

And this is dated the 8th day of November, in the year of our Lord, 1603.

The above-mentioned translation of this commission is found as an appendix to chapter 2 of a book called *A History of Nova Scotia or Acadie* by one Beamish Murdoch, Esq., Q.C., printed in Halifax, Nova Scotia, by James Barnes, printer and publisher, in 1865. The commission may also be found in the Public Archives of Canada.

Again, I draw particular attention to the reference to the Lord Admiral of France and to the words:

—of the coasts, territories adjoining, and of their appurtenances and dependencies under our name and authority, whatsoever ourselves would and might do if we were there present in person.

So we start off from the very first, or at least from 1603, with the authority granted to this Governor sent out by the King of France to govern Acadia, which was a much larger territory in those days but which does cover all of what is now Nova Scotia, to give the Governor of Acadia every power that the King himself could maintain, and in those days, I need hardly say, the King of France, as was the case with many other monarchs, was a ruler upon whom there were no restraints except his own will and his power to have his commands carried out.

It is clear that France claimed and acquired various rights relating to the coast and adjoining waters of its colonial possessions—rights at least as great as it claimed in its home water. Nova Scotia, or Acadia as it came to be called, was very much in the minds of those who ruled the great European exploring and colonizing nations of the time. It was the subject of many military and diplomatic activities. It does not seem to be necessary to make in detail an examination of all of those ancient activities, but I shall draw attention to some.

Just 16 years after the commission of Henry of Navarre was granted to the person he called The Lord of Monts, it is clear that the King of England was claiming jurisdiction over extensive areas of the coast of Nova Scotia. In 1621 he granted a Royal Charter to Sir William Alexander, who desired to establish there new Scotland, or Nova Scotia, in the New World. The Royal Charter contained a description of Nova Scotia which included the following words:

—all . . . islands, or seas lying near, or within six leagues to any part of the same, on the western, northern or eastern parts of the coast . . . and on the southeast (where Cap Britton lies), and on the southern part of the same (where Cap de Sable is), all seas and islands towards the south, within forty leagues of the sea coasts of the same, including the great island commonly called Isle de Sable, or Sablon, lying toward the Carbas, south southeast, about 30 leagues from the said Cap Britton, in the sea and being in the latitude of 44 degrees or thereabouts—

I turn now to the Treaty of Utrecht, which was made between Great Britain and France in 1713. Article XII of that Treaty ceded to Britain:

[Senator Smith.]

—all Nova Scotia or Acadia, with its ancient boundaries . . . and all other things in those parts, which depend on the said lands and islands . . . and all rights whatsoever—

It then went on to say:

—the Crown of France be excluded from all kinds of fishing in the said seas, bays, and other kinds of fishing in the seas, bays and other places, on the coast of Nova Scotia, that is to say, on those which lie towards the east, within 30 leagues, beginning from the island commonly called Sable—

And it is 85 miles offshore.

—inclusively, and then stretching along toward the southwest.

The treaty certainly contemplated that the Crown of France and its subjects had rights “which depend on the said lands and islands.” The treaty does not enumerate or define those rights; but whatever they were, they were transferred from the Crown of France and French subjects to the British Crown. These words are wide enough to include any rights to waters adjacent to the coasts and the lands under such waters.

And remember, honourable senators, the commission of Henry of Navarre, after giving the very fullest of powers to his Governor in 1603, said that that Governor would have in Acadia whatever powers the King himself had in France. So by the Treaty of Utrecht, all of these powers in respect of Acadia are, in fact, conveyed to Britain—to the King of England, I think, was the exact phraseology.

● (1540)

The treaty recognized the right of England to exclude the French from fishing not only in the coastal waters immediately adjoining the land, but also in some areas a distance of 30 leagues—which is approximately 90 miles—east of the coast of Sable Island and then to the southwest. As I have said, Sable Island is about 85 miles east of Nova Scotia.

Then we come to the Treaty of Paris which was signed almost exactly 50 years after the Treaty of Utrecht and was effective from the tenth day of February, 1763. The parties to that treaty were Britain, France and Spain and very shortly after it was signed by those three, it was acceded to, which means it was accepted by, Portugal. It was accepted as a treaty by which Portugal was bound. Those were the four great sea powers which at that time were actively concerning themselves with the new world and exploiting its resources. It was thus not merely a bilateral treaty between two countries, but was international in a very much wider sense, and in all probability it was as international as you could get having regard to whose ships were trading in or utilizing the seas off our coasts.

The Treaty of Paris dealt with matters in many parts of the world, the old world as well as the new. They were matters of widely differing kinds. Article II of the Treaty of Paris enumerated a considerable number of treaties between various European countries. Most of these treaties had little or nothing to do with Nova Scotia or Acadia, but the Treaty of Utrecht was among those enumerated and was mentioned as being “all