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THE
COLONY OF RUPERT'S LAND:

WHERE IS IT, AND BY WHAT TITLE HELD?

A Dialogue

ON

ENGLAND:

HER INTERESTS IN NORTH AMERICA AND IN
FREE INTERCOURSE,

AGAINST

CERTAIN CONTRARY PRETENSIONS

ON THE PART OF

THE HUDSON BAY COMPANY.

BY

CAPT. MILLINGTON HENRY SYNGE, R.E., F.R.G.S.

AUTHOR OF

"CANADA IN 1848;" "GREAT BRITAIN ONE EMPIRE;"

(Papers read before the Royal Geographical Society and British Association);

"LETTER TO THE GOVERNOR OF THE HUDSON BAY COMPANY;"

"THE COUNTRY v. THE COMPANY;" &c. &c. &c.

LONDON:

EDWARD STANFORD, 6, CHARING CROSS.

1863.

THE UNITED STATES OF AMERICA
DEPARTMENT OF THE ARMY
OFFICE OF THE ADJUTANT GENERAL

ADJUTANT GENERAL
OFFICE OF THE ADJUTANT GENERAL
WASHINGTON, D. C.

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ERRATA.

- p. 3, line 12, after *isolated*, insert a comma.
- p. 13, l. 6, instead of "*this not*," read "*not this*."
- p. 15, l. 7 (from bottom), instead of "*both been*," read "*been both*."
- p. 16, l. 9, for "*invested*," read "*is vested*."
- p. 17, l. 8, dele "*of*."
- p. 20, l. 13, dele semicolon after "*bluntly*," place it after "*will*."
- p. 23, l. 13, dele "*with*."

Note.—In the charter the words Rupert's Land and Hudson's Bay are used. It is the custom of modern geographers more correctly to omit the 's. In the following pages the readings are used indifferently, as it was necessary to refer at times to documents in which the 's is inserted.

ONCE AGAIN:

A WORD OF INTRODUCTION.

WRITING the following pages has brought to my recollection somewhat forcibly a story I once either heard or read. Whether it be a true story or not I really do not know. For ought that I can tell, it may be one of the "common things that everybody ought to know," or it may be a fiction merely, and buried in comparative obscurity. However this may be, the story is that of a lad whose lot was cast completely apart from the civilization that surrounded him, and who thus circumstanced and isolated invented by his own unassisted efforts something like a clock. The thing kept and marked time. His invention so far perfected, his work so far advanced, the next step before him was to take his workmanship to a neighbouring town. Circumstances combined to interpose most serious difficulties in his way. These too, however, he overcame successfully; but, alas! the end of all his efforts only was to find that there were better clocks than the object of his long and anxious care. Clocks, or machines, as he most probably regarded them, that kept and marked time better than his own rude invention. I believe, too, he was treated rather as

a knave or fool and an impostor than a genius. I wonder what were that boy's feelings? Did delight or interest in finding the better instruments absorb the pain and mortification of the personal disappointment, and sustain him under undeserved ill usage and reproach? What a conflict it must have been! Yet what a wakening for his intellect to a new and as it were a better world than he had conceived could possibly exist! What became of him, I wonder? How dear to him must have been the rough mechanism over which he had thought and worked so hard and long! What deep reflections, what ponderings in after years! In after years, if he did not die of a broken heart!

The resemblance, which has brought this story to my mind, consists in the great labour that I have bestowed to arrive at the conviction, and to be able to adduce the proofs, of things which in the end, I find, do not admit of reasonable doubt or honest question. Things that are so plain. They may be wilfully denied; doubted and honestly disputed they can scarcely be. Proofs they do not need. In all that regards the geography of British North America, and the results necessarily consequent thereon, this was years ago the case. It is so now as to the Charter under which the Hudson's Bay Company maintains its sway, and puts forth all the extravagant pretensions which have been raised thereon.

The text of that Charter has been my guide exclusively in tracing in the following pages the

boundary of Rupert's Land. I have for many years laboured in the interests of that interior territory of Great Britain in America, which, from having long been industriously designated "The Hudson's Bay Company's territories," has been in imminent danger of seeing a usurpation passing into a right. In 1847 the Irish famine awakened my interest on this subject. I saw that new lands could not only be very advantageously opened, but that the continent could easily be crossed. The South Sea passage after all was not a dream. The rapidity of modern intercourse and the opportunity of forming such a road led by natural degrees to the rising of a dream — a dream which still requires only the will and patient perseverance of a true and a great statesman to change into a fact ; for the vision is that of unity, more or less perfected throughout the empire. The means unto the end is to foster rapidity and ease of intercourse. The first step towards it is to open the country from the Atlantic onwards to the Pacific to liberty, to civilization and commerce. To accomplish this was quite beyond my power ; not so, to show that it could be done, and how it could be done. I collected for the purpose no inconsiderable amount of wares. I went very diligently and laboriously through all the information to be gathered, read every description of the country I could hear of, compared and sifted the results, mapped the obstacles and interruptions to be cleared along the line, setting down their heights and distances, as well as the

lengths of uninterrupted natural navigation. My authorities were given ; the accuracy throughout was capable of test. Plainly the physical difficulties were relatively insignificant. My object was practical results. I formed a plan suited to the urgent condition of that day, a famine-stricken crowd. I would have been content to see the merest embryo of result, the simple acknowledgment of the facts, and the recognition of the principle of gradual development. In time its application must have followed. I failed, however; and the particular emergency has passed. Famine, pestilence, and war removed the population that a healthy field of labour might have saved. Interior British America remains in the same untenanted condition. Its physical conformation remains however also, bearing ever the same testimony; and the necessity for rapid communication wherever it can be carried out increases day by day.

I failed. I cannot say it was that there were better clocks than mine in town before me. There was Mr. Asa Whitney's clock. Though foreign made, and that it found much favour, I do not think it was by far so good a clock as mine. I may say this without arrogance, for he has subsequently himself avowed his could not go. It found favour, I fear, only with those who wished ill to native manufactures, and in order to discourage these. There are some who do not care to have interior British America looked into, its story told, or its affairs

discussed. There was another clock with some smart dash about it ; but it was too fast altogether. The whole year round in a minute as it were. A railroad all at once from shore to shore. I still prefer my clock that was to tell the time by sixty repetitions in the hour.

Confident that time would demonstrate its value, confident that the scheme of gradual development in accordance with geographical feature link by link was true in principle, conclusive as to practicability and the best in application that could be devised as well for opening up the country as for the construction of the road, I registered my clock. That is, I brought before the appropriate society, and caused to be entered in its journals, that geographical aspect of the question which is the basis on which the whole must rest.

The result was not a little curious. My motive was, as I have said, registration, and in due time, a verdict. I wished to deposit proofs of my invention, an accurate description of its nature, a record of its characteristics. I perfectly succeeded, for the register remains ; but, for the time, the verdict seemed carried for the foreign clock. Mine was deemed ingenious but inapplicable, clever but impracticable, quite superfluous besides, because the foreign clock had been first in the field, was altogether better, and that it was monstrous to think upon two clocks in the great American house, although the partnership in the original firm had been long ago dissolved.

I had been not a little proud of several movements and peculiarities of my clock. First, I could lay bare its mechanism and explain its make without fear of imitation or rivalry. All I desired was to see the several parts of my model constructed of full size. The parts to which I gave the name of "links" were all capable of separate manufacture, and required to be done only to the same scale to put together with infallible completeness and success. It was half a dozen little bits making one gigantic whole. I carefully recorded these distinctive features of my clock and certain other specialities besides, which singularly facilitated and greatly enhanced the advantages of its complete construction.

I cannot say the patent has been passed to me; but I may affirm the correctness of my clock has been carried amidst triumphs and by acclamation. The foreign clock has been withdrawn, as I have said, by its inventor, with a generous and handsome testimony to the greater merit of the British clock. The links, which are special and most important, are proved correct. The many hundred miles of unimpeded navigation above and below the single difficult rapid of the Saskatchewan, the abbreviation by the Qui Appelle River to the south elbow of the Saskatchewan, the abbreviation and easier road that are gained by avoiding the Winnipeg river, the non-impracticability of the only road that until between thirty and forty years ago was in use between Canada and the interior, and the possibility of tra-

versing the Rocky Mountains by the pass at the head of the Bow River (the Vermilion Pass) have been all placed beyond dispute.

There remained therefore nothing farther to be done than to investigate the pretensions of that body which claims the right and power to impede the prosecution of the great work for which I labour; and I appeal through the public to that great empire whose general property this territory really is, setting before it the grounds on which the attempted usurpation of the Hudson's Bay Company is untenable, leaving the validity and force of the evidence I have submitted to be decided upon, hoping that it may effectually conduce to the immediate liberation of interior British North America, and to the simultaneous initiation of the first of those great steps of successive development, which, if rightly used, remove every difficulty to the construction of a good communication between the Atlantic and Pacific oceans. I say great steps of successive development, for they are great in kind and quality and character, because relatively small and practicable efforts must lead to great, and lasting, and increasing effects.

“ Authority in matters of opinion is like usage in the case of an ancient Charter—of much value in a doubtful case, but of none at all in a clear one.”—*The Times*.

THE Charter of the Hudson’s Bay Company confers a monopoly, and, excepting from the year 1690 to 1697, it has not received the sanction of Parliament.

It is therefore, and has been at all other times, illegal, according to the common law of England.

It claims to confer a monopoly of the utmost possible comprehensiveness of rights. It attempts therefore to set forth a monopoly of the worst kind, and is consequently most essentially illegal.

2. The rights and privileges attempted to be conferred, are granted for a purpose of trust.

That trust has not been redeemed. The object of that trust was a communication with the South Sea or Pacific.

The Company have opposed every possible hindrance to the attainment of the object of such an enterprise.

3. The Charter deals with the country, and assigns to it the limits, shewn in the map accompanying this pamphlet. The Charter constitutes the country *within* those limits the “ *Colony* of Rupert’s Land.”

The country which the Company now pretends to is indefinite as to limits, extending even into the territories of the late United States, and at variance with the stipulations of proximity to Hudson’s Straits, and with the excepting clause in the Charter ;

nor has access to it in the way of discovery been attained *vià* the Straits.

4. "Rupert's Land" has not been constituted a colony governed "as near as may be in accordance with the laws and customs of the realm" of England, but "as near as may be" the reverse.

5. The Company had little or no access to the great plains of the interior until after the year 1821, and then attained it not by virtue of discovery, nor through the Charter, but through the union of independent traders from Canada, and by their own coalition with the companies formed by the latter.

6. The monopoly therefore in those regions, has been the result of these circumstances only. It has no connection with, and has not been derived from the Charter, and had no existence prior to the union and coalition spoken of above.

It is perfectly free to any parties who please to renew independent trading throughout any of the localities not strictly comprehended within the limits of "Rupert's Land," be the legality of the Charter what it may, inasmuch as the Hudson's Bay Company did not set up the trade in those regions in the manner determined by the Charter, but by coalition with those who represented the antagonistic interests and rights obtained by the cession of Canada, which rights and privileges whilst held by French subjects it was one object of the *Charter* to stimulate the Hudson's Bay Company to *forestall*, not to *inherit*. They failed to forestall them.

7. The Charter is in every respect untenable.

A DIALOGUE.

BRITISH America extends from one ocean to another. The Atlantic on the one hand and the Pacific on the other lave the shores of English ports. Harbours, the excellency of which needs not now to be set forth, await at either end, the commerce of the continents beyond, and also that of that continent which lies between.

At the one extremity are Newfoundland, Prince Edward's Island, Nova Scotia, New Brunswick, and the amalgamated province of Canada, countries with an English history, with life in full activity and with wealth in free circulation. At the opposite extremity, upon the borders of the farthest west, Columbia and Vancouver Island have arisen, rescued by force of irresistible circumstances, from the thraldom of a monopoly which still is seeking to mar the future, as it has done the past, of all the intermediate region.

Through the provinces enumerated and across that intervening space, lies the track of an extraordinary road.

Over that neglected country is the true direction of the great short road between the East and West ever sought yet never used.

Arctic voyagers searched in vain. What they

sought amidst frozen waters lies in a fertile belt across a continent, and this discovery, or certainly its use, has been reserved for an æra in which the utmost advantage can be taken of what until now had been an obstacle.

The track, (and is this not so that it might not be missed,) is marked upon the earth. The rivers furrow it so plainly that they will bear the burden of the work that must be done.

These things are now admitted. It were a work of supererogation to prove again that distances on the earth's surface are necessarily less in proportion as they can be carried towards its extremities; or to recapitulate the favourable effects for British interests of winds and currents in the latitude of England's American possessions.

Neither, most happily, is it necessary to prove by elaborate disquisition that Canada can be inhabited and commerce carried on in it; but Canada, (like all America,) affords the proof that a country can be peopled in the first instance through the natural advantages it offers, and that its prosperity will be increased and its position bettered *per se* through mere attraction of population. Yet such a fact alone should put an end to the legislative interdict of any soil or region.

The magic windings of an argument that revolved in ceaseless yet unmeaning circles have been broken through. To dogmatise that you cannot go three thousand miles through an uninhabited country, nor

travel by railway upon rivers, that water freezes below the freezing point and that rivers do the same during the frosts of a North American winter, and to assert that *therefore* you may seal up the country under a galling and unjust legislative yoke is now held to be but futile reasoning. Once freed, and inhabitation will take place by means of those great water paths placed there,—is it presumptuous to say so—placed there for the purpose?

Surely it is not presumptuous. The earth was formed to be inhabited. The means are obvious to the end in view. Sixteen hundred miles of inland navigation are already opened. Comparatively little need be done to add about a thousand more. It is obvious this facilitates inhabitation; and it is as obvious that inhabitation leads to the perfecting of communication by other and by quicker means.

Between the instrumentality thus briefly stated and the result which must necessarily follow, if this statement be correct, an assumed power, claiming a combination of monopoly entirely without parallel, seeks to interpose, and has hitherto effectually interposed, stopping every attempt to open communication across the country and every effort to throw it open to the chances of inhabitation.

The plan was formerly to call this project of reaching the Pacific from the east by British North America, foolish, impracticable, mad, dishonest, and its supporters knaves or fools. The country—was impassable. It was too cold. It was utterly

uninhabitable. The natives were terrific, or they were so strangely good as to thrive only under the extremely paternal care of the immaculate company. The Rocky Mountains,—why the very name alone shewed it was not possible to cross them. Cultivate the land,—why nothing grew. Travel across,—perfectly absurd. Gold,—sink it in the Thames. California,—if the Mexicans cannot keep it, the United States must have it. Oregon,—get rid of it. Anything ; everything, *only* no ENGLISH interference, no im-pertinence in the assumed territories of the Hudson Bay Company.

Of late, the same pretensions have been rested upon grounds a little more restricted. California and Oregon are gone ; but gold has been, and is being found in districts extending farther and farther still. British Columbia and Vancouver Island have arisen. Official explorations, like all preceding travellers, *have* crossed the impassable places. Strange to relate and wonderful as it may seem, the old oft-travelled and only road of the North-West Company of Canada from Canada to Lake Winnipeg, and the bullock waggon track of emigrants across the Rocky Mountains have been both proved practicable, not impassable, even in their present state ! The productions of the country in which nothing grew are now known well enough to be enumerated. They could be catalogued. The isothermal lines, previously determinable from these very data now are mapped in atlases.

Still "you can't," has only changed into "you shan't."—

"We own," so state to all intents and purposes the 'company of adventurers trading to Hudson Bay,' entering possibly upon their very most perilous venture, "we own everything. The soil, the animals upon it, the minerals, the gold and jewels underneath it; we own the seas and waters, and the fishes within them are ours. The whole, sole and exclusive rights of walking on the earth, or of going on the waters are with us. You can neither enter, nor pass through or over our demesne, except by our permission. Farther; within our dominions, aquatic or territorial, should we give you leave to enter, you can neither buy nor sell without our direct interference and assent; and we claim not only every possible territorial right and every possible commercial privilege; but we maintain a like supremacy in all matters of law, rule, government, or administration. Every public and every private right, privilege and possession and power invested wholly, solely and exclusively in ourselves. Such is our Trader's Chace."

Englishman.—May I then humbly ask your traderships (I know no ordinary title of earthly dignity that conveys a majesty like this), what may be the extent of your dominions, and to what end do you purpose applying the ample powers you have capitulated?

Hudson Bay Company.—Certainly. Our dominions extend to every place that can possibly be reached by us, provided always no one else has so tight a hold upon it that we cannot dislodge them. Our power we use to the preservation of our interests, which is best done, and, to be curt at once, which only can be done by allowing no other eye to witness of our goings on. Once again, therefore, and once again for all,

“This road shall not be opened; this land shall not be peopled.”

Englishman.—And I ask once again, is there no way out of this dilemma? Will you bate no jot of your pretensions?

H. B. C.—Certainly there is. Purchase our vested interests. Buy our hunting profits and our proprietary rights, buy off our prohibitive powers. Secure our bargain safely to us for all perpetuity so that we shall have only to draw the proceeds, and have them regularly paid to us, so that we run no risk and have nothing whatever farther to do; and then we will assent.

E.—In other words, as I should put it, you demand that we should pay you a sum commensurate with *our* views of the proper uses of the continent you hold in this determinate desolation, a sum utterly inconsistent with any profits you acknowledge to derive. You require us to buy up at *our* valuation what you depreciate for our uses and all that you claim to possess. You state that such a nego-

tiation would convey to us, whereby I mean the purchasers, whosoever they might be, the rights which you now claim to hold.

H. B. C.—Decidedly.

E.—Before debating with you the proffered terms of sale,—on which however I reserve my right to say a word should the proceedings reach that stage,—I would wish carefully to examine ‘What Title’ we should hold, the purchase being made. In other words, the title you can give.

H. B. C.—The Charter——

E.—Stay one moment. Suffer me to take this matter my own way. Let me recapitulate briefly the rights and powers you claim, the use to which you acknowledge your determination to put these powers, and the basis on which they are said to rest. If it be necessary, pray correct me as I proceed.

You claim all the soil in fee simple or absolute proprietorship, all minerals of whatsoever kind. All fish and fisheries. Every step of man upon your territories or within your waters you deem a trespass if unauthorised by you. You claim, as absolutely, a monopoly of every commercial transaction within your limits; and you are not only absolute proprietors and exclusive traders, but you hold also all rights of government, limited only by the faith and allegiance due to the Sovereign in all her dominions and possessions supreme?

H. B. C.—Your summary is perfectly correct.

E.—You express farther that so long as you retain these powers and can exercise these alleged rights, you will do so to prevent the inhabitation of the country, to stop the communication between the colonies at either end,—nay, between the continents on either side.

H. B. C.—Nothing of the kind. We base our determination not on our rights, but on inevitable necessity. From our rights, we derive the power to give effect to this necessary determination. We state that we *have* tried to colonise the country; and it cannot be done. And as to crossing it. It has been done, and therefore can be done; but as for making such a road over it, whether by water or by land, as to cross it by horse, by waggon, or by plough, by steamer, by railway, by telegram, or by express,—we say it can't be done so as to pay; and we abide by our statement.

E.—As my object is to see my way and try, I will not get within the circle of your assertions, but *I will investigate what title you can give*. You certainly do not cry up the value of your goods.

H. B. C.—Again excuse me; but we do. We state that only knaves and dupes, (the former could not live without the latter,)—forgive me, I speak plainly, it is honest traders custom to be blunt—set up these pretences of colonising a barren, frozen, wretched country; of going, by way of shortness and economy forsooth, over such a country to reach two colonies in their abortive infancy,

to which moreover the natural and proper access is by that element from which Great Britain draws the sources of her wealth and grandeur, aye, of her very being. The country is good; but only to hunt over. Our rights and titles are valuable beyond dispute. They bring us dividends.

E.—Then as to the limits or boundaries of this magnificent but sterile property?

H. B. C.—Well; they are ill or undefined, except as I have said, all we can get; all we can hold.

E.—Strange: Is such the phraseology?

H. B. C.—Legally expressed, it pretty nearly is.

E.—You have spoken plainly, bluntly; if you will, let me too be plain without offence. Seeking as I do to put this land to such a very different use, if I *should* buy it, I must look well to *my* title. All my desire to effect this purchase, is based as you well know, upon my conviction of its value for the uses that I want to put it to. Now suppose,—for argument's sake you must for the moment view it so,—suppose, I say, that *my* convictions prove well founded, and that suddenly I find myself possessed of all you can convey, but that meanwhile I have proved to all the world its real value; why, I might find it a very difficult task to put in force, and to enjoy, the rights for which I'd paid you dearly. I can picture to myself a much sharper inquisition into *my bought title to a habitable continent in the highway of the world*, than was held upon your claims to *alleged barren hunting grounds*. Why, I can fancy

persons rising up and saying that your present mysterious neglect of resources so abundant,—your free abandonment of provinces, so only they were not inhabited by *English* subjects,—your strange disparagement of wealth untold under your grasp, were all explained by the necessity for mystery as the only chance of preserving the advantages of a title altogether without value.

H. B. C.—That is jumping to conclusions, surely. With such propensities I really do not wonder at your *little* skips, in imagination, across continents and over mountains.

E.—Fair enough; yet he laughs best, who laughs the last. I entertain another strong though general objection to the validity of the claim we are considering. I beg you overrule it if you can. It seems to me a paramount necessity that before a grant can have validity there must be a grantor of sufficient right, power, and authority, to make the grant.

H. B. C.—Indisputably.

E.—That one admission—which, pardon me, is but the admission of an incontrovertible fact, admit or dispute it who may,—is however I cannot but think wholly fatal to the pretensions of your Company, even were there no other adverse consideration at all to be entertained. You base your claims upon a Royal Charter.

H. B. C.—A Charter allowed by several Acts of Parliament.

E.—The confirmation by Parliament is either ne-

cessary, or it is not. If not, the mention of parliamentary recognition is superfluous; if it be, the extent and intention of the confirmation become of extreme importance.

H. B. C.—It is confirmatory.

E — *Quoad valeat*. If the Charter of 1670 be valid, the parliamentary recognitions were made of necessity and were unavoidable, testatory to fact, not confirmatory of claim. If by itself invalid, the exact purport and intentions of the parliamentary acts, and the circumstances under which they were passed, are of the first importance. First, however, broadly, my preliminary and general objection is this. I know of no authority recognised either by the laws or customs of England, that could convey, or that would pretend to either the wish or to the power to convey, such rights as you allege for such purposes as, whether in words you deny them or not, you are stated in practice to adopt. Solitude and the wilderness are indeed their essential, for they declare war against the whole social fabric, and if elsewhere attempted they would force mankind into inevitable rebellion. A combination of monopoly vesting in the same hands all rights of proprietorship, all privileges and powers of trade, and all legislative and executive powers of government is, I believe, unparalleled, and I equally believe it not only contrary to, but actually abhorrent to every principle of English life and liberty. Will you deny it yourself? Would you allow it elsewhere? I am confident you would not. I am sure you dare

not. The burden therefore of finding some *prima facie* evidence of wholly exceptional features in this case falls upon you, and thus at once explains the origin of the innumerable assertions you have advanced against this enterprise, and the tenacity with which you adhere to them. You deny the possibility of colonizing the country; you ridicule the connection of its opposite oceans. I reply your interests and your fears dictate the bitterness of your hostility, and set your line of action in motion. You are organized as a very profitable fur-trading company that knows it has abused a trust because it knew that with the advance of civilisation would end the days of its gigantic profits. Your claims all rest upon one stay, and they must stand or fall together as to legal right. Unfortunately that stay, read as you claim to read it, is an outrage on humanity.

H. B. C. — You take skilful advantage of the tendencies of the age. I must myself acknowledge a show of reason in the line you take. The line, I mean of argument, not of crossing country. It is quite true that if you appeal to me as a subject of the realm, a citizen of world-wide England, no such monopoly as we claim to possess should have my advocacy or support. But what has this to do with vested rights and interests? Does England retrace her steps from an error by a crime? Will she remedy an injudicious grant by an unjust and spoliative act? Besides, I justify the exception by the peculiarities of the case.

E.—Circling again. My inference is that the powers you exercise, and the rights you claim, never have been conferred. But I have not yet done. You must hold these claims, whatever their amount, either absolutely or for some purpose. That is, they are held, if held at all, either so that you can do with them what you will, or they are held for some purpose definite and in trust. If you accept this alternative, and I cannot see that you can escape it, either the condition of the territories you occupy cannot affect your powers, or that condition is more or less in accordance or at variance with the purposes of trust, and thus becomes a matter of responsibility and a proper subject for enquiry. If you adopt the former statement, you do indeed declare war to the death against civilization, and take for maxims as a company, what, as men, must be repugnant to you; but if you accede to the latter, your proceedings are manifestly open to enquiry, and the High Court of Parliament is the proper tribunal to judge.

H. B. C.—Our justification lies where our policy originated, in the necessities of the case.

E.—That had been my own conclusion had you said *defence* not justification.

H. B. C.—I do not mean as you would have it from the illusory nature of our tenure which civilization is to shatter; but, from the nature of a country civilization never can reach.

E.—It is useless for me to repeat my disagree-

ment. I would you could be warned in time and partook of my conviction that the wave that will sweep away these assertions, together with the last but worst remnant of monopolies, always declared illegal and intolerable always, is already on its way. But to continue. Farther difficulties to the reception of the Charter of 1670, under the view you take of it, strike me in two particulars. I hold the vagueness of the boundaries, coupled with the fullness of enumeration of geographical feature, and the specific mention of excluding clauses, all fatal to the pretensions you advance. I say, moreover, that all such powers are as conveyed and within whatsoever limits properly restricted, are held for a specific purpose as a national trust.

H. B. C.—That were news indeed. Excuse me, you come to me professing a desire to purchase my rights to the territories I hold; and you have done little but impugn my conduct and disparage my pretensions.

E.—Is it not necessary that I should inquire both into the nature of the rights I am seeking to acquire, and also into the limits of territory over which they really extend?

I find, on the very threshold of this question that there *is a trust assigned*, a stated motive given for the granting of the Charter; the prosecution, namely, of the discovery of a new passage into the South Sea. Certain means, it is supposed, can be made instrumental to the furtherance of the chief

design; and for that end, as it seems clear to me, solely or principally, certain powers enumerated thereafter are conferred.

The premises are these. Persons named and particularised have undertaken an expedition to a *particular locality* for the discovery of a new passage into the South Sea. To carry this adventure out successfully, certain means are necessary. These means for defraying the expenses of this undertaking and for rendering it remunerative are believed, on both sides, to be attainable, as it were, on the way. These are accordingly set forth as “some trade for furs, minerals, and other considerable commodities.” They are to be “found” on the way, and as means to the discovery of the passage. Indeed the language is beyond doubt or question. It is expressly stated that the Charter is given for “the further encouragement” of the grantees in “the said design,” “the discovery of a new passage into the “South Sea,” upon these distinctly assigned grounds, “*by means whereof there may probably arise very great advantage to us and our kingdom,*” the grantor acknowledging himself moved by that final object, the redemption of his own trust as binding him to be “desirous to *promote all endeavours tending to the public good of our people.*”

Before passing on, I beg very particularly your attention to these clearly expressed premises, and most distinctly stated motives, to the trust assigned, and to the objects that are set forth.

The *public* good of the whole people is distinctly assigned as the motive of the grant ; and that good not indirectly, as resulting from repeated or accumulated similar acts, ultimately affecting the whole people through an aggregate of action in individual instances, but the public good of the whole people as directly and beneficially affected by the result of a specific course of action directed to a particular and stated object.

That public good is to be advantaged by the discovery of the passage ; the discovery is to be brought about pecuniarily through the means already described, which become clearly an intermediate object or *trust*. The recital is followed by the statement of a corresponding petition on the one hand and by a like grant on the other ; first, of the trade and commerce ; next, of the land, necessarily, as containing “the minerals and other considerable commodities” thus comprehensively set forth.

H. B. C.—It strikes me you omit that the grant is of the *sole* trade and commerce ; and that the language of physical geography is ransacked to give extension to that and to the territorial grant, as is moreover determined by the express addition of the words “in whatsoever latitude they be.”

E.—I had not exhausted the privileges evidently intended to be conferred. The intention of monopoly appears to me beyond doubt or question, as much so even by reason of the spirit and opinion of the age in which the Charter was conferred as by its

distinct expression in words. I purposely omitted reference to it, not only as beyond doubt, but because for the present I was dealing only with the distinctive nature of the several privileges or rights intended to be conferred, not with their extent. With regard, however, to the enumeration of geographical feature, ample as it is, full and redundant even as you seem to deem it, it is not exhaustive. On the contrary, I perceive two striking—and, if it be no contradiction, I was about to say—two singular exceptions, to which I purpose calling your attention presently. Nor shall we have to omit that strongly localising and qualifying condition and phrase “*that lie within the entrance of the Straits commonly called Hudson’s Straits.*”

H. B. C.—I am surprised to hear you refer to exceptions. The terms have always seemed to me to exhaust geographical enumeration.

E.—I, on the contrary, find, as I have said, exceptions; but, for the present to proceed. One other general preliminary remark appears to me necessary since it prescribes certain conditions of government and bears upon the fulfilment of the trust. There follows immediately upon the recital I have already dealt with, the Incorporation of the Governor and Company, and the description of the constitution, and the rules for their guidance and government. The mere employment of the ordinary technical legal phraseology conferring “the liberties, privileges, jurisdictions and immunities only hereinafter in these

“presents granted and expressed *and no other*,” seems to me to sweep away at once the *untenable because unparalleled* superstructure of extraordinary and unlimited power and of indefinite extension which it has been sought to build upon the Charter; nor do I see that any doubt can remain, or any question be raised upon the subject, which is not fully determined adversely to the pretensions of the Company, by the clause in the appointment of the Governor and Company as absolute lords and proprietors for purposes of rule and government. “The laws, constitutions, orders, and ordinances” by them enacted are to be kept, “so always they be not only “reasonable, and not contrary or repugnant to, but “as near as may be *agreeable to the laws, statutes or “customs of this our realm.*”

The precise capitulation of the grant or grants actually made, which follows upon the clauses of incorporation, again sets forth the great object at that day, as I believe, of the Company seeking to be incorporated, as well as of the King who gave the charter. This is again stated to be “And to **THE END** “the said Governor and Company of adventurers of “England trading into Hudson’s Bay, may be encouraged to undertake and **EFFECTUALLY** to “**PROSECUTE** the said design, &c.” What “said “design?” “The discovery of the passage to the “public advantage of the whole people?” There has been no other named from the beginning.

That the grant is for purposes of *trust* is therefore too clear to be disputed.

What then is the precise nature of the grant, and what is its extent ?

It runs as follows :—

“ We have given, granted and confirmed
 “ and do give, grant and confirm unto the said
 “ Governor and Company and their successors, *the sole*
 “ *trade and commerce* of all those seas, straits, bays,
 “ rivers, creeks and sounds, in whatsoever latitude they
 “ shall be, that lie within the entrance of the Straits
 “ commonly called Hudson’s Straits, . . . together
 “ with all the lands and territories upon the countries,
 “ coasts, and confines of the seas, bays, lakes, rivers,
 “ creeks and sounds aforesaid.”

EXCEPTION “ That are not already actually pos-
 “ sessed by or granted to any of our subjects, or pos-
 “ sessed by the subjects of any other Christian Prince
 “ or State.”

Grant continued. “ With the fishing of all sorts of
 “ fish, whales, sturgeon, and all other royal fishes in
 “ the seas, bays, inlets and rivers within the premises,
 “ and the fish therein taken, together with the royalty
 “ of the sea upon the coasts *within the limits* aforesaid.”

“ And all mines royal, as well discovered as not
 “ discovered of gold, silver, gems and precious stones
 “ to be found or discovered *within the territories, limits*
 “ and places *aforesaid.*”

“ And *that the SAID land* be from henceforth
 “ reckoned and reputed as one of our plantations or
 “ colonies in America, called ‘*Rupert’s Land.*’ ”

Here clearly is a grant ;

First, Of exclusive trade and commerce.

Secondly, Of lands and territories.

Thirdly, Of rights of fishing, and of possession of fish.

Fourthly, Of rights of mines royal whether of gold, silver, gems or precious stones.

The whole circumscribed and fixed within a locality described as "lying within the entrance of the Straits commonly called Hudson's Straits," with a conditional exception in case any part or parts within the said limits, or in other words, fulfilling the above conditions of locality, should at the time already be possessed by or granted to any other English subject, or the subject of any other Christian Prince or State.

H. B. C.—You are so far perfectly correct and clear.

E.—Then follows what I have before adverted to the provision for rule and government,—

H. B. C.—And the tenure in free and common soccage on yearly payment of two elks and two black beavers, whenever the crown should enter the afore-said limits.

E.—A liability that never having had to be redeemed, may have set a somewhat bad example as to the obligations that should have been discharged.

H. B. C.—Indeed until your valuable highway has become a "royal road," the debt may never be incurred.

E.—Not then, according to my reading.

H. B. C.—How so?

E.—For to my view the new passage to the Pacific does not lie within “the limits aforesaid,” and would be excluded, if it did, by the exceptional clause.

H. B. C.—You have promised me an explanation of this view to which you have before made some allusion. I must acknowledge its perfect novelty to me. I can understand an attack on the validity of the Charter as a whole that must stand or fall together; but I am curious indeed to hear your version of its limits.

E.—I do not know that I shall have a more convenient occasion than at present. I hold it then perfectly clear that some limits there must be; and also that it must always *ab origine* have been intended that there should be such limits or boundaries circumscribing or defining the territory within which the privileges of the Company, whatever these may be, were to be exercised. I find no valid reason for not going to the deed or document itself, that is to say to the Charter, in order to ascertain the nature and position of these limits. There however, I conceive, they are laid down and expressed exactly in the manner that was to be expected, and indeed in the only manner possible in a case of the like nature, that is to say where the description is necessarily a geographical description, and the country referred to undiscovered at the time, or at most but partially discovered. A country concerning which moreover the amount of knowledge and even of

possession that might exist in other quarters was a matter, more or less, of ignorance and might become one of international dispute.

If under such circumstances a tract of country can be pointed out, the limits of which answer all the conditions of the description and all the terms of the grant, I do not see that any reasonable doubt can remain of the tract so pointed out, being the one answering to and intended by the description and of the limits thus traced being the limits assigned by the grant. Should such a tract answer the greater part of the requirements with such exceptions only as can be clearly shewn to arise from a description necessarily defective, (which from the facts of the case would appear in the instance before us more or less inevitable) I should still say, that though the investigation might require great delicacy in handling, little or no reason for doubt could ultimately remain; but if it should appear that no other limits could be devised by any ingenuity whatever that would at all correspond with the most prominently expressed conditions of the limits and with the terms of the grant, then I should affirm that there is absolutely no room whatever left for any doubt. This last I believe and hold to be the fact.

H. B. C.—How so?

E.—We have before us a map shewing the extent now claimed on the part of the Company, a claim, the pretensions of which have not prevented a portion of that extent having been ceded so recently

as 1818 to the then United States on the adjustment of the boundary between the possessions of Great Britain and that country. The Company also, forcibly, as I think, illustrating the position that if the true limits to which the aggregate of the conditions does accurately apply be rejected, no others can be definitively assigned, is careful or is forced to add that the claim as advanced by them does not define *how much more* territory may be included in right of the charter.

If you will draw a line from the south-eastern angle of the boundary between the "Indian territories," as they have been called, and the present claim of the Hudson's Bay Company, following approximately the outline of Hudson Bay to the north-west boundary of Canada, you will, I believe, correctly trace the limits designed by the grant, and Rupert's Land proper, the country that was to be "one of the colonies in America," governed by laws "as near as may be agreeable to those of the realm," is that country lying between Hudson Bay and the boundary so traced; a country, ceded to the Company of adventurers with all its resources and with privileges of exclusive trade, for the purpose of trust aforesaid, namely in order effectively to prosecute the discovery of a connection with the South Sea.

The geographical description is in strict conformity with this suggestion both in regard to enumeration, and, as I have already said, with regard also to exception or omission. The territorial grant is

of "all lands upon the countries, *coasts and confines*
 " of all *those* seas, straits, bays, rivers, lakes, creeks
 " and sounds, in whatsoever latitude they be, that
 " lie within the entrance of Hudson Straits." Amplified as to latitude; *limited by contiguity*. The terms employed have evidently all been suggested by the continued understood reference to the main object in view, the maritime passage. The terms all bear reference to the seaboard. All are necessary to convey exclusive possession of the country I have specified. The amplification of terms is obviously made in the manner of exhaustion of expression customary in legal documents with the view of precluding all possibility of successful rivalry within the intended limits. It must be borne in mind that at the time it was supposed on all sides that the maritime passage existed, and that it would be found.

There is no reference whatever to a land frontier as determinable by a mountain chain, a height of land, a watershed, or any similar term. No; the boundary is determined, and consequently is determinable only, according to the palpable and only supposition existing at the time, of a passage, or, so to speak, of a great continuous strait, that might consist of various features of maritime geography. The land upon the coasts and confines of this passage were accordingly granted to the new Company irrespective of the form of maritime indentation which it might assume, irrespective also of the range of latitude throughout which the passage might

extend ; but bounded and limited by the condition of proximity to that passage, of lying within Hudson Straits, and of *not* being at the time possessed by or granted to either other English subjects or to the subjects of any other Christian Prince or State.

The subsequent grant of a farther monopoly of trade is strongly confirmatory, nay entirely decisive as to the correctness of this view. Unbounded as the monopoly was intended to be within the limits of its sphere, that sphere was intended to be definite, and territorial possession was not in any case conferred beyond the limits of land lying upon the suppositious passage or as I believe it was by no means ill defined, of the countries upon the coasts and confines lying within the straits. The farther monopoly granted is evidently founded on the assumption of success attending on the enterprize, and of trade and settlement springing up within the previously determined limits of the new colony. There is no farther grant of land. It is one of trade exclusively, and is of the sole trade and traffic with all other natives, people and nations inhabiting any of the coasts adjacent to the aforesaid limits into which they should from within those limits find access either by water or by land. Nothing could be more positive as to the imposition of limits to the colony of Rupert's Land. The conditions of those limits I have already gone fully into.

H. B. C.—All you have said to me seems wide of the mark. As if all your ingenuity were not waste

effort in the face of language clear, express, emphatic, and comprehensive like that of the grant. There it is "all lands upon the rivers " within Hudson Straits." No, no, happily you cannot alter the outlet of the Churchill and Nelson rivers. You can neither deny that they are rivers, nor that the outlet of both lies within Hudson Straits. Nor can you with any show of justice, nor, pray excuse me and I would say, by any quibble even, summarily draw a line across these rivers, and cede one portion and retain the other.

E.—Notwithstanding the opinion you express I believe the boundary of Rupert's Land does cross the rivers you have named, precisely in the manner you describe. You yourself must be aware that the boundary of "*La Nouvelle France*," that is of Canada, as it had been as a French dependency, when laid down in virtue of the conquest according to the French claims then made over, which claims had antecedently been recognized in international treaties, is traced exactly on the line I have determined from the reading of the very document on which your pretensions are advanced. That boundary follows approximately the height of land from the north-west angle of the province as now organized, but summarily crosses the Katchewan or Nelson and the Churchill rivers where they would interfere with the general direction of the frontier. It adheres not to any suppositious theory of a watershed or height of land, but to the terms of the

Charter or to the necessities on which those terms may have been based, namely, to proximity and relation to Hudson's Bay and Straits. Even the very slight deviation that would be necessary for the purpose, in the case of the Hayes and Seal rivers, is not followed, when adherence to the height of land would cause departure from the general direction of the line marking proximity to Hudson Bay.

H. B. C.—I cannot at all accept your statements.

E.—Evidence establishing so unpalatable a conclusion can scarcely be to taste.

H. B. C.—I do not hold it evidence at all.

E.—That it affords matter for enquiry it were better to admit. In cases of difference arbitration is necessary. To the decision of Parliament on a full and honest investigation I am perfectly content to leave the matter. The House of Commons has already affirmed that the grounds for such an enquiry exist, and has passed a formal address to the Crown praying that it may be instituted.

H. B. C.—Are you so mightily pleased with the Report of the Committee of 1857?

E.—That report strangely enough does not deal with the basis of the whole matter, it does not enter upon the question of the Charter either as to validity or boundary! It is however accompanied by a mass of evidence, some of which is very valuable and some very striking. Some of your most strenuous, and also of your most powerful supporters, themselves openly impugn the testimony that they offered

and the statements that they made when their interests lay in opposing, and not as now in bolstering up, the pretensions of the Company. Are the interests less which now bind them to support it, or are we to infer that you have better learned now how to combine your interests and the accuracy of your statements, or are we to look with the suspicion that they themselves recommend in the matter of their former evidence, on the assertions that they now advance?

I am ready however to pass from the strictly geographical aspect of this question to that which is chiefly historical, merely reminding you, that whilst conceding the intention of the grant to trace generally the limits I have indicated, as those of the new colony of Rupert's Land, we have not yet dealt with the *excepting clause*.

H. B. C.—In which attempt were you to venture it, you must break down egregiously. Were I at all disposed to argue the matter with you, (I content myself with listening to your views,) I should upset you with that very clause. The boundaries you would assign to Rupert's Land, would render such a clause, ridiculous surplusage. There would be nothing to except. What foreign prince or state had any rights he could have ever claimed to grant in such a case? What other English subjects could possibly have been possessed of an undiscovered country? I should say therefore the boundaries intended must be other than you have named, or there would be nothing to give semblance to the necessity for an excepting clause.

E.—A bad cause, you'll find, I fear, is difficult to defend. If I accept your argument, I shall apply it to cut off that enormous territory that, regardless of the condition of proximity to Hudson's Bay, you seek to annex by reason of the outlets of the Churchill and Nelson rivers, bounding complacently over 41 degrees of longitude, and 18 degrees of latitude. I should so apply it because the history of the country shews that this great tract of land is excluded under that clause as well as not included within the limits assigned. The Company itself has *struggled* for a southern boundary on Hudson Bay that would prevent French rights from extending *further* northward than Rupert's and Albany rivers; and urged on occasion of a treaty that French rights should be so bounded. That boundary admits the French to James' Bay by the Moose river. In other words diminishes to that extent "the limits aforesaid" or the colony of Rupert's Land.

H. B. C.—It was not carried out.

E.—It was not. Even that limit was in excess of the concession France would consent to; but the suggestion, emanating as it did as a petition of the Company, remains as decisive and authoritative as it possibly could be, both as to the views then entertained by the Company as to the true nature of their limits, as to the extent of possession they then could claim, and as to the application of the excepting clause within the limits of Rupert's Land, as

otherwise geographically described. Indeed, I will frankly avow that if the geographical examination of the Charter is unfavourable to the present pretensions of your Company, its historical aspect is yet more adverse. The former assigns you limits you seek widely to exceed ; but the latter appears at variance with your having any rights whatever.

The Charter, as we have seen, carefully and specifically excludes the possessions of any other Christian Prince or State, and bears date 1669.

The "Compagnie de la Nouvelle France" was founded in 1627, or more than forty years previously, under a charter of Louis XIV. of France ; and to it had also been granted the privilege of exclusive trade by land or sea from the River St. Lawrence to the Arctic Circle. Virtually, a precisely similar grant, both in character and as to object, but directed primarily to local possession and trade, and not as in the case of the Hudson's Bay Company, for an ultimate purpose or trust.

Each was to hold the results of their own efforts and discoveries. Hudson's Bay was the starting point in the one case ; in the other it was the River St. Lawrence and New France, which at the time signified not a definite westward boundary, but all that French arms and enterprize could seize from the native Indian. The grant to the French Company was unlimited, (unless by the Arctic Circle and the Frozen Ocean.) That to the Hudson's Bay Company was fettered by conditions, and

restricted from encroachment on the possessions of other princes or states. The Companies of both nations made their advances from the localities specified in each case. Under such circumstances, collision could not be avoided, and it came. The clash was inevitable wherever these antagonistic forces met. The business of the one was a northward extension of a local, and, in a measure, of an already organized possession; that of the other, of a southwestward progress, for purposes of discovery, merely gathering incidental right and profits by the way. The proprietary rights of the latter were expressly restricted in the original grant from coming into rightful conflict with the prior rights of others. Upon unoccupied ground they might, perhaps justly, with colourable pretension certainly, have resisted foreign intrusion, for the King's grant appears to respect only territory actually in prior possession of the subjects of other Christian princes, otherwise, the whole Charter is unmeaning in the presence of the prior absolute grant of the French King. Wherever, however, these two conflicting parties might meet in the course of first establishing their trade and conducting their discoveries, there it would clearly seem to have been the intention of the English King that the international boundary of the Company should be established, provided it was conformable to his grant in other respects. I do not see that this admits of doubt. Where then did they meet? The first to consider themselves ag-

grieved are the French, who find trespassers upon the intercourse which already they had established upon the very shores of Hudson's Bay. Armed force is resorted to, in order to expel the English adventurers from French territory! Each battles not for southern rights or southern boundaries but for the possession of the Bay. The French claim the Bay in virtue of original grant and of prior access and possession by gradual advance from the St. Lawrence. The Hudson's Bay Company can advance no pretension in legal support of the force they have resorted to. They hold only a grant of land they may find unpossessed on their penetration from Hudson's Straits. Even as relates to those parts of Hudson's Bay that were in prior occupation of the French, nothing can be more untenable than a pretension to possession argued from the basis of the Charter.

H. B. C.—I shall not pretend to follow this antiquarian research, which may or which may not be perfectly correct. I will admit that I have heard there is a considerable amount of official evidence to the assertion you put forward; but, after all, you cannot meet the simple fact that we hold all that for present purposes we claim.

E.—I understand you perfectly. If the hold, which you unfortunately have, be questioned, you support it by the allegation that it exists by virtue of chartered rights; but, if the question is that of the investigation of these asserted rights you fall

back upon the hold. No object is so difficult to grasp as one in ceaseless shifting motion ; however I cannot but consider the evasion as an abandonment of the Charter as stable ground. If, however, your possession is not connected with, and not in virtue of the Charter, your alleged right is surely null.

H. B. C.—I make no such admission as you would imply. I only ask how you otherwise explain my occupancy. That at least is a matter which cannot be disputed.

E.—The manner of that occupancy affords, if such were necessary, another and an independent refutation of any pretensions to chartered rights. That occupancy, as it may be traced historically down, consists of two distinct and separate parts, according as it relates to one or the other of the two great tracts of country under consideration. The history of the occupancy of Rupert's Land is distinct from that of the occupancy of the great plains of the Red River and the Saskatchewan, and it is separated from it also by an interval of upwards of a century and a half.

The settlements of Rupert's Land did not at first extend beyond the shores of James' Bay, the mouths of the Churchill and that of the Hayes rivers. Henley House, some 150 miles up the Albany river was founded about 70 years after the granting of the Charter, and was followed after another considerable interval (about A.D. 1770 or 1780,) by Fort Nelson.

and later still by a fort upon Split Lake. None of these settlements extend into the great plains of the interior. They are either within or close upon the geographical description of Rupert's Land. Meanwhile the treaty of Ryswick (1697), provided for the appointment of Commissioners to settle the pretensions of the French and English to *the trade of HUDSON'S BAY*, and that treaty restored to France, or left in her possession, all that she had held at the beginning of the war. The effects of this clause are thus given by Charlevoix: (Vol. ii. p. 236, as quoted by Mr. A. Isbister in a very valuable paper read before the Society of Arts.) "Pour ce qui est de la baye d'Hudson elle nous reste toute entière, parceque nous en étions les possesseurs actuels." "France," says Bancroft (Vol. ii. p. 192, same authority), "retained all Hudson's Bay."

The views of the Company and their pretensions at this time are on record, and decisive as to their opinion of the intended international boundary. From 1687 to 1699 they are thus expressed: "It shall not be the fault of the Company of Hudson's Bay, if their agents and those of the Company of Canada do not keep within their respective bounds, the one pretending only to the trade of the bay and straits above mentioned, whilst the other keeps to that of Canada."

They then submit a proposition for adjusting the boundary in 53° N. lat. on Albany river on the west coast of the bay, and on Rupert's River on the east

coast. To these terms the French would not accede. The treaty of Utrecht in 1714 reverses this position. Rupert's Land, Hudson's Bay and Straits are, by this treaty, ceded to the crown of Great Britain. The Company now enlarge their pretensions and begin to take their measures with considerable skill and discretion. They do not, however, advance the very slightest claim to any country on the plea of the watershed determining its rivers into Hudson's Bay. On the contrary, they propose a line starting in $59\frac{1}{2}^{\circ}$ N. lat. on the east, and presently trending to the south-west, a line which allowed the French claims to part of the country of Rainy Lake and River, and Lake of the Woods. Their pretensions I have said become enlarged, and greatly so; but even this very line is quite at variance with the assumptions now attempted to be based upon the Charter, and is historically fatal to the latter. The international endeavours to negotiate a boundary again failed, and up to the conquest of Canada, after which the question of course could not again arise between France and England, all efforts on the part of the English Commissioners under the treaty of Utrecht to obtain the consent of France to the new boundary line were equally unsuccessful. The proposal is conclusive therefore both as to the limit of the extreme pretensions then advanced by the Company, and also as to the fact that to these pretensions, infinitely short as they come of those that have been lately urged, the consent of France could not be obtained although per-

severingly attempted under the advantageous influences of the terms of the treaty of Utrecht.

There are records to shew that up to 1750 the Company continued to adhere to the line I have just sketched. Their domestic policy was characterized by great discretion and caution. Up to this time we find them occupying this vantage ground that the support of their claims was a direct means of national aggrandisement, and of the extension of national territory. What they claimed or wrested from the French became, in their hands, a national acquisition and a loss to the enemy, for the two countries were nearly all this time at war. Against English subjects they held a monopoly; but a monopoly of trade cannot, according to the common law of England, be granted by the Crown, without the sanction of Parliament. A Charter attempting to confer it is illegal and void. This sanction the Company obtained from the year 1690 to 1697, when its continuance was refused. Now the Charter bears date in 1669; the treaty of Ryswick 1697; that of Utrecht 1714. By the former treaty Hudson's Bay is virtually or completely surrendered to the French. We have seen the very slender proportion of territory even attempted to be claimed up to that time on the part of the Hudson's Bay Company, and that slender portion unsuccessfully. The treaty of Utrecht cedes all but "La Nouvelle France," to the King of Great Britain. What, under these circumstances, is the course pursued by the Company? Do they take

steps to have this enlarged territory ceded to them, and their monopoly confirmed by legal measures? Nothing of the kind. They re-occupy their old posts amidst silence and illegality, and extend their encroachments stealthily and gradually on every side. By these means they escape from rivalry at home and from any reawakening of enquiry into the illegal nature of their only tenure. Circumstances prove in their favour beyond the most sanguine hopes they can have entertained, and the conquest and cession of Canada in less than fifty years after the treaty of Utrecht, put an end to international rivalry upon this subject with the French. Notwithstanding these advantages they appear to have advanced but slowly into the interior. The French settlers were, in fact, largely in prior occupation of the ground, and were able to intercept the Indians trafficking to their posts, besides having established a communication through the great lakes and along the lesser chains of lakes and rivers to the Red River and the Saskatchewan. The same policy which prevented the attempt to obtain any renewal or legal confirmation of their chartered privileges dictated the expediency of avoiding any collisions that would attract attention to the operations they were carrying on, and to the insufficiency of the authority under which they acted. Monopoly was of greater consequence even than extension. The absence of rivalry was a consideration paramount to the mere question of legality. The attempt to gain a legal sanction and

a lawful standing might, and very probably would result in the limitation or destruction of a monopoly that might without such sanction be nevertheless practised successfully.

By the conquest of Canada, ceded 1763, the French fur-traders of that country became English subjects, and the pursuit of the fur-trade was largely extended through increased activity in the newly acquired country, caused by a variety of circumstances. A number of these independent traders, for there was at this time *no attempt at a monopoly in Canada*, associated themselves together and formed the North-West Company of Montreal. Composed as it was of parties who were already singly the ablest and the most wide-spread occupants of the ground, the joint operations of its members were conducted with great vigour and energy. They spread over the interior of America, and on the shores of Hudson's Bay came into collision with the Hudson's Bay Company. Another important company of Canada was called the X Y Company, and with this, that great discoverer and man of sound judgment, Sir Alexander Mackenzie, was connected. The disputes and collisions between these several companies, or their representatives, increased in animosity. The Hudson's Bay Company, which had been inferior in conduct to the Canadian companies, had acquired greater energy since it had been joined by Lord Selkirk. At length, in 1814-15, a violent conflict took place near the Red River settlement, in which

about 16 or 18 persons were killed. A Commissioner was sent by the Government of Canada to enquire into the particulars and to suggest a remedy. The Hudson's Bay Company, through Lord Selkirk, had warned off the North-west Company. Now, does it admit of doubt that if the pretensions of the Hudson's Bay Company had been tenable they would have then advanced them? Or that if they had been legal it would have been the duty of the Imperial Government which sent instructions upon the subject, to have sustained the claims of the Company? Surely not. Yet what was the result? The recommendation of the Commissioner as *the only means of restoring peace* was, that an attempt be made to unite the interests in conflict! The peremptory instructions of Earl Bathurst were the restitution, in each case, of the property that had been seized by either party; and the removal of any impediment that might have been raised on either side to impede the free passage of *any* traders, or *of other of the King's subjects*, or of natives! What had become of the pretensions to monopoly about this time? so recently as 1817! At length, matters having become much worse, and the Companies on either side nearly ruined by the bitterness of their rivalry, in 1821, or about that year, and after a very difficult negotiation, a union of the Companies, and a consent to carry on their operations under the Charter of the Hudson's Bay Company, was effected. This is nothing more than the gradual

union of independent traders and the absorption of separate companies, who at length agree to combine, and who select for their final form that association amongst them in possession of the semblance of a document conveying privileges, whilst the others avowedly had none at all. It leaves it, however, perfectly clear, that there can be no legal obstruction to any other parties that please occupying the same ground and pursuing the same trade. It shows and proves also, historically, that the Hudson's Bay Company did not obtain access to the lands of the Red River and Saskatchewan through Hudson's Bay, but from Canada by a route they now declare impracticable. I must acknowledge that I did not foresee to what an utter ebb investigation would bring these vast pretensions, or I never should have entertained the notion of their purchase.

H. B. C.—Good morning.

E.—Good *night!*

THE TRANSIT,
AS AT PRESENT, AND ITS PROBABLE FUTURE.

The Red River Settlement occupies the Central position of the North American Continent.

Whether the point of departure be any part of North America, of Europe, of the West Indies, of Africa, or of South America, if the destination be British Columbia, or the Pacific countries beyond it, the direct and best route passes through the territory of the Red River Settlement. Even if advantage be taken of the short open season of Hudson Bay, the way to the West meets the track from this direction upon the same great plains.

The settlement is now comparatively easy of access. Steamers ply to the head of Lake Superior, and Railroads extend to St. Paul in the State of Minnesota. Thence there is an established line of stages to Georgetown on Red River, a distance of 290 miles, from which again steamers ply during the season to Fort Garry.

There are a variety of other ways; but this may be considered as the best established at present, although it is extremely round about.

The steamer on the Red River and Lake Winnipeg, and another placed above the Rapids of the Saskatchewan would open the country to inhabitation

and transit throughout the whole length and breadth of the magnificent connected inland navigation. By the branches of the Saskatchewan this navigation reaches to the foot of the mountains; nor should it be forgotten that the rivers which afford these facilities during the summer season form also the most excellent of all winter roads.

The characteristics of the three principal passes are now well and generally known. They are fully described in the exploring expeditions and the testimony thus afforded is in perfect harmony with the well known fact that the mountains have often been traversed by emigrants with their laden waggons and with all their goods.

The Vermilion Pass is 4944 feet above the sea level. "The height of land is in a wide valley. "The ascent from the Saskatchewan is hardly perceptible to the traveller who is prepared for a tremendous climb by which to reach the dividing range of the Rocky Mountains; and no labour would be required except that of hewing timber to construct an easy road for carts. A road for carts down the valley of the Vermilion Pass could be cleared without difficulty, the incline would be only 1 in 135, and the absence, of any abrupt steps either in the ascent or descent, together with the small altitude to be passed over, form very favourable points."*

Of the Contonais Pass, 6000 feet above the sea

* Dr. Hector.

level, Governor Douglas has reported that the road from Lytton to the Red River not only may be, but has been, repeatedly travelled. At the time of his despatch, the Pass itself was thickly wooded, but there was no other difficulty to the whole distance being safely travelled with carts. The roads of British Columbia are being pushed forward with the greatest energy, and are being laid down with a view to their being in part convertible into railroads.

There is, therefore, literally no difficulty in the way of this magnificent communication. So simple a matter is its opening or initiation. And to what does it ultimately tend? To an unbroken intercourse by steam and electricity across the Continent—opening on the way a track or region larger than that of many kingdoms. A means of communication advantageous under every aspect that can be taken of it, shorter in distance, superior in characteristics, to any other with which it can be brought into comparison. Thus the opening of the Red River Settlement leads, as a necessary consequence, to unbroken intercourse with British Columbia, and the circuitous means of reaching it, that have been recommended at present, would not long be necessary after its creation into a *colony* under the Crown.

The old road of the North West Company of Montreal is just 414 miles more direct, and consists of great portions of natural navigation. It admits, therefore, most easily of that system of gradual

development which is evidently the most suited to a new country, and to one possessed of such characteristics of physical geography. The advantages Minnesota now possesses would be transferred to the new colony.

A telegraphic communication, and probably a postal express, under good and sufficient auspices, are about to be established across the Continent. Is it not, therefore, a question of time only, not a matter of uncertainty, that this opening will expand into a continuous steam communication of a full varied nature, extending from shore to shore, between the several parts of our magnificent North American possessions, as well as between the more remote continents on either hand, and so ultimately leading, it may be, to the full attainment of that intercourse and of its results which would admit of the interests of Great Britain and those of all her possessions being moulded gradually into a real Unity.

RUPERT'S LAND.

1669. Early settlements confined to the shores of James' Bay, and the mouths of Churchill and Hayes Rivers.

1697. Treaty of Ryswick. Cedes to France the possessions actually held at the commencement of the war.

Under this Treaty the Company contend ineffectually for a boundary restricting the French to the south of Albany and Rupert's Rivers.

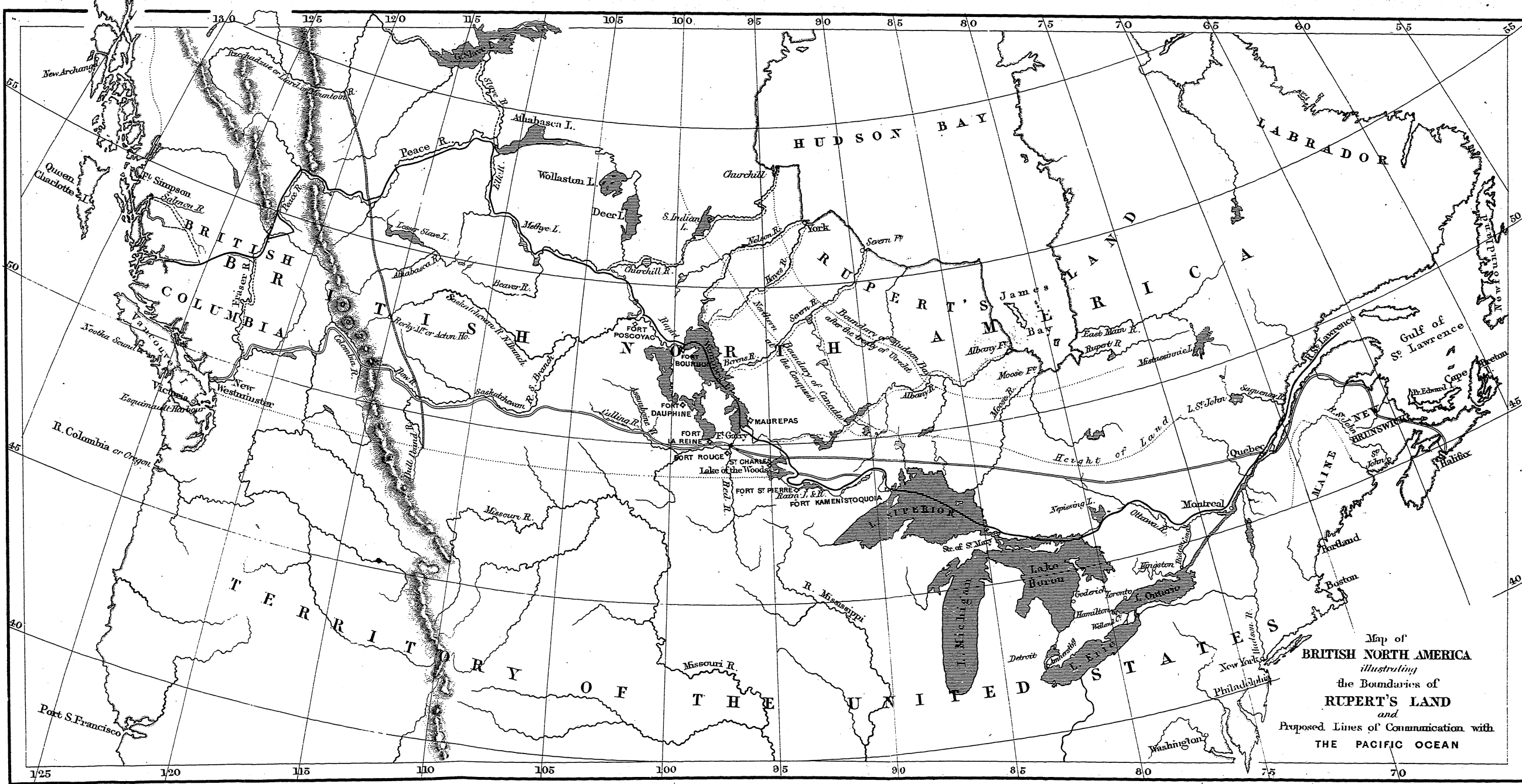
1714. The Treaty of Utrecht cedes Hudson's Bay, &c. to the crown of Great Britain.

Boundary of Hudson's Bay according to French maps of 1720, 1739, and 1771, shewn on map.

1763. Boundary of "La Nouvelle France," or Canada, at the time of the cession according to British geographers.

French Posts in the Interior at the date of the Cession :—

1. Camenistoguoia, on the river now of that name.
 2. Fort St. Pierre. Lac des Pluies.
 3. St. Charles. Lac des Bois.
 4. Maurepas Lac Quinpègon.
 5. Fort La Reine. Riviere Assiniboels.
 6. Fort on Riviere Rouge.
 7. Fort Dauphin. Lac des Prairies.
 8. Fort Bourbon on Lac Bourbon ; and,
 9. Fort Poscoyac on the Saskatchewan.
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Map of
BRITISH NORTH AMERICA
 illustrating
 the Boundaries of
RUPERT'S LAND
 and
 Proposed Lines of Communication with
THE PACIFIC OCEAN

Edward Stanford, Charing Cross.



The Great Water Route
 Western Terminating Branches
 Churchill & Mackenzie River Road

The Quickest Route
 Roads to Hudsons Bay & L. Superior from L. Winipeg
 Moccasin & Itchadue Road