

INTRODUCTORY.

The following memorandum on the Commission of Expertise on the accounts of the old disputed territory and boundary survey, having run to a greater length and taken a somewhat wider range than anticipated, and yet left the origin of the difficulty to be gathered from the mass of papers in the Department of State, it is deemed desirable to make a few prefatory remarks, to enable such of the Ministers as may not have made themselves acquainted with its earlier details, to master the whole subject submitted.

In 1842 the Treaty of Washington settled the North Eastern Boundary between Great Britain and the United States.

Soon after, applications were made to the Crown Lands Department of Canada for licenses to cut timber on such part of the territory, that had been in dispute with the United States, as was then deemed to be undoubtedly Canadian territory, which applications were granted in the ordinary course.

The timber cut however, when on its way to market, to which, from its position, it had necessarily to pass through New Brunswick, was seized by the authorities of that Province and subjected to heavy "*finés and penalties*" on the plea that it was cut in trespass within her boundaries. This led to a correspondence and very angry discussion between the Provinces, which continued for several years without further result than that New Brunswick ultimately made the "*finés and penalties*" so heavy that it amounted to virtual confiscation, which brought the business practically to a close.

After the controversy commenced, Canada made a condition with her licensees that if, from the position in which the lands were situated, she should be unable to protect them in the usufruct of their limits, she would be subject to no other indemnity than that, practically, she would charge them nothing and refund the money they paid: While New Brunswick, on the other hand, in the strongest manner possible, *protested against the sufficiency* of such a refund and maintained the right of the licensees, to "*a large amount of indemnities*" besides, from whichever Province proved to be in the wrong.

A boundary between the Provinces was made by Imperial Statute in 1851, and three Imperial Commissioners were appointed thereunder to carry out the provisions of the Act by the survey of the boundary line, *with the funds thereby appropriated for that purpose*. These funds so appropriated by Imperial Statute and expended by Imperial Commissioners, consisted, 1st, of the revenues of the disputed territory itself, and if insufficient—2nd, of such further funds as might be necessary, to