

3702. How far north?—To the northern end of the island.
3703. At the northern end of the island what is the climate?—A similar climate, but there is rather more rain, perhaps rather too much rain for agricultural purposes at the northern end.
3704. Have you ever been in Ireland?—No.
3705. You do not know whether there is more rain by the gauge in Vancouver's Island than in Ireland?—No; I am not prepared to go into details, and give you the particulars.
3706. For agricultural purposes the whole island is fitted, you think?—Decidedly, bearing in mind the statement of my former evidence.
3707. In that northern part is it wooded?—The island is very thickly wooded all over, with the exception that it is interspersed with small prairies.
3708. Have you ever been in Canada?—Yes.
3709. Have you paid attention to the agriculture of that country?—No; I never remained in Canada any time.
3710. Do you know that all land in that country is covered with wood, which wood is obliged to be cut down before the land can be turned to agricultural purposes?—I do.
3711. And I suppose there is no more difficulty in Vancouver's Island than in Canada?—Not a bit.
3712. Have you cut down timber, and converted the land to agricultural purposes immediately?—Under the present state of the colony's infancy there is no necessity for that; it would be too expensive. The open land is generally brought into cultivation before the timber land, and there is a great deal of open land yet to be disposed of.
3713. That open land you employed?—Yes.
3714. Was it fertile?—Beautiful land.
3715. Did you plough it?—Yes.
3716. What return of wheat did you get per acre?—From 25 to 40 bushels per acre is the average crop.
3717. You sow it in autumn, I suppose?—Yes, about the month of October.
3718. Mr. *Grogan*.] Have you got 40 bushels an acre yourself?—I have not myself, but there were two farmers on the island who did.
3719. Mr. *Edward Ellice*.] What farms were those?—One was called Old Bay Farm, and the other belonged to Mr. Ross.
3720. Mr. *Rosbuck*.] Have you travelled on the mainland opposite Vancouver's Island?—Yes, I have been to the head of the Puget Sound waters.
3721. Is that country wooded also?—About the same.
3722. Do you know what kind of wood it is?—Red pine.
3723. Mr. *Edward Ellice*.] In what territory is it?—In the Washington territory, belonging to the United States.
3724. Mr. *Rosbuck*.] Is there not hard timber also?—Oak; not on the mainland, but on Vancouver's Island there is a large quantity of oak.
3725. Are there beech and maple?—Yes.
3726. Is it within your knowledge that where pine grows the land is less fertile than where the hard wood grows?—Not in Vancouver's Island; but I have understood that that is the case in Canada. Generally, our wood land is considered as fertile as the prairie land.
3727. And the wood is usually, you say, pine?—Yes, but not exclusively pine; other kinds grow with it.
3728. Mr. *J. H. Garney*.] Are you now speaking of English territory, or American territory?—English territory; Vancouver's Island.
3729. When you were speaking of the main land just now you were speaking of American territory, were you not?—Yes; I was asked whether I had been on the mainland.
3730. Mr. *Rosbuck*.] I asked you whether you had been on the mainland opposite Vancouver's Island?—Yes.
3731. Upon the British territory?—What is understood there by the mainland in particular is the American territory. No trade goes on upon the mainland from Vancouver's island, on account of the Hudson's Bay Company having the exclusive right of trade.
3732. I am asking you whether you have been upon the mainland belonging to England?—I have.
3733. What is the character of that land?—It is thickly timbered.

Mr. J. Cooper.

21 May 1857.

3734. Do you therefore call it fertile?—On the coast, perhaps, not so fertile, but about 150 miles from the coast, on a direct parallel, there is one of the most beautiful countries in the world.

3735. What authority have the Hudson's Bay Company over Vancouver's Island?—They have every authority; they are the lords of the soil by grant of the Crown, I believe.

3736. And upon them depends the permission to colonise that country?—It does.

3737. Do you know whether they have granted that permission freely?—At all events if they have, the prospectus is not favourable to colonisation.

3738. Was there any impediment thrown in your way as a colonist in that country?—Yes.

3739. What?—I was exclusively confined to my operations on Vancouver's Island. I had the impression when I went there first, that the mainland also was open for trade for settlers; but I found afterwards that it was not.

3740. What sort of trade?—In fishing, for instance. There are large fisheries in Fraser's River, which exclusively belong to the Hudson's Bay Company.

3741. And you are prohibited from using that fishery?—Yes.

3742. Was there any impediment thrown in your way to colonising Vancouver's Island?—No, I imagine there is no great impediment; but still there are many drawbacks which, if I could go into detail, I would mention.

3743. Pray go into detail?—One is this: I will place myself there as an independent settler, and the disadvantages that I am under are these. It would have been much better for me if I had gone out in the Hudson's Bay Company's service as one of their bailiffs or servants, for this reason, that they are furnished with goods at a nominal price, and all their expenses are found them. I have to pay extortionate prices for my goods, and find all my expenses besides. But then they say, "You have an equal right to find your goods;" but it is not every man going to a new colony who has money to find his goods; it is not every man who is a millionaire.

3744. Supposing the colony were thrown open to Her Majesty's subjects generally, the power of the Hudson's Bay Company taken away, and a Governor sent there by the British Government, do you suppose that that would advance the colonisation of the island?—I do; I am fully of that opinion; I think it would be one of the only steps which the British Government need take, to alter the administration of the Government, and that people would flock there from San Francisco who have been out there now some years, and are perhaps tired of the country themselves.

3745. You mean English people?—English people. I am certain that there are hundreds of people in California, who, if Vancouver's Island were a British colony to all intents and purposes, with a British Government, would gladly go to Vancouver's Island to open trade.

3746. So that the island, being under the dominion of the Hudson's Bay Company, is not considered an English colony?—No.

3747. The power and authority of the Hudson's Bay Company is an incident deterring the colonisation of the country?—Yes, it is.

3748. How far north have you travelled upon the mainland?—It is such a country that there are no roads; you cannot travel by land, you must go by water. I have been up to the north end of Vancouver's Island.

3749. Did you ever go to Queen Charlotte's Island?—Yes.

3750. What sort of island is it?—Something similar to Vancouver's Island, but nothing like so fertile; it is a varied climate.

3751. Is it wooded?—Very thickly wooded; it is rather mountainous.

3752. Do you know whether there has been any discovery of coal upon that island?—I am not aware of it.

3753. Coal has been discovered upon Vancouver's Island, I believe?—Yes, they have a large mine there now in operation.

3754. If that mine were worked I suppose it could supply the continent with coal?—I believe that the Nanaimo coal mine is capable of supplying the whole Pacific.

3755. To what extent is that coal mine worked now?—When I left they had something like 8,000 or 10,000 tons ready for sale, but there was no sale for it.

3756. Why?—

3756. Why?—In the first place, they asked too high a price, and coal has been discovered on different parts of the coast; and there is also the great drawback which I mentioned, namely, the duty of 20 per cent. upon it.

3757. Upon what part of the coast has coal been found?—In Bellingham Bay, directly opposite Vancouver's Island, at the south end.

3758. *Chairman.*] On British or American territory?—American, and also in Coose Bay; that is about 200 miles north of San Francisco; but that is a very bad harbour, and will never be to any extent available.

3759. *Mr. Roebuck.*] You say that there is a duty of 20 per cent. upon the exportation of coal?—No; there is a duty of 20 per cent. imposed in San Francisco, in American territory.

3760. Then there is no difficulty thrown in the way of anybody exporting coal by the Hudson's Bay Company?—No; but they are the only persons who are capable of working a mine even if it were found; there are no colonists in Vancouver's Island who, even if they could find coal, would be capable of working it, from the want of means.

3761. *Chairman.*] Are not the Indians employed in working coal?—Nominally they are, but not to any extent; they are principally white people.

3762. Do you find that the Indians are willing to work for wages, and that they make useful labourers?—Yes, they are willing to work.

3763. Did you employ them yourself in agricultural labour?—Yes, I used to employ a great many.

3764. Did you pay them in money wages?—No, principally in trade goods, such as blankets and baize.

3765. You gave them no money?—No money; they do not understand the value of money.

3766. *Mr. Roebuck.*] Did you ever try them?—A few knowing characters about the settlement understand the value of money, but as a general rule, the Indians do not know the value of money.

3767. *Chairman.*] Are the Indians intelligent?—Some of them are very intelligent.

3768. Is there any education among them?—No, not at all.

3769. Are there no clergymen or others who interest themselves in their education?—None whatever.

3770. Is any attempt made to Christianise them?—None at all.

3771. Do you mean none whatever?—None at all, not the slightest.

3772. *Mr. Grosvenor.*] Is there any resident chaplain or clergyman in the Island?—There is one.

3773. *Chairman.*] What is he?—He is the colonial chaplain.

3774. *Mr. Roebuck.*] Can he speak the Indian language?—No.

3775. Then he cannot address the Indians at all?—No.

3776. *Mr. Grosvenor.*] How long has he been there?—Probably two years.

3777. What may be his salary?—About 300*l.*, I believe.

3778. *Mr. Edward Ellice.*] What difficulty would there be in the way of clergymen spreading themselves among the Indians in the island?—The Roman-catholic priests do it, and I do not see that there would be more difficulty attending the English clergy than there is with the Roman-catholics.

3779. How many stations have the Company in the island?—Three.

3780. Whereabouts are they?—One is at Victoria, where the settlement is; one is at Nanaimo, at the coal mines; and the other is at Fort Rupert, at the north end of the island.

3781. The fact is, that with the great body of Indians through the island the Company have very little communication?—There are no interior Indians; there are coast Indians; and I suppose the Company have a communication either directly or indirectly with the whole of them.

3782. But none of the people employed by the Company reside among the the Indians?—No; only one or two priests.

3783. *Chairman.*] Do the Indians get their subsistence chiefly by fishing?—Yes; all the Indians on Vancouver's Island subsist by fish as the staple article.

3784. You have stated that there have been attempts made by Roman-catholic missionaries to Christianise the Indians?—Yes; there have been several on the island, and latterly it has been a bishopric.

3785. Do they live there permanently?—Yes.

Mr. J. Cooper.

21 May 1827.

3786. Have they been successful in their efforts to Christianise the Indians?—Yes. I think in the first instance they have; they seem to have some knowledge now of a Supreme Being, from the fact of the missionaries living with them.

3787. Have they any schools to endeavour to teach them?—Yes.

3788. Mr. *Edward Ellice*.] How many Protestant schoolmasters are there in the island supported by the Company?—Two; paid by the colonial fund.

3789. Mr. *Charles Fitzwilliam*.] Who are the two?—One is a gentleman named Barr; he has left now, and is coming home.

3790. *Chairman*.] Are there any Protestant missionaries in the island?—None whatever. The only Protestant clergyman there is a gentleman of the name of Cridge.

3791. Mr. *Roebuck*.] Are the Roman-catholic priests brought over there by the Hudson's Bay Company, or do they come over there voluntarily?—Voluntarily.

3792. So that the Hudson's Bay Company have nothing to do with Christianising the country as far as depends upon the priests?—No.

3793. Mr. *Grogan*.] Do the priests receive any allowance or wages from the Hudson's Bay Company at all?—Not that I am aware of.

3794. Are there any schools maintained in the island, either Roman-catholic or Protestant, or of any other persuasion, at the expense of the Hudson's Bay Company?—At the expense of the colony, not by the Hudson's Bay Company. The fund arising from the sale of land is termed the colonial fund, and that is all expended, I believe, just now, and the colony a bankrupt.

3795. You stated, I think, that you had about 300 acres of land yourself, part of which was not paid for?—Yes.

3796. What is the price of land in the colony?—£. 1 per acre.

3797. Invariably?—Invariably; with the exception of that portion of the island which they have allotted off for a town, where they charge 10 l. for 120 feet by 60 feet.

3798. *Viscount Goërick*.] Where is that; at Victoria?—At Victoria.

3799. Mr. *Roebuck*.] Why is it that colonists do not go to Vancouver's Island now, and why do you suppose that they would go if the government were changed?—From the fact that most English people object to be under any government except the real true British Government.

3800. Excepting that sort of feeling or prejudice, or whatever you may call it, you do not know any objection?—Only from instances which occur of that sort.

3801. What do you mean by those instances?—Just before I left, in the beginning of January or the latter end of December, a gentleman came up from San Francisco, under a commission from some friends at that time in San Francisco, to look at the island, and make a report about it, and what he thought of the country; and he left the country in disgust. He said that he approved of the colony and its capabilities, but that he objected to come and settle under the Hudson's Bay Company.

3802. Did he give you any reason for his objection?—The monopoly of the Hudson's Bay Company.

3803. The monopoly of what?—The monopoly in trade; that no individuals could compete with them.

3804. Mr. *Edward Ellice*.] In what trade?—General trade; they trade in everything.

3805. Mr. *Roebuck*.] If persons came up from San Francisco with goods; for example, if those persons who deputed the gentlemen to whom you have alluded go there, brought up goods and established stores, would they find any difficulty in consequence of the Hudson's Bay Company being there?—That is their impression, and I believe that they would.

3806. In what way?—That they are a powerful company, and do trade in everything; that they can compete in consequence, and that private individuals have no chance. In the first instance, there really are no settlers to buy goods. All the people there receive salaries from the Hudson's Bay Company.

3807. Let us go by steps. Supposing these people to come from San Francisco, and to have with them an accumulation of goods, would they find any difficulty in landing those goods?—Not at all.

3808. They might carry them to any part of the country that they liked?—Yes.

3809. Would

3809. Would they find any difficulty in getting land?—None.

3810. Then anybody might settle there, get what land he wished, and sell what goods he could?—He would not be able to sell spirits without a licence.

3811. Viscount *Goderick*.] Are the servants of the Company obliged to deal with the Company; would there be any objection to their dealing with any one else?—They cannot get the money; they have an open account with the Hudson's Bay Company; and as the Company sell the goods, and have no money to pay them, they must either take their goods from the Company's store, or go without.

3812. So that practically they would not, in your opinion, be able to deal with settlers?—No.

3813. Mr. *Christy*.] Do the Company pay in wages or in goods?—Nominally in wages; but their servants are induced to take goods out of the store.

3814. Is money plentiful?—No, there is hardly any at all; there are probably 10,000 or 15,000 dollars in the place, and that is all.

3815. Viscount *Somerset*.] In fact, the only market in the place for spirits would be the Indians?—No; large quantities of spirits are consumed there; it is the only beverage in the country that the white people can use.

3816. Is there an abundance of the fur-bearing animals in the island?—There are not a great many, probably.

3817. Then you think, in fact, that the possession of the island is of very little service to the Company?—I have heard it admitted by themselves abroad that they wish that the Government would take it; that they do not hold it to be of value.

3818. Mr. *Perry Herbert*.] You said that there were no rivers in the island; are there any streams?—There are small streams, but no navigable rivers.

3819. Are those streams long in their course?—They do not extend a great distance; the island is very narrow; not more, probably, than about 40 miles wide.

3820. What sort of valleys do those streams run through?—Most of them are available for cultivation.

3821. To some extent?—Yes, right and left of them; at Cowitchan, a little river runs up, and I suppose that is one of the finest valleys in the world.

3822. Does the rain fall regularly in the year, or are there long droughts interfering with cultivation?—The year before last we had rain every month in the year, although it is a common expression to say the dry season and the wet season.

3823. There has been no dry season to interfere with agriculture during the whole of your experience?—No, none at all; I have no doubt that in England drought is as much suffered as it would be there.

3824. Mr. *Christy*.] As you say money is not plentiful in the island, do the Company afford facilities for transmitting money or bills?—No, none whatever; they will not become bankers.

3825. With England?—No, they will not transmit your money.

3826. Have any complaints of this been made by parties in the colony desirous of bringing out goods from England?—They have remonstrated with the Company; in many instances the goods have been left behind.

3827. Have they complained that no facilities were given either for bills or money in exchange with England?—Yes.

3828. Do you consider such complaints well founded?—I do, from my own knowledge.

3829. Have the Company any interests which would be interfered with by the rise of a body of independent merchants in the island?—No, I think they would gain by it.

3830. There are not now many merchants in the island?—There are none.

3831. Do you know whether any outlay has been made in improving the communication between the coal mines and the coast by the Company or by colony?—No; none whatever.

3832. Mr. *Edward Ellice*.]—The coal mine is on the sea-shore, is it not?—The coal mine is on Vancouver's Island.

3833. Close on the sea-shore?—Yes, it is not more than 30 yards; there is a wharf extending a couple of hundred feet.

Mr. J. Cooper.

3834. The fact is, that a ship can go a very short distance from the mouth of the mine and take its coal on board?—The skips might shoot into the ship.

21 May 1857.

3835. Mr. *Christy*.] Do the Company impose any restrictions upon persons engaged in any particular kind of trade?—No, I believe not.

3836. Not such as furs and timber and coal?—None whatever; there is an export duty of 10 *d.* a load.

3837. The duty which you mentioned is upon fishing, is it not?—No, there is no duty whatever, either import or export, in Vancouver's Island, excepting the 10 *d.* a load mentioned above.

3838. Mr. *Edward Ellice*.] Did you take any goods out to Vancouver's Island when you went?—I did.

3839. Did the Company carry them for you?—Yes.

3840. Did they make any difficulty in carrying them?—None.

3841. And you acted quite independently of the Company in the island?—Just so.

3842. Mr. *Christy*.] How were you occupied after you arrived in the island?—In trading generally with the natives, and farming.

3843. You spoke in the first part of your evidence of the administration of justice?—Yes.

3844. You said that one of the greatest complaints of the settlers was the way in which justice was administered?—Yes.

3845. Do you know how Mr. Cameron was appointed?—Through the interest of his brother-in-law, the Governor, no doubt.

3846. Do you know by what power Mr. Cameron was appointed judge of the colony?—Through the Colonial Office; I believe from representation.

3847. You know that it was an appointment of the Crown?—Decidedly; at least I have the Governor's word for it.

3848. Is Mr. Cameron a member of any bar?—Not at all.

3849. Was there any dissatisfaction expressed at the time of his appointment?—Strong remonstrances were made by petition to the Governor, and by petitions to the House of Commons; whether those petitions have ever reached or not I am not prepared to say.

3850. *Chairman*.] When was the appointment made?—In 1853, I think.

3851. Mr. *Christy*.] You know that the appointment of the present judge was a sore subject in the colony?—Decidedly. I have just one document which I would like to read if the Committee would give me permission, relative to those petitions; it is not very long.

3852. Have you known of any cases coming for decision before the court which involved any considerable amount of property?—No; there are no cases in Vancouver's Island at present which are liable to such an occurrence, because there is no person holding any amount of property there.

3853. Was there any case, with regard to a vessel, of great importance?—Yes.

3854. A ship and her cargo?—Where the master was confined three months in gaol for barratry, the vessel having called at Valparaiso, and a large quantity of cargo sold to defray expenses. From the evidence placed before the grand jury, a true bill was returned: the petit jury afterwards returned a verdict of not guilty. Also a case of Webster *versus* Muir; that was respecting a contract; it was not exactly with regard to a vessel; that was before the appointment of Mr. Cameron as judge. There was one case where some 2,000 dollars damages were levied.

3855. Are you aware of any cases of life and death which have come before the Court?—No.

3856. Mr. *Grogan*.] I wish to bring you back to a subject we were speaking about before Mr. Roebuck took up the examination; it was with reference to the licence duty of 120 *l.*; you stated that you were a member of the Council at that time?—I was.

3857. Were you present at the Council when that tax or fee was imposed upon every licence?—I was.

3858. Do the members of the Council meet at any periodical times?—It depends entirely upon the will of the Governor.

3859. What number of licences may there be in the island for that purpose?—Four.

3860. Four public houses?—Yes; one wholesale, belonging to the Hudson's Bay Company, and three retail.

3861. What becomes of the revenue received from the sale of those licences?—£. 100 out of the licence fund goes to the judge every year, and the other 300*l.* are expended in public purposes; improving roads, &c.; &c.

3862. Is that the entire income derived by the Company from the island?—Unless land is sold.

3863. What extent of land may be sold in the island?—Probably not more than 10,000 or 12,000 acres.

3864. Is there as much as 8,000 acres sold to individuals?—I am not prepared to state exactly, but I think it is about that.

3865. Has it been paid for, do you know?—Most of it.

3866. What has become of that income?—It has been expended in making roads and bridges.

3867. You stated that the roads were very bad; what extent of roads are there in the island?—There are three or four roads leading from Victoria in the different directions, not more than eight or ten miles long from Victoria.

3868. The settlers who have purchased this land, I suppose, reside in the vicinity of these roads?—They do.

3869. And the roads were, probably, made up to their settlements?—Yes.

3870. Viscount *Goderick*.] If I understand you rightly, the money derived from these licences is expended for the benefit of Vancouver's Island, the colony, and not for the general purposes of the Hudson's Bay Company?—Not for the purposes of the Hudson's Bay Company.

3871. Mr. *Grogan*.] What quantity of your own farm have you under tillage?—About 60 acres.

3872. Have you a ready disposal of the produce of that?—No; it entirely depends upon the will of the Hudson's Bay Company what they will give a bushel for wheat or produce; they may either give us 1*s.* a bushel, or they may give us two dollars a bushel, as they please.

3873. Or they may refuse to take it at all?—They may refuse to take it at all.

3874. Has that fact ever occurred?—It has.

3875. In that case, what became of the produce so raised; wheat, for instance?—A great deal of it is in the stacks to this day, there being no market for it.

3876. Is the fact of there being no market for it, and your being entirely dependent upon the Hudson's Bay Company for the purchase of the wheat, a drawback to prevent the colonists from raising any greater quantity of it?—I am certain of it. If we had a market for it, three times the quantity, under the present means, could be raised.

3877. Then, in fact, the Hudson's Bay Company could draw any quantity of supplies they pleased from the island?—Not any quantity, but they could draw a greater quantity than is already produced.

3878. If that import duty of 20 per cent., to which you alluded as being paid on goods going into San Francisco, were abolished, have you any reason to think that the cultivation of wheat and other agricultural produce would greatly increase?—It would certainly.

3879. You have no doubt of that?—I have no doubt of it.

3880. You mentioned something about the fishing; will you give a little information on that subject?—There is no fishing of importance on Vancouver's Island, only on the rivers and coasts of the mainland; and there the Hudson's Bay Company hold the exclusive right of trade, according to their charter, of the mainland.

3881. In the Fuca Strait what is the case?—It is all open there.

3882. Any one may fish there?—Yes; but in Fraser's River, which is the only inlet into the mainland, in fact, no one is allowed to fish.

3883. Is that where the salmon is principally taken?—It is.

3884. *Chairman*.] That is a very valuable fishery, is it not?—It is.

3885. Mr. *Grogan*.] If any quantity of fish were taken by any of the emigrants that chose to devote their attention to it, what would become of it; have they the means of exporting and selling it?—Not very ample means.

3886. Have they means at all?—No; they would have probably to

Mr. J. Cooper.

21 May 1857.

charter an American vessel to take it to some port south, or to the Sandwich Islands.

3887. Have the Company any vessels that trade in fish themselves?—Yes; but they very often refuse to take freight.

3888. Do you say that from your own knowledge?—Yes, I do; I say it as a fact; no freight was to be brought up for settlers from the Sandwich Islands.

3889. *Chairman.*] Do you mean that they refuse to take freight upon system, or that they refuse to take freight either because there is no room for it, or because it would be inconvenient to them to go to the particular place where the freight is?—I believe it is inconvenient to them; they do not care about it; you must do it for yourselves if you wish it done, and not trouble them about it at all; if they do it, it is a very great favour for you.

3890. Mr. *Grogan.*] Are there any regular traders belonging to the Company which go to the Island?—One only.

3891. One in the year?—She goes several times in the year; but only one vessel.

3892. *Viscount Goderic.*] Where does she go to?—To the Sandwich Islands.

3893. Mr. *Grogan.*] Have any of the colonists ever been refused to have their goods sent either into the island by that vessel or out of the island by that vessel?—Into the island they have by that vessel, but not out of it, I think; the Company object to bring goods into the island; but I do not think they would object to taking goods either to San Francisco or to the Sandwich Islands.

3894. *Viscount Goderic.*] Can you tell why they object to it?—We can only judge by inferences, and our inference is that they object to anything like competition.

3895. With their own goods?—With their own goods.

3896. Mr. *Grogan.*] With respect to the fish, we understand that it is extremely abundant there?—Yes.

3897. And that there would be a ready sale for it in the Sandwich Islands?—To a certain extent; it is only a small market in the Sandwich Islands.

3898. Has any attempt ever been made by the colonists to open a market there for fish?—Yes.

3899. Has it succeeded?—Yes.

3900. And there is no impediment whatever in the way of sending any quantity of fish which the colonists could sell into this market if they pleased?—No, I believe not.

3901. You have never known any instances of that kind?—No.

3902. Have you travelled on the mainland, the British territory?—I have travelled by water; there are no roads; there is no opportunity of travelling by land on the mainland.

3903. You have only been up the rivers?—Up the rivers and along the coast.

3904. Have you visited Thompson's River?—I have not myself personally; I only have my knowledge from other persons who have been there, and who have given me that information; I have no reason to suppose that they were leading me astray, or giving me false information. They were persons who had lived there themselves, and had lived in that country, or in the neighbouring countries, in the service of the Company, probably 30 or 40 years.

3905. You have no reason whatever to doubt the information received from that source?—Not the slightest. I should have no hesitation in going there myself, if there was any inducement to go, upon the faith of the reports which I have heard.

3906. What distance have you gone up Fraser's River?—I have never been further north than Fort Langley.

3907. Just opposite?—About 60 or 70 miles up.

3908. As far as you went, namely, at Fort Langley, was there any district of land there adapted for colonists?—A large tract of land there.

3909. Among the colonists of Vancouver's Island, are there any gentlemen who have known that country and visited it themselves?—Yes, amongst the servants of the Hudson's Bay Company, who are really colonists, because they have land and have settled there.



3910. Do they know that district well?—Yes.
3911. They have lived in it?—Yes.
3912. And traversed it?—Yes.
3913. What report do they give of it as regards a colonial settlement, speaking of Fraser's River and that district, the mainland?—My own impression in general of Fraser's River is, that it is not at all favourable for the first few miles for colonisation.
3914. With respect to Thompson's River, what do they say about that?—That it is one of the most beautiful countries in the world, and that gold is discovered in that and the neighbouring district now. When I left the miners were getting from four to twenty dollars a day.
3915. Who are the miners that you refer to?—Americans chiefly, men who have gone there from the inducement of obtaining gold by digging for it, in the same way as in California, and in the course of time there will be a great number of American people settled there.
3916. Is there any settlement at all at Thompson's River belonging to the Company?—Yes, a small farm and trading fort. They have lately removed Fort Colville; that is in Colville district, about 400 miles from the mainland. When it was built, it was 20 miles south of the line, namely, the 49th parallel, and they have now built a fort on the north side of the line to dispense with the necessity of paying duties upon English manufactured goods, which they would otherwise if they sent them over to the old place.
3917. Is this fort for the purpose of the supplies of the Thompson's River district?—It is to supply the people who go there to dig gold with goods; that is the ostensible reason for the establishment of that fort; they have got a large quantity of goods there already.
3918. Viscount Goderick.] But if it is near the parallel, must it not be a considerable way from Thompson's River?—No, it is not.
3919. Mr. Gregor.] Are the Indians numerous in that district?—Not more so than in any other district, I believe.
3920. Mr. Roebuck.] Do you know the climate at Thompson's River?—I have mentioned that the climate is one of the most beautiful climates in the world, I believe.
3921. That is a general expression?—I believe it is capable of producing all the crops that we produce in England; probably the winters may be a little more severe; I am not prepared to say that they are, but they may be a little more so.
3922. Comparing it with Canada, were you ever a winter in Canada?—I was there part of last winter; there is no comparison; it will not bear a comparison.
3923. It is much more mild; much finer?—Decidedly as much as Great Britain is to the Eastern States of America; there is as much difference.
3924. I believe that that difference attaches to all the territory west of the Rocky Mountains?—It does.
3925. Is that in the same parallel of latitude on the west of the Rocky Mountains, and on the east you have very different climates?—As different as it is possible to imagine.
3926. All the British territory west of the Rocky Mountains, a great way north of Vancouver's Island, is as you suppose, a place habitable by man, and very fit for a colony?—It is so, particularly a short distance from the coast; the coast far north is rocky, and appears unapproachable, but inside it is a fine open country.
3927. Mr. Loeve.] What is your opinion of the price of 1 l. an acre for land; do you think it a proper price?—I think that it is extortionately high; for instance, why should people go to Vancouver's Island and pay 1 l. an acre, when only eight or ten miles from it they can get as good land, with many more advantages, for a dollar and a quarter, in the American territory?
3928. Do you think that that is one of the causes which have retarded the growth of the colony?—It is a great drawback to it.
3929. Mr. Roebuck.] You say there are many advantages which belong to the American territory; what are they?—They have many ports; they are not excluded; we stand by ourselves, we are entirely alone; there are also many settlers in Washington and Oregon territories on the coast.

Mr. J. Cooper.

21 May 1857.

Mr. J. Cooper.

11 May 1847.

3930. That advantage attaches to the fact of their being American settlers?  
—Yes.

3931. It does not refer to any peculiarity in the government of Vancouver's Island?—I contend that if a person went to the opposite side and paid a dollar and a quarter per acre, instead of 1*l.* an acre as in Vancouver's Island, he would have many more advantages. Of course, from the fact of his going there to buy land he becomes an American settler.

3932. *Chairman.*] I think you stated that in America there was a duty upon all foreign imports of about 20 per cent.?—From 20 to 30 per cent.

3933. In Vancouver's Island, I presume, they are free?—All goods are imported duty free into Vancouver's Island.

3934. Do you think that that is an advantage or a disadvantage?—A very great advantage.

3935. Mr. *Grogan.*] You conveyed the impression to me that if Vancouver's Island were an imperial colony, and not under the Hudson's Bay Company, as at present, you would be able to import your goods into the American territories without the duty of 20 per cent.?—I believe that it would be an impetus to British subjects to go and open a trade there; that they would be under the impression that they would have justice done them without monopoly, and that they would have proper courts of justice to administer the laws, and that they would go there without any fear of misrule or mismanagement.

3936. What would be the effect as regards this 20 per cent. import duty upon goods going into America?—It would be a great advantage if they could get it taken away.

3937. Viscount *Goderick.*] But that duty is imposed upon this produce as foreign produce, not as the produce of the Hudson's Bay territory, or any particular territory?—If we import timber, although it is actually the same, or perhaps of a little better quality, from Vancouver's Island into San Francisco, there is a duty of 20 per cent. upon it, whereas ships would load on the opposite side to us, and go in with the same cargo free.

3938. Mr. *Roebuck.*] That 20 per cent. is levied upon your goods because they happen to come from British territory?—Because, unfortunately, we happen to be British subjects.

3939. Not because you are under the Hudson's Bay Company?—It is because it is a British territory.

3940. So that this 20 per cent. is in no way connected with the rule of the Hudson's Bay Company?—Not at all; it was formerly so in Canada, until the reciprocity treaty was entered into.

3941. Mr. *Edward Ellice.*] You said that merchants would go there to trade; with whom would they go there to trade?—I mentioned that they would go to trade there if we were admitted in the Canadian reciprocity treaty.

3942. With whom?—The American people; even now a great many people come over to Vancouver's Island from Washington territory to buy goods, and, with enterprise, I have no doubt myself that a great trade could be done there, by taking a large supply of British goods, and supplying the British market; the whalers may be induced to come there; I know of my own knowledge that they only want asking to come, and they would winter there.

3943. You say that the only impediment to it is the want of proper courts of justice?—No, I do not say that at all; the only impediment is the rule of the Hudson's Bay Company; even if they were to have proper courts of justice they would not settle under the Hudson's Bay Company; there would be the same drawback as ever.

3944. Mr. *J. H. Gurney.*] You say that the whalers only want asking to induce them to come; will you explain that point a little more in detail?—I happened to be the fellow passenger of one of the proprietors of a large fleet of whalers, and he was seriously thinking himself, instead of sending the vessels to the Sandwich Islands or San Francisco, of sending them there; he said that there were not the same inducements to the sailors to run away.

3945. What prevented his doing so?—From the fact that he did not think they would be able to obtain supplies at present from the settlers.

3946. That is to say, that the number of settlers was not sufficient to raise the requisite supply?—Not sufficient to raise the quantity of provisions necessary to supply a hundred sail of whalers.

3947. With

3947. With regard to the discovery of gold at Thompson's River, are you aware when that took place?—It has been discovered now probably 18 months.

3948. Can you give the Committee any idea of the number of miners who are now settled there?—None at all; it is at Fort Colville where the gold is discovered; not at Thompson's River.

3949. Mr. *Edward Ellice*.] It is an American territory, is it not?—It is in both American territory and British territory; the further north they go the better the diggings are.

3950. Mr. *J. H. Gurney*.] Therefore there are those miners in the British territory as well as in the American territory?—Yes.

3951. Mr. *Edward Ellice*.] How do you know that?—From people who have been there.

3952. Are there miners in the Thompson's River district, the British territory?—Yes.

3953. Americans?—Both Americans and British. Wherever there is gold there is a rush of people.

3954. Mr. *J. H. Gurney*.] Are you aware whether the Hudson's Bay Company's officers have held any communication of any description with those miners who are located in the British territory; whether they have taken any cognisance of their settling there, either favourably or the reverse?—No, I do not know that they have. It would be impossible to take any measures to prevent their going there; it would require a large force to turn them away; and if gold is discovered there, there will be as great a rush to that country as to California.

3955. Mr. *Edward Ellice*.] If you look at the map you will see that Fort Colville is not on Thompson's River?—I am aware of that; it is on the Columbia River.

3956. Where did you say that the gold was on Thompson's River?—I did not say that it was on Thompson's River; I said that it was in the neighbourhood of Fort Colville.

3957. Fort Colville is in American territory, is it not?—The old Fort Colville is; but the new Fort Colville is in the British territory.

3958. Do you know that the gold seekers have crossed the boundary to the north and gone towards Thompson's River?—Yes, they have gone here and there; wherever gold is to be found there you will find the people.

3959. Do you know that they are north of the boundary?—I say they are north of the 49th parallel.

3960. Where do you derive that information?—From people who have actually returned from there during the last winter before I left.

3961. What were those people; were they Americans?—No, they were English people.

3962. Were they in the employment of the Hudson's Bay Company?—No, they were settlers like myself who had been there.

3963. Settlers where?—In Vancouver's Island.

3964. Had they returned to Vancouver's Island?—They had before I left.

3965. By what route did they come to Vancouver's Island?—They came down the Columbia and passed over the portage.

3966. Mr. *J. H. Gurney*.] With reference to the fisheries in the Straits, what are the fish caught there?—Salmon.

3967. The same as in the River Fraser?—Yes.

3968. You mentioned that in Vancouver's Island there was a great deal of broken ground. What did you intend to convey by the term "broken ground"?—That some of it is mountainous.

3969. Rocks rising up?—There are some rocks there.

3970. But not to any extent to prevent agriculture when the land is cleared?—In some places there are very large tracts of country without any rock at all.

3971. Are the present settlers scattered over the whole of the island, or principally confined to the southern portion of it?—They are confined to the neighbourhood of Victoria.

3972. What is the greatest distance from Victoria where there is any agricultural settlement at present?—About 20 miles; that is only one instance; there is one family about 20 miles off; the others are not more than six or seven miles.

Mr. J. Cooper.

21 May 1857.

3973. The furs which are obtained in Vancouver's Island by the Hudson's Bay Company are obtained of course from the Indians?—Yes; very few furs are caught upon Vancouver's Island.

3974. What there are, are probably chiefly from the northern portion?—From the coast and from the main land.

3975. Viscount Goderich.] I understand you to say that the Hudson's Bay Company practically pay their servants to a great extent in goods?—They do.

3976. Will you have the goodness to state to the Committee a little more fully than you have previously done, what you believe to be the reason of that proceeding?—The want of cash in the country, and also that if the Company can induce their servants to take goods at 50 per cent. profit, it is a great advantage to them that their servants should take goods.

3977. They make a profit, you conceive, upon them?—A profit of 50 per cent. when goods are sold to their servants instead of paying them money.

3978. Mr. Edward Ellice.] Supposing that the Hudson's Bay Company owe one of their servants 100 *l.*, does he take any more goods from them in respect of that 100 *l.* than he actually requires for his own consumption?—No, probably not.

3979. Then I presume that the balance is paid in money?—Perhaps they have no money to pay it with out there.

3980. Then how is it paid?—It remains in their books on credit.

3981. Upon the ultimate liquidation, what is done?—If he came to England of course he would be paid.

3982. He would be paid, in fact, by a bill upon England?—He would be paid by a bill upon England, I suppose, which is comparatively useless to a labouring man, as he cannot negotiate it, except, perhaps, at a great sacrifice.

3983. Viscount Goderich.] But he receives no interest upon the money remaining in their books, I suppose?—None at all.

3984. Mr. Edward Ellice.] Do you know that as a fact?—I do; all persons with a running account receive no interest.

3985. But when it becomes a deposit account, what is the case?—Their officers may probably get 3 or 4 per cent.; but we were speaking more of the labouring class, not of the officers.

3986. Mr. Kinnaird.] You spoke with regard to the whaling; which port was it that was contemplated?—Esquimault Harbour; it lies in the south-east.

3987. If there were provisions, is it well adapted for a whaling station, in your opinion?—It is one of the finest harbours in the world, and is adapted, in every sense of the word, to their purposes, and is capable of affording them every facility which they require.

3988. Was the Company which was contemplated to be carried on with English capital or with American?—It was an American Company entirely; all the whalers in the Pacific are almost exclusively American.

3989. Mr. Greyson.] What is the depth of water?—Seven and eight fathoms.

3990. Mr. Kinnaird.] They would come there instead of which other port?—Instead of going down south to the Sandwich Islands or San Francisco, where there are great inducements for their men to run away.

3991. Was there much communication when you were living there between San Francisco and Vancouver's Island?—No, not a great deal; but from the opposite side of the Straits there was a communication probably three times a week by sailing ships.

3992. How long would a steamer be going from San Francisco to Vancouver's Island?—Two days and a half is the average passage, sea-going ships.

3993. Do you suppose that if great facilities were given a stream of emigration might grow from San Francisco direct there?—It is only matter of opinion, but that is the opinion of a great many people to whom I have spoken upon that subject; of course there is nothing positive about it until the result is proved.

3994. Mr. Greyson.] No parties have come from San Francisco as yet?—Not to remain; we had one gentleman, Mr. Swanston, who came; he left.

3995. Mr. Christy.] With reference to the land which is disposed of to the settlers in Vancouver's Island, is it given to the settlers upon application without any difficulty?—In some instances it is, but not all.

3996. Are you aware that any application has been made to the Hudson's Bay Company for land which has been refused?—Yes.

3997. On

3997. On what ground?—Unless they would comply with the prospectus of the Company; that is to say, to take out so many men for every hundred acres. There was a servant of the first Governor appointed to the colony since it was declared a colony, Mr. Blanchard; when he left his servant wished to go out there again; they would not allow him to go unless he would take out so many men for his land, according to the prospectus of the colony.

3998. Are there any reservations of land?—There have been, but I believe under late regulations they were dispensed with; for instance, there were a clergy reserve and a school reserve, but I think that lately, finding that they would not answer, they have been thrown open to sale.

3999. How lately do you suppose?—Within the last 12 months, I think.

4000. Mr. *Edward Ellice*.] All these regulations are under the Colonial Office, are they not?—I believe so.

4001. Mr. *Kissard*.] Had you many schools there for the benefit of the natives?—Not one for the benefit of the natives.

4002. How many were there for the Europeans?—Two.

4003. What was the character of the schools; were they well conducted?—They were well conducted schools; three young men who had been sent out from this country conducted them.

4004. Mr. *Grogan*.] Sent out by whom?—By the Hudson's Bay Company, but on account of the colonial expenses, to be paid, of course, by the Colonial Fund.

4005. Are there any schools for the education of the Indians?—Not one.

4006. Mr. *Kissard*.] And is there nothing done for the Indians?—Nothing at all is done; there has been no attempt at civilisation at all.

4007. Or at Christianising?—Nothing at all.

4008. Mr. *Grogan*.] You said that the Indians resided on the sea coast; do they generally reside in villages on the coast?—Yes; each tribe has a village of its own.

4009. They are not scattered abroad in the country?—No.

4010. Then there would be no difficulty in establishing schools and churches for them, if it were thought right?—None.

4011. But no steps for that purpose have been taken?—No; except, as I mentioned before, that one or two Roman-catholic priests have been amongst them.

4012. Have any chapels been erected?—The Roman-catholics have one chapel.

4013. Where?—In Victoria.

4014. Mr. *Charles Fitzwilliam*.] At Nanaimo, at the coal-mine, there is a large tract of country, I believe, taken up by members of the Hudson's Bay Company?—Yes, by the coal company.

4015. How many acres?—Some 2,000, I believe.

4016. Has a settler been sent out for every 20 acres of that 2,000 acres?—No, decidedly not.

4017. Has that land been paid for?—I believe it has.

4018. Ninety per cent. of the money goes to the Colonial Fund?—Yes.

4019. How is that money expended?—The money that has been expended of the colonial funds has been expended in making roads and bridges, and building a church, and establishing schools.

4020. You say roads and bridges; where have the bridges been made?—There is one across Victoria Harbour.

4021. From what point to what point?—From the town site, on the Victoria side, to the opposite side of the harbour.

4022. To the Indian village?—To the Indian village.

4023. At what cost was that made?—About 1,000 £.

4024. Do you consider that a large amount of money to be expended on one bridge, or a small amount of money?—I consider it a large amount of money to be expended on one particular structure, although in itself it is useful.

4025. Was there no other points on that arm of the bay across which a bridge could have been constructed at a much smaller expense?—There were three at least, and one in particular.

4026. Where is that one?—At the Gorge.

Mr. J. Cooper.

4027. That is how far from the town?—About a mile and a half.

4028. By making a bridge across from the town to the Indian village was the distance much shortened?—No; I do not think so; not any.

4029. Where did the road lead to that crossed that bridge?—It will be, eventually, the trunk road into the interior.

4030. What settlements are there in the interior?—There are no settlements at present; only one or two squatted farms, such as the Esquimault farm.

4031. The Esquimault farm at the head of Esquimault Bay?—Yes; that is the direct road to it.

4032. Was there a road up to Esquimault farm?—Not before that.

4033. Are there any settlements beyond Esquimault farm?—Yes.

4034. Where?—One at Herbert Head; one at Metchosen, and one at Sooke.

4035. Is there a road to Metchosen and a road to Sooke?—One road takes them all.

4036. Is it a road on which carriages can go?—Part of the way; but there are a great many obstructions in the way at present, such as gullies and the want of bridges.

4037. So that 1,000 *l.* was expended on one bridge, and places where bridges were required on the road were left without?—Yes.

---

*Jovis, 28<sup>o</sup> die Maii, 1837.*

## MEMBERS PRESENT.

Mr. Cheisty.  
Mr. Edward Ellice.  
Mr. Charles Fitzwilliam.  
Mr. Gladstone.  
Mr. Grogan.  
Mr. Grogan.  
Mr. J. H. Gurney.

Mr. Percy Herbert.  
Mr. Kinnaird.  
Mr. Labouchere.  
Mr. Lowe.  
Mr. Matheson.  
Sir John Pakington.  
Lord John Russell.

THE RIGHT HON. HENRY LABOUCHERE IN THE CHAIR.

The Honourable *William Henry Draper, c.s.*, called in; and Examined.

4038. *Chairman.*] WHAT situation do you hold in Canada?—I am Chief Justice of the Court of Common Pleas of Upper Canada.

4039. How long have you held that situation?—I have held the office of Chief Justice a little more than a year, but I have been upon the Bench of Upper Canada for nearly 10 years.

4040. What other public situations have you held in Canada?—I was appointed to the Executive Council of Upper Canada in the year 1836. I was appointed Solicitor-general of Upper Canada in 1837. I was appointed Attorney-general of Upper Canada in 1840. I held that office until some time in the latter part of 1842; I was re-appointed in 1844, and I continued to be Attorney-general from that time until I was appointed to the Bench.

4041. How long have you been resident in Canada?—I landed in Quebec on the 16th or 17th of May 1829; I have been a continual resident in Canada since that period.

4042. Under what circumstances are you now visiting this country?—I was requested by the Government of Canada, through the medium of two of its members, to undertake the duty of coming to England for the purpose of watching the investigation which, it had been communicated to them, was to take place before a Committee of the House of Commons, with the view of pressing whenever I deemed it necessary for the interests of the province, certain views which the Government of the province adopted in reference to their rights and interests in this question. I had written instructions from the  
Government

Hon.  
*W. H. Draper, c.s.*

18 May 1837.

Government of Canada to that effect, which I can lay before the Committee, if they desire it. They were communicated to me through the provincial secretary, and emanating from the Government, giving me general directions what I was to do.

4043. *Sir John Pakington.*] As before this Committee?—In coming to England; generally pressing upon Her Majesty's Government the views of the Government of Canada, as well as attending before the Committee from time to time to watch the nature of the proceedings and what is going on.

4044. *Chairman.*] Have you any objection to put in those instructions?—As far as I am concerned, I should rather, in that respect, look to you, sir, as the representative of the colonies; and if you see no impropriety in their being put in, I have no objection personally whatever. I do not consider myself responsible for their production; I leave that to you; but I am ready to produce them if desired.

4045. If you see no objection, I do not apprehend there can be any, and you will therefore have the goodness to put them in?—I will send for them.

4046. In point of fact, you came over in consequence of a despatch which I wrote to the Governor of Canada, communicating to the Governor the intention of Her Majesty's Government to propose to the House of Commons to appoint this Committee?—I presume so, but I have no special knowledge of that particular fact; I have understood that such a letter was written.

4047. Did not you see the despatch?—I have never seen it.

4048. *Sir John Pakington.*] But you were instructed by the Government there to come to England?—Yes; not for the purpose, let me be understood, of attending and doing what I am now doing, namely, giving evidence; I received no instructions to that effect.

4049. *Chairman.*] I see that the language used by the Committee of the Executive Council which was appointed to consider this question, is "The Committee of Council have read with great satisfaction the despatch of the Secretary of State for the Colonies of the 4th of December last, on the subject of the Hudson's Bay Company's occupation of the great north-west territory of America." They subsequently state, "The Committee are most anxious that Canadian interests should be properly represented before the proposed Committee of the House, and that opportunity should be afforded for carefully and closely watching any evidence that may be adduced before that body, and they will take the earliest occasion of suggesting to your Excellency the manner in which they conceive this can be best accomplished." Subsequently to that, I think, they requested you to come over?—It was exactly so, and the instructions involve very little more than what you have just read. I have not been authorised by any instruction which I have received to appear before the Committee as a witness.

4050. *Sir John Pakington.*] Was this report of the Committee of the Executive Council of Canada communicated to you before you came to this country?—That report was not officially communicated to me.

4051. Was it in your possession?—Nor was it in my possession. I have never had it in my possession at all. I do not wish to be understood as saying that I was ignorant of it, but I had no official communication of it.

4052. *Mr. Christy.*] Did they limit you in any evidence which you might give, or any course which you might take?—I am rather sorry to say that they gave me too unlimited a discretion, one which, since I have been in England, I have been continually urging upon them to limit by more express and defined instructions.

4053. Then they left the whole course to your own discretion?—Very much indeed. Very much more so than I should have desired, or than I would have undertaken, had time permitted for an investigation into it.

4054. *Chairman.*] Have you any personal knowledge of any portion of the territory belonging to the Hudson's Bay Company?—I have not; I have never been nearer to it than the eastern portion of Lake Superior.

4055. In what manner do you conceive that the inquiry before this Committee particularly affects the interests of Canada?—First, very materially with regard to what I conceive to be the true boundary of Canada. I may say, secondly, with regard to the deep interest that the people of Canada have, that that territory should be maintained as a British possession. I may say, thirdly, because the people of Canada look to it as a country into which they

Hon.  
W. R. Draper, c. s.

28 May 1857.

ought to be permitted to extend their settlements. Those three points I think would involve all that I could say upon that subject.

4056. Taking the points in the order in which you have mentioned them; first of all, with regard to the question of the limits of the province of Canada, are there any statements which you wish to lay before the Committee on that head?—I should say with regard to that point that the view which is taken, be it sound or unsound, is this: at present it is understood by us that the Hudson's Bay Company claim as a legal right all the land which is drained by any streams, no matter how remote their sources may be, which flow into either the Hudson's Bay Straits, or Hudson's Bay. We consider that that is an ill-founded claim, principally upon this ground, that it is a claim of which we can find no trace until a very modern period, and is quite inconsistent with the claims advanced by that Company for nearly a century and a half. To save time I have prepared extracts from various documents, emanating from the Company themselves, with some few other documents; it is a paper which it would save a great deal of time to put in, because I can give every place where the extracts are taken from, and therefore reference to the original documents can always be had. I would also desire to say that in every extract which I have made, I have made it a complete extract of all that is stated on the question, and if it involves anything favourable to the Hudson's Bay Company, it will be found in those portions of which I have made the extract.

4057. Are those extracts made from documents which are accessible to every body?—I believe I may say every one; I think so; easily accessible.

File A]pendix.

4058. Sir John Pakington.] They specify of course in every case what they are?—Yes. (*The Witness delivered in the Paper.*)

4059. Chairman.] Upon this question of the boundaries of the colony, passing by for the moment to the question of legality, will you have the goodness to state to the Committee what you think it would be for the interest of the colony of Canada, to do with regard to boundaries?—The first point which we should desire I think with regard to the interests of Canada, would be to obtain a determination of what our boundaries actually are; knowing that we are then in a better position to state whether we desire to go beyond them, and if so, for what purposes and to what extent.

4060. Will you favour us with your individual opinion of what it would be for the advantage of Canada to have as boundaries; how far you would extend them?—I should myself propose, if I were making a proposition upon a subject of that sort, that Canada should have in the first place a free right to explore and survey, in order to ascertain the capabilities of the country; in the second place, to open communication roads in the manner pursued in that country, by putting settlers on each side of them with free grants, which in the course of a comparatively short period of time, facilitates the intercourse with those portions of the country which hitherto have been inaccessible, or very difficult of access by persons going to settle; in the next place I should propose that Canada should be permitted to lay out townships, and that as fast as she did actually lay them out and settle them, those portions of the territory so settled should become incorporated with and form part of the province; I would limit it under all circumstances and at any distant period by the Rocky Mountains; I should never dream of pushing beyond them.

4061. Sir John Pakington.] Would you claim that right of survey without any limit, except the Rocky Mountains?—Yes.

4062. Chairman.] Do you think that at present Canada could conveniently or efficiently govern and manage the whole of that vast territory to the east of the Rocky Mountains which belongs to British North America?—If you say at this moment, I shall be obliged to answer in the negative, because at the present moment our communications are not opened; we have not yet established the prospect of opening them; and to undertake to govern a country which we do not know that we can get at, would be a rash and unwise step, which I think no one would ever think of taking. That is why I premise that we should desire to survey and explore before we do anything else. When we speak of governing the whole of that country it involves the consideration that, unless the country be put under an efficient government of some sort, we entertain (I speak for myself individually, but I believe I am speaking the sentiments of large numbers of the inhabitants of Canada) a very serious apprehension



prehension that if something is not done that territory will in some way or another cease to be British territory; and upon that point they feel an extreme anxiety. Any one looking at the map can see that the effect of that would be to cut off a portion of the British Empire from all possible communication with the Pacific; and therefore they look at it with extreme anxiety, and it is with the view of insuring, which they think they could more effectually do than any one else, the maintenance of British authority within those possessions, that they entertain the views which I have just stated, and which I myself entertain and advocate.

4063. I presume, from the answer you have just given, that the point to which you would attach the greatest importance is, that all that country which borders upon the territory of the United States should be settled as speedily as circumstances will admit of, and effectually protected?—Certainly I mean that; and I wish to call attention, in addition to this particular consideration, that the natural outlet of that country appears rather to be into the United States, and that therefore it becomes a large consideration, in order to open communications with Canada, that Canada should have a direct interest which would induce her to apply her resources to that particular view.

4064. Take, for instance, the Red River Settlement, do you believe that it would be possible for Canada at once to undertake the duty, and incur the charge and expense of managing and governing that country?—Expressing my own opinion, I say distinctly not at present. I think it would be necessary, until the settlements which I have projected could be carried into effect, that an *ad interim* provision for the government of that country should be made.

4065. Supposing it were thought desirable to govern that country as a British colony directly, and that arrangements were made with the Hudson's Bay Company by which that could be done, do you think it would be essential that that country should be connected with Canada, or would it not answer even Canadian purposes equally as well if it were a British colony in some other form?—If it is ascertained to be a settled point that no really available communication for commercial purposes can be made between Canada and that settlement, if nature has interposed an insuperable barrier, then, of course, we must yield. But assuming that there is no such insuperable barrier, then I think that when once we have made this a continuous range of settlements from Canada to the Red River Settlement, it can be better governed as a British possession, forming part of Canada, than in any other way. I believe that, to facilitate that object, Canada would be ready at once to permit exports through her territories, even while she was carrying on the roads; that she would be quite willing to relieve all imports into that country from duty, to enable them to raise a temporary revenue for that very purpose.

4066. At present, would it be possible or convenient for Canadian institutions to be introduced into the Red River Settlement, and for representatives of that settlement to attend the Canadian Legislature?—In my own judgment, I should not propose that, until such time as the settlements from the north-western portion of Canada were extended to the Red River Settlement; I look upon it as a temporary proceeding, and that the representative institutions of Canada should extend just as far, and no further, as her actual settlements extend. I think that in proportion as those settlements can be extended, the institutions which we have, should be extended over those portions of countries so settled.

4067. With the present limits of Canada, has any practical inconvenience been found from the want of being able to extend the settlements as fast as the population was ready to go there?—I believe that the government at this moment have very little land indeed lying between the three great lakes for disposition.

4068. Do you believe that the fact of this territory being under the government of the Hudson's Bay Company has prevented any settlements from Canada that otherwise would have been made there?—It is difficult to answer that question, except by assuming that people who have left Canada to go to the territory of Minnesota, or who are about leaving it for that purpose, would have gone perhaps as readily to the valley of the Saskatchewan if it had been thrown open for settlement; it is an assumption; I cannot speak of it as a fact.

4069. Are you inclined to entertain that opinion yourself?—I can myself only refer to the contemplated emigration from the Glenarry country, where the Scotch Highlanders settled a great many years ago, and where the soil and

Hon.  
W. H. Draper, c. s.  
18 May 1857.

climate are somewhat unfavourable; from that or from some other cause, which I am not able to suggest, because I do not know it, I am informed that there is an emigration proposed which is going to the territory of Minnesota from that country, and I think we are losing some fine hardy valuable settlers from that cause.

4070. If that territory to which you have referred were annexed in some form or other to Canada at once, in what manner would you propose to administer its government?—I have not digested the matter very much in my own mind; but, throwing it out as a rough suggestion, I should suppose that it must be by a governor and council, with legislative powers suited to the immediate necessities of the colony, and that that council being appointed by the Crown (assuming as a point of policy that the territory is to become Canadian hereafter) should at all events partially be composed of persons having an interest in or connexion with the province of Canada.

4071. You would govern it in some degree as a territory?—Precisely so; by a governor in council, with certain legislative powers, until you could extend the right of sending Members to the Canadian Legislature, an extension which I should conceive desirable at the very earliest practicable moment.

4072. Do you not anticipate the possibility that, supposing those settlements to flourish or become considerable, the distance of that country from Canada would make the inhabitants desire rather to have a colony of their own and a settled government than to be an appendage to a government so far distant from them?—I should say that they would be an integral part of it, and not an appendage, when the idea which I have suggested was carried out; then it would be a mere question of convenience of communication from one portion of that province to the other, or to the seat of government.

4073. Do you think that there would be any objection to postpone the question of the annexation or non-annexation of this territory to Canada until the period when circumstances should show that that degree of interval between the two countries had been filled up by settlers, and what were the wishes and feelings of the colonists themselves?—If Canada is to be at the expense of survey, and the expense of settlement, which was a matter involved in my proposition, then as a matter of course it would not be considered right, I suppose, for the Canadians to incur the expense of settling the country for the benefit of an independent portion of the Queen's dominions.

4074. Supposing Canada were not put to that expense, would it alter the question?—It would alter the question only to that extent; if there were another mode of communication (I do not mean, of course, through the United States), by which that colony could be approached from Europe, and by which commercial intercourse could be conducted, that which in my mind presents the greatest difficulty would of course be removed; but at present, I am sorry to say, that I think the obstacles to getting into that country in any other way excepting from Canada (excluding the United States), are greater than they will be found upon examination to be getting at it through Canada; and if you will bear with me for a moment I will give very generally and briefly my reasons for that conclusion. Of course I cannot pretend to question the opinions of those who having travelled through the country must have had better opportunities of judging than I have had of the facility or difficulty of communication, but I would take the liberty of making this observation, that the French conducted all their trade with that country not only through the particular portion of it now considered to be almost impassable, but also the whole way up the River Ottawa, at a time when there was not a single settler above the falls of Chaudiere. I have a map, although I have not it with me, showing the number of townships laid out on the Lower Canada side of that river, extending to within a comparatively very short distance of Lake Nipissing. Now the difficulties of travelling up that river, instead of being what they used to be, when there was great difficulty in obtaining supplies of any kind, are lessening every year. The Canadian Government, at this very moment, have a party employed in surveying, with a view to the improvement of the navigation of that river; so that the difficulty would be reduced to the difficulty between the head of Lake Superior (the western portion of it) and the Red River Settlement. Even supposing the Ottawa not to be improved, you can go at present from Montreal to Toronto without a transshipment at all. You can cross from Toronto, a distance

distance of between 90 and 100 miles, I think some 95 miles, by railway, to a port on Lake Huron. You can go by steamer from Lake Huron to the head of Sault Saint Mary. There is a canal through the American territory there, passable by vessels of a sufficient size to navigate Lake Superior, and you can therefore land with one transshipment, and without one if you go through the Welland Canal, goods shipped at Montreal for Fort William. When the French carried on their trade with the Indians, I think one of their forts was on the river Saskatchewan, and when the North-west Company extended their settlements to the westward of the Rocky Mountains, they took all their supplies up the river Ottawa, against all the difficulties that I have spoken of. Consequently, if they could carry on a profitable trade then, a trade which had to be carried on upon men's backs in every portage that they had, I should think that when you have been settling a country, and putting people on every portion of it which is capable of agricultural settlement, you will not find that difficulty of which I have been speaking, because they will not stick to the canoe route. To take the instance of the Lake of the Woods, subject to one difficulty which I will mention, any one will see that there is a very much shorter communication in point of distance (whether it is practicable or not, never having been across it I cannot pretend to say, but I am not aware that it is impracticable), from the Lake of the Woods across to the Red River Settlement, taking the chord of the arc instead of taking a long parabolic arch.

4075. In short, your opinion seems to be, that it would be both true policy for this country and just to the colonists that any part of the territory to the eastward of the Rocky Mountains which could be brought into settlement and cultivation, should be ultimately added to the colony of Canada?—That is what I wish to be understood as saying.

4076. I think you base that opinion a good deal upon the circumstance that in your judgment Canada would always be the necessary line of communication, so far as British territory is concerned, for the trade and intercourse of that colony?—As I understand the navigation of the Hudson's Bay and Straits to be limited to a very few months in the year, I think that the only real communication through British territory is necessarily through Canada. I think that that would be found to be the best line of communication, unless, as I have said, it should be found that nature has interposed insuperable obstacles, which I do not believe.

4077. Do you believe that the colony would be disposed to undertake the expense of surveying and settling this country if an arrangement of that kind was concluded?—I believe that they would at once undertake the survey and exploration without any hesitation. Upon the result of that would depend, I presume, the question whether they would like to go any further. If they found that they could not communicate, I take it for granted they would not desire to take the country, or to pretend to take it, when they could exercise no sufficient control over it.

4078. If the Red River Settlement were erected into a territory in the manner which you propose, as a sort of appendage to Canada, do you believe that the Canadian people, or the Canadian legislature, would be disposed to incur any expense in the management of the Government there?—For myself, I am so little connected with the politics of the country, that I cannot pronounce a decided opinion, and I have had no authority to speak upon that question.

4079. Could they derive any colonial revenue from that country?—Very little, I presume, in its present state, because the consumption of 7,000 or 8,000 people, which I understand to be the number of the population, would yield a very small revenue at present.

4080. It of course would be necessary to have a court of judicature to protect the country in some way?—Of course. With regard to that, I would say that this is not a new question; it is a question which was discussed and considered a good deal by a commissioner appointed under the authority of the Government in the year 1817 or 1818; I allude to Mr. Coltman, who, together with Mr. Fleteber, was appointed a commissioner to investigate the difficulties existing between the Hudson's Bay Company and the North-west Company before their coalition, and Mr. Coltman reported some views upon that subject;

Hon.  
W. H. Draper, C. S.

28 May 1857.

whether they were ever adopted by Her Majesty's Government, I have no means of knowing; I am quite sure they must have been submitted. His report will be found in the printed Journals of the House of Commons of 1819. I can refer the Committee to the exact page of it.

4081. At present in Canada you have no trouble with the Indians, I believe?—None whatever.

4082. Are you at all apprehensive that the Red River Settlement might bring you in contact with the Indians who would be troublesome?—Not if the Indians were justly dealt with.

4083. I believe there have been very disastrous conflicts on the American side of the border, at no very great distance from the Red River Settlement, between the Indians and the white men?—There have been very disastrous conflicts to the west of the Rocky Mountains, I am not aware of any to the east of the Rocky Mountains; there may have been individual quarrels; I will not enter into that, but there have been for a length of time no very serious conflicts, I believe, to the eastward. To the westward a most disastrous war has been pending for a very considerable length of time, and I believe it is pending still. To the southward, again, a very long contest has taken place from the determination of the United States Government to turn the Indians out of a particular portion of the country, but that does not, so far as I am aware, embrace that portion of the territory lying at the head waters of the Missouri River.

4084. Supposing the extension of the limits of Canada, and the settlement of any part of the territory of British North America which would be supposed to be adapted for settlement within any considerable term of years that you could look forward to, were provided for, do you then think that it would be inconsistent with Canadian interests to leave for a considerable time that portion of the territory which manifestly we cannot look forward to as being susceptible of settlement, to the management of the Hudson's Bay Company in the same manner as at present?—Do you mean with rights of territorial government, or with the rights of exclusive trade, or with both?

4085. Exactly as they are now in possession, with the rights which they now claim and have exercised?—Those involve both the principles, as I understand their present claim.

4086. Without raising the question of legal right in the Hudson's Bay Company to leaving that in abeyance, as it now is, would you object to confining them within a territory considerably to the north of the line which they now have?—The only difficulty which I have in answering that question is, that in giving my own opinion I believe that I should express an opinion which is not shared in by a great many people in Canada, and I would wish that to be distinctly understood. My own opinion is, that for the purpose of preserving peace among the Indians, and preventing difficulties arising, it is of great importance, for some time at all events (I should say a limited time), that the Hudson's Bay Company should maintain those stations and that trade which they have hitherto carried on, which have kept the Indians at peace. That is my own individual opinion, founded upon this consideration, that wherever I have seen an instance, as far as I have been able to read or ascertain about it, in which there have been rival traders, it has had two effects; first of all, the indiscriminate and unlimited use of spirituous liquors to draw the trade, which is of itself a most prejudicial thing to the Indians; and, secondly, that it has prompted and promoted those quarrels between rival traders which have had one of two effects, either to produce sometimes bloodshed, or at last to produce, as has been the case between the Hudson's Bay Company and the North-West Company, a combination of interests, when the parties can only repay themselves by carrying on their trade with the Indians upon terms which are anything but advantageous to the Indians who have to purchase goods from them.

4087. You have stated, in expressing this opinion, that you believe it is not universally entertained in Canada?—I do.

4088. Do you think, however, that it is entertained by the majority of the persons in Canada who have attended to the subject?—I think that there are, perhaps, two or three classes of people at the present moment who are agitating this question in Canada. I should not be speaking candidly and fairly to the Committee if I did not say that I think a very large portion of those who are  
most

most prominent in that movement are so from a desire to share in the commercial profits of the fur trade; I think that that is unquestionable; but I think there is another portion of them, and a very considerable portion too, who look to future consequences more than to that question, and who are actuated by what I have already referred to, namely, the fear that if something is not done effectually and promptly that territory will cease to be British territory.

4089. How far back do you think it would be desirable to throw the frontier to the north for the purpose of giving opportunities for settlement in the manner which you have described?—I understand by that question how far there might be the exclusive right of trade which I have spoken of as that which should be reserved; how far from the north it should extend to the south, leaving an intermediate space in which there should be no such exclusive right, but which should be open to settlement.

4090. Exactly so?—I have no personal knowledge of the territory whatever; all I know of it has been derived from books or other documents which I have consulted from time to time upon that subject. It has occurred to me that the line once proposed by the Hudson's Bay Company themselves, shortly after the peace of Ryswick, would reach about the extent of what would be the land desirable for settlement; I suppose that the most valuable portion of the land for settlement would be found to lie in a parallel of latitude south of Norway House; but I give that as a mere matter of opinion, not that I have any personal knowledge.

4091. Where is Norway House?—At the head of Lake Winnipeg, about the north-east corner of Lake Winnipeg; I do not desire to attach any importance to my own answer, because I have no knowledge of the country of a personal character, and therefore may be very much mistaken as to its resources and capabilities of settlement.

4092. Mr. Edward Ellice.] In that answer do you contemplate including that portion of Labrador and James's Bay?—I do not propose carrying the line straight through there, because it would be depriving the Hudson's Bay Company of control over the Indians in one portion of the territory; I referred to the line proposed to the Company themselves upon the negotiations for limits between Canada and the Hudson's Bay Company's territory shortly after the peace of Ryswick, in which they themselves proposed certain limits, which, although they were not willing to take, they nevertheless, as a *pis aller*, were ready to submit to if nothing better could be gained for them. With regard to the eastern portion of the territory, the limit which I should at present suggest would be rather that limit which was proposed under the Treaty of Utrecht, which was to start from Cape Perdrix in 58½° of latitude, just below Cape Chudleigh on the Labrador coast. The Hudson's Bay Company themselves proposed that a line should be run from there (in one of the papers it is called 59½° and in the other 58½°), that it should come down through the island of a lake called Lake Mistassinac, and from there in a south-west direction extending to what they then required as the boundary to be given to them, namely, the 49th parallel of latitude directly through the continent. Grimington Island, I think, was the name of the island, and Cape Perdrix the name of the cape.

4093. That proposition, I believe, was not agreed to?—I believe nothing grew out of it; it was propounded to the French, and they would not assent to it. (*The Witness pointed out the position on the map.*) Instead of that, my own suggestion would be that it should only come down in this direction, and come to the point which I have already referred to, across the country to the Rocky Mountains.

4094. Sir John Pakington.] That would be your line to get to Norway House?—I have only thought of it generally. The line must leave sufficient space here, so as not to interfere with the trade of St. James's Bay, on which some Indians are settled; this country being at present, I believe, so far as white inhabitants are concerned, wholly unsettled.

4095. Still, I apprehend that your proposed line would pass considerably to the northward of the present boundary shown for Canada on that map?—Yes. I wish to be understood as stating that I am suggesting merely the line suggested by the Hudson's Bay Company themselves.

4096. Mr. Edward Ellice.] In what year was that proposal made; in 1719, was not it?—The proposal that I speak of was renewed by the Hudson's Bay

Hon.  
W. H. Draper, C. S.  
18 May 1857.

Company in the year 1750. On the 25th of July 1750, the Company were called upon to lay before the Lords of Trade the limits which they proposed, and they replied in the month of October of that year, giving the boundary that I have just spoken of.

4097. *Chairman.*] The actual boundaries of Canada are not very well defined, I believe:—There are two definitions; it must depend, perhaps, upon the legal construction which of the two should prevail; one of them is given by the Statute of 1774, the 14th of George the 3d, which speaks of the boundaries of Canada to the north as being the limits of the lands granted to the Merchants Adventurers of the Hudson's Bay Company; the latter boundary is under the Statute of 1791, the 31st of the King, in which, instead of using the terms that the two provinces are to be bounded by the lands granted to the Merchants Adventurers of the Hudson's Bay Company, this form of expression is used, that they are to be bounded by the line of the Hudson's Bay territory, as if, between the two periods, a new light had entered the minds of those who were drawing up that Act.

4098. Are you aware of the terms used in the Governor's commission as to the boundaries?—I think they are copied from the Proclamation of 1791; but I cannot speak with certainty.

4099. Speaking as Chief Justice, are you aware of any practical inconvenience which arises from the present state of the want of legal precision in the boundary of Canada with regard to the administration of justice?—I am not aware that the question has ever been raised since the days of the disputes between Lord Selkirk, the Hudson's Bay Company, and the North-west Company; there were difficulties then.

4100. In the ordinary administration of justice, it does not cause any inconvenience:—In the ordinary administration of justice, that question has never arisen within my experience, and I, as a student, at the bar, and on the bench, have been connected with the profession upwards of 30 years. I never heard the question raised in any way whatever.

4101. Have you not some concurrent jurisdiction with the Hudson's Bay Company in judicial matters over the whole of that territory?—There are two statutes regulating that matter, and conferring jurisdiction upon the courts of the colonies within those limits. The first of them gave jurisdiction over offences committed within the Indian territories. The second was an explanatory Act, stating that the offences committed within the territory belonging to the Hudson's Bay Company were included in the term "Indian territories."

4102. I think you have stated that you have no wish to go to the west of the Rocky Mountains?—Only in one sense. I hope you will not laugh at me as very visionary, but I hope to see the time, or that my children may live to see the time when there is a railway going all across that country and ending at the Pacific; and so far as individual opinion goes, I entertain no doubt that the time will arrive when that will be accomplished. I should desire, for the sake of Canada, that permission should be reserved to her to that extent only, that if she makes a railway through her own portion of the territory, it shall go to the terminus. That is merely my own opinion.

4103. *Sir John Pakington.*] You are aware that the report of the Executive Committee does not limit the western boundary of Canada, even to the Rocky Mountains, but claims it up to the Pacific Ocean?—I am aware that that report does so.

4104. Is it your own opinion that there is any legitimate reason for limiting the western boundary to the Rocky Mountains rather than to the Pacific Ocean?—It appears to me that the more natural intercourse from the west of the Rocky Mountains is to the seaward, the Pacific, rather than to come to the eastward to the Atlantic, unless there were a railroad established.

4105. *Chairman.*] You have, doubtless, in a legal point of view, considered very much the rights, both to the possession of the territory, and to the exclusive exercise of trade claimed by the Hudson's Bay Company?—I have rather considered the matter in a speculative point of view; when I speak of looking at a thing in a legal point of view, I am so apt to confound it with a judicial point of view that I would rather say that I had speculated upon it than that I have reflected upon it, as I would do if I had to give judgment upon it.

4106. Do you think it of importance that the validity of those claims should be either established or refuted soon?—First of all, dividing that question, if

you will permit me, with regard to the decision of the boundary between Canada and the territory of the Hudson's Bay Company, it appears to me that there is no mode in which we can commence the decision of the whole question, without deciding that: because, assuming that there is a portion of the territory to which the Hudson's Bay Company are lawfully entitled, which is conceding the thing in the strongest way in their favour, then if you propose to take anything away from them which really belongs to them, the question of compensation is the next question naturally arising. It is very important to know over what land that right of compensation extends, and how much of it belongs to Canada over which it cannot extend. So that it seems to me that the foundation of the inquiry is a determination, according to the proper construction of the charter, of the territorial limits. If that question involves inevitably, as I am afraid it will be found to do, the consideration as to whether it is valid or invalid *in toto*, I do not see how that discussion is to be avoided.

4107. In what way would you suggest that that question could practically be brought to a solution. I believe it has been agitated more than once, and for a very great number of years: more than 100 years?—I should subscribe to the authority of the Crown officers of England and the Secretary of State. When Lord Grey filled the office of Colonial Secretary, he proposed that that very question of the validity of the charter should be submitted (and he offered to facilitate it, founded upon the opinion of the law officers) to the Judicial Committee of the Privy Council. Lord Grey, in 1850 or 1851 (I speak under correction as to the year, but the Parliamentary Papers are published), himself made the proposition, founded upon the recommendation of the Attorney and Solicitor-General of England of that day.

4108. *Mr. Edward Estlin.*] He offered to anybody to facilitate the trial of the question?—He offered, so far as that was concerned, that it should be submitted to the Judicial Committee.

4109. *Chairman.*] Do you think it quite clear that the Judicial Committee of the Privy Council would consider themselves authorised to deal with that question if it were raised by the Crown, and not by a private individual?—Reasoning by analogy, which is the only way in which I can do it, from what they have done in other cases, I should answer that question affirmatively. I have taken the trouble to get together some few cases in which I think the same principle has been involved where reference has been made for the Queen's information to the Judicial Committee of the Privy Council.

4110. Would that answer apply equally to the claims of the Company with regard to the possession of territory and their claims with regard to the exclusive licence to trade?—With regard to the exclusive licence to trade (perhaps with the prejudice which lawyers have in favour of their own particular views) it always has appeared to me that the statute of James the 1st put an end to it. I never could understand how it could be contended for in a court of law for an instant. The exclusive licence to trade appears to me to be diametrically contrary to the statute of James the 1st. The only question, I think, which could arise upon it, speaking always individually, would be whether or not that statute applied to a colony, or was confined to a monopoly within the mother country. Assuming that it was confined to a monopoly within the mother country, it still, I think, would be open to a very fair argument that it did apply to this company, because their charter makes the seat of their government to be in England. The monopoly of the fur-trade, that is to say, the sale of all that they import from that country, is in their hands in England; it is a monopoly in England.

4111. I believe both these questions have come before the consideration of very eminent lawyers at different times, going back to the time of Lord Mansfield; and many eminent men since have had these very questions referred to them:—There have been opinions given. I think that one opinion was given by Lord Camden when he was either Attorney or Solicitor General. Sir Dudley Ryder gave an opinion also.

4112. *Sir John Pakington.*] An opinion upon what?—Upon the validity of this very charter.

4113. *Chairman.*] Are you acquainted with Lord Mansfield's opinion when he was Solicitor General?—I may have a minute of it, but I do not remember

Hon.  
W. H. Draper, c. s.

26 May 1857.

it at this moment; I think I have a memorandum of all the opinions which have been given; I have no recollection of it if I have read it; I have a memorandum with regard to a variety of opinions and judicial decisions which appear to me to be in one sense bearing upon the legal question of the decision of the charter.

4114. Will you have the goodness to put it in?—I cannot put it in in the form in which I have it at present, but I could furnish it to you; I can refer to particular portions of it.

4115. Lawyers have expressed great doubts about these points?—I believe there have been many opinions; there were very eminent opinions taken, which are all in print; I think there were opinions taken both by the North-west Company and by the Hudson's Bay Company; I have seen all those opinions, and I have read most of them in print, and I apprehend they are very easily accessible.

4116. Are the Committee to understand that you would wish both the questions, that of the monopoly of trade, and that of the exclusive possession of land, to be referred to the Judicial Committee of the Privy Council, if it can so be done?—I myself should consider that that would put an end to all question, and would settle all doubts by a decision one way or the other with regard to a matter of that description unquestionably, but speaking for the Province of Canada, the point which I am particularly desirous of urging upon your consideration, and of limiting myself to as their representative, if I may so speak, would be the decision of their territorial limits; that is the point in which they are most interested, but I do not see how you can very well dispose of the one without inevitably raising the other.

4117. Mr. *Christy*.] The opinions taken by the Hudson's Bay Company have never been printed?—I cannot say whether they have been printed. I can only say that I have read them. The matter has been considered as a broad legal question upon the validity of the charter, and the different points that I have been speaking of, and it is that point to which I have had my attention partially directed; I have a variety of cases which I think bear upon the subject, but it is rather in the nature of a judicial argument; it is more in the nature of a brief for counsel to argue from than anything else; it is not a document drawn up in the slightest degree with the view of laying it before this Committee; I wish that to be quite understood.

4118. Lord *John Russell*.] When the opinion of Lord Grey was known in Canada, was there a disposition to acquiesce in the mode pointed out by Lord Grey?—I am not aware that the matter was in any way discussed or considered in Canada, at that particular period; I do not think it was.

4119. Has it been since?—I cannot say that it has; I am not able to answer the question.

4120. *Chairman*.] The Committee are desirous of being favoured with your opinion upon the subjects which have been raised, namely, the validity of the claims of the Hudson's Bay Company, both to trade and territory; and also the manner in which you may conceive that the legality of those claims may be tested by some judicial tribunal; the Committee would be much obliged to you if you would place your views upon this subject before them, in any form which you may think expedient?—I would desire to mention a fact which is of course very well known to yourself, Sir, that on the 6th of May I enclosed the paper which you have before you, accompanied by a letter, which I presume I may refer to for this purpose, namely, of stating that it contained a request that Her Majesty's Government would take upon themselves, in such shape as they thought best (but I suggested the Judicial Committee of the Privy Council), the decision of the question of boundary between the province of Canada and the territory of the Hudson's Bay Company, and I asked that the province might on their part have counsel attending to watch any argument, if an argument was thought necessary, and that if thought expedient they might also be permitted to take part in it. That was the object of my request. I dare say, for very many good reasons, I only received a reply to it last night; but in the meantime, imagining that that course must sooner or later be adopted, I have been preparing myself for the possibility of the submission of a question of that character, and of the larger question, if the larger question must necessarily come up. What I have been doing, therefore, has been not at all with the view of presenting anything here, but with the view of preparing myself to instruct counsel, if it became necessary to instruct them, upon the different

points



points of law which I thought would be involved. You are asking me, in fact, to give the benefit of any little industry which I have exercised for the benefit of the province of Canada to other parties.

4121. The Committee have no wish to ask you to communicate anything to them which you are not yourself desirous of doing?—I merely desire to give that explanation why I am reluctant to furnish the information. Individually, I can have no objection to state it.

4122. Do you believe that the province of Canada would be disposed themselves to raise the question of the validity of the charter of the Hudson's Bay Company, either in whole or in part, before either the Judicial Committee of the Privy Council, or some other tribunal?—I can best answer that question by stating that I have express instructions and authority to retain counsel to represent the province, whenever, in my judgment, it is necessary.

4123. Am I to understand that you conceive those instructions to authorise you, if you so think fit, not merely to appoint counsel to watch the proceedings which may be instituted by the Crown or others, but yourself to originate such proceedings?—I have always considered, and I believe they consider too, that the question of boundary is a question which it rather rests with Her Majesty's Government to raise and to have decided, because both parties claim, the one under Acts of Parliament and proclamations of the Crown, the other under a charter from the Crown, and therefore it is a question of which we should naturally suppose the Crown would take upon themselves to procure the reference and the decision. Therefore in asking permission to attend with counsel, it was not under the idea that we should take out of the hands of Her Majesty's Government the conduct of the proceeding, but that we should be permitted to watch, and if necessary take part in, the argument. At the same time I would add, that the latter portion of that statement is entirely my own suggestion; that my instructions do not limit me to that course; and that if Her Majesty's Government were broadly to say that Canada must appear before the Judicial Committee of the Privy Council for the purpose of determining her boundaries, I apprehend that my instructions go the full length of enabling me to do so.

4124. Are the Committee to understand that you consider that if it should be found either impossible or inexpedient on the part of the Crown properly to institute judicial proceedings, in order to try the validity of the charter of the Hudson's Bay Company, you are authorised by the colony, on their part, to institute such proceedings, in order, as you may think fit, to try the validity of that charter, either wholly or in part?—My instructions I conceive to give me a discretion; I have not made up my mind as to the mode in which I should exercise it.

4125. Lord John Russell.] I understand you to give a decided opinion as to the monopoly of trade?—Upon that point I have never entertained a doubt.

4126. Mr. Love.] What is there in the government of the Hudson's Bay Company which makes you apprehensive of the Americans extending themselves into the territory if that government continue?—I conceive that the Hudson's Bay Company are a company conducting their government in a manner consonant with their interests as a trading company, and conducting it in that view most admirably. I do not think that the interests of a trading company can ever be considered as compatible with the settlement of the province.

4127. What you apprehend is, that they will not let the province be settled?—From the year 1812, when Lord Selkirk obtained the grant, down to the present moment, there appears to be a population of only about 7,000 people, and when I can point to portions of the country round in which it has increased at the rate of 70,000 instead of 7,000, there must be something in the government of the country which does not encourage settlement.

4128. Sir John Pakington.] Is it your opinion that the whole of that district which you have described, lying between the present boundary between the United States and the British territory, and a line striking across the north of Lake Winnipeg, is fit for settlement?—I can only form an opinion founded upon the testimony of others. Before I left Canada, knowing that there was a gentleman of the name of Macdonald, whose name will be found in the Parliamentary Papers of 1849 as "*bon croche*," who had been 25 years  
employed

Hon.  
W. H. Draper, c. s.

18 May 1857.

Hon.  
W. B. Dooper, C. S.

28 May 1857.

employed in the North-west Company, I corresponded with him, and I obtained a great deal of information which I thought exceedingly valuable, and upon which my opinion of the facility of settling that country is founded, together with other papers of a similar kind which I have read, but I have no personal knowledge of it whatever.

4129. Are not the apprehensions which you have expressed to this Committee founded upon the belief on your part, that unless that line of country is settled from Canada it will practically be settled from the United States without respect to the boundary?—It is so; the boundary is an undefined line; there is nothing to prevent people crossing it; nothing to point it out; nothing to defend it.

4130. We see on that map a district close to the line of boundary between the United States and the British territory of very considerable extent, marked pink; I apprehend that that is so marked pink because it does not come within the definition of Rupert's Land, as described by the waters which fall into the Hudson's Bay; is not that so?—I suppose it to be so.

4131. Is it within your knowledge whether that district, so marked as not belonging to Rupert's Land, is nevertheless occupied by the Hudson's Bay Company?—The licence of exclusive trade (I have not examined it carefully) probably includes it. If it does, then it would come under their jurisdiction to have the exclusive licence to trade within it. I do not understand that there is a licence giving any particular powers of government; I have not studied that point. I do not know what powers of government the licence of exclusive trade gives; but it is only under that licence that they can hold it.

4132. Are you aware whether the Canadian Government have now any power over that district which is so marked pink, because it is not included in Rupert's Land?—As I apprehend, nothing whatever, except the power of trying offences which may be committed within that territory; no power of settlement, or of government of any other kind whatever.

4133. Why is it that you think they have no power of settlement, if the only jurisdiction of the Hudson's Bay Company over that territory is founded upon their licence to trade?—Because the only western boundary which is given to the province of Canada is the Mississippi River, and because that territory lies to the westward of the head waters of the Mississippi.

4134. Is that answer which you have just given to me quite consistent with the opinion expressed by the Committee of the Executive Council of Canada, in the paper before us, to the effect that they recognise no western limit of Canada in that direction excepting the Pacific Ocean?—I admit that it is not consistent with that view; but in what I am stating I look at the fact that all the documents emanating from the Crown which do give a western boundary to Canada, give the Mississippi River. If I am asked what my opinion upon the subject is, I do not know by what authority we can extend west of it unless you give it to us; that is my own opinion, and it must go for what it is worth.

4135. Are you aware of any offences ever having been tried in Canada which were committed in that portion of the country?—Not since the disputes between the Hudson's Bay Company and the North-west Company. I confine my answer to Upper Canada.

4136. Are you aware of any actual encroachments by American citizens across the boundary, with a view to the settlement of that country?—I am not.

4137. Have you any knowledge of the facilities for communication between Lake Superior and the Red River Settlement?—None but what I derive from the information of other parties; I have no personal knowledge whatever.

4138. I suppose that the facts connected with that line of communication are well known in Canada, are they not?—The Americans seem to adopt the view that it is possible. I have made an extract, which, with your permission, I will just read, to show that they do not consider it so impracticable. General Cass, within a very short space of time, presented a petition to Congress for the very purpose of having a communication opened into that country by Pigeon River, treating the navigation as capable of improvement, which would be just on the boundary, between Canada in that part, or between the Hudson's Bay territory, as it may be, and the United States territory, just below Fort

William

William on the boundary line. The nature of the petition (I made an extract from a report of it) is this: "for a Government exploration and survey of the Pigeon River, of Lake Superior, and of the route from the mouth of that stream, or near thereto, to Rainy Lake on the United States boundary line, so as to make a practicable navigation from the Lower Red River of the North, by way of Lake Winnipeg to Lake Superior; they represent that at a reasonable cost the whole valley of the Red, Assiniboine and Saskatchewan Rivers can be connected with Lake Superior."

4139. Mr. *Edward Ellice*.] Do they specify the cost?—No; in petitions of this sort, when they ask for a Government exploration they keep the question of cost entirely out of view.

4140. Sir *John Pakington*.] Practically, at this time the trade and commerce of the Red River is carried on to the south with the United States, or to the north by Hudson's Bay, is it not?—I apprehend it is so; I do not know whether any of it goes west; I believe nothing at present comes east.

4141. Do you know whether there are any such facilities between Lake Superior and the Red River as would allow of the conveyance of troops?—I can only judge from the information of others; Lord Selkirk was able to carry troops into that country, but I suppose at that time the North-west company, having an interest in maintaining the communications, kept them in good repair; since that time they have been suffered to rot away altogether.

4142. Are you aware whether at this time any arrangements are in progress, or any orders are given for conveying troops from Toronto to the Red River Settlement, by the route of the St. Lawrence and round the Labrador coast into Hudson's Bay?—I have heard so since my arrival in England; letters which I have received from Canada have stated that as a fact; I have no other knowledge of it; a part of the Canadian Rifle Regiment; according to information which I have received from Upper Canada in private letters, it is stated to me that there is a portion of the Canadian Rifles who are quartered in the province of Canada, and principally in the western portion of it, who are ordered for the protection or defence of the Red River Settlement, and who are to be sent round by sea to Fort York; but I have no other knowledge of it than from having had that communication.

4143. Is it your belief that at present the means of communication are such as to make it possible to send that portion of the Canadian Rifles by Lake Superior and the direct route?—I am quite sure that they were so, because troops have been sent that way; I cannot say what they are at the present moment.

4144. Mr. *Edward Ellice*.] How many years ago was that?—I refer to Colonel Crofton's evidence, who mentioned the fact that he was aware that troops could come that way; and I refer to the fact that Lord Selkirk, in 1816 or 1817, carried a body of men through there, together with artillery; he took a portion of the disbanded Demeuron regiment.

4145. Mr. *Kinnaird*.] About how many men?—It will be found in the Parliamentary papers which I refer to, of 1819, and I would rather refer to them for greater accuracy than trust my own memory. This regiment had been disbanded, and Lord Selkirk engaged them, or a certain portion of them; he had two captains.

4146. You have referred to the circumstance of the Canadian people being anxious to have the boundary defined; has there been any practical inconvenience found by any Canadian subjects from the undefined character of the boundary?—Not at present, that I am aware of.

4147. *Chairman*.] I believe that public attention in Canada is now very much directed to the affairs of the Hudson's Bay Company?—Very much indeed.

4148. That has only occurred recently I think?—Recently; when I speak of its attracting public attention I say certainly recently; men who have been concerned with thinking for the future in Canada have thought of it a good many years ago.

4149. Mr. *Grogan*.] Do you suggest that Canadian settlement is progressing from Toronto and by the Ottawa and Lake Nipissing, and that way, up towards the Red River Settlement?—I stated that there are townships laid out, particularly on the north side of the River Ottawa, approaching to within a

Hon.  
W. H. Dwyer, C. S.  
23 May 1857.

comparatively short distance of Lake Nipissing; and that the whole of that river, at the time when the North-west Company carried on their trade, which was a very large one, was unsettled, from the Falls of Chaudiere, the whole distance upward; that is in fact the most difficult part of the navigation. There are now townships laid out going up to Lake Nipissing.

4150. Is the navigation on the Ottawa tolerably good now?—It is broken by rapids; but the Canadian Government have a survey now going on, for the purpose of ascertaining the best mode of improving it.

4151. Then when you referred to the settlements or the townships being laid out along the northern bank of the Ottawa, and to the intended improvements in the navigation of the river, that was part of your answer with regard to the communication between the Red River Settlement and Canada?—It was just to show that a country which at one time was entirely barren, unoccupied, unsettled, and which interposed great obstacles to the navigation at that time, was now becoming settled, and that all those difficulties were being removed; and that if it was feasible then to carry on a trade through the river with all those difficulties, it would be, *à fortiori*, more feasible when the country through which it was to pass was settled.

4152. If I understand your views, the communication would be almost entirely a water communication?—It would be so; but I suggested also that modern improvements would render that communication of the Ottawa unnecessary; for we have a much more easy communication; and I pointed out that, by taking the way of the Welland Canal, and the way of the Sault Saint Mary Canal, a vessel of very considerable burthen loaded at Montreal could discharge her cargo, without any transshipment, at Fort William.

4153. That is altogether a summer communication?—It is.  
4154. Has it occurred to you how that communication could be maintained during the winter?—There will be always great obstacles, excepting by means of railways, and a long period must elapse before we can look for that; there will be a period of from four to five months during which you must travel upon runners or not at all; there is no other mode at present.

4155. But you look to the establishment of a railway ultimately?—I am sanguine enough to do so.

4156. And your view is, that by improving the existing water communication it will ultimately lead to the establishment of a railway?—I think that by improving the water communication at present, it will lead to a great deal of settlement up the Ottawa, and so facilitate the carrying of a railway in that direction.

4157. You mentioned that at one period the French occupied a large portion of the Rupert's Land territory, and also had some settlements on the Saskatchewan?—I did not desire to express that they occupied large portions of the territory, I merely intended to say that they had trading posts passing through a portion of the territory; I understand that they had one station upon the Saskatchewan River.

4158. They used the route from Fort William to the Red River settlement for the transmission of all their goods?—Yes, the whole, I believe, of the trade was carried through that course.

4159. Was that trade considerable?—I have understood it to be so.  
4160. In what year was that?—Commencing with the government under the Count Frontenac, or perhaps even at an earlier period, and passing through a variety of French Governments down to the year 1763; I have a large volume of French correspondence, a quarto volume of 1,000 pages, from which, in different portions of it, I could point out how that trade was carried on; it is the correspondence of the French Government in Canada with their own authorities in France.

4161. They followed the route of this river which you are describing?—They followed the route of the Ottawa for that trade principally; they had a station at Michilimackinac and also a station at Detroit, but the larger portion of the trade was carried up the Ottawa.

4162. Is it the impression on your mind that at that period the route by Fort William and along the river towards the Red River Settlement was in a better condition than it is now?—I cannot state what its condition is now. I can only say that it was practicable for the purposes of carrying on that trade;