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RESEARCH NOTE

The Labrador Boundary That Never Was

JAMES K. HILLER

FROM THE 1660S TO THE END of the French regime in North America, Hudson Bay was the cause of a considerable amount of friction between England and France. At the heart of the dispute was the French claim that Hudson Bay and the Labrador Peninsula were part of New France. This was not accepted in London, where New France was more narrowly defined as Canada and Acadia. Thus when the Hudson's Bay Company (HBC) began trading in 1670, with extensive territorial and commercial privileges, this was regarded as an unwarranted intrusion by the French, but as justified by the English, since — in the words of the HBC charter — the territory in question was "not actually possessed by or granted to any of our Subjectes or possessed by the Subjectes of any other Christian Prince or State ...."

The purpose of this note is to re-examine Anglo-French negotiations and discussions concerning the ownership and definition of Hudson Bay, including the Labrador Peninsula, between 1687 and the mid-18th century. The only scholar to have closely examined this subject is Max Savelle. His 1957 article remains the standard source, but he was more interested in the evolution of the idea of the 49th parallel as an international boundary than in Labrador itself.[1] In addition, there has been an unfortunate tendency — illustrated by the relevant map in the *Historical Atlas of Canada* — to assume that the various possible boundaries under discussion had some definite and official status.[2]

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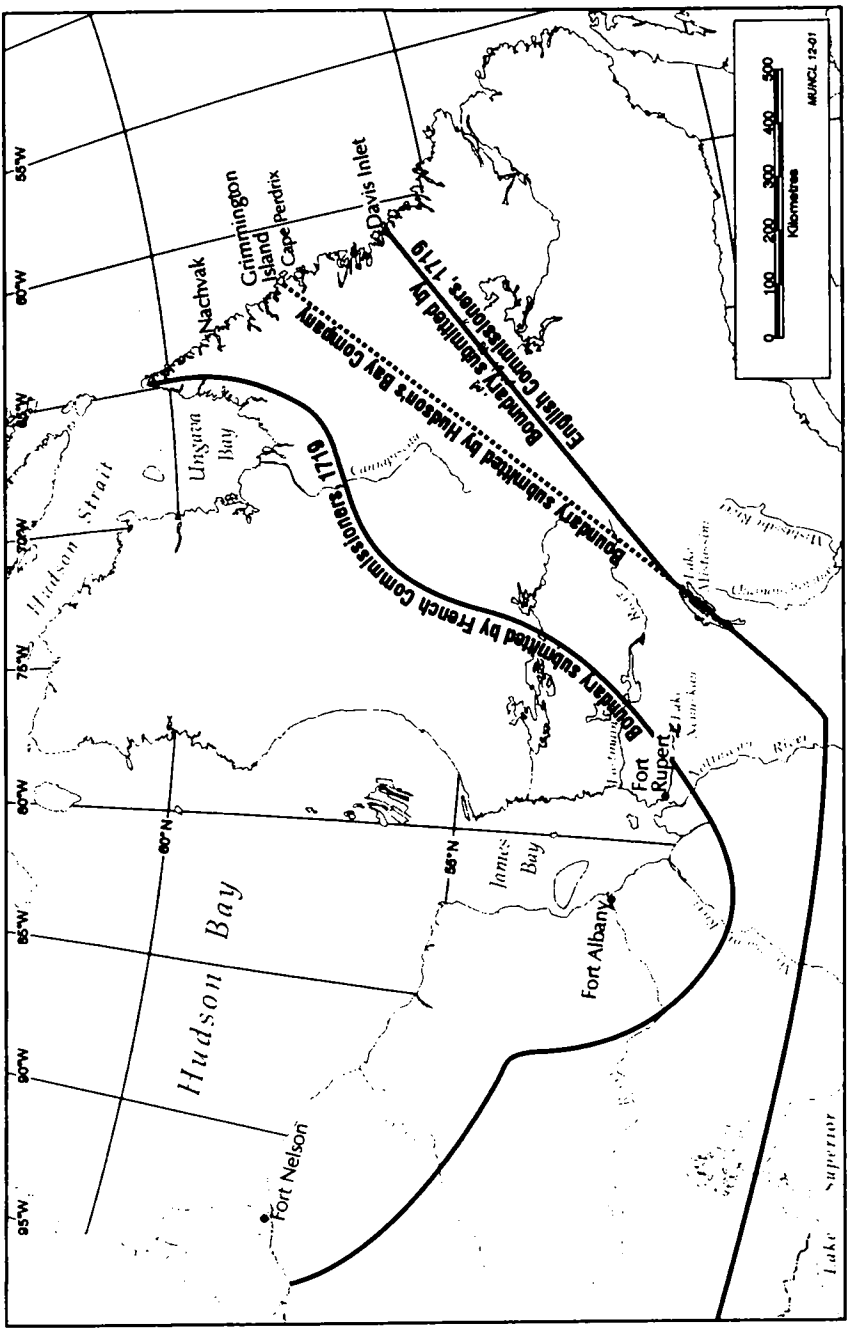

Figure 1. Labrador boundary proposals, 1719.

The first negotiations on these questions took place in London in 1687, as required by the Treaty of Whitehall (sometimes known as the Treaty of Neutrality) signed the previous year. Both English and French commissioners asserted the right of their respective countries to Hudson Bay by virtue of first discovery, acts of possession and consistent usage, ransacking and inventing history in the process. One point to note here is that while the French commissioners repeated the claim that New France extended to the Arctic Circle, the English took the position that "the Country of Canada and that of Hudson Bay are Two Different Provinces and have no Relation but that of Neighbourhood as may appear by antient and modern Maps ...."[3]

The French eventually proposed a compromise. They would give up the English forts they had captured in James Bay, if the English would give up Fort Nelson. The English refused this, as well as the offer of an east-west line about half way between Nelson and the bottom of James Bay, and the negotiations effectively collapsed. Another futile round took place in 1699 by virtue of the Treaty of Ryswick (1697). Though the English were prepared this time to talk about dividing the bay — placing the western boundary at Fort Albany and the eastern on the Eastmain River — nothing was finally agreed.

During the negotiations for the Treaty of Utrecht (1713), however, the British rejected any suggestion of partition, and insisted on the transfer of the entire Bay. Unwilling and unhappy, the French gritted their teeth and agreed to "restore" (not cede) to Great Britain "pour les posseder en plein droit et a perpetuité, la Baye, et le Détroit d' Hudson avec toutes les terres, mers, rivages, fleuves, et lieux qui en dependent et qui y sont situez".[4] Once again, the boundary was not defined, though there had been a considerable amount of discussion before and during the negotiations.

In 1709 the Board of Trade had asked the HBC for specific proposals. Part of the response was a map showing a line running from Grimington's Island (or "Cape Perdrix") on Labrador's Atlantic coast (placed at 58.5°) to Lake Mistassini ("Miscosinke"), which it bisected and then continued to the southwest. This became the basis of the British negotiating position. The Company later explained that the line was designed

> to avoid as much as possible any just Ground for differing with the ffrench ... it is laid down so as to leave the ffrench in possession of as much or more land than they can make any just pretension to, and at the same time leaves your Memorialists but a very small district of land from the South end of the said Bay necessary as a Frontier.[5]

The claim was in fact bolder and more extensive than before, and aimed at removing the French from the rivers flowing into James and Hudson bays from the east. For their part, the French were very concerned that the English be kept away from the St. Lawrence region — thus the boundary should be determined from the "costé

du Terrain de la nouvelle France courant au nord et non pas aux endroits de l'Embrouchure du fleuve St. Laurent" to ensure that the North Shore remained in French hands. They were also concerned about the Mistassini fur trade, and proposed that the line should start at "Cap Enchanté" on the Labrador coast (Nachvak).[6] It would then run to a point below Lake Nemiskau before joining the English line beyond Mistassini, which would remain in French territory. Whatever was settled, Mistassini had to remain on the French side.[7] There was no conclusion. Matthew Prior, the British negotiator in Paris, thought that since the two lines were similar, the issue could either be settled at Utrecht or postponed. "I take leave to add ...", he wrote, "that these Limitations are no otherwise advantageous or prejudicial to Great Britain, than as we are better or worse with the Native Indians, and that ye whole is a matter rather of Industry than Dominion".[8] At Utrecht, the French negotiators would not accept the British line, "being as they said, utterly ignorant of that matter & as several other affairs in those parts were to be referred to Commissioners we [the British negotiators] consented to refer this".[9] The treaty reflected this agreement.

The commissioners were to negotiate all Anglo-French boundary disputes in North America, and were eventually appointed in 1719.[10] Five years earlier, in August 1714, the HBC had argued to the Board of Trade that its boundary should be the same as proposed in 1709, except that when the line met the 49th parallel, it should follow that parallel westward.[11] The British commissioners, Martin Bladen and Daniel Pulteney, were instructed to negotiate this line, but with this proviso: That "the said Boundaries be understood to regard the Trade of the Hudson's Bay Company only; that His Majesty does not thereby recede from the Right to any Lands in America, not comprized within the said Boundaries; And that no pretention be given ye French to claim any Tracts of Lands in America, Southward or southwest of the said Boundaries".[12] Thus the southern boundary of Rupert's Land could not be assumed to be the northern boundary of New France.

Bladen arrived in Paris on September 18, 1719. It was not until 21 October that, with the British ambassador, the Earl of Stair, he met the French commissioners — the Maréchal d'Estrées and the Abbé Dubois. The French were not well-prepared. They still needed a large amount of material in English to be translated, wrote d'Estrées, and could make only a tentative start on a task for which he had little enthusiasm — "conservant a la france ce qu'on ne peut luy oter avec une Justice et sans luy une perte inoperable".[13] Bladen was equally pessimistic:

> I think our Peace Makers at Utrecht if they had had the Interest of their Country at heart, might have saved their Successors a great deal of trouble, by drawing a Line through the Map, and fixing the Boundaries of our Colonies with a Stroke of the pen at once.... I shall allways be of opinion that if we should not be able to obtain what ye Treaty of Utrecht, bad as it is, intitled us to, it will be best to leave matters in the Condition wee found them.

> .... I confess I cannot help thinking it will be to very little purpose to puzzel ourselves about settling Boundaries in the North of America, if the French have so concise a way of fixing their's in the South, without asking our Concurrence.[14]

The commissioners decided to deal with Hudson Bay first, and at a second meeting on 4 November, the day was spent in "Discourses preparatory to the Method for fixing the Boundarys of the Hudson's Bay".[15] At a third meeting in December, with d'Estrées alone, the British presented a memorial proposing the same line as submitted by the HBC in 1714, except that its starting point on the Labrador coast was shifted to 56.5° N, "le Cap Nord de la Baye de Davis".[16] Bladen then left Paris, and was replaced by Pulteney.

The commission's work was deflected by a crisis caused by the French seizure of St. Lucia, which preoccupied diplomats on both sides, and the British were also concerned about French activity in Mississippi. Dubois was ill, and it proved difficult in general to deal with "very great Men" who could not be pressed.[17] By the end of the year, Pulteney had heard that, in the opinion of the French government, "the Commission about the Limits in America is at an end, the French having no mind to proceed further in it".[18] There were Anglo-French discussions in 1720 concerning St. Lucia, Cape Breton, Canso, and Nova Scotia, but there was no response in writing to the British memorial on Hudson Bay.[19] Nor did the commission meet again.

Even so, the French government had gathered a considerable amount of information on the Acadian and Hudson Bay boundary issues, and the line proposed by the British was seriously considered by advisors who were familiar with New France — the soldier and administrator Antoine Laumet Cadillac, the Jesuit historian Pierre-François-Xavier de Charlevoix, and the lawyer François Ruette d'Auteuil de Monceaux. They based their advice on two premises: first, that the entire Labrador Peninsula was part of New France, and second, that the treaty's reference to the "restoration" of territory significantly limited the area to be handed over. D'Auteuil supported the first point by asserting that the Treaty of Breda (1667) had provided *inter alia*, that England would restore to France "the country which is called Acadia"(section 10), and "all the islands, countries, fortresses, and colonies, situated in whatsoever part of the world, which shall have been taken by arms before or after the signing of this agreement, and which [the King of France] possessed before January 1, 1665" (section 12).[20] The treaty, he said, had defined New France as extending to 60° N, which meant that the English had been interlopers in Hudson Bay, and that any territory not specifically ceded remained part of New France.[21] Though the treaty in fact contained no such definition, the essential point was to counter the British claim to Labrador north of Davis Inlet, and to extensive tracts of the interior.[22] The British were claiming "une grande partie des terres de Labrador qui dépendent du gouvernement de Canada et que la France n'a pas cédé ny prétend cédér".[23] What France had agreed was to "restore" lands "inclusivement et interieurement dans ledit détroit, et dite Baye d'hudson, et non au

dehors". The strait began at the tip of the Labrador Peninsula, not further south. Thus any boundary line had to start there, rather than going through territories that were in French hands before anyone was in Hudson Bay.[24]

How much, then, should be handed over? Cadillac and Charlevoix emphasized the word "restitution". Two arguments emerged. First, Cadillac argued that France only had to abandon what had been held before the treaty by merchants from Canada, and "selon moi les limites ne s'etendent point trop loin". There were no inland posts, "mais seulement dans l'interieur, circuit et circonference de lad. Baye". Alternatively, France only had to restore what the English had actually possessed, and it was for the British government to prove that the French posts were once theirs and were unjustly held — something which the French denied.[25]

Cadillac wanted his government to stand firm on Hudson Bay, fearing that excessive concessions there would have an adverse impact on negotiations concerning Acadia. Nevertheless, he and the other experts accepted that a line would have to be drawn, and suggested that it should start at "Cap Bouton", the tip of the Labrador Peninsula, and run so as to fall half way between Fort Rupert and Lake Nemiskau, and then follow the shore of the bay so as to give the English a coastal strip, or "lisière". It is not known if this recommendation was adopted by the French government. Certainly, it was never communicated officially to the British commissioners or to the British government.

The fact of the matter is that the various boundary lines discussed at Utrecht and later in Paris were no more than negotiating positions, and cannot be taken as firm or agreed definitions of the extent of either Rupert's Land or New France. France continued to claim the entire Labrador peninsula, with the exception of the undefined Hudson Bay territory.[26] "Le Canada ou la nouvelle france contient les pays suivants Estotilande, terre cortereal, terre de la Brador, Canada ou est Quebec .... [etc.]"[27] The British government continued to deny that France had any right to the territory between Canada and Rupert's Land, while the HBC held to its Grimington's Island boundary line.

In 1752 a group of London merchants petitioned the Board of Trade for an exclusive grant of trade and land westward from the Atlantic coast of Labrador between 52°and 60° latitude, that is, from Cape Charles to Cape Chidley. A Mr. Stirling claimed that the coast belonged to the British Crown. He had not heard that the HBC claimed the coast, which was not mentioned in its charter, "but that such an opinion had prevailed so as to discourage the making of any settlement".[28] The Board ordered "a state of the Crown's right to that Country to be prepared".[29] Though the HBC now claimed that it had "a just Right and Claim ... to the said Tract of Land called the Laboradore and the Trade thereof", the Board disagreed.[30] Though the right to the eastern part of "Terra Labrador [had] never been the object of particular Dispute or Discussion with any other Prince or State", Britain certainly had a justifiable claim to it, and the merchants' project should be supported in principle.[31] However, the petitioners had not delineated a western boundary to the

proposed grant, and the Board thought this necessary so as not to "break in upon the Charter or Property" of the HBC. Since no one knew where the HBC boundary lay, this may be a reason why the project never went ahead.

This was the same year when the first, tragic Moravian voyage to northern Labrador took place. The expedition's organizers did not consult the Board of Trade, but had no doubt that the coast was British. They wrote that "no Charter as far as is come to our Knowledge has yet been given by the Crown of Great Britain to any person whatsoever of any part thereof where the said Unitas Fratrum intend to make a Settlement".[32] It does not seem to have occurred to them that the territory might belong to another power.

In the years before 1763, northeastern America was a place without firmly established boundary lines. The boundaries of New France were never defined — to quote the *Commission d'Étude sur l'Integrité du Territoire du Québec*, "les frontières ont avancés et reculés selon les heurts, malheurs et contretemps des victoires et des défaites".[33] The boundaries of Rupert's Land remained undefined as well, and the northern part of the Labrador peninsula — largely *terra incognita* to both parties — is best regarded as disputed territory. Certainly, it cannot be assumed — as does the *Historical Atlas of Canada* — that New France extended as far north as the line claimed by the HBC, or that "recognized British territory" was bounded by the line recommended by Cadillac, Charlevoix and d'Auteil. Even after 1763, it took another 164 years to settle interior boundaries in the peninsula.

Notes

[1]Max Savelle, "The Forty-Ninth Degree of North Latitude as an International Boundary, 1719. The Origin of an Idea", *Canadian Historical Review* 38 (3) (1957), 183-201.

[2]R. Cole Harris, ed., *Historical Atlas of Canada*, vol. 1, *From the Beginning to 1800*, (Toronto 1987), Plate 40.

[3]F.G. Davenport, ed., *European Treaties bearing on the History of the United States and its Dependencies*, vol. 1 (Washington DC, 1917), 315. "Deuxieme memoire de la Compagnie françoise ....", Public Record Office [PRO], CO 134/1, 67; SP 103/14; "Answer to the Last Paper delivered in behalf of the French Company of Canada ....", PRO, CO 134/1, 83; SP 103/14.

[4]Davenport, *European Treaties*, vol. 3 (Washington 1934), 211.

[5]Memorial to the Board of Trade, 3 October 1750. HBC Records, A9/8, 3.

[6]Bellin's 1744 "Carte de la Baye de Hudson ...." places this cape at 59 degrees north latitude. National Archives of Canada [NAC], NMC 7325.

[7]The French negotiators were given two other possibilities for consideration, each of which safeguarded Mistassini. "Memoire historique sur ce qui a esté stipulé par la paix conclue à Utrecht le 11 Avril 1713, entre la France et la Gde. Brete. au sujet de leurs Etats en Amerique". December 31, 1724, Archives des Affaires Etrangères [AAE], Mémoires et Documents [MD], Angleterre, vol. 17, 108 ff [NAC reel C-12573]. See also Savelle, "Forty-Ninth Degree", 189.

[8]Prior to Bolingbroke, 8 January 1713, PRO, SP 105/28, 68.

[9]"Observations on the Treaty ... concluded at Utrecht 11/22 March 1713", PRO, SP 103/97, 148.

[10]The boundary commission is mentioned in Dale Miquelon, *New France 1701-1744: "A Supplement to Europe"*(Toronto 1987), 98-99.

[11]Privy Council, *In the Matter of the Boundary between the Dominion of Canada and the Colony of Newfoundland in the Labrador Peninsula* (London 1927), vol. 8, 4067.

[12]"Instructions for Damiel Pulteney and Martin Bladen Esqres ....", 3 September 1719, PRO, CO 323/7, 342. Also printed in *Labrador Boundary Documents*, vol. 8, 4076.

[13]Maréchal d'Estrées to unknown recipient, 25 October 1719, AAE, Correspondence politique [CP], vol. 326, 242 [NAC reel C-12543].

[14]Bladen to Delafaye, 20 October 1719, 7 November 1719, PRO, SP 78/166.

[15]"Report of Colonel Bladen one of Commissaries appointed in consequence of the Treaty of Utrecht .....", 29 December 1732, PRO, SP 103/16.

[16]*Labrador Boundary Documents*, vol. 8, 4080.

[17]Bladen to Dubois, 8 November 1719, AAE, CP 327, 245.

[18]Letters from Pulteney, 24 November, 20 December 1719, PRO, SP 78/166.

[19]"Memoire historique sur ce qui a esté stipulé par la paix conclue à Utrecht le 11 Avril 1713, entre la France et la Gde. Brete. au sujet de leurs Etats en Amerique", 31 December 1724, AAE, MD Angleterre, vol. 17, 108 ff [NAC reel C-12573].

[20]Davenport, *European Treaties*, vol. 2, 132.

[21]The British held that the Treaty of Breda was irrelevant, since France never had a right to Hudson Bay territory in the first place: "Reply to ye Answere given by the French Commissioners ....", 1687, PRO, SP 103/14.

[22]It is unknown whether the French government was aware of the British claim to Labrador south of Davis Inlet as well.

[23]D'Auteuil's memoirs on this subject are in *Labrador Boundary Documents* vol. 8, 4083-4085. See also Savelle, "Forty-Ninth Degree", 196 ff.

[24]Cadillac, "Projet", December 1719, AAE, CP Angleterre, vol. 328, 272 [NAC reel C-12543].

[25]Cadillac, Letter, 2 January 1720, and memorandum, January 1721, AAE, CP Angleterre, vol. 328, 269 and vol. 334, 53.

[26]A "Memoire concernant Le Labrador", 1715, stated that the bigger and better area of the peninsula was French, extending from Mingan to Hudson Straits with the hinterland. Archives des Colonies, Série C11A, vol. 109, 48 [NAC reel C-2403]. Another line of argument was that since the English only rightfully could claim "quelques établissements à portée des Côtes de la Mer, il est evident que l'interieur des terres est censé appartenir à la France". "Mémoire sur les Colonies de la France dans l'Amerique Septentrionale. Par le Marquis de la Galissonnière", 1751, AAE, MD Amérique, vol. 24, 191.

[27]"Memoire touchant les pretentions des françois et des anglais sur les terres de la nouvelle france et le Canada .... 1750", AAE, MD Amérique, vol. 9, 345 [NAC reel C-12570].

[28]"Proposal to open trade to Terra Labrador for furs etc", 16 April, 1752. *Journal of the Committee for Trade and Plantations 1759/50-1753*, 299. Stirling thought that the "Esquimeaux Indians", who were at "perpetual war with the Canada and other French Indians" could be useful allies.

[29]Minutes, 10 June 1752, *Journal of the Committee for Trade and Plantations*, 1753, 326.

[30]Memorial of the HBC, 20 July 1752, *Labrador Boundary Documents*, vol. 8, 4098-99.

[31]"Report of the Lords of Trade upon the Petition of Several Merchants of London...", 23 July 1752, PRO, CO 5/6, 96-110 [NAC reel C-12896].

[32]Preamble to a declaration made by the owners of the *Hope*, 14 April 1752. Centre for Newfoundland Studies, Herrnhut Collection, R.15.Ka.1.

[33]*Rapport de la Commission d'Étude sur l'Intégrité du Territoire du Québec* (Québec 1969-71), 3.1, tome 1, 58.