

Good Fences Make Good Neighbours

By Will O'Hara and Anna Husa



Some time in the future a land surveyor will receive an assignment to plot an international boundary between Canada and a contiguous country. This will be no ordinary assignment. The land surveyor must be willing to travel long distances and be able to work with little or no communication from the outside world. The assignment will be awarded to an adventurous land surveyor at some time in the future, but not soon - the boundary is still in dispute.

Most of Canada's international boundaries are well established and recognized internationally. The boundaries between provinces are so well established now that it is difficult to imagine altercations between provinces, but this was not always the way. Before there were good fences there were difficult neighbours. The occasion of the one hundred and twenty-fifth anniversary of the Association of Manitoba Land Surveyors is a good time to consider how far Manitoba and Ontario have come in putting their differences behind them.

Manitoba expands:

By the early 1870s Manitoba was seeking to expand its boundaries. A large number of people were settling just outside Manitoba's existing boundaries and they wanted representative government. Manitoba sought to expand its territory to respond to their demands. At the same time, Manitoba wanted to increase its control over natural resources to alleviate the finan-

cial strains caused by this growing population.¹ Of particular interest to Manitoba was the Lake of the Woods area to the east, and particularly, the town of Rat Portage. Not more than a "small clearing in the bush,"² Rat Portage (now Kenora) was abundant in minerals and timber. For this very reason it was equally attractive to Ontario. Rat Portage would soon become the object of a vicious game of tug-and-pull between the two provinces.

In 1873 Manitoba sent a contingent to Ottawa to present its expansionist demands. Unfortunately for the Manitoba delegation, a change in the federal government occurred in that year, with Sir John A. MacDonald being replaced with Alexander McKenzie. A new government meant new priorities. Manitoba's boundary was not among them.

It was not until 1878, with the return of MacDonald's Conservatives, that the issue of Manitoba's boundaries was revisited. It would take another three years of negotiations before the Manitoba Boundaries Extension Act was proclaimed. Instead of bringing Manitoba some certainty, however, the 1881 Act would prove to be the source of significant frustration for Manitoba for the next several years.³

The tug and pull over Rat Portage

The Act set Manitoba's boundaries to the west at the twenty-ninth range of townships, in the north at 52° 50' latitude and in the east at the western boundary of Ontario.⁴ This western

boundary, however, had never been identified with precision.

In 1871 Ontario had requested the Dominion to appoint a commission to define its boundaries to the north and to the west. The Dominion Survey had recommended that all territory west of Port Arthur, including Rat Portage, be assigned to Manitoba. Ontario crossed its arms, pouted and stomped its feet in protest. Fortunately for Ontario, the change in federal government shortly thereafter led to the recommendation being placed on the back burner. In 1878 a committee of arbiters was appointed to re-examine the issue of Ontario's western boundary. In 1882, the arbiters recommended that the Lake of the Woods be given to Ontario.⁵ Again, the recommendation was not finalized. But Manitoba, this time the loser in the draw, did more than pout. It threw down the gauntlet.

In 1882, in an act of defiance, Manitoba incorporated Rat Portage under the Manitoba Incorporation Act. As justification for this bold behavior, Manitoba claimed that the townspeople of Rat Portage had signed a petition stating that they wished to be a part of Manitoba. In response, Ontario accused Manitoba of obtaining the signatures under false pretenses. Undaunted by the accusation, Manitoba established a jailhouse, a magistrate and police force in Rat Portage. Ontario quickly did the same. For months to follow, these representatives of law and order spent their time arresting each other on trumped-up charges. In the meantime, boot legging in the area thrived.⁶

Award of the Privy Council and a cessation of hostilities

The conflict between Manitoba and Ontario finally reached its pinnacle when the Manitoba jailhouse was stormed and burned.⁷ Weary of the hostilities, the Attorneys General of each province agreed to allow the Privy Council of Britain Canada's highest court of justice - to settle the boundary issue between them. In 1884 the Privy Council decided in favour of Ontario. The Ontario-Manitoba boundary was drawn at the North-West Angle of the Lake of the Woods.⁸ Some time thereafter a group of surveyors was assigned the task of physically marking the boundary between the two provinces. And with those markings, the conflict was officially at an end.

History repeats itself

The Manitoba-Ontario dispute highlights the importance of well-defined boundary lines between neighbours. But the story of hostilities is not unique. Such conflicts are played out on a micro-scale all over Ontario (and beyond), where court rooms are filled with feuding neighbours, sometimes fighting over mere inches of land. Similar conflicts are played out internationally as well. The history of the Ontario-Manitoba dispute reads

like a script for a present day altercation which has placed Canada in the headlines: A remote territory, a fight over boundary lines, a desire for natural resources, games of one-upmanship...sound familiar? While the description may characterize Ontario and Manitoba in the late 1800s, it applies equally to the current dispute between Canada and Denmark over Hans Island.

Even less prominent than Rat Portage in the 1870s, Hans Island is an uninhabited little dot of land in the Arctic waters, with a surface area not greater than 1.3 sq. km.⁹ The island is inhospitable. Only extreme global warming could make the island attractive. The waters around Hans Island are said to be teeming with fish and shrimp. The resolution of the dispute over Hans Island will be an important precedent for determining sovereignty disputes along the Northwest Passage and Arctic Sea.¹⁰

Canada and Denmark both claim ownership over the little knoll of land. Much like the problem posed by the Manitoba Boundaries Extension Act, the borders between Canada and Denmark were imprecisely defined by treaty. The 1973 delimitation treaty on the continental shelf between Canada and Greenland failed to adequately define the borders. The ambiguity has

given rise to the turf war between the two countries. In 1988, a Danish ocean patroller arrived on the island and placed a flagpole there. In early July of 2005, a small group of Canadian soldiers landed on the island and erected the Canadian flag. Later that month, Canadian Defence Minister Bill Graham visited the island.¹¹ The Danes called the act an "occupation."¹² Undoubtedly, Denmark will soon make its own visit. Undoubtedly, Canada will pout and stomp, illustrating once again the problems caused by inadequate fences.

If the two countries are unable to resolve the dispute they may have to appeal to the International Court of Justice to ascertain the boundary line between them. And if Hans Island is divided in half, a group of adventurous surveyors will again be sent to a remote destination to physically plot the boundary line. And with those markings, the conflict will officially be at an end. Good fences make good neighbours.

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¹The Association of Manitoba Land Surveyors, "Manitoba's Boundaries," [no date] <http://www.aml.ca/mc_bdy.htm> (date accessed: June 20, 2005). ² Lake of the Woods Museum, "History," [no date] <<http://www.lakeofthewoodsmuseum.ca/pages/history.htm>> (date accessed: August 15, 2005). ³ Manitoba's Boundaries, *supra*.

⁴ Manitoba's Boundaries, *supra*; *Manitoba Boundaries Extension Act, 1881*, asserted to 21st March 1881

<http://www.solon.org/Constitutions/Canada/English/Misc/mbc_1881.html> (date accessed: August 15, 2005). ⁵ Manitoba's Boundaries, *supra*; Tourism Kenora, "Ontario-Manitoba Boundary Dispute" [no date] <http://www.city.kenora.on.ca/kenora_tourism/history_culture/boundary_dispute.htm/> (date accessed: August 15, 2005).

⁶ Ontario-Manitoba Boundary Dispute, *supra*. ⁷ Manitoba Boundaries, *supra*. ⁸ *Ibid*; Ontario-Manitoba Boundary Dispute, *supra*. ⁹ Wikipedia, "Hans Island", July 29, 2005

<http://en.wikipedia.org/wiki/Hans_Island> (date accessed: July 29, 2005) ¹⁰ Hans Island, *supra*; The Naval Officers Association of Canada, Rob Heubert, 2003, "The Return of the Vikings" <http://www.naval.ca/article/Hubert/The_Return_of_the_Vikings.htm/> (date accessed: July 29, 2005). ¹¹ Hans Island, *supra*. ¹² Brian Laghi, "Danes Call Caraham's visit to Hans Island occupation," July 27, 2005 <http://www.theglobeandmail.com/servlet/story/RRGAM.20050727.wxhans27/BNPrint/Natio...> (date accessed: July 29, 2005).

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