

The Legal News.

VOL. VII. SEPTEMBER 6, 1884. No. 36.

THE BOUNDARY CASE.

The following is the text of the decision in this matter:—

At the Court at Osborne House, Isle of Wight, the 11th day of August, 1884.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY, HIS ROYAL HIGHNESS THE PRINCE OF WALES, LORD PRESIDENT, LORD STEWARD, EARL GRANVILLE, EARL OF NORTHBROOK, SIR T. ERSKINE MAY, SIR A. COOPER KEY.

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 22nd of July last past in the words following, viz.:

Your Majesty having been pleased by your Order in Council of the 26th June, 1884, to refer unto this Committee the humble Petition of Oliver Mowat, Your Majesty's Attorney-General for the Province of Ontario as representing that Province and Jas. Andrews Miller, Your Majesty's Attorney-General for the Province of Manitoba as representing that Province in the matter of the boundary between the Provinces of Ontario and Manitoba in the Dominion of Canada, between the Province of Ontario of the one part and the Province of Manitoba of the other part, setting forth that a question has arisen and is in dispute between the Provinces of Ontario and Manitoba respecting the western boundary of the Province of Ontario, and it has been agreed between those Provinces to submit such question to Your Majesty in Council for determination: the following Special Case has accordingly been agreed upon between the petitioners as representing the two Provinces aforesaid:—

“Special Case.

“The Province of Ontario claims that the western boundary of that Province is either (1) the meridian of the most north-westerly angle of the Lake of the Woods, as described in a certain Award made on the 3rd August, 1878, by the Hon. Chief Justice Harrison, Sir Edward Thornton and Sir Francis Hincks, or (2) is a line west of that point.

“The Province of Manitoba claims that the boundary between that Province and the Province of Ontario is (1) the meridian of the confluence of the Ohio and Mississippi Rivers, or (2) is that portion of the height of land dividing the waters which flow into Hudson's Bay from those which empty into the valley of the Great Lakes, and lying to the west of the said meridian line.

“It has been agreed to refer the matter to the Judicial Committee of Her Majesty's Privy Council, and an appendix has been prepared containing the materials agreed to be submitted with this Case for the adjudication of the dispute; each and every of the particulars in the said appendix is submitted *quantum valeat*, and not otherwise.

“In addition to the particulars set forth in the appendix, any historical or other matter may be adduced, which, in the opinion of either party, may be of importance to the contention of such party, and (subject to any rule or direction of the Judicial Committee in that behalf), such additional matter is to be printed as a separate Appendix by the party adducing the same and copies are to be furnished at least 10 days before the argument.

“The book known as the Book of Arbitration Documents, may be referred to in the argument for the purpose of showing in part what materials were before the Arbitrators.

“It is agreed that in the discussion before the Judicial Committee of the Privy Council reference may be made to any evidence of which judicial notice may be taken, or which (having regard to the nature of the case and the parties to it) the Privy Council may think material and proper to be considered, whether the same is or is not contained in the printed papers.

“The questions submitted to the Privy Council are the following:—

“(1) Whether the Award is or is not, under all the circumstances binding?

“(2) In case the Award is held not to settle the boundary in question, then what, on the evidence, is the true boundary between the said Provinces?

“Whether, in case legislation is needed to make the decision on this case binding or effectual, Acts passed by the Parliament of