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BOUNDARY LINE.

EXTRACTS

From the Report of the Commissioners appointed by the British Government, July 9th, 1839, to Explore and Survey the Territory in Dispute between the Governments of Great Britain and the United States of America, under the second Article of the Treaty of 1783.

SOURCE OF THE ST. CROIX—*Error of the Commission of 1794.*

Disregarding the obvious propriety of choosing the most western source of the river, they fixed upon the north branch; and this in the face of the most extraordinary evidence against their proceeding. For the Scoodeag, which is the known Indian name of the St. Croix, runs from its most western source to its mouth, under the same name of Scoodeag, whilst its northern branch, which comes in at the upper falls, bears the separate name of *Cheputnaticook.* The westernmost sources of the Scoodeag are in a low, flat, lake country, consisting of many lakes running into each other, and hence the Indian name given to that part of the country and to the river; for *Scoodeag* means *low, swamp meadow.* Now the very continuity of its name should have convinced the Commissioners of the impropriety of deviating from that line. But the British Commissioner was overruled. He had, in conjunction with the American Commissioner, chosen an American gentleman, upon whose intelligence and integrity he relied, for the third Commissioner.—This gentleman was, in point of fact, an umpire to decide all differences which might arise; and the American Commissioner having claimed a stream called *Magaguadavic*, lying still further to the east than the Cheputnaticook, to be the true St. Croix, the British Commissioner consented to a compromise, the result of which was, that although they made a correct decision as to the identity of the St. Croix, they practically decided to adopt the north source, as if it had been the most western source. That these gentlemen went out of the line of their duty, as prescribed in the Treaty of 1794 is evident; and much future expense and misunderstanding would have been saved, if their report had been restricted to the identification of the river. This will be seen by looking to the map.

The Saint John, like all other large rivers, occupies the lowest level of the country through which it flows, and holds its course through a valley of considerable breadth, which below Mars' Hill extends, in a modified manner, some distance to the westward of the bed of the river. The nearer a due *North Line* could be brought to the St. John, the better the chance was that it would run up that valley, whilst the further it lay to the west, the greater was the certainty of its missing that valley and of its more speedily meeting the highlands of the country. And this has in practice proved to be the case; for the exploratory north line drawn from the monument, reached no Highlands until it came to Mars' Hill; whilst if the line had started from its true point, the westernmost waters of the Scoodeag, it would have reached the "Highlands" about twenty-five miles south of Mars' Hill, near to the point where they separate the St. Croix (a tributary of the Roostuc) from the waters of the Meduxnakeag, which flows into the St. John. These Highlands are distinctly visible from the American post at Houlton, and are about fifteen miles, magnetic west, from that post. This deviation of the Commissioners from their duty, which has had a most unfortunate influence upon the settlement of this great question, was besides highly prejudicial in another respect to the British rights. If it should be ultimately assented to, it will lose to Great Britain more than one million of acres of land.

In 1798, an explanatory Article was added to the Treaty of Amity of 1794, releasing the Commissioners from their obligation to conform to the provisions of the Vth Article of the Treaty, in respect to particularizing the latitude and longitude of the source of the River St. Croix; and declaring, amongst other things, that the decision of the said Commissioners "respecting the place" ascertained and described to be the source of the said River St. Croix shall be permanently binding on "His Majesty and the United States."

Upon this, we beg to remark, that it has been made sufficiently manifest, that the Treaty of 1783 intended that the point of departure of the due north line should be at the westernmost source of the St. Croix, the description of the western limits of Nova Scotia having been regularly maintained unaltered in all the documents from the grant of 1621. The proceedings of Congress, also, as found in the secret journals, always speak of "the Boundary settled between Massachusetts and Nova Scotia," and of the line being to be settled "agreeably to their respective rights."

To all these considerations, we add the important fact, that in the Vth Article of the Treaty of Ghent, it is stipulated that the ascertainment of the north-west angle of Nova Scotia is to be made "in conformity with the provisions of the said Treaty of Peace of one thousand seven hundred and eighty three." A fact which further confirms the general obligation to consider the most western waters of the St. Croix as the true Boundary of Nova Scotia.

The irresistible conclusion then presents itself, that it is indispensable to the faithful execution of the IId Article of the Treaty of Peace of 1783, that the commencement of the *due north line* be drawn from the north-westernmost source of the St. Croix; and that whatever mistake may have hitherto crept in, during the attempt to settle this question, the two Powers, in order to execute the Treaty, must at last go back to that point. It is true that Her Majesty's Government may be considered, looking to the explanatory Article, as pledged to abide by the decision of the Commissioners under the Treaty of 1794, yet this pledge was given before the proceedings of those Commissioners, were known to be in violation of the Treaty of 1783, and when the nature of their compromise was not understood. That compromise was conceded in every respect. The acknowledgement that the river decided upon was the true St. Croix, could not have been avoided. The ample means of identifying it have long been public. But in return for that acknowledgement, Great Britain is asked, by the selection of a wrong point for the source of that river, to lose a territory of more than one million of acres of land, and has been subjected, in consequence of that erroneous decision, to much expense and trouble, by the delay in the execution of the Treaty of 1783.

If, then, the United States had ground for refusing to be bound by the adjudication of the King of the Netherlands, under the Convention of the 29th of September, 1827, which by Article VII. of the Convention was to be taken as "final and conclusive," because his adjudication was a compromise, and not a decision upon points submitted to him, and was not conformable to the conditions required by the Treaty of 1783, how much better ground has Great Britain to refuse its sanction to the proceedings of the Commissioners of 1794, now that they are discovered to be in violation of the Treaty of 1783, at the same time that they are the main cause of the difficulties which have lain in the way of the execution of that Treaty!

* * * * * *

We have endeavoured in the preceding pages to explain how, from very inadequate causes, the public in the United States have been led to entertain such strong but erroneous opinions of the right of that country to the disputed territory.

In regard to the ancient occupation of the country, we have shown that the concessions made by the government of France in 1684, of lands lying north of the 46th degree of north latitude, were ordered to be held of the Governor of Quebec.

But the Fief of Madawasca* was granted by the French Government in 1683, one year before this last period, and eight years before the Charter of William and Mary was granted to the colony of Massachusetts in 1691; and although that Fief is held under its original title to this day, the United States nevertheless claim it as lying within the disputed territory. Other concessions of a similar character exist; and it could be proved that Canadian and New Brunswick jurisdiction obtained uninterruptedly in the disputed territory up to the year 1814, without any adverse claim having been put in by the United States.

With respect to the due North Line, which was run in 1817 and 1818, and which we have traced on the Map, a very general misunderstanding prevails respecting it. The line never was intended to have any validity as a practical execution of the Treaty, or to be any thing but an experimental and exploratory line, to aid in the examination of the country for discovering the "Highlands" of the Treaty. The joint commissioners, indeed, did, as we have already stated, authorise "an actual survey" of a due North Line from the source of the St. Croix, and that survey was undertaken; but it was almost immediately afterwards abandoned, in consequence of the imperfection of the method adopted, and on account of the disagreement of the surveyors. As respects the due North Line, then, nothing has been accomplished by the two Governments. Nevertheless the United States, acting as though the due North Line had been surveyed, and agreed upon by both parties, and as though any part of the disputed territory adjacent to it had been formally ceded to them by Great Britain, have already taken possession of the country to within twelve miles of the town of Woodstock in New Brunswick, and have erected a strong military post and barracks at a place called Houlton, which has been for some time garrisoned by a detachment of the United States army.

There is yet another point to which we desire to draw the attention of your Lordship.

Had the award of the King of the Netherlands been accepted by both countries, the Treaty, nevertheless, could not have been executed; for when the line along the "*thalweg*" of the Saint John had got to its termination up the St. Francis, and had taken its western departure from thence, according to that award, it never would, as we have heretofore shewn, have come within forty to fifty miles of the "north-westernmost source of the *Connecticut River*," where the award of the King of the Netherlands directs it to go.

It is also to be remarked, that a fluctuating state of things such as existed in former times in that part of North America, of which the territory now in dispute with the United States forms a portion, could not fail to produce, at different periods, numerous maps, where the lines of demarcation between parties claiming adversely to each other, would be laid down in such a manner as to enforce, as much as possible, the claims of parties interested in the establishment of those several lines. Previously to the war with France in 1756, when the great conflict for power in North America commenced between the nations, many maps of North America were produced in England, in which the British claims were extended by lines of demarcation to the very edges of the waters falling into the River St. Lawrence. These grew out of the war titles which have been spoken of; and new editions of such maps appeared, even after the grants made by the British crown had been virtually revoked by the various Treaties of Peace which have been enumerated. The British Colonies in North America were especially interested in keeping the French to the left bank of the St. Lawrence: and it was probably more with a view to the protection of those Colonies, than for the sake of mere dominion, that the British Government claimed all the country east of the Kennebec, and north to the St. Lawrence. The claims of Great Britain, to that extent, are recorded upon various maps; but, nevertheless, we do not find that, either previously to the expulsion of French power from North America, when the whole country fell under the rule of the King of Great Britain, or subsequently to the Peace of 1763, the Northern Boundary of Massachusetts was ever settled. This being the case, the existence of maps published in England from the Peace of Utrecht in 1713, down to the present times, exhibiting the claims of Great Britain carried out to the River St. Lawrence, or even representing a due North Line, reaching to suppositious "Highlands" near to the St. Lawrence, would furnish no evidence in support of the claim of Massachusetts to extend its territory to such Highlands; even if such Highlands existed at all, or if they could be traced from the north-westernmost head of Connecticut River, whither they are required by the Treaty to go.

By the Treaty of Utrecht in 1713, Great Britain acquired by cession from France "all Acadie according to its ancient limits." These limits extended to the forty-sixth degree of North latitude. By the peace of 1763, France ceded to England the whole of her possessions north of the forty-sixth degree, to the River St. Lawrence. The title of England had then, therefore, become clearly established to the whole of that country, whilst no evidence appears of the right of Massachusetts to any part of it.

The Boundary of Massachusetts had never been settled previously to the peace of 1783; and nothing passed upon that occasion which could give to Massachusetts any reason to suppose that her boundary would then be enlarged beyond her charter limits. The policy of England necessarily changed with the acknowledgement of the independence of her old colonies, and her protection was now peculiarly due to others rather than to those who had voluntarily estranged themselves from her connexion.

Yet the people of the United States, asserting claims so directly injurious to British Colonial interests, have not scrupled, by their Legislative authorities, to use the most violent language upon this subject, calling into question the integrity of Great Britain, and representing the just assertion of her right to the territory in dispute, as an act which dishonoured her.* Imputations to this effect accompanying statements of the American claims, founded upon such objectionable grounds as we have exposed in this Report, have been diligently circulated throughout the United States, and in all the Capitals of Europe.

All the material arguments and facts which have occurred to us, being thus brought under the notice of your Lordship, we proceed to close our Report with a summary of the foregoing pages.

I.—We have in the first place, endeavoured to show that we should have been acting inconsistently with the information which we possess, and with the facts which we have to report, if we had adopted the ground which the official British agents who have preceded us in the investigation of this Boundary Question relied upon as essential to the maintenance of the British view of the Question; namely—that the Boundary intended to be established by the second Article of the Treaty of 1783, was to be a line distinct from the southern Boundary of the Province of Quebec as established by the Royal Proclamation of 1763. In opposition to that erroneous impression, we have felt it our duty to show that those lines were one and the same thing. Indeed, the very definition of the point in the Treaty, viz, the coincidence of the due North Line with the Highlands, proves that of the Commissioners for negotiating the Treaty to be one and the same thing with the Southern Boundary of the Province of Quebec, for if Nova Scotia had extended further to the north, or to the west, than the point where the due North Line was to intersect the Highlands, that point would have been the north-east angle of the State of Maine, but could not have been the north-west angle of Nova Scotia. For the true north-west angle would have been still further to the north or to the west, at whatever point the western boundary of Nova Scotia touched the southern boundary of the Province of Quebec.

II.—We have given some historical notices of the periods when the land on the River St. Lawrence and on the Bay of Fundy were first discovered and settled by the French, with a view to show that it was long posterior to the settlements thus made by the French, that any part of those countries came into the occupation of the English; that every such occupation was incidental to a state of war; and that, invariably, on the restoration of peace, every part of those countries so occupied, was restored to France, down to the peace of Utrecht in 1713.

III.—We have shown that, in 1603, the Sieur de Monts received letters patent from his Sovereign, granting him the country now called Maine and New-Brunswick, to the 64th degree of north latitude; in which letters patent the word "*Acadie*" was first used as the name of the country; and that, at the peace of Utrecht in 1713, France made her first cession to England of any of her possessions in that part of North America, ceding for ever to the British crown "all Acadie according to its ancient limits."

IV.—We have endeavoured to show by various concessions granted by the French Government to its subjects, north of, and adjoining to, the 46° parallel of north latitude, that the Government of Quebec, when possessed by France, had jurisdiction as far south as that parallel.

V.—By our Map A, we show that a line drawn along that parallel, connects the head waters of the Chaudiere River, with a point not more than five miles north of that branch of the St. Croix River, where a monument has been erroneously placed, and with a point not more than forty-two miles north from the most western waters of St. Croix.

VI.—We have endeavoured to show that the claims of the Colony of Massachusetts Bay to extend its territory to the St. Lawrence, in virtue of the grant of the Sagadahoc country by Charles II. to the Duke of York in 1664; in virtue of the renewal of that Charter in 1674; and in virtue of the Charter granted by William and Mary in 1691, are without weight: seeing that the grant of 1664 was revoked at the treaty of Breda in 1667; and that the title to the Sagadahoc country accruing by the renewal of the grant in 1674, as well as the title to Nova Scotia, both of which countries were annexed to the colony of Massachusetts Bay in the grant of 1691,—were revoked by the Treaty of Ryswick in 1697, which restored to France all she had possessed before the declaration of war.

VII.—It is shown that the Charter of William and Mary of 1691 does not extend the grant of the Sagadahoc country to the St. Lawrence, but only grants the lands "between the said country or territory of Nova Scotia and the said River of Sagadahoc, or any part thereof," so that the extreme interpretation of this grant would require for the northern limit, a line passing between the head water of the St. Croix River and the source of the Sagadahoc or Kennebec Rvier, which would nearly coincide with a line passing between the western waters of the St. Croix and the Highlands which divide the Kennebec from the Chaudiere.

VIII.—We show that the northern boundary of the colony of Massachusetts' Bay had never been settled; that the right of that colony to go to the St Lawrence was denied by the British Government soon after the peace of Utrecht in 1713, and has never since been admittted; that as late as 1764, a question was entertained by the Lords of the Board of Trade whether Massachusetts had any right whatever to the lands in the Sagadahoc territory; and that at the peace of 1783, that question had not been settled.

We also adduce the opinions of some distinguished Americans that Massachusetts had no claim to go to the St. Lawrence.

IX.—It is shown that there is no evidence of any expectation having been entertained on the part of the revolted colonies, that they would be permitted, at the restoration of peace, to have their boundary extended north of the River St. John; that on the contrary, the Congress in 1782, instructed the negociators to have, if possible, the north-west angle of Nova-Scotia established at the western source of the St. John River; and to propose that river, from its source to its mouth, as the boundary between the two countries; and that upon the Government of Great Britain refusing to admit their proposition, they abandoned it, and agreed "to adhere to the Charter of Massachusetts Bay and to the St. Croix River mentioned in it."

To be concluded next week.

*The Fief of Madawasca is a tract of land entirely distinct, and at some distance from the settlement of Madawaska. These last are constituted by a continuous succession of small farms on each branch of the river St. John, extending from within five miles of the Great Falls of the St. John, to even the mouth of the St. Francis.

* We have spoken in strong terms in our Report of the popular opinion which obtains in the United States, as to the right of that country to the territory in dispute; but the positiveness of that opinion cannot surprise us when we consider the tone of many of the official documents which have emanated from some of their legislative bodies upon this subject, and the language held by the press in that country.

IMPERIAL PARLIAMENT.

THE REGENCY.

Lord Melbourne on Monday, announced a message from the Queen; which the Lord Chancellor read to the Peers —

"Victoria R.

"The uncertainty of human life, and a deep sense of duty to my people, render it incumbent on me to recommend to your consideration a contingency that may hereafter take place, and to make such provision as may in any event secure the exercise of the Royal authority. I shall be prepared to concur with you in such measures as may appear best calculated to maintain, unimpaired, the power and dignity of the throne, and thereby to strengthen those securities that protect the rights and liberties of my people."

It was ordered that the message be taken into consideration next day.

In the House of Commons, Lord John Russell appeared at the bar with the same message; which the Speaker read to the Commons.

Lord John Russell said it was intended to introduce a bill into the other House of Parliament, founded on the message which had just been read; but as it would not appear respectful to delay the acknowledgement of Her Majesty's gracious message until the bill came down from the Lords, he should at once move an address to the Queen, to assure her Majesty that the House would concur in a measure of the kind intimated in the message.

An address, moved by Lord John Russell, was accordingly agreed to.

On Thursday the Lord Chancellor introduced the Regency Bill into the House of Lords. The great importance of the measure, he observed justified a departure from the general practice of their Lordships' House, which was to postpone even a statement of the contents of a Bill until it came to a second reading. He was anxious that the House should be made acquainted with the provisions of this bill before it was put into their hands. In the first place, however, he would call attention to the provision made immediately before her Majesty's accession, for the further contingency that the King of Hanover might become, during his residence in his dominions abroad, the Sovereign of these realms. Provision was then made for securing the succession to that illustrious person. It was for a different contingency—one which their Lordships would be most unwilling to contemplate, and which would not occur if the prayers of the nation were heard—that the Legislature had now to provide. The heir of the Throne, apparent or presumptive, might be an infant of tender years; and it was the duty of Parliament to take care that in such an event, the powers and prerogatives of the Crown should be efficiently exercised. The first question which occurred was, to whom should be confided the important post of exercising the Royal powers during the Sovereign's infancy? It was a satisfaction to have to refer to the Act passed in 1830, under very similar circumstances, with the unanimous approbation of both Houses. By that Act, her Majesty's illustrious mother was appointed sole Regent until her daughter should attain the age of eighteen years. It was then thought that the surviving parent was the most fit guardian of the infant; and he hoped the House would be of the same opinion still. The powers of the Regent must then be considered; and he begged their Lordships to bear in mind, that they had not to make provision for a short period during the temporary infancy or absence of the Sovereign, but for a number of years, during which it was necessary, in order to maintain the balance of the constitution, that the power and authority of the Crown should be fully maintained and exercised, and was no larger than the constitution required. It would therefore be most unwise to impose fetters and restrictions on the Regent; whose personal weight must, from his position, be less than that of a monarch reigning in his own right. One species of restriction, however, ought to be imposed: the Regent would not be empowered to assent to any act altering the succession of the Crown, or the laws which relate to the uniformity of worship in the Church of England, or the rights of the Church of Scotland. Having now stated the principal provisions of the Bill, he concluded by expressing a strong hope that it would receive unanimous support.

The bill was brought in read a first time, and ordered to be read a second time on Monday; all without a word of remark from any Peer besides the Lord Chancellor.

REUNION OF THE CANADAS.

The third reading of the Canada Government bill having been moved by Lord Melbourne on Monday.

The Duke of Wellington rose to declare that the alterations made in Committee had not changed his opinion of the bill—

He would recommend their Lordships to allow the measure to go back to the other House of Parliament for further consideration. With respect to what had taken place in relation to the question of a local responsible government in his opinion, although they could not have had the opinion of the Legislature of Lower Canada, they ought to have had the unbiassed opinion of the Legislature of Upper Canada, who had assisted her Majesty's Governor in subduing the rebellion, and driving out what he would call the foregn enemy. They ought to have had their opinion, unbiassed by any influence; and measures ought fairly to have been taken to make known as early as possible the opinion of her Majesty's Government, and that in the most authoritative and authentic manner, on the subject of that question, which if it did not originate in the published Report of one of her Majesty's servants, was at least considerably excited and fomented by that Report. And it was therefore peculiarly incumbent on the successor of the noble Lord to state the matter aright in the most authoritative manner. It appeared that some officers of the Government in Upper Canada had thrown up their offices because they could not support the measure of the Government. Among those was the Solicitor General. Shortly afterwards there was a contested election; and the new Solicitor-General stood as a candidate for the representation of Toronto, openly declaring himself favourable to the principle of local responsible government. Now he would remind their lordships, that the Solicitor-General, notwithstanding this explanation of his principles—notwithstanding the publication of the despatch of the 14th October —was retained in his office. What therefore, could be expected under such circumstances—that gentleman neither resigned his office nor being dismissed—but that local responsible government should be encouraged in Canada?

Lord Ellenborough concurred with the Duke of Wellington.

Lord Melbourne expressed his regret that the Duke of Wellington should have thought it necessary to repeat his censure of the Governor-General—

It was a serious question, when an opinion which was considered by the Government to be erroneous had possession of the popular mind, how to meet and deal with that opinion. Sometimes it was wise and prudent to stem and face it, and sometimes it was thought wise and prudent to let it pass over. Which of those courses it was best to take, depended upon the state of popular feeling and opinion—whether it was dying away, or likely to be permanent. Now the Governor-General, using his discretion, and taking into consideration the state of popular feeling in the Canadas, thought it not wise and prudent to publish that despatch. But it is well known in Canada that the opinion in this country and of the Government was opposed to the system of local and responsible government. His noble friend had stated last session his adherence to the opinion which he had formerly entertained; and it could not have been for the purpose, therefore, of concealing that opinion, or conciliating those who were the advocates of what they termed responsible government, that the Governor-General had not thought fit to publish that despatch, but because, upon a fair exercise of his discretion, he did not conceive it wise or prudent so to do; and he, until he should see the contrary proved, was certainly disposed to acquiesce in the propriety of that decision. The noble Duke had adverted to the conduct of certain officers of the government; of which however, he was sure that the noble Duke had received very incorrect accounts. He had been told that an Attorney-General had resigned, and the Solicitor-General had been offered the vacant office; but he was assured that the offer was accompanied by that despatch of Lord John Russell relating to responsible government, and that the gentleman stated he concurred in the opinions expressed in the despatch; and all he required was, that the government should be administered upon the principles contained in that despatch, and in accordance with the feelings and wishes of the community. He was not aware that any thing was contained in any election speech at variance with that statement.

The Duke of Wellington proceeded to read extracts from a speech delivered, he said, by the Solicitor-General; when Lord Melbourne corrected him, and said the speech was the Attorney-General's.

Lord Ellenborough repeated the charge that Governor-General Thomson had not published the despatch of the 14th of October, and that he had made Mr. Baldwin Solicitor-General