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THE FORMATION OF NORTH WESTERN ONTARIO

1791 - 1912

by

Ina Elizabeth Hutchison, B.A.

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of

Master of Arts

Department of Geography

Carleton University

Ottawa, Ontario

April 1986

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submitted by Ina Elizabeth Hutchison

B.A. Nipissing University

in partial fulfilment of the requirements for
the degree of Master of Arts.

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June 1986

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Ina Hutchison
Carleton University
April, 1986

ABSTRACT

Territorially and politically, the boundary of North Western Ontario evolved as an issue following the Constitutional Act of 1791 which divided the Province of Quebec into Upper and Lower Canada. Settlement and expansion occurred simultaneously as Lieutenant-Governor Simcoe organized Upper Canada into Electoral Districts. When settlement depleted available southern agricultural land, interest developed in northern primary resources on the Shield. Following 1867, Dominion and Provincial territorial claims over these resources were responsible for three major boundary disputes.

The evidence presented by this study indicates that the resolution of these disputes and the final boundary demarcation of North Western Ontario was not due to usual territorial pressures but random human factors such as indecision, wrangling, and competition between three government leaders over territory, resources and political prestige, which was finally arbitrated before the Privy Council of Great Britain.

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CHAPTER I

INTRODUCTION

The purpose of this study is to fill a void in printed material regarding the political and historical events involved in the process of delimiting the boundary lines of North Western Ontario. After researching and checking available sources, it became evident that although numerous authors such as Nicholson¹ and Thomson² have noted and published maps of the area, there is little pertinent detailed information of the sequential process by which the boundary was delimited. Even D.M. Watson's M.A. Thesis that focussed on Frontier Movement and Economic Development in Northern Ontario is of limited use with respect to territorial partitioning and boundary delimitation³.

North Western Ontario became a newly identified area following the Constitutional Act of 1791. Expansion of its present unwieldy spatial dimensions resulted from political machinations and reflected its natural resources and unique location on the Canadian Shield. At different times, the western boundary of Upper Canada extended from Fort William to as far west as the Rocky Mountains while the northern boundary expanded from the Mattawa River north to James Bay. Vague descriptions of vast unsurveyed areas led to much territorial confusion. This study examines the processes, by which southern Ontario acquired the north western territory and traces how the limits of that territory came to be what they are today.

In approaching this study, many questions arise. To what extent were settlement spread and railway and resource development responsible for boundary delimitation? What was the extent and impact of conflicts between governments of Ontario and Manitoba, and to what extent was the Federal Government of Canada involved? From existing literature it is known that there were three main boundary disputes, so what was the nature of these disputes and how did they have an impact on the total boundary delimitation issue? Was the issue one of rather abstract, territorially-based conceptual dealings between bureaucrats or were there perhaps emotional interactions between key individuals who were involved in the political sphere? Since the Privy Council in the United Kingdom was involved at certain stages, why was it that the matter could not be dealt with purely within Canada?

With the above questions in mind, it is possible to identify the specific objectives of this study. The purpose was several-fold, as follows:

- 1) to examine and assess the process and development by which the boundary of North Western Ontario evolved between 1791-1912;
- 2) to examine and assess the historical and political background of the disputed area so that events can be placed in their proper context and related to political events of the time;
- 3) to examine and assess the three main boundary disputes between the Federal Government, Ontario and Manitoba;
- 4) to examine the political conflicts which arose due to the boundary

disputes;

- 5) to examine and assess the final decisions of the Privy Council;
- 6) and, finally, to determine the validity of the following two hypotheses: (a) that population demands, cultural conditions, and physical environment were only partially responsible for the finalized boundary lines, and (b) that the interplay between political figures was largely instrumental in determining where the finalized boundary lines would be.

Methodology and Time Periods

This study is based on a critical reading and evaluation of a variety of pertinent primary and secondary sources.

The approach followed was to research the historical and political background of Upper Canada dating from the Constitutional Act of 1791. This was done initially by dividing the research into three basic stages: 1) political boundary changes; 2) boundary disputes; 3) finalization of the north western boundary of Ontario. To a certain degree this three-part approach is akin to some sections of the "stages of boundary evolution" as proposed by Nicholson in his authoritative book on Canadian boundaries⁴. We are minimally involved with his first stage, Loose Delimitation, inasmuch as it is assumed in this thesis that his sub-stages of Loose Delimitation (that is, (i) tribal stage and (ii) European-originated exploration and discovery) have occurred,

although we do discuss some elements of sub-stage (iii) claims to territory. We are most concerned with Nicholson's second stage, that is, Transitional Stage, or Stage of Precise Delimitation. In this stage he identified three sub-stages: (i) exploration and settlement, (ii) political decisions on the allocation of territory, and (iii) delimitation in a state document. Nicholson's third stage, that is the Stage of Demarcation, is not dealt with in this thesis. In short, it is shown in this thesis that Nicholson's stage two, sub-stage ii (political decisions on the allocation of territory) can be complex and quite divisive. Henceforth, mention of stages will refer to this author's own three stages and not to those proposed by Nicholson. It should be noted too, that Nicholson's generally excellent survey study touched on only some points related to the boundary under consideration here so this thesis represents the most comprehensive analysis of conflict and accord revolving around the creation of the boundary.

As noted above, this study is organized into three distinct periods, because of the sequence of events (Table I). The reason for the division of this study into those three time periods is that during the first stage, the British were responsible for dividing, uniting and again dividing the territory then commonly known as Quebec. It was essentially the same territory being reorganized into different sectors by a British government. The second stage, associated with settlement expansion into the region from both south east and west, followed union of the British Provinces in 1867, with the federal headquarters being

under the Ministry of Sir John A. Macdonald. Although Canadians had a voice in the decision making the "combatants" (that is the governments of the provinces of Manitoba and Ontario) were allowed to present their grievances to the Privy Council in Britain. The third phase of the boundary delimitation process remained essentially Canadian, without British interference or legalization that required British consent. The process leading to the finalization and delimiting on the boundary of north western Ontario thus took a century of struggle.

TABLE I
HISTORICAL BOUNDARY CHANGES

<u>STAGE I</u>	<u>POLITICAL ACTS</u>	<u>REVISIONS</u>
1791	CONSTITUTIONAL ACT	Quebec divided into Upper and Lower Canada
1840	UNION ACT	Upper and Lower Canada united into Province of Canada
1858	Four Temporary JUDICIAL DISTRICTS	Northern Ontario
1867	BRITISH NORTH AMERICA ACT	Federal Union: Ontario and Quebec formed from Province of Canada
<hr/>		
<u>STAGE II</u>	<u>BOUNDARY DISPUTES</u>	
1874	Boundary Dispute #1.	Ottawa v Ontario
1878	Boundary Dispute #2.	Ottawa, Ontario, Manitoba
1884	Boundary Dispute #3.	Ontario v Manitoba
1889	Ontario Boundary Act	Privy Council decisions
<hr/>		
<u>STAGE III</u>	<u>FINALIZATION OF NORTHERN AND WESTERN BOUNDARIES OF ONTARIO</u>	
1905-1909	Ontario Boundary extended northward.	
1912	Ontario gained territory from District of Keewatin to present boundary.	

Source: Compiled by the author.

Sources

Primary information for the research was obtained from a variety of sources. The Sir John A. Macdonald correspondence, census data and various microfiche reels on the District of Nipissing were obtained at the Public Archives of Canada in Ottawa. Public Archives Reports and Canada House of Commons Debates and other documents were studied at the National Library in Ottawa. Some materials were obtained from the Manitoba Archives in Winnipeg. The Hudson's Bay Archives located in the same building in Winnipeg proved a fruitful source of records through literature, correspondence, and original Hudson's Bay Company Maps. Hudson's Bay House also contained pertinent information. Winnipeg and North Bay newspaper clippings produced news of the times in question; Winnipeg had three daily newspapers at the time of the boundary disputes and took an active interest in discussing the activities at Rat Portage. Original maps were viewed and studied at the Map Division of the Public Archives of Canada and at the Historical Geography Section, Surveys and Mapping Branch, Department of Energy, Mines and Resources Canada.

In addition, material of relevance was found in the libraries of Carleton University (Ottawa), Nipissing University College (North Bay), North Bay Public Library, Kenora Public Library, the Historical Museum and the Archives of North Bay, and the Kenora Museum. Several individuals provided books long out of print that contained political and historical facts. Secondary sources were numerous.

FOOTNOTES

1. Norman L. Nicholson, The Boundaries of Canada Its Provinces and Territories (Ottawa: Queen's Printer, Department of Mines and Technical Surveys, 1964,) henceforth cited as Nicholson, 1964; Norman L. Nicholson, The Boundaries Of The Canadian Confederation (Toronto: The Macmillan Company of Canada Limited, Carleton Library Series, No. 115, 1979), henceforth cited as Nicholson, 1979.
2. Don W. Thomson, Men and Meridians, Vols. 1, 2, 3 (Ottawa: The Queen's Printer, 1966, 1967, 1968).
3. D.M. Watson, Frontier Movement and Economic Development in Northern Ontario 1850-1914 (Vancouver: University of British Columbia, Department of Geography, unpublished M.A. Thesis, 1971).
4. Nicholson, 1979, pp. 202-204.

CHAPTER 2

HISTORICAL BACKGROUND

1791-1867

Under the Constitutional Act of 1791 the province of Quebec was divided into two provinces, Upper and Lower Canada, but no "precise boundaries" were mentioned.¹ Craig contends that this was "... to avoid public discussion of the exact boundaries of the two provinces" because Great Britain still occupied the posts of Detroit, Niagara, Oswego, and Michilimackinac on the United States territory.² This conclusion is confirmed by the fact that the British military and fur posts were not dealt with in Jay's Treaty of 1794 but were vacated by 1796.³ Even so, the Upper Canada boundary had been broadly outlined in the Constitutional Act that divided Upper and Lower Canada (Figure 1). In the same year, an Order in Council described the boundary line in more detail. The boundary was:

To commence at a stone boundary on the north bank of the Lake St. Francis, at the cove west of Pointe au Bodet in the limit between the township of Lancaster, and the Seigneurie of New Longueuil, running along the said limit in the direction of North, thirty-four degrees west to the western-most angle of the said seigneurie of New Longueuil, thence along the north western boundary of the seigneurie of Vaudreuil running north twenty-five degrees east, until it strikes the Ottawa River, to ascend the said River into Lake Temiscaming and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada.⁴

FIGURE 1: CONSTITUTIONAL ACT BOUNDARIES, 1791

FIGURE 3: UNION ACT: PROVINCE OF CANADA, 1840.

FIGURE 6: BOUNDARY OF ONTARIO, 1912.

Source: Department of Energy, Mines and Resources,
 The National Atlas of Canada, 4th ed., Ottawa 1974, pp. 63-64.

Although a more detailed description was later issued, the boundary lines remained essentially the same (although the name of the Seigneurie of Vaudreuil was changed to the Seigneurie of Rigaud). Due to geographical physical aspects, the division of the two Canadas was easily distinguishable.

Upper Canada's southern international boundary with the United States also was easily recognizable. A 1783 agreement had drawn the boundary line through the middle of the Great Lakes to the north of Grand Portage (south of Fort William) on western Lake Superior and continued westward through natural waterways to the Lake of the Woods.⁶

The northern boundary of Upper Canada appeared on maps as the height of land or the southern boundary of the Hudson's Bay Company.⁷ Schull described the practical boundary of the times:

To the north, where maps were meaningless the bateaux of the Northwest fur traders bound for the pays d'en haut, traced out on their long passage the line of the effective boundary. They went up the Ottawa River to its meeting with the Mattawa, some 300 miles northwest of Montreal. From there they ran the Mattawa to the portage into Lake Nipissing and followed the French River from the lake to Georgian Bay.

The western boundary lay undetermined.

Settlement of Upper Canada

John Graves Simcoe was named the first Lieutenant-Governor of this territory.⁹ To him, settlement of the land was of top priority and one of his primary objectives was to encourage settlement in Upper Canada by the United Empire Loyalists from the United States.¹⁰ These people understood the British Constitution, with its form of government, and were usually members of the Church of England.¹¹ Schull comments that Simcoe's "whole faith was based on the principle of leadership by an aristocracy".¹² The Loyalists were the people on whom he wanted to base the new aristocracy.

Simcoe's first proclamation in 1792 divided the province into nineteen counties. The second proclamation, in the same year, called for an election in sixteen of the districts.¹³ There seems to be confusion over the word districts and counties as Craig's map of District Boundaries in 1802 shows ten, not nineteen districts.¹⁴ Shortt and Doughty declare that there are only ten districts in the province at this time and ten districts are shown with the boundary lines delimited and described by Schull.¹⁵ Nevertheless, a new government emerged and the first parliament of Upper Canada met on August 10th, 1795. The political process and territorial organization of Upper Canada had begun.

The fulfillment of Simcoe's policy on settlement of the land and the establishment of a landed aristocracy was assisted by the British Government's land grants system of 1792.¹⁶ Consequently, a pattern emerged whereby the landed gentry - often officials of the government and commercial leaders - combined to form an influential, tightly knit group, later known as the Family Compact. This group used their political and commercial power to further the cause of Upper Canada - and themselves.¹⁷ Wise asserted that: "Politically, The Family Compact stood for what they regarded as superior virtues of the British Constitution over the democratic republicanism of the United States".¹⁸ Governor Simcoe's plans for an aristocracy had borne fruit.

- Simcoe's success did not go unnoticed in the United States. A book published in Connecticut in 1799, reprinted a letter which had been issued in Philadelphia in 1795. This letter extolled the Simcoe system of government, the meagre taxes paid, the familiar form of local government, the ideal agricultural soil and the easy access to markets. This glowing advertisement enticed settlers from the south and Craig asserted that "...all the vacant townships along Lake Ontario west of the Bay of Quinte, and several of those along Lake Erie" were occupied.¹⁹

Governor Simcoe's plans were thorough. His printed maps "... showed provincial districts, counties, townships, main villages, town and Indian settlements."²⁰ Gentilcore and Wood estimate that the new wave of settlers joined the approximately 9,000 Loyalists who had

arrived around 1780 and thereafter the inflow of migrants continued unabated so that by 1851 the English speaking population of Upper Canada was 952,000 and thus surpassed that of Lower Canada.²¹ As the land became occupied, settlement extended northward then eventually westward. The boundary of North Western Upper Canada became more significant with this westward push.

Western Settlement

To the westward, on the Prairies, another settlement had taken root at the junction of the Red and Assiniboine Rivers. In 1808, Lord Selkirk of the Hudson's Bay Company purchased stock in the Company "...with the aim of securing sufficient control to carry the Company with him in his project of colonization".²² Three years later, "In May 1811, at a general court of the Hudson's Bay Company, the director granted him an area estimated at 116,000 square miles, comprising, in what is now Manitoba, North Dakota, Minnesota, one of the most fertile districts in North America"²³ for ten shillings of British currency (Figure 2).²⁴

The limits of the territory were precisely defined and described but the territory to the east remained informally delimited, especially the area between the Lake of the Woods and Fort William. The original grant as defined by Selkirk protruded into the United States territory. The reason for this was that following the Convention of Commerce of October 1818, it was decided that the International boundary "...west of

Figure 2

Original Belkirk Settlement

Map attached to deed of 12 June 1811 conveying Belkirk to the Earl of Belkirk. Printed by permission of the Hudson's Bay Company Archives, London, Ontario.

the Lake of the Woods should follow the 49th parallel to the 'Stony Mountains'....²⁵

Settlers from the west moved eastward while citizens from Upper Canada moved westward, both sets being enticed by the 1872 federal government's "Act concerning the Public Lands of the Dominion" which allowed citizens over twenty one years to apply for 110 acres of government land at one dollar an acre.²⁶ Unfortunately, there were no boundary limitations to guide settlers and administrative and political authorities.

North Western Boundary

As previously mentioned, Ontario's northern boundary was presumed to be the southern boundary of the Hudson's Bay Company or the height of land. This northern hinterland was known only to Indians, fur traders, their companies, missionaries or voyageurs.

A European settlement was established on the western extremity of Lake Superior at Kaministiquia in 1803 which in 1807 was named Fort William.²⁷ This post was composed of a migrant population. At times it was relatively small in size but "during the two or three weeks of the Annual Assembly at Fort William up to 3000 factors, clerks and voyageurs were present and business was mingled with pleasure".²⁸

By the mid 1800's the Fort became a permanent settlement on the

landscape and a central service point for east-west traffic.

International Boundary

One of the problems discouraging an international agreement on the boundary with the United States was the War of 1812-1814 with Great Britain. A boundary agreement had to wait until the conclusion of hostilities. The Treaty of Ghent (1814) had called for the appointment of four commissioners to settle the boundary problem but an agreement on the latter was not reached until 1818 when Great Britain and the United States accepted that the western boundary should be the "49th parallel to the 'Stony' (Rocky) Mountains".²⁹ The Hudson's Bay Company's practice was instrumental in having the 49th parallel declared as the boundary, as the Company had used that parallel as the southern limit of their territory since 1714-1719. The Company's boundary had been marked on so many maps that the United States presumed this to be the legal boundary. Thus the claim of the Hudson's Bay Company became formalized by Britain and the United States. The settlement was amicable. Settlers (principally French) who had homesteaded south of the 49th parallel were given a chance to return to Canada four years later but, according to Nicholson, three hundred and fifty of them chose to remain in the United States.³⁰

The settlement on the banks of the Red River also changed hands. Nicholson stated that the Settlement property reverted to the Hudson's

Bay Company in 1834.³¹ but Farr, Moir and Mealing claimed the date was 1836, that "Lord Selkirk's son sold his interest in the settlement to the 'Bay'."³² Hudson's Bay records at the Hudson's Bay Archives (Winnipeg) give the purchase date as 1835 or 1836.³³ Nevertheless, following the sale, "...the boundaries were changed from the meticulous details of Selkirk's Grant to a circular tract with a radius of fifty miles from Fort Garry."³⁴ New settlers from the east and the Metis did not feel constrained to limit themselves to this allotted area, however, and the great hinterland eastwards between the Red River Settlement and Lake Superior was seen to be open for exploitation. The ownership of this territory was to become one of the most hotly contested boundary disputes of the nineteenth century.

Broadening Territorial Perceptions

In 1841, the Province of Canada was created as a legislative union of Upper Canada (Canada West) and Lower Canada (Canada East) (Figure 3). The period that followed, from 1841-1867, was one of expansion territorially, commercially and politically. As settlers spread out over southern Canada West there developed an increased need for more land. As a result, a northern trend developed. Unfortunately, there were no defined boundaries where macro scale applied. It was not until 1858 that the first legal temporary administrative districts of Nipissing and Algoma were formed north of Lake Superior.³⁵

As the population increased, moving northward into the new temporary districts, activities occurred on many fronts. Entrepreneurs, immigrants, governments and commercial interests combined to encourage diffusion of the population and exploitation of the natural resources.

Previously, in 1835, a survey party had been sent north "to establish a base line running north through the centre of Muskoka and Parry Sound district to reach Lake Nipissing".³⁶ Although by 1859 a road had reached Muskoka, where four townships had been surveyed, it was not until the arrival of the railway in 1875 that tourists and settlers arrived in any numbers in that area.³⁷ It was also decided in 1859 to open the Huron-Ottawa country for settlers even while road construction and surveying took place in Haliburton county, in 1857-1858, southeast of Nipissing. In addition, Thomson asserts that the road to Parry Sound was completed by 1863, as it appears on a map drawn by A.W. Murdock, which was based on a 1863 Report of the Commissioner of Crown Lands.³⁸ Although roads were built, they were crudely constructed, whereas the railways provided cheap and relatively comfortable services to the main cities and outlying districts.³⁹

Nipissing, where the timber trade flourished, was the next area to be occupied. The Ottawa-based J.R. Booth Company was the first truly organized lumber company to enter Nipissing.⁴⁰ It penetrated to the south shore of Lake Nipissing by 1883 from the Ottawa and Mattawa River Route, that is the original Champlain Route to the west. West of

the Booth operations the village of Nipissing took shape. Settlers arrived by canoe in 1863-4 from Eganville in Renfrew County using the same route as the Booth Lumber Company.⁴¹ By 1882, the railway closed the gap between southern and northern settlements.

Meanwhile, farther west, farms were being cultivated in the Fort William area. The farms ranged in size from twenty to one hundred and twenty acres and serviced the Hudson's Bay and North West Companies respectively, following the Union of the Companies in 1821.⁴² But many people in the east sought to move west too. A new means for movement was needed, for the canoe route formerly used to the Red River from Fort William was inadequate for the task of moving large numbers of people and goods. Canadian and British interests had surveys done for the development of road and railway transportation between Fort William and Fort Garry.⁴³ The Northwest Transportation and Navigation and Railway Company, incorporated in Toronto with the same objective, proved premature. Nevertheless, the trend of increased movement toward the prairies had been established and expansive territorial boundaries developed in the minds of Province of Canada politicians and businessmen, perhaps especially those in Canada West.

Meanwhile, to the south of Canada, the American Civil War raged in the United States. This did not prevent expansion or settlement in the northern States bordering on Canada, for Minnesota entered the Union as a State on May 11th, 1858 and within two years boasted a population of over 170,000.⁴⁴ Thus, westward activity and movements

of settlers occurred in Canada and the United States simultaneously.

Central Government

In Eastern Canada at this time, there was political turmoil and discussion over the location of the capital city for the united Canadian provinces. The government eventually requested that Queen Victoria should decide the issue. On December 31st, 1857, Henry LeBouchere, who was the Colonial Secretary, sent a dispatch to Sir Edmund Head, the Governor General, declaring:

I am commanded by the Queen to inform you that, in the judgement of Her Majesty, the City of Ottawa combines greater advantages than any other place in Canada for the permanent Seat of the future government of the Province, and it is selected by Her Majesty accordingly.⁴⁵

Controversy over this decision raged well into the next year and was finally settled on "...when the Prince of Wales came to Ottawa to lay the corner stone for the Parliament Building".⁴⁶ The central political base later was also to be accepted as the capital city of the Confederation.

Boundaries

Undefined boundaries caused administrative problems. Knight has asserted that territory can be regarded "as space to which identity

is attached by a distinctive group who hold or covet that territory and who desire to have full control over it for the group's benefit."⁴⁷

There is no doubt that Canada West identified the northern area as belonging to its administrative territory and coveted the resources on the Shield. It was, nevertheless, Sir John A. Macdonald who was the instigator of the original jurisdictional action in 1858. His letter, located in the Public Archives of Canada, bears this out as follows:⁴⁸

TO THE PROVINCIAL SECRETARY

3 Apr. 1858

The undersigned respectfully suggests that it is expedient to carry into immediate effect the provisions of the Provincial Statute 20 Vict. cap. 60 so far as they affect the unorganized tracts of country within the limits of Upper Canada, and he therefore has the honor to recommend that a Proclamation do issue declaring that from the day of the date of the Proclamation the said unorganized tracts be divided into two temporary Judicial Districts to be called the Temporary Judicial Districts of Nipissing and Algoma, according to the description hereunto annexed and further that each of such districts be divided into two divisions, and that the numbers and the limits and extent of every such division be defined, as in the descriptions hereunto annexed.

John A. Macdonald
April 3d 1858

This bounding of Judicial Districts through legal action at the provincial level and described by Macdonald as "within the limits of Upper Canada" gave southern Ontario a solid claim to ownership of the territory and established a frontier boundary. Initially, in this case,

control meant administration but inferred resources. We can note that timber operators were already moving into the region and that they were required to have timber licences to operate.

With the timber operations came a sizable immigrant population that spread into the area north of Lake Huron and Lake Superior. In sharp contrast to the regulated settlements in southern Ontario where people often clustered in similar groups (based on origin, culture, or religion) these immigrants were a mixture of shantymen, miners and entrepreneurs from many sources.

Surveyed settlements in the 1850s were organized from Mattawa westward. The 1861 Census count of the District of Nipissing listed 2,120 people.⁴⁹ At this time, the Census shows that there were fifteen lumber operations along the Petawawa, Mattawa rivers to Trout Lake. This new source of employment attracted small acreage farmers who worked the timber route while also servicing and supplying the camps. Many prospered.

Following the timber operations came the railways and the mining prospectors. Politicians were beginning to realize that with such a vast geographical expanse of territory, organization and confinement of some kind was imminent and urgent. Temporary districts were not sufficient. Moreover, the Hudson's Bay Company's monopoly over a vast northern region was to be terminated in 1859, so it was understood

that there was no time to waste as far as the Province of Canada was concerned.

At the same time a consensus was soon to develop for consolidation of the British North American colonies. Alexander Galt of the Cartier-Macdonald government proposed a union of the provinces in 1858 as he felt such a union would create a feeling of identity within the British possessions on the continent.⁵⁰ There was to be considerable dissension in British North America before eventually, in 1867, Confederation linked several colonies. Consolidation and identification of British ownership also meant defining political limitations, privileges, and boundaries. Not all of the boundaries, of note for our interests, were delimited with ease. An area of considerable contention, that involved the governments of Canada, Ontario and Manitoba, was located at the shared frontier between Ontario and Manitoba. It is to the dispute over the placement of that boundary that we now turn.

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CHAPTER 3

THE DISPUTED AREA

The Setting

Various factors caused the disputes over the placement of the western and northern boundaries of Ontario following the federated union of the British provinces in 1867. Primarily, following the advent of the railway, the discovery of rich resources on the Shield caused the blossoming of administrative and political ambitions both federal and provincial.

An interest in western Canada developed. In 1857 Captain John Pallister reported on arable land potential there to the British Colonial Office, and John Macoun and M.N. Hund sent similar positive accounts to the Canadian government. Twenty one years later, when the railway reached Winnipeg, the impetus for settlement accelerated.¹ Meanwhile, the Louis Riel Red River Rebellion of 1869 had focussed attention on the west, when troops were transported to the Prairies.² When disbanded, some of these troops remained in the territory as settlers.³ Also, immigration westward was encouraged.⁴

Western settlement

Between the Temporary Judicial Districts of northern Ontario, which were established in 1858, there existed small settlements

westward to Winnipeg. One such settlement was located at Fort William.

Nicholson stated:

Even by 1857, over 25,000 acres of land had been patented by the Province of Canada on the north shore of Lake Superior west of longitude 88° 55' W. By the time of Confederation an additional 10,000 acres had been patented in the same area, and included in the village of Prince Arthur's Landing, the settlement around Fort William (the site of the projected terminus of the Canadian Pacific Railway) and the townships of Blake, Crooks, Pardee, Paiponge, Oliver, Neebing and McIntyre.

This reveals that the Province of Canada had financed the patenting of land in the Fort William area and had mapped out townships for settlement, thus strengthening Ontario's claim to the territory in and near Fort William - this work occurred before the Act of Confederation in 1867. In other words, the Dominion had not been formed at the time Fort William districts were surveyed, nor had the Province of Manitoba been incorporated.

In the 1860's, minerals were discovered in the area, and more permanent land seekers were attracted to the region.⁶ In 1868 Thomas MacFarlane, a mining engineer in the employ of the Montreal Mining Company, discovered a rich silver vein on Sibley Peninsula, about twenty-five miles from Fort William, where a successful mine operated for fourteen years. In March 1882, however, the mine was closed as the vein was nearly exhausted and the price of silver had fallen. Many of the Cornish miners remained in the Fort William area (where their descendants live today).⁷ Other silver mines were actively

worked, such as the "Enterprise", "Thunder Bay", and the Shuniah Mine, the latter being located on the outskirts of Port Arthur.⁸

Timber operators followed the miners. Initially, between 1875 to 1885 much timber for ties was needed for railway construction in northern Ontario and sawmills were numerous along the line.⁹ The fur trade dwindled even as more settlers arrived. Many of these people were from Ontario. Some proceeded to Manitoba, a location that had been well advertised in southern Ontario by 1871¹⁰ while others lingered at Rat Portage (Kenora) where a gold strike had occurred in 1882. The population of the latter area was approximately 1000 in that year.¹¹ By these various means for moving into the region, Ontario citizens continually consolidated the Province's western territorial rights.

Settlers from Ontario kept moving to Winnipeg too. The 1871 Census listed Winnipeg's population as 241, but it grew between three and four hundred over the following year.¹² Ontario entrepreneurs became aggressive land speculators and were known as "Ontario expansionists".¹³ Branch offices of Ontario and Quebec manufacturers were developed.¹⁴ The impact of Ontario was manifested in several ways, including forms of local government. For example, as noted by Rostecki, when Winnipeg was incorporated in 1873 the enabling bill was "similar to the Ontario municipal system, reflecting, perhaps, the Central Canadian origins of its framers and their admiration for the 'perfections' of its institutions".¹⁵ The reason these facts are

included here is to show that Ontario had an active and influential representation of its citizens much farther west than the disputed territory even prior to the formation of Manitoba in 1870.

Geographical Setting

The fact remained that there was no legal boundary line between Manitoba and Ontario. Vague descriptions of boundaries were a legacy from the past. Arguments went back to the 1700s when the Lords of Trade and Plantations accepted the Hudson's Bay Company's description of their claims to northern territories. At that time the Hudson's Bay Company claimed that the southern limits of its claim extended to the latitude of 53 degrees or the Albany River on Hudson Bay.¹⁶ This then had been presumed to be the northern boundary of Quebec.

The western boundary of Quebec had been defined in the Quebec Act of 1774 "as running 'northward' from the junction of the Ohio and Mississippi Rivers".¹⁷ Canada's central government and the government of Ontario did not agree with the boundary descriptions, however, and their varying interpretations set the stage for a clash.

In regard to the western boundary of Canada West after the British North America Act of 1867, the Federal Government claimed that the Treaty of 1774 referred to the line northward from the junction of the Ohio and Mississippi Rivers, which was approximately on the 89.9th

meridian. Ontario, on the other hand, insisted that the Act meant the line was to run northward from the source of the Mississippi River, which could be interpreted as following the 95.14th meridian (Figure 4). Thomson gave his opinion as favouring the Ontario view when he quotes from the earlier Treaty of Paris (1763) which stated that: "the southern limits of Canada were fixed irrevocably by a line along the middle of the River Mississippi from its source to the River Ilerville (Ohio), and from thence by a line along the middle of this river...to the sea"¹⁸ which concurred with Thomson's conclusion drawn from Article VII of the same treaty.¹⁹ Thus the earlier description in the Treaty of Paris describing the French territory ceded to Great Britain would seem to be the most valid boundary line. Gentilecore and Head,²⁰ Thomson,²¹ and Nicholson²² all agree on the location of the dispute. The latter two estimate that the distance of the disputed area extended east to west would be approximately 275 miles, this being the general distance between Fort William and Rat Portage (Kenora). This region, between Fort William and Winnipeg, was essentially a frontier territory with administration carried on from these two main centres. Small villages appeared as the railway line proceeded westward but the area was mainly undeveloped.

This vast territory was valuable primarily for its timber but otherwise was chiefly composed of rocks, lakes and swamps "underlain by Precambrian rocks".²³ In 1872, James Rowan, who supervised the surveys in the district of Thunder Bay, reported:

FIGURE 4 : DRAINAGE OF THE MISSISSIPPI RIVER, 1871 . . .

Source: Base map produced by Surveys and Mapping Branch,
Energy, Mines and Resources, Canada.
Altered by the author to illustrate a line due north
of the junction of the Mississippi and Ohio Rivers.

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The greater part of the country explored was of the most barren and rugged description, traversed by high ranges of hills of primitive rock from which every vestige of vegetation had been removed by fire, and quite impractical for a railway.²⁴

The early fur traders had nevertheless used the lakes and rivers for transportation, as had the Indians long before them. It is doubtful that Macdonald or Nowat saw the area personally although Macdonald did make a later trip, in 1886, to Winnipeg to attend a Conservative Convention.²⁵

The creation of Manitoba in 1870 whose eastern boundary was drawn along the Meridian North of 96° to 99° West made the lack of a legal western boundary more noticeable on maps as the geographic space between Ontario and Manitoba left a long unmarked gap between the two provinces.²⁶ With the surge of entrepreneurs heading westward, political administration of the area became an urgent necessity. As many of the western immigrants were from Ontario, they looked on the new territory as an extension of their province which they called "New Ontario". Thus a "right" to the territory developed.

Political Setting

Although the British North America Act "deliberately strengthened the federal government at the expense of the provinces" the Ontario Liberal party remained unconvinced.²⁷ In fact, under Edgar Blake

(1871-2), who succeeded Oliver Mowat as Premier, a policy of provincial rights developed. Initially it concerned payments to individual provinces from the Dominion government. Consequently, an argument developed as to whether the Federal Government was responsible to the provinces or whether they were simply appendages. Oliver Mowat was more adamant than Blake on the principle of "provincial autonomy".²⁸ Needless to say, Macdonald was opposed to the provinces controlling both their resources and licence revenues and he clashed with Mowat constantly. It is the opinion of Farr, Moir and Mealing that the Ontario Liberal party under Mowat upset Macdonald's Federal Government theory and that "within twenty five years" they had "partially reversed the balance of power established in 1867".²⁹

John Norquay, the Premier of Manitoba in 1878, was again a different type than Mowat. He was thirty-seven years old, a Metis native of Manitoba and a conservative.³⁰ He was not a fighter for rights but was known for his geniality, his unbusinesslike operations, but above all for his ability to attract people. He was known in Manitoba as "honest John".³¹ W.L. Morton suggested that Norquay's "essential purpose and his main contribution to the province, was to bridge the gap between old and new settlers, and to preserve harmony between French and English", and in this he was "strikingly successful".³² In fact Norquay asserted that he was not going to take part in the dispute. The Act of 1881 changed his mind, however, when Rat Portage was incorporated "by the Manitoba legislature and [he saw] the lawlessness" of the district.³³

Macdonald and Mowat were, in contrast, experienced lawyers and political rivals. They had been schoolmates at the private school of a Reverend John Cruickshank in Kingston and later Mowat had worked in Macdonald's law office with Alexander Campbell.³⁴ They thus were old acquaintances and both were successful. Mowat, from the evidence, was methodical, did his homework, and above all was convincing in court perhaps because he was familiar with all the procedures of the courts.³⁵ Although wily and cunning, Macdonald was to prove no match for Mowat when legalities and presentations were important before the Privy Council.³⁶

In the following chapters this study examines the evidence in order to explore the degree to which the ambitions of Macdonald and Mowat were responsible for the disputes and the eventual boundary delimitation of western territory. Other aspects also are considered, including the degree to which demands made by the population growth, cultural conditions, or geographical or other historical reasons were of importance. A key question relates to whether or not the local population was largely ignored or were participants in the decision making process. The geographical aspect would appear to have been of minimal influence since it was noted in the 1880 Appendix to the Journals of the Canadian House of Commons that:

At Lac des Mille Lacs, the height of land is reached, separating the waters that flow into the Lake of the Woods from those that find their outlet in Lake Superior.

Thus the Red River Basin extended eastward to approximately fifty miles west of Fort William at Lac des Mille Lacs.

Conclusion

These then are some of the essential background aspects to the boundary dispute. An area sought by two parties, and overseen by a third party, was to be the focus of conflict. It is to the instances of territorial conflict that we now turn.

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CHAPTER 4

BOUNDARY DISPUTE NO. 1

Boundary Uncertainty

Two years after the B.N.A. Act of 1867, Ontario actively started to press for a western boundary decision and the Lieutenant-Governor, W.P. Howland, went so far as to mention the need for a definition of a northern boundary line in his throne speech of November 5th, 1869.¹

The Hudson's Bay Company's contract for northern territories had expired in 1859 and the Company had surrendered all rights and land to the Dominion government in 1870, the year after the Lieutenant-Governor's speech.² Nicholson stated that "This boundary depended upon the definition of the southern limit of the Hudson's Bay Company's former territories."³

J. Arrowsmith, a surveyor for the Hudson's Bay Company had produced a map in 1832 defining their district boundaries but Nicholson suggested that none of the northern boundaries had been "authoritatively determined."⁴ There were maps but no legal boundaries.

Ontario claimed the Albany River as its northern boundary. This claim was presumably based on the Commissioner's report following the Treaty of Ryswick (1697) which agreed with the Hudson's Bay Company's use of the western boundary on Hudson's Bay being the Albany River or latitude 53 degrees North and on the eastern coast of the Bay at latitude 52° 14' North which was the Eastmain River.⁵ The Government of

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Canada took a different view. The Federal Government claimed that the height of land dividing the Watershed north and south was the northern boundary of Ontario.⁶ It is important to note that the Dominion and Ontario governments were competing for mineral and forestry resources. Ontario was developing an expansionist policy under Premier Oliver Mowat. A search for past boundary records commenced.

The issue of Hudson's Bay Company ownership of the territory in question led to a search for the original deed. Macdonald, as Prime Minister of Canada, wanted to define the Federal Government's claims so that he would have a case to present to the Privy Council.⁷ A letter from the Hon. J.D. Armour, Judge of the Court, Queen's Bench, Ontario, to Macdonald asserted that he had to know the Hudson's Bay ownership claims before he could define Dominion ownership in the area under discussion.⁸ Judge Armour wanted proof of claims made by the Hudson's Bay Company with the former Province of Canada in 1857 (which had patented land in the Fort William area).⁹ At that time the Company had evidently been prepared to produce property claims.¹⁰ The search into the original claims seems to have had the cooperation of the Hudson's Bay Company for a letter from the Company was received by Hon. Scott on March 6th, 1877. The letter offered their full cooperation regarding the boundary dispute but they did not produce any concrete evidence.¹¹

Because the Hudson's Bay could not or would not produce records, a search was made for Canadian Government records. This also produced no results. It appears there had been gross negligence where keeping early records was concerned. Eventually, a letter from the Department of Justice in Ottawa of November 8th, stated that no copy of the "Imperial Order in Council constituting the provinces of Upper and Lower Canada dated the 17th August 1791 is to be found in the country".¹² (This referred to the Constitutional Act of 1791). On December 10th, 1877, Ontario Premier Mowat wrote to Secretary of State Scott asking if he had written to England for a copy of the Order in Council, as it had not been found.¹³ It seems that early records had vanished!

The search was intensified. Macdonald suggested to Mackenzie that a search for records be made in the Montreal Archives.¹⁴ On the same date (November 3rd, 1876) in a letter to Mackenzie, Macdonald mentioned that Mowat "was extremely anxious to know at the earliest moment by telegraph when it [a meeting of the Arbitrators] would be set, as he is engaged in preparing the case, and it is important to him to know".¹⁵ Five days later Mowat wrote to Scott to ask what progress had been made, which Scott promptly reported to Macdonald in a letter on November 8th, 1876.¹⁶

Meanwhile Mackenzie also applied for information to the Hudson's Bay Company. Correspondence continued to pass between the Department of Justice, public officials, and Macdonald. For instance, on

November 25th, 1876, Scott received a letter from D. Smith saying that he was "still searching for info at Fort Garry and York."¹⁷ Judge Armour wrote to Blake, the Ontario Premier, on November 26th, stating that as "every post kept records for the last 200 years so must have info they were prepared to present to the Privy Council."¹⁸ Two days later D. Smith suggested that information might be found in the "Journals kept by Officers of the Company."¹⁹ This lead, however, proved fruitless, as did a search in the French Archives. On March 6th, 1877, the Hudson's Bay Company suggested asking the Solicitor of the Dominion in London for information. The search was thorough but the results were meagre.

Eventually a letter addressed to the Hon. R.W. Scott, Secretary of State, from a George Goschen (presumably a Hudson's Bay correspondent), dated December 1876, produced three maps relevant to the case. Goschen wrote:

Sir,

I enclose a Map No. 1 showing the Territories claimed by the Company in virtue of the Charter granted to them by King Charles the second.

I also enclose a statement No. 2, prepared for the Company in 1857, with reference to the Parliamentary enquiry which took place in that year. The boundaries were then asserted to be, on the side of the United States by the 49th parallel of latitude; on the side of Canada by the height of land, whose waters flow into Hudson's Bay; and the North by the Arctic Ocean.

At the time of the passing of the Quebec Act, 1774, the Company had not extended the posts, and operations far from shore of Hudson's Bay. Journals of the following trading Stations have been preserved bearing the date namely, Albany, Henley, Moose, Eastmain, York, Severn and Churchill.

These Journals give no info upon the subject of boundaries between Canada and the Territory of the Company, Nor was the question raised in 1748, when the House of Lords held an enquiry with reference to the Company affairs as at the time conducted: A Map No. 3 no doubt prepared for the occasion, and sent herewith, shows the extent of the country to which their operations were then confined.

At a subsequent period namely in 1777, a map was published in London by John Andrews, giving the height of land near Lake Abitibi and other quarters, and showing certain boundaries for the Province of Upper Canada.

request that Map and documents sent be returned.

George W. Goschen²¹

This was the information that Armour had been searching for. Armour was now in possession of documents which he could use on behalf of Macdonald's government as the second page from Goschen clearly stated that the southern boundary of the Hudson's Bay Company had been the height of land in 1857.

Western Boundary

Because of the resources involved, the dispute extended to the western boundary of Ontario (Figure 5). Thomson has recorded that

FIGURE 5 THE DISPUTED TERRITORY

Source: Author from
The National Atlas of Canada 4th ed. Plate 65

In 1870 the Parliament of Canada created Manitoba (33 Vic. ch 3) and defined its boundaries as the International boundary on the south, parallel 50° 30' north latitude on the north, the 96th and 99th meridians on the east and west respectively.²²

As Ontario was not claiming any territory farther west than the 95th meridian, and Manitoba had been discouraged from expecting an expansion of territory in a letter of May 1874, from R.W. Scott, the dispute remained between Macdonald and Mowat.²³

In 1871 Ontario became more aggressive when its Lieutenant-Governor sent a despatch to Hon. Joseph Howe, the Secretary of State for the Provinces, which stated that "necessity exists for settlement of the true boundary or division line separating the Province of Ontario from what is known as the North-West Territory."²⁴ At this time, Ontario had already taken jurisdiction over land west of the Lakehead and had been asked by the Federal Government to police the area and pay the bills.²⁵ Nevertheless, the government of Macdonald wanted to cut the boundary line off at Fort William.

The following year (1873) a Liberal government led by Alexander Mackenzie replaced Sir John A Macdonald's Conservatives in Ottawa and Oliver Mowat became Liberal Premier of Ontario (Table 2).²⁶

GOVERNMENTS IN POWER 1867-1912

Boundary Dispute	Year	Dominion	Ontario	Manitoba
	1867	Conservative	Coalition	
	1868	(Macdonald)		
	1869			
	1870			
	1871		Liberal	
	1872		Liberal	Conservative
	1873	Liberal	(Mowat)	
I	1874	(Mackenzie)		
	1875			
	1876			
	1877			
II	1878	Conservative		Conservative
	1879	(Macdonald)		(Norquay)
	1880			
	1881			
	1882			
	1883			
III	1884			
	1885			
	1886			
	1887			Conservative
	1888			Liberal
IV	1889			
	1890			
	1891			
	1892			
	1893			
	1894			
	1895			
	1896	Liberal	Liberal	
	1897			
	1898			
	1899			
	1900			Conservative
	1901			
	1902			
	1903			
	1904			
Boundary extended northward	1905		Conservative	
	1906			
	1907			
	1908			
	1909			
	1910			
	1911	Conservative		
Ontario boundary finalized	1912			

Source: Compiled by author from, *Winners and Losers*, (Toronto: Methuen, 1984), pp. 53-64, 103, 106, 116.

Negotiations and cooperation between Ontario and the Federal government became possible. As a result provisional boundaries were set up in 1874. They were agreed upon by Ontario and Ottawa and "confirmed by Orders in Council of both governments".²⁷ They were:

On the West: - the meridian line passing through the most easterly point of Hunter's Island, run south until it meets the Boundary Line between the United States and Canada and north until it intersects the fifty-first parallel of latitude shall be conventional Boundary of the Province of Ontario.²⁸

This provisional boundary was a compromise, north of the height of land and south of the Albany River. In the north, Ontario gained some territory: the Dominion had lost some.

Three arbitrators had been named to study the problem. However, due to the death of the Dominion representative (Wilmot), and the resignation of the Ontario member (Richards), new committee members had to be named. "The Governor-General of Canada in Council afterwards named as arbitrator the Honourable Sir Francis Hincks, of the city of Montreal, Knight, and the Lieutenant-Governor in Council of this Province [Ontario] named as arbitrator the Honourable Robert Alexander Harrison, Chief Justice of Ontario. And whereas the two Governments further agreed that the Right Honourable Sir Edward Thornton, Knight should be the third arbitrator...."²⁹

Sir Edward Thornton was the British Ambassador to Washington, in the United States, far removed from the boundary or its problems.³⁰

By August 3rd, 1878, the arbitrators had reached a decision which was

"...assented to 11th March 1879."³¹ Their final decision read:

Commencing at a point on the southern shore of Hudson's Bay, commonly called James Bay, where a line produced due north from the head of Lake Temiscaming would strike the said south shore, thence along the said south shore westerly to the mouth of the Albany river, thence up the middle of the said Albany river and of the lakes thereon, to the source of the said river at the head of Lake St. Joseph; thence by the nearest line to the easterly end of Lac Seul, being the head waters of the English river; thence westerly through the middle of Lac Seul, and the said English river to a point where the same will be intersected by a true meridian line drawn northerly from the international monument placed to mark the most north-westerly angle of the Lake of the Woods by the recent Boundary Commission, and thence due south; following the said meridian line to the said international monument; thence southerly and easterly following upon the international boundary line between the British possessions and the United States of America into Lake Superior.³²

This decision became known as "the Award".

Unfortunately for Ontario, John A. Macdonald was reelected Prime Minister in 1878 before the Dominion government of Mackenzie could pass an acceptance law covering the terms of the Award. As suggested earlier, antagonism between Macdonald and Mowat went back to the days when Mowat was a student (conservative) in Macdonald's law office. Macdonald referred to the Award as a "scrap of paper".³³ Further trouble was imminent, because the Award was null and void.

FOOTNOTES.

1. (Fort William) The Daily Times Journal, August 11th, 1970, p.11.
2. Nicholson, 1979, p.61.
3. Ibid.
4. Ibid., p.95.
5. Shortt and Doughty, 1913, p.886.
6. Nicholson, 1979, p.96.
7. Public Archives of Canada (PAC), Letters of Sir John A. Macdonald (Ottawa: Public Archives of Canada, 1876-1878) Vol. 34, Roll C1499, No. 12, P.12911.
8. PAC., Ibid., November 1, 1876, p.12918.
9. PAC., Ibid., p.12920.
10. PAC., Ibid., p.12920.
11. PAC., Ibid.
12. PAC., Ibid., p.12921.
13. PAC., Ibid.
14. PAC., Ibid., pp.12934-12937.
15. PAC., Ibid.
16. PAC., Ibid., Letter No. 2.
17. PAC., Ibid., p.12945.
18. PAC., Ibid., p.12950.
19. PAC., Ibid., p.12954.
20. PAC., Ibid.
21. PAC., Ibid., pp.12965,12966,12967.

22. Don W. Thomson, Men and Meridians, Vol. 1 (Ottawa: The Queen's Printer, 1966), p.271.
23. PAC., Letters of Sir John A. Macdonald, Vol. 34, No. 729, 803/740, p.139.
24. Thomson, Vol. 1, p.27.
25. Nicholson, 1979, p.97.
26. D.G.G. Kerr, Historical Atlas of Canada (Don Mills: Thomas Nelson & Sons, 1975), p.96.
27. Nicholson, 1979, p.97.
28. Ibid.
29. Ontario, Statutes of Ontario, Canada, Chapter 2, 42 Victoria, 1879 (Toronto: The Queen's Printer, 1879), p.8.
30. Shortt and Doughty, 1913, p.896.
31. Ontario, Statutes of Ontario, Canada, Chapter 2, 42 Victoria, 1879 (Toronto: The Queen's Printer, 1879), p.8.
32. Ibid., p.9.
33. D.M.L. Farr, J.S. Moir and S.R. Mealing, Two Democracies (Toronto: The Ryerson Press, 1963), p.345-6.

CHAPTER 5

BOUNDARY DISPUTE NO. 2

Interim Boundary

In 1876 the District of Keewatin was formed from part of the North West Territories. This meant that a section of the District of Keewatin separated the western boundary of Ontario from the eastern boundary of Manitoba forming a corridor.¹

Uncertainty of Ontario's western boundary caused S.J. Dawson to write to Macdonald as follows:²

Queen's Hotel
Toronto, 17th May 1880

My Dear Sir John

I have a letter a short time ago from your Department stating that on all maps to be issued, the due north line would be set down as the western boundary of Ontario. While the Boundary Committee was sitting, we have very strong evidence showing that Upper Canada entered Confederation with the entrance to Lake Superior as the western boundary. I think therefore, that for the present, it would be well to leave the boundary blank on the maps, or, otherwise, to give it as running due north from the entrance of Lake Superior, and marking all territory - by the - to the westward of the line as disputed. As soon as sketch of the report of the Boundary Committee appeared in the papers, Mr. Mowat started

off for England, ostensibly to get a few Professors for the University, but in reality, I believe, to lay his complaint as to the terrible way in which Ontario was being treated, in respect to the Award before the Imperial authorities. He will not make much of that, I think -

Yours Very Sincerely
S.J. Dawson

Whatever the results of Mowat's trip to Britain were, he was confident enough two months later to have a letter sent to the Deputy Minister Lindsay Russell in Ottawa stating that "the Ontario Government has assumed possession of the disputed territory and have duly installed officers to enforce Ontario laws".³

In 1881 the Manitoba Legislature (with the blessing of fellow federal conservative Macdonald) passed an Act extending her eastward boundary to incorporate Rat Portage within her jurisdiction.⁴ The federal government then passed the Dominion Act in the same year which declared that the western boundary of Ontario was the eastern boundary of Manitoba.⁵ According to Farr, Moir and Mealing, Macdonald's motive for passing the Act, was to gain control of the natural resources in the Manitoba Territory and to show his hand politically. They state: "The Liberals were his enemies, especially Mowat and the Ontario Liberals".⁶ Ontario refused to accept the new law.

Nevertheless, with the passing of the Dominion Act, the corridor between the two boundaries of Manitoba and Ontario ceased to exist. But where was the boundary line? Logically, Manitoba would appear to have had a geographical claim to eastward land. Rat Portage was approximately 127 miles (204 Kilometres) east of Winnipeg, within the Red River Basin, and was included in the original Selkirk Grant from the Hudson's Bay Company (Figure 2). The Ontario government (Mowat) did not accept the validity of Manitoba's claim to Rat Portage nor did the Lieutenant-Governor D.A. Macdonald of Ontario, who made an "official trip" in 1879 to "New Ontario".⁷ Mowat "asserted that it was a 'grievous wrong' that 39,000 square miles of territory rightfully belonging to Ontario should have been transferred to Manitoba".⁸ The outcome of this sparring was that two provincial governments were in competition to administer and police justice at Rat Portage.

RAT PORTAGE

As mentioned previously, Norquay was upset by "the lawlessness" at Rat Portage and he was prepared to do something about it. The liquor problem that he encountered was a legacy from the days of the District of Keewatin. In November of 1877, three letters from a Mr. Lash to a Mr. Morris discussed the sale of liquor in Keewatin. These letters discussed the problem, the fines to be imposed for "contravention of liquor laws", and requested that Morris put the fine money collected in the Ontario Bank in Winnipeg.⁹ James Rowan of the

Canadian Pacific Railway (C.P.R.) Winnipeg, wrote to Morris on October 4th, 1877, saying that he had been "informed liquor is being sold on Contract 15 of the C.P.R. in Keewatin..."¹⁰ Liquor was not a local problem as the C.P.R. had problems everywhere. A Banff constable reported that a bootlegger from British Columbia would fill

his berth with kegs of whiskey. When he got near Calgary the liquor would be thrown off just before the train pulled in. Another way was that a man coming down in the colonist's car would use rubber beds and pillows filled with whisky. They had it all over the train. It would be in the berths, on the top, underneath, in front, on the engine, on the tender, and where the water was kept.¹¹

Later, The Royal Commission of 1895 admitted that:

liquor was brought in the country by all available avenues and by every possible conceivable means. It was brought in secreted in packages of merchandise; in tins especially prepared and labelled "bibles"; as canned fruits, a single peach, perhaps, floating in alcohol valued at \$5; in casks of sugar and rice... in carloads of hogs or lumber, and as eggs.¹²

All this, in spite of the Canada Temperance Act of 1878.¹³

Swainson declared that: "By the end of the 1880s, with the C.P.R. in full swing, the law was a shambles".¹⁴ He went on to say that even Macdonald (a drinker) admitted that something would have to be done.

This, then, was the local state of affairs in the immediate vicinity of Rat Portage, a district of 18,000 square miles with a town composed of tents and shacks.¹⁵ Under these conditions, two jealous

provincial governments were, in 1881, attempting to administer laws and police the area.

Problems

Ontario and Manitoba set up separate police forces, law courts and licensed outlets under the "...liquor laws of their respective provinces".¹⁶ Presumably the police forces were to control the liquor problems instigated by their respective governments. If this was the intent it failed miserably. Jackson declared that the "...bootlegging element operated without hinderance among the thirsty miners and railroad workers."¹⁷ There appears to be much truth to this statement for it can be verified by numerous authors such as Shortt and Doughty, Schull, Nicholson, and Swainson.¹⁸ References are numerous to liquor problems and lawlessness in Macdonald's correspondence of 1883.¹⁹

The Winnipeg Tribune once ran an article by V. Weier headlined "Money and Whiskey Flowed Freely in This Border War".²⁰

Money flowed as a result of the liquor sales. Swainson mentioned just how big the liquor business was in Ontario when he quoted from an 1894 report by Louis Kribs. He stated:

Louis Kribs of the Advocate [a liquor journal] attacked prohibitionism with an estimate of the economic value of the liquor industry in Ontario. He claimed for the liquor and liquor related industries of the province an aggregate capital value of over \$15 million and 4,300 employees not counting lesser town and rural areas.²¹

Thus Ontario reaped large profits from an industry which it purported to be trying to control. The "border war" at Rat Portage rose to a fever pitch in 1883. But coinciding with the liquor issue was the timber problem.

In the timber issue, a question of jurisdiction arose. The dispute over the boundary switched actively to Manitoba and Ontario as the federal government remained an interested third party. Lumbermen from Ontario moved into the area with the coming of the railroad. There was now the problem of jurisdiction. "If the district was in Manitoba, it was for the federal government to grant the leases; if in Ontario, for the government of that province"²³ as the Manitoba Government did not control natural resources within its territory.²³ Morton stated: "the granting of timber leases [became] a partisan matter".²⁴ Thus the timber resource leases were the source of argument between Ottawa and Toronto whereas the boundary line dispute had become a dispute between the two provinces.

When Macdonald was reelected in 1878 he declared, in regard to the disputed area, that there was "...not one stick of timber, one acre of land, or one lump of lead, iron, or gold that did not belong to the Dominion".²⁵ Although the courts did not support his claims to the Indian Lands (which occupied the area under discussion) or in the resulting Indian Title case of 1888, he demonstrated by his attitude that he would block Mowat's claims at every juncture. The argument fostered rivalry between the Dominion and provinces as to their rights

confirmed by the British North America Act of 1867. The dispute erupted into action in July of 1883.

On July 27th, 1883, a telegram dispatched from the Police Magistrate Y.W. Brocton to Sir John A. Macdonald, who was then at Riviere du Loup, stated: "My chief and one constable arrested by Ontario Constable. Great excitement amongst town people".²⁶ This indicates that the Federal government had law enforcers at Rat Portage. The next day (July 28th) G.W. Barbridge of Ottawa informed Macdonald by telegraph that serious happenings were occurring at Rat Portage. Barbridge (in telegram No. 18) indicated that the Superintendent of the Dominion Police had notified him that: "...twenty-five Ontario constables here and fifteen Manitoba - they are now arresting one another - citizen[s] taking part on both sides - A general riot expected - You had better come home at once - only two Dominion Constables - F. O'Keefe - I sent it for your information and for your instruction".²⁷ Barbridge seemed to be the person keeping Macdonald up to date on the situation. Barbridge clearly was worried about the publicity as he sent three telegrams to Macdonald on July 28th. The first has been noted; the second telegram (No. 19) asked for permission to inform the (Toronto) Globe (newspaper) of the correct facts as misinformation was in the paper; the third telegram (No. 23) stated that "...three Manitoba and two Ontario constables arrested - the Manitoba jail broken into by chief of prisoners friends".²⁸

To add to the melee a John Shields telegraphed Macdonald, "...complaining that McCabe does not maintain authority and should be dismissed".²⁹ J.H. Pope interfered then by wiring Macdonald, stating that McCabe should have a replacement before being removed and he asked Macdonald to name someone.³⁰ All the above telegrams were sent to Macdonald on July 28th, 1883.

The three Winnipeg papers, The Times, The Manitoba Daily and The Free Press, all commented on the problem of Rat Portage. The Manitoba Free Press ran an article "Raiding A Jail" on July 28th, 1883, and a headline which read:

THE RAT PORTAGE TROUBLES

NORQUAY REPORTS EVERYTHING

QUIET AT THE FRONT³¹

On Saturday July 28th, 1883, the Manitoba Free Press featured an article that accused the Dominion Government of inciting trouble between Ontario and Manitoba. The same article deplored the interference of Manitoba in another province's jurisdiction. The article called for a legal decision to end the matter.

Instead of closing the matter, the papers seemed to incite more action. On July 30th, Fred White of Winnipeg telegraphed Macdonald that Norquay, Judge Miller, provincial police, a chief magistrate and

two "special Constables" were on their way to Rat Portage. White added that he had had no news "of importance" from them "up to ten o'clock Saturday night".³² Two days later, August 1st, Shields got in touch with Macdonald to report that Norquay and his police had taken and arrested the citizens who had broken into the Manitoba jail. Shields added that the "Men sworn in as Ontario special constables ...mad with liquor...."³³

On August the third, the Hon. John Norquay received a letter or telegram which was unsigned but presumably from Macdonald instructing him to: "Send official dispatch to Ontario government complaining of their unfriendly action. Send officially Copy of dispatch to Secretary of State Ottawa".³⁴ Considering the blatant action of Norquay, it would seem laughable that he should complain to Ontario. The official dispatch was evidently a ruse to cover up the actions of Norquay and the duplicity of Macdonald.

At this time, an R.M. Quigley applied to the Hon. Minister of the Interior in Ottawa requesting a license to cut timber on Hunter's Island.³⁵ His letter is interesting for two points. Hunter's Island was the boundary line in the Provisional boundary line of 1874, therefore it could be Ontario property. However, as Quigley was applying to the Dominion government for a timber license, he presumed the property to be in Manitoba. This emphasizes the confusion caused by the boundary dispute resulting from the Dominion and Manitoba Acts of 1881.

Winnipeg papers continued to discuss the "border war". People wrote to the papers giving their opinions. For example, Hugh MacMahon wrote to The Manitoba Daily on August 4th, deploring the "ill-feeling between the two Provinces". Norquay continued to claim that Manitoba had a right to Rat Portage as that province was there first. He discussed Manitoba's claim in the newspapers in a reply to a statement made by a Mr. Pardee on August 8th. As a result the paper in question printed a reply which read:

To show current public opinion here since the recent occurrences, it may be stated that during the past few days a petition has been signed by upwards of 130 citizens including nearly every property owner in the place, asking Ontario Stipendary Magistrate Lyon to call a public meeting to consider the advisability of organizing a Municipality and as there is already a corporation at Rat Portage acting or supposed to be acting under a Manitoba charter, this petition can have no other meaning particularly, as it is addressed to the Ontario Magistrate, than the formation of another Municipality under Ontario.

The strongest Conservatives in the community sponsored this move. The article continued in the vein that "...the interest of the inhabitants ..." would be best served by Ontario because it had financial resources for developing the territory. This is the only mention of inhabitants noted. The article went on to say that Ontario was already functioning on the site. It stated that:

Her Division Court is advertised to sit monthly, and already some cases are entered for the setting to come off at the end of August. A Registrar, a Crown Timber Agent, and an Issuer of Marriage licenses have, it is said, been appointed, and will enter upon their duties at once.

The above article complained that the controversy at Rat Portage was stopping tourists, ruining that trade and effecting the economy. It would appear from the newspaper propaganda that the "border war" was resulting in a strong surge of sentiment for a settlement of the dispute in favour of Ontario.

Just as the July and August troubles were abating both provinces called elections for September 28th (1883). A telegram of August 29th to Sir John A. Macdonald from Fred White assures him that: "Everything is satisfactory. Police force at Rat Portage will not be reduced till after election".³⁸ The original telegram was in code, as were many others. The outcome of the election was that The Hon. J.A. Millar was elected to the seat named Varennes for Manitoba while the same electors voting for the same territory, but named Algoma in Ontario, elected Mr. R.A. Lyon to represent them at Queen's Park in Toronto.³⁹ Comments from some writers suggest that there were more voters than people in the district!

Provisional Government

At this juncture, due to newspaper and citizen pressure, attorneys from Ontario and Manitoba met, and a joint commission formed a provisional government.⁴⁰ A truce of sorts prevailed. A confidential letter to Macdonald of October 30th of the same year from A. Campbell from Montreal contains the information that:

Mowat pointed out the difficulty which had arisen with reference to tavern licenses/- Manitoba has granted some, and Ontario has granted some. Mowat has given instructions to his officers not to interfere with tavern licensed by Manitoba, and suggests as a mode of avoiding collision that we should get Manitoba to give similar instructions with reference to licenses granted by Ontario, pending the decision. If you agree to this perhaps you will instruct Burbidge to telegraph to the government of Manitoba, or will do so yourself. I think it would be a wise and prudent thing to do.

The provisional government, nevertheless, was too complicated in its structure and unworkable. On December 10th, 1883, L.A. Miller set forth the main clauses.⁴² Manitoba and Ontario Commissioners were to each hold court together when practicable. Clause 9 reads in part, "The commissioners shall have charge and control of the said police force and of all special and other constables. The Lieutenant Governor of either province may from time to time appoint additional and other constables at the expense of the government appointing them".⁴³ Clauses 12, 13 and 14 would lead one to wonder what the dispute was about, liquor or boundaries.

Clause 12:

The licenses hereafter granted for Rat Portage or its neighbourhood by or the authority of either government for taverns, shops, or public billiard tables are confirmed for the remainder of the year for which they have respectively been granted.

Clause 13:

The said two police commissioners shall have the sole authority to grant new licenses for any of the said purposes in the said territory north and west of the Height of Land, but so that the whole number of

tavern licenses in Rat Portage at one time shall not exceed twelve.

Clause 14:

The statutes in force in each Province in respect to the sale of fermented or spirituous liquors, and the regulation of licensed taverns or shops, and the penalties for the contravention of such statutes shall, unless otherwise provided for the present agreement apply to the disputed territory North and West of the Height of Land as if the same were an undisputed part of such province and the said licenses had been issued under "The Liquor License of Ontario" Act and under the Laws of Manitoba Respectively. If the laws of the said Province conflict the Commissioners shall have the power to make regulations in respect to such matters so as to remove the conflict..."⁴⁴

As a matter of information, in this never never land, the fee for a tavern license was \$150. Much to the relief of all concerned, the Privy Council, which met on the Isle of Wight, brought down its decision on August 11th, 1884.⁴⁵ The main parts follow.

Your Majesty having been pleased by Your Order in Council of the 26th June 1884 to refer unto this Committee the humble Petition of Oliver Mowat Your Majesty's Attorney General for the Province of Ontario as representing that Province and of James Andrew Miller Your Majesty's Attorney - General for the Province of Manitoba as representing that Province in the matter of the boundary between the Provinces of Ontario and Manitoba in the Dominion of Canada between the Province of Ontario of the one part and the Province of Manitoba of the other part setting forth that a question has arisen and is in dispute between the Provinces of Ontario and Manitoba respecting the Western boundary of the Province of Ontario and it has been agreed between those Provinces to submit such question to Your Majesty in Council for determination the following Special Case has accordingly been agreed upon between the Petitioners as representing the two Provinces aforesaid:

"Special Case.

"The Province of Ontario claims that the western boundary of that Province is either (1) the meridian of the most north-westerly angle of the Lake of the Woods, as described in a certain Award made on the 3rd August 1878 by the Honorable Chief Justice Harrison, Sir Edward Thornton, and Sir Francis Hincks, or (2) in a line west of that point.

"The Province of Manitoba claims that the boundary between that Province and the Province of Ontario is (1) the meridian of the confluence of the Ohio and Mississippi Rivers, or (2) is that portion of the height of land dividing the waters which flow into Hudson's Bay from those which empty into the valley of the Great Lakes, and lying to the west of the said meridian line.

The questions submitted to the Privy Council are the following:

- (1) Whether the Award is or is not, under all the circumstances, binding?
- (2) In case the Award is held not to settle the boundary in question, then what, on the evidence, is the true boundary between the said Provinces?
- (3) Whether in case legislation is needed to make the decision on this case binding or effectual, Acts passed by the Parliament of Canada and the Provincial Legislatures of Ontario and Manitoba in connection with the Imperial Act 34 & 35 Vict. cap. 28, or otherwise, will be sufficient, or whether a new Imperial Act for the purpose will be necessary.

The answers to the above questions were answered in the document as:

- (1) That legislation by the Dominion of Canada as well as by the Province of Ontario was necessary to give binding effect as against the Dominion and the Province to the award of the 3rd August 1878 and that as no such legislation has taken place the award is not binding.

- (2) That nevertheless their Lordships find so much of the boundary lines laid down by that award as relate to the territory now in dispute between the Province of Ontario and the Province of Manitoba to be substantially correct and in accordance with the conclusions which their Lordships have drawn from the evidence laid before them.
- That upon the evidence their Lordships find the true boundary between the western part of the Province of Ontario and the south-eastern part of the Province of Manitoba to be so much of a line drawn to the Lake of the Woods through the waters eastward of that lake and west of Long Lake which divide British North America from the territory of the United States and thence through the Lake of the Woods to the most north-western point of that lake as runs northward from the United States boundary and from the most north-western point of the Lake of the Woods a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul with the stream flowing from the Lake of the Woods towards Lake Winnipeg and their Lordships find the true boundary between the same two Provinces to the north of Ontario and to the south of Manitoba proceeding eastward from the point at which the before mentioned line strikes the middle line of the course of the river last aforesaid to be along the middle line of the course of the same river....
- (3) That without expressing an opinion as to the sufficiency or otherwise of concurrent legislation of the Provinces of Ontario and Manitoba and of the Dominion of Canada (if such legislation should take place) their Lordships think it desirable and most expedient that an Imperial Act of Parliament should be passed to make this decision binding and effectual.

Her Majesty having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed, obeyed and carried into execution. Whereof the Governor-General of the Dominion of Canada the Lieutenant-Governor of the Province of Ontario the Lieutenant-Governor of the Province of Manitoba and all other persons whom it may concern are to take notice and govern themselves accordingly.

-----C.L. PEEL 46

On June 6th, 1885, the Department of Justice headlined Ottawa, sent a despatch to the Governor-General in Council at the request of the Lieutenant-Governor of Ontario, signed by A. Campbell, Minister of Justice, urging that Imperial Legislation confirm the Award of 1884. Mowat wanted a final binding legal decision. This despatch pointed out errors in item number two of the Award. The relevant complaints concerning the errors are listed in Sir John A. Macdonald's correspondence as follows:

It proceeds to define the boundary on the north of Ontario evidently under the misapprehension that the same line is the south-eastern boundary of Manitoba, which it clearly cannot be; the easterly boundary of Manitoba being declared by the Act of Parliament 44 Vic, Chap 14, Sec. 1, and also by the Act of the Legislature of Manitoba passed in the same year, to be a line drawn due north from where the westerly boundary of the Province of Ontario intersects the International Boundary Line, dividing Canada from the United States of America; and the Province of Manitoba being only interested in the reference to their Lordships by reason of those Acts, and to the extent of the definition of the westerly boundary of Ontario, on which its easterly boundary depends.

This complaint helps to illustrate the ignorance of the members of the Privy Council as to the boundary and terrain they were discussing and may also cast aspersions on a map produced by Mowat. Geographically it would appear that the farther away the adjudicators were, the less they knew of the problem but the more power they possessed to decide on the outcome. In these respects, the situation reflected the earlier instance of carefully selected maps and documents that were used by office personnel in the Canadian seat of government case.⁴⁸

The Petitioners

As mentioned on the first page of the Privy Council document, Mowat represented Ontario before the Privy Council. He had many advantages over his opponents. He had been before the Privy Council previously (in 1878) and he was known in British legal and parliamentary circles. He was familiar with the legal aspects of the case as he had been involved in the dispute from the beginning and over the years had built up both Ontario's case and had developed friends in England for Ontario. Mowat had a map prepared especially for the hearing. The map, as is often the case, was selective in its presentation of data - selective in favour of Ontario's case. Perhaps strangely, it was only on the afternoon of the last day that the accuracy of the information it contained was challenged by the counsel for Manitoba.⁴⁹ "The map was in the hands of the Law Lords and was referred to by them repeatedly, and even by counsel opposing Ontario".⁵⁰ Some doubt had been raised as to the authenticity of the map but it was accepted by the Privy Council as well as by Manitoba and the Dominion (FIGURE 1). Representatives for the latter two governments had not come prepared whereas Mowat had, clearly to Ontario's benefit.

James Andrew Miller, it should be noted, who represented Manitoba, was the member who had been elected in 1883 at Rat Portage for the Manitoba seat called Varennes. He had been named Attorney-General for Manitoba by Norquay and was a relative newcomer to the boundary dispute.

Clearly, in this instance, inexperience could not counter experience and Ontario emerged the victor in the conflict solution process of 1884.

FIGURE 7.

MOWAT'S MAP

FOOTNOTES

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12. Swainson, 1972, p.18. Swainson is quoting from The Royal Commission of 1895 Report, Canada Sessional Papers 1895, No. 21, p.197.
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15. Donald Putnam, Canadian Regions: A Geography of Canada (Toronto: Dent & Sons (Canada) Limited, 1965), pp.333, 336.
16. James A. Jackson, The Centennial History of Manitoba (Toronto: Published under the auspices of the Manitoba Historical Society in association with McClelland and Stewart Limited, 1970), p.123.

17. Ibid.
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22. W.L. Morton, Manitoba: A History (Toronto: University of Toronto Press (1957) 1967), p.218.
23. Schull, 1978, p.99.
24. W.L. Morton, 1957, p.218; (Kenora) The Semi-Weekly Record, December 11th, 1895, Kenora Public Library.
25. Shortt and Doughty, 1914, p.163.
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27. Ibid.
28. Ibid.
29. Ibid. (Kenora) The Semi-Weekly Record, December 11th, 1895, Kenora Public Library.
30. Ibid.
31. Ibid., No. 232. The Rat Portage Troubles.
32. Ibid.
33. Ibid.
34. Ibid., No. 13114.
35. PAC., Ibid., Vol. 34, Reel C1499.
36. Ibid., no name; n.d.
37. Ibid., Vol 43, Reel C1499.

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CHAPTER 6

BOUNDARY LEGALIZATION AND EXTENSION

Following the 1884 Award of the Privy Council, Mowat returned home to a tumultuous welcome. Historian Creighton has expressed his admiration for Mowat's skillful presentation when he declared: "Against a battery of lawyers, ... who acted for Manitoba and the Dominion, he had made good Ontario's claim to the vastly extended boundary on the north-west which had been awarded by the arbitrators in the summer of 1878".¹ Macdonald was not yet ready, however, to legalize the Award.

Limitations

When Macdonald had agreed to take the boundary dispute to the Privy Council he expressly stated in his terms that the dispute went only "so far as it related to the definition of the westerly boundary of Ontario, but not so far related to the title of lands thereby brought into question".² Macdonald held that the lands under dispute were Crown Lands because they were Indian Lands and thus were under the control of the Dominion Government. The Dominion Government continued to issue timber licences covering a million acres but then a case was made when an action was brought against the St. Catharines Milling and Lumbering Company. The case was heard in July, 1888. The Company pleaded that it was operating with a valid Dominion licence

but "The Judicial Committee for the Privy Council agreeing with the three Canadian courts, decided that the land, timber and minerals belonged to the Province of Ontario."³

It is unclear who presented the case for Parkin indicated it was Mowat⁴ whereas Schull contended that Blake (a former Premier of Ontario) and Mowat jointly presented the case.⁵ When presenting part of the case Blake is reported to have argued successfully that the lands "had passed from the authority of the Dominion to become the property of Ontario" because of the Award.⁶ Parkin also mentions that Mowat was "powerfully helped" by the presence of Lord Watson who was on the judicial committee.⁷ No matter which man did what, further support was given to Ontario, with the gaining of provincial rights at the expense of the Federal Government.

Up to this point the Dominion had not passed a law legalizing the 1884 Privy Council decision. In March 1885 Macdonald had telegraphed to Norquay asking if he objected "to an imperial act confirming boundary award."⁸ Norquay replied, "No, will be glad to have question settled beyond revival."⁹ Nevertheless, in 1886 Manitoba still advertised for settlers in Germany as if the once disputed territory was still in the Province of Manitoba.¹⁰ The affirmative reply from Norquay did not result in immediate action from Macdonald, and Ontario had to wait four more years for the passing of the Canada (Ontario Boundary) Act, 1889, 52-53 Victoria, Chapter 28.

The Act proclaimed that:

And whereas such boundaries, so far as the Province of Ontario adjoins the Province of Quebec are identical with those fixed by proclamation of the Governor General issued in November, one thousand seven hundred and ninety-one, which have ever since existed:

And whereas such boundaries, so far as the Province of Ontario adjoins the Province of Manitoba, are identical with those found to be correct boundaries by a report of the Judicial Committee of the Privy Council, on the eleventh day of August, one thousand eight hundred and eighty-four, ordered to be carried into execution:

And whereas it is expedient that the boundaries of the Province of Ontario should be declared by authority of Parliament in accordance with the said address.

The Act stated that the Senate and the House of Commons requested that the Act:

be submitted to the Parliament of the United Kingdom, declaring and providing the following to be the westerly, northerly, and the easterly boundaries of the Province of Ontario, that is to say: -

Commencing at the point where the international boundary between the United States of America and Canada strikes the western shores of Lake Superior, thence westerly along the said boundary to the north-west angle of the Lake of the Woods, thence along a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Winnipeg, and thence proceeding eastward from the point at which the before-mentioned line strikes the middle line of the course of the same

river last aforesaid, along the middle line of the course of the same river (whether called by the name of the English River or, as to the part below the confluence, by the name of the River Winnipeg) up to Lake Seul or the Lonely Lake, and thence along the middle line of Lake Seul or Lonely Lake to the head of that lake; and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves to the shore of the part of Hudson's Bay commonly known as James Bay, and thence south-easterly following upon the said shore to a point where a line drawn due north from the head of Lake Temiscamigue would strike it, and thence due south along the said line to the head of the same lake, and thence through the channel of the said lake into the Ottawa River and thence descending along the middle of the same channel of the said river to the intersection by the prolongation of the western limits of the Seigneurie of Rigaud, such mid-channel being indicated on a map of the Ottawa Ship Canal Survey made by Walter Shanly, C.E. and approved by the Order of the Governor General in Council, dated the twenty-first July, one thousand eight hundred and eighty-six; and thence southerly, following the said westerly boundary of the Seigneurie of Rigaud to the south-west angle of the said Seigneurie, and then southerly along the westerly boundary of the augmentation of the Township of Newton to the north-west angle of the Seigneurie of Longueil, and thence south-easterly along the south-western boundary of the said Seigneurie of New Longueil to the stone boundary on the north bank of the Lake St. Francis, at the cove west of Point au Baudet, such a line from Ottawa River to Lake St. Francis being as indicated on a plain of the line of boundary between Upper and Lower Canada, made in accordance with the Act 23 Victoria, Chapter 21, and approved by the Order of the Governor General in Council, dated the 16th of March 1861.

The Ontario Boundary Act passed by the Federal Government in 1889, extended Ontario "in full possession of its resources and its remaining Indian Lands north to James Bay and west to the Lake of the Woods".¹²

Ontario thus was able to overcome its greatest hurdle to the legal expansion of its territories by the passage of the Boundary Act (1889). The surveying and marking of the line required time and money. When the Federal Government suggested that Ontario and Manitoba cooperate with the Dominion toward surveying the line at a cost of nine thousand dollars, Manitoba withdrew its support.¹³ Thomson notes that it was not until 1897 that "surveyors were formally appointed" and it took one year further before surveyors Stewart and Saunders could present their report to Ottawa.¹⁴ Ottawa invited the two provinces to accept the boundary as marked by the surveyors. Ontario agreed but Manitoba remained silent.¹⁵ It was over twenty years before any further work was undertaken or any additional surveying was done.

Boundary Extension

The third phase of the north western boundary of Ontario was a natural outcome of the Boundary Act. Ratzel's seventh law that states that the "trend toward territorial growth is contagious and increases in the process of transmission"¹⁶ was activated by the creation of the provinces of Saskatchewan and Alberta in 1905.¹⁷ Swainson suggested that these new provinces were deliberate "creations of the federal government" under Sir Wilfred Laurier, acting "solely in deference to the wishes of the people" [of that area], in contrast to the expansionist policies and boundary disputes of Manitoba and Ontario with the Dominion government. "The Constitutions of the provinces"

[Saskatchewan and Alberta] were set out in the acts passed by parliament, but the actual initiation was left to the Lieutenant-Governors".¹⁸

If, as Swainson suggested, the boundaries of Alberta and Saskatchewan were created and delimited due to the wishes of the people of the area concerned, the motives and actions of the Federal Government were in sharp contrast to that exercised in the case of the boundary disputes which erupted over territorial claims in the case of Manitoba and Ontario. The creation and delimiting of boundary lines between Manitoba and Ontario appears, from the evidence presented, to have been the result of individual competition between the political leaders (Macdonald, Mowat and Norquay), not by a consensus of the citizens of the area. The extension northward of the boundary dividing the two provinces was another matter.

The Lieutenant-Governor of Manitoba administered the territory directly north of Manitoba, known as the District of Keewatin. Because of the above fact, Manitoba felt that the Keewatin territory justifiably belonged to it. In light of this, Ontario saw a chance to extend its boundary northward, thus it supported Manitoba's claim to the northern extension to Hudson's Bay.¹⁹ Saskatchewan, Alberta and British Columbia boundaries extended to the 60th parallel of latitude so perhaps the "contagious" effect mentioned by Glassner and De Blij was at work.²⁰ Manitoba advanced claims and arguments in favour of a boundary extension

to the 60th parallel of latitude. Probably the most logical basis for such a claim stemmed from the fact that the original Selkirk Settlement had originated with the Hudson's Bay Company which operated north of the settlement in "The Bay" territory.²¹ To the map makers and governmental authorities such a suggestion served as a neat map solution to a territorial claim to a territory which was only slightly known. Such a claim also solved an administration problem.

In 1912, by two Acts of Parliament and with legislative consent of those concerned, vast areas in the north were added to Ontario and Manitoba (Figure 6).²² The 1912 Ontario Boundaries Extension Act (2 George V; Chapter 40) included the following:

Commencing at the most northerly point of the westerly boundary of the province of Ontario as determined by "The Canada (Ontario Boundary) Act, 1889", chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of the province of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of the Dominion Land Surveys; thence north-easterly in a right line to the most eastern point of the Island Lake, as shown in approximate latitude 53° 30' and longitude 93° 40' on the railway map of the Dominion of Canada...; thence northeasterly in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay; thence easterly and southerly following the shore of the said bay to the point where the northerly boundary of the province of Ontario as established under the said Act intersects the shore of James Bay; thence westward along the said boundary established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Ontario, and shall, from and after the

said commencement, form and be part of the said Province of Ontario.

District Boundaries

With the extension of Ontario's territorial limits, the vast area had to be administered. As the territory was expanded northwards, the original provisional Judicial Districts of 1858 changed constantly. Of note, the District concept continued to function in Northern Ontario whereas the County system was used in Southern Ontario. The County system encompassed rural areas, omitting urban settlements. In contrast, the District system was primarily for administration, policing, voting, and census taking, with one main town or city acting as a core area. Thus two boundary systems operated (and still do) within the same territorial unit that is the Province of Ontario.

At the time of Confederation the District of Parry Sound had been added to an administrative unit south of Nipissing. By 1881 Thunder Bay was added even though the territories had not been extended to the height of land. Then, in 1884, the District of Nipissing was extended northward to James Bay, Algoma reached the Albany River (with a shoreline on James Bay), while Thunder Bay contained the area awarded to Ontario by the Privy Council in Britain.²⁴ These were very large territorial units to control and police, but they also contained many valuable mineral and timber resources. Adjustments made the following

year moved the Thunder Bay boundary eastward north of Lake Superior and was cut off around English River on the western boundary, allowing for a smaller administrative area to the west named Rainy River.²⁵

The long distances northward to James Bay and the Albany River were impracticable for governing and the population was sparse in the Hudson's Bay Lowland. Settlements tended to be along the new railway line from North Bay, north of Lake Superior, to Fort William. Three large cities developed on the Shield, Sault Ste. Marie, Sudbury and North Bay. By 1912, settlers were farming on the Clay Belts at Cochrane and New Liskeard, but farming was meagre elsewhere. Changes in population were continuous, reflecting the mining and timber industries. One-industry non-renewable resource towns hindered development. World prices of raw resources fluctuated. It was an unstable situation for long term planning.

One reason for consolidating internal boundaries was the fact that since 1879 President Hayes of the United States had been seeking ways to annex parts of Canada. William Henry, a friend of Hayes, wrote:

His plan is for the United States to assume the debt and for our people to push into the Red River country and thus Americanize that portion of the country from Lake Superior to the Pacific. This is being done rapidly, and whether in time for this Administration or of the next, it is soon to be.²⁶

Canadian Prime Ministers were aware of the threat to such vast unoccupied territory. When Macdonald's Conservatives were defeated in 1896, Wilfred Laurier, a Liberal, came to power. Laurier promptly promoted immigration northward and westward. It is estimated that during his tenure in office, of fifteen years, two million immigrants arrived in Canada.²⁷ Communications systems accompanied the sudden influx of citizens as railways moved immigrants and grain shipments.

A distinguishable network of occupied territory was forming across the country. Primary resources of the north moved into the industrial heartland of Ontario and the province prospered. Laurier's government maintained its momentum and power through the three elections of 1900, 1904 and 1906.²⁸

Laurier was a different man from Macdonald in his attitude toward the provinces. Macdonald had spent all his years in power trying to strengthen and centralize the federal government whereas Laurier, perhaps because he was new in office, favoured decentralization. What is sure is that the period of decentralization under Laurier produced progress and prosperity. The several regions of Canada became economically recognizable and viable. Politically, changes were made in the Statute Laws of 1912 that stabilized the boundaries.²⁹ The surveying of the disputed territory had yet to be completed, nevertheless the general outline of the boundary Statutes of 1912 can be regarded as completing the chapter in the delimitation of the northern and western boundaries of Ontario.

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MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

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21. Nicholson, 1964, p.87.
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CHAPTER 7

CONCLUSION

Development Process

The development process of North Western Ontario commenced when Upper Canada was incorporated legally as a province by the Constitutional Act of 1791. This was purely a British decision that affected a sparsely settled colonial area. Orderly settlement consequently occurred in the areas north of Lake Erie and Lake Ontario and was generally contained in a peninsula formed by Lake Huron to the west. There was no problem in regard to boundary lines at this time as the topography of the area - the lakes and linking rivers - formed a natural separation with Quebec and the United States.

When the triangular peninsula became settled and the agricultural land occupied, expansion turned northward and westward of Lake Superior into an unregulated, unsurveyed, frontier area. The first administrative unit was formed in 1858 when the Districts of Algoma (East and West) and Nipissing (North and South) were organized and incorporated. Nine years later, at the time of Confederation, Ontario had extended its boundary west of Fort William. The Province of Manitoba was subsequently organized three years later, in 1870. At the time no legal boundary existed between the provinces because the District of Keewatin formed

a corridor separating them.

The discovery of gold and other minerals on the Shield in the 1860s, accompanied by the advent of the railway, caused a spirited interest by politicians and population in northern Ontario. Timber interests preceded the miners in many cases, especially along the Mattawa River. Entrepreneurs rather than settlers entered the frontier area. The boundaries of northern and western Upper Canada became an issue with Manitoba and the Dominion government because of claims over who had the legal right to the lucrative licensing and fees.

Political dissension

In the 1870s, three men occupied positions of power related in some manner to the territory in question: Sir John A. Macdonald was Prime Minister of a shaky conservative government in Ottawa; Oliver Mowat was liberal Premier of Ontario; and John Norquay, Premier of Manitoba, who had conservative leanings. Each man had different goals for Canada and the provinces they represented. Upper Canada became the most aggressive province, leading the way for provincial rights, whereas Macdonald counteracted all Mowat's moves in his quest for centralization, power, and economic gain for the Federal Government. Norquay became lost in the shuffle.

As the country developed north and west of Lake Superior and the population became widely distributed between Fort William and Winnipeg, Rat Portage became the focus of the boundary dispute between Ontario, Manitoba and the Dominion government when gold was discovered simultaneously with the arrival of the railway. Both events led to an influx of population. Administrative centres became imperative. Boundary limitations became necessary for administrative purposes and because Ontario and Manitoba laid claim to the same territory. Impossibly tense situations developed.

The main factors which accompanied and irritated the boundary dispute seemed unsurmountable to local officials. The liquor problem increased proportionately to the dispute. There were problems of licensing and distribution among the boundary contestants. This led to rowdyism among a restless, shifting, uncontrollable population. The population did not primarily cause the problem but their response and reaction to the political dithering and legalities, irritated an untenable situation.

Secondly, the political aggression evidenced, reinforced and implied that chaos was the order of the day. Witness Norquay of Manitoba, personally leading constables to Rat Portage to arrest Ontario citizens and returning to Winnipeg with the captured law-enforcers of another province! The Winnipeg papers called it a "border war".

Thirdly, British sovereignty over Canadian territory made it possible for Mowat and Macdonald to extend the quarrel to outsiders who did not comprehend the enormity of the stakes or the geographical problem involved. The Privy Council had to ask for a map of the disputed area at the Commission hearings, which Mowat proceeded to provide. This indicates that they were not familiar with the area, even on a map. Thus, they had not provided themselves with advance information. Distances on a map can be vague and unrealistic to people who have never set foot in a country and were less than interested in local disputes in one of the colonies.

Fourthly, there was ignorance of the territory even in eastern Canada. There was ignorance of the topography and the water basins of the west although there were maps available. Rat Portage was within the Red River Basin, which was ignored or overlooked (Figure 4). A seaport at Fort William would have given the province of Manitoba a port for shipping grain and a larger resource area. Instead, Manitoba eventually got a port on Hudson's Bay (Churchill) which was operable about three to four months of the year. Although Manitoba belonged to the Conservative fold, it received little consideration from Ottawa. The personal vendetta between Macdonald and Mowat overshadowed the dispute to the disadvantage of Manitoba.

A fifth factor in the dispute was the stress placed on administrators at Rat Portage. The needs of the people were ignored as the three governments of Ontario, Manitoba and the Dominion, interfered and vied

for license profits and political gain from liquor and timber sales. The Indians of the area were disregarded, even though Macdonald claimed the Crown Lands of the area in their name.

The Provisional ~~boundary~~ of 1874 led to the Arbitrator's decision of 1878 which Macdonald dismissed as a "scrap of paper". When the Arbitrators gave "the Award" to Ontario, he found excuses to delay and hinder the passing of Federal Laws to legalize the boundaries. He refused to honour legal decisions.

Macdonald gerrymanded by passing the Dominion Act of 1881 which declared the eastern boundary of Manitoba to be the western boundary of Ontario. When Manitoba agreed to submit to the Privy Council in Great Britain for a final boundary ruling in 1884, following the collapse of the Commission Government at Rat Portage, Macdonald refused to include Crown Lands, really Indian territory, in the tribunal. Territorially, he refused to accede when he lost his case until finally ordered by the Privy Council to pass a Federal Law in 1889 legalizing their decision.

Throughout the crucial years, Mowat kept pressing for a decision. He was a methodical, thorough man, who put his faith in detail and legality. When the Courts in Canada failed him, his last resort was the Privy Council. He was leader of a solid Liberal government supported by The Family Compact, whereas Macdonald's government and

prestige was constantly shaky because of internal and economic problems, including a railway scandal.

Meanwhile Mowat proceeded to collect material for his case before the Privy Council. Each time, in 1874, 1878, 1884 and finally in 1889, Mowat's case was successful. The question of provincial rights versus federal centralism became a prominent issue between Ontario and Ottawa. The success of Mowat at the Courts of Ottawa and Great Britain weakened Macdonald's case and strengthened Mowat's hand.

With the election of Sir Wilfred Laurier a new era emerged. The boundaries of Manitoba and Ontario were amicably settled as they were extended northward in 1912 to their present limits.

This study of the formation of North Western Ontario has endeavoured to cover the historical and political background which led to the boundary disputes of the 1800s. The process involved covered a period of one hundred and twenty-one years when Canada was experiencing her most formative period. Political conflicts developed because of personality clashes and the way in which regions and politicians differed in their fundamental concepts of the rights given to the provinces at the time of Confederation. Both Mowat and Macdonald were Fathers of Confederation but each viewed the union from a different perspective.

The Privy Council was interested in getting the boundary dispute settled. Mowat was prepared. He had all the details mapped and recorded for the Council's perusal. The decisions of the Privy Council altered the concept of the rights of the provinces as much as it altered the boundaries. Sir John A. Macdonald's idea that the provincial legislatures were mere appendages of the central government had to be altered toward a more enlightened attitude. In addition, it should be noted that most decisions on the North Western boundaries of Ontario were made by foreigners to the territory. The farther the geographical distance from the disputed area, the more power was evident to make decisions. The Privy Council could not have realized the extent to which the three leaders would go in their quest for economic resources. No record surfaced showing that local citizens were involved in the crucial decisions. Thus, this study must come to the conclusion that the boundary disputes were not the result of geographical studies, or ethnical, cultural, religious, or population demands.

With respect to the two hypotheses presented at the outset of this study, it can be concluded that each was valid. If anything, however, the second hypothesis - that interplay between political figures was largely instrumental in determining where the finalized boundary lines would be - might well have been stated in even stronger terms.

APPENDIX A
INDIAN RIGHTS

INDIAN RIGHTS

Indian Rights have not been dealt with when discussing territorial ownership of the Disputed area. All Indian properties were included in Great Britain's 1884 Privy Council Award to Ontario. The reason for this was that:

In 1850 the Government signed a treaty with the Ojibways of Georgian Bay (the Huron-Robinson Treaty), which gave to the government all the "unconceded lands within the limits of Canada West to which they have any just claim". According to the terms of the treaty this area included not only the areas north of Georgian Bay, but a thousand square miles of territory lying east of Georgian Bay as well.

This is essentially the territory which has been discussed in this study. These Indian Lands are the properties that Sir John A. Macdonald claimed as Crown Lands and he insisted that they were under the protection of the Federal Government.

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