

"Company, I do not think there can be any doubt as to the boundaries of the Hudson's Bay Company."

Question 5868.—"Then you draw a distinction between the western and eastern sides of the Rocky Mountains?"

Answer.—"I draw a great distinction, inasmuch as the Hudson's Bay Company have no exclusive rights whatever to the westward of the Rocky Mountains."

Question 6057.—"Did not the Hudson's Bay Company at the time I [Mr. Grogan] am referring to, previous to the junction of the two Companies [*i.e.*, the Hudson's Bay and North-West Companies], claim as unlimited and extended a jurisdiction over Rupert's Land as they do now?"

Answer.—"Yes, just the same."

(Annexure 7) Opinion of the Law Officers of the Crown, Sir Richard Bethell and Sir Richard Keating, who had before them the details, including maps showing the claims of the Hudson's Bay Company (July, 1857, Parliamentary paper 224-260, Appendix, p. 404). * * * "On every legal principle the Company's territorial ownership of the lands granted and the rights necessarily incidental thereto (as for example the right of excluding from the territory persons acting in violation of their regulations) ought to be deemed to be valid." * * *

"The remaining subject of consideration, is the question of the geographical extent of the territory granted by the charter, and whether its boundaries can in any and what manner be ascertained. In the case of grants of considerable age such as this charter, when the words, as is often the case, are indefinite or ambiguous, the rule is that they are construed by usage and enjoyment, including in these terms the assertion of ownership by the Company on important public occasions; such as the Treaties of Ryswick and Utrecht, and again in 1850."

But in connection with the proviso in the charter, making it applicable to only such territory as did not belong to non-British subjects, the Law Officers recommended that the boundary between Hudson's Bay Territory and Canada should be subjected to quasi-judicial enquiry. This exception, however, did not affect the western boundary of Rupert's Land.

(Annexure 1) In 1858 Sir B. Lytton submitted a Bill to Parliament to provide for the Government of British Columbia. In its original form the 1st clause of the Bill defined the eastern and northern boundaries in the following terms:—

"On the East the water-shed between the streams which flow into the Pacific, and the Atlantic, and icy Oceans; on the North the 55th parallel of north latitude."

During the debate on the second reading, 8th July, 1858, Mr. Wyld (Annexure 8, Hansard, 3rd series, vol. cli., p. 1113) remarked—"He would at the same time point out the desirability of making an alteration in the existing boundary, which had been found to be an inconvenient one. A degree of latitude had been suggested for that purpose, and he thought it better that the course of the river should be adopted." (Sir Bulwer Lytton having previously said, page 1098)—"that the territory may be considered as extending to the sources of the Fraser River, in latitude 55 degrees."

Mr. Edward Ellice followed Mr. Wyld in the debate, and was immediately succeeded by Mr. Christy, who said (Annexure 8, p. 1116)—"He had some objection, however, to the geographical arrangement proposed, and on a future stage he should move an amendment with regard to the boundaries of the Colony which he hoped would commend itself to the approval of the Government. He gathered from those men who had been in the territory that the gold which was found in the Fraser River was merely the debris of the gold that existed in the Rocky Mountains, and he therefore thought it desirable that the boundaries of the new Colony should be extended further north up to Finlay's River, and to the main chain of the Rocky Mountains that ran east and west. He was far from thinking that it would not be a judicious arrangement to confine the Hudson's Bay Company to those northern districts which were productive of profit to them."

In neither of these proposals by Mr. Wyld and Mr. Christy is there any information of a desire to move the eastern boundary. Nor beyond Mr. Wyld's desire to adopt a geographical feature instead of a parallel of latitude, and Mr. Christy's wish to extend the territory northward to the rivers and mountain line, is there any indication of a suggested alteration of clause 1 as it originally stood.

Mr. Christy's remarks would make it appear that the Rocky Mountains ran east and west in the neighbourhood of the Finlay branch of the Peace River; but there is no such course followed by the Rocky Mountains, and his allusion to these mountains must be attributed to a misconception of their features.