

THE HON. J. C. AIKINS,  
*Secretary of State,*  
OTTAWA.

OTTAWA, July, 1880.

SIR,

I have the honor to lay before you the following remarks by Mr. Tibbits, one of the creditors of the debt originally due by New Brunswick, but assumed by the Dominion under the provisions of the British North America Act, and which, for facility of reference, it has been deemed desirable to print.

Speaking as a lawyer and strictly on the legal aspects of the case, I would say that I think the following points are well taken and quite indisputable from a legal point of view.

1st. That the Imperial Commissioners, appointed to carry out the survey of the boundary line—and who appear to have been selected with a special view to watching the interests of both Provinces—were the sole judges of both the territorial and pecuniary interests involved in their operations.

2nd. That if any difference arose among them, the decision of the majority was binding,—unless of so serious a character as to render it the duty of the dissenting Commissioner to appeal therefrom.

3rd. That such appeal lay only to the Imperial Authorities from whom the powers of the Commissioners, by virtue of the Imperial Statute, emanated,—although of course it might be conducted through the medium of the aggrieved Province or Provinces.

I am sustained I believe, in this view by the Government itself through a report emanating from the Department of Justice and confirmed by the Hon. the Privy Council in relation to the case now under consideration, wherein the matters decided by the minor Provincial Commission of Messrs. Cutler and Dawson, and Dawson and Harding, though not based upon any particular statute, were taken to be acts of a competent tribunal, that could not be disturbed: Whereas on the part of the case now under consideration, we have an Imperial Statute, not only providing for the Commission, but *providing also the funds with which the Commissioners were to accomplish the work required of them by the Statute*, thus surely constituting a tribunal whose acts, within the compass of their legal duties, cannot now be disturbed.

I am further fortified in this opinion by a precedent that actually occurred on the survey: It appears that difficulties did arise on the territorial part of the question, but only in one instance of such gravity as to make the dissenting Commissioner—in that case Mr. Bouchette—appeal from the decision of his colleagues, in which he was so far sustained that although the aggrieved Province gave way rather than incur the expense of a new survey, it required a new Imperial Statute to rectify the boundary and give effect to that erroneously and improvidently adopted by the majority.