

APPENDIX  
OF MANITOBA.  
Sec. III.

Report of T.  
K. Ramsay,  
Q.C., March,  
1873.

between the authorities in Canada and the Government of France, from the time of the Treaty of Utrecht (note S) till the Treaty of Paris, by which England acquired Canada, put an end to the possibility of a question arising between the two countries as to the boundaries of the Hudson's Bay Territories.

22. But whether the conclusion at which we have arrived be legally correct or not, in so far as regards the right of the Hudson's Bay Company to the territory claimed by them, it is clear it was so understood by the Government in England; and, being so understood, a description in a document by competent authority, giving the Hudson's Bay territory as the northern limit of Canada, would limit Canada to the line understood to be the southern boundary of the Hudson's Bay territory. In other words, if the Hudson's Bay claim had been proved to be wholly unfounded, this would not of itself have  
10 extended the limits of Canada.

23. By laying down the height of land or watershed as the general rule by which the territory of Canada was to be distinguished from that of Hudson's Bay, results more important than any contemplated at that time were attained. The actual flow of the river was not then known, and it could not readily be imagined that the height of land which forms the watershed of the system of the St. Lawrence and the great lakes, should hem in as closely as it does the waters of Lake Superior. This fact, now perfectly established, reduces to very moderate proportions any claim the province of Ontario could put forward, based on the idea that the western limits of la Nouvelle France, were also those of the late Province of Canada. The Treaty of 1783, which fixes the line of division between the British possessions and the United States, cuts this height of land, and with it defines the whole boundaries of  
20 the province—north, west and south—even if the extreme pretension to which allusion has just been made were adopted. A1.

24. But looking at the question from a strictly legal point of view, this pretension cannot be maintained. The terms of the Treaty of Paris, conveying certain territory to the Crown of England, could not possibly convey to the people of Canada, much less to any portion of them, any absolute territorial right to any particular extent of territory further than what they actually occupied, or what was afterwards conferred by competent authority (note T). They might seek to have certain limits granted them as a matter of sentiment or convenience (1), but no one has ever pretended that the English Government was obliged to maintain under one government the whole territory ceded to the Crown of England as Canada; and, in effect, no such unity has ever been attempted. The whole  
30 territory ceded by Vaudreuil as Canada, and claimed by England as such, has never for a moment been all included in any Government of Canada (note U).

25. It is unquestionable law that after the cession of Canada, and until a regular Government was conferred by Statute, the Province remained a Crown Colony, and was subject to be governed under the special ordinances and instructions of the King. Hence it is we must turn to the Proclamation of 1763, to ascertain what was thenceforward to be considered as the Province of Quebec or Canada.

26. That Proclamation sets forth that the King, with the advice of his Privy Council, had granted letters patent, creating four distinct and separate governments within the countries and islands ceded and confirmed to the Crown in England by the Treaty of Paris (1763).

27. The first of these governments, that of Quebec, was declared to be bounded on the Labrador  
40 coast by the River St. John, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissing, from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45 degrees of north latitude, passes along the highlands which divide the rivers which empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coasts of the Baie des Charleux, and the coast of the Gulf of St. Lawrence to Cape Rosier, and from thence, crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John, (note V.) A 2.

(1) They did by their petition of 1773. Doutre et Lareau Dr. Civil Canad. I, p. 674.