where the Interruption is expected, to be diligent in the Suppressing of all Tumults on the Occasion, and in all lawful Manner to be aiding and assisting the Gentlemen in making these Surveys.

I have the Honor to be

with great Respect

Sir

Your most obedient

and very humble servant

J. T. KEMPE.

New York 11: May 1770.

To His Honor

The Lieutenant Governor.

—[*N. Y. Col. MSS.*, xcvi, 85.]

[COMMISSION.]

[May 16, 1770.]

By the Honourable Cadwallader Colden Esquire his Majesty's Lieutenant Governor and Commander in Chief of the Province of New York and the Territories depending thereon in America.

To all to whom these presents shall come Greeting—

Whereas John De Noyelles and William Wickham Esquires by their Humble Petition presented to and read before me in Council on Wed-

nesday the Ninth day of this Instant Month of May, did set forth,
 * * [as already recited.] KNOW YE therefore that by and with
 the Advice and Consent of his Majesty's Council for the said Province,
 I have Authorized and empowered, And by these Presents do Authorize
 and empower them the said John De Noyelles and William Wickham,
 in Conjunction with all or any two of them the said James Parker,
 John Stevenson and Walter Rutherford on the Part of New Jersey, to
 cause such Surveys to be made and performed as they shall Judge
 necessary *in order to carry into Execution the Plan so as aforesaid agreed
 upon for the final Settlement of the said Division Line between the
 Colony of New York and the Colony of New Jersey ;*¹ hereby strictly
 requiring and commanding all Magistrates Justices of the Peace, Con-
 stables and other his Majesty's Officers of and in the said county of
 Orange, *to be Diligent in suppressing of all Tumults on the Occasion,
 and by all lawful ways and means to be aiding and assisting in the
 Premises, to the Persons so Authorized to make such Surveys as aforesaid.*

Given under my Hand and Seal at Arms at Fort George
 in the City of New York the sixteenth day of May in
 the Tenth Year of his Majesty's Reign and in the Year
 of our Lord one thousand seven hundred and Seventy.

By his Honour's Command

CADWALLADER GOLDEN

GEO BANYAR D Secry

A true Copy of the Record Examd this 21st May 1770

By me

G^r BANYAR D Secry

—[*N. Y. Col. MSS.*, xcvi, 87.]

[IN N. Y. COUNCIL.]

July 25, 1770.

* * * *

The Report of Whitehead Hicks, William McAdam and David Van
 Horne, three of the Auditors appointed by Order of this Board of the
 9th March last [*N. Y. Council Minutes*, xxvi, 178], to audit the
 Accounts of the Agents for managing on the Part of the Colony of
 New York the Controversy respecting the Line of Partition between
 this Province and the Colony of New Jersey, was laid before the Board

* * * *

And the said Report being read, the Board were of Opinion that the
 Account of the said Henry Holland which amounts to £72, being for
 Ninety days Attendance at 16^s per day, ought to be allowed; which

¹The words in *italics* were not in the original draft prepared by the Attorney-
 General.—[P.]

added to the aforesaid Sum of £1466..9..3¼ renders the whole Amount of the Services still unpaid £1538..9..3¼.

And whereas on the 29th day of November last a Warrant issued to the said Agents or Managers of the said Controversy on the part of this Colony, for the Payment to them of £1000; £600 whereof it was suggested by the said Agents or Managers, would be necessary to defray the Expences of the then approaching Meeting of the Commissioners at Hartford, at which the said Agents or Managers would be obliged to attend, to present to the Court their appeal from the Judgment of the Commissioners, to his Majesty in his privy Council; and that in Case the said Sum of £600 should prove more than sufficient to Answer the Expences of such Meeting, the Surplus should be applyed towards the prosecuting of the said appeal : And whereas the Expences that accrued on the part of this Colony at the Meeting of the Commissioners at Hartford as aforesaid, are included in the Account exhibited in the Report of the Auditors aforesaid, and the said appeal cannot at present be further prosecuted.

It is therefore the Opinion of this Board that the Agents or Managers of the said Controversy on the part of this Colony, do apply the whole of the said Sum of £1000 towards the Discharge of the said sum of £1538..9..3¼, any former Minute or Opinion of this Board to the Contrary notwithstanding; and to enable the said Agents or Managers to discharge the Residue thereof: It is ordered by his Honour the Lieutenant Governor with the Advice of the Council, that a Warrant or Warrants issue to them for the remaining sum of £538..9..3¼.

In pursuance whereof the following Warrant was accordingly signed by his Honour the Lieutenant Governor, Vizt.

N^o: 2031. To John Cruger, Henry Holland, Frederick }
 Philipse, John Morin Scott, William Bayard }
 and Benjamin Kissam Esquires, to be by them }
 applyed towards defraying the Moiety of the } 538. 9..3¼.
 Joint Expense that hath accrued on the Con- }
 troversy relating to the Partition Line between }
 this Colony and the Colony of New Jersey the }
 further Sum of

* * * *

—[N. Y. Council Minutes (MS.), xxvi, 191.

[IN COUNCIL OF EAST N. J. PROPRIETORS.]

At a Council of Proprietors of the Eastern Division of New Jersey, held at Perth Amboy, Sept. 14th, 1770.

The agents for managing the controversy on the boundary line

between this Colony and the Colony of New York, delivered in a report in the following words:

“The agents for managing the controversy of settling the division line, with the colony of New York, Do Report that immediately after the last stated meeting Messrs. Stevens, Cuyler and Rutherford met the agents of New York and signed the agreement, a copy of which had been laid before the Board with the only alterations respecting the manner of applying for the acts of the legislature, and inserting the names of Messrs. Stevens, Parker and Rutherford as the persons who were to attend the running of the line on the part of New Jersey, and Messrs. Wickham and De Noyelles, on the part of New York.

“That in consequence thereof the 22nd of May last Messrs. Stevens and Parker with Anthony Dennis their Surveyor, met Messrs. Wickham and De Noyelles with James Clinton their Surveyor at Orangetown, where many of the adjacent inhabitants were assembled and were utterly averse to having the proposed line run, but on the contrary with many threats declared they were determined to prevent it, on which being apprehensive they might be obstructed if they begun on Hudson’s River and Mr. De Noyelles declaring if they were he would proceed no further, they all agreed to begin on the Station Mahackamack hoping the people opposing would be better informed on their return. Accordingly they set out but from the badness the weather did not begin before the 25th in the evening when they set off from the Station aforesaid and proceeded on a course S. 53 deg. 15 min. E. from day to day to the 7th of June when they were stopped a few chains across Saddle River by at least 50 men. They then concluded to set over to the line run and measured last summer by Clinton and Dennis, from Phillips’ Mill to Minisink Island, which was done. They afterwards crossed Hudson’s River and being shown the latitude of 41 deg. observed last summer, they finished the traverse from thence to the Mills, and returned to Garret Hoppen’s to protract their work. On the 14th, Mr. Wm. Bayard met them at Orangetown, and the inhabitants at last agreed that the line should be run, on which the Surveyors began where they left off and fell about seventy links southward of the marked rock at the latitude of 41 degrees.

“Accordingly on the 20th they set off from the said rock on a course N. 54 deg. 35 min. W. and continued running the same to the day of July when they finished at Mahackamack, and fell four chains and fifty links southwards of the Station, and as a mark is set up at every mile, offsets can be easily made to the true line. The Surveyors in company with Messrs. Rutherford and Wickham then went to Goshen where they finished two maps of their work, signed by them both, one of which is now laid before the Board. And further report that dur-

ing the running of said line they had frequent meetings with the inhabitants near the same and took an account under what government and by what title they held their possessions, and that the New Jersey agents have the accounts of the possessions under New Jersey to the northwards of the line, and the New York agents have the account of the New York possessions to the southward of said line. They now beg leave to observe to the board that as by the agreement application is to be made to the Legislature for a law in conformity to the same and as the assembly is now called to meet at this place the 26th inst., they request the opinion of the board in what manner further to proceed."

Which (report) being considered is approved and the board is of opinion that advertisement be immediately inserted in the Newspapers and set up in the most public places on the line in the counties of Bergen and Sussex, of the intended application to the General Assembly for obtaining an act to confirm said agreement, and Lord Stirling is requested to prepare a draft of a petition to the Assembly for that purpose. It is recommended to the above agents to meet the agents on the part of New York to confer with them, that their actions may be similar in their application for the like law.

—[*East N. J. Proprietors' Minutes*, vol. B, p. 91 ; as printed in *N. Y. Sen. Doc. No. 17, 1875, p. 18.*

[IN N. Y. COUNCIL.]

January 22, 1771.

* * * *

His Excellency Communicated to the Board a Memorial¹ of John Morin Scott Esquire one of the Agents appointed on the Part of this Colony for managing the Controversy relative to the Partition Line between this Colony and the Colony of New Jersey, which was read, setting forth his reasons for detaining, in Order to be applied to *Future Services*, the Monies which he has received as one of the said Agents, and which are now remaining in his Hands: and praying his Excellency as his Majesty's Representative in this Colony, to advise the Memorialist whether he ought to consent that the said Monies so remaining in his hands be applied to the Discharge of *Past Services*.

¹This Memorial (*N. Y. Col. MSS.*, xcvi, 150) covering nearly thirteen foolscap pages, incidentally throws considerable light upon the controversy, especially with reference to the proposed appeal by the N. Y. agents. This appeal, however, was not fully prosecuted, partly for the want of a quorum of the Commissioners at Hartford, and partly from a growing disposition to accept the decision given by the Commissioners, which seems to have prepared the way for the final statutes to this effect passed by both colonies.—[P.]

WHEREUPON and on full Consideration of the Matter his Excellency and the Board were of Opinion that the Memorialist should apply the Monies so remaining in his Hands to the payment and Discharge of *Past Services* as declared in the Minutes of Council of the 25th July last, his Excellency and the Board not doubting that the Agents for managing the said Controversy will make Application, and the Council declaring their Readiness to Advise his Excellency to issue Warrants for payments of the necessary Expences, that shall accrue on any future Service whatsoever respecting the Settlement of the said Line: And it is Ordered that the said Memorial be filed.

* * * *

—[*N. Y. Council Minutes* (MS.), xxvi, 205.

[COLONY OF NEW YORK.]

An ACT for establishing the Boundary or Partition Line between the Colonies of New-York and Nova-Cæsarea or New-Jersey, and for confirming Titles and Possessions.

Pass'd the 16th February, 1771.

WHEREAS the Boundary or Partition Line between the Colonies of *New-York* and *Nova-Cæsarea* or *New-Jersey*, from the Station on *Hudson's River*, to the Station on *Delaware River*, not being duly ascertained, and the Extent of their respective Jurisdictions remaining uncertain, and the due and regular Administration of Government in both Colonies being by that Means greatly obstructed; the respective Legislatures of both the said Colonies did, by Acts for that Purpose passed, concur in submitting the Title and Property of the Lands affected by the said Boundary or Partition Line in both Colonies, to such a Method of Decision as his most gracious Majesty should think proper by his Royal Commission, or otherwise, to institute and appoint; of which Acts his Majesty was pleased to declare his Approbation, and by his Royal Commission under the Great Seal of *Great-Britain*, bearing Date the seventh Day of *October*, in the seventh year of his Reign [1767], did authorize and appoint certain Persons therein named, or any five of them, to be his Majesty's Commissioners, for ascertaining, settling, and determining the Boundary aforesaid, between the said two Colonies. *And whereas*, a sufficient Number of the Commissioners named in the said Commission, on the seventh Day of *October*, in the Year of our Lord one thousand seven hundred and sixty-nine, did determine, that the Boundary or Partition Line, between the said Colonies of *New-York* and *New-Jersey*, should be a direct and straight Line from the Fork or Branch formed by the Junction of the Stream or

Waters, called the *Mahackamack*, with the River called *Delaware* or *Fisk-Kill*, in the Latitude of forty-one Degrees, twenty-one Minutes and thirty-seven Seconds, as found by the Surveyors appointed by the said Commissioners to a Rock on the West Side of *Hudson's River*, marked by the said Surveyors in the Latitude of forty-one Degrees, being seventy-nine Chains and twenty-seven Links to the Southward, on a Meridian from *Sneydon's House*, formerly *Corbet's*; from which Determination, the Agents for both the said Colonies appealed to his Majesty in his Privy Council. *And whereas*, several Tracts of Land to the Northward of the said Partition Line, so decreed by the said Commissioners, have been heretofore taken up or sold, and hitherto and still are held and possessed, by Virtue of Titles derived from and under the Government of *New-Jersey*, or the general Proprietors of the same, or some or one of them, *to wit.* * * * *And whereas* several other Tracts of Land to the Southward of the said Partition Line, so decreed by the said Commissioners, have been hithertofore patented, and hitherto and still are held and possessed by Virtue of Titles derived under the Government of *New-York*, *to wit,* * * * *And whereas*, it is conceived just and equitable, that the present Possessors of the said Lands, on each Side of the said Partition Line, who have not only purchased the same for a valuable Consideration, but many of them have laid out all their Substance in the Improvement thereof, should be secured in the Enjoyment of the Fruits of their Labour and Industry.

I. BE IT THEREFORE ENACTED by his Excellency the Governor, the Council, and the General Assembly, and it is hereby Enacted by the Authority of the same, That the said Partition Line, so decreed by the said Commissioners, is and shall forever hereafter remain and be the Boundary and Line of Partition, between this Colony and the Colony of *New-Jersey*.

II. AND BE IT FURTHER ENACTED by the Authority aforesaid, That *Samuel Gale*, *William Wickham* and *John De Noyellis*, Esqrs, or any two of them, shall be, and hereby are appointed Commissioners, to join with such as may be appointed on the Part of the Colony of *New-Jersey*, to ascertain and mark the said Partition Line, so that it may be sufficiently known and distinguished; and the said Commissioners are hereby directed and required, to mark the before-mentioned Rock on the West Side of *Hudson's River*, marked by the Surveyors, in the Latitude of Forty-one Degrees, with a straight Line throughout it's Surface, passing through the Place marked by the Surveyors, and with the following Words and Figures, *to wit.* LATITUDE 41° NORTH, and on the South Side thereof the Words NEW-JERSEY, and on the North Side thereof, the Words NEW-YORK; and to mark every Tree that may

stand in the said Line, with five Notches and a Blaze on the North-west and South-east sides thereof, and to put up Stone Monuments at one Mile distance from each other along the said Line, and to number such Monuments, with the Number of Miles the same shall be from the before-mentioned Marked Rock, on the West Side of *Hudson's River*, and mark the Words *NEW-JERSEY*, on the South Side, and the Words *NEW-YORK*, on the North Side of every the said Monuments ; the one Half of the Expence whereof shall be paid by this Colony, out of any Monies which may be in the Treasury, upon Warrant to be issued by the Governor, or Commander in Chief of this Colony, for the Time being, with the Advise and Consent of his Majesty's Council. Provided the Sum so to be drawn for, does not exceed the Sum of *One Hundred Pounds*.

III. AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That the several and respective Patentees, Vendees, Possessors, and Claimants, of all and every the said Tracts of Land, to the Northward of the said Boundary or Partition Line, which are now held and possessed, in Virtue of Titles derived under the Government of *New-Jersey*, as above described, and their Heirs and Assigns, shall severally hold and forever enjoy, the Property of all, and any, and every of the said Tracts of Lands so as aforesaid respectively purchased and possessed, as fully and in the same manner, to all Intents and Purposes whatsoever, as if the same had by Virtue of this Act been determined to be within the Colony of *New-Jersey*, without any Let, Suit, Disturbance or Molestation, of any Person or Persons, claiming or to claim, by, from or under any Patent or Patents, or by Virtue of any Title derived under the said Government of *New-York*.

IV. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED *by the Authority aforesaid*, That it shall and may be lawful to and for any Person or Persons, claiming Titles under the said Government of *New-Jersey*, or the General Proprietors of the same, or some or one of them, to any of the aforesaid Lands or Tenements, hereby intended to be secured to the Purchasers and Possessors, under the said Government of *New-Jersey*, to the Northward of the said Boundary or Partition Line, to commence, sue, prosecute, and maintain any Writ, Suit, or Action for the Recovery of their Rights ; this Act being only designed to confirm the Titles to such Lands to the Northward of the said Partition Line, as are in Manner aforesaid actually held and possessed under the Government of *New-Jersey*, against all Claims of any Person or Persons, claiming or to claim, by virtue of any Title or Titles, derived under the said Government of *New-York*, but not to determine the particular Rights of the Claimants of such Lands under the Government of *New-Jersey*.

V. PROVIDED ALWAYS, That this Act shall not be in Force or take Effect, until the Governor, or Commander in Chief, for the Time being, the Council, and the General Assembly of the Colony of *New-Jersey*, do pass an Act similar to this Act, and thereby confirm the Titles of such Persons, as hold Lands under the Government of *New-York*, to the Southward of the said Partition Line, in the same Manner as those holding lands under the Government of *New-Jersey*, to the Northward of the said Line, are hereby secured ; nor until his Majesty shall have given his Royal Assent, both to this Act, and such other Act to be passed by the Governor, or Commander in Chief, for the time being, the Council, and the General Assembly of the Colony of *New-Jersey*, as aforesaid.

—[*N. Y. Laws*, 1693-1773 (Van Schaack's ed.), p. 602.

[COLONY OF NEW YORK.]

CHAP. MCCCCLXXX.

An ACT to amend an Act, entitled, *An Act for submitting the Property of the Lands which are held or claimed by Grants under the Great Seal of this Colony*, [etc., as above.] * * *

Pass'd the 16th February, 1771.

WHEREAS the Number of Agents appointed in said Act are the equal Number of Six : And whereas they may on a Division be equally divided, and by that Means, the Trust reposed in them by said Act be greatly frustrated ; for Prevention whereof for the future,

I. BE IT ENACTED * * * That to the Number of Agents appointed by the said Act, entitled, *An Act for submitting the Property* [etc., as above]; * * * the following Persons be appointed as an additional Number of Agents, to wit, *Benjamin Seaman, James Jauncey, and Simon Boerum*, Esqrs, who shall act in Conjunction, and be vested with all the Powers and Authorities, to all Intents, Constructions, and Purposes whatsoever, as the other Agents have, that were originally appointed by the aforesaid Act ; any Thing in the said Act to the contrary hereof in any wise notwithstanding.

—[*N. Y. Laws*, 1691-1773 (Van Schaack's ed.), p. 607.

[IN N. Y. COUNCIL.]

August 21, 1772.

* * * * *

His Excellency laid before the Board the Copy of his Majesty's Order in Council dated the 27th April 1770, relative to the Transmission of the proceedings of the Commissioners appointed by the King's Commission

for settling the Division between this province and the Colony of New Jersey, and desired the Opinion of the Council as to the Steps necessary to be taken for carrying the said Order into Execution.

The Council humbly advised his Excellency to Order a Copy of his Majesty's said Order to be served on Andrew Elliot Esquire one of the said Commissioners, that he may take the proper Measures for carrying the same into Execution, and that his Excellency do send Notice hereof to M^r Franklin Governor of the province of New Jersey.

* * * *

—[*N. Y. Council Minutes* (MS.), xxvi, 315.

[COLONY OF NEW JERSEY.]

Chap. DLXIV.

An ACT for establishing the Boundary or Partition Line between the Colonies of New-York and Nova-Cæsarea or New-Jersey, and for confirming the Titles and Possessions.

Passed Sept. 26, 1772.

WHEREAS * * His Majesty was pleased to declare his Approbation, and, by his Royal Commission under the Great Seal of *Great-Britain*, bearing Date the seventh Day of *October*, in the seventh Year of his Reign, did authorize and appoint certain Persons therein named, or any five of them, to be His Majesty's Commissioners for ascertaining, settling, and determining the Boundary aforesaid, between the said Colonies. AND WHEREAS a sufficient Number of the Commissioners, named in the said Commission, on the Seventh Day of *October*, in the Year of our Lord One Thousand Seven Hundred and Sixty-nine, did determine, * * [as already recited in document of above named date].

* * * *

Sect. 1. BE IT THEREFORE ENACTED * * That the said Partition Line, so decreed by the said Commissioners, is and shall for-ever hereafter remain and be the Boundary and Line of Partition between this Colony and the Colony of *New-York*.

2. AND BE IT FURTHER ENACTED * * That *James Parker, John Stevens* and *Walter Rutherford*, Esquires, or any two of them, shall be, and hereby are appointed Commissioners to join with such as are appointed on the Part of the Colony of *New-York* to ascertain and mark the said Partition Line so that it may be sufficiently known and distinguished; * * [etc., almost verbatim with Section II of the New York act of Feb. 16, 1771].

* * * *

5. PROVIDED ALWAYS, That this Act shall not be in Force, or take Effect, until His Majesty shall have given his Royal Assent both to this Act and a similar Act passed by the * * Colony of *New-York*, * * [referring to that of Feb. 16, 1771].

—[*N. J. Laws*, Allinson's Compilation, p. 368; Paterson's ed., p. 22.

Earl of Dartmouth to Governor Tryon.

Whitehall 8th December 1772.

* * * *

I am very glad you took occasion in passing thro' New Jersey, to concert with Gov^r Franklyn, the steps proper to be pursued in order to the transmission of a regular return of the determination of the Commissioners for ascertaining the boundary line between the two provinces, and they are very much to be commended for having made provision for quieting the possessions of the bona fide purchasers and settlers on the borders of the partition line. Had the same attention been shewn in the case of the possessions of the purchasers and settlers under the grants made by New Hampshire, within the district between the Rivers Hudson and Connecticut, those unhappy disturbances, of which you have so repeatedly complained, would I think not have happened.

* * * *

—[*N. Y. Col. Doc.*, viii, 337, 338.

[COLONY OF NEW YORK.]

An Act to facilitate the Return of his Majesty's Commission under the Great Seal of Great Britain, and the proceedings thereon, for settling the Boundary Line between this Colony and New Jersey.

[Passed February 6, 1773.]

Whereas his Majesty's Commission under the Great Seal of Great Britain for settling the Boundary Line between this Colony and New Jersey hath not hitherto been returned, but remains together with all the proceedings of the Commissioners thereupon, in the Hands of John Jay Esquire the Clerk of the said Commissioners, who is doubtful whether he can legally deliver up the said Commission and proceedings to any Person not authorized under the Great Seal of Great Britain, or by Act of Legislature to receive the same.

Be it therefore Enacted by his Excellency the Governor, the Council and the General Assembly, and it is hereby enacted by the Authority of

the same, That it shall and may be lawful to and for the said John Jay, and he is hereby authorized and required forthwith to deliver to the Commissioners named and appointed in and by his Majesty's said Commission or to either of them, the said Commission and the Acts and proceedings of the said Commissioners thereupon, together with all the Maps, Evidence, and papers which remain in his Custody relative thereto, in order that a Copy of the same proceedings and proofs may be transmitted to his Majesty in privy Council.

City of New York the 5th February 1773.
In the thirteenth year of his Majesty's Reign.
General Assembly for the Colony of New York.
This Bill having been read three Times,
Resolved That the Bill do pass.

By Order of the General Assembly
JOHN CRUGER, Speaker

City of New York 6th of February 1773.

I assent to this Bill enacting the same
and order it to be enrolled

W^m Tryon

—[*N. Y. Laws* (MS.), in Office of Sec'y of State; title, only, Van Schaack's ed., p. 718.

Governor Tryon to the Earl of Dartmouth.

New York. 7 Feb^r 1773.

My Lord,

I received last evening, from M^r Elliot, His Maj^{ty}'s Commission under the seal of great Brittain, and the proceedings had thereon, relative to the partition line between the Govern^{mt} of New York and New Jersey, requesting, I would transmit the same to His Maj^{ty}. M^r Jay, clerk to the Commiss^{ns} refusing to deliver up the Commission and papers unless authorized by an express order of the Crown under the great Seal, or act of the Legislature, I yesterday passed a Bill of that tenor, a copy of which is herewith transmitted, with the Commission and papers, also Gov^r Franklyn's letter to me inclosing an Act of the Assembly of New Jersey, which was obtained in consequence of the conference I had at Amboy last September with the Gov^r and other parties concerned in the premises—Should these proceedings meet with his Maj^{ty}'s approbation, we may, I hope, soon receive the Royal confirmation to the territoria Jurisdiction between the two Govern^{mts}.

Your Lord^{sh} will observe the Great Seal is entirely defaced and reduced to a small Lump of wax, which is the case of almost all the great seals sent from Great Brittain, occasioned by its being chiefly composed of

Rosin which is reduced to powder by the friction of the voyage. Were the seals to be formed of a proper mixture of Bees wax and Turpentine without any Rosin, they would arrive uninjured; a circumstance not without its weight as the validity of those instruments have been doubted to which the Great seal has been affixed and defaced, like the one to this Commission.

I am with all possible respect and Esteem,

My Lord,

Your Lord^{sh}'s most obedient Servant

W^M TRYON.

—[*N. Y. Col. Doc.*, viii, 349.

AT THE COURT AT ST. JAMES'S
the 1st Day of September 1773.

[L. s.]

Present

THE KING'S MOST EXCELLENT MAJESTY

Archbishop of Canterbury * * [and eight others.]

Whereas the Governor of His Majesty's Colony of New York, with the Council and Assembly of the said Colony, did in February 1771, pass an act which hath been transmitted in the Words following — Viz:

“An Act for Establishing the Boundary or Partition Line between the Colonies of New York and Nova Cæsarea or New Jersey and for Confirming Titles and Possessions.”

* * * *

Which Act, together with a Representation from the Lords Commissioners for Trade and Plantations thereupon, having been referred to the Consideration of a Committee of the Lords of His Majesty's most Honorable Privy Council for Plantation Affairs, the said Lords of the Committee did this Day Report as their opinion to His Majesty, that the said Act was proper to be approved — His Majesty taking the same into Consideration, was pleased, with the advice of His privy Council, to Declare his approbation of the said act; and pursuant to His Majesty's Royal Pleasure thereupon Expressed, the said Act is hereby Confirmed, finally Enacted and Ratified accordingly — Whereof the Governor Lieutenant, Governor or Commander in Chief of His Majesty's said Colony of New York for the time being, and all others whom it may concern are to take Notice and Govern themselves accordingly.

STEPH: COTTRELL.

—[*Parchment* in N. Y. State Library (3 large sheets).

[WARRANT.]

By the Honorable Cadwallader Colden Esquire his Majesty's
Lieutenant Governor * *

In Council the Twenty-eighth Day of October 1774.

By Virtue of an Act of the Legislature of this Colony passed the
the Day of Pay unto John De Noyelles, Samuel
Gale and William Wickham Esquires, or the Majority of them, or their
Order, the Sum of One hundred Pounds to be by them applied towards
defraying the one half equal Part of running the Division Line between
this Colony and the Colony of New Jersey. And for so doing this shall
be your Warrant

Given as above—

To Abraham Lott Esquire }
Treasurer of the Colony of New York }

By Order of his Honor in Council.

—[*N. Y. Col. MSS.*, ci, 21.

[FIELD NOTES OF SURVEY OF] JERSEY LINE. RUN IN 1774.

Thursday October 20th 1774 I¹ Left home & got to Tappan.

21st

Begun as near as we Could to where we formerly Set a
Stake & heap of stones for the first Mile from the Station
Rock on the North side of Geesner Field when we formerly
Run the Line in 1770 — & took a Range nearly S 54° E. but
we fell 1 Ch. 83 Lks. South of a Stake & heap of Stones we
formerly set on the Top of the Bank on a Course N 54° 35'
W. from the Rock by the River.

22nd

Begun at the Same Place we did Yesterday and offset [N^d 1
Ch. 83 Lks. & Ranged S. 54° E. but we fell 60 Lks. S^d of
Said heap of Stones on the top of the Bank being 68 Ch. 47
Lks. from where we Begun our Range.

Returned to the End of 68 Ch. 47 Lks. & Continued our
1 Mile } Range N. 54° 15' W. at 11 Ch. 53 Lks. more being one Mile
from the Stake & the Stones on top of the Bank: Set a
Stake & heap of Stones about it on the North side of Gees-
ners field & put one Natch in the Stake.

At 80 Chains Ended in Tappan Timber Swamp Set a Sassa-
2 D^o } frax Stake marked with two Natches Close by a small black
Birch Sapling marked N^o II - - - -

¹This seems to be James Clinton.--[P.

At 36 Ch. 75 Lks. Crossed Sparr Kill - D^o at 67 Ch. Crossed Tappan Road - S^d. of Cornelius Myrs House Stopped at 70 Ch. at Night.

1774¹ October 23rd

Sunday

3 Miles } 24th Begun at the End of the said 70 Chains & Run Thence the same Course N 54° 15' W. 10 Chains to the End of the Third Mile in Cornelius Myers field where we Set a Hickorie Stake with Stones Round it marked with three Natches; the Westernmost part of a Learge Stone or Rock Bearing S. 4° W. 1 Ch. 41 Links Distance

4 D^o } N. 54° 15' W. at 27 Ch. a Road at 30 Ch. L S^d. Blaufields house at 80 Chains Ended in Widdow Herrings Field Left a Button-wood Stake with Stones Round it marked with four Natches

5 D^o } N. 54° 15' W. at 37 Chains 50 Links a Road about 2 Ch^s S^d of a house at 80 Chains Set a Red Oak Stake with five Natches - 23 Lks. back of a red Oack Sapling marked on three Sides & one Natch over the blaze on the S. E. side

6 D^o } N. 54° 15' W. at 33 Ch. 20 Lks. Hackingsack River about 90 Lks wide at 61 Ch. 20 Lks. the middle of a Barrack of hay — at 61 Lks L N^d Iacobus P^{erry}'s house ab^t 2 Chain Distance at 80 Chains Left an Ash Stake marked with 6 Natches in M^r. Perrys Woods 50 Lks. beyond a Hickorie tree Blaz^d in the Line

1774. October 24th

7 Mile } N. 54° 15' W at 28. Ch. 85 Lks. the S. W^{ly} Corner of Casparus Mabees Land & the N. W. Corner of Isaac Perry's Land being a Stake & heap of Stones 6 Feet N^d of our Line at 69 Chains about 1 Chain S^d of Iohn Perry's house at 80 Chains Set a Sassafrax Stake with Stones Round it marked with 7 Natches. one Rod from the Woods & 40 Lks. East of the Line.

N. 54° 15' W. at 10 Chains Stopped at Night & went Back to Iacobus Perry's to Lodge. — — —

25th D^o

8 Miles } At 30 Ch. a Mudy Brook - - - at 35. Ch. 30 Lks. between two white Rocks in Martins Steels New Land about 5 Ch. S. W. of his house at 73 Ch. 50 Lks. in Pascak Brook at 80 Chains set a hickorie Stake with stones about it marked with Eight Natches ~~~~~ Marked a Poplar or white wood S^d & a

¹This "1774" is repeated at the top of each page of the original Field Book, and its repetitions are retained in this copy.— [P.

hickorie Sapling facing S^d Stake 10 Feet Distance in a Timber Swamp

- 9 D^o - } N. 54° 15' W. at 5 Ch. 60 Lks. a Road at 45 Ch. L N^d. John Maybees house. — at 80 Ch. Marked a black Oak Sapling with N^o IX on the S. E^r Side in thick Saplings & put Stones Round it ab^t 2 Ch. Eastward of a Field
- 10 D^o } N. 54° 15' W. 80 Chains Ended in Field Set a Stake marked with N^o X & piled Stones about it about 8 Chains from Iacob Acason's house being his field
- 1774 Octo^{br} 25th
- 11 Miles } N. 54° 15' W. at 23 Chains to a branch of Sadle River at 75 Ch. 50 Lks. Sadle River — at 80 Chains left a poplar Stake marked with N^o XI & heap of Stones about it - - - - -
- 12 D^o } N. 54° 15' W. at 49 Ch. Matoktemack Brook at 53 [S^d Hendrick Shelders house at 60 Ch. 50 Lks. a Brook — at 80 Ch. set a Hickorie Stake with N^o XII & Stones Round it ab^t 4 Ch. Westward of a Road Lodged at Peter Bushes $\frac{1}{2}$ Eastward of 12 Miles End. —
- 26th
- D^o 13 } N. 54° 15' W. 80 Chains Set a Chesnut Stake N^o XIII with Stones Round it in Woods ab^t $\frac{1}{4}$ of a Mile S^d of —
- 14 D^o } N. 54° 15' W. at 10 C. $\frac{1}{2}$ L N^d a house ab^t 2 C. Dist. across two Barracks at 36 Ch. a bog ab^t 10 Ch. N^d of Coonrod Friscines at 80 Chains set an Ash Stake with N^o XIV & Stones Round it in Woods ab^t 3 Rods N. E^d of a Rock about ten feet high~~~~~
- 15 D^o } N. 54° 15' W. at 43 Ch. 5 feet S^d of the N. End of Philip Vors Barn at 39 Ch. L N^d 1 Ch. 20 Lks. Philip Vors house at 55 Ch. in harverstraw River at 76 C. the Post Road — at 80 Chains in Derick one maker or chard being 17 Lks. on a Course N. 68 E. from the S. W. Corner apple Tree at a Stake N^o XV
- 16 D^o } N 54° 15' W. at 34 Ch. in Ramapo River — at 80 Chains marked a Spanish Oak tree with N^o XVI amongst Notorious Rocks
1774. October 26th
- N. 54° 15' W.
- At 14 Ch. 15 Lks. on the Top of Mountains - - - at 80 Ch. marked a with oak Sapling with N^o XVII put
- 17 Miles } Stones on the Northwest Side of Said Sapling - - - - This mile Mountainous and Rocky ——— Stoped at Sundown & Lodged at Buskirks

27th

Begun at the 17 miles End & Continued our Range N 54° 15' W. at 44 Ch. Square N^d about 12 or 15 Ch. high a Steep Rocky Mountain - - - at 60 Ch. in a Swamp at 68 C. the W. Edge of S^d Swamp - - - at 80 Ch. Set up a Chesnut Stake with N^o XVIII in Negro Guy's Improvement & put Stones Round it N. E^y of his house

18 D^o }

N 54° 15' W. at 3 C. L S^d about 2 Ch. Negro Guys house at 24 C. a Brook at 56 Ch. 50 Lks. the East edge of Vandusens Pond - - - at 68 Ch. 50 Lks. the West Edge of said Pond at 70 C. L S^d ab^t 2 C. a house - - - at 80 C. Left a Beass wood Stake N^o XIX with Stones round it amongst Rocks near a foot path.—

19 D^o }

N. 54° 15' W. at 38 Ch. S^d of a Little house that is North of Shepherds Pound—at 80 Ch. Set a Chesnut Stake & heap of Stones about it N^o XX Stopped at Night & Lodged at Sluts having about 3 Miles to walk —

20 D^o }

28th

At Sluts a Rainy Day - - - -

29th

Begun at the 20th Miles End with Dennis Morris in Comp^t and Run thence N. 54° 15' W. at 32 C. Ring-wood Road at 48 Ch. Ring-wood brook—about 60 Lks. wide—at 80 C. set a Red Oak stake marked with N^o XXI at the Top of a Mountain within 1 C. 50 Lks. of a place Supposed to be dug for Iron oar - - put Stones Round the Stake —

1774. October 29th }

N. 54° 15' W. at 40 Ch. L N. E^d about 35 Ch. Nobles Forge at 80 Ch. Set a Chesnut State maked with N^o XXII on the North side of Rocks about 20 Ch. West of S^d Forge being in View of part of y^e Pond and several Houses

22 Mile }

N. 54° 15' W. at 80 Ch. left a Chesnut Stake — marked with N^o XXIII and Stones about it in Low Land about 20 Ch. N^d of M^r. Beech's house

23 D^o }

October 30th }

Lodged at M^r. Beech's last Night & begun at the above 23 Miles End — Thence

24 D^o }

N. 54° 15' W. 80 Ch. set a Dog wood Sapling Stake-marked with N^o XXIV and put Stones Round it in a Rocky Country

- 25 D° } N. 54° 15' W at 17 Ch. a Brook about 20 Lks. wide at 80 Chains Set a Chesnut Stake marked with N^o. XXV and Stones Round it in Sight of the Long Pond.
N. 54° 15' W. at 40 C. the East side of the Long pond Here crossed the Long & Lodged at Lyon's
- D^o 31th } Found the Distance to be across the Pond 36 Ch. 50 Lks. by a plot which takes 3 C. 50 Lks. to make a Mile where
- 26 Mile } we set a Chesnut Stake marked with N^o XVI¹ & left stones about it
- 1774 October 31st.
N. 54° 15' W. at 28 Ch. 30 & 36 Lks. a brook that falls Down the Mountain — at 63 Ch. on the top of Long pond
- 27 Miles } Mountain at 66 Ch. in a Swamp at 80 Ch. left a Birch Stake marked with N^o. XXVII and put Stones Round it in water.
N 54° 15' W at 43 Ch. Long house Kill ab^t 50 Lks wide running N. E^d at 80 Chain set a Hickorie Stake marked with N^o XXVIII on the Top of the Hill ~~~ here left off at night
- 28 Miles } 1st Nov^m 1774.
We Lodged at Voorhouses and the Standfords last Night & this Morning Continued our Range for 6 Miles across Long Swamp and found our Course was N. 60° W. then quit & went Back to the Long house Kill to find the Mistake & Lodged at M^r Cambles
- 2^d
At Voorhouses & Standfords & then went to the Long house-Kill & Measured our Distance from the Line we formerly Run which was above 17 Ch. Then Run back S 54° 15' E Several Chains & took our which left our former Line Southerly a Little at our 28th Mile
- 3rd
Thence from our 28th. Mile's End Continued our Course — at
- 29 D^o } 23 Ch. a Little brook at 54 a Rocky Hill - - - at 80 Chains set a Chesnut Stake N^o XXIX in a field & set Stones round it
- 30 D^o } N 54° 15' W as we Suppose ——— at 20 Ch. a Little Brook between two Houses at 80 C. Set a Stake — marked with N^o XXX and Stones Round it —
- 1774 Nov^r 3rd
at 6 Ch. a Brook — at 80 Ch. set a Chesnut Stake
- 31 Miles } N^o XXXI in a new Cleared Field near the S. W^l corner within 1/2 Chain
Continued our Range at 17 Ch: Double Kill at 80 Ch.

¹ So in original. — [P.]

32 Miles } marked a white Oak Stake N° XXXII 25 Lks. Back from the Mile's End the Mile being in the high Way ---

4th D°

Continued our Course which proved to be N 57° 30 W at 17 Ch. Wawayander Kill at 80 C. Set a Sassafrax Stake N° XXXIII & stones Round it —

33 D° }

34 }

Continued our Course at 34 C. the East Edge of Long Swamp at 8 Ch. Set a hickorie Stake N° XXXIV in Woodes

35 D° }

Continued our Course at 36 C. Wawayanda Creek at 80 C. Set a Stake -N° XXXV in Den Deckers Field but as our Course was N 57° 30 W. we ofset N 30° 43 E. 34 C. being Calculated for 7½ Miles

Thence we went to Deckers to Lodge

1774. November 5th

36 Miles

Thence Begun at the End of the 34 Ch. End & Run N. 54° 15' W. at 80 Ch. set a Chesnut Stake N° XXXVI by a Little Hollow on the East side of Pochunk Mountain

37 D° }

N 54° 15' W. at 80 Ch. Set a Chesnut Stake N° XXXVII on the North side of a hollow in Pochunk Mountain

38 D° }

N 54°. 15' W at 80 Chains Set a Stake marked with N° XXXVIII in the Drowned Lands near the East side Lodged at S. Kings

6th D° }

39 D° }

Begun at the Stake at the End of 38 Mile but found our Compass Pointed on a Course N 57°. 30 W. but Run N 54°. 15 W. at 49 C. an Iland at 69 C. 30 Lks the Walkill at 80 C. Set a Stake marked with N° XXXIX in the West-erly side of the Drowned Lands

40 D° }

N 54°. 15' W. at 34 C. the Road — at 80 C. marked a white Oak Stake with N° XL in thick Brush & woods

N 54°. 15' W. at 5 Ch. L S^d about 8 C. Kimber's house at 23 C. Kimber's Brook stoped at 45 C. & went to Meekers to Lodge

7th D° }

41 D° }

Begun at the Place we left off Last Night at 80 Ch. Set a Stake in a wheat Field Marked with N° XLI abt 4 Ch. S^d of Clarks house & Road

42 D° }

N. 54°. 15' W at 80 C. Set a Stake marked with N° XLII on the Top of a high hill & Stones

1774 Nov^m 7th }

43 Miles }

N 54°. 15' W. at 35 C. Wood Chuck Brook — at 80 Chains set a Sassafrax stake with N° XLIII in a Low Timber Swamp

- N 54° 15' W. at 19 Ch. 50 Lks. Lamas hook Brook -- at 80
44 D° } C. Set a Maple Stake marked with N^o. XLIV and Stones Round it
 N 54°. 15' W. At 30 Ch. the Lindakillilu — at 70 Ch. Stopped at Night & Lodged at Abraham Middaghs
- 8th D° }
45 D° } Begun at the 70 Ch. End at 80 Chains Set a Stake marked with N^o. XLV and Stones Round it
 N 54°. 15' W. at 80 Chains set a Chesnut Stake marked with
46 D^o } N^o. XLVI on the Top of Miniscink Mountains
 N 54°. 15' W. at 80 Ch. set a Stake marked with N^o. XLVII
47 D° } in a Little hollow
 N 54° 15' W. at 70 Ch. Westfalls Mill Brook -- at 80 C. Set a
48 D° } Stake being black Oak marked with N^o. XLVIII
 N 54°. 15' W. at 28 Ch. Ended 1 Ch. of Mahaghameek Stopped & Lodged at Simion Westfall's
- 9th D° }
 Begun at the 28 Ch. End & Run
 S. 35°. 45' W. 14 Chains
 N. 54. 15' W. 6 D°
 N. 35. 45' E. 56 Lks.
 N. 54. 15' W. 4 C. to the Station point
1774. N^o. 11th
 Begun at the 48 Miles End Thence S. 35° 16' W. offset 13 Ch. 11 Lks. to a Stone Lettered on the North west side with New York and
- 48th Mile } N^o. 48 —————
47th D° } at 47 Mile
46th D° } at 46 D° on Minisinck Mountain near the Top
 No^m. 12th }
 at 45 Mile Set a Stone on the S. E^{ly} Side of Minisinck near the foot to the South Side of a Little Field about 8 or 10
45th D° } Ch. S^d of a house one Middagh
44th D° } at 44 Mile Set a Stone in Low Ground or Timber Swamp
43rd D° } at 43 Mile Set a Stone in Low Timber Land & Stoney
42^d D° } at 42 Mile Set a Stone on the S. E^{ly} Side of a high hill
 At 41 Set a Stone on the N. E^{ly} Side of a Small hill & Road
41st D° } about 14 C. S. W^d of Clark's house
 At 40 of set S. 35°. 15' W. 9 Ch. 40 Lks. in Kimber's field
40th D° } & Set a Learge Stone N. Y. & N. J. and put Stones Round it
- 1774.

- At 39 Mile offset S 35°. 15' W. 8 Ch 93 Lks. through Swany
 39th Mile { along the Edge of the Drowned Lands and set the Mile Stone
 about 1 Ch. 50 Lks. on the upland in thick Yong Timber
 Nov^r 14th
- Begun at the 38th Mile — thence S. 35°. 15' W. 8 C. 46
 38th D^o { Lks. to a Stone about 6 Feet Long Standing about Six Rods
 S. W^d of a point of upland on the Easterly Side of the
 Drowned Lands
- 37th } Offset from y^e 37th Mile's End S 35°. 15' W. to where we Set
 the 37th Mile Stone Standing in a Little hollow on P'ochunk
 Mountain about 2 C. E^y of a little Swamp
 Nov^r 15th
- 36th D^o { Offset from the 36th Miles End S 35°. 15' W. 16 C. 54 Lks.
 and Set the Mile Stone on Pochunk Mountain on the S.
 E^y Side of the Top about 20 Ch. & Mark'd Several Trees
 facing it
- 35th } at 35 Mile made an Offset S. 35°. 15' W. 16 C. 7 Lks. where
 we placed the 35th mile Stone in Pochunk Drowned Lands
- 34th D^o { at 34 Miles offset N. 26th 15' E. 13 C. to where we sett the
 Stone on the East Edge of a small Swamp
- 33^d } offset N. 26. 15. E. 9 Ch. 81 Lks. where set the 33^d Mile Stone
 at the Foot of Lime Stone Rocks about 12 C. N. W. of
 Willet De Key's house
 1774
- 32 Mile } Offset N 26°. 15' E. 5 Ch. 75 Lks. to the Northe Side
 of M^rCamble's Orchard 5 Ch. 75 Links North of the Road
 November 16th a Rainy Day ~~~
 November 17th
- 31st D^o } Offset from the 31st Mile N. 26°. 15'. E. 1 Ch. 72 Links and
 set up a Stone in the West Edge of a New Cleared Field
- 30th D^o } At 30 Miles offset 2 Ch. 33 Lks. & set up a Stone in a Rocky
 Hollow about 80 Links Westward of a Road
- 29th D^o } Off-Set 6 Ch. 38 Lks. Set a Stone on a hill in a Field
- 28th D^o } Off-Set 10 Ch. 45 Lks. and Set a Stone on the S. W. Side of
 a Hill about 10 Ch. N. E^d of one Browns house
- 27th D^o } Off-Set S. 35°. 15' W. 12 Ch. 24 Lks and Set a Stone in Rocky
 Land on the Westerly Side of a Great Swamp
- 26th D^o } Off- S. 35°. 15' W. 11 Ch. 77 Lks. which would go in the
 Long Pond but we Set a Stone about 50 Lks. from the Pond
 being 26 Miles & 1 Ch. on the West Side thereof
- 25th D^o } Off-Set S. 35°. 15'. W. 11 Ch. 28 Lks & Set the Stone at the
 North End of a Little Swamp & to the S. W. of a Rocky
 Hill where there is a Stone house

- Off-set S. 35° . 15' W. 10 C. 80 Lk. & Set the Mile Stone at
 24th D^o } the foot of a hill Close by a Coal Kill
- Nov^r 19th }
- Off-Set from the 23^d Mile S. 35° . 15' W. 10 Ch. 33 Lks. &
 23^d D^o } set the Stone in thick, Brushy, Swampy Land about 10 Ch.
 N^d of Beech's house
- 1774
 Off-Set - S 35° . 15' W. and put a Learge Stone on
 22^d Mile } the S. E. side of a very Rocky hill the Stone being so hard it
 Could not be well Cut
- Off-Set S. 35° . 15 W. 9 Ch. 39 Lks in a Old Road & set the
 21st D^o } Stone near the West Side of a high Hill in thick young
 woods
- Off-set S. 35° . 15 W. 8 Ch. 93 Lks. in a piece of Meadow
 20th D^o } belonging to Ringwood Iron works & set the Stone
- Off-Set S. 35° . 15'. W. 8 Ch. 35 Lks. between Shepherd's
 19th D^o } Pond & Vandusen Pond but nearest the last and set the
 Stone
- 18th D^o } off-Set S 35. 15 W and Set a Stake in Negro Guy's
 field about 5 Ch. S^d of His house
- 20th November
 at Sluts
- 21st
 Off-Set S 35° . 15' W. 7 Ch 48 Lks - - - and set a Stone on
 17th D^o } the N^d Side of a Clove
- Off-Set 35° . 15'. W. 7 Ch. and Set a Stone in a Clove near the
 Easterly Side of Ramopough Mountain
- Off-Set S 35° . 15' W. 6 Ch. 53 Lks. in Onemakers [Wanne-
 15th Mile } makers] Field near his Line N^d of Conrod Fredrick's house
 about 5 Ch. on the W^y Side of the Post Road
- 14th D^o } Off-set S 35° . 15' W. 6 Ch. 6 Lks. and Set a Stake in Woods
 —[*Field Book* (MS.) in N. Y. State Engineer's Office, xvii, 461.]

[SURVEYORS' CERTIFICATE.]

We James Clinton of Ulster County in the Province of New York & Anthony Dennis of Monmouth County in the Province of New Jersey surveyors Employed by the Commissioners appointed by acts of Assembly of the said Provinces for ascertaining and marking the Partition Line between the said Colonies Do Certify that we have run the said Partition Line with the utmost care and Exactness we were Capable of that in runing said Line we found in several parts thereof the Needle

attracted which we Corrected by staking that from the Station Rock Marked on the West side of Hudsons River in the Latitude of forty one Degrees to the fork or Branch formed by the junction of the Stream or Waters Called the Machockemack with the River Called Delaware or Fishkill the Course according to the Best of our Judgment is North fifty four Degrees and forty minutes West as the Magnetic Needle now Points and that this Distance between the two stations is forty eight mile and thirty eight Chains · In Witness whereof we have hereunto set our hands and seals the twenty sixth Day of November in the year of our Lord one thousand seven hundred and seventy four

Sealed & Delivered

in the presence of

Barent Martlings

Jacob Garrabrants

JAMES CLINTON

ANTHONY DENNIS

—[*N. Y. Col. MSS.*, xcvii, 137; *N. Y. Council Minutes (MS.)*, xxvi, 427; *N. Y. Senate Doc.*, 1875, No. 17, p. 28.

[N. Y. COMMISSIONERS' REPORT.]

In pursuance of an Act of Assembly of the Colony of New York entitled "An Act for establishing the Boundary or Partition Line between the Colonies of New York & Nova Cæsaria or New Jersey, & for confirming Titles & Possessions."

And of one other Act of Assembly of the Colony of New Jersey entitled "An Act for establishing the Boundary or Partition Line Between the said "Colonies of New York and Nova Cæsaria or New Jersey & for confirming the Titles and Possessions." We William Wickham & Samuel Gale two of the Commissioners in the first of the said Acts mentioned & John Stevens¹ & Walter Rutherford two of the Commissioners in the other of the said Acts mentioned Do hereby certify, that we have ascertained & marked the Partition Line in the said Acts mentioned so that it may be sufficiently known and distinguished. In doing this Business we have been greatly assisted by James Clinton and Anthony Dennis Surveyors by us appointed for that purpose as will more particularly appear by their Certificate hereunto annexed. That the Rock on the West side of Hudson's River marked by the surveyors in the said Acts mentioned in the Latitude of 45°, we have marked with a straight line throughout its surface passing through the place marked by the said Surveyors & with the following words and figures to wit Latitude 45° North & on the south side thereof the words New Jersey

¹Mr. Stevens' signature does not appear at end of report, as here copied from the original MS. records; but it is found in its order, as below in brackets, in the printed copy given in *N. Y. Sen. Doc.*, 1875, No. 17, p. 28.—[P.]

and on the North side thereof the words New York. That we have marked Trees agreeable to the said Acts standing in the said line with a Blaze & five notches under the same. And that we have erected stone Monuments at one mile distance from each other along the said line except the Monument number twenty-six, which by reason of the long Pond we were obliged to place one chain further from the station on Hudson's River. And we have numbered the said Monuments from the West side of Hudson's River, beginning with Number one, & ending with Number forty eight, & have marked the words New York on the North side of each of the said Monuments & the words New Jersey on the South side of each of the said Monuments.

In Witness whereof we have hercunto set our hands & seals the thirtieth day of November one thousand seven hundred & seventy four,

Sealed & Signed }
in presence of }

Rob^t Hull

Ch^r Wickham Crooke

W. WICKHAM L. S.

SAM^l GALE L. S.

[JOHN STEVENS.]¹

WAL^r RUTHERFURD L. S.

—[*N. Y. Col. MSS.*, ci, 35; *N. Y. Council Minutes* (MS.), xxvi, 426; *N. Y. Sen. Doc.*, 1875, No. 17, p. 27.

[IN N. Y. COUNCIL.]

March 22, 1775.

* * * *

The following Warrant was Signed by his Honor with the Advice of the Council.

N^o: 2303. To Samuel Gale and William Wickham Esquires Surviving Commissioners appointed by An Act of the Legislature of this Colony passed the 16th February 1771 for ascertaining and marking the Partition Line between this Colony and the Colony of New Jersey, the Sum of £100..0..0

—[*N. Y. Council Minutes* (MS.), xxvi, 428.

The Partition Line between the States of New York and New Jersey, from the Delaware to the Hudson, thus ascertained and marked while these States were yet colonies, after almost a century of controversy, has since 1775 been recognized as the actual boundary. By a re-survey of the line made in 1874 under the direction of Professor George H. Cook, New Jersey State Geologist, it was found that the line is not a straight line or the arc of a great circle, but rather a

¹ See last preceding foot-note.—[P.]

magnetic rhumb line, with its curvature southward of a straight line and also of a true rhumb line. The deviation from a straight line at its greatest extent amounts to almost half a mile; and the area thus gained to New York may be estimated at from six to eight square miles. It also appeared from the said re-survey that one-third of the monuments originally marking the line were no longer existing. It was accordingly proposed by the authorities of New Jersey that the two States should unite in a rectification of the line, and in causing durable monuments to be erected thereon. The former part of this proposal was not favorably entertained by New York, and the original line has recently been acknowledged by duly authorized commissioners of both States as the valid boundary between them. The original monuments were also, in 1882, replaced by new and durable ones, under the direction of the said commissioners. For these recent proceedings, reference is made to *N. Y. Senate Doc. No. 17*, of 1875, which is mainly a reprint of Professor Cook's report to the Governor of New Jersey, dated Sept. 8, 1874; also to *N. Y. Senate Doc. No. 20*, of 1882, and *N. Y. Assem. Doc. No. 161*, of 1883. It only now (1883) remains for the Legislatures of the two States to ratify the final action of the commissioners, and thus to establish, beyond all further question, the validity of the line as ascertained and marked in 1774.

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