

May 3, 1872

Hon. Mr. MACKENZIE: Hear, hear.

Hon. Sir JOHN A. MACDONALD: My hon. friend again says “hear, hear.” I hope that he will hear and perhaps he will hear something he does not know. (*Hear, hear.*) I may tell my hon. friend that the navigation of the River Yukon is a great trade, and that the Americans are now sending vessels and are fitting out others for the navigation of the Yukon. I will tell my hon. friend that at this moment United States vessels are going up that river and are underselling the Hudson’s Bay people in their own country, (*Hear, hear*), and it is a matter of the very greatest importance to the Western country that the navigation of these rivers should be open to the commerce of British subjects, and that access should be had by means of these rivers, so that there is no necessity at all for the ironical cheer of my hon. friend.

Sir, I am not unaware that under an old treaty entered into between Russia and England that the former granted to the latter the free navigation of these streams, and for the free navigation of all the streams in Alaska. But that was a treaty between Russia and England, and it may be argued, and would be argued by England, that when the United States took that country from Russia it took it with all its obligations; but, Mr. Speaker, there are two sides to that question. The United States, I venture to say, would hang an argument upon it, and I can only tell my hon. friend that the officers of the United States have exercised authority in the way of prohibition, and have offered the pretext that that was a matter which had been settled between Russia and England, that the United States now had that country, and would deal with it as they chose, and therefore, as this was a treaty to allay all questions, and not to raise new ones, it was well that the question should be settled at once as between England and the United States, as before it was between England and Russia.

Before leaving the question of the St. Lawrence, I will make one remark, and will then proceed to another topic, and that is: that the article in question does not in any way hand over or divide in any way the River St. Lawrence or give any sovereignty or right whatever, except in the matter of navigation. Both banks belong to Canada—the management, the regulation, the tolls, the improvement, all belong to Canada. The only stipulation made in the Treaty is that the United States vessels may use the St. Lawrence on as free terms as those of Canadian subjects. It is not a transfer of territorial rights—it is simply a permission to navigate the river by American vessels, that the navigation shall ever remain free and open for the purpose of commerce, and only for the purpose of commerce, “to citizens of the United States, subject to any laws and regulations of Great Britain, or of the Dominion of Canada, not inconsistent with the privilege of free navigation.”

Now, Mr. Speaker, on the questions relating to navigation, I shall allude to one of the subjects included in the Treaty, although it was not contemplated in the instructions given to the British Commissioners by Her Majesty’s Government—in fact, it was scarcely known—and that is what is known as the St. Clair Flats

question. It is known that the waters of the River St. Clair and the waters of Lake St. Clair are free to both nations, that the boundary line which divides them is provided by treaty, that the Treaty of 1842 provides that all the navigation from the point where the River St. Clair flows from Lake St. Clair shall be common to both nations, so that all those channels are free, were made common to both nations, and are so now. In the St. Clair Flats, and in consequence to improve the navigation, Canada has made appropriations for the purpose of improvement. There were also appropriations made—I forget whether by the United States or by the State of Michigan, or by private individuals—for the purpose of improving the waters, and the United States made a canal in and through the St. Clair Flats. The question then arose whether that canal was in Canadian territory or within that of the United States. I have no doubt that the engineering officers appointed by the United States to choose the site of the canal and to construct it, acted in good faith in choosing the site, believing that it was in the United States, and, from all I can learn, subsequent observations proved that to be the case.

Hon. Mr. MACKENZIE: Hear, hear.

Hon. Sir JOHN A. MACDONALD: My hon. friend says “Hear, hear,” and I have no doubt he will give us an argument, and an able one, too, as he is quite competent to do, to show that under the Treaty this canal is in Canada. A strong argument might be founded in favor of that view from the language of the report of the Commissioners—that is, if we looked at the language, and combined with that language the evidence taken of the division of the different sites. I admit that a strong argument might be based on the language of the report, when it speaks of the old ship channels, but from the evidence and statements that have been collected on the point it may be held to be a matter of doubt whether the canal or a portion of it was within the boundary of Canada. But the Commissioners did not satisfy themselves on that point, but they joined and placed their signatures to a map, and to anyone reading the report with the map and holding the map as a portion of the report, this canal is entirely in the United States. It may be unfortunate that it is so because it may greatly impede the navigation of those flats by Canadians.

But the question is whether under that treaty, and that map which is a portion of the treaty and as obligatory as the treaty, the canal is in the United States or not. When the point was raised that the map was inconsistent with the report, Her Majesty’s Government, I have no doubt under the advice of Her Majesty’s legal advisers, made it a point with words that cannot admit of argument that the two must be taken together and that the map explained and defined the meaning of the language of the report so that Her Majesty’s Government declined to argue a proposition so unworthy of being urged as that the map was not binding and obligatory upon them. But sir, “out of the nettle, danger, we pluck the flower safety.” The House will see by looking at the clause I referred to that it is a matter of no consequence whether the canal is in the United States or Canada, because for all time to come that canal is to be used by