

“ their becoming settlers there. That was done on the retirement of the 6th Regiment about the year 1850 or 1851, and those pensioners were there with their families while I was there as Governor. Some of them and their descendants are still there. But I found a more important recognition, accidentally, yesterday evening, on the part of the English Crown, of the fact that the Colony of Assiniboia was a colony, the existence of which they not only knew of but with respect to which they reserved to themselves the right to establish, of their prerogative, Courts of Justice whenever they should see fit.

“ Q. You mean the Imperial Government?—Yes. The way I came across that was in referring to some old notes which I kept when I was in Assiniboia in 1857 or 1858. In turning them over I found the opinions given by the Attorney and Solicitor-Generals of England of that day, Sir Richard Bethel and Sir Henry Keating. I found that I had extracted from a newspaper the opinions which those gentlemen were supposed to have given. I also found that I had made this note: ‘There is an all-important paragraph omitted,’ and I find the paragraph is inserted in my handwriting. Then, to verify it, I looked at the opinion as it is published by authority in this country, and contained in the book entitled ‘Statutes, documents and papers bearing on the discussion respecting the northern and western boundaries of the Province of Ontario, compiled by direction of the Government of Ontario.’ I found that the paragraph which was omitted in publication, probably for some party purpose, at that time, was this: [to be found on page 200 of the book referred to] ‘The company has, under the charter, power to make ordinances (which would be in the nature of by-laws) for the government of the persons employed by them, and also power to exercise jurisdiction in all matters civil and criminal; but no ordinance would be valid that was contrary to the common law, nor could the company insist on its right to administer justice as against the Crown’s prerogative right to establish Courts of Civil and Criminal Justice within the territory.’ Here then, in 1857, you have the two law officers of the Crown in England stating it was the Crown’s prerogative right, at that time, if they should see fit, to establish Courts of Civil and Criminal Justice in Assiniboia. Now, that is a declaration entirely at variance with the possibility of its being part of Upper Canada, because to Upper Canada had been granted legislative powers and a constitution of its own, and in its Legislature had been vested the right to constitute Courts of Justice. That was a decisive recognition of the fact by the law officers in England that that colony *de facto* existed, that the Crown recognized it, and not only had the power but possibly at that time contemplated the exercise of the power of making it a Crown colony, and establishing Courts of Justice there irrespective of Upper Canada, to which it was not considered to belong at all.

“ Q. It was considered that the water-shed formed the northern boundary line of Upper Canada?—Undoubtedly, and it was considered that the western boundary was the line running due north, as it was laid down in the De Reinhardt case, from the confluence of the Mississippi and Ohio to the southern boundary of the Hudson Bay Company’s territory.

*By Mr Trow :*

“ Q. Is the word due north used?—No; the word northward is used, but that has been interpreted by the most eminent Judge who ever lived in Lower Canada, Chief Justice Sewell, to mean undoubtedly north.

*By the Chairman :*

“ Q. You say that the surrender of the title of the Hudson’s Bay Company to the Crown of England and to Canada, and its acceptance by them, established its validity? Have you opinions of learned counsel as to the validity of the Hudson’s Bay Company’s charter, and the extent of territory it covered?—There have been a series of opinions from the earliest times, going back to the day of Lord Mansfield, then Mr. Murray, and coming down to the present day, which, with very little variation, have always maintained the right of the company to the soil, and to the territory; but have not maintained with equal certainty their right to exclusive trading privilege. I take it that the Crown of England had the same right to grant land when it was