

the jurisdiction of the Courts of Justice in the Provinces of Lower Canada and Upper Canada, to the trial and punishment of persons guilty of crimes and offences within certain parts of North America, adjoining the said Provinces, it is amongst other things enacted and declared that from and after the passing of the said Statute, 'All offences committed within any of the Indian territories or parts of America not within the limits of either of the said Provinces of Lower or Upper Canada, or of any civil government of the United States of America, shall and be deemed to be offences of the same nature and shall be tried in the same manner and subject to the same punishment as if the same had been committed within the Province of Lower or Upper Canada.'

"And whereas, under and by virtue of the above in part recited Statute, justices of the peace have been duly nominated and appointed with power and authority to apprehend within the Indian territories aforesaid, and to convey to this Province of Lower Canada for trial, all and every person and persons guilty of any crime or offence whatever:

"And whereas there is reason to believe that divers breaches of the peace, by acts of force and violence, have lately been committed within the aforesaid Indian territories, and jurisdiction of the aforesaid justices of the peace:

"I have therefore thought fit, and by and with the advice of His Majesty's Executive Council of and for the Province of Lower Canada, to issue this proclamation, for the purpose of bringing to punishment all persons who may have been or shall be guilty of any such act or acts of force or violence as aforesaid, or other crime and offence whatever, and to deter all others from following their pernicious example, thereby requiring all His Majesty's subjects and others within the said Indian territories, to avoid and to discourage all acts of force and violence whatsoever, and all proceedings whatever tending to produce tumults and riots, or in any way to disturb the public peace:

"And I do hereby strictly charge and command all justices of the peace so as aforesaid nominated and appointed under and by virtue of the above-mentioned Statute, and all magistrates throughout this Province, and do require all others of His Majesty's subjects, generally in their several and respective stations, to make diligent enquiry and search to discover, apprehend and commit, or cause to be committed to lawful custody for trial, in due course of law, pursuant to the provisions in the above-mentioned Statute contained, all persons who have been, or shall be guilty of any act or acts of force or violence as aforesaid, nor of any other crime or crimes, offence and offences within the said Indian territories, to the end that the laws may be carried into prompt execution against all such offenders, for the preservation of peace and good order therein."

This was clearly an official act under the highest authority then existing, fixing the localities where the disturbances had been committed as Indian territories beyond the boundaries of Upper or Lower Canada or either of them. In the same year two commissioners were appointed by the Government of Quebec, which had the supreme jurisdiction to inquire into the causes of the disturbances within the Indian territories and they held their investigations at Red River which was then the very centre and focus of these disturbances. Time went on. The two rival companies became incorporated as one in 1821, and a further Act, 1st and 2nd Geo. IV. Cap. 66, was passed. It was confirmatory of the Act of 1803 and extended the jurisdiction of the Canadian courts to the Hudson's Bay Company's territories as well as to the Indian territories. After this, peace prevailed for a long period in the North-West, but nearly all intercourse both with Upper and Lower Canada was shut off. The united companies carried on their trade by way of Hudson's Bay, and in the peaceful times which followed the height of land was generally accepted, in the public estimation, as the southern boundary of the Hudson's Bay Company's territories. The colony which had been established by Lord Selkirk in storm and tumult in 1811-12 was at last quietly prospering, and the Hudson's Bay Company was ably represented both in the territories and in England. It is well known that that company has always had among its members men of high political position in England, and at the time to which I refer it was represented by one of those extraordinary men who impress their character upon their time and generation, and whose actions have sometimes a marked influence on the future—I allude to the Right Hon. Edward Ellice. He had a seat in Parliament. He was possessed of almost unbounded wealth and was allied by marriage to Earl Grey and some other eminent men who did much to shape the policy of Great Britain in those days. He was known as the Minister maker, and it required a man of no small ability and tact to be a Minister maker in England, at a time when there

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were actors on the political stage who have not since been equalled. I mention this for the purpose of showing that the Hudson's Bay Company's interests were not likely to be lost sight of, seeing that they were in the hands of a man so near the Government and of such influence and consummate tact. In 1838, the Company applied for a renewal of their lease, although it had then three or four years to run, and, as explained in Judge Johnson's evidence, there was at that time some idea of forming the colony of Assinaboia into a Crown colony. It had become a colony, in fact, as will be seen on reference to the evidence of the Hon. Donald A. Smith, who was at one time Governor of the Hudson's Bay Company's territories, and of Judge Johnson, a former Governor of the Colony of Assiniboia. I mention all this so that the House may be in a position to see that in the period intervening between 1821, the date at which the companies were amalgamated, and 1838, when the commission to Lord Durham was issued, a new state of things had arisen in the North-West. I should mention, too, that in 1818, the de Reinhart trial had taken place, the question as is well known hinged on the matter of territorial jurisdiction, and the Judges were unanimous in the decision that Upper Canada was bounded on the west by the prolongation of a line drawn due north from the point of junction of the Ohio and Mississippi and on the north by the height of land, or southern boundary of the Hudson's Bay Company's territories. To return again to the matter of the boundary line, the description in this commission (Lord Durham's) carried the western boundary of Upper Canada, as we have seen, into Lake Superior, but not one step further, and why it was not carried *through* can be easily seen from what I have just stated. The rights of the Hudson's Bay Company to the country to the west and north of the water-shed, were being ably maintained by one of the most eminent men of the day. A colony recognized by the Imperial Government had grown up, and the boundaries of that colony came to the height of land, and it was within the territories which had been defined by two Imperial Acts as being Indian territories beyond the boundaries of the Provinces. The Imperial Government had before them, moreover, the unanimous decision of the Judges in the de Reinhart trial, and, in view of all these circumstances, it would have been impossible for them to carry the boundary of Upper Canada through Lake Superior. Had they done so they would have ignored their own action in relation to the colony of Assinaboia, the Indian territories, and the Hudson Bay Company's territories. They would have ignored, too, the opinions of the most eminent English counsel, and they would have over-riden the decision of the highest Canadian Court then existing. There were, besides, other circumstances in operation, which must lead anyone, who bestows attention on the subject, to believe that everything, at that time connected with Canadian affairs, received the deepest and most earnest consideration of the Imperial authorities. In this country there were troubles on all hands in 1837 and 1838, and the minute care with which the description in the commission to Earl Durham is drawn, shows that the matter of the boundaries of Upper Canada had received the most careful consideration. But the same commission which carried the boundary line on the west only into Lake Superior, in other words, to the entrance of that lake, carried the northern boundary to the shore of Hudson's Bay. So that a line from the entrance of Lake Superior drawn due north to the shore of Hudson's Bay would, in conformity to the commission, be the boundary line of Ontario on the west, and a line from the head of Lake Temiscaming to the shore of Hudson's Bay the boundary line on the east. If commissions to Governors are to be taken as giving legal definitions of boundaries, as emanating, in fact, from the Sovereign, whose prerogative is provided for and guarded in the Act of 1774, I do not see how you are to get over this