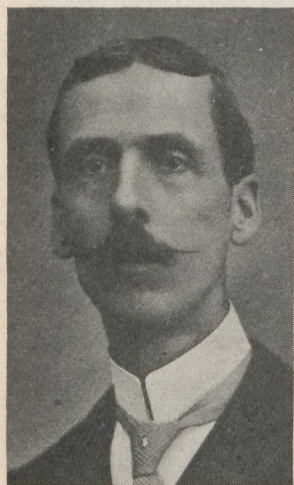


Canada's Boundary Disputes

By JAMES WHITE, DOMINION GEOGRAPHER *



Mr. James White.

SOME one has said that there is nothing so interesting as "the study of a nation in the making," and, to Canadians, there can scarcely be any study of greater interest than that of the boundaries that circumscribe this great Dominion.

The great "date-line" in Canada's territorial history is, of course, the Treaty of Paris, 1783. On September 3rd, 1783, a treaty was signed by Hartley on the part of Great Britain and by Adams, Franklin and Jay on the part of the United States. The

preamble reads "and that all disputes which might arise in the future on the subject of the boundaries of the said United States might be prevented, it is hereby agreed and declared that the following are and shall be their boundaries, viz:" In view of the fact that the disputes respecting the said boundaries continued for nearly sixty years, and that the San Juan boundary, which was indirectly affected by them, was only settled in 1871—nearly a century later—this preamble can only be called a delicious bit of unconscious irony.

The first acute dispute was over the so-called Maine boundary and, in considering it, it is necessary to, first, summarise the negotiations antecedent to the signing of the provisional treaty of peace, signed at Paris, November 30th, 1782, by Oswald on the part of Great Britain. The preliminary negotiations for peace were initiated by Lord Shelburne, who, as Secretary of State for the Home Department, had charge of colonial affairs. He entrusted them to Richard Oswald, "a well known Scotch merchant in London." According to Lord Edmond Fitzmaurice—Shelburne's biographer and apologist—"Nobody could, in any case, have been more unfit both by character and habits for engaging in a diplomatic intrigue than Oswald, whose simplicity of mind and straightforwardness of character struck all who knew him." This "simple and straightforward" man signed a treaty which conceded to the United States, an eastern and northern boundary which coincided with the limits of the colonies of Massachusetts Bay and New York. From its intersection with the St. Lawrence, near the present town of Cornwall, it followed the middle of the St. Lawrence and of the Great Lakes to the so-called Long Lake and River, on the map used in the negotiations, as much the largest stream falling into Lake Superior and, therefore, to be regarded as the upper portion of the St. Lawrence.

Between Nova Scotia—which at that time included the present New Brunswick—and the United States, the line followed the western boundary of the former, viz., the St. Croix River, to its source, thence due north to its intersection with the Highlands, the point of intersection being called the "northwest angle of Nova Scotia," thence "along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean."

It is here necessary to retrace our steps and consider the boundary of Nova Scotia, prior to the Treaty of Paris. In 1621, James I granted Nova Scotia to Sir William Alexander, the western boundary following, from the source of the St. Croix by an imaginary direct line toward the north, to the nearest waters draining to the St. Lawrence. This line would, in the light of modern knowledge, run west-north-west, approximately the line, later contended for by Great Britain. Unfortunately, in 1763, the draughtsman of the commission to Montague Wilmot, Governor of Nova Scotia, in defining the limits of the province, described them as following a "due north" line from the source of the St. Croix. This wording was followed in the commissions of later Governors and thus the pedantic precision of a clerk cost us seven-twelfths of the area in dispute.

The subsequent dispute hinged upon the identity of the so-called "northwest angle of Nova Scotia," Great Britain claiming that it was practically at the source of the St. Croix, and the United States, that it was about twenty miles from the St. Lawrence.

The line contended for by the United States was the line that had hitherto been shown on the maps and it might not have occurred to the British Government to raise the question, had not President Madison, in 1802, instructed Rufus King, then United States Minister at London, to negotiate respecting the adjustment of the boundaries. Mr. Madison said that it had been found that the highlands had no existence and he suggested the appointment of a commission to fix an arbitrary line. These instructions having been communicated to Congress and thus made a matter of public record, conceded a point which it was never possible for the United States to regain. After several fruitless negotiations, a commission was appointed under the Treaty of Ghent, which, however, failed to come to an agreement. One startling result of their surveys, was the discovery that the line that hitherto had been considered the northern boundary of the states of New York and Vermont was about three-quarters of a mile north of the 45th parallel and that this strip, which included a new million dollar fort at Rouse Point, was, theoretically, British territory.

As a result of the failure of the commissioners to come to an agreement, it was referred to the arbitration of the King of the Netherlands, who, in 1831, delivered an award which awarded Great Britain about one-third of the disputed area. Mr. Preble, United States Minister at the Hague, though without instructions, immediately protested the award.

Several propositions for a division of the territory were made by each of the powers but were rejected. In the meantime disputes respecting jurisdiction caused both governments great anxiety. Arrests were made by the authorities of New Brunswick and of Maine, and, finally, in 1838, what is known as the "Restook war" broke out. A Maine land agent, sent to arrest British subjects who were cutting timber on the Aroostook, was arrested with his posse. Maine raised an armed force, erected fortifications and appropriated \$800,000 for military defence. Congress authorised the President to call out the militia and appropriated \$10,000,000. General Scott was despatched from Washington as a mediator, and arranged a modus vivendi on the basis of occupation, by New Brunswick, of the Madawaska settlements and, by Maine, of the country south of the St. John. In 1841 Mr. Webster became Secretary of State. He intimated to the British Minister that he was willing to attempt a settlement, and, in the following year, Lord Ashburton was sent out with full powers to settle the boundary. Maine and Massachusetts sent commissioners to Washington to represent their states but their unyielding attitude forced Mr. Webster to abandon written communications and to hold personal conferences with Lord Ashburton. In a few days he was in a position to communicate to the Maine and Massachusetts commissioners, the terms that Lord Ashburton was prepared to concede. Under this agreement, later known as the Ashburton Treaty, Great Britain received 5,000 square miles—five-twelfths of the disputed territory and 900 square miles more than awarded by the King of the Netherlands. She surrendered a small area of 36 square miles near the source of the Connecticut and the narrow strip along the northern boundary of New York. To compensate the two states affected, the Government of the United States agreed to pay them \$300,000 in equal moieties.

THE RED LINE MAP.

When the treaty came before the Senate for ratification, Mr. Webster produced the famous "Red Line" map as proof that the United States was getting more than it was entitled to. In 1842, an American, named Sparks, discovered among the archives of the French Department of Foreign Affairs, a letter from Franklin to the Count Vergennes stating that he was returning his map after having marked the limits of the United States "with a strong red line." As there was no map attached to the letter, he made a search among the 60,000 maps in the archives and found one map of North America with a red line on it, apparently indicating the boundaries of the United States. He forwarded the map to Mr. Webster who instructed Mr. Everett to "forbear to press the search in England or elsewhere." As the map showed a line which more than favoured the British claim, it was produced by Webster to prove that the treaty awarded to the United States more than she was entitled to, and thus induce the Maine commissioners to consent to the ratification of the treaty. Later, when the injunction of secrecy in the debates was removed, Webster was charged with sharp practice and with

having over-reached Lord Ashburton. He replied that he did not think it a very urgent duty on his part to go to Lord Ashburton and say that a doubtful bit of evidence had been found in Paris, which prejudiced the claim of the United States.

The best authorities are of the opinion that it is more than doubtful that the map bore any relation to the negotiations of 1782 and 1783, particularly as Franklin's letter does not contain any reference or note by the Record Keepers respecting an accompanying map. Winsor, in his "Narrative and Critical History of America," states that it is the same line as is shown on Palaiet's map of 1759, with the note, "The red line . . . shows another claim of the French," evidently referring to a French claim respecting the boundary of Acadia.

But there was another "Red Line" map. Fitzmaurice, in his "Life of Shelburne," states that there is in the British Museum, a map from the private library of King George III which shows by a broad red line, the boundary as claimed by the United States, with a note, "Boundary as described by Mr. Oswald." Winsor says that the note is in the king's own hand and that "if this map was not known to the British Government at the time of the mission of Lord Ashburton, there was a convenient ignorance enjoyed by the heads of the administration which was not shared by the under officers, for it was well known, as Lord Brougham acknowledged, in Lord Melbourne's time, when it was removed from the British Museum to the Foreign Office, and persons and traditions are easily transmissible in such offices. Ashburton protested that he was kept in ignorance of it and Peel and Aberdeen professed no knowledge of it to Mr. Everett till after the treaty was signed. When the treaty was assailed in Parliament, the ministry of Peel brought this map forward to offset the clamour against the treaty."

There is no doubt that the map is in the British Museum, and that, ignoring the geographical errors, it shows the line substantially in accordance with the claims of the United States; that there are notes at intervals on the line, "Boundary as described by Mr. Oswald"; that it came from the private library of King George III, but that it is not the copy used in the negotiations between Oswald and the Americans.

As against the wording of the treaty, however, Great Britain had the best of all claims, viz., "effective occupation," and it is of interest to note that, though the King of the Netherlands in his award, expressly disclaimed basing it on occupation, the only reasonable explanation of his award is to assume that he did base it on that principle.

In the area awarded to her by the Ashburton treaty, France had exercised jurisdiction and administered justice, eighty years prior to the cession of Canada, and Great Britain had, later, also exercised jurisdiction; the French Government had granted the seignior of Madawaska in this area and the territory was traversed by the highway from St. John to Quebec. To quote the late Lord Salisbury, "Whatever the primary origin of his rights, the national owner, like the individual owner relies usually on effective control by himself or through his predecessor in title for a sufficient length of time."

In the portion awarded to the United States, she likewise, had acquired a title by virtue of possession. That Lord Ashburton was able to make so favourable a settlement was due largely to the alarm of the United States Government lest hostilities should be precipitated by a clash between the local authorities and, doubtless, to a certain extent, owing to Webster's anxiety lest the British should become aware of the existence of their "Red Line" map.

During the negotiations of 1782, a map of North America, known as the Mitchell map of 1755, was used. As it showed a large stream, called Long River, draining the Lake of the Woods and emptying into Lake Superior, the boundary was carried up this stream, through the middle of the Lake of the Woods and thence due west to the Mississippi. The map, particularly in this portion, was grossly inaccurate inasmuch as the so-called Long River—now known as Pigeon River—rises within about fifty miles of Lake Superior and the drainage of the Lake of the Woods is via the Winnipeg and Nelson rivers to Hudson Bay. But for this geographical error, the line would undoubtedly have followed the St. Louis River which empties into Lake Superior at Duluth. The map was also in error inasmuch as it showed the source of the Mississippi about where Winnipeg is now, whereas, we now

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*An Address before the Canadian Club at Ottawa.