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THE BOUNDARY QUESTION.

The refusal of the Dominion Government to ratify the award of the arbitrators appointed to determine the boundaries of Ontario is being made an issue between parties in the present elections. One party alleges that a design has been formed by the Dominion Government to "rob Ontario" of a vast extent of domain which is undoubtedly hers; the other replies that the arbitrators did not find the true boundary and that the decision is illegal. On behalf of Ontario, it is said that the Dominion was bound to ratify the award, and that not to do so was an act of bad faith. Some go so far as to say that the refusal to ratify a convention or carry out a treaty to which the negotiators had put their signature, is a thing of which there is no example. Neither of these assumptions can be sustained. The fact that the award was not to be binding until it has been ratified by the legislative authorities representing respectively the Dominion and the Province of Ontario, shows that a discretionary power was held in reserve and might be exercised for cause. This reference to the legislatures bore a striking analogy to the provision, in the case of international treaties, for an exchange of ratifications. So far from its being true that international conventions are never refused ratification, after they have been signed, such refusal often takes place. Hundreds, one authority says thousands of such cases have occurred. And the reason why it is necessary that Governments should have the power of ratifying or refusing to ratify treaties made in their name is that the negotiators are liable to exceed their authority.

The rule must be that a refusal to exchange ratifications is for cause. And, in the same way, the Dominion legislature might fairly refuse to ratify the award of the arbitrators, in this boundary dispute, for cause. Various grounds of objection to the award have been taken, from time to

time. One is that, on the north, a conventional boundary was made; and recent discussion seems to give color to the statement. So long as the grounds of the award remained undisclosed, it was impossible to say what they were; but one of the arbitrators, Sir Francis Hincks, has shown how the arbitrators came to fix upon this boundary. They conceived that they had authority for starting as far north as James' Bay and that there was a point in the west at which they were justified in ending the line. How to traverse the distance between these two points, a distance of several hundreds of miles, was the question. They took a natural boundary, formed by two rivers, on the ground of convenience. This would have been a sensible thing to do, if the question of convenience were within the powers of the arbitrators. This, however, is denied, and if a legal boundary had to be found, not without reason.

The latest utterance on the subject is by the premier of the Dominion. Sir John Macdonald declares, as a constitutional lawyer, that the award, "whether confirmed by the Legislature of Ontario or the Parliament of Ottawa, has no legal validity whatever, and that it is a piece of waste paper." The objection goes to the mode of settlement, which, Sir John contends, must either be by the Imperial Parliament or the Privy Council. Any decision by arbitrators, he contends, would be mere waste paper. This is a legal question, on which, Sir John says, Mr. Blake has not ventured a different opinion. But if the parties interested had agreed to settle the question by arbitration and the award had been carried into effect, who was there to disturb the settlement? Manitoba, if she be interested, could of course object; and that would be sufficient to raise a contestation over the settlement. Referring to the North-West, Sir John says:

"Not a single acre of that land belongs to the Province of Ontario, and I will tell you why. You can quite easily understand it. The land belonged, so far as the grant of Charles II. could give it, to the Hudson Bay Company, but it was subject to the Indian title. The Indians were the original owners of the land. Well, those lands all belonged to the Indians until the Dominion Government purchased them. Those lands were purchased, not by the Province of Ontario—it did not pay a farthing, and refused to pay a farthing—but by the Dominion, and you are paying taxes on account of that purchase. To whom did the Indians surrender the lands? They did not give any deed to Ontario. By seven treaties the Indians of the North-West conveyed the lands to Canada, and every acre belongs now to the people of Canada, and not to you as the people of Ontario. So much is that the case that the Government of Manitoba says, "We do not want the country, because the only consequence of taking it will be that we will have the expense and trouble of governing it while the whole lands belong to the Dominion. If you will take the trouble to look at the speech

which Mr. Mackenzie, who was then head of the Government, placed in the mouth of the Earl of Dufferin when he was Governor-General at the prorogation of Parliament in 1877, you will find that Mr. Mackenzie and Mr. Blake and that Government made the Earl of Dufferin, as the representative of the Sovereign, say that we congratulate you on having purchased all that land from the Indians, and on the fact that the whole of that magnificent country, from Lake Superior to the Rocky mountains, belongs to the Dominion of Canada. That was the language placed by Mr. Mackenzie in the mouth of the Earl of Dufferin, and that land now belongs to the Dominion of Canada. Mr. Mowat does not say that. He says we have lost all that timber and land. Even if all the territory he asks for were awarded, there is not one stick of timber, one acre of land, or one lump of lead, iron, or gold that does not belong to the Dominion, or to the people who purchased from the Dominion Government. So it is absurd to say that Ontario has been robbed; she has not been robbed of a farthing."

This argument assumes that the lands awarded to Ontario, previously belonged to the Hudson Bay Company, and were twice purchased by the Dominion, first from the company and secondly from the Indians. But that the lands awarded or any part of those previously belonged to the Hudson Bay Company is only an assumption, and is precisely on a par with the opposite assumption that they have, for a very long time, belonged to Ontario. This is the very point in dispute; and we shall not be taking a single step nearer a settlement by any begging of the question. In the absence of evidence, one assumption is as good as another. The theory of the award is that no part of the lands awarded to Ontario ever belonged to the Hudson Bay Company; and on that theory, the Dominion paid nothing to the Hudson Bay Company for them.

Any extension of the territory of Manitoba would not give that Province a right to the lands. But there is no question of extending the bounds of Ontario. What is necessary is to find the ancient boundaries, and these once found, no matter how far the territory might extend, westward or northward, the land would be hers, she being permitted by the Confederation Act to retain the public lands within her borders. It is obvious therefore that if a competent judicial tribunal should give a decision which practically confirmed the award of the arbitrators, Ontario would be entitled to all the lands, timber and minerals within the limits determined. To say that she is not entitled to any of these, north or west of certain points, under the arbitration is simply to deny the correctness and the validity of the award.

The extinguishing of the Indian title is another matter; and if the Dominion had paid under this head, it would probably be entitled to be recouped by Ontario.

When Sir John Macdonald contends that