

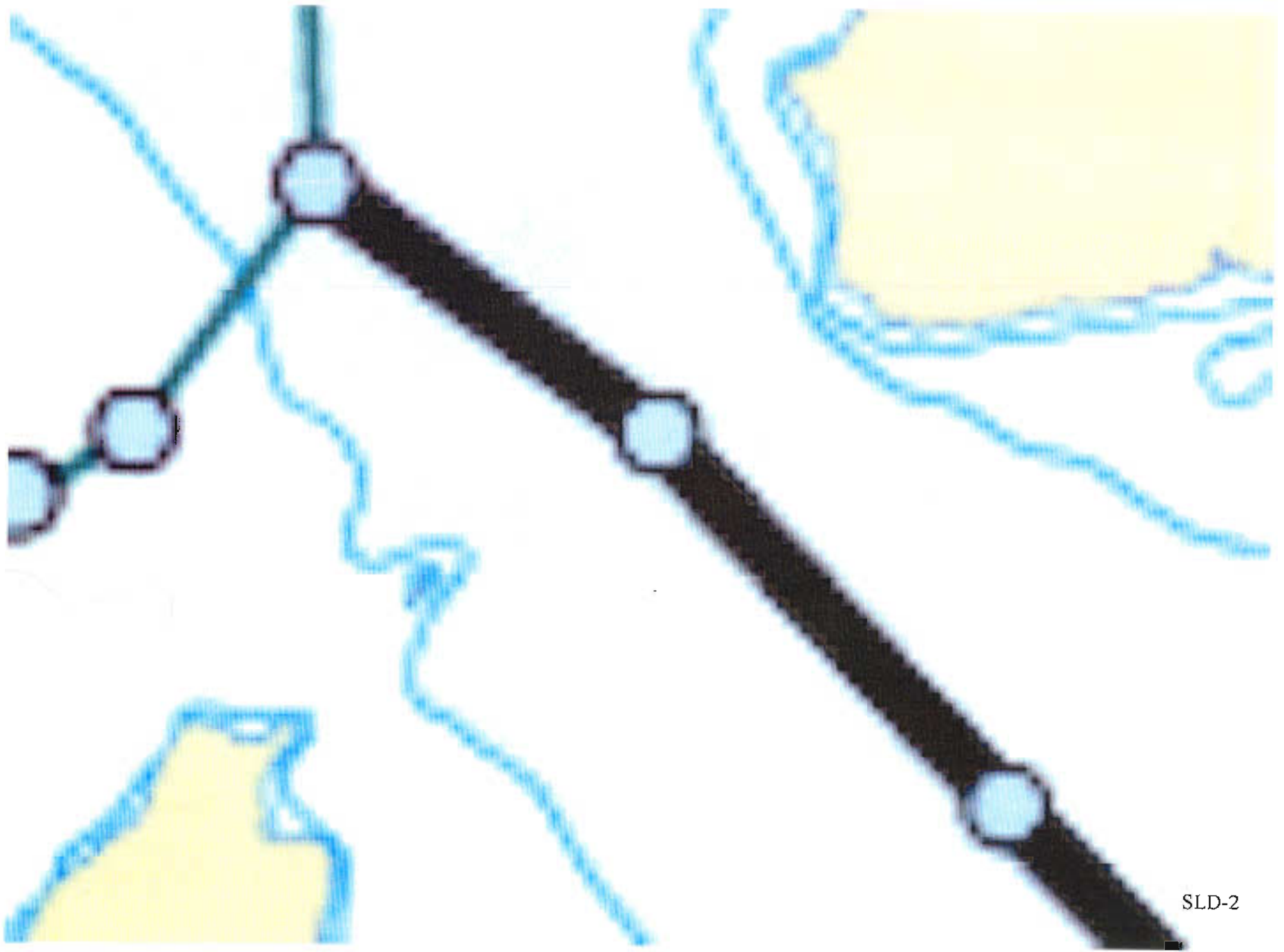


THE CONCLUSION OF THE *1964 AGREEMENT*

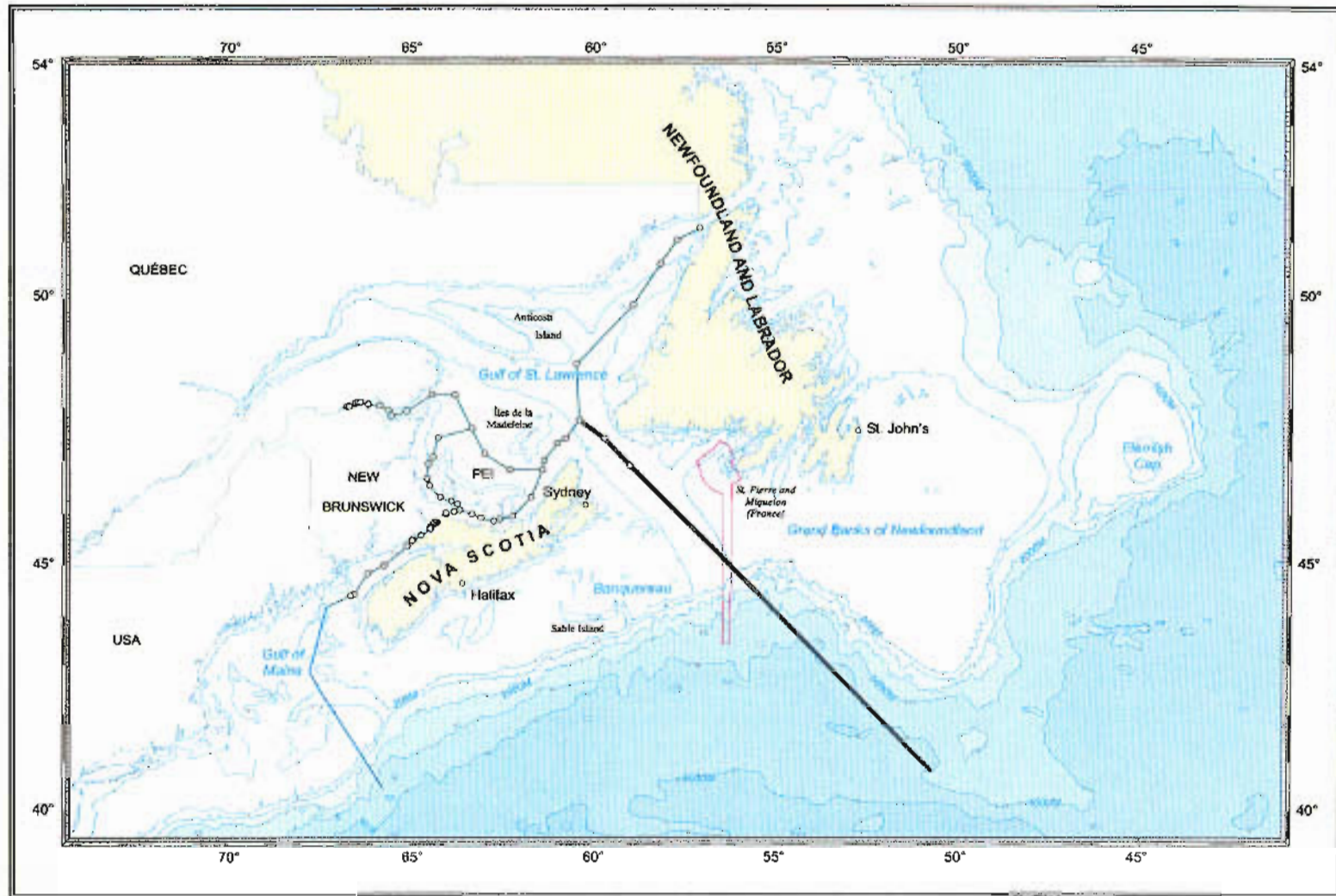
Stephen L. Drymer
Deputy Agent
for the Province of Nova Scotia

12 March 2001

SLD-1



1964 AGREEMENT BOUNDARY



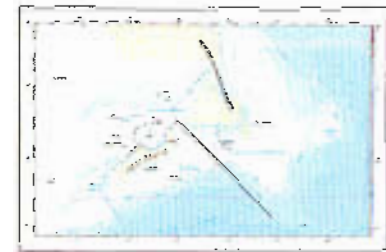
CONCLUSION OF THE *1964 AGREEMENT*

Considering the Factual Record

What the Tribunal has before it is **as complete a record as can be compiled**. When considering the record, focus not on the gaps, but on the composite picture that emerges:

“... it is impossible to rely upon a few words taken from a single note ...

“The Court considers that too much importance need not be attached to the few uncertainties or contradictions, real or apparent, which the United Kingdom Government claims to have discovered ... They may be easily understood in the light of the variety of facts and conditions prevailing in the long period which has elapsed...”



1964 Agreement
Boundary

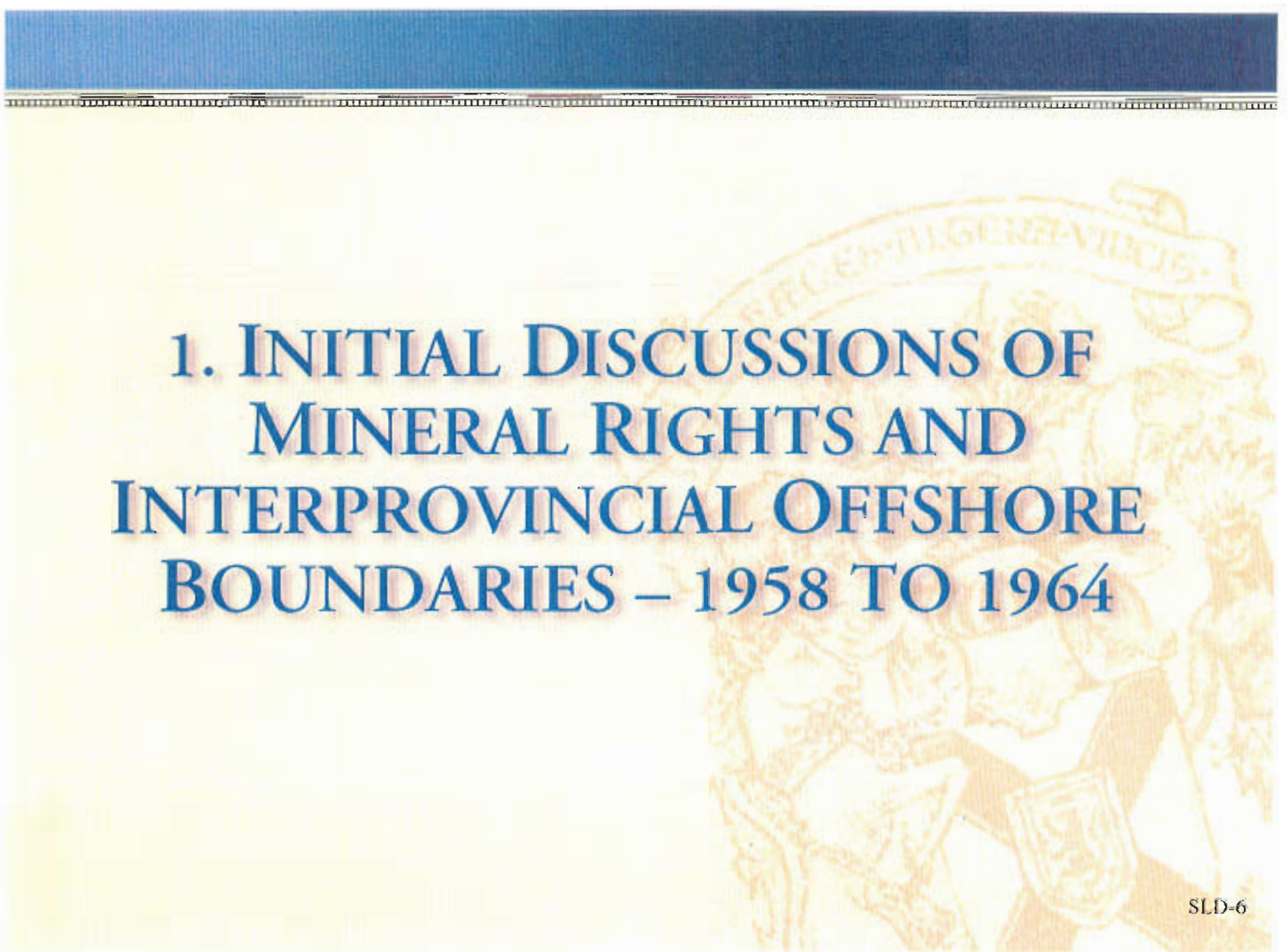
Source: As noted by ICJ in the *Fisheries Case*
(UK v. Norway, ICJ Rep 1951 at p. 138)



Submissions on the Facts

The facts reveal that in agreeing on their mutual boundary the parties:

1. **Intended** to conclude, and did conclude, a binding agreement on their boundaries;
2. Delineated the **entirety of their mutual boundary**, out to the limits of the continental shelf subject to Canadian jurisdiction at international law;
3. Described their boundary **accurately and completely**;
4. Regarded the agreement between them as of **immediate effect**;
5. Considered their agreed boundaries applicable to **all forms** of rights relating to the mineral resources of the continental shelf ...
6. **and only** to rights relating to the mineral resources of the shelf – just as in the **present-day *Accords***



1. INITIAL DISCUSSIONS OF MINERAL RIGHTS AND INTERPROVINCIAL OFFSHORE BOUNDARIES – 1958 TO 1964

1958 CONFERENCE OF ATLANTIC PREMIERS



DEPARTMENT OF ATTORNEY GENERAL

INTERDEPARTMENT MEMO 22nd April, 1959

TO Attorney General

FROM: Deputy

Last summer, Dr. J. P. Swelan, Deputy Minister of Mines, raised the question of a boundary line between the Provinces as it related to authority to grant mining licenses and leases. I wrote to him under date of August 26th, 1958, suggesting some of the legal questions raised by this proposal. A copy of this letter went to yourself and to Mr. Louis G. Macleod. Mr. Macleod incorporated the contents of that letter in a memorandum under the title "Unconceded Mineral Rights" which was distributed at the Atlantic Provinces Premiers' Conference in September, 1958, although no specific action was taken in connection with it. A copy of that memorandum is appended hereto.

I am now advised by Dr. Swelan that he has received an application for a license to search for petroleum in the area surrounding and including Sable Island and extending considerably more than seven miles beyond the boundaries of Sable Island. This raises and rephrases the questions raised by his earlier letter and adds the complications arising from the peculiar position of Sable Island.

You will recall that, among the enumerated subject matters assigned to the exclusive legislative jurisdiction of Parliament by Section 91, there is included as clause 9, "Beacons, Buoys, Light-houses, and Sable Island", and that Section 108 of the S.A.A. Act provides, "The Public Works and Property of each Province enumerated in the Third Schedule to this Act shall be the Property of Canada," included in the Third Schedule as numbered enumeration 3 is "Light-houses and Piers, and Sable Island".

From these provisions, it can be argued on the one hand that, since both the fee simple to the Island and the legislative jurisdiction with respect to it are vested in the Dominion, that constitutes a totality of power and leaves no sphere of jurisdiction as to concerning the Island to the Province. On the other hand, it can be argued that Section 108 implicitly recognizes that at Confederation Sable Island was the property of a Province, presumably Nova Scotia, and that the whole effect of Section 108 is to vest the fee simple in the surface of the Island in the Dominion, with of course legislative control also over the surface of the Island, but that under Section 108 quoted in my earlier memorandum the mineral rights remain vested in the Province. In the description of the boundaries of Nova Scotia quoted in my earlier memorandum, Sable Island, being within three leagues of the Coast, would, I believe, be included within the boundaries of Nova Scotia.

Heretofore we have been concerned with the mineral rights only but, in view of our Sea Ports Harboring Act, as amended at the

2 -

we are now also concerned with rights adjacent. The two questions are, of

by the Province is not exactly known. In answer to a question by Mr. Leaso, the old National Development Honourable Mr. Stelmach:

national law the seabed and subsoil is vested in the Dominion states: "The Dominion has sole and exclusive jurisdiction in respect of the seabed and subsoil of the territory of Canada in right of Canada."

In respect of Hudson Bay and Hudson Strait were reported at pages 1150-9 of Harcourt

observations in disagreement with this which were reported at pages 120-82 of Woodhouse the day following that, as a result, the Honourable Mr. Cagoule considered with his colleagues, but there further discussion, at least at that

view as expressed by the Honourable member that the opinion attributed to the Island was probably held in respect of mineral-owned territories. That portion to the Dominion state jurisdiction over the water.

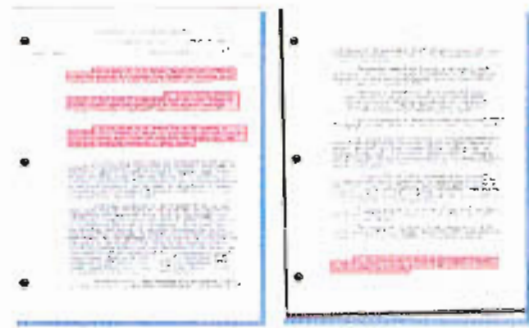
This whole question is, of course, of very great importance and its importance will be increased if, by any chance, oil is discovered in subterranean lands.

The question was the subject of an Act editorial in the Halifax Chronicle-Herald for Monday, April 21st, 1958, which editorial comment provides a very good summary of the existing situation.

It is suggested that some steps along the lines of the following should be taken without delay:

1. The Province should determine what stand it proposes to take on this whole question, and also on the question of boundary divisions between the Provinces;

2. The matter should be made the subject of immediate discussion, either at the Dominion-Provincial level or, in the first



Annex 8

- 1958 -



Conference of Atlantic Premiers

The question of interprovincial mineral rights and boundaries was raised initially at the Conference of Atlantic Premiers in **September 1958**.



Annex 8

to him under date of August 26th, 1958, suggesting some of the legal questions raised by this proposal. A copy of this letter went to yourself and to Mr. Innis G. MacLeod. **Mr. MacLeod incorporated the contents of that letter in a memorandum under the title "Submarine Mineral Rights" which was distributed at the Atlantic Provinces Premiers' Conference in September, 1958, although no specific action was taken in connection with it.** A copy of that memorandum is appended hereto.

I am now advised by Dr. Nowlan that he has received an

- 1958 -



Conference of Atlantic Premiers

Then, as now, the issue revolved around the **issuance of permits** to conduct mining operations and to explore for oil and gas.



Annex 8

Last Summer, Dr. J. P. Nowlan, Deputy Minister of Mines, raised the question of a boundary line between the Provinces as it related to authority to grant mining licenses and leases. I wrote to him under date of August 26th, 1958, suggesting some of the legal

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1959 ATLANTIC PREMIERS CONFERENCE



PREMIERS' CONFERENCE

OPENING PUBLIC SESSION

HOUSE OF ASSEMBLY

AGENDA

10 a. m.

Tuesday, Sept. 22

SPEAKERS: Premier J. H. Smallwood
- Robert L. Stanfield
- Alex Matheson
- Hugh John Fleming

3 p. m.

CABINET ROOM

1. Report of Capital Projects Committee by J.A.Y. MacDonald, Chairman
2. Farm Credit
3. Transportation in the Atlantic Region Report by Howard Mann of Maritime Transportation Commission
4. Atlantic Provinces' Representation
5. Submarine Mineral Rights
6. Newfoundland Floorpar
7. New Business

Annex 9

- 1959 -



Atlantic Premiers Conference

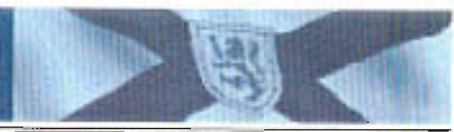
The matter of boundaries was again raised the following year at the Conference of Atlantic Premiers, held in Fredericton, NB on **September 22, 1959**.



Annex 9

3. Transportation in the Atlantic Region Report by Howard Mann of Maritime Transportation Commission
4. Atlantic Provinces' Representation
- 5. Submarine Mineral Rights**
6. Newfoundland Fluorspar
7. New Business

1958 CONFERENCE OF ATLANTIC PREMIERS



DEPARTMENT OF ATTORNEY GENERAL

INTERDEPARTMENT MEMO 22nd April, 1959

FROM: Deputy

TO: Attorney General

Last Summer, Dr. J. P. Bowden, Deputy Minister of Mines, raised the question of a boundary line between the Provinces as it related to authority to grant mining licenses and leases. I wrote to him under date of August 26th, 1958, suggesting some of the legal questions raised by this proposal. A copy of this letter went to yourself and to Mr. Louis G. MacLeod. Mr. MacLeod incorporated the contents of that letter in a memorandum under the title "Submarine Mineral Rights" which was distributed at the Atlantic Provinces Premiers' Conference in September, 1958, although no specific action was taken in connection with it. A copy of that memorandum is appended hereto.

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You will recall that, among the enumerated subject matters assigned to the exclusive legislative jurisdiction of Parliament by Section 91, there is included as clause 9, "Seas, Bays, Light-houses, and Sable Island", and that Section 108 of the D.N.A. Act provides, "The Public Works and Property of each Province enumerated in the Third Schedule to this Act shall be the Property of Canada." Included in the Third Schedule as numbered enumeration 3 is "Light-houses and Piers, and Sable Island".

From these provisions, it can be argued on the one hand that, since both the fee simple to the island and the legislative jurisdiction with respect to it are vested in the Dominion, that constitutes a totality of power and leaves no sphere of jurisdiction on or concerning the island to the Province. On the other hand, it can be argued that Section 108 impliedly recognizes that at Confederation Sable Island was the property of a Province, presumably Nova Scotia, and that the whole effect of Section 108 is to vest the fee simple in the surface of the island in the Dominion, with of course legislative control also over the surface of the island, but that under Section 108 quoted in my earlier memorandum the mineral rights remain vested in the Province. In the description of the boundaries of Nova Scotia quoted in my earlier memorandum, Sable Island, being within forty leagues of the Coast, would, I believe, be included within the boundaries of Nova Scotia.

Heretofore we have been concerned with the mineral rights only but, in view of our Sea Plants Harvesting Act, as amended at the

2 -

we are now also concerned with rights subsoil. The two questions are, of

by the Dominion is not exactly known. In response to a question by Mr. Loango, the Chief National Resources (Honorable Mr. Loango),

national law the seabed and subsoil is treated in the federal state. Now, have advised that the authority is sea bed and subsoil of the territory Crown in right of Canada."

In respect of Hudson Bay and Ungava Strait are reported at pages 1308-9 of Report

Observations in disagreement with this Act are reported at page 1308-9 of Report. The Honorable Mr. Loango consulted with his colleagues, but there further agreement, at least at that

view as expressed by the Honorable Mr. Loango. The opinion contributed to the subject was probably made in respect of unincorporated territories. That position is the federal state jurisdiction over the area.

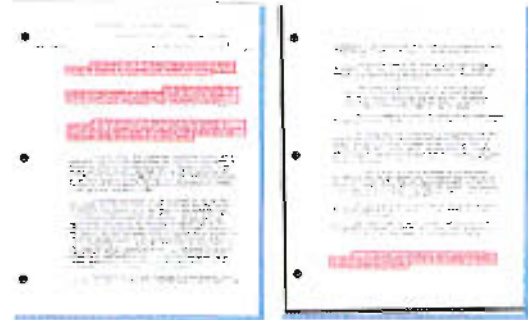
This whole question is, of course, of very great importance and its importance will be increased if, by any chance, oil is discovered in submarine lands.

The question was the subject of the lead editorial in the Halifax Chronicle-Herald for Monday, April 22nd, 1959, which editorial comment provides a very good summary of the existing situation.

It is suggested that some steps along the lines of the following should be taken without delay:

1. The Province should determine what stand it proposes to take on this whole question, and also on the question of boundary divisions between the Provinces.

2. The matter should be made the subject of immediate discussion, either at the Dominion-Provincial level or, in the first



Annex 8

- 1959 -



Atlantic Premiers Conference

As early as 1959, the provincial stand regarding “this whole question” of federal *versus* provincial jurisdiction was recognized as distinct from “**the question of boundary divisions between the Provinces**”.



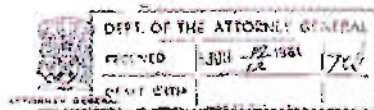
Annex 8

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1. The Province should determine what stand it proposes to take on this whole question, and also on the question of boundary divisions between the Provinces;

2. The matter should be made the subject of immediate discussion, either at the Dominion-Provincial level or, in the first

1960 ATLANTIC PREMIERS CONFERENCE



Halifax, June 9, 1961.

Dear Mr. Attorney:

You will recall that at the time of the Premiers' Meeting in Halifax some brief consideration was given to the question of off-shore mineral rights. This same matter has been a subject of collaboration by the Ministers of Mines in Canada, and at a conference held last October in the City of Quebec the Ministers of Mines passed the following resolution:

"The Ministers of Mines of the several provinces of Canada in Conference assembled wish to make known to the Federal Government their grave concern in the matter of jurisdiction over offshore mineral rights.

"The Mines Ministers unanimously agree and assert that offshore mineral rights within such distances offshore from provincial lands as seems reasonable and just and consistent with the terms of Union pursuant to the B.N.A. Act are the resources of the province and subject to provincial jurisdiction."

It seems that the matter of off-shore mineral rights, as they affect the relations between provinces, and between the province and the Federal Authority, is one which deserves careful consideration and should be clarified. In the event that any mineral finds took place in such areas, it might be of the utmost importance that the provinces concerned were in agreement as their respective rights in advance of any discovery.

Would you be willing, therefore, to consider attending a conference in Halifax, with such officials or advisers as you may care to bring with you, to discuss this important question? If so, I would suggest Wednesday, June the 29th, as an appropriate date for the conference.

May I hear from you at your early convenience.

Yours very truly

Richard G. Dinsmore
R. G. Dinsmore

Hon. J. R. Curlick, Q.C.,
Attorney General of Newfoundland,
Confederation Building,
St. John's, Nfld.



N&L Doc. 1

- 1960 -



Atlantic Premiers Conference

Offshore mineral rights and boundaries were again considered by the Premiers at their Conference of **September 21, 1960.**



N&L Doc. 1

Dear Mr. Attorney:

You will recall that at the time of the Premiers' Meeting in Halifax some brief consideration was given to the question of off-shore mineral rights. This same matter has been a subject of consideration by the Ministers of Mines in Canada, and at a conference held last October in the City of Quebec the Ministers of Mines passed the following resolution:

"The Ministers of Mines of the several provinces of Canada in Conference assembled wish to make known to the

- 1960 -



Atlantic Premiers Conference

“Relations between the provinces” were distinguished from relations “between the provinces and the Federal Authority”.

Permit issuance remained a driving factor.



N&L Doc. 1

the resources of the province and subject to provincial jurisdiction.”

It seems that the matter of off-shore mineral rights, as they affect the relations between provinces, and between the provinces and the Federal Authority, is one which deserves careful consideration and should be clarified. In the event that any mineral find took place in such areas, it might be of the utmost importance that the provinces concerned were in agreement on their respective rights in advance of any discovery.

Would you be willing, therefore, to consider attending a conference in Halifax, with such officials or advisers as you may care to

JUNE 28, 1961 MEETING OF ATLANTIC A-Gs



. 2 .

fact that it is not possible for the land boundaries of the Maritime Provinces to be extended and based also in part on our ancient argument respecting northern lands.

You will recall also, that arising out of a meeting of the Atlantic Province Premiers, you called a meeting of the Attorneys General in June 1961, at which time it was agreed that we should first of all agree among ourselves upon inter-provincial boundaries, assuming that all of the lands under the Bay of Fundy and Northumberland Strait and substantial parts of the Gulf of St. Lawrence were to be owned by the Provinces. At our request, Dr. Nowlan prepared a plan and a verbal description of suggested boundaries between the several provinces of Quebec, Newfoundland, New Brunswick, Prince Edward Island and Nova Scotia. I sent copies of this plan and descriptions to the Attorney General of Newfoundland, the Honourable Premier and Attorney General of New Brunswick and to Mr. B. Graham Rogers of the Department of Industry and Natural Resources of Charlottetown, who had attended the Halifax Conference representing the Attorney General of Prince Edward Island. I had no acknowledgment or comment from the Attorney General of Newfoundland or the Attorney General of New Brunswick but, I have had several letters and several visits from Mr. Rogers. I may say that I sent duplicate copies to Mr. Rogers so that he could pass one on to the appropriate authorities in Quebec. Mr. Rogers states that Prince Edward Island is quite prepared to accept the boundaries as suggested and he feels quite confident that both New Brunswick and Quebec would also be prepared to accept them. From our conversations with the Attorney General of Newfoundland, I think it is quite clear that they would be prepared to go along with any arrangement which was acceptable to the other Atlantic Provinces. Newfoundland has not shown any great interest in the question as their peculiar situation in Conception Bay is taken care of by the terms of the Union and otherwise they have sufficient mineral resources inland that they are not particularly concerned at the present time with explorations in submarine areas.

What our approach should be to the Federal authorities, is of course a question of policy. One course, and in many ways perhaps what would be considered the most desirable course, would be to obtain agreement from the Federal authorities that the Provinces should have the mineral rights in the submarine areas. Perhaps one way of giving effect to this would be a redefinition of the provincial boundaries as would be possible, I think under the B. N. A. Act amendment of 1871. This of course, would involve eventual Federal legislation but, for the time being a commitment would be quite sufficient for our purposes. Another course, would be to arrange an agreed reference to the Supreme Court of Canada under the Supreme Court Act. The third course, would be to permit the matter to be raised indirectly in some such case as the assessment appeal which is now before the Nova Scotia Court. A fourth course, would be to let "sleeping dogs lie" and face the situation when it arose, chiefly following some discovery.

I add only that, the Government of Prince Edward Island is strongly of the opinion that action should be taken without delay.

May 11th, 1962

c.c. Mr. B. Graham Rogers,
Geological Officer,
Dept. of Industry & Natural Resources,
Charlottetown, P. E. I.



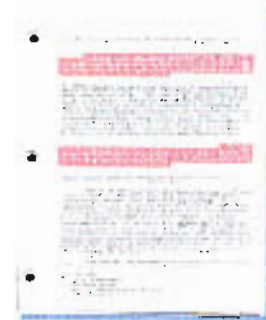
Annex 16

- 1961 -



Meeting of Atlantic A-Gs

On **June 28, 1961** the A-Gs of the Atlantic Provinces determined that “**we should first of all agree among ourselves upon inter-provincial boundaries**”.



Annex 16

You will recall also, that arising out of a meeting of the Atlantic Province Premiers, you called a meeting of the Attorneys General in June 1961, at which time it was agreed that we should first of all agree among ourselves upon inter-provincial boundaries, assuming that all of the lands under the Bay of Fundy and Northumberland Strait and substantial parts of the

accept the boundaries as suggested and he feels quite confident that both New Brunswick and Quebec would also be prepared to accept them. From our conversations with the Attorney General of Newfoundland, I think it is quite clear that they would be prepared to go along with any arrangement which was acceptable to the other Atlantic Provinces. Newfoundland has not shown any great interest in the question as their peculiar situation in Conception Bay is taken care of by the terms of the Union and otherwise they have sufficient

- 1961 -



MEETING IN HALIFAX, JUNE 28, 1961
BY LINDA BATES STUBBS, SINGULARLY

PRESENT WERE: Hon. E. A. Bennett, Attorney General of Nova Scotia,
Chairman of the meeting.
Hon. Louis Robichaud, Premier and Attorney General of
New Brunswick.
Hon. Leslie Curtis, Attorney General of Newfoundland.
E. Graham Rogers, Geological Officer, Prince Edward
Island. (Hon. Melvin McInnis was unavoidably absent
at last moment). Mr. Rogers represented Prince Edward
Island alone.
Mr. John A. LaForeux, Deputy Attorney General, N.S.
Mr. J. J. LaForeux, Adviser to Premier Robichaud,
Fredericton, New Brunswick.

When the presentation is ready for Ottawa dealing with the offshore
boundaries and rights, then the four Premiers are to write Ottawa
at the same time. Separate letters but same theme and date.

Newfoundland now has a definite three mile limit which they had
before they entered Confederation. A clause in their Confederation
Agreement says they retain every right and authority they had before
Confederation and as a Colony they had a three mile limit of ap-
proximately complete ownership and therefore any Oil, Gas or Minerals
in that three miles belongs to Newfoundland.

The meeting thought that possibly a three mile territorial limit
should be given each Province for less if boundaries are less
between any two Provinces.

The question of the Continental Shelf which extends out in the Gulf
of St. Lawrence as well out in the Atlantic Ocean and who owns oil,
gas or mineral rights has to be decided upon. For example, some
work has taken place between Nova Scotia and Sable Island and on
Sable Island. Apparently, Nova Scotia is not sure that Sable Island
belongs to them. Citizens of Sable Island vote at Halifax in Federal
Elections but do not vote in Nova Scotia Provincial Elections.

The boundaries between Nova Scotia, New Brunswick and Prince Edward
Island in the Northumberland Strait area were tentatively accepted
according to a map presented by E. Graham Rogers. This map is on a
grid basis. The final exact line of boundary in Northumberland
Strait would have to be decided upon by a proper survey but for all
practical purposes this map would do for general exploration activities.

Mr. LaForeux says the British North America Act of October 1871 con-
tains a clause on the matter of boundaries between Provinces.
Apparently, requests for such settlements must come from the Legis-
latures of the Provinces concerned.

The question now is how to set a three mile limit, who are asked to
be first along with the other Provinces. In addition, the question of offshore
ownership has arisen and it is accepted that Nova Scotia owns this.

The question of how to recognize claims to other Provinces was also
it was felt, that if this Ottawa deal, without hesitation or
hesitation of any kind, is to be a reality, then to the four Provinces,
the present and proposed Oil, Gas and Mineral Rights along
boundary lines, to be decided upon between the Provinces.

It is understood that the Province of Quebec is still the only Province
which has the right to the St. Lawrence River and certain other waters.
They are, in fact, entitled to it.

E. Graham Rogers was asked if he is in touch with the Province of Prince
Edward Island on this matter, and he said he had been informed of
progress of the matter, especially Hon. Leslie Curtis, New
Brunswick.

.....



N&L Doc. 2

SLD-19

- 1961 -



Meeting of Atlantic A-Gs

Already the Provinces were contemplating a presentation to the Government of Canada...

The issue of the Provinces' jurisdiction claim to "ownership" was described as relating expressly to **"Oil, Gas and Mineral Rights"**

These rights were to be claimed **"along boundary lines to be decided upon between these Provinces."**



N&L Doc. 2

When the presentation is ready for Ottawa dealing with the offshore boundaries and rights, then the four Premiers are to write Ottawa at the same time. Separate letters but same theme and data.

Newfoundland now has a definite three mile limit which they had

argument and it is a matter of principle that the four Provinces...
Oil, Gas and Mineral Rights along boundary lines to be decided upon between these Provinces.

- 1961 -



Meeting of Atlantic A-Gs

Those boundaries were necessary, in part, to manage
“**exploration activities**”.

And the question of Mineral rights and, hence, the
boundaries along which they would be claimed, covered
“**the Continental Shelf which extends out in the Gulf of
St. Lawrence as well as out in the Atlantic Ocean.**”



N&L Doc. 2

St. Lawrence Strait would have to be decided upon by a proper survey but for all
practical purposes this map would do for general **exploration activities.**

Mr. LaForest says the British North American Act of October 1871 con-
between any two Provinces.)

**The question of the Continental Shelf which extends out in the Gulf
of St. Lawrence as well out in the Atlantic Ocean** and who owns oil,
gas or mineral rights has to be decided upon. For example, some

1961 MEETING OF ATLANTIC A-Gs



June 29th, 1961.

MEMORANDUM

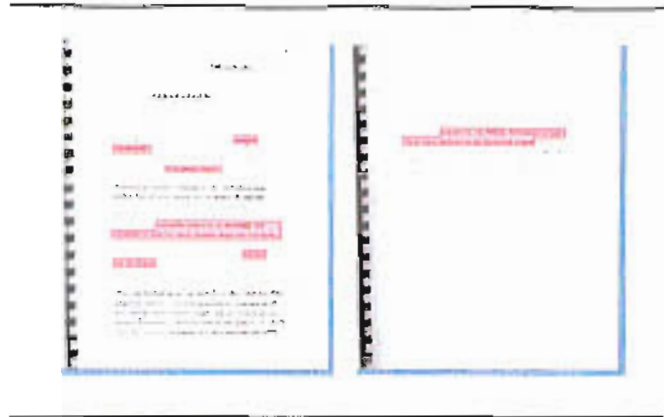
On the 28th of June the Attorneys General of the Atlantic Provinces met in Mr. Donahue's office and discussed the whole question of off-shore mineral concessions. We discussed Provincial rights to the three mile limit and also twelve miles off-shore. We also discussed Continental shelf.

Other participants had a copy of a report made by Professor D. Forrest. Someone in our Government must have a copy of this report and it should be located. If not we should get a copy from New Brunswick.

Nova Scotia and P.E.I. have done considerable work on this but their immediate object is to determine the interests of each on waters between their two Provinces, the idea being to draw a centre line between all the Provinces and that each Province should have mineral and oil rights to that line.

P.E.I. and Nova Scotia, who have already shown on a map a line between their two Provinces, have agreed to extend this line further, up to the Straits of Dolls Island and when completed they will distribute copies of this map which will define the off-shore mineral and oil rights of the several Provinces. When we receive our copy it is agreed that the Province of Quebec will be consulted and asked

The Federal Government to have the Provincial rights under the Act, 1877 which authorized the office Provincial boundaries.



N&L Doc 3

- 1961 -



Meeting of Atlantic A-Gs

The granting of “off-shore **mineral concessions**”...
...drove discussions of rights over the “**Continental shelf.**”



N&L Doc 3

Atlantic Provinces met in Mr. Donahue's office and discussed the whole question of **off-shore mineral concessions.** We discussed Provincial rights to the three mile limit and also twelve miles off-shore. We also discussed **Continental shelf.** Other participants had a copy of a report made by

- 1961 -



Meeting of Atlantic A-Gs

The Provinces' "immediate object" was to determine "the interests of each on waters between their two Provinces, the idea being to draw a centre line"...
...in relation to "mineral and oil rights"...



N&L Doc 3

Nova Scotia and P.E.I. have done considerable work on this but their immediate object is to determine the interests of each on waters between their two Provinces, the idea being to draw a centre line between all the Provinces and that each Province should have mineral and oil rights to that line.

P.E.I. and Nova Scotia, who have already shown on a map

- 1961 -



Meeting of Atlantic A-Gs

...so that, eventually, agreed boundaries could also be used in a request to the federal government “to have those areas declared to be **Provincial rights.**”



N&L Doc 3

-2-

to join in a request to the Federal Government to have these areas declared to be Provincial rights under the provisions of the B.N.A. Act, 1871 which authorized the Federal Parliament to define Provincial boundaries.



THE HOUSE OF COMMONS

Monday, 27th February 1961

The Hon. Member for the City of London

The Hon. Member for the City of London asked the Secretary of State for the Home Office if he would be pleased to state whether the Government intend to consider the possibility of extending the powers of the Special Constables Act 1960 to the City of London.

The Secretary of State for the Home Office: I am sorry that I cannot give a more definite answer to the question, but I am sure that the Government will be anxious to consider the possibility of extending the powers of the Special Constables Act 1960 to the City of London.

27th Feb 1961

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Special Constables (City of London)

1. It is noted that the Secretary of State has indicated that the Government are unlikely to consider extending the powers of the Special Constables Act 1960 to the City of London.

2. It is noted that the Secretary of State has indicated that the Government are unlikely to consider extending the powers of the Special Constables Act 1960 to the City of London.

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N&L Doc 4

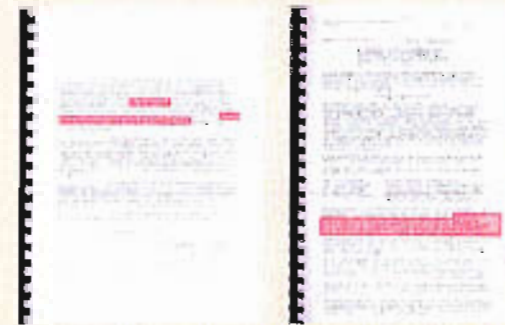
N&L Doc 5

- 1961 -



Meeting of Atlantic A-Gs

As regards a potential request to the federal government to legislate boundaries agreed by the Provinces, the parties clearly **misunderstood** the pertinent clause in the *BNA Act, 1871*.



N&L Doc 4

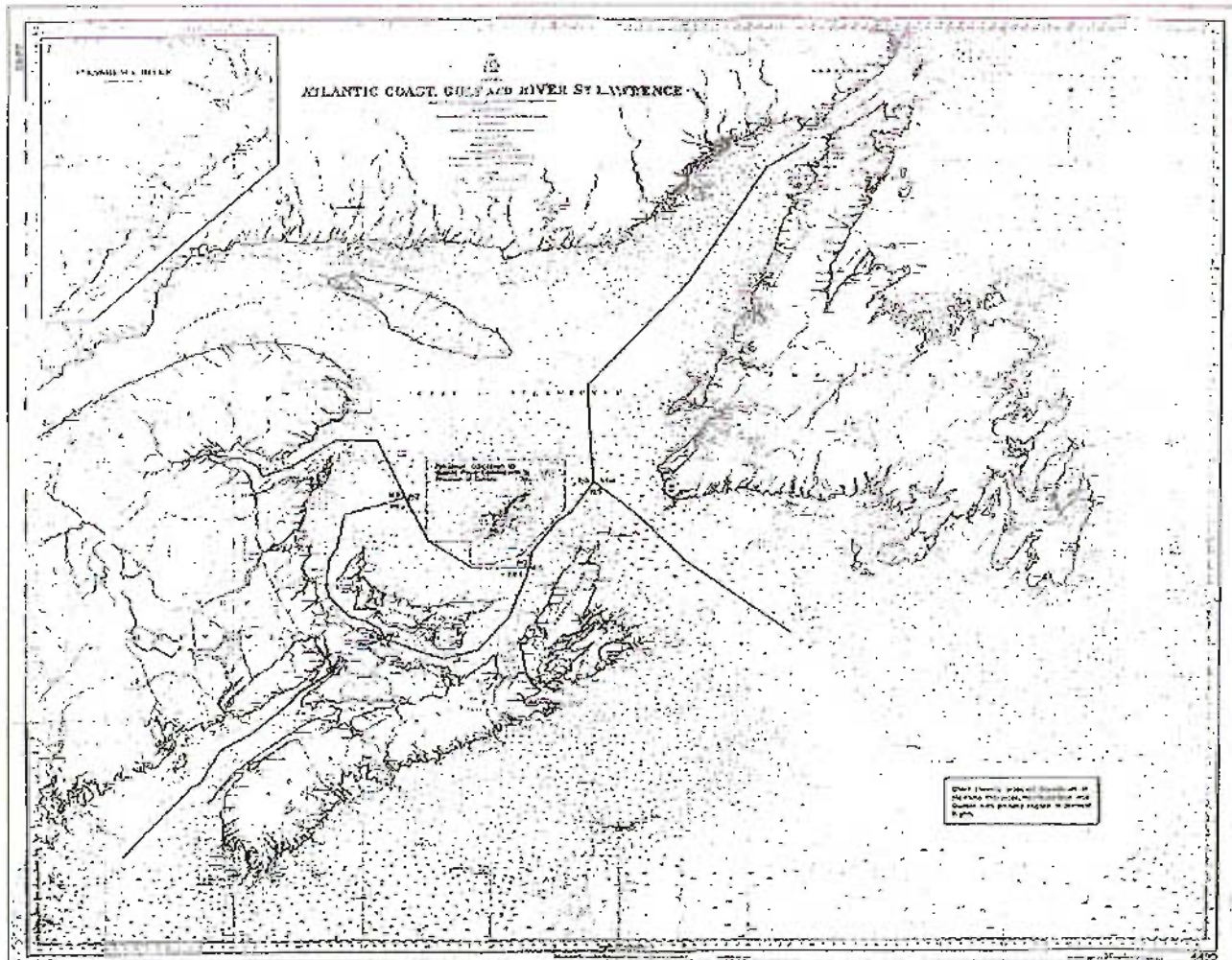
N&L Doc 5

underlined straits, if New Brunswick, Nova Scotia and Prince Edward Island officially made representation to Ottawa and agreed on the boundary line, as outlined on the Marine Chart drawing, that **Ottawa would be bound to accept this as a boundary line** between Nova Scotia and Prince Edward Island, and between New Brunswick and

At this meeting an agreement was reached that a proper boundary line in Northumberland Straits be drawn up and submitted to the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island. **There was a discussion, among many other things, of the clause in the British North America Act stating generally that if any two Provinces agreed on a boundary line different to that already set up such a boundary line would be accepted by the Federal Government upon proper presentation.**

Newfoundland said they need not enter into discussions pertaining to Northumberland Straits but would do so regarding offshore rights to

1961 ATLANTIC A-Gs MAP



1961 MEETING OF ATLANTIC A-Gs



RETYPE FROM THE ORIGINAL

Copy sent The Honourable L. R. Curtis, Q.C.
Attorney General of Newfoundland;
The Honourable Louis J. Robichaud,
Premier & Attorney General of New Brunswick;
The Honourable R. A. Donahoe, Q.C.

Halifax, 7th August, 1961

Mr. B. Graham Rogers,
Geological Officer,
Department of Industry
and Natural Resources
Charlottetown, P.E.I.

Dear Mr. Rogers:

Re: Submarine Mineral Rights

At the meeting in Halifax on the 28th June last, we undertook to request our Department of Mines to prepare a plan and descriptions delineating the boundaries between the several Provinces of Quebec, Newfoundland, New Brunswick, Prince Edward Island and Nova Scotia. It was our understanding that the boundaries so delineated might be agreed upon among the Provinces concerned, or at least would provide a basis for further discussions and, when agreement had been reached, the several Provinces would approach the Federal Government for a settling of the boundaries between the Provinces, as provided for in the B.N.A. Act, 1871. It was further our understanding that you, Mr. Rogers, would discuss the situation generally, and the suggested boundary lines in particular, with the appropriate officials of the Province of Quebec, who were, of course, not represented at the June 28th meeting.

I am, accordingly, forwarding to you two copies of the map and the verbal descriptions, and I am sending a copy of this letter, along with one copy of the map and one copy of the verbal descriptions to the Attorney General of New Brunswick and the Attorney General of Newfoundland.

The Attorney General of Nova Scotia is absent from the City at the present time and will be away for some three weeks, so that I have no comments to relay from him. For my own part, I would observe only that the verbal description makes reference to mineral rights and mineral deposits, whereas I think that it should concern itself purely with the question of boundaries. I am sure that this office will be glad to act as a clearing house for an exchange of your comments.

Yours very truly,

John A. Y. MacDonald
Deputy Attorney General



Annex 17

- 1961 -



Meeting of Atlantic A-Gs

As agreed at the **June 28, 1961** of A-Gs, Nova Scotia (the host of the meeting) requested its “Department of Mines to prepare...”



Annex 17

At the meeting in Halifax on the 28th June last, we undertook to request our Department of Mines to prepare a plan and descriptions delineating the boundaries between the several Provinces of Quebec, Newfoundland, New Brunswick, Prince Edward Island and Nova Scotia. It was our understanding that the boundaries so delineated might be agreed upon among the Provinces concerned, or at

- 1961 -



Meeting of Atlantic A-Gs

These were transmitted to the A-Gs of the Atlantic Provinces...



Annex 17

appropriate officials of the Province of Quebec, who were, of course, not represented at the June 28th meeting.

I am, accordingly, forwarding to you two copies of the map and the verbal descriptions, and I am sending a copy of this letter, along with one copy of the map and one copy of the verbal descriptions to the Attorney General of New Brunswick and the Attorney General of Newfoundland.

The Attorney General of Nova Scotia is absent from the City at the present time and will be away for some three weeks, so that I

- 1961 -



Meeting of Atlantic A-Gs

...including Mr. Curtis of Newfoundland, on
August 7, 1961.



Annex 17

Copy sent

The Honourable L. R. Curtis, Q.C.
Attorney General of Newfoundland;

The Honourable Louis J. Robichaud,
Premier & Attorney General of New Brunswick;
The Honourable R. A. Donahoe, Q.C.

- 1961 -



Meeting of Atlantic A-Gs

The understanding was that “the boundaries so delineated...”



Annex 17

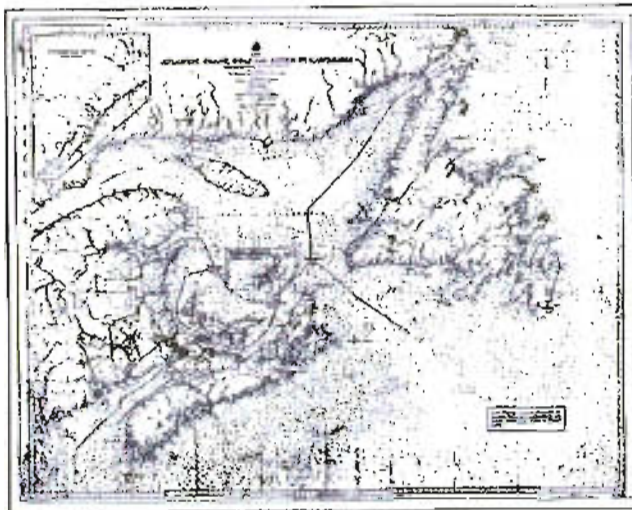
of Quebec, Newfoundland, New Brunswick, Prince Edward Island and Nova Scotia. It was our understanding that the boundaries so delineated **might be agreed upon among the Provinces concerned,** or at least would provide a basis for further discussion and, when **agreement had been reached, the several Provinces would approach the Federal Government for a settling of the boundaries between the Provinces,** as provided for in the B.N.A. Act, 1871. It was further our understanding that you, Mr. Rogers, would discuss the situation

MYSTERY: "THE MISSING COMPASS ROSES"



The Missing Compass Roses

Stanfield Map Submitted by NS



Stanfield Map Submitted by N&L

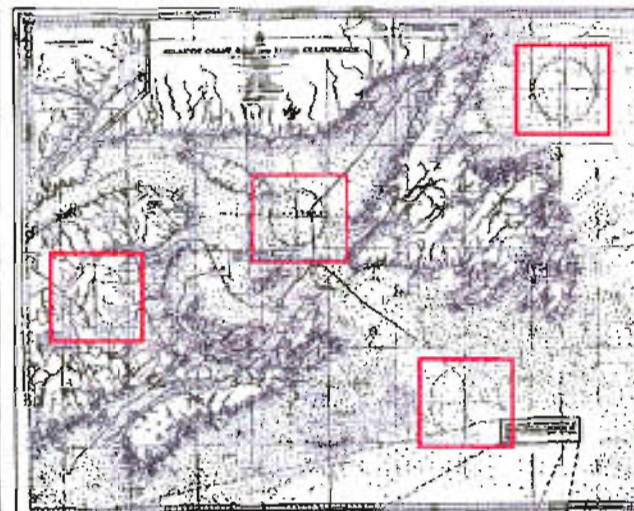


Chart showing proposed boundaries of Maritime Provinces, Newfoundland and Quebec with primary regard to Mineral Rights.

*The Stanfield Map submitted by NS is found in NS Memorial, Annex 32.
The Stanfield Map submitted by N&L is found in the pocket of the N&L Memorial.*

Figure: 1

1962 ADVICE TO GOVERNMENT



DEPARTMENT OF ATTORNEY GENERAL
INTERNATIONAL WILDS

FROM: Deputy TO: Attorney General

I believe that it is highly desirable and even urgent that the Government of Nova Scotia take positive steps to clarify the position of the various international waters areas of about four thousand km² to 1000 km² (about 1000 square miles) in the Gulf of St. Lawrence. As you know, this question has been raised indirectly in the assessment appeal of the Division of Fisheries and the British High Commission. The question was raised by the British High Commission as follows: The Government of Nova Scotia without deciding that would maintain as to the sovereignty of the various rights but, in appeal to the Supreme Court of Nova Scotia the parties were required to give evidence as to the facts and the Division of Fisheries and the British High Commission. This matter we have reviewed, and in the meantime the Government of Nova Scotia will be heard by the Supreme Court on this at the same time. It is possible that the resolution of this question will not be considered by the assessment appeal of the assessment appeal, but we cannot assume that that will be the case. It may be important to the resolution of the assessment appeal for the purpose of an intervention or, in the event that the Government of Nova Scotia will be heard by the Supreme Court, we should know that question has arisen on the West Coast and the Attorney General for Nova Scotia advised that the Government of Nova Scotia has the authority to the West Coast. In the event of that declaration, it is possible that we could have to deal with the question of the jurisdiction of the assessment appeal in Nova Scotia with respect to this question it would be very difficult to have a satisfactory settlement of the matter. Finally, it is my understanding that considerable exploratory work is being carried out particularly in Prince Edward Island and the Bahamas of the present time, and a very serious social engineering survey is in contemplation for the very near future. The geological formations which are being drilled are without side boundaries and extend all under parts of Nova Scotia. I believe that some of the work has been completed and would suggest that it is highly desirable that immediately be organized before there is any actual founding of an international organization. Finally, for a number of months, including but not limited to the fact that no commercial fisheries have yet been established in certain areas of the Gulf of St. Lawrence and the Government would wish to be reasonably prepared for any development of the case to the Federal authorities.

The Bill passed that this question has been raised there also in the case a number of points. In 1958 Professor Robert S. Anderson of the Faculty of Law of the University of New Brunswick, presented a report for the Atlantic Fisheries Commission Conference in respect to the legal situation with respect to the various areas of the Gulf of St. Lawrence. In the report, you will recall that he has also said that the Province had a fairly strong claim to certain waters between land areas and within these waters of the Gulf. That there is a fairly strong argument as to provincial rights on the portions of Newfoundland Island and the Bay of Fundy which are more than three miles from the shoreline, and that there is some question as to provincial rights. The Province of Nova Scotia takes evidence in light of the international work, it also suggests some strong political and social stages based primarily on the

of the land boundaries of the Maritime Provinces as part of our recent efforts respecting

1. that arising out of a meeting of the Atlantic a meeting of the Atlantic Council in 1961 and that we should think of all areas being in Nova Scotia, assuming that all of the land boundaries of the Province, it was suggested, a formal declaration of provincial boundaries of Nova Scotia, Newfoundland, New Brunswick, Prince Edward Island and the Bahamas. I was informed of this plan and international questions, the Honorable Premier and Attorney General, Mr. Graham Rogers of the Department of Fisheries and Charcotville, who has accepted the British Attorney General of Prince Edward Island. I had from the Attorney General of Newfoundland in the past but, I have had several letters and they suggest that we should give them the appropriate authorities in Prince Edward Island is quite prepared to meet and he feels quite confident that both also be prepared to discuss them. From our viewpoint of Newfoundland, I think it is more than to go along with any arrangement which has been proposed. Newfoundland has not even any of their regular situation in Conception Bay of the Strait and otherwise they have sufficient they are not particularly concerned of the

What our approach should be to the Federal authorities, it is of course a question of policy. One course, and in any case perhaps one which should be considered the most desirable course, would be to make agreement from the Federal authorities that the Province should have the mineral rights in the submarine areas. Perhaps one way of going about it may be to have a declaration of the provincial boundaries as would be possible, I think under the B. N. A. Act amendments of 1971. This, of course, would involve revising Federal legislation but, for the time being a committee would be quite sufficient for our purposes. Another course, would be to arrange to appeal reference to the Supreme Court of Canada under the Supreme Court Act. The third course, would be to permit the matter to be dealt with directly in some such case as the assessment appeal which is now before the Nova Scotia Court. A fourth course, would be to let "sleeping dogs lie" and face the situation when it arises, chiefly following some discovery.

I add only that, the Government of Prince Edward Island is strongly of the opinion that action should be taken without delay.

May 10th, 1962
c.c. Mr. B. Graham Rogers,
Biological Officer,
Dept. of Industry & Natural Resources,
Charlottetown, P. E. I.



Annex 16



Advice to Government

Several options were suggested, in 1962, regarding the Provinces' "policy" or "approach" regarding their jurisdictional claims as against the federal government:



Annex 16

What our approach should be to the Federal authorities, is of course a question of policy. One course, and in many ways perhaps what would be considered the most desirable course, would be to obtain agreement from the Federal authorities that the Provinces should have the mineral rights in the submarine areas. Perhaps one way of giving effect to this would be a redelineation of the provincial boundaries as would be possible, I think under the

would be to permit the matter to be raised indirectly in some such case as the assessment Appeal which is now before the Nova Scotia Court. A fourth course, would be to let "sleeping dogs lie" and face the situation when it arose, chiefly following some discovery.

I add only that, the Government of Prince Edward Island is strongly

1963 MEMO TO PREMIER SHAW



MEMO FOR MR. W. ALAN SHAW

JUNE 11, 1963

MEMO TO PREMIER SHAW FROM MR. MARSH CROFT

RE: PROPOSED BOUNDARY BETWEEN THE PROVINCE OF NEW BRUNSWICK AND THE PROVINCE OF QUEBEC

In the orders in council it was determined that the Province of New Brunswick will be the region to administer the judicial functions of the courts of the Province of New Brunswick. It was also determined that the Province of New Brunswick will have the jurisdiction over courts of justice in New Brunswick.

HISTORY OF NEGOTIATIONS

On September 20, 1958, the Hon. J. G. Macdonald, Minister of Justice, was invited to visit the Hon. Robert B. Laird, Minister of Justice of the Province of New Brunswick. I attended the meeting on September 20, 1958 and gave him a letter explaining the situation in New Brunswick. He was very sympathetic and we discussed the problem of the courts. He was very sympathetic and we discussed the problem of the courts. He was very sympathetic and we discussed the problem of the courts.

I was instructed to keep in close contact with Hon. Justice Macdonald, the Minister of Justice of the Province of New Brunswick.

On June 10, 1963, a meeting was held in the office of the Hon. J. G. Macdonald, Minister of Justice of the Province of New Brunswick.

Mr. J. A. Gaudet, Attorney General of New Brunswick, was present at the meeting. He was accompanied by Mr. J. G. Macdonald, Minister of Justice of the Province of New Brunswick, and Mr. J. G. Macdonald, Minister of Justice of the Province of New Brunswick.

At this meeting an agreement was reached that a special boundary line be drawn between the Province of New Brunswick and the Province of Quebec. The line would be drawn between the Province of New Brunswick and the Province of Quebec. The line would be drawn between the Province of New Brunswick and the Province of Quebec.

It was agreed that the Hon. J. G. Macdonald, Minister of Justice of the Province of New Brunswick, would be responsible for the drawing of the line. It was agreed that the Hon. J. G. Macdonald, Minister of Justice of the Province of New Brunswick, would be responsible for the drawing of the line.

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Page 2 of 2

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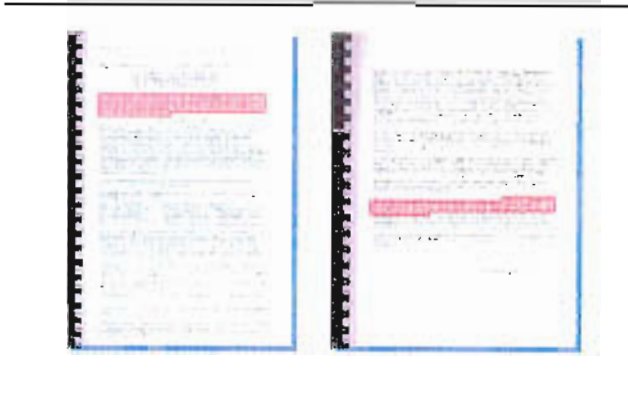
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I enclose for the length of this report but I do not have the facts. Mr. Macdonald has a copy of this report. It will be in the file.

R. William Rogers



N&L Doc 5

- 1963 -



Memo to Premier Shaw

The memorandum discloses that the file continued to be driven, in **1963**, by the need to resolve **oil and gas exploration and permitting issues**.

And the **interprovincial ramifications** of settling the boundary issue—as opposed to federal-provincial concerns—remained clearly **front and centre**.



N&L Doc 5

The matter is becoming more important every day. Two Oil Companies are doing extensive work this summer on the Nova Scotia side of Northumberland Straits. This could be very important to us here on Prince Edward Island. We already have been visited by two Geologists interested in that work and two more are expected in July. It is

In the boundary line division it must be remembered that Prince Edward Island will be the gainer in prospective valuable Geological territory as we will have All of one side of the Strait whereas Nova Scotia and New Brunswick will have the portion that lies opposite each respective Province.

IN 1964, QUÉBEC COMES ON BOARD

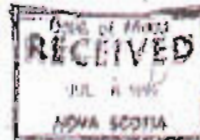


ask to refer to other documents

PROVINCE OF QUÉBEC

DEPARTMENT OF NATURAL RESOURCES

Quebec, July 7, 1964.



Dr. J.P. Newton,
Deputy Minister,
Department of Mines,
Halifax, N.S.

Dear Jim:

Dr. Jones informed me of the action that has been taken by the Maritime Provinces in order to agree on the location of the underwater boundaries between the Maritime Provinces and between those and Quebec in the Gulf of St. Lawrence.

We had your proposed description transferred on to a plan and we find that all the projected boundary lines coincide almost exactly with the project prepared by the Boundary Commissioner of Quebec.

My Minister is quite pleased with the idea of fixing the boundary between our provinces and he agrees with your present plan. We are of the opinion that such a project should be accepted by the Federal Government as the matter of respective jurisdiction between the provinces and the central government be finalized once and for all.

In order to achieve these, it would be advisable for each Province to appoint a boundary commissioner (preferably a surveyor). These could get together and prepare a description of the boundaries acceptable by all the provinces concerned and which should be included in a project of legislation to be passed by the provinces and by the Government of Canada, according to the Imperial Statutes 34-35, Victoria, Section 28, Chapter 3.

Please let us know if there is anything that we can do to help.

Congratulations for your initiative on the subject.

Yours very truly,



Annex 20



Québec Comes on Board

On July 2, 1964, Québec's Deputy Minister of Natural Resources responded by declaring his Minister's **full support** for an agreement among the Provinces regarding their respective offshore boundaries.



Annex 20

Dr. Jones informed me of the action that has been taken by the Maritime Provinces in order to agree on the location of the underwater boundaries between the Maritime Provinces and between these and Quebec in the Gulf of St. Lawrence.

We had your proposed description transferred on to a plan and we find that all the projected boundary lines coincide almost exactly with the project prepared by the Boundary Commissioner of Quebec.

My Minister is quite pleased with the idea of fixing the boundary between our provinces and he agrees with your present plan. We are of the opinion that such a project should be accepted by the Federal Government so that the matter of respective jurisd-

SEPTEMBER 23, 1964 MEETING OF MARITIME A-Gs



Approved

MEMORANDUM OF MEETING the 23rd September, 1964,
at which were present Mr. N. M. Rickman, New
Brunswick, Mr. Graham Rogers, Prince Edward
Island, Messrs. I. G. MacLeod, N. C. Jones and
John A. Y. MacDonald, Nova Scotia

This meeting was held to discuss the present situation with
respect to submarine mineral rights and those present were in agreement
on the following points and herewith make recommendations accordingly
to their respective Governments:

1. The Provincial Governments are entitled to ownership
and control of submarine minerals underlying coastal waters on legal,
equitable and political grounds. The argument in respect of these
several grounds is set out in the Report prepared in 1959 by Professor
Gerald V. LaForest, which argument the meeting felt still retains full
force and effect;
2. The meeting felt that it was desirable that the bound-
aries as between the several Atlantic Coast Provinces should be agreed
upon by the Provincial authorities and the necessary steps should be
taken to give effect to that agreement. In this respect, a plan was pre-
pared by the Nova Scotia Department of Mines, setting forth graphically
and by notes and bounds suggested boundary lines covering the Bay of
Fundy, Northumberland Strait, the Gulf of St. Lawrence, including the
Bay of Chaleur and the Strait of Belle Isle and Cabot Strait. These sug-
gested boundaries have had the tentative approval of New Brunswick,
Prince Edward Island, Newfoundland and Nova Scotia and, as is understood,
are also acceptable to Quebec. It is recommended that these boundaries
should have the more formal approval of the several Governments concerned.
It is further recommended that Parliament be asked to define the bound-
aries as so approved by the Provinces, under the provisions of section 2
of the British North America Act, 1871;
3. It is further recommended that the Parliament of Canada
be requested to proclaim and assert the status of the Gulf of St. Lawrence,
including the Strait of Belle Isle and Chaleur Bay, Cabot Strait, North-
umberland Strait and the Bay of Fundy, as inland waters or territorial
waters
to continue to assert the Canadian claim
4. Formal recognition of the rights of the Provinces to the
submarine minerals should be obtained from the Federal Government as
essential to the expeditions and progress and orderly development of
mineral exploration, essential to the economy of the Atlantic Provinces;
5. It was felt that the principles stated above with respect
to inland waters would, and should, extend to coastal waters including,
subject to International Law, the areas in the Banks off Newfoundland and
Nova Scotia;
6. If agreement is reached by the Atlantic Provinces, an
immediate approach should be made to the Province of Quebec, so that a
united presentation might be made to the Federal authorities.



Annex 21

- 1964 -




Meeting of Maritime A-Gs

On **September 23, 1964**, at a meeting of the A-Gs of the Maritime Provinces, what was to become the *1964 Agreement* was formally recommended to the various provincial governments.



Annex 21

and by metes and bounds suggested boundary lines covering the Bay of Fundy, Northumberland Strait, the Gulf of St. Lawrence, including the Bay of Chaleur and the Strait of Belle Isle and Cabot Strait. These suggested boundaries have had the tentative approval of New Brunswick, Prince Edward Island, Newfoundland and Nova Scotia and, it is understood, are also acceptable to Quebec. It is recommended that these boundaries should have the more formal approval of the several Governments concerned. It is further recommended that Parliament be asked to define the boundaries as so approved by the Provinces, under the provisions of Section 3

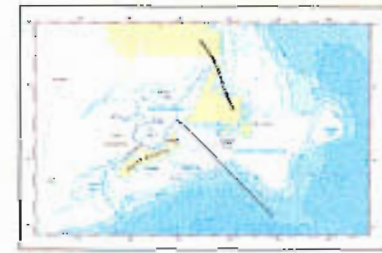


**2. THE CONCLUSION
OF THE *1964 AGREEMENT*—
SEPTEMBER 30, 1964**



The Expression “1964 Agreement”

Scholars have long used the expression “1964 Agreement” - and many similar terms - to describe the boundary agreement concluded by the Premiers in 1964:



1964 Agreement
Boundary

“1964 Interprovincial Agreement”

(*J. I. Charney*, in N&L Doc. 23, pp. 330, 331, 332, 333 and 334; *Charney*, in N&L Doc. 24, pp. 397, 398 and 401)

“1964 Interprovincial Boundary Agreement”

(*Charney*, in N&L Doc. 24, pp. 397, 401; *J. J. Smith*, in N&L Doc. 25, pp. 125, 126 and 127)

and

“1964 Agreement”

(*Charney*, in N&L Doc. 24, p. 398; *Smith*, in N&L Doc. 25, p.126)

CONCLUSION OF THE *1964 AGREEMENT*



The Atlantic Premiers ... unanimously agreed: ...

- 5 That the boundaries described by Metes and Bounds ... be the marine boundaries of the Provinces ...

(emphasis added)
(Annex 24: *Communiqué*)

The Conference agreed on the marine boundary lines between each of the provinces.

(emphasis added)
(Annex 26: *Matters Discussed on September 30, 1964*)

The Conference agreed that I should advise the Government of the Province of Quebec of our stand on the matter of submarine mineral rights and of the marine boundaries agreed upon by the Atlantic Provinces.

(emphasis added)
(Annex 27: Letter to Premier Lesage (October 2, 1964))

CONCLUSION OF THE *1964 AGREEMENT*



... QUEBEC IS IN AGREEMENT WITH THE ATLANTIC PROVINCES
ON THE MATTER OF SUBMARINE MINERAL RIGHT AND OF THE
MARINE BOUNDARIES AGREED UPON BY THE ATLANTIC
PROVINCES

(emphasis added)
(Annex 28: Premier Lesage's response)

This submission is presented on behalf of the four Atlantic Provinces
pursuant to agreement reached at the Atlantic Premiers Conference
on the 30th of September last.

(emphasis added)
(Annex 31: *Joint Submission* at 19)



The question boils down to: *what did the parties agree upon on September 30, 1964?*

N&L claims: **“They agreed upon a joint negotiating proposal”.**

There are various formulations of this assertion in N&L’s written submissions. For example:

“The Premiers agreed to present a common position to the federal government”

NS says: **They agreed upon their boundaries.**

SEPTEMBER 30, 1964 PREMIERS CONFERENCE



The Atlantic Premiers Conference held in Halifax on September 30, 1964, with Premier Stanfield of Nova Scotia, Premier Robitcaud of New Brunswick, Premier Shaw of Prince Edward Island, and Premier Smallwood of Newfoundland in attendance unanimously agreed:

- 1 That the provincial governments are entitled to the ownership and control of submarine minerals underlying territorial waters including, subject to International Law, the areas in the Banks of Newfoundland and Nova Scotia, on legal, equitable and political grounds. The argument in support of these several grounds set out in the Report prepared in 1959 by Professor Gerard V. LaForest still retains full force and affect.
- 2 That formal recognition of the rights of the provinces to the submarine minerals should be obtained from the Government of Canada as essential to the expeditious economical and orderly development of mineral exploration, essential to the economy of the Atlantic Provinces.
- 3 That the Parliament of Canada be requested to continue to assert the status of the Gulf of St. Lawrence, including the Straits of Belle Isle and Chaleur Bay, Cabot Strait, Northumberland Strait and the Bay of Fundy, as in-land waters or territorial waters.
- 4 That it is desirable that the marine boundaries as between the several Atlantic Coast Provinces should be agreed upon by the provincial authorities and the necessary steps taken to give effect to that agreement.
- 5 That the boundaries described by Metes and Bounds in Schedule A and shown graphically on Schedule B be the marine boundaries of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland.
- 6 That the Parliament of Canada be asked to define the boundaries as approved by the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland under the provisions of Section 3 of the British North America Act, 1871.
- 7 That an immediate approach should be made to the Province of Quebec so that a united presentation may be made to the Government of Canada.



The Communiqué Declaring the 1964 Agreement

- The Premiers' *Communiqué* is very clear. It records that the Premiers “**unanimously agreed**” on seven items, one of which was:

“The Atlantic Premiers Conference ... with Premier Stanfield of Nova Scotia ... and Premier Smallwood in attendance **unanimously agreed:**

(...)

“That the boundaries described in Metes and Bounds in Schedule A and shown graphically on Schedule B **be the marine boundaries of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland.**”



The Communiqué Declaring the 1964 Agreement

- Items 1 and 2 of the *Communiqué* deal with the issue of **provincial versus federal control of the offshore**. They record the Premiers' agreement that

the Provinces are “entitled to the ownership and control of submarine minerals underlying territorial waters **including, subject to International Law, the areas in the Banks of Newfoundland and Nova Scotia ...**”; (item 1) and that

“formal recognition of [these] rights ... should be obtained from the Government of Canada ...” (item 2)



The Communiqué Declaring the 1964 Agreement

Items 4 and 5 concern the Provinces' **agreement on boundaries**.


Item 4 states that offshore boundaries “should be agreed upon by provincial authorities and the necessary steps taken to [give] effect to that agreement”; and

Item 5 records that the Premiers “**unanimously agreed ...** That the boundaries described by Metes and Bounds in Schedule A and shown graphically on Schedule B be **the marine boundaries of the Provinces**”.

SEPTEMBER 30, 1964 PREMIERS CONFERENCE



Bill MacLean
RS 416
289
Atlantic Premiers Conference
October 2, 1964


THE PREMIER
HALIFAX

n. 416
Under the Office of Premier Robichaud
J. Robichaud

Dear Mr. Robichaud:

I am enclosing a summary of various matters discussed on September 30 which require further action.

Yours sincerely,

R. L. Stanfield
R. L. Stanfield

Honourable Louis J. Robichaud,
Premier of New Brunswick,
Legislative Building,
Fredericton, New Brunswick.

RECEIVED
OCT 3 1964
THE PREMIER'S OFFICE

SEPTEMBER 30, 1964 PREMIERS CONFERENCE



19410

MATTERS DISCUSSED AT THE ATLANTIC PREMIERS CONFERENCE
IN HALIFAX SEPTEMBER 30, 1964
REQUIRING FURTHER ACTION

1 Freight rates

The Maritime Transportation Commission's objections to the proposed amendments to the Railway Act by the Parliament of Canada:

- (a) While the Bill (Bill C-120) does not repeal nor amend any provisions of the Maritime Freight Rates Act, it will further destroy the benefits the Act was intended to provide.
- (b) The Bill should be amended to make reference to the Terms of Union (Section 32) between Newfoundland and Canada as taking precedence over the transportation legislation.
- (c) All prohibition against discrimination is to be removed from the Railway Act by the Bill. The M. T. C. proposed that the Bill should be amended to make it unlawful for the railways to include in the rate of one shipper a greater percentage over the railway costs than is included in the rate of another shipper moving goods into a common market.
- (d) The Bill restricts the right of a shipper to secure a maximum rate. The M. T. C. proposed the removal of this restriction.
- (e) The Bill sets out provisions for accounting procedures for determining railway costs (variable costs) for rate making purposes. The M. T. C. proposed certain amendments to ensure that those who pay the freight have the right to see why in determining what components of railway costs shall be included.
- (f) The M. T. C. opposed the determination of maximum rates on the basis of a 30,000 pound minimum. The Commission favoured the basis to be the actual weight appropriate to the movement.

Action

The Conference approved of proposed amendments to Bill C-120 submitted by the Maritime Transportation Commission and agreed that the Commission should collaborate with the Western Provinces.



Annex 26



Matters Discussed At The Atlantic Premiers Conference

Here, one has an explicit statement of the agreement on boundaries concluded by the Premiers on September 30 – not as a subsidiary component of broader proposal, as alleged by Newfoundland, but as **an agreement that stands alone.**



Annex 26

3 Submarine Mineral Rights and Provincial Boundaries

The Conference agreed on the marine boundary lines between each of the provinces. The Conference further agreed that the Parliament of Canada should continue to assert the status of the Gulf of St. Lawrence, including the Strait of Belle Isle and Chaleur Bay, Cabot Strait, Northumberland Strait and the Bay of Fundy, as in-land or territorial waters. The Conference further agreed that the Province of Quebec should be kept advised of the action of the four Atlantic Provinces and its concurrence in that action solicited.



The Line Dividing the Parties' Respective Offshore Areas

Nova Scotia's "**Boundary with Newfoundland**" is described as follows:


"From this mutual corner [the three-way boundary between Québec, Nova Scotia and Newfoundland] the boundary with Newfoundland runs southeasterly to the midpoint between St. Paul Island (Nova Scotia) and Cape Ray (Newfoundland); thence to a point midway between Flint Island (Nova Scotia) and Grand Bruit (Newfoundland); **thence southeasterly to International waters.**"

(Annex 31, at p. 21)

Newfoundland's "**boundary with Nova Scotia**" is described similarly – though with even greater precision in the segment extending from the last turning point, where the line is stated to run:

"thence S.E. to International waters."

Source: Annex 31 , pp. 21, 25



3. THE ACCESSION OF QUÉBEC
TO THE *1964 AGREEMENT*
- *OCTOBER 7, 1964*

COMMUNIQUE ISSUED SEPTEMBER 30, 1964



Canadian
TELEGRAM

as being made above at the date time is LOCAL TIME at place of origin. Time of receipt is LOCAL TIME at place of destination.

RAA255-BA XA208 96

QUEBEC QUE 7 459P

HON R L STANDFIELD *216*

PREMIER OF NOVA SCOTIA PARLIAMENT BLDG HFX


FURTHER TO YOUR LETTER OF OCTOBER SECOND I AM HAPPY TO LET YOU
KNOW THAT THE PROVINCE OF QUEBEC IS IN AGREEMENT WITH THE
ATLANTIC PROVINCES ON THE MATTER OF SUBMARINE MINERAL RIGHT
AND OF THE MARINE BOUNDARIES AGREED UPON BY THE ATLANTIC PROVINCES

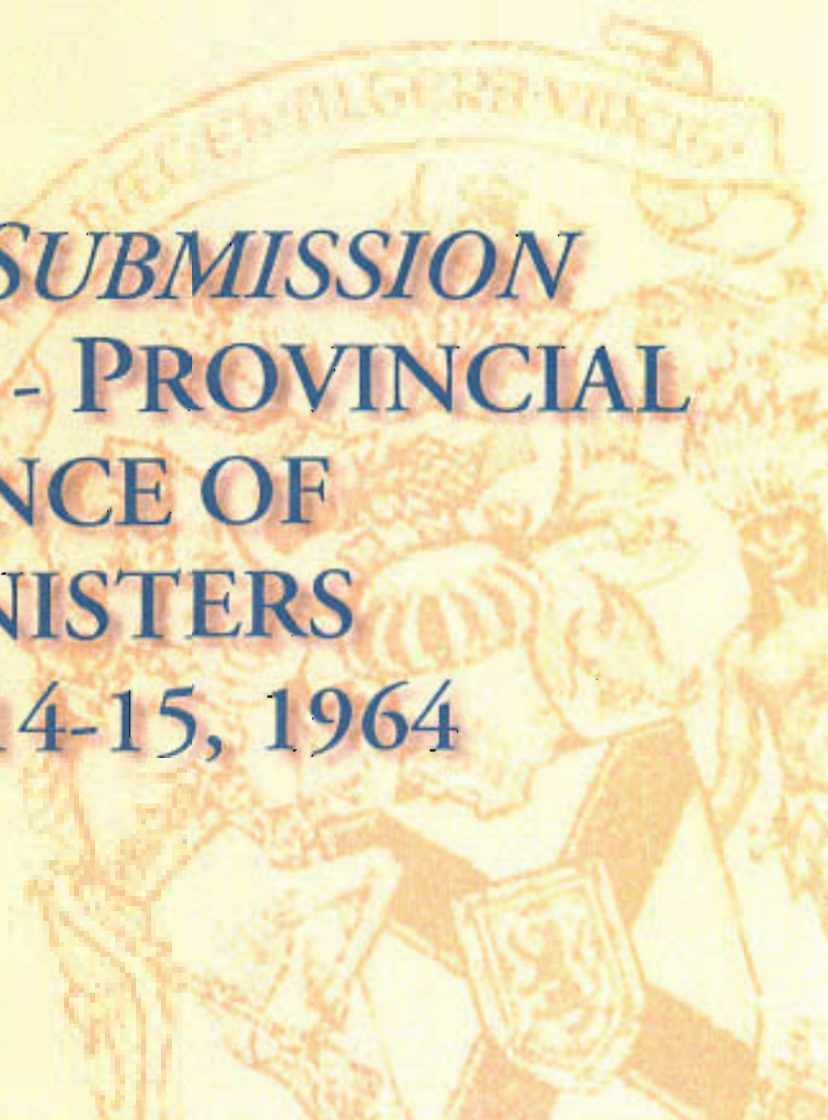
YOURS TRULY

JEAN LESAGE

TELEPHONE
TO BE DELIVERED
MAILED
FILED

Ames 78





4. THE *JOINT SUBMISSION*
TO THE FEDERAL - PROVINCIAL
CONFERENCE OF
PRIME MINISTERS
- OCTOBER 14-15, 1964



The Joint Submission

The Joint Submission distinguished “**the questions with which we are concerned**” as follows:

“(a) proprietary rights in submarine minerals **as between Canada and the Provinces**, whatever the extent and nature of those rights may be”

And

“(b) **boundary lines between Provinces**”

CONCLUSION OF THE *1964 AGREEMENT*



The Atlantic Premiers ... unanimously agreed: ...

- 5 That the boundaries described by Metes and Bounds ... be the marine boundaries of the Provinces ...

(emphasis added)
(Annex 24: *Communiqué*)

The Conference agreed on the marine boundary lines between each of the provinces.

(emphasis added)
(Annex 26: *Matters Discussed on September 30, 1964*)

The Conference agreed that I should advise the Government of the Province of Quebec of our stand on the matter of submarine mineral rights and of the marine boundaries agreed upon by the Atlantic Provinces.

(emphasis added)
(Annex 27: Letter to Premier Lesage (October 2, 1964))

CONCLUSION OF THE *1964 AGREEMENT*



... QUEBEC IS IN AGREEMENT WITH THE ATLANTIC PROVINCES
ON THE MATTER OF SUBMARINE MINERAL RIGHT AND OF THE
MARINE BOUNDARIES AGREED UPON BY THE ATLANTIC
PROVINCES

(emphasis added)
(Annex 28: Premier Lesage's response)

This submission is presented on behalf of the four Atlantic Provinces
pursuant to agreement reached at the Atlantic Premiers Conference
on the 30th of September last.

(emphasis added)
(Annex 31: *Joint Submission* at 19)

1964 AGREEMENT BOUNDARY

