

will doubtless receive a searching investigation by the Government. There has been a serious alarm created in the public mind as to the seaworthiness of the class of vessels which is employed in navigating our canals and lakes, and the Marine department should not fail to ascertain whether that alarm is with or without foundation, and, if well founded, should adopt measures to remove all cause of apprehension. We are bound to add that the department has already taken the steps which seem to be advisable.

THE HAMILTON SPECTATOR AND THE BOUNDARY.

We were compelled to postpone our reply to the *Hamilton Spectator's* treatment of the boundary question in his issue of the 19th. We confess that on reading the article we were inclined to doubt whether the writer had studied the question with care. We have been, as we pointed out on a former occasion, entirely satisfied with the *Spectator's* admission that "the contention of Ontario to the Western boundary claimed by her" is so strong that he has no fear of the decision of any court. The Dominion is actually claiming territory south and east of the height of land which, as is pointed out in Attorney General Mowat's report of 1st November, 1881, was not claimed by the Hudson's Bay Company under their charter, and which, prior to confederation, had always been treated as part of Canada, and had been the subject of grants and licenses, and governed by the laws, courts and officers of Upper Canada. Now, it is the Western boundary that it is most important to have settled promptly. The Dominion has transferred its claim to Manitoba, and that claim includes some territory that had always been in undisputed possession of Ontario. There is not a shadow of pretence that the arbitrators did not find what they believed to be the true boundary on the west, and yet on the pretext that they found a conventional boundary on the north, the western territory is left without Government. The *Spectator* thinks it possible that there may be a strip of territory "which never belonged to one or the other" (Canada or Hudson's Bay Company), although the northern boundary of Canada, fixed in the Act of Parliament of 1774, is the southern boundary of the territories of the Hudson's Bay Company. How, then, we ask the *Spectator*, could there be a strip belonging to neither? Again the *Spectator* affirms that "the treaty of Utrecht restricted France to the height of land." We can assure the *Spectator* that

he is completely mistaken. That treaty restored to Great Britain "the Bay and Straits of Hudson, together with all lands, seas, sea coasts, rivers and places situated in the said bay and straits." The Treaty of Utrecht was concluded in 1713, and in 1719 M. D'Auteuil in a memoir observes: "The Treaty of Utrecht speaks 'only of restitution—let the English shew 'that which the French have taken from 'them and they will restore it to them.'" In another memoir the same authority, who, it may be observed, was *Procureur Général* of Canada, protested against the British claim which, so late as 1755, was considered so unjust that in the instructions to M. de Vaudreuil it is said: "His Majesty is firmly resolved to maintain 'his rights and his possessions against pretensions so excessive and so unjust." But although Great Britain did at that time endeavor to get France to concede the territory north of the height of land, the instructions to Commissary Bladen prove that it was not intended to aggrandize the Hudson Bay Company. They run "thus: You are to take especial care in 'wording such articles as shall be agreed 'on with the Commissary of H. M. Christian Majesty upon this head that the said 'boundaries be understood to regard the 'trade of the Hudson's Bay Company only."

In our last issue we referred to two points which the *Spectator* would do well to consider: 1st. The fabrication by Col. Dennis in a report to Sir John Macdonald of a passage not to be found in the charter, where it was alleged to be, and which was the foundation of the height of land claim. 2nd. The agreement of Sir John Macdonald to the appointment of a joint commission to determine the boundaries, although he has of late held that the Privy Council alone was competent to do so. In point of fact he and Col. Dennis determined the boundaries, and but for the resistance of the Ontario Government the Province would have been robbed of territory which the *Spectator* acknowledges to belong to it. And yet the *Spectator* excuses the Dominion Government, on the ground that it was bound "to make the most of colorable rights." The *Spectator* we feel assured will on reflection give up his notion of there being territory between that of the Hudson's Bay Co. and Canada as the statute of 1774 is clear on that point. The De Reinhardt case is introduced as if it had any bearing on the northern boundary, whereas it relates entirely to that on the west, and the *Spectator* has admitted that the Ontario claim on that side is well founded.

With regard to the *Spectator's* remarks on the reference to arbitration we may

observe that the Crown, acting through the Governor General, agreed with the Lieutenant Governor of Ontario to refer to arbitration a question in dispute. It has never been the practice to obtain the consent of Parliament to such references. It has been the invariable practice in England for statesmen of all parties to preserve the honor of the Crown, and not to advise it to repudiate its own act. The Marquis of Lorne has been advised to repudiate an agreement entered into by the Earl of Dufferin. It is, as we have before remarked, an unprecedented act, and the cases cited are not in our judgment in point. The *Spectator* has again referred to an expression used by Sir Francis Hincks that the arbitrators decided every doubtful point against Ontario. That charge has been repeatedly made, and more than once explained. It has been understood to mean that the arbitrators had doubts, whereas it was simply intended to admit that eminent authorities, some of them legal, had contended, and with plausibility, for more extended boundaries for Ontario. As to the repeated allegations that the arbitrators did not determine the true boundaries it may be sufficient to cite the concluding remark in Sir Francis Hincks' lecture, that the boundaries set forth in the award were supported to a larger extent than any other line by the facts of the case and by the considerations and reasons which should and would guide and govern the determination of the questions by any competent legal or other tribunal. We do not propose to criticize minutely the thirteen points with which the *Spectator* concludes his article, but we must notice one point. When it is said there is "ample law establishing the boundary of Ontario," we must remind the *Spectator* that there is no law declaring what is the southern boundary of the Hudson's Bay Company's territory, and neither the Privy Council nor any other tribunal can by possibility determine it in any other way than that taken by the arbitrators, and which has been termed "a convenient boundary." The western boundary of course depends on the interpretation given to the Statute of 1774. We do not propose to discuss the mode by which the two Governments can extricate themselves from the dilemma in which they are placed. The question has unfortunately got into the arena of party politics, and can no longer be treated fairly on its merits. It may be difficult under existing circumstances to find any better mode of settling the dispute than the proposed reference to the Judicial Committee of the Privy Council, but it is rather singular, it