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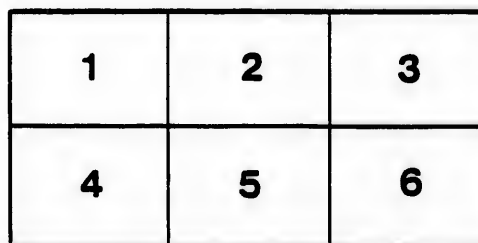
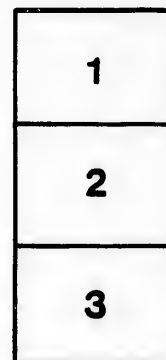
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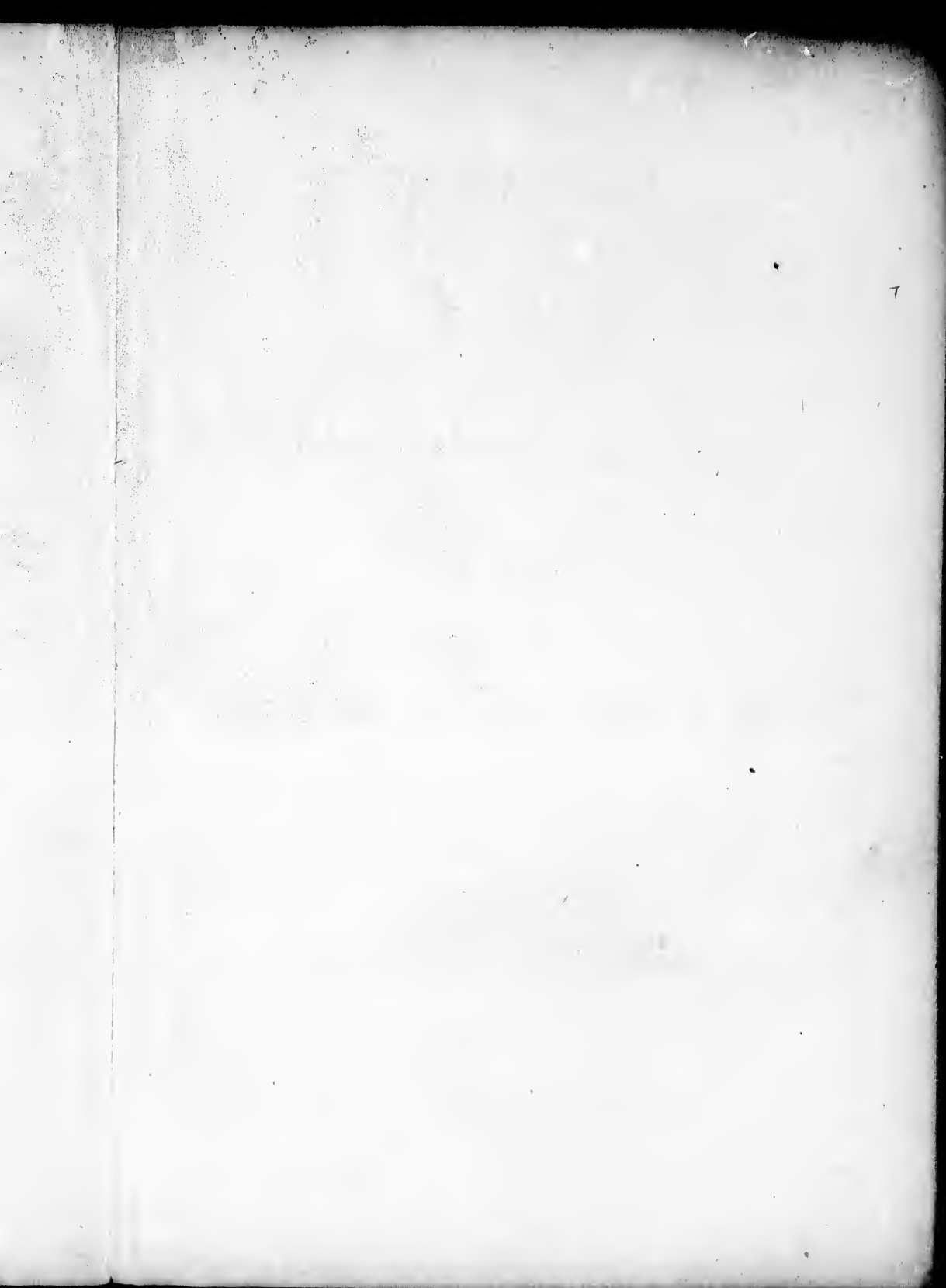
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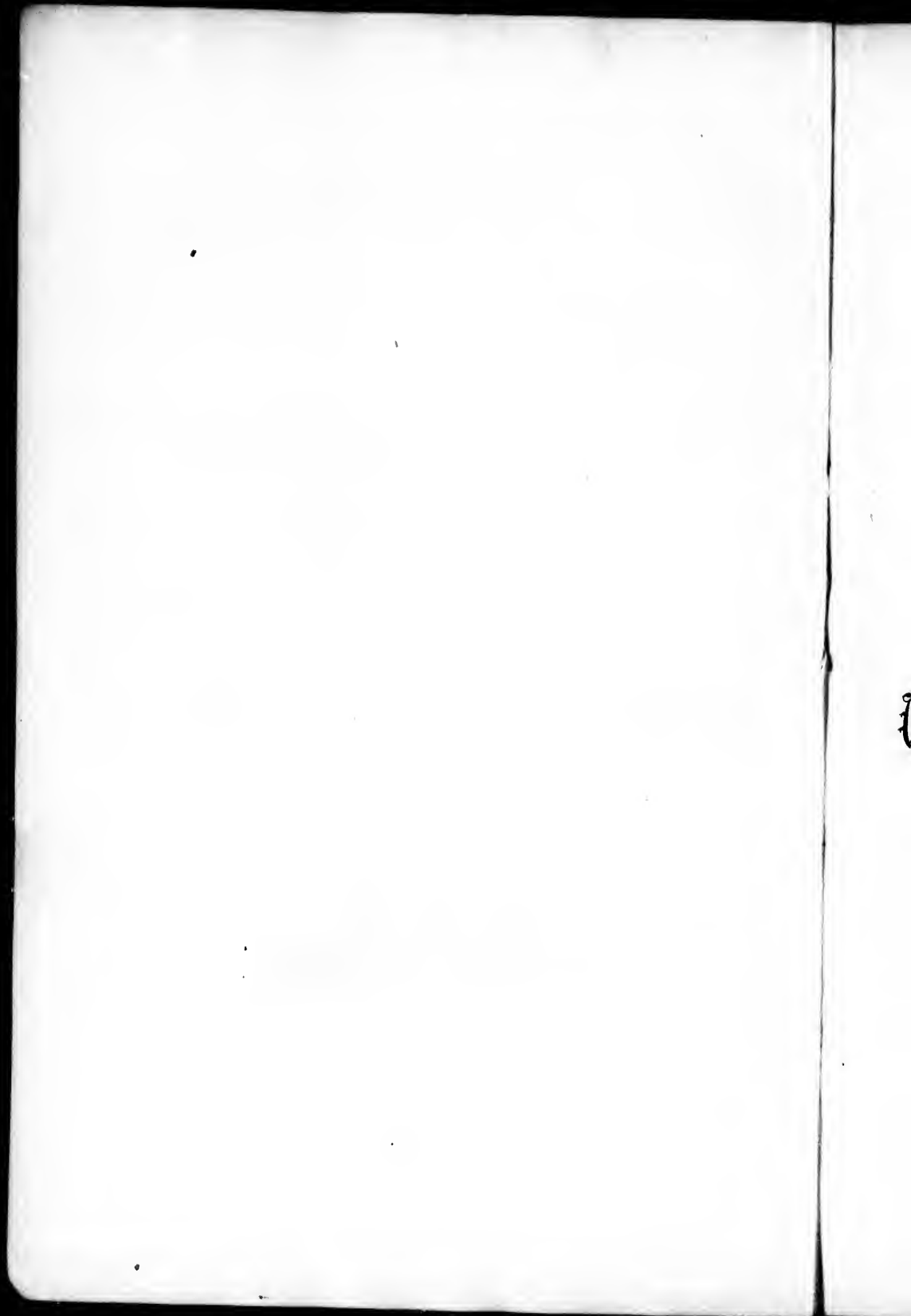
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No. *N^o 18*





REPORT

OF

T. K. RAMSAY, ESQ., Q. C.

ON

The Northern and Western Limits of Ontario.



CONFIDENTIAL.

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To the

MONTREAL, 18th March, 1873.

SIR:—

I beg leave to enclose my Report on the question submitted to me as to the Northern and Western Limits of the Province of Ontario.

I have condensed the Report as much as possible; but as my statements may not appear altogether satisfactory, not being always based on precise authority, I have added notes containing proofs and illustrations in support of the conclusions at which I have arrived. Some of these may perhaps go into greater detail than is absolutely required, but in my investigations of the confused and often contradictory narratives of the early voyages to, and settlements in Hudson's Bay, I was obliged to examine all these details, and having done so, it was scarcely more difficult to reduce the whole result of my researches to writing than to separate the more from the less essential parts.

In the form in which these notes are presented, it is hoped they may interest, even where they do not instruct, those who may hereafter require to make use of the accompanying work.

I have the honor to be,

Sir,

Your obedient servant,

T. K. RAMSAY.

To the Hon'ble. A. CAMPBELL, P.M.G., P.C.,
&c., &c., &c.,
Ottawa.

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REPORT.

A difficulty having arisen as to what are the true Northern and Western boundaries of the Province of Ontario and the question having been referred to me for my opinion, I beg leave to report the result of my investigations.

- 1 The limits of the Province of Ontario are defined in the *British North America Act* 1867, as being such part of the Province of Canada, at the passing of the said Act, as formerly formed the Province of Upper Canada. We have therefore to enquire what were the limits of Upper Canada prior to the Legislative Union of Upper and Lower Canada in 1840.
2. The position taken by the Government of Canada is, that the Northern and Western boundaries of the Province of Ontario are identical with so much of those laid down in the Quebec Act (14 Geo. III, Cap. 83) as being the limits of the old Province of Quebec, as would not include the former Province of Lower Canada. That is to say, the Western boundary of Ontario is the meridian passing through the point of junction of the Ohio and Mississippi rivers (now ascertained to be $89^{\circ} 9' 27''$ 16 West) North of the United States and South of the Hudson's Bay Territories; and its northern boundary is the southern boundary of the territory granted to "The Merchant Adventurers of England trading to Hudson Bay," west of the line of division between the former Provinces of Upper and Lower Canada. It is further contended that the southern boundary of the Hudson's Bay territory, is the height of land dividing the waters which flow into Hudson's Bay from those emptying into the Valley of the St. Lawrence and the great Lakes.
3. The Government of Ontario claims that the boundary is "very different" from the one set forth by the Government of Canada; and that the Western boundary is at least to be determined, (North of the United States and South of Hudson's Bay territory,) by a line drawn north from the source of the Mississippi, and that the northern boundary of Ontario is the southern boundaries of the Hudson's Bay territories, west of the line of division between the former Provinces of Upper and Lower Canada. While agreeing with the Government of Canada, in general terms, that the southern boundary of the Hudson's Bay territories is the northern boundary of Ontario, the Government of that Province does not, however, admit that the height of land dividing the waters falling into Hudson's Bay, from the waters falling into the St. Lawrence and the great Lakes is that boundary. On the contrary they claim that the boundary is to the North of the watershed, according to the contentions of all former Governments, and by the indisputable facts that the Northern boundary lies North of the watershed of the St. Lawrence system.

The Provincial Government further contends that there are grounds for maintaining the contention of former Governments of Canada, that the western boundary is further west than the line drawn due north from the source of the Mississippi (1)

4. It is important, before proceeding further, to clear away, as far as possible, the vagueness created by the reference to the pretensions of former Governments of Canada. For this purpose, it is necessary to examine what they contended, in order to know what the Government of Ontario now claims. Except for the purpose of limiting the indefinite description of the pretensions of the Ontario Government, the enquiry as to the contentions of former Governments of Canada, prior to Confederation, will be barren of results. Former contentions cannot bind in any way the Dominion Government, and this appears from every consideration. (a) Former Governments were not urging precisely the same question. Incidentally they may have represented a right to a greater extent of territory than that which they possessed; but the actual question formerly was the resistance of the claims of the Hudson's Bay Company, to the renewal of a Lease held by them of the Indian Territories. (2) The real question now is, as to what was understood to be the Hudson's Bay Company's southern boundary, by the authority which fixed that of Upper Canada. (b) The Dominion Government is not liable for the opinions of former Governments; but only for their debts and liabilities. (c) The pretensions of the Government of the Province of Canada were not admitted. On the contrary, the title of the Hudson's Bay Company was maintained: and the Dominion Government actually paid a large sum of money for the expropriation of the Company, besides leaving them a considerable estate. (3)
5. The most extreme pretension of the former Government of a portion of the now Dominion of Canada, so far as I can learn, is that put forth by the Commissioner of Crown Lands, in 1857, in a Report which was not considered conclusive, in spite of its unquestionable ability. It was there incidentally contended that to the North, Canada was either bounded by a few isolated posts on the shore of Hudson's Bay, or that it had no particular limit in that direction, that to the West, Canada includes the country about Red River and Lake Winnipeg.
6. The line of argument usually adopted turns on priority of discovery. So long as the contest was carried on between two independent nations, the title derived from conquest or discovery, however unsatisfactory, was the only possible subject of discussion. But when the whole title centres in one supreme power, the question becomes simplified, and the facts to be considered acquire a more conclusive character. It is the neglect to observe this distinction which gives the difficult aspect to the question before us. The attempt has been to submit to legal appreciation, pretensions, which, after years of fruitless diplomacy, were only disposed of by force (note A). Were the question a new one, I should not stop, even for an instant, to enquire who first discovered and took possession of the lands round Hudson's Bay, or how far the French pushed their discoveries in the West; but from the

(1) Correspondence between the Dominion Government and the Government of the Province of Ontario.

(2) M. Cauchon's Report, in 1857.

(3) In a Treaty between the Government of the late Province of Canada and the Indians, "the height of land" is described as that which separates the territory covered by the Charter of the Honorable the Hudson's Bay Company from the tract over which the Government was to acquire the rights of the Indians.

bent given to the discussion, I cannot wholly ignore the line of argument involving these matters, although the conclusions at which I arrive will not be materially influenced by it.

7. The historical argument of those who seek to give the greatest extension to the limits of the former Provinces of Upper and Lower Canada seems to be, that these Provinces were co-extensive with *La Nouvelle France*. They say that the Hudson's Bay charter was, if not wholly bad, at all events limited by its terms, which only grant those territories not already actually possessed by the subjects of any other Christian Prince or State; (note B) that by the right of discovery, and as part of *La Nouvelle France*, all the country up to the Arctic Circle belonged to France, and that in the west, Canada extended to the furthestmost post ever held by the French, which would include Red River*
8. It will at once strike those who examine this pretension, that it is one thing to say that Canada extended to the Arctic Ocean, and quite another to say that the territories around Hudson's Bay were first discovered by the French, independently of any connection with *La Nouvelle France* or Canada. Of course if the discovery of *La Nouvelle France* gave the King of France a right to the whole continent north of the St. Lawrence, it is idle to waste time discussing the question of particular discoveries on the side of Hudson's Bay. But this pretension is utterly untenable and an after thought. The Commission to De Lauzon as Governor, 20th March, 1651, gives him authority—"dans toute l'étendue du dit fleuve St. Laurent en la Nouvelle France, Isles et Terrés adjacentes de part et d'autre du dit fleuve et autres Rivières qui se dechargent en icelui jusqu'à Son Embouchure à prendre dix lieues près de Miscon du côté du sud et du côté du Nord autant que s'étendent les terres du dit pays—De la même sorte et toute ainsi que l'avoit, tenoit et exerçoit le Sr. d'Aillebout." A similar commission was also given to de Mezy in 1663. It is therefore plain that at that time the King of France did not think that *La Nouvelle France* extended beyond the water-shed of the St. Lawrence. (note C) It would not be difficult to make numerous extracts from ancient grants in unsettled countries to show that the grant of lands adjacent to a river was understood to be those drained by such River. A few instances will suffice. In a letter in the Paris M.S. Vol. 8, p. 990, limiting the extent of the Post of Temiskamingue, we find "C'est point l'intention de Sa Majesté d'affirmer sous le nom de Temiskamingue plus de deux cent lieues des pays qui jaisoient ci-devant la majeure partie du commerce de Montreal, puisque cela tend à la ruine de cette ville. Son intention étoit d'affirmer le seul poste de Temiskamingue dans ces limites qui naturellement doivent consister dans les terres arrosées de la rivière de ce nom et des autres qui se dechargent dans la dite rivière; sans que l'on puisse y comprendre les terres qui sont au dessus ni au dessous de la dite rivière." The grant to the Hudson's Bay Company was of the lands and territories on the confines of certain Bays, Lakes, Rivers, Creeks and Sounds. So completely was it understood that the watershed is the limit of a grant described by rivers, lakes, or bays, that even the use of the word "highlands" in such a grant or in a treaty will be controlled so as to mean such an elevation as divides the flow of the waters. In the decision of the King

* Mgr. to M. du Chesneau, 15th May, 1678. Memoir 8 Nov., 1686. Doc. Hist. 9, Pire Marest Lettres Ed. Nelle Ed. Vol. VI, p. 4.

of the Netherlands upon the disputed points of Boundary under the Fifth Article of the Treaty of Ghent, between Great Britain and the United States of America. H.M. said: "*Selon les exemples allégués le terme Highlands s'applique non seulement à un pays montueux ou élevé, mais encore à un terrain qui sans être montueux, sépare des eaux coulant dans une direction différente, et qu'ainsi le caractère plus ou moins montueux et élevé du pays à travers lesquelles sont tirées les deux lignes respectivement réclamées, au nord et au midi de la Rivière St. John, ne saurait faire la base d'une option entr'elles.*" In M. Bobé's (? Bolé) memoir (1) respecting the boundaries, prepared in 1723, the name of "La Nouvelle France" is given to that vast tract of country extending from the 30 to the 52 degree of N. Lat. And in 1755 Bellin, who was *Ingénieur de la marine et du dépôt des Cartes Plans et Journaux et Censeur Royal*, says "*La baie d'Hudson et les Pays voisins sont une grande étendue de côtés entre le 67 et le 51 degré de Latitude Septentrionale.*" (note D.)

9. The question of priority of discovery of the Hudson's Bay, and of the territories on the confines of the rivers and bays connected with Hudson's Bay, does not appear to be in favor of French pretensions. If discovery alone is to convey a title to either nation, the French pretensions must fail.
10. It is not denied (note E) that Hudson discovered the Bay which bears his name, (2) and that he wintered there in 1610-11. In the following year, Button, following in the path already traced by Hudson, discovered Nelson river, which he named after his pilot, who died during the expedition, and he passed the winter of 1612-13 in the bay. It would seem the failure of these discoverers, in their main object, to find a north-west passage, discouraged further enterprise in this direction, and (3) "the business slept from 1616 to 1631," while their attention was turned towards the South. In 1631 Luke Fox went and wintered at Nelson river. James wintered in the Bay in 1631-32 (note F.) In 1667 or 1668, Gillam, with DesGrozeliars and Radisson, (note G) went to Hudson's Bay and established himself at Rupert's river. On his return to England a Company was formed which, under the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," obtained from Charles II the famous Charter bearing date the 2nd May, 1670.

In the same year the Company sent out an expedition to make a permanent establishment, with Mr. Bailey as Governor, and Fort Nelson was founded as the principal post.

11. The French meet this, without denying the early discoveries of Hudson, Button, Fox and James, by saying (4) that possession of unknown countries must be taken by some formal act, such as planting the arms of the King who claims a title to it; that those travellers have left no account of their discoveries, and consequently it is not established that they ever took

(1) Doc. Hist. 9., p. 913.

(2) Map in Gottfriedt 1655. Charlevoix 1, p. 476, Garneau 1, p. 139.

(3) Ogilby's America, published 1671. French and English discoveries in America, Doc. Hist. 9, p. 1. Supposed to be written by Champlain, Am. Ed. note.

(4) See Memoir of M. de Callières to M. de Seignelay, 25th February, 1685, P. M. S. III, p. 1, and memoir of 8th Nov. 1686. Is it by de Monville? See note signed L'ui's and lower down Colbert, Doc. Hist. 9, 303.

possession of the countries, they are said to have visited, in the name of their Sovereign. They further pretend that in 1656 Jean Bourdon sailed from Quebec and took possession of the Baie du Nord and that this is proved by the register of the Council of New France of the 26th August, 1656. That in 1661 the Indians of the North Bay came expressly to confirm the good understanding between them and the French and asking for a Missionary, and that Father Dablon went there in the same year. That there were expeditions of Couture and Duquet in 1663; and that the expedition of Gillam was led there by rebellious subjects, who could convey no title, and that the very fact of Des Grozeliers and Radisson being able to lead the English Captain Gillam there, shows that they had themselves been there before, and consequently had acquired the territory for the King. The French then proceed to relate the voyage of de Lauson to Sault Ste. Marie in 1671, and his formal taking possession in the name of the King of France with the consent of seventeen nations, among whom were the Indians from Hudson's Bay. They also insist on the voyage of P. Albanel and St. Simon in 1671-72.

12. This is an unfortunate answer. It either goes too far or not far enough. To get over Hudson's and Button's discoveries, it cuts off the expeditions of Couture and Duquet, of which there are no formal records. The same may be said of the overland expedition of Des Grozeliers and Radisson. Prior to the voyage of Gillam in company with them, there is no record whatever of Des Grozeliers and Radisson ever having been at Hudson's Bay, nor 'is it even now said in what year they were there. It is a mere rumour, in no way proved by their conducting Gillam to Hudson's Bay. The experience derived from an overland journey, even if it had taken place, could not have aided them in a voyage by sea. Again if anything were to be drawn from the quality of these two adventurers as Frenchmen, by parity of reasoning, we should have to deprive Spain of the results of Columbus' discoveries. The presence of a foreigner, even were he the leader of the expedition, would not alter its national character. However no mystery attends the history of Jean Bourdon's voyage in 1656, (*note H*) or that of Père Dablon in 1661. (*note I*) The evidence is complete that neither ever reached Hudson's Bay. Albanel's (*note J*) journey, again, is too late to affect the question, and trading with the Indians (*note K*) from other countries in Canada cannot give a title to their country.
- 13 The answer of the French to the early discoveries of Hudson, Button, (*note L*) Fox, and James, is unfounded. In the work attributed to Champlain, already quoted, (1) the map published by "the English Captain" of his discoveries in 1612 is referred to in 1632. Purchas also saw this map, and Jeremie (2) speaks of the taking possession of Bourbon river by Nelson and says that he planted a post on which he exposed the arms of England, and a great board on which a ship was drawn. He also left some trifling articles of which the Indians profited in the Spring. Jeremie says, also, that the English returned the following year; but it is more probable that they wintered at the Bay, for there it is said Nelson died, and Button gave his name to the river they discovered. Again Fox, when he went there in 1631, saw "quelques petits monumens du sejour que Thomas Button (*n*) avait autrefois." (3)

(1) P. 8, note (3)

(2) Recueil de Voyages du Nord, p. 320.

(3) Discours prel, au Voyages du Nord, Vol. 1 p. xxxv.

In 1635 Luke Fox published "The North West," with a map; and in 1633 James had already published his adventures with a map. James' work was re-published in 1740.

14. We have, therefore two English voyages of discovery (those of Hudson and Button) well authenticated, more than forty years before the voyage of Bourdon, of which there is no authentic mention till 1686, and then the account is evidently incorrect and written with a purpose. Fox and James' voyages to Hudson's Bay were both in 1661, the year of the pretended journey of Dablon, and two years previous to the totally authenticated journeys of Couture and Duquet. Again the English Company was established and had built forts in 1670, whereas the Canadian Company did not begin its operations till 1682, and was not chartered till 1685. Whether then we consider priority of discovery, or discovery backed by actual acts of possession, the English claim to the country round Hudson's Bay seems to be superior to that of the French. (*note M*)
15. But it is still more worthy of note that the activity displayed by the French in the direction of Hudson's Bay dates from the time they heard that ships had been seen in the neighbourhood of the Bay. (*note N*) They learned this from some Algonquins, (1) and they immediately became alarmed. The next year, 1671, Father Albanel was despatched with St. Simon to take possession of the country anew. (2) It was only, however, in 1685 that the Canadian Company de la Baie du Nord was formed, (3) and the following year the Governor of Canada sent de Troyes and d'Iberville to attack the English posts in Hudson's Bay. (4) These attempts to recover lost time were such flagrant violations of International law, that the Governor was obliged to disavow the object he really had in view, and to pretext the desire to capture Radisson. (5) The excuse was a bad one, even if it had been true, and it would have been more to the purpose if he had said that the Treaty of Neutrality was not signed till the 16th November, 1686, and that his commission to de Troyes was dated the 12th February, 1686.
16. The effect of the Treaty of Neutrality (*note O*) was not, however, much felt in these out-of-the-way places, and the war between the English and French companies progressed while the Commissaries hunted up titles and exchanged statements of pretensions. Reciprocal complaints having been made, the French and English Commissaries met in London, but not being able to agree as to the facts, they adjourned until the first of January, 1689. (6) In the meantime the revolution took place, and William, profiting by the invasion of the Caribee Islands of the State of New York, and of the territories of Hudson's Bay, declared war on the 8th May, 1689. On the 7th June, the King of France, presuming that owing to "the present troublesome conjuncture," in England, the English would not have adopted "great precautions in those parts" (Hudson's Bay), desired de Frontenac to afford

(1) Talon to Colbert 10 Nov. 1670, Doc. Hist. 9, p. 67.

(2) Talon to the King 2nd Nov. 1671, *Ib.*, p. 71.

(3) Denonville on the state of Canada, 12th Nov. 1685, *Ib.*, p. 280.

(4) Instructions by de Denonville, 12 Feb 1686, Paris, Doc. V, p. 176, 2 Serie.

(5) Denonville to Minister, 10 Nov. 1686, *Ib.*, p. 259.

(6) Instructions to de Frontenac, 7 June, 1689, Doc. Hist. 9, p. 422.

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the Canadian Company the protection it might need "as well for the expulsion of the English from the posts they occupy at Hudson's Bay as for the continuation of trade." (1) On the 25th June the French declared war. (2)

17. Hostilities which had been carried on at Hudson's Bay in spite of the Treaty of Neutrality, sanctioned by the Declaration of War, continued with all the force the rival Companies could command. The dashing courage of d'Iberville turned the scale in favour of the French, and the English Company loudly complained of their losses. (*note P*) In Europe William's appeal to arms had not produced all the results he desired, and the treaty of Ryswick, (3) by which his title to the English throne was acknowledged, was concluded with a total disregard of the rights and interests of "The Merchants Adventurers of England trading into Hudson's Bay." Most dolefully did they complain that in the general rejoicings at the peace, they alone were left to grieve. (4) Nevertheless, it would seem that their sufferings were not altogether insupportable, for the Commissaries named never reported, (*note Q*) and things went on at Hudson's Bay pretty much as they had done before, until the Treaty of Utrecht (5) transferred to the English the "Bay and Straits of Hudson, together with all lands, seas, sea-coasts, rivers and places situate in the said Bay and Straits, and which belong thereunto, no tracts of land or of sea being excepted which are at present possessed by the subjects of France." But it is agreed on both sides to determine within a year by Commissaries to be forthwith named by each party the limits which are to be fixed between the said Bay of Hudson and the places appertaining to the French. And "the above mentioned most Christian King" undertook that satisfaction should be given according to the rule of justice and equity, to the English Company trading to the Bay of Hudson, for all damage and spoil done to their colonies, ships, persons, and goods, by the hostile incursions and depredations of the French in time of peace, an estimate being made thereof by Commissaries to be named at the requisition of each party. (6)
18. The stipulation to surrender the posts near Hudson's Bay, in the possession of the French at the time of the Treaty, was at once carried out, the forts being delivered up under orders from the King of France in 1714. (7)
19. Commissaries were appointed to define the limits, but they never arrived at any decision; (*note R*) but both countries seem to have acquiesced in the idea that the watershed or the height of land dividing the waters which flow north from those which flow south, was the real boundary between Canada and the Hudson's Bay territory.

(1) Garneau 2, p. 51.

(2) Garneau 2, p. 137, says the English lost all their forts by the capture of Fort Nelson, 1697; but this is an error. See *note G*.

(3) 10-20 Sept. 1697.

(4) Memorial of Company, exposing state of their affairs, 10th January, 1704, Pownall papers: M. S. in Parl. Lib. In the Quebec Act, the Company is thus styled: "The Merchants Adventurers of England, trading into Hudson's Bay."

(5) Article 10.

(6) Article 11.

(7) Jeremie (Noel Jeremie Lamontagne, see l'Abbé Ferland, 2de partie, p. 279 note) Recueil de Voyages du Nord, vol. 5, Amsterdam, 1732.

20. This conclusion, with only slight variation, is supported by numerous maps, both French and English, by Douglas, who gives the whole line from the Atlantic Coast, by Bellin (1) who gives the limits of Canada, and by Mr. Bouchette, Surveyor-General of Canada. In the map published by the Government of Quebec in 1870, the same line of highlands is unhesitatingly adopted. As it has been already shown, the principle that the watershed was the natural limit of an unexplored country was generally acquiesced in. The rivers were the only highways, and the utmost limit of a possession could hardly be interpreted to extend further than those claiming it could go.
21. Nor is there anything to contradict this view to be found in the voluminous correspondence between the authorities in Canada and the Government of France, from the time of the Treaty of Utrecht (*note S.*) till the Treaty of Paris, by which England acquired Canada, put an end to the possibility of a question arising between the two countries as to the boundaries of the Hudson's Bay territories.
22. But whether the conclusion at which we have arrived be legally correct or not, in so far as regards the right of the Hudson's Bay Company to the territory claimed by them, it is clear it was so understood by the Government in England; and, being so understood, a description in a document by competent authority, giving the Hudson's Bay territory as the northern limit of Canada, would limit Canada to the line understood to be the southern boundary of the Hudson's Bay territory. In other words, if the Hudson's Bay claim had been proved to be wholly unfounded, this would not of itself have extended the limits of Canada.
23. By laying down the height of land or watershed as the general rule by which the territory of Canada was to be distinguished from that of Hudson's Bay, results more important than any contemplated at that time were attained. The actual flow of the river was not then known, and it could not readily be imagined that the height of land which forms the watershed of the system of the St. Lawrence and the great Lakes, should hem in as closely as it does the waters of Lake Superior. This fact, now perfectly established, reduces to very moderate proportions any claim the Province of Ontario could put forward, based on the idea that the western limits of La Nouvelle France, were also those of the late Province of Canada. The Treaty of 1783, which fixes the line of division between the British possessions and the United States, cuts this height of land, and with it defines the whole boundaries of the Province—north, west and south, even if the extreme pretension to which allusion has just been made were adopted. A1.
24. But looking at the question from a strictly legal point of view, this pretension cannot be maintained. The terms of the Treaty of Paris, conveying certain territory to the Crown of England, could not possibly convey to the people of Canada, much less to any portion of them, any absolute territorial right to any particular extent of territory further than what they actually occupied, or what was afterwards conferred by competent authority. (*note T.*) They might seek to have certain limits granted them as a matter of sentiment or convenience, (2)

(1) Already quoted, p. 8.

(2) They did by their petition of 1773. Doute et Lareau Dr. Civil Canad. 1, p. 674.

but no one has ever pretended that the English Government was obliged to maintain under one government the whole territory ceded to the Crown of England as Canada; and, in effect, no such unity has ever been attempted. The whole territory ceded by Vandreuil as Canada, and claimed by England as such, has never for a moment been all included in any Government of Canada. (*note U.*)

25. It is unquestionable law that after the cession of Canada, and until a regular Government was conferred by Statute, the Province remained a Crown Colony, and was subject to be governed under the special ordinances and instructions of the King. Hence it is we must turn to the Proclamation of 1763 to ascertain what was thenceforward to be considered as the Province of Quebec or Canada.
26. That Proclamation sets forth that the King, with the advice of his Privy Council, had granted letters patent, creating four distinct and separate governments within the countries and islands ceded and confirmed to the Crown of England by the Treaty of Paris (1763.)
27. The first of these governments, that of Quebec, was declared to be bounded on the Labrador coast by the River St. John, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissing, from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45 degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coasts of the Baie des Chaleurs, and the coast of the Gulf of St. Lawrence to Cape Rosier, and from thence, crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John. (*note V.*) 12.
28. Several maps, published subsequent to the Treaty, give the limits thus described to Canada. (*note W.*) (1.)
29. The boundary to the southwest remained unchanged till 1774. (2). It included all the settlements of any importance at that time. (*note X*) Burke (3) says "This boundary, fixed for the Government, was so because it was the boundary of the possession, and that the people of Canada acquiesced in it." (4) But on this point, perhaps, Burke was not a totally impartial witness, and he probably expressed the extreme pretensions of the Government he represented. At any rate the people of Canada did not approve of the limitation, and by their petition in 1773, they prayed that as under the French Government, their boundaries might be extended to the Mississippi. (5) (*note Y.*)

(1) Jeffrey's Map, 10th June, 1775. Also map in translation of Charlevoix. Dunn's Map, 1776, and see notes R and V.

(2) Burke, in *Cavendish Debates*, p. 189.

(3) *Ibid.*

(4) *Ibid.*

(5) Doutre & Larocau *Droit Civil*, Canad., 1, p. 674.

30. It seems, however, of very little importance in a legal point of view, whether the old Government of Canada as a French Province, really extended to the Mississippi, or whether the people of Canada acquiesced in the limits given by the King in his letters patent constituting the Government of Quebec or not; nor indeed does it signify, for the discussion at present, how far constitutionally the King had a right to carve Provinces and Governments out of the possessions of the Crown, for we are now arrived at the time when the limits of Canada were determined by Act of Parliament.
31. The 14 Geo. III, C. 83, (1774,) called the Quebec Act, after setting up the eastern boundaries, continues, and "thence along by the eastern and south-eastern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province until the said western boundary strike the Ohio; but in case the said bank of the Lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the northwestern angle of the said Province of Pennsylvania, and thence by a right line to the said northwestern angle of the said Province, and thence along the western boundary of the said Province (Pennsylvania) until it strike the Ohio; and along the bank of the said river westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to "The Merchants Adventurers of England trading to Hudson's Bay." Section 2 of this Act contains the only limitation to this description: "Provided always, that nothing herein contained relative to the boundary of the Province of Quebec shall in anywise affect the boundaries of any other Colony."
32. The boundaries laid down by the Act were deliberately adopted after much discussion (1) All the parties were either represented directly in the house or were heard by petition; and very notably the petition of the Canadians of the previous year had received due attention. The only difficulty which remained was foreseen. The unsurveyed boundary of the Province of Pennsylvania might, or it might not strike the bank of Lake Erie, and both cases were provided for; but about the line of the Ohio there could be no doubt. From the point at which it cut the western line of the Province of Pennsylvania, it constituted the boundary of Canada until its confluence with the Mississippi. From that point the line was clearly defined; it was a due north line, for that is the only interpretation which can be given to the words "northward to the southern boundary of the territory granted to 'Merchants Adventurers of England trading to Hudson's Bay.'" (note Z.)
- This opinion, which indeed recommends itself naturally, is supported by the decision of Chief Justice Sewell in the trial of de Reinhard at Quebec in 1818 (2), which judicially interprets the Act of 1774 in this sense. Nor can there be any doubt that the effect of these words in the Statute was matter of law for the Court to decide. (3).

(1) Cavendish Debates.

(2) Report of trial, p. 646.

(3) Attorney General of Upper Canada remarks, acquiesced in by the Court on the Trial of Grant for the murder of Governor Temple, p. 267.

33. Curious to say in the new Commission to Sir Guy Carleton, rendered necessary by the Act of 1774, a somewhat different boundary is described. After following the description of the Statute till the confluence of the Ohio and Mississippi, the Commission goes on: "and northward *along the eastern bank of the said river* to the southern boundary of the territory granted to 'The Merchants Adventurers of England trading to Hudson's Bay.'" The words in *italics* are an evident and very material addition to the Statute; and they either fell in with, or created the general impression that Canada, before the treaty with the United States (1783), extended to the Mississippi. This description also appears in a Commission of two years later date to Sir Frederick Haldimand, and very probably in other Commissions between 1774 and 1783; but no words in letters patent could alter the express dispositions of an Act of Parliament. The only manner in which the effect of the Act of 1774 could be destroyed would be by another Act of Parliament. Was there any such?
34. The Act of 1791 does not deal with the question of the western boundaries of the Province of Quebec. The subject of the precise boundaries of Upper Canada was then of some difficulty, for the Treaty of 1783 had not made clear the line which was to divide the British possessions from the United States. In this dilemma it was thought advisable to describe "the Upper district by some general words." (1) But whether, owing to the difficulties occasioned by the Treaty of 1783 or not, all description was omitted in the Act, and the King, by his message of the 25th February, 1791, announced his intention of dividing "the Province of Quebec into two Provinces to be called the Province of Upper Canada and the Province of Lower Canada," whenever His Majesty shall be enabled by Act of Parliament to establish the necessary regulations for the Government of said Provinces. The Act being passed, the King, by proclamation, declared what should be the division line; but he abstained most carefully from entering into any other description of the two Provinces, and as Lord Grenville had suggested, used "some general words." Having established "the boundary line of Hudson's Bay" as the northern limit, the Upper Province is said to include "all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada."
35. It is maintained that what is called or known by the name of "Canada" must be taken to mean what was then known by law (*i. e.*, by the Act of 1774) as Canada, less the reductions under the Treaty of 1783, which are provided for by Section 2 (2) of the Act of 1774. But even if the words had another and more extended sense, it is further maintained that in so far they would be in-operative. The King's authority to make any proclamation at all to divide the Province depended on the implied consent of Parliament by the Act of 1791. He could only divide the Province of Quebec—he could not extend it by proclamation. (*note AA.*)
36. This view is supported by Chief Justice Sewell in the case of *de Reinhard*, already cited. He said: "The intention of the Proclamation and Act of 1791 was to divide the Province, not to add to it." (*note BB.*)

(1) Letter from Lord Grenville to Lord Dorchester, 20th October, 1789. Christy's History of Canada, Vol. 6, p. 16.
 (2) *Supra* p. 14.

37. The Act* reuniting the Provinces of Upper and Lower Canada simply declared "that it shall be lawful for Her Majesty with the advice of Her Privy Council, to declare or to authorize the Governor General of the said two Provinces of Upper and Lower Canada to declare, by Proclamation, that the said Provinces, upon, from and after a certain day, in such Proclamation to be appointed, which day shall be within fifteen calendar months next after the passing of this Act, shall form and be one Province, under the name of "the Province of Canada."
38. The British North America Act, 1867, is equally unambitious. The Province of Canada was divided by it, and the part which formerly constituted the Province of Upper Canada was declared to constitute the Province of Ontario.
39. Canada, then, as it stood after the Act of 1774, was divided into two Provinces; the two were again re-united: but the limits of the whole were not changed in so far as regards the northwestern boundaries, until the Act constituting the New Dominion became law.
40. The limits of Ontario are, therefore, to the east, the Province of Quebec; to the north, the southern boundary of the Hudson's Bay territory (shown to be the height of land dividing the waters which fall into Hudson's Bay from those which fall into the St. Lawrence and the great Lakes); to the south, the northern boundary of the United States and longitude 89° 9' 27" 16 west of Greenwich to the west.

T. K. R.

Montreal, March, 1873.

* 3 and 4 Vic. c. 35 (Imp. Act) 1840.

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MEMO.

In the Report submitted the strictly legal view has alone been considered, because it alone seemed to be within the scope of my instructions; but from the course of my investigations I could not fail to see that beyond this there is another consideration not less important, and that is the equitable side of the question. In creating the Province of Ontario it is not possible to conceive that the Imperial Legislature intended to convey to that Province and to the Province of Quebec less territory than the late Province of Canada actually enjoyed. Now it is incontestable that up to 1867 the Government of Canada *de facto* extended to the height of land which forms the watershed of the water system of the St. Lawrence and the great Lakes. This is made apparent by the registers of the Executive Council, by which we find that a Commissioner was appointed to obtain the surrender of the claims of the Indians to the lands in the vicinity of Lakes Superior and Huron, or of such of them as may be required for mining purposes. The Commissioner executed a treaty by which he obtained a portion of the very territory that would be cut off from the Province of Ontario if the dispositions of the Act of 1774 were literally observed. "From Batchewanong Bay to Pigeon River at the Western extremity of the said Lake (Superior), and inland through that extent to the height of land which separates the territory covered by the Charter of the Honorable the Hudson's Bay Company from the said tract and also the Islands in the said Lake within the boundaries of the British possessions therein."

There are doubtless other acts of authority beyond the meridian indicated in the foregoing report. In the De Reinhard trial, Mr. Coltman, a Magistrate for the District of Quebec, and a Commissioner in the Indian territory, in his evidence said: "*Il est notoire que les writs des Magistrats du District ouest du Haut Canada sont émanés pour être exécutés à Fort William.*" It would therefore seem that in fairness to the Province of Ontario the old line of the height of land should be adopted as the western as well as the northern boundary of the Province of Ontario.

T. K. R.

Montreal, March, 1873

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NOTES.

Note A.—"They (France and England) prepared to cut the *gordian* knot of this long and intricate negotiation with the sword." ("The history of the present war," by Burke, in the first number of the Annual Register. Republished separately in 1774.)

Note B.—It is quite unnecessary now to discuss the validity of the Charter. It should, however, be remarked that the words "limiting the grant to such territories as are not already actually possessed by the subjects of any other Christian Prince of State," ceased to have any legal value after the Treaty of Utrecht. As between the King of England and the H. B. Company there could be no contest as to the rights of the French. I do not know whether the value of the particular words "actually possessed" has ever been commented. They exclude the idea of a claim of title by simple discovery or by any naked formality, and there can be no question that in 1670 the French had no *actual possession* of any part of the lands round Hudson's Bay.

Note C.—The report of the Commissioners of Crown Lands in 1857 is incorrect in saying that the Commission to Roberval "included Hudson's Bay, though not then, of course, known by that name." The writer would have extended geographical knowledge had he told us by what name it was, and by whom known in 1540. Is it possible the official writer mistook "The Great Bay," which is mentioned by Jeffrey (from whom he quotes), as the name by which Hudson's Bay was known in 1540? Then, and long after, "*La grande baie*" was the name given to the Gulf of St. Lawrence, from "*le cap de St. Louis à l'entrée de la baie des Chaleurs*." (*Denis' Description de l'Amerique Septentrionale*, 1672, Tom. I, p. 164, chap. 7.

In the same report it is said that in "1627 the Quebec Fur Company was formed under the auspices of Cardinal Richelieu, and an exclusive Charter granted to them for the whole of New France, or Canada, described as extending to the Arctic Circle!" This is incorrect. At the time it is not unlikely that the French Government knew little or nothing of the two early English voyages of discovery to Hudson's Bay, and they could not have known anything of these parts from their own voyages, for no French expedition had ever then been there. But the *arrêt* of 1627 does not mention Hudson's Bay. It gives the Company the whole country from Florida "*en rangeant les Côtés de l'Amerique jusqu' au Cercle Arctique*." (Ed. and Ords., Tom. I, p. 7. Quebec, 1854.

Note D.—In the oft-repeated description by L'Escarbot it is said that la

Nouvelle France is bounded to the north by "*cette terre qui est dite inconnue vers la mer glacée jusqu'au pôle arctique.*" Thus he does not pretend that la Nouvelle France stretches to the Frozen Ocean (L'Escarbot, vol. 1, p. 31 ed. 1611), as Mr. Cauchon's Report seems to imply, but only to the unknown lands, which, in their turn, extend to the frozen ocean. Having quoted the passage of L'Escarbot referred to, Garneau adds: "*Mais ces limites étaient plus imaginaires que réelles, puisque l'on ne connaissait pas alors même la vallée entière du St. Laurent.*"

Note E.—"*Il est certain que ce fut Henry Hudson, anglais qui en 1611 donna son nom et à la Baie et au Detroit par où il entra.*" (Charlevoix 1, p. 476.)

Note F.—Mr. Justice Monk, in the case of Connolly v. Woolrich, p. 14, says: "From the voyage of Sir Thomas Button in 1611 till the year 1667, it (Hudson's Bay) appears to have been wholly neglected by the English Government and Nation." There is, however, no doubt about the voyages of Fox and James.

Note G.—Médard Chouard des Grozeliers ("the name is spelled in a variety of ways;" L'Abbé Tanguay writes "Medard Chouard des Grozelliers"), Pierre Esprit Hayet-Radisson, and Pierre Le Moynes d'Iberville. These three names are intimately connected with the history of the early settlement of Hudson's Bay. Des Grozeliers came from Touraine when very young and became a voyageur of some repute. (Ferland, 2nd ed. p. 80. *Jeremie Rel. de la Baie d'Hudson*, p. 14. *Mère de l'Incarnation Lettre d'Août*, 1670.) He reported that, being to the north of Lake Superior, he met some Indians who led him to James' Bay. Subsequently he endeavoured to induce the principal merchants in Quebec to fit out an expedition to visit the North Sea; but failing in this,* he went to Boston, and from thence to Paris,† and finally to London, in search of persons sufficiently adventurous to carry out his scheme. In London his representations were favorably listened to, and a New England captain, Zacariah Gillam, was sent off with des Grozeliers in 1667 or 1668.‡ They built a fort which they called Charles or Rupert, at the mouth of the Nemisco River. On their return, the Hudson's Bay Company was formed and obtained a Charter, dated 2nd, May, 1670.§ Nowhere is any date given to des Grozeliers alleged first journey overland to James' Bay; indeed it was only formally put forward in 1686 (French Memoir, 8th November, 1686, Doc. Hist. 9) to sustain the French claim to be

*Jeremie says that he did induce the Merchants in Quebec to fit out a bark with which he went to the Bay and discovered Nelson River; but the whole of his narrative up to the expedition of 1694, in which he was engaged, is totally worthless. He is, however, followed by Murray, who adopts the account of a sea voyage by des Grozeliers from Canada, and gives other details; for all of which he disdains to quote any authority. 2 p. 132.

†De la Potherie omits the going to Paris.

‡Oldmixon says 1667; so does M. de Callières in a letter to M. de Seligney 25th February, 1685, Doc. Hist. 9, p. 797; Ferland says 1668, 2nd ed. p. 80; Murray also says 1668, 2 p. 132. In the French Memoir of the 8th November, 1686 the year is given twice as 1662, Doc. Hist. 9, Charlevoix gives the year as 1663, vol. 1, p. 476; and in this he is followed by Garneau, 2, p. 126; but in the *Fastes Chronologiques* Charlevoix says 1668; again Dobbes says 1667, but later he says Gillam was there from 1668 to 1673; in the description of the right and title of the Crown of Great Britain to Hudson's Bay, June 2, 1709, Eng. MSS. vol. 1, p. 64, it is said that Zachary Gillam went there in 1667, in the "Nonsuch," to explore and make a settlement in Hudson's Bay, and built Charles Fort at Rupert River.

§Ferland says 1660. He is not the originator of this error. I have seen it elsewhere. It arises from a miscalculation of the year of the King's reign. The Charter is dated the 2nd day of May, in the two and twentieth year of the King's reign. Charles 1st was beheaded the 30th January, 1648; the 22nd year, therefore began on the 31st January, 1670.

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the first discoverers of the Bay. But, curious to say, in the French Memoir, the year of the Gillam Expedition is stated to be 1662. It is, however, perfectly certain that he did not go to the North in 1662, and that the Gillam Expedition did not start before 1667—perhaps only in 1668. It seems more than probable that the story of the overland journey to James' Bay was an invention of des Grozeliers in order to draw the Quebec merchants into his scheme. Probably he had heard of Hudson's Bay from the Indians he met in the North West; for difficult and tedious as was the overland journey, it was not impossible; and occasionally there was some intercourse between those living in Canada and Indians from the neighbourhood of the Bay. Thus, in 1657, eight Canadians went up the Batiscan with twenty canoes of Algonquins. The voyage was rough, long and dangerous, though prosperous; and they met with the Kiristinons "*qui sont proche de la mer du Nord*." (Journal des Jesuites, p. 217.) Again, in 1664, it is said 80 Kiristinons came as far as Montreal to look for a Missionary. (Ibid.) But it seems very odd if he had really made any such journey that the records of the Jesuits should be silent on the subject. From their Journal, we learn that, in 1659, des Grozeliers did go up to Lake Superior, and passed the winter with the Nation de Boeuf, returning the following year to Canada with 300 Outawas and a great quantity of fur. He was at Three Rivers on the 24th August, 1660. Again we hear of him on the 3rd May, 1662, and he then said he was going to La Mer du Nord. He passed the night at Quebec, and he wrote to the Governor from Cap Tourmente.* We know nothing positive of his subsequent movements for some time; but it is not unlikely that after leaving Quebec, he passed the years from 1662 to 1667 advocating his project of a voyage to Hudson's Bay. This conjecture would also account for the error of the French Memoir in placing the date of the Gillam Expedition in 1662. It would appear that des Grozeliers was accompanied by Radisson, to whose sister he was married, and that Radisson was married to an English woman. (De Frontenac's letter, 2nd Nov., 1681.) This marriage of Radisson is involved in great confusion. De la Potherie tells us that Lord Preston, who was ambassador at Paris, promised to make a servant of his, named Godet, perpetual Secretary of the Embassy, if he could prevail on Radisson to go to England, and that Godet, as an inducement to Radisson, promised him his daughter in marriage (1,145). Charlevoix says that the negotiation took place through a servant of Lord Preston, called "Gods," (1. p. 481), and that Radisson was then married to a daughter of Chevalier Kirke; that he went to London, where he was cordially received by his father-in-law, and that he was granted a pension of 12,000 livres a year. Shea, in a note to his translation of Charlevoix (3,233), says that it was Sir David Kirke's daughter he married. Another account (Murray 2, 131) is that des Grozeliers was induced to go to England by Mr. Montague, the English Ambassador, who gave him a letter to Prince Rupert. Murray gives no authority for his version; but it is possible there may be some truth in all these stories, though certainly not all true. The following dates are correct, and contradict much of them. Des Grozeliers' first expedition to England must have been prior to the summer of 1668. Ralph Montague was Ambassador at Paris from September, 1668 to 1678. Radisson was married to an Englishwoman before November, 1681. (De Frontenac's letter, 2nd November, 1681.) Radisson's second visit to England was in 1684, and then Sir David Kirke had been dead nearly thirty years. He died in 1655 or 1656. (Shea's translation of Charlevoix 3, 232—6 & 6, 124.) In 1670, Radisson accompanied the new Governor back to Hudson's Bay. We hear of him, and also of des Grozeliers, at Fort Nelson, in 1673,

*Under date May, 1662, in the Journal des Jesuites, there is this entry: "*Je partis de Quebec le 3 pour les Trois Rivières, je rencontrai des Grozeliers qui s'en alloit à la Mer du Nord. Il passa la nuit devant Quebec avec 10 hommes et étant arrivé au Cap Tourmente, il l'écrivit à Mons. le Gouverneur, p. 308.*"

and at Fort Rupert in 1674. They obtained their pardon in 1676 from the King of France, and returned to Canada. I do not know when they returned to Canada, nor can the date given by M. de Callières in his letter to M. de Seignelay, 25th February, 1685, be relied on, for he goes on to speak of the Canadian Company having been formed in 1676. This is evidently an error, if not an intentional misstatement, for in a memoir of the Compagnie du Nord établie en Canada, 1698, P. M. S. VIII, 265, it is said: "*Elle (la Compagnie) commença cette entreprise en 1682.*" Before we have anything more to do with Radisson in Hudson's Bay, he served under Marshal d'Estrées in the West Indies, and obtained permission from him to go in a vessel belonging to S. de la Chesnay ("Aubert de la Chenaye" is one of the signatures to the Memoire de la Compagnie du Nord, 15 November, 1690, Paris, M. S. V. p. 156,) to make settlements along the coast leading to Hudson's Bay. This was prior to November, 1681. (M. de Frontenac 2nd Nov., 1681, Doc. Hist. 9.) In 1682 a Company was formed at Quebec to trade to Hudson's Bay. This was the commencement of this enterprise. (Memoire de la Cie. du Nord, établie en Canada, 1698, P. M. S. VIII. p. 265.) There was a complaint by the English Ambassador that in 1682, Radisson and other Frenchmen had gone with two barks, called the "St. Pierre" and the "Ste. Anne," to Fort Nelson, and seized the fort and the property found there. (The King to M. de la Barre, 10th April, 1684.) They also took Benjamin Gillam, son of their old captain, prisoner. They also captured a Boston ship, and took it to Quebec. (De la Potherie 1, 143.) M. de la Barre caused the ship to be restored to the owners, for which he was severely reprimanded by the Minister (10th April, 1684).

Des Grozeliars and Radisson, from some cause or other, became dissatisfied with their partners in the Hudson's Bay trade. It is not unlikely they were not over-pleased with the restitution of their capture. At all events, Radisson went to France in 1684. From France he went to London, induced by Lord Preston, as some say, and there he succeeded so well that the same year he sailed for Hudson's Bay with five ships. He captured Fort Nelson by surprise, 16th August, 1684,—(Instructions from M. de Denonville, 12th February, 1686), took prisoner his own nephew, together with all the Frenchmen he found there, and carried them to London. He also carried off an immense quantity of furs, and did the Canadian Company \$400,000 worth of damage. De la Potherie says 300,000 livres, which is more credible. After this, we hear very little of M. M. Des Grozeliars and Radisson. It would appear, however, that Radisson wintered in the Bay in 1685-'6, for the excuse for de Troyes' expedition was the capture of Radisson. (Instructions of M. de Denonville to de Troyes, 12th February, 1686; letter of de Denonville, 10th November, 1686.) In 1685, the Canadian Company obtained a Charter (20th May). In 1686, de Troyes and d'Iberville went overland to Hudson's Bay. They first attacked Fort Mississippi or Moose Fort, which they took. They next surprised Fort Rupert. On the 16th July, they took Fort Chechouan or Albany. On the 10th August, 1686, de Troyes started on his return journey to Montreal. (De la Potherie, 1, p. 147; Ferland, 2nde partie, 164.) M. de la Potherie says, that six months after, having sent the English prisoners home, d'Iberville went to Quebec; but it would appear, from a letter from M. de Denonville to M. de Seignelay, he was still supposed to be in command of the forts at Hudson's Bay on the 25th August, 1687. On the 31st October, 1688, M. de Denonville announces the return of d'Iberville, but says he was to return to the Bay. In 1688, it would seem, the English built Fort Churebill, towards the end of the year, (Memoire de la Cie du Nord, 15 November, 1690.) In 1688 d'Iberville

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took two English ships. (See the account given of it in the letter of the Sr. Patu de Quebec, 14th November, 1689, and in d'Iberville's letter of the 17th, in which he promised to go back next year and take Fort Nelson, if he could obtain the assistance he required.) Fort Churchill was captured by the French in 1689 (Memoire de la Cie du Nord, 15th November, 1690.) In 1690 d'Iberville returned, intending to take Fort Nelson, but being repulsed he landed and forced the English to abandon Fort Nieu Savanne. He had gone there with three ships called "La Sainte Anne," "Les Armes de la Compagnie," and "Le Saint François." In 1693, the English re-took the Forts Chechouan or Albany, Mississippi or Moose Fort, and Rupert. (De la Potherie 1, 165.) No one but de la Potherie mentions the re-taking of Moose Fort and Fort Rupert, and in 1700 the Hudson's Bay Company complain of the French encroachments, saying that, owing to them, they have only one settlement remaining out of seven they had. It would therefore seem that if the English re-took Moose and Rupert Forts, they lost them before 1700. In 1694, d'Iberville, in command of two of the King's ships, which were lent to the Company, sailed for Hudson's Bay to retake Fort Nelson. Jeremie, who was in the expedition, says the two ships were the "Poli" and the "Charente." He is followed in this by l'Abbé Ferland, (2 Pie, p. 278.) P. Marest, who was also in the expedition as *aumonier*, says de Serigny commanded the "Salamandre," and his relation is called *voyage du Poli et Salamandre* (Lettres Ed. Nouv. Ed. vol. VI., p. 4.) In the letter of M. M. de Frontenac et de Champigny to the Minister, 5th Nov., 1694, it is said that de Serigny commanded the *Salamandre*. De Bacqueville de la Potherie, who was the King's Commissioner in the expedition of 1697, says that the ships sent out in 1694 were the "Poli" and "Salamandre" (vol. 1, 1661.) He says they sailed from Quebec on the 8th August, de Frontenac et de Champigny say the 9th August, and Jeremie says the 10th August, jour de St. Laurent (p. 17.) M. M. de la Potherie and Jeremie agree that they reached Fort Nelson the 24th September; L'Abbé Ferland says the 20th September. The Fort capitulated on the 12th October. D'Iberville remained at Fort Nelson fifteen months. He then returned to Canada, leaving La Forest as Governor. In 1696 the English returned, recaptured Fort Nelson, and carried off the Governor and all the beaver. The capitulation by La Forest of Fort Nelson (alias York, alias Bourbon), is that mentioned in the 8th Article of the Treaty of Ryswick. The capitulation was dated 31st August, 1696, but it is spoken of as the capitulation of the 1st September, and in the Treaty as of the 5th September. In 1697 a fleet of five ships sailed from La Rochelle to retake Fort Nelson, namely, "Le Profond," "Le Palmier," "Le Weesp," "Le Pelican," and "Le Violent." M. de la Potherie went as the King's Commissioner. "Le Violent" was crushed in the ice. Action between the "Pelican," the "Hampshire," the "Dering" and the "Hudson's Bay," 3rd September. The "Hampshire" was sunk by the French ships; the "Hudson's Bay" was captured, and the "Dering" escaped. "Le Pelican" was very much shattered in the action with the English ships, and went ashore next day in a storm and was lost. The other three French ships coming up, d'Iberville attacked Fort Nelson, which he took about the 12th September. D'Iberville left his brother, de Serigny, in command of the Fort, and sailed on his return voyage on the 24th September. (de la Potherie, 1, p. 183; Jeremie, who was also in this expedition, and who remained with de Serigny at the Fort). At this point M. Garneau exclaims "*Ainsi le dernier poste que les Anglais avaient dans le baie d'Hudson tomba en notre pouvoir, et la France resta seule maîtresse de cette région*," (2 p. 137). M. Garneau totally overlooked the three forts in James' Bay retaken by the English in 1693, and one of which, Fort Anne or

Chechouan, he mistook for Fort Nelson. At any rate Fort Anne or Chechouan remained in possession of the English from 1693, and they never lost it. It was unsuccessfully attacked by de Menthel in 1709. (Paris M. S. 11, p. 123; Letter of de Vaudreuil to the Minister 25th October, 1710, p. 139.)

To avoid confusion, it may be well to enumerate the Forts, and to give their different names. In 1700, the Company said that they had had seven Forts, and that by the encroachments of the French there remained to them only one. (Pownall papers MSS.) Six of the seven only appear to have given rise to any contest; the seventh I presume to be East Main. The six others are—

1st. Fort Rupert, called by the French St. Jacques, founded in 1667 or 1668 by Gillam. Taken by the French under de Troyes and d'Iberville July, 1686. Retaken by the English in 1693.

2nd. Fort Monssippi, Monsonis, St. Louis, or Moose Fort, taken by de Troyes and d'Iberville about the 20th June, 1686. Retaken in 1693.

3rd. Fort Chechouan, Ste. Anne, or Albany, taken by de Troyes and d'Iberville in 1686. Retaken in 1693.

4th. New Severn, or Nieu Savanne, taken by d'Iberville in 1690.

5th. Fort Bourbon, Nelson or York, founded in 1670. Taken by Des Grozeliars and Kadisson, acting for the French, in 1682; retaken by Radisson, acting for the English, in 1684; retaken by d'Iberville 12th October, 1694; retaken by the English 1696, and again by the French 1697. It remained in the possession of the French until 1714, when it was given up under the Treaty of Utrecht.

6th. Fort Churchill, built 1688, and taken by the French in 1689.

Note H.—In the memoir of the French right to the Iroquois country and Hudson's Bay of the 8th November, 1686, it is said that in 1656 Jean Bourdon ran along the entire coast of Labrador with a vessel of 30 tons, entered and took possession of the North Bay, and that this is proved by an extract of the ancient register of the Council of New France of the 26th of August of the said year (1656.) Unfortunately the register in question is not now in existence; but if it were, it could not prove what the writer of this memoir pretends. At most it was but an authorization* to Jean Bourdon to undertake the voyage to the coast of Labrador, and not a recital of what he actually did, for Bourdon's voyage was in 1657 and not in 1656. He sailed from Quebec on the 2nd May, 1657, and returned on the 11th August of the same year at ten at night. (Journal des Jesuites pp. 209-218.) But we are not left in any doubt as to the extent of Bourdon's voyage. On reference to the "Relations des Jesuites," vol. III., 1658-9, we find this entry: "*Le 11 (August) parut la barque de Monsieur Bourdon, lequel estant descendu sur le grand fleuve du côté du Nord, voyagea jusques au 55 degré, ou il rencontra un grand banc de glace, qui le fit remonter, ayant perdu deux Hurons qu'il avait pris pour guides. Les Esquimaux sauvages du Nord les massacrèrent et blessèrent un François de trois coups de flèches et d'un coup de couteau.*"

Note I.—Dablon never reached Hudson's Bay; the extreme limit of his journey being only 100 leagues from Tadousac. We learn from the "Journal des Jesuites," that he started for "la Mission St. Fr. Xavier aux Keristinons" the 11th May, 1661, p. 296.

*Besides see letter of M. de Callieres to M. de Seignelay, 26th February, 1656.

He left Tadousac on the 1st or 2nd June. On the 6th, the Iroquois attacked Tadousac, and drove away all the Canadians. They even came up to the Isle d'Orleans and the Cote Beupré, and killed several persons. At page 300 of the Journal, there is this entry: "1661, Juillet le 27, retournèrent ceux qui étoient allés ou prétendoient aller à la mer du Nord ou aux Kiristinons P. Dablon, &c. In the "Relations des Jesuites," we have the relation of this voyage, which is called "*Journal du premier voyage fait vers la mer du Nord*." (12 août 1661.) The account is dated from the highest point they reached, "Nekouba 100 lieues, de Tadousac, 2 Juillet, 1661." See also Journal of Count de Frontenac, 1673, when the importance of making it appear that Dablon had been at Hudson's Bay was fully understood. (Doc. Hist., vol. 9.)

Note J.—The voyage of Albanel and St. Simon is not open to the same objections as that of Dablon. It would appear that they performed the whole journey from Canada to Hudson's Bay, and that they took formal possession in the King's name. (Relation de 1672.) The difficulty to this voyage as giving a title to the King of France, is that it came too late (1671-'2), and after the English were in possession of Hudson's Bay. Besides, it was only a formality, for the French took no steps towards making a settlement there till 1682. (Ferland, 2nde partie, p. 83.)

Note K.—The dealings with the Indians from Hudson's Bay cannot be relied on as a title. Besides, we have the repeated assurance that trade with Hudson's Bay could only be carried on by sea. (Denonville on State of Canada, 12th Nov., 1685, Doc. Hist. 9; Letter from Denonville au Ministre, 10th Nov., 1686; Paris, Doc. MS. V; same to de Seignelay, 25th August, 1687, Doc. Hist. 9; Memorial de la Cie. du Nord, 1698.) This conclusion had not been arrived at without an effort to keep up communication by land. M. de la Barre, on the 9th November, 1683, writes: "The people who have been at Hudson's Bay have returned after having encountered extreme dangers." * * * "It is expected that communication can be had with it overland, as will be seen by the map he sends."

Note L.—Dobbes says that Hudson's and Button's Journals are not to be found. Murray says: "It is remarkable that no original of this voyage (Button's) has been published, and that it is not even mentioned by Purchas, who made it his business to collect accounts of all voyages made at this era." (Vol. 2, p. 56.) In Rose's Biographical and Geographical Dictionary, it is said that there is an extract of Button's Journal in Purchas. Both the Biographical Dictionary and Mr. Murray are in error. There is no extract of the Journal in Purchas. On the contrary, Purchas says he had not seen the Journal, but he had seen the chart, which was also seen by Champlain, p. 926, ed. 1617. Murray, probably, had only looked at the first edition of Purchas, which was printed in 1613, so that it was hardly possible for it to contain any mention of Button's voyage, which only terminated that year. Although not in Purchas, a fragment of Button's Journal was communicated to Fox by Sir Thomas Roe. (Hakluyt Society Papers. See also Appendix.) Even in the absence of any mention of Button's Journal in Purchas, there is no doubt of the voyage having taken place. It is not questioned by foreign writers. As an example, see *Anecdotes Americaines*, Paris, 1776, by Hornot.

It is hardly necessary to answer the doubt thrown out by the French Memoir and by Dobbes on Hudson's voyage. If we have not Hudson's Journal, which, under the circumstances, is not very remarkable, we have, at all events, the account of Pricket, who, in his own justification, wrote an account of the mutiny; and, in doing so, he mentions Hudson's discoveries. (Harris' complete collection of Voyages and Travels, 2, p. 244.)

Note M.—There is a great uncertainty as to what sort of discovery or occupation gives a title.

In the report of the Commissioner of Crown Lands in 1857, it is maintained, citing the Oregon dispute as an authority, that a discovery "not made known to the world either by the discoverer himself or by his Government, has no value." This would destroy one of the Commissioner's own pretensions.

M. de Denonville, in a memoir on the French limits in North America, in 1688, makes the right depend on discovery, and "planting the arms of the King or Prince." But the French officials urged claims, owing to voyages where no such formality was or could be complied with.

Note N.—In 1671, the French authorities in Canada could not venture to fix a date for the first taking possession of Hudson's Bay. In Talon's Memoir to the King, 2nd November, 1671, he says: "those countries were *anciennement* discovered by the French;" (Doc. Hist. vol. 9.) It seems to be only in February, 1685, that the French detailed their pretensions. The 15th May, 1678, the French Minister, writing to M. du Chesneau, takes exception to what du Chesneau had written about giving passes to private persons, and remarks: "It is of advantage to the King's service to go towards that Bay, in order to be able to contest the title thereto of the English, who pretend," etc. On the 15th August, 1683, the King, writing to M. de la Barre, recommends him "to prevent as much as possible the English establishing themselves in Hudson's Bay, possession whereof has been taken in my name *several years ago*," (Doc. Hist. 9.) In the Relations des Jesuites, the narrative of the voyage of P. Dablon is called "*Journal du premier voyage fait vers la mer du Nord*." This was in 1661. In the relation of 1667, they say they know nothing of the country, but the reports of the Indians. (1667, 23.) On the 18th March, 1688, M. de Denonville is instructed to make the strictest search possible for titles. In a letter of August, 1670, la Mere de l'Incarnation, who knew des Grozeliers well, because he was from Touraine, from which Province she came, mentions the expedition of des Grozeliers in the English ship, and speaks of him on that account, as being the discoverer of the Bay.

Note O.—Commissaries were named under the Treaty of Neutrality, on the part of England. They were the Earl of Sunderland, Lord President of the Council and Principal Secretary of State; the Earl of Middleton, Principal Secretary of State; and Lord Godolphin, one of the Lords Commissioners of the Treasury. On the part of France, the Pr. Barillon, Ambassador, and the Pr. Bonrepaux, Envoy Extraordinary. They had their first conference 18th May, 1687. (Doc. Hist. 3, p. 506.) In 1687, complaints were made of the injuries done by the French. (Collection of Treaties, 1648 to 1710.) It would seem the Commissaries arrived at no conclusion, and in 1687 the English Commissaries report that the Company have full right to the Bay and Straits of Hudson, and to the trade thereof. (1 vol. Trade and Plantations, MS. p. 89; Pownall Papers in Lib. of Parl.)

Note P.—They lost all their forts save Nelson in 1686; and Garneau says they lost their last Fort in 1697. (Garneau, vol. 1, p. 137.) But this is an error. (See note G.) On the 20th, 1701, the Governor and Company of Hudson's Bay petitioned the Lords Commissioners of Trade and Plantations on the subject of their losses in the Bay. In this petition they say they have lost all their settlements but one out of seven, namely, "Albany, vulgarly called Chechouan."

Note Q.—The Treaty of Ryswick was not altogether so disastrous to the Hudson's Bay Company as it is represented. In order fully to understand its operations, its terms must be brought into relation with the position of the contending parties there.

Article VII. stipulated that within six months, or sooner if it could be done, the King of France should restore to the King of England all countries, islands, forts and colonies wheresoever situated, which the English possessed before the declaration of the war (1689), and that, on the other hand, the King of England should do likewise for the French possessions.

By Article VIII. it was stipulated that Commissioners should be appointed to examine and determine the rights and pretensions which either of the said Kings had to the places situated in Hudson's Bay. But the places taken by the French during the peace preceding the present war, and retaken by the English during the war, should be left to the French. The capitulation of the 5th September, 1696, was to be carried out, the Governor then taken released, and the merchandize to be valued by commissioners, who were also to decide what lands belonged to the French and what to the English.

From these two articles we deduce, first, the general principle that there should be a mutual restoration of conquests made during the war; second, that the affairs of Hudson's Bay gave rise to a question, to be settled by a joint commission, which might make it an exception to the general principle in so far as regards English conquests during the war; third, that until the Commissioners should decide as to the merits of this question, English conquests during the war should follow the general principle; fourth, that the capitulation of the 5th September, 1696 (during the war) should be carried out.

Commissaries were appointed, but it does not appear that they settled anything. Their dilatoriness caused some comment. (Letter of Frontenac to Bellomont, 21st September, 1698; Lords of Trade to Bellomont, 5th January, 1698-9, the King to Frontenac 25th March, 1699; Letter from de Callières to Governor Nanfan 6th August, 1699.) While the Commissaries negotiated, events in Europe were preparing the way for a new war. By his will, Charles II., who died 1st November, 1680, bequeathed the Crown of Spain to the grandson of Louis XIV. On the 24th November the King of France accepted the succession for his nephew. This led, early in 1701, to the negotiations for the Grande Alliance, which was signed 7th September, 1701. On the 16th September James II. died, and Louis XIV. recognized his son as King of Great Britain, in violation of the Treaty of Ryswick. This caused the Emperor to add another article, to the effect, that he would not treat of peace with France until she had offered England reparation for this affront. France having refused to do this, war was declared by the States General 8th May, by Great Britain 14th May, and by the Emperor 15th May, 1702. *Garden Hist. des Traites de paix*, Tom. 2, ch. x.

Note R.—Both the treaties signed at Utrecht—the Treaty of Commerce and the Treaty of Peace—required the appointment of commissaries to regulate certain questions that could not be determined summarily. The treaties were signed on the 13th April, 1713, and no great time was lost in appointing commissaries. Those representing the King of France were M. M. Anison and Fenelon, Deputez au Conseil de Commerce, whom Lord Bolingbroke had, on a previous occasion, contemptuously styled "Mercantile Politicians," and M. d'Iberville, a diplomatist of some note, who must not be confounded with the Canadian sailor of that name, who died in 1706 at Havana. (Pownall Papers, v. 7). Messrs. Anison and Fenelon arrived in London on the 17th February, 1713-4. (Lord Bolingbroke's letter of the 19th, Pownall papers v., p. 19). M. d'Iberville who had preceded them, arrived before the 17th December, 1713, on which day he had an interview with Lord Bolingbroke, to whom he brought a special letter of introduction from M. de Torcy dated the 14th December, (letter to the Queen 8th December, 1713; *Ibid*, 17th December, Bolingbroke's Correspondence, vol. IV, p. 387.) The English commissaries were Charles Whitworth, James Murray, Esq., Sir Joseph Martin, Kt., and Frederick Horne, Esq., (letter to Mr. Whitworth, Dec. 23rd, 1713, correspondence IV, 408). There was no mention of M. d'Iberville in the commission of the King of France, dated Versailles, 10th February, 1714; but he desired to take part in the discussions under his private instructions. It appears that this difficulty was overcome by the issue of a new commission including M. d'Iberville, of the same date as the other. Another difficulty soon presented itself. The inhabitants of Montserrat had sent a petition to the Queen, and the Hudson's Bay Company sent a memoir, setting forth their claims. The petition and memoir were forwarded by Lord Bolingbroke to the Lords Commissioners of Trade and Plantations who at the same time intimated that the commissaries "now here" have not "any powers to treat upon the said matters," (Pownall papers V, p. 35). It would seem that the difficulty as to powers had been already raised, and been admitted by the French commissaries who wrote to the King for "more ample powers," (London, 11-12th March, 1714; *Ibid*, p. 22). In May the Commissioners of Trade and Plantation wrote to Mr. Martin, Secretary to the English commissaries, to know whether the French commissaries were empowered to treat upon the subject matter of the memorial and petition pursuant to the 10th, 11th and 15th Articles of the Treaty of peace with France (Minutes of the 11th May, 1714. *Ib*). Mr. Martin answered on the 12th, saying, that the French commissaries were not empowered to treat about Hudson's Bay and the Island of Montserrat; but that the Envoy of France, M. d'Iberville had told Mr. Whitworth that a general mention thereof was made in his instructions, and he should receive more particular orders from his Court, whenever demanded. (Minutes of the 13th, *Ibid*). The Commissioners of Trade and Plantations immediately resolved that the commissaries of France should be notified that Commissaries should be named to treat of these matters pursuant to the 10th, 11th and 13th Articles of the Treaty of Peace.

It is somewhat odd that there should have been any question on this point, for neither in the Queen's instructions to the English Commissaries, nor in the Commission of the French Commissaries was there any reference to the Treaty of Peace. It does not appear that more ample powers were ever accorded to those Commissaries, and on the 9th June, 1714, the English Commissaries report the deliberations "at a stand." Thus the first effort to establish the limits of Hudson's Bay failed.

The death of the Queen, and the change of policy which followed on the succession of the House of Hanover, put an end to any immediate prospect of settling these delicate questions as to boundaries. The Treaty of Utrecht was no longer popular, and nothing seems to have been done in the matter for some years. The next mention of the subject, I have found, is contained in a despatch to MM. de Vaudrenil and Begon, dated

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23rd May, 1719. (Doc. Hist. 9.) In this despatch, the King says he has instructed his Ambassador in England to propose the nomination of Commissaries on both sides agreeably to the Treaty of Utrecht, for the settlement of the boundaries of New France. With the materials within my reach, I have not been able to trace the steps taken to fix these boundaries; but having had communication of the notes of Chief Justice Draper, who went to England, in 1857, to represent the late Province of Canada before a Committee of the House of Commons, I take the liberty of copying from him. The Chief Justice says: "On 3rd September, 1719, instructions were given to Daniel Pulteney and to Martin Bladen, Esqrs., as Commissioners for Great Britain, under several Articles of the Treaty of Utrecht, which, after a special reference to the 10th Article of the Treaty, proceeds thus: 'You are to endeavour to get the said limit settled in the following manner, that is to say,' giving a particular description and then adding: 'But you are to take especial care in wording such articles as shall be agreed on with the Commissary or Commissaries of His Most Christian Majesty on this head, that the said boundaries be understood to regard the trade of the Hudson's Bay only; that His Majesty does not thereby recede from his right to any lands in America, not comprised within the said boundaries.'" In a letter, dated Paris, 7th Nov., (N.S.) 1719, Colonel Bladen writes to the Lords of Trade: "And this day we shall deliver in the Company's demand upon that subject (the boundary of Hudson's Bay) in the terms of our instructions, although I already foresee some difficulty in the execution of this affair, there being at least the difference of two degrees between the best French maps and that which the Company delivered us."

"Again, in November, 1719, Lord Stair and Colonel Bladen delivered to the Mareschal d'Estrees, one of the French Commissaries, the demand of the H. B. Company. The other French Commissary, the Abbe Dubois (afterwards Cardinal), was prevented by indisposition from attending.

"On 3rd January, 1720, Lord Stair wrote to Secretary Craggs; '*Jay parlé aussi touchant la commission pour les limites son A. R. ma assure qu'on tiendrait incessamment des nouvelles conférences.*'"

"Similar assurances were transmitted to Lord Stair from the French Regent in several letters."

On the 29th February, 1720, Lord Stair wrote: '*De la maniere que Mons. le Mareschal d'Estrees, m'a parlé aujourd'hui nous seront encore du temps sans voir renouer les conférences sur les limites en Amerique.*'"

(The French spelling is Lord Stairs. I copied from originals. Note by Chief Justice Draper.)

"14th April, 1870, Mr. Secretary Craggs writes to Mr. Pulteney, then at Paris: 'As my Lord Stair is on the point of leaving Paris, H. My. would have you use this occasion, either yourself directly or by His Excellency, as you shall judge proper, to demand some peremptory answer upon the subject of your commission, and whether the French Court will renew the conferences with you; which, if you find they will not, H. My. thinks it needless, in that case, for you to make any longer stay at Paris, and would have you say you are to come away, but not come away until such time as you shall have further orders from hence.'"

"Mr. Pulteney's letters, which I have examined, showed that he and Lord Stair made many fruitless attempts to get the French Commissaries to meet them, but though repeated promises were made, there was no meeting after Colonel Bladen had submitted the British proposals and the map."

"Colonel Bladen was again in Paris in 1722, but his letters made no allusions whatever to the limits in America. They refer to some matters connected with Ste. Lucie, as to which it does not appear whether any arrangement was made."

"By a letter from Sir Robert Sutton to Secretary Craggs, dated Paris, 8th September, 1720, it appears nothing had been done in regard to 'settling the limits in America, beginning with Hudson's Bay.'"

"I could not trace any further correspondence on this subject in the State Paper Office until after the Treaty of Aix la Chapelle (October, 1748). But in July, 1750, the H. B. Company were again called upon to lay before the Lords of Trade an account of the boundaries granted to them, and they repeat what their former memorials stated on the negotiations for carrying out the Treaty of Utrecht. They refer to their proposals as what they still desired, and they stated that the Commissioners under that treaty were never able to bring the settlements of those limits to a final conclusion."

"But there is a letter from the Duke of Bedford to the Earl of Albemarle, dated 12th February, 1749-'50, stating that the Commissaries for settling the limits will be ready to set out for Paris as soon as Governor Shirley has finished some affairs now depending with the Board of Trade, and on the 16th April, 1750, the Duke of Bedford writes to the Earl of Albemarle to the effect that Mr. Shirley and Mr. Mildmay, or one of them, will be in Paris 'as soon as this letter,' to act as Commissioners there to settle the difference between England and France as to the encroachments of the latter in North America."

The French Commissaries were M. Silhouette and M. de la Galissonnière. They sailed from Quebec in the "Leopard," on the 24th September, 1749, to return to France where they were to meet the English Commissaries, General Shirley and Mr. Mildmay (Ferland, 2nde Pic, p. 495). These Commissaries had no greater success than those who preceded them. In the private instructions from the King to M. de Vaudreuil, of the 1st April, 1755 (Doc. Hist. 10), it is stated that Commissaries had been appointed on both sides, that they did meet at Paris to regulate all the disputes concerning the French and British possessions. The King regrets that the success of the labours of these Commissaries to the present time did not correspond to the hopes he had entertained, and that as yet the Commissaries had not entered on the limits of Canada further than what regards Acadia. It seems they never did enter seriously on the question of the limits of Canada. Several bulky volumes made known to the world what they did. The first of the papers exchanged is dated September, 1750, and the last the 7th June, 1755; by a strange coincidence, the very day Boscawen captured the "Lys" and the "Alcide." The only tangible proposition I have found in all these volumes is that the St. Lawrence is to be the centre of Canada. The English Commissaries say they do not know what is meant by that; neither do I.

The capture of the "Lys" and the "Alcide" was really the recommencement of hostilities between France and England, but the formal declaration of war was not until the 18th of May, 1756. There was, however, an end of negotiation until after the taking of Quebec, when negotiations were recommenced. They lasted from the 26th March to the 20th September, 1761. (See the "*Memoire historique sur les négociations de L. Prince de de l'Angleterre*," prepared by the King's order by the Duc de Choiseul, Paris, 1761.) Those were, I believe, the last negotiations until the Treaty of Paris (1763.)

In the meantime, it would appear, that so far as the Hudson's Bay territory was concerned the limits were practically settled.

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In a map by John Senex, F.R.S., 1711 (A 3) we find a dotted line indicating a division between Canada and the Hudson's Bay Territories, similar to the one described and claimed by the Hudson's Bay Co. In a map in Carver's travels (1778) this is carried out to the Atlantic. In Mitchell's map (1755), (A 4), there is a line similar to that on Senex's map, with the words, "Bounds of Hudson's Bay by the Treaty of Utrecht." Bennett's map of 1770 coincides with Mitchell's. (Bouchette's British Dominions, 1, p. 30.) In a map published from 1754 to 1761, by John Roque, Topographer to His Britannic Majesty, we have much the same line, called "Southern boundaries of Hudson's Bay Territories as settled by the Commissaries after the Treaty of Utrecht." In Vaugondy's map (he was son of the geographer to the King of France), in 1750, we find a similar line, but without any words explaining it. (A 5.) Douglas in his summary, published in 1747, says: "By the Treaty of Utrecht the Canada or French line with Hudson's Bay Company or Great Britain was ascertained, viz., from a certain promontory upon the Atlantic Ocean in lat. n. 56 deg. 30 min., to run s. w. to Lake Mistassin (which communicates by Indian water carriage by P. Rupert's river with Hudson's Bay, and by Saguenay river with St. Lawrence river at the Port of Tadousac, thirty leagues below), and from thence continued s. w. to lat. n. 49 deg., and from thence due west indefinitely."

It is not maintained that the lines shown on these different maps are identical. Mr. Bouchette has remarked on the difference between Mitchell's and Bowen's, the latter giving the 49th parallel. But it is evident they were all aiming at the same natural division—the height of land dividing the waters flowing to the north from those which flow to the south.

The subject of maps would not be fully disposed of without some allusion to the map accompanying the Report of the Commissioner of Crown Lands in 1857, and which appears at the end of the Hudson's Bay Report of the House of Commons of that year. A dotted line enclosing Hudson's Bay is given with the following description: "Boundary of Hudson's Bay after the Treaty of Utrecht, 1703 (*sic*), according to maps published at Paris in 1720, 1739, and 1771." Another line, giving a little more space to the Hudson's Bay territory, is thus described: "Northern boundary of Canada at the conquest, according to British Geographers." Nothing is more easy than to manufacture history thus. Who are the British Geographers? I presume the French maps alluded to are—1720, Delisle's map of the Western hemisphere; 1739, map by the same, published not at Paris, but at Amsterdam; and Vaugondy's map of 1771. Neither of the two first give any boundaries to Hudson's Bay Territory. Vaugondy's map of 1771 is, of course, no authority, for it comes after the Treaty of Paris.

Note S.—In the correspondence between Canada and France I have found two allusions to Hudson's Bay after 1713. On the 8th October, 1744, M. de Beauharnois, in writing to Count Maurepas, says that the King had recommended him to neutralize or utterly destroy the English Forts at Hudson's Bay. (Doc. Hist. 9). And the following year (18th June, 1745) M. de Beauharnois explains why he could not carry out the King's orders in this respect.—*Ibid.*

Note T.—This did not escape the perspicacity of the author of the Crown Lands Report of 1857. He says: "The most direct interest that Canada could have in the matter at the present moment, being responsible for the administration of justice, would be rather of a moral and political than of an interested or commercial character."

Note U.—La Nouvelle France, as understood by the French, has never been under one government. The Province of Quebec was first limited in the east by the River St. Jean, in the west by the line from Lake Nipissing, which struck the St. Lawrence about 15 leagues from Montreal. It was then extended, but the extension did not include the territory ceded by Vaudreuil, and claimed by England as Canada; a part was then ceded to the United States by Treaty (1783). What remained was divided into two Provinces (1791), again reunited into one (1840), and lastly, the remnant is joined at once or prospectively to the whole of B. N. A. (1867.)

Note V.—In Dunn's map, 1776, this boundary is given as the "Old Boundary by which the French possessed Canada." It is curious that in Vaugondy's map of 1750 (A 5) a similar line is marked out without anything to show what it was intended to limit, and the paucity of materials prevents our finding out the history of this line. Vaugondy's father was historiographer to the King of France.

Note W.—By the Act of 1774 all the territories and countries heretofore part of the territory of Canada which are not within the limits of some other British Colony, or which have, since the 10th of February, 1763, been made part of the Government of Newfoundland, during His Majesty's pleasure, are annexed to and made part of the Government of Canada. In conformity with this disposition, so much of the Commission of the Governor of Newfoundland was revoked "as related to the Coast of Labrador, including the Island of Anticosti, with any other of the said small islands on the said Coast of Labrador."

Note X.—In 1721 Charlevoix writes: "*Jusqu' à présent la Colonie Francaise n'allait pas plus loin à l'ouest, than the Lake of the Two Mountains and Isle Perrot.*"

Note Y.—It is curious how deeply rooted was the desire to have the Mississippi recognized as the western boundary of Canada. The people of Canada claimed this in 1773, and the King immediately after the Act of 1774 describes the limits of Canada in his Commissions as following the banks of the Mississippi. Mr. Bouchette, however, did not fall into this error, and in his later and more important work he quotes and comments a document which negatives this pretension in the most formal manner. Up to the time of ceding Canada to England it was the interest of France to make its limits as extensive as possible, while the interest of England was directly the reverse; but when the negotiations which led to the Treaty of Paris were being carried on, the interest changed. France sought to circumscribe the limits of the provinces she had promised to cede, while England sought to extend them. England, by its answer of 1st September, 1761, to the French ultimatum, claimed "*d'un côté les lacs Huron, Michigan and Supérieur et la dite ligne (la ligne de ces limites) tirée depuis le lac Rouge, embrasse par un cours tortueux la rivière Ouabache jusqu'à sa jonction avec l'Ohio et de là se prolonge le long de cette dernière rivière inclusivement jusqu'à son confluence dans le Mississippi,*" being the limits as traced by the Marquis de Vaudreuil in capitulating. The King of France, as he had promised to cede the possession of Canada "*dans la forme la plus étendue,*" says in reply to the English answer to the French ultimatum, "*comme cette ligne demandée par l'Angleterre est sans doute la plus étendue que l'on puisse donner à la cession le Roi veut bien l'accorder.*" (13th Sep., 1761, Memoire du Duc Choiseul 1761.)

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Le Duc de Choiseul, in his memoir, p. 139, says: "*Il était prescrit à M. de Bussy de convenir des limites du Canada et de la Louisiane d'après la carte anglaise quoique très de favorable aux droits et aux possessions de la France.*" Vaudreuil denied having made the tracing in question, and the map has not been found. Was it that mentioned in the French reply as having been presented by Mr. Stanley? On the annexed Map A 2, the green line marks the probable *cours tortueux* to the Wabash.

Note Z.—In the original draft of the bill the words were "southward to the banks of the river Ohio, westward to the banks of the Mississippi, and northward to the southern boundary." It is therefore probable that the amendment passed unperceived by those who drew the new Commissions; or the Commissions may have been engrossed from drafts made prior to the passing of the Act. In Lord Elgin's Commission, 1846, there is also a curious mistake. The Western boundary of Lower Canada is made to extend to the shore of Hudson's Bay. I call it a mistake, for no account can be given of it at the Colonial Office; and by comparing it with the Proclamation of 1791, it will be observed that the alteration consists in using the word "shore" for the words "boundary line." It was not unnatural to say that the *shore* was the *boundary line* of Hudson's Bay.

Note AA.—I did not fail to notice the words "During His Majesty's pleasure" in the Act of 1774. I take it these words, if more than deferential, cannot be extended, and therefore they would not give the King the power to add to the Provinces of Quebec. But at all events he never attempted it, for extending the authority of the Governor to the Mississippi, cannot be converted into an extension of the province to that line. Otherwise Lord Elgin's commission would have extended Canada to the shore of Hudson's Bay.

Note BB.—It has been attempted to throw some ridicule on the decision in the de Reinhard case, and it may therefore be worth mentioning that Chief Justice Sewall was probably the man at the time in Canada best fitted to preside in such a case, and that the Bar of Lower Canada could not then, or indeed at any other time, have been more brilliantly represented. The prisoner's Counsel, who desired to have the western boundary of Canada extended beyond the due north line from the confluence of the Ohio and Mississippi Rivers, were Andrew Stuart, the equal, if not superior, of his brother, the well-known Sir James Stuart, Vallieres de St. Réal, afterwards Chief Justice of the Queen's Bench, Montreal, and Vanfelson, one of the first-named Judges of the Superior Court, after its organization in 1849.

ADDITION TO NOTE Y.

Since my Report was sent in, I have received a letter from the *Abbé Verreau*, now in London prosecuting historical investigations on behalf of the Government, enclosing a correspondence between General Haldimand and Sir Jeffrey Amherst, with respect to the limits of Canada alleged to have been traced by Mr de Vaudreuil on a map which he gave to Gen. Haldimand, and which has not yet been found. The letters forming this correspondence were copied by the *Abbé Verreau* from the Haldimand papers in the British Museum.

The *Abbé Verreau* gives the following account of the work he has obligingly volunteered to perform: "J'ai tenu à copier cette lettre moi-même. Je n'ai trouvé que le projet de Haldimand, corrigé et raturé avec un soin qui montre l'importance attachée par lui à ce qu'il écrivait. C'est ce qui m'a engagé à copier les ratures; je les ai mises entre parenthèse. Il y a bien deux parenthèses de Haldimand, mais j'ai indiqué qu'elles sont de lui."

LETTER FROM SIR JEFFREY AMHERST TO GENERAL HALDIMAND.

NEW YORK, 1st November, 1762.

DEAR SIR: I have been twenty times at the point of writing to you on a subject which, though of no consequence, I should be glad to know the exact transactions that passed. When I made a report of Canada to the Secretary of State, I transmitted a copy of the part of the Map where the limits between Canada and Louisiana were marked, which you delivered to me, and which I acquainted the Secretary of State were done by Monsieur de Vaudreuil. Whether by him, or done in his presence by his direction, comes to the same thing, and the thing itself is of no sort of consequence, as the Letter and orders he (Monsieur de Vaudreuil) sent to the officers commanding at Michillimakinach, the bay, Oocciatanou, Miamis, &c., mark out the Boundaries and expressly include those Posts in Canada, so that there can be no dispute about it; yet as I see some altercation has passed in England and France about Monsieur de Vaudreuil's giving the Boundaries, I should be glad to know of you whether he marked the map himself, or whether it was done in his presence, and what passed on that subject, that I may hereafter be able to say all that was done regarding the whole affair.

I am, with great truth, dear Sir,

Your most obedient humble servant,

JEFF. AMHERST.

Copie véritable. La parenthèse est dans l'original. J'ai copié aussi bien que possible ce nom sauvage Oocciatanou. H. V.

LETTER FROM GENERAL HALDIMAND TO SIR JEFFREY AMHERST.

TROIS RIVIERES, le 10 Xbre., 1762, }
Fait partir le 16 do. }

MONSIEUR: J'ay reçu avec plaisir la lettre que V. Excellence me fait l'honneur de m'écrire du 1er Xbre à l'égard de ce qui s'est passé entre Mons. de Vaudreuil et moi au sujet des Limites du Canada. Je m'étais proposé plusieurs fois de la prévenir; mais j'ay crû devoir attendre ces ordres auxquels je vais obéir avec toute l'exactitude possible.

Environs 5 ou 6 jours après que je fus entré dans Mt. Real, je demanday à M. de Vaudreuil, s'il n'auroit point quelques Plans, Memoires ou Cartes instructives, concernant le Canada; que je le priois de vouloir me les remettre, afin que je pusse les faire tenir à V. Ex.; il me répondit qu'il n'en avait point les ayant toutes perdues à Québec (et pour éviter d'entendre l'enumeration qu'il vouloit me faire de ces autres pertes);* je me contentay pour lors de cette réponse; mais ayant en occasion de lui en reparler quelques jour après, il me dit qu'il avait retrouvé une Couple de Cartes, et passant dans une autre Chambre, il fit apporter une grande Carte de l'Amerique Septlle. faite à la main et ployée dans le couvert d'un atlas, il y avait aussi quelques mauvais plans de forts, dans un rouleau détaché; ne

*Cette Parenthèse est de Haldimand.—H. V.

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trouvant rien d'instructif dans cette Carte, et me rappelant que je l'avois vue imprimée, j'appellai le Lt. Herring de Notre Batt, qui était dans la Salle et je la lui remis avec les autres papiers qu'il porta chez moi; Enfin le matin du jour que Mons. de Vaudreuil partit,* (étant occupé à arranger le reste des papiers que j'avois reçus de différentes personnes) cette Carte me tombant sous la main me rappella les tentatives inutiles que j'avois faites auprès de lui et différentes personnes pour connaître l'étendue de ce Pays, et me fit naître l'idée de l'examiner avec M. de Vaudreuil. Je me rendis sur le champ chez lui en y faisant porter la carte par l'enseigne Monin, ayant trouvé M. de Vaudreuil dans son cabinet qui donne sur la rue avec quelques personnes de sa maison (après lui avoir fait mon compliment),† je le priai sans autre préambule de vouloir bien me montrer quelles étaient les Limites (qui séparaient le) du Canada (de la Louisianne) et le conduisant vers la table qui était au fond du Cabinet, j'ouvris la Carte et après l'avoir un peu examinée, je réitérai ma demande; il me parut fort surpris; et come il ne me répondait point, je passai le doigt sur la rivière des Illinois en lui disant, Voicy les Illinois, alors il me répondit que les Illinois avaient été en contestation entre les deux Gouverneurs, mais qu'il avoit été descidé qu'ils dépendroient de celui de la Louisianne, sur quoy sortant un crayon de ma poche et m'accoudant sur la Carte, M. de Vaudreuil se tenant debout auprès de moy (je marquai un point à la source des Illinois en lui montrant le nord, je lui demandai si la ligne passait là et m'ayant répondu que oui), je lui demandai en lui montrant le nord du Micéssépy si la ligne passait par là, et m'ayant répondu que oui, je marquai de points depuis la source des Illinois en remontant le Micéssépy, et lui ayant demandé encore une foi si je marquois bien, il me répondit ces propres paroles, (lui Monsr. le Marquis de Vaudreuil ayant les yeux fixés sur la Carte)‡—*prenez tout le nord, prenez tout le nord*, alors je pointai jusques au Lac Rouge qui me parut la borne la plus naturelle, sans qu'il y eut la moindre objection de sa part, ensuite revenant de l'autre côté des Illinois; et ne me figurant pas que Loio put seulement être mise en conteste, je lui dis, icy nous prenons sans doute par l'ambouchure du Wabache, et posant mon crayon au confluent de Loio avec le Micéssépy, je tracai une ligne en remontant cette première rivière et l'Wabache qui alloit joindre la pointe que j'avois (marquée) commencée à la source des Illinois, M. de Vaudreuil toujours à côté de moy, et regardant sur la carte, sans qu'il fit aucune objection (de quelle nature que ce puisse être). Cette ligne par ses différentes contours ne pouvant se faire à la dérobee (come un simple trait de crayon) lui en donnait cependant bien le temps; mais soit qu'occupé de son départ il eut prononcé les oui indifféremment (ou supposant que ce que je faisais ne pouvait être d'aucune conséquence, il n'y eut pas) et sans y prêté toute l'attention qu'il aurait due (et ayant dit les oui trop à la légeré, le récit) ou qu'en donnant une approbation tassite il chercha à m'induire en erreur, le récit que je viens de vous faire, Mons. n'en est pas moins (exact) la plus exacte vérité. M. de Vaudreuil et tout ce qui restait de François à Mont Réal devant parti ce (matin) jour là, les Compagnies de milices étant assemblées pour delivrer leurs armes, et prêter le serment de fidélité, je n'avois pas de temps à (perdre) donner à l'examen de cette Carte et dès que je crus comprendre ce qu'on entendoit sous le nom de Canada et que la ligne fût bien marquée, je refermai la Carte et la renvoyai chez moy par l'enseigne Monin, enfin Mons. vous pouvez être persuadé que la Carte que vous avez entre les mains, est la même qui me fut remise par Mons. de Vaudreuil 8 ou 10 jours après la prise de Mont Réal, et que Lt. Herring qui je crois est à N. York (reçut de ma main dans son Cabinet pour la porter) porta chez moi; que c'est cette même carte qui fut reportée par l'Enseigne Monin chez M. de Vaudreuil le matin de son départ; que lorsque je l'ouvris dans son Cabinet il n'y avoit ny lignes, ny points, ou rien qui put désigner des Limites; que la ligne qui les marque aujourd'hui a été tracée par moy même entièrement sous

*Ce qui suit a été raturé par Haldimand. H. V.

†Effacé. H. V.

‡Parenthèse de Haldimand. H. V.

les yeux de M. de Vaudreuil, à qui seul je me suis adressé, et que par tout ce qu'il m'a dit je n'ay jamais pu douter un instant, qu'il ne me donnât cette ligne pour les vraies Limittes du Canada, et que du moment que je fermy cette Carte dans son Cabinet, jusques à celui où je la remis entre vos mains, il n'y a en aucune altération faite à cette ligne de quelle nature que ce puisse être. Coccy, Mons, est sur ma parole la pure vérité de cette transaction.

Je dois vous avouer aussi Mons. que me persuadant que vous demandiez plus tôt des intelligences (sur l'étendue d'un Pays, qui je crois n'a jamais eu de Limittes fixées)* qu'un acte authentique faite en vertu de la Capitulation; je ne crus pas qu'il convint de faire signer la Carte par M. de Vaudreuil, ce qui m'eut été facile, de même que de me faire donner les Limittes du Canada par écrit, ce qu'il n'aurait pu me refuser en vertu de la Capitulation et aurait rendu cet acte incontestable, au lieu que n'ayant point de signature à montrer, il pourra toujours faire croire à son party qu'on a cherché à le surprendre.

Si j'ai mal compris V. Ex., j'en suis très fâché et lui en fait mes excuses, et lorsqu'en vous remettant la Carte je vous dis que les Limittes étaient tirées par M. de Vaudreuil; j'entendois qu'elles avaient été tirées sous ses propres yeux, et avaient eu son approbation; ce qui est vrai à la lettre.

Je suis au reste bien charmé que (ce différent) cette vilaine chicane de M. de Vaudreuil, ne porte aucun préjudice aux affaires, elle même servira d'une bonne leçon dont je me souviendray si j'ay le bonheur de pouvoir la mettre un jour en pratique.

J'ay l'honneur d'être avec un profond respect,

Monsieur, De Votre Excellence,

Le très humble et très obéissant serviteur,

FRED. HALDIMAND.

Du 10e Xbre.

Vraie copie faite et relue par moi. J'ai marqué les parenthèses faites par Haldimand. Toutes les autres parenthèses indiquent des mots effacés dans l'original. H. V.

LETTER FROM SIR JEFFRY AMHERST TO GENERAL HALDIMAND.

NEW YORK, 25th January, 1763.

DEAR SIR:

* * * * (Il parle de la cessation des hostilités et des forges de Ste. Maurice.)

I am much obliged to you for the particular and exact detail you have sent to me of what passed between yourself and Monsieur de Vaudreuil. It is almost precisely as I imagined. It is of no consequence whatever; but if it was, there could be none but good proceeding from what you did in that affair, which has my thorough approbation to every part of it.

(Le reste de cette lettre se rapporte à d'autres affaires.)

I am, with great truth, dear Sir,

Your most obedient humble servant,

JEFF. AMHERST.

From the correspondence it appears clear that the map was transmitted by Haldimand to Amherst, and that part of it—the part on which the limits were traced—was

* Cette parenthèse est de Haldimand et n'est pas une rature. H. V.

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by the latter transmitted to the Secretary of State. This tends to support the suggestion that the map insisted on by Mr. Stanley was the one Gen. Haldimand got from M. de Vaudreuil. The points as marked by Haldimand seem to correspond with the description in the English answer to the French ultimatum, an extract of which will be found in note F, and the probable line of which I have suggested on the annexed map A 1, in green.

List of books and papers quoted and abbreviations used in referring to them:—

Père Marest, *Lettres Edifiantes* vol. 6. *Relation d'un voyage a la Baie d'Hudson* en 1694, avec M. d'Iberville.

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Historical Documents relating to Canada and the English Colonies in America, from the London Archives. 6 vols. M.S. Eng. M.S.

Papers the property of John Pownall, Esq. (brother of Governor Pownall), when Secretary of the Board of Trade. After his death, in 1795, they passed into the hands of his son, Sir George Pownall, who was Secretary of the Province of Lower Canada until 1805. Sir George presented the volumes to the late Hon. H. W. Ryland, Secretary to the Governor-General, who gave them to his son, G. F. Ryland, Esq., from whom they were purchased by the Library of Parliament. 7 vols. M.S. Pownall Papers.

Manuscripts relatifs à l'Histoire de la Nouvelle France. Trois Séries. 1ère Serie 17 vols., in folio, se trouve déposée à la Bibliothèque de la Société Littéraire et Historique de Québec. 2ième Serie, 11 volumes, déposée dans la Bibliothèque du Parlement. 3ième Serie, 12 vols., déposée dans la Bibliothèque du Parlement. Paris, M. S.

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Foot notes are indicated thus: (1) (2) (3), &c.

Notes at the end of the Report are indicated thus: "Note A," &c.

The Maps in the Report are referred to thus: A1, A2, A3, A4.

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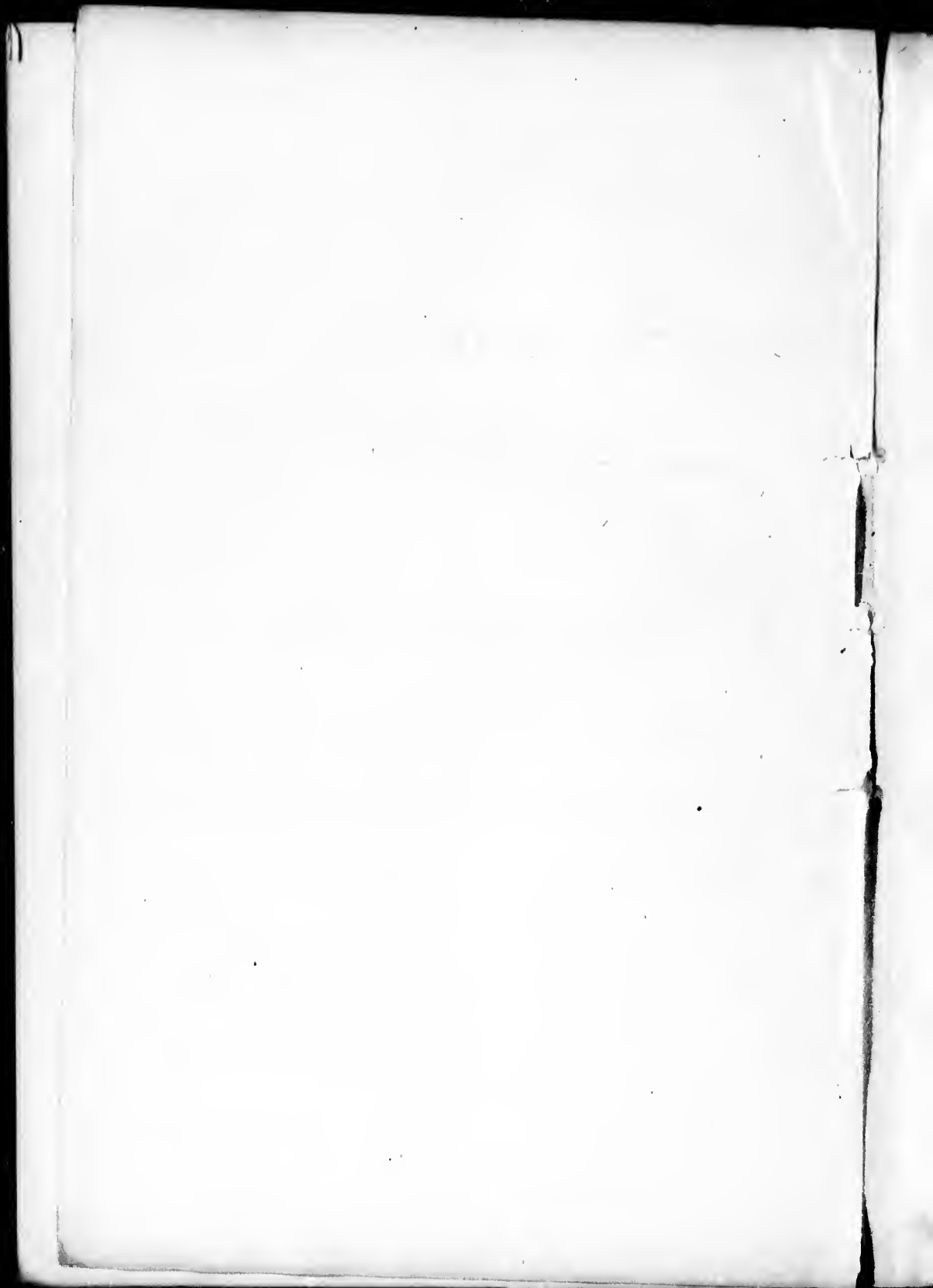
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A2

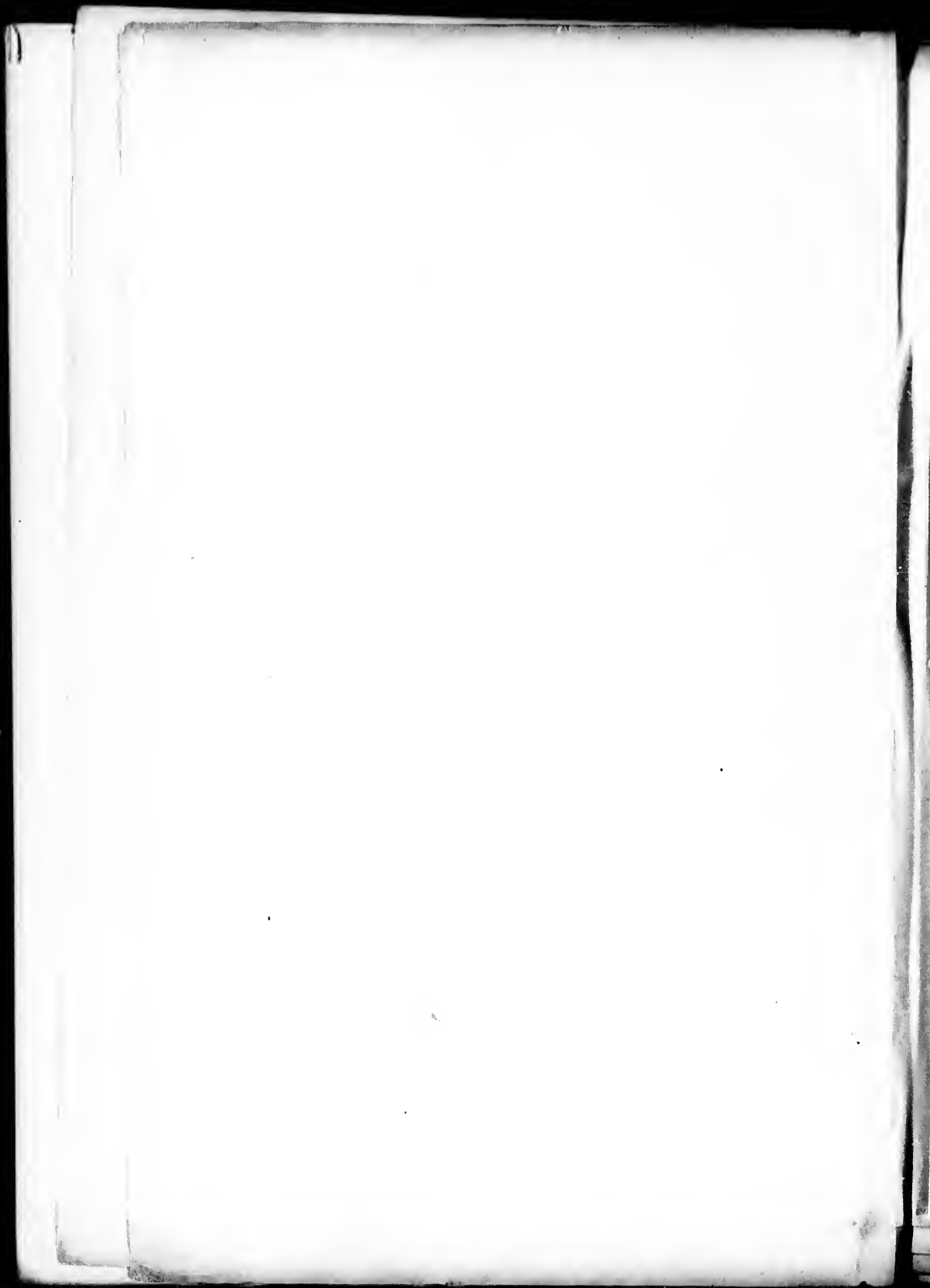
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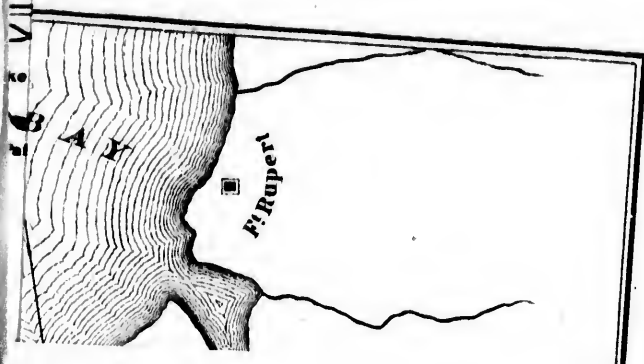
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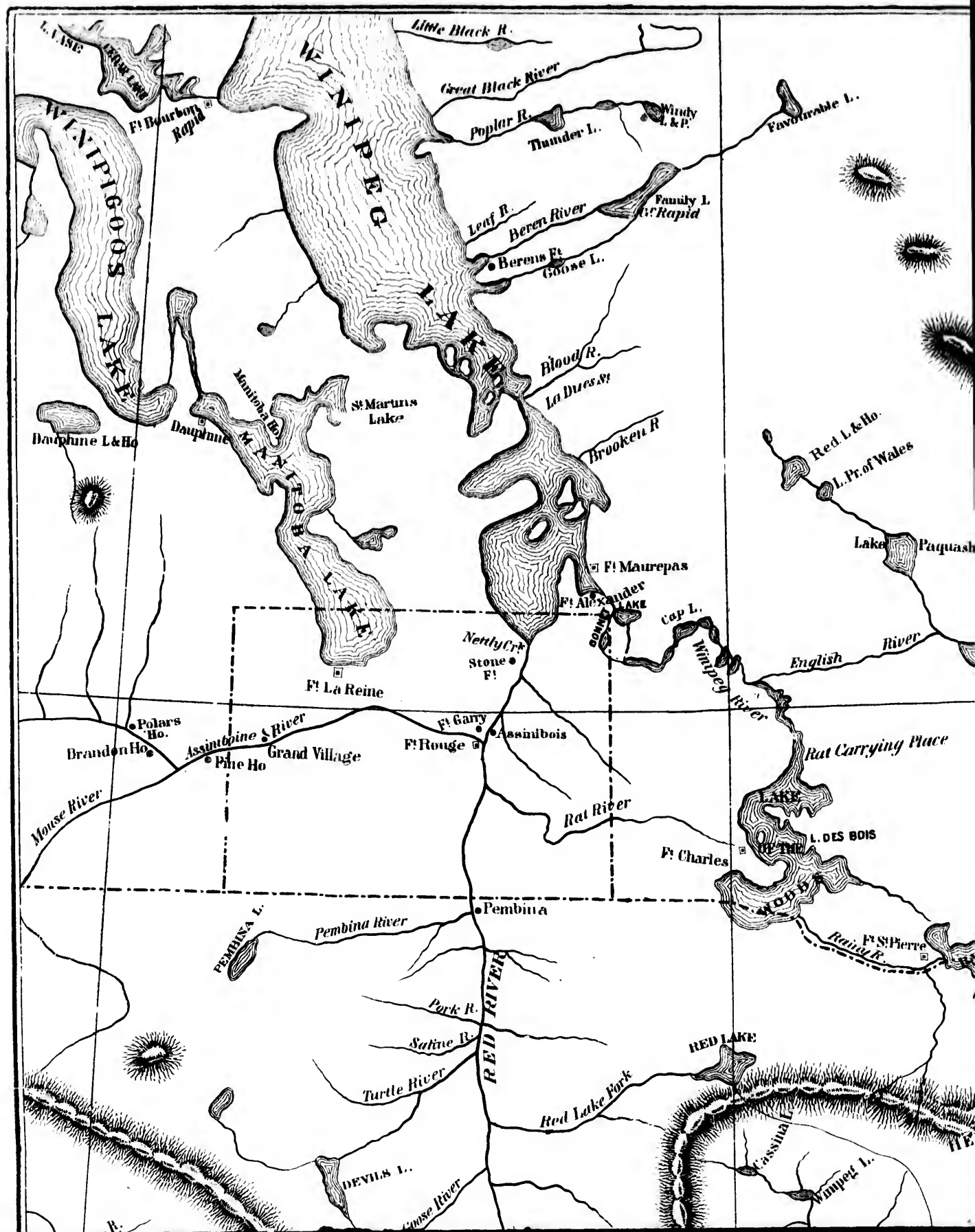
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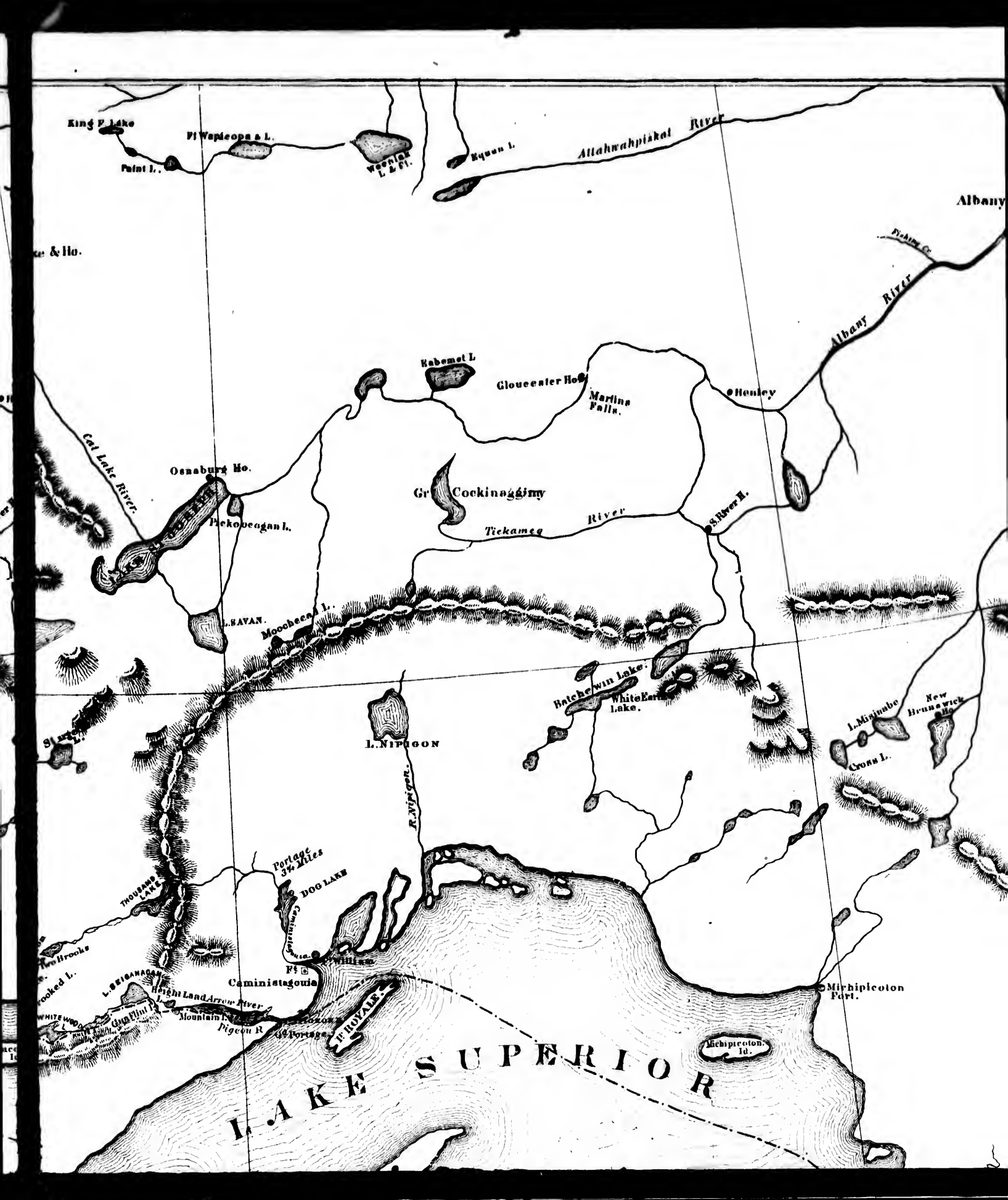


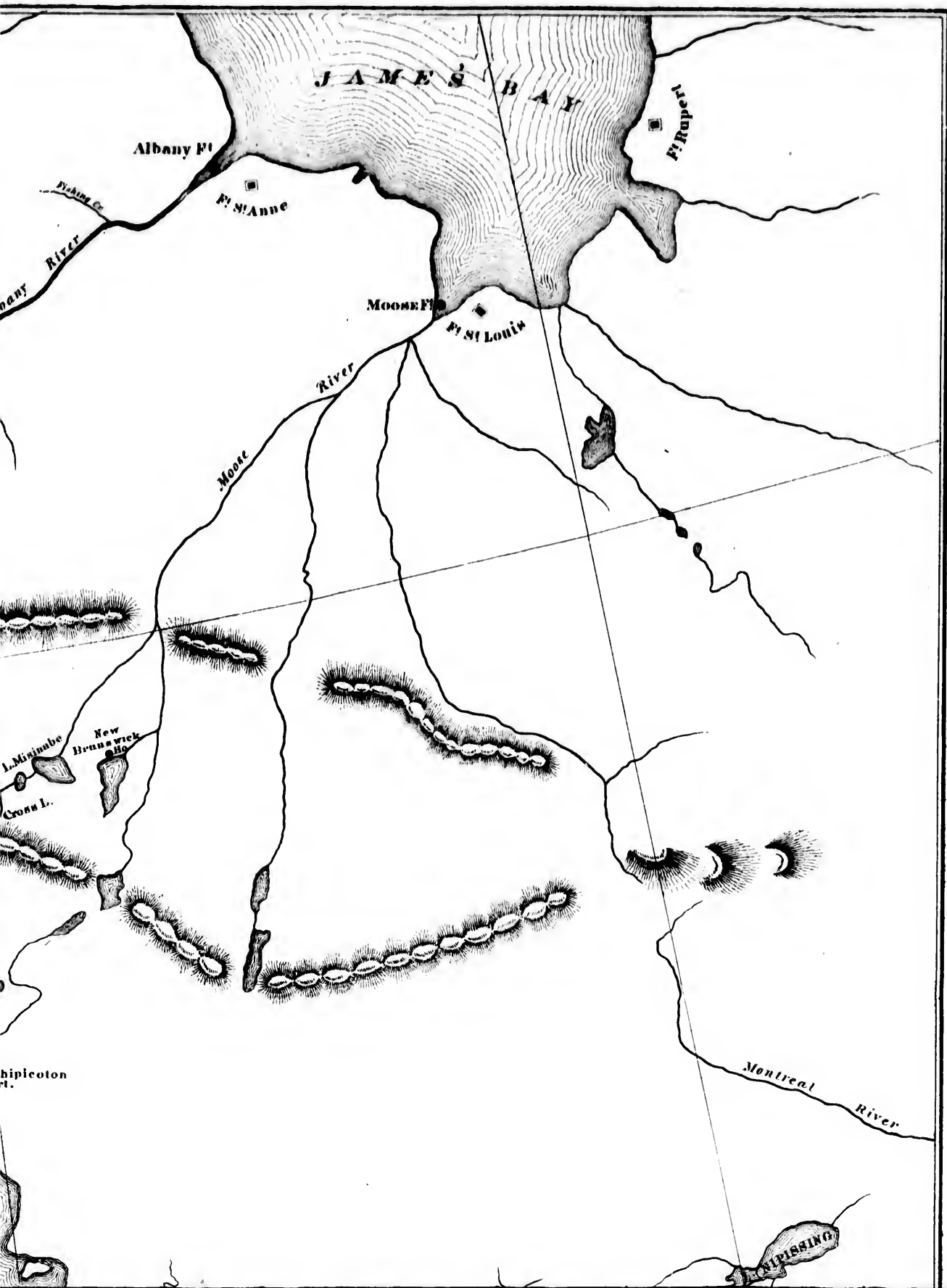


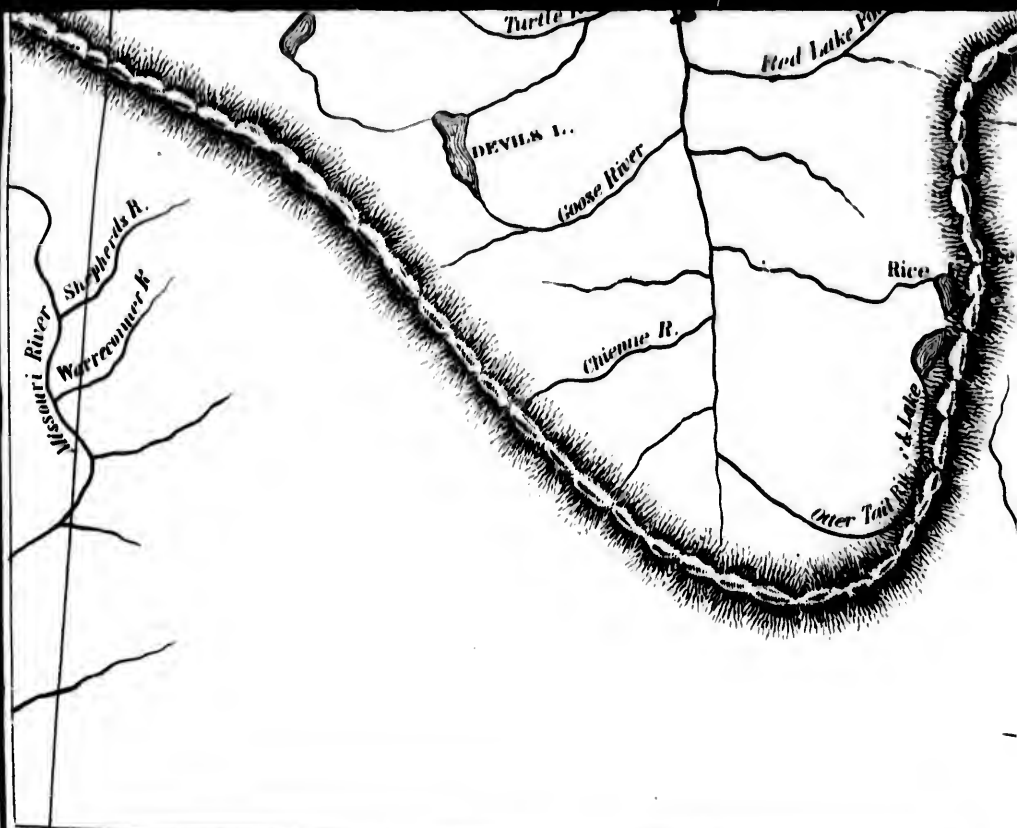








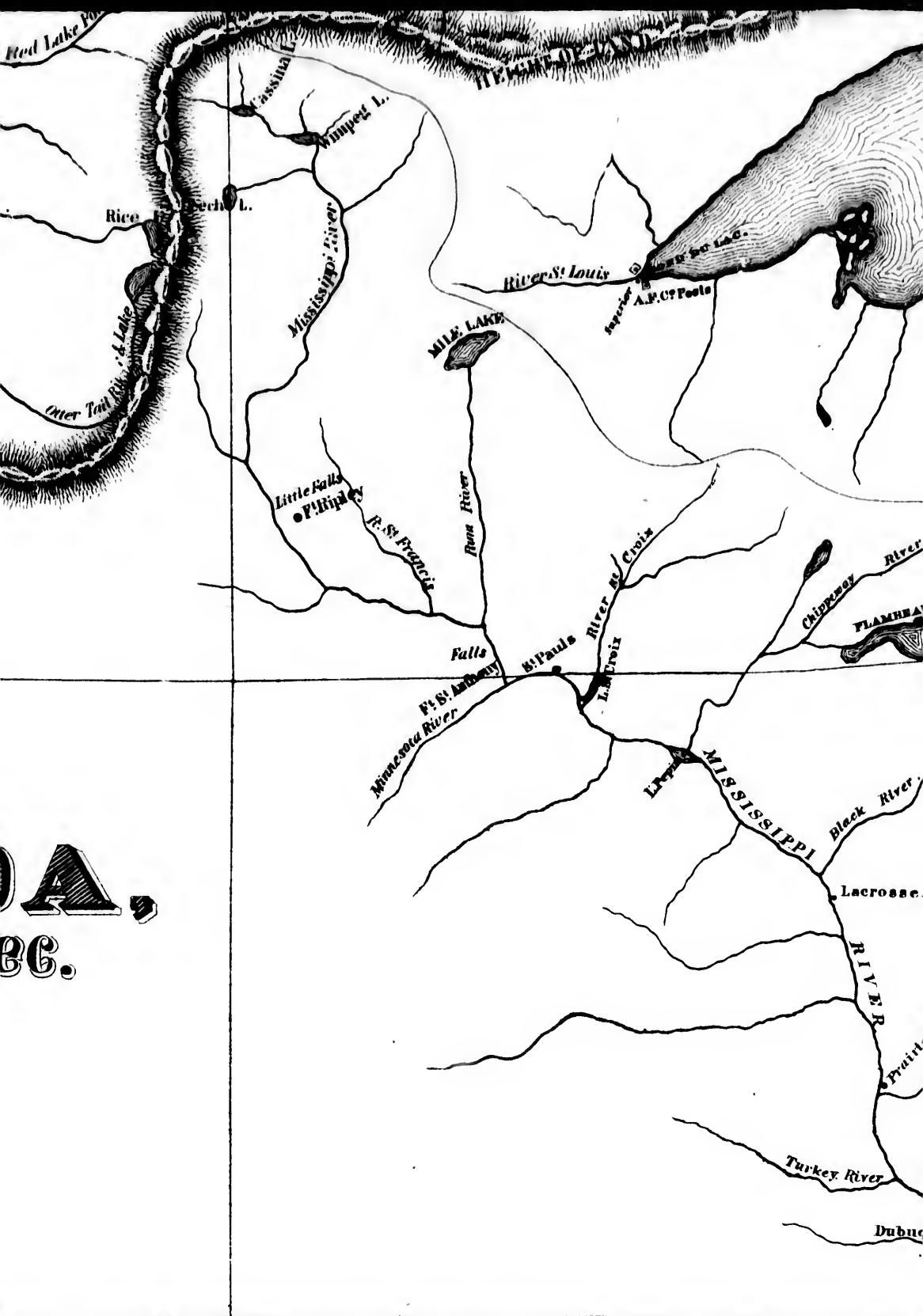




MAP
OF PART OF
CANADA,
Province of Quebec.

BY PROCLAMATION OF

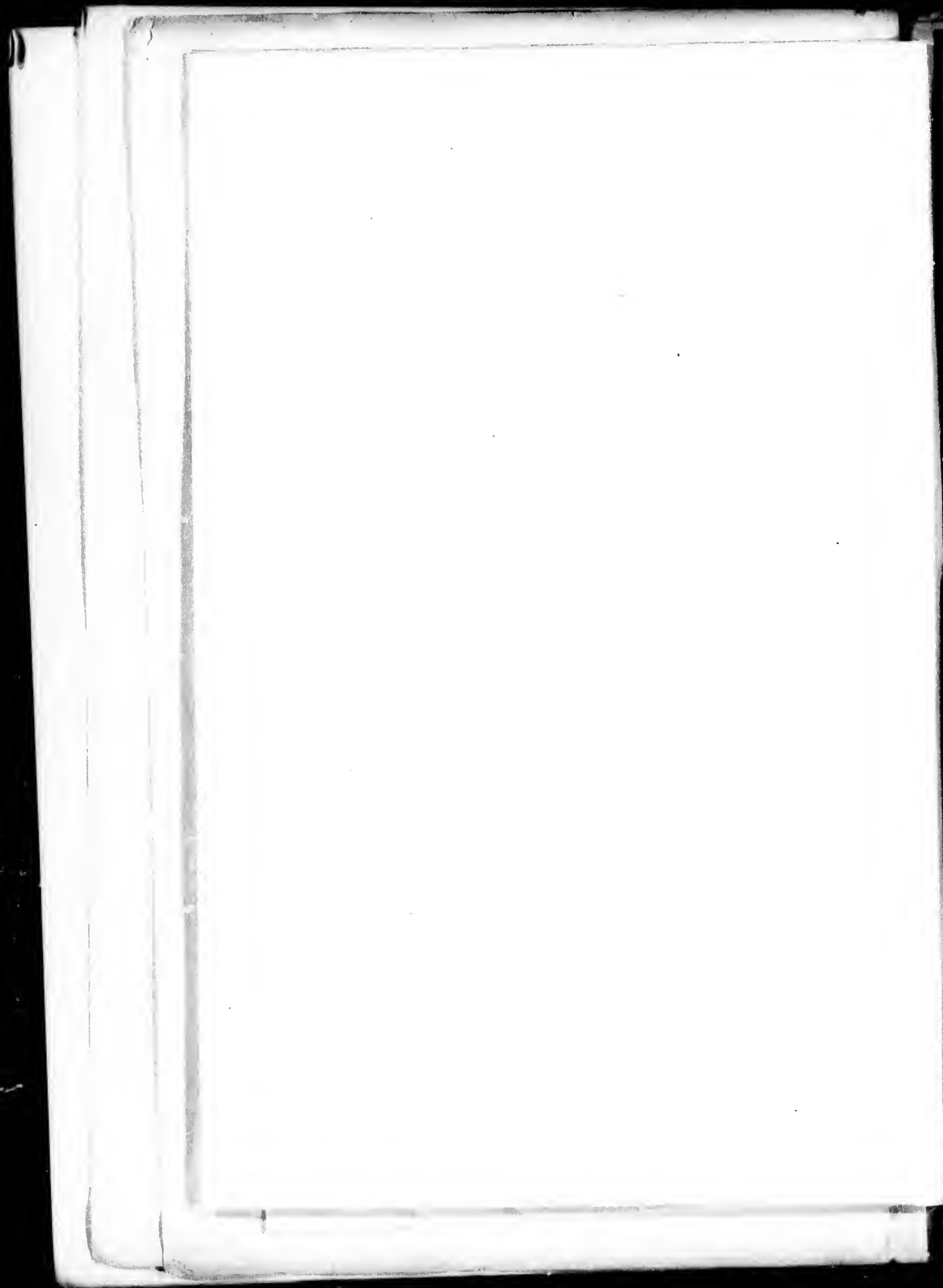
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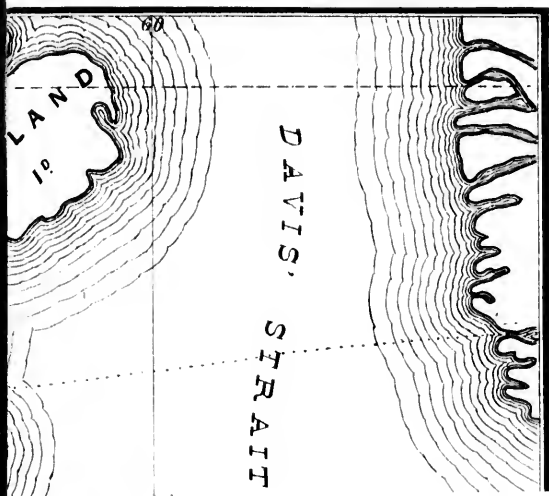


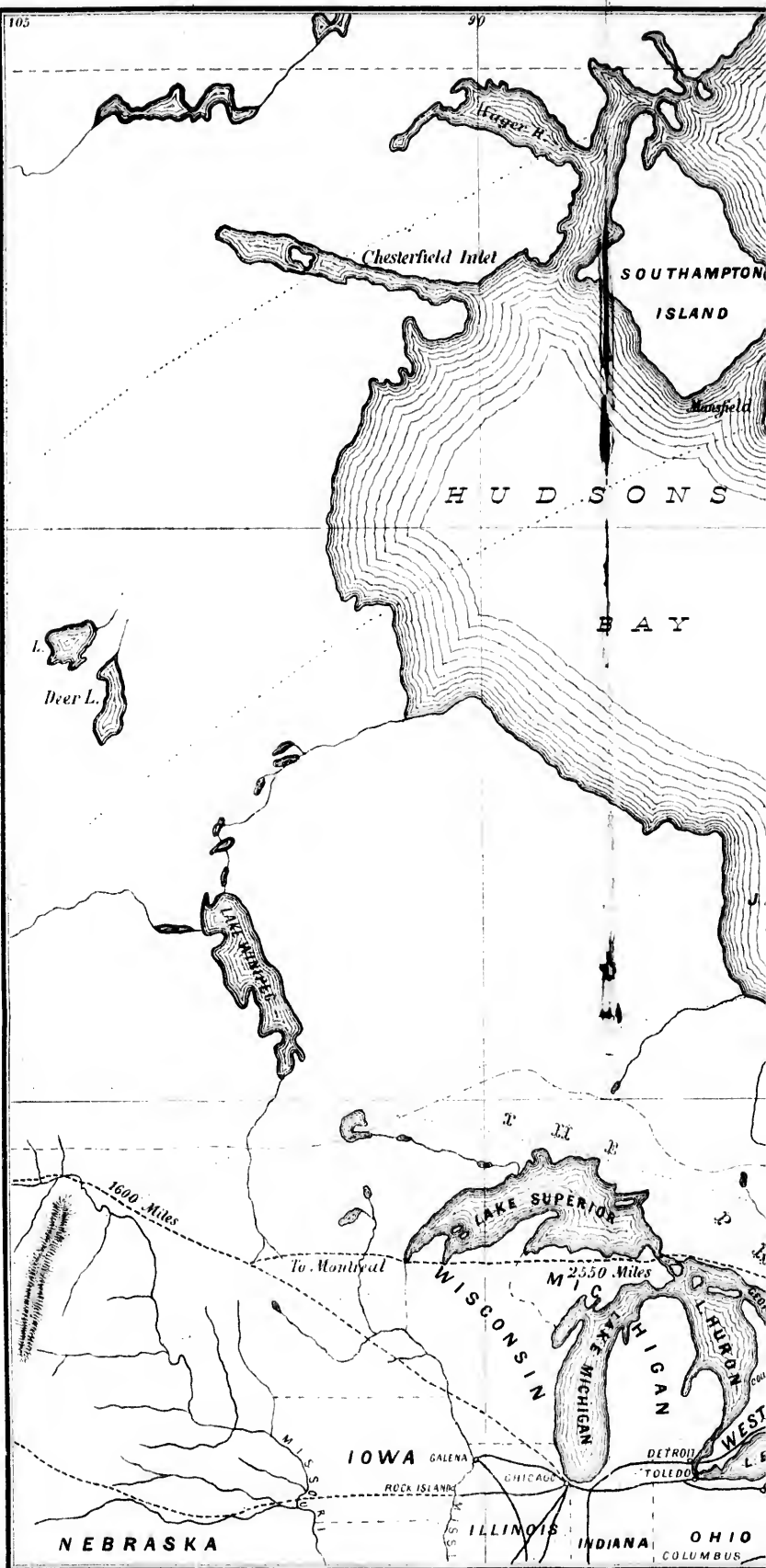
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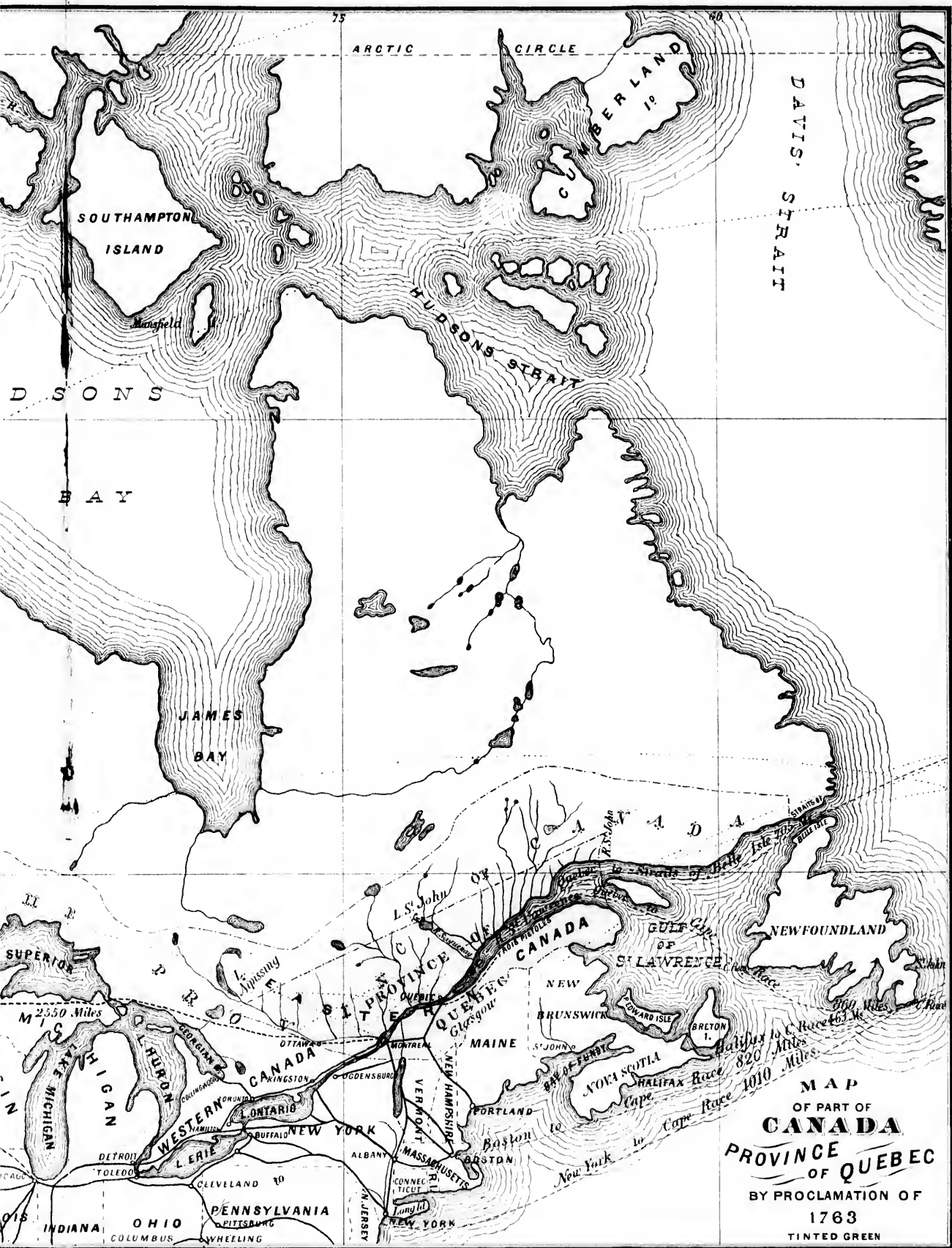


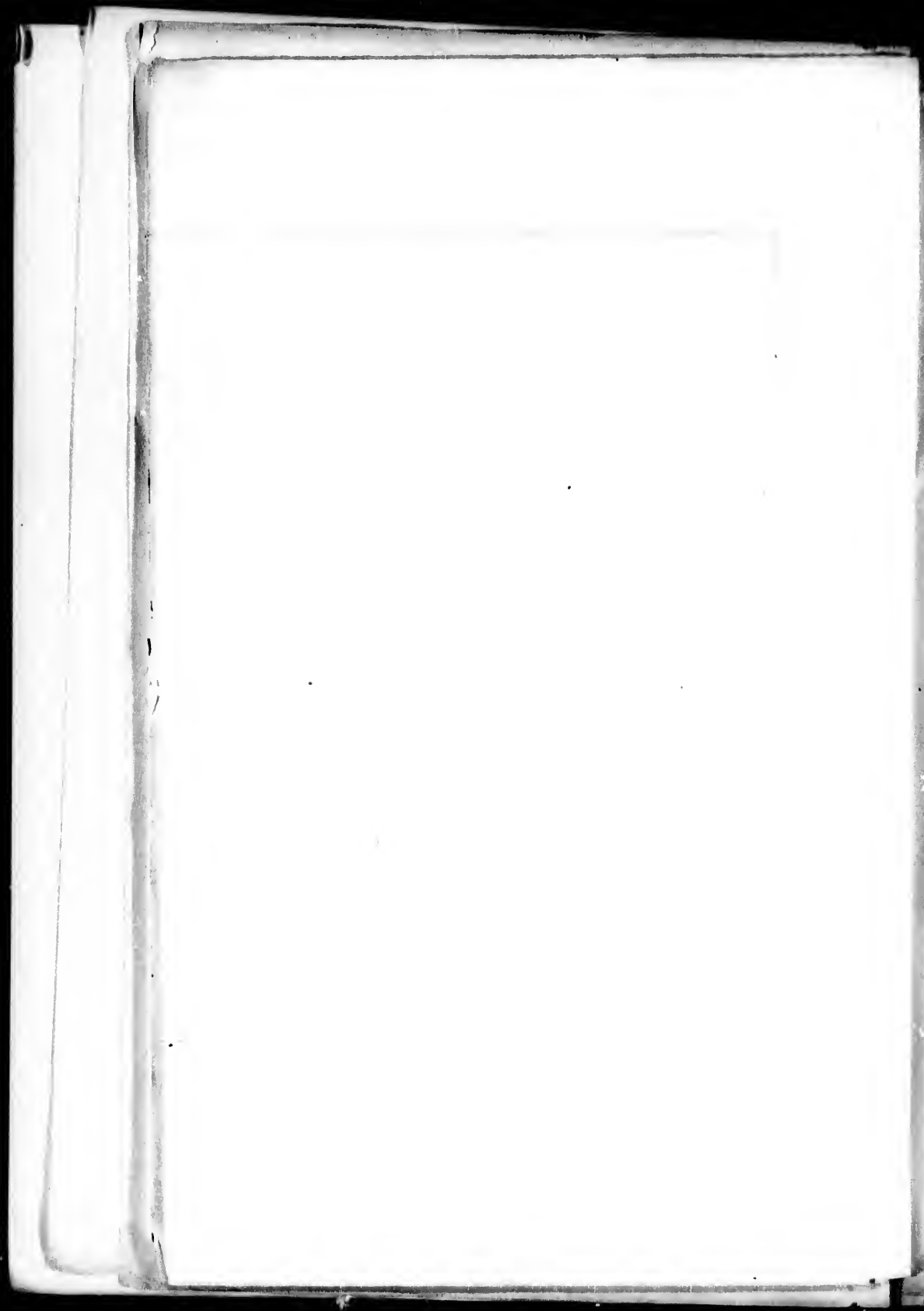


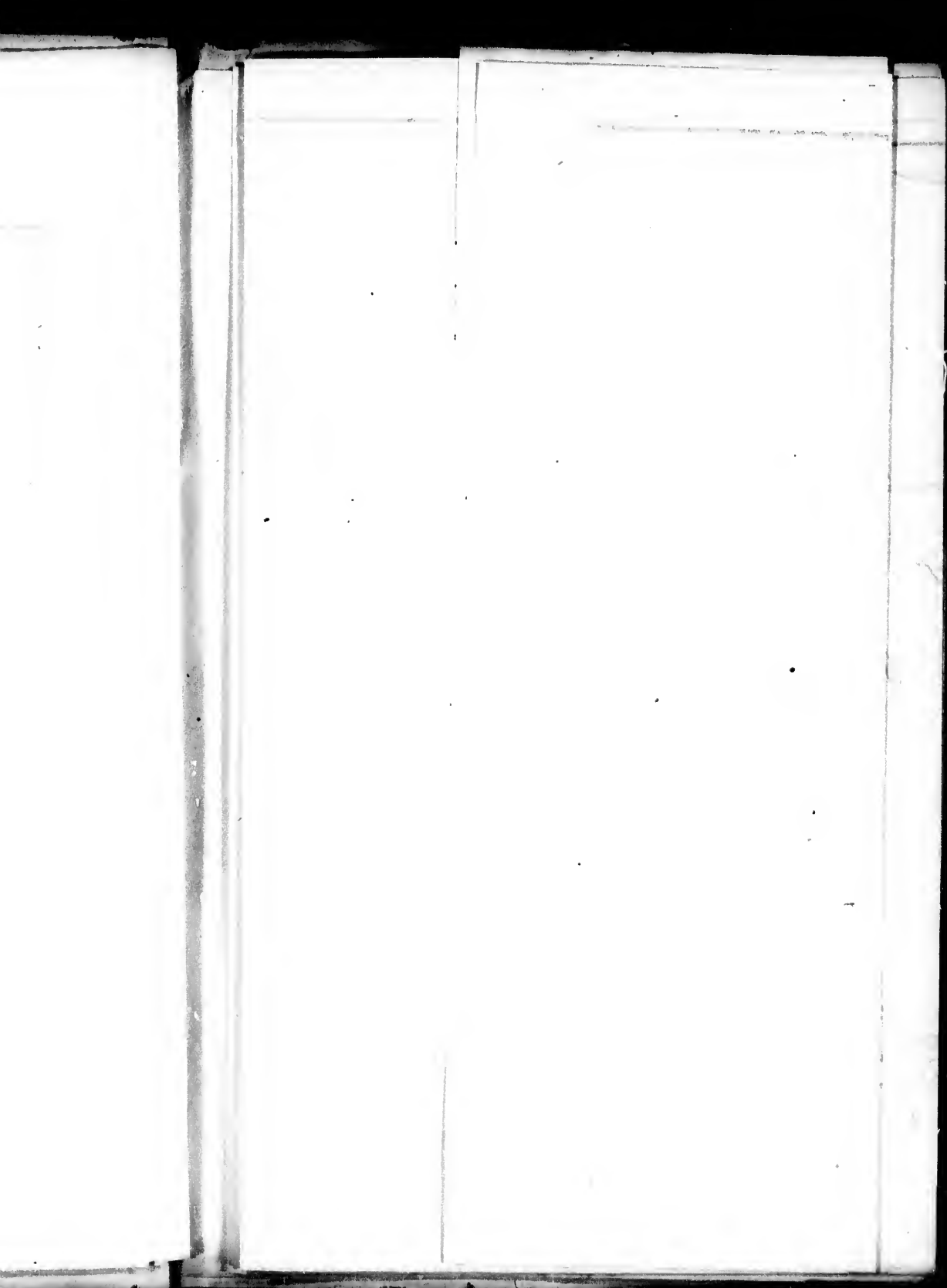


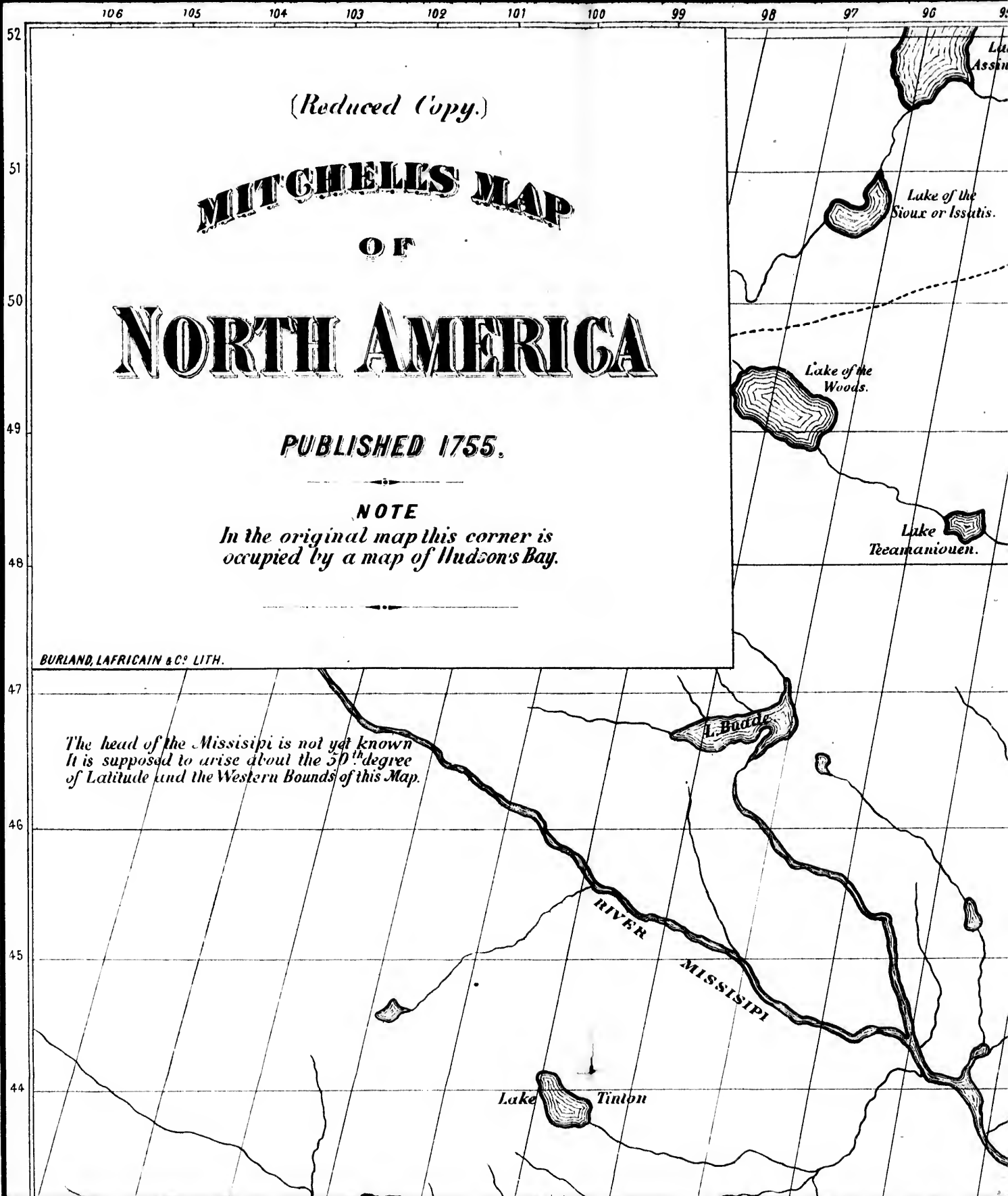












(Reduced Copy.)

MITCHELLS MAP OF NORTH AMERICA

PUBLISHED 1755.

NOTE

*In the original map this corner is
occupied by a map of Hudson's Bay.*

BURLAND, LAFRICAINE & CO. LITH.

*The head of the Missisipi is not yet known
It is supposed to arise about the 50th degree
of Latitude and the Western Bounds of this Map.*

RIVER

MISSISSIPPI

Lake Tinton

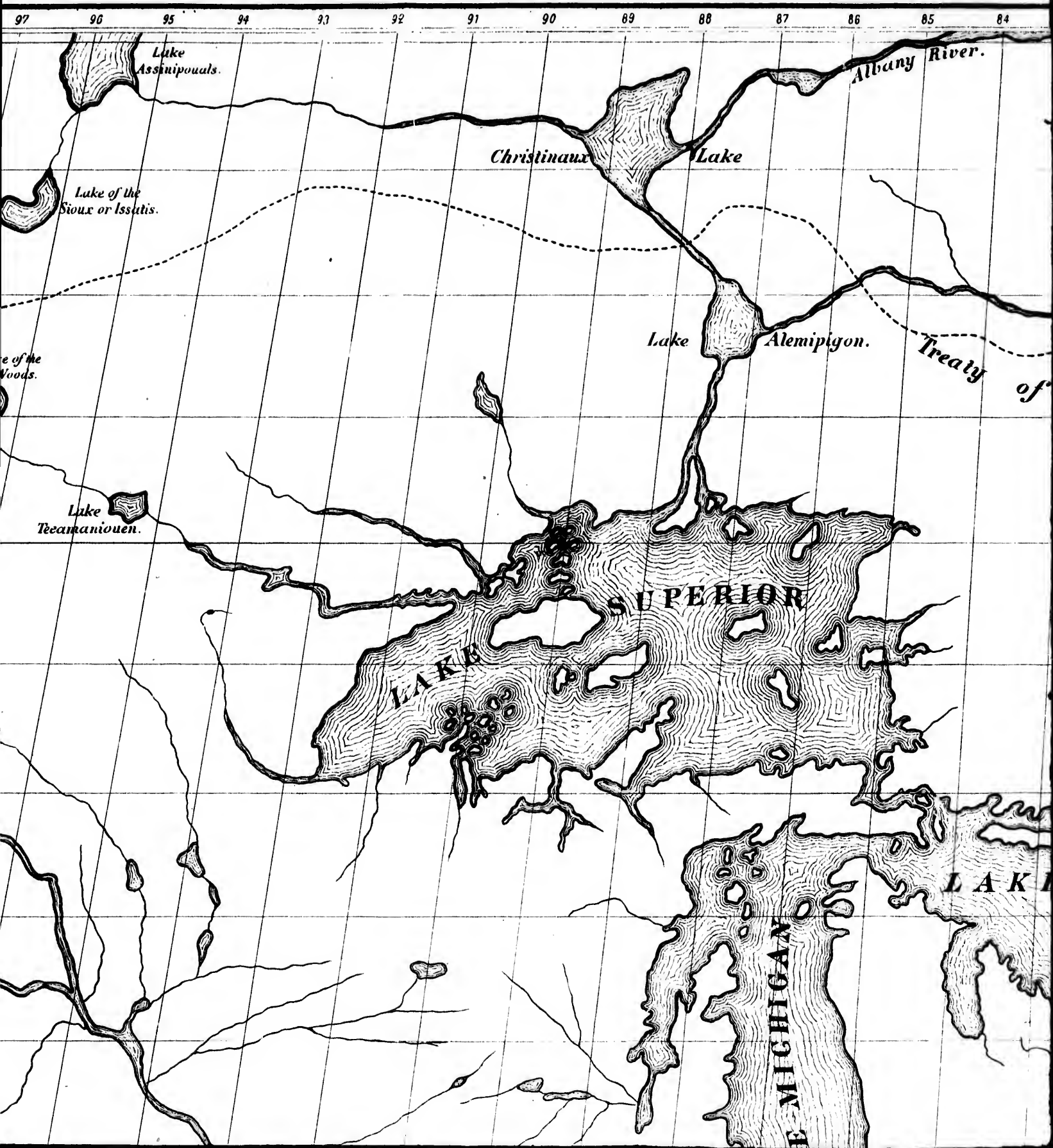
L. Bourgeois

Lake of the Woods.

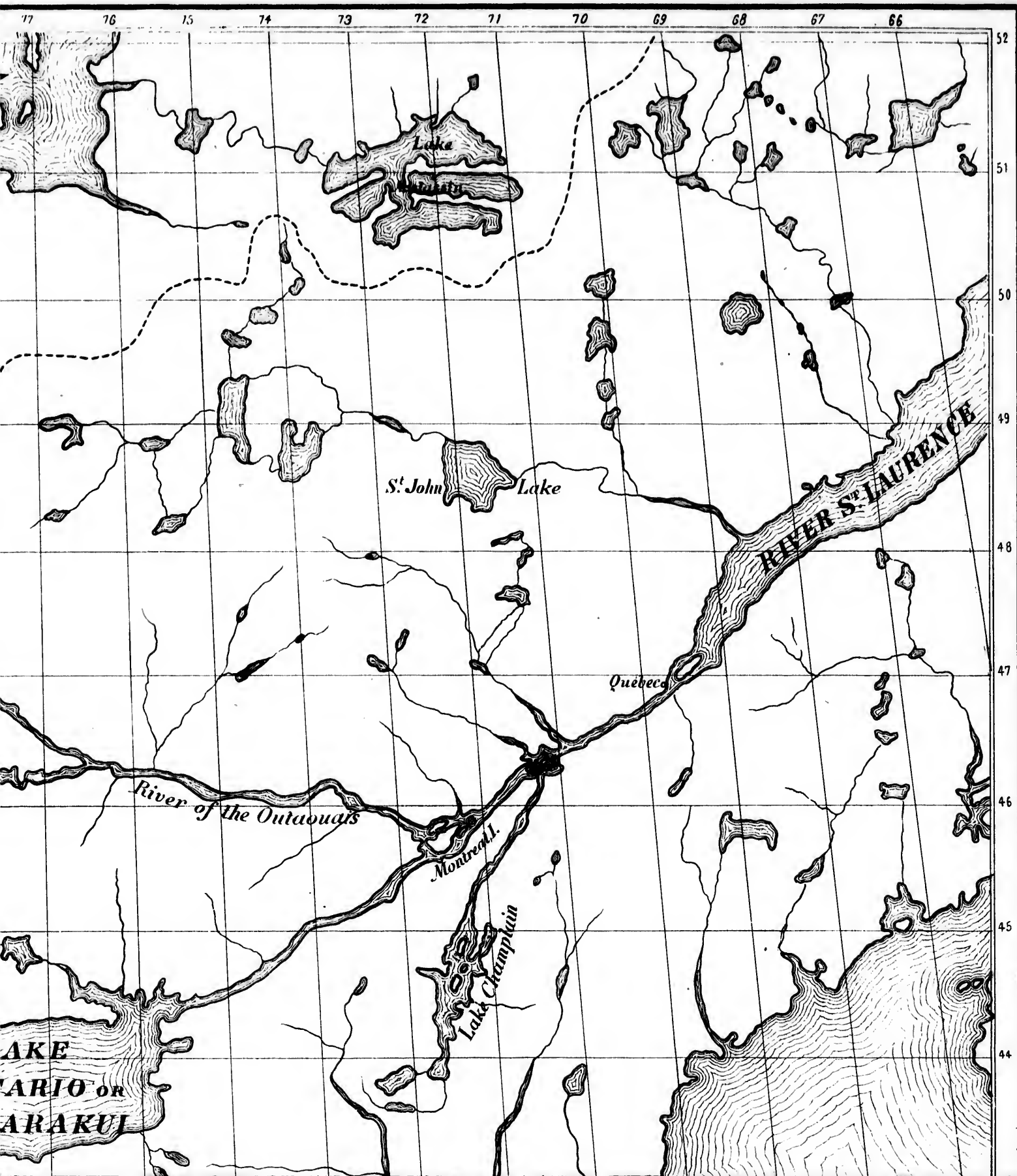
Lake Teamaniouen.

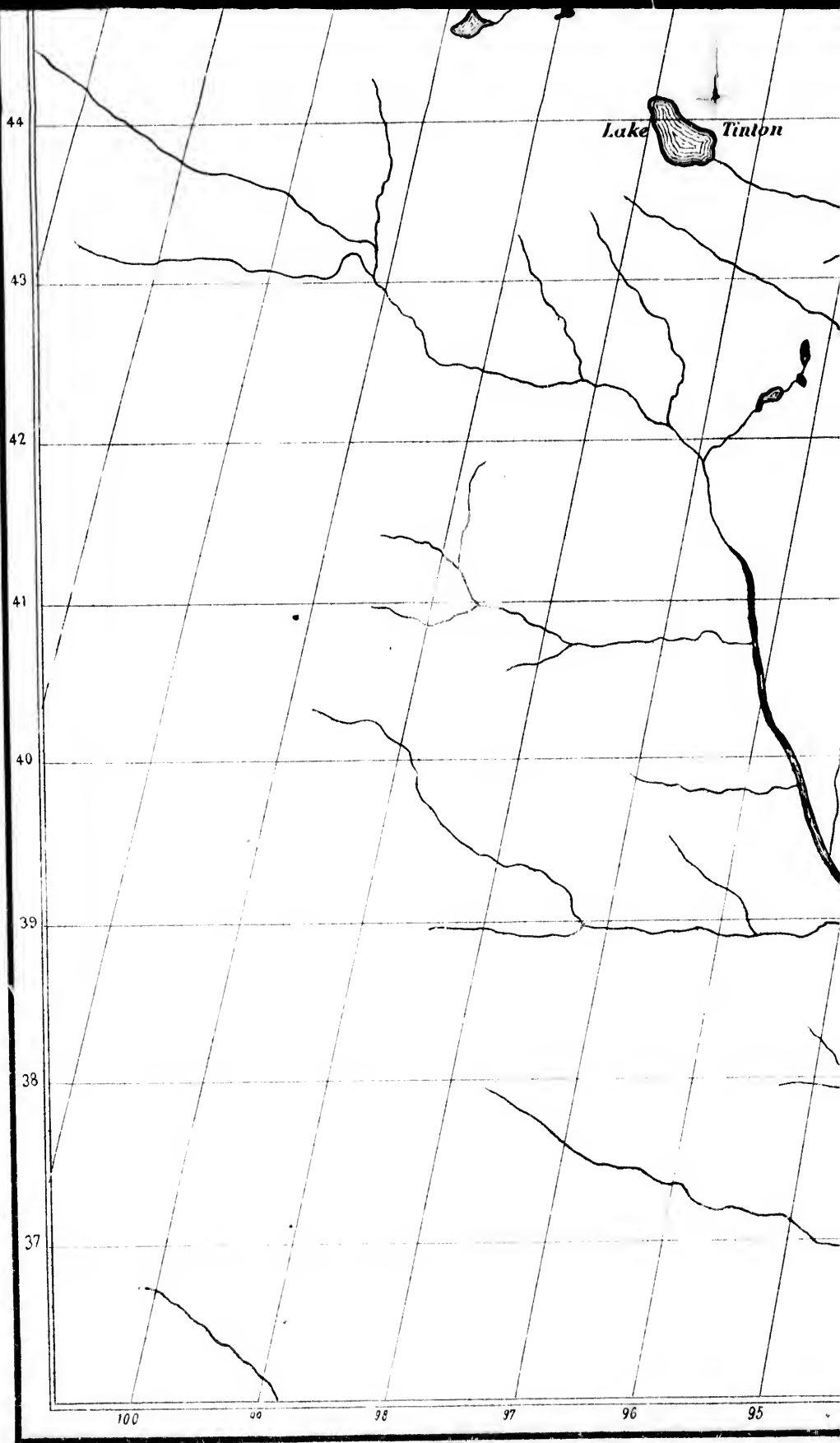
Lake of the Stour or Issatis.

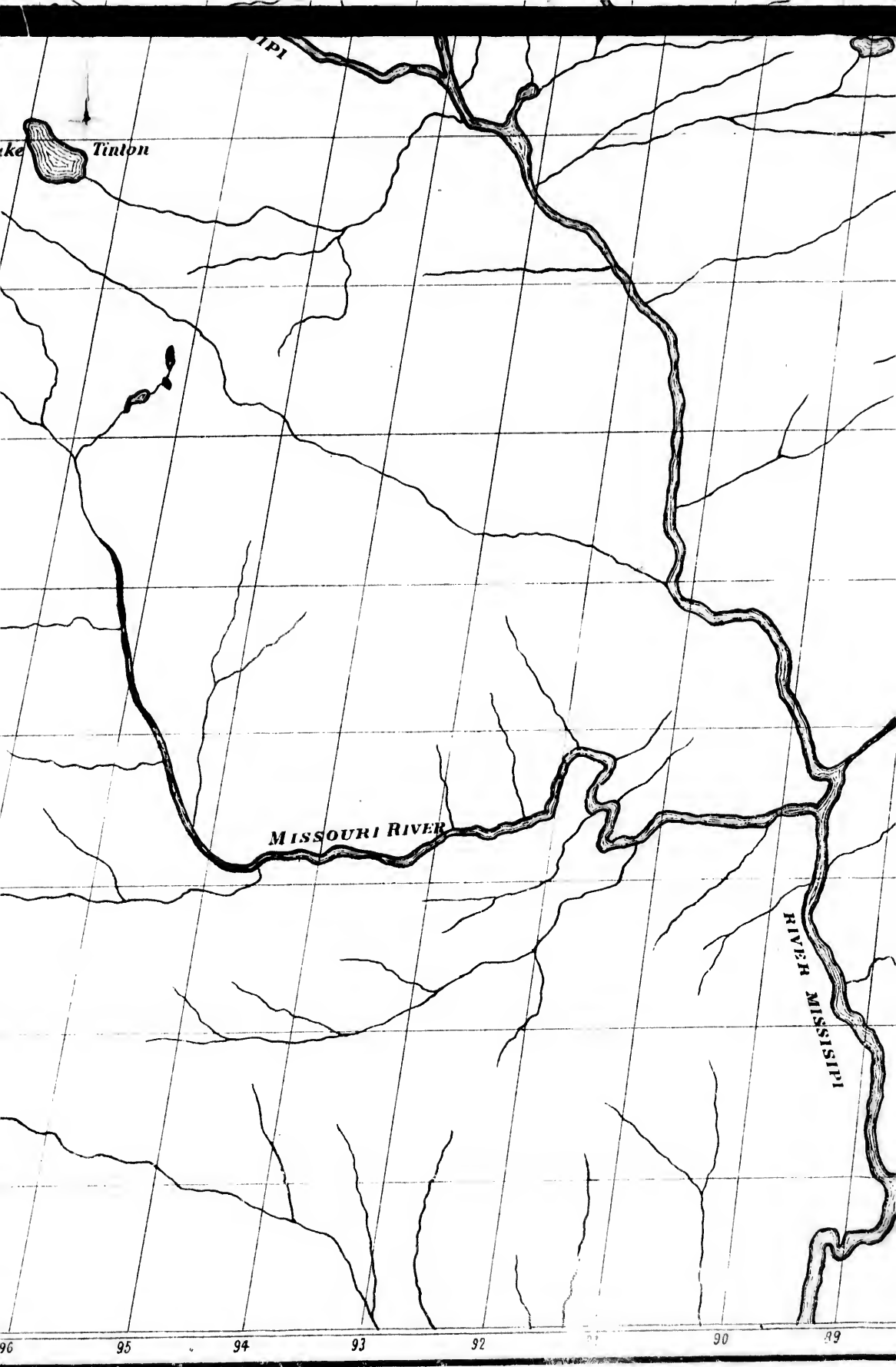
Lake Assiniboine

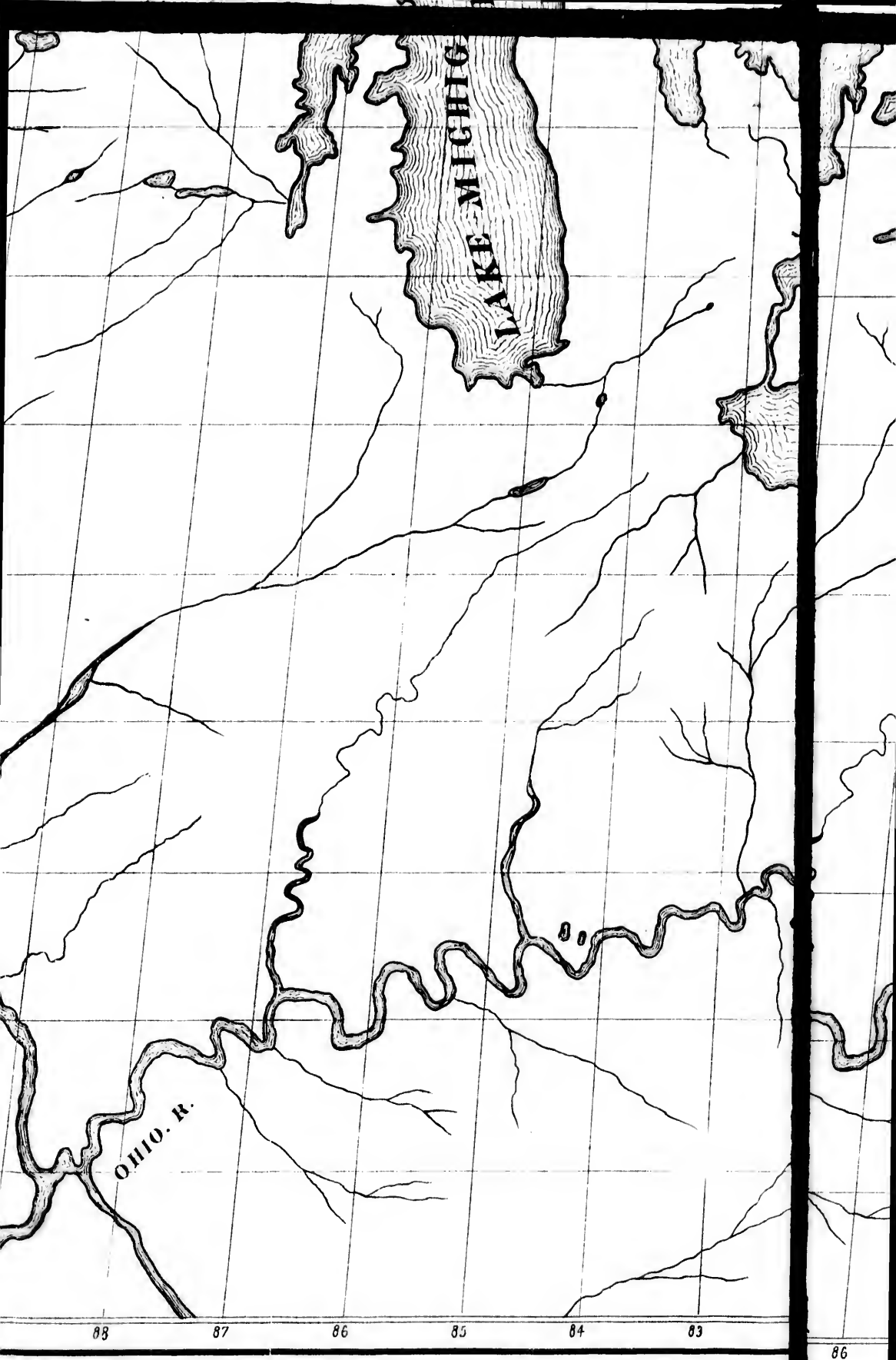












LAKE MICHIGAN

OHIO. R.

88

87

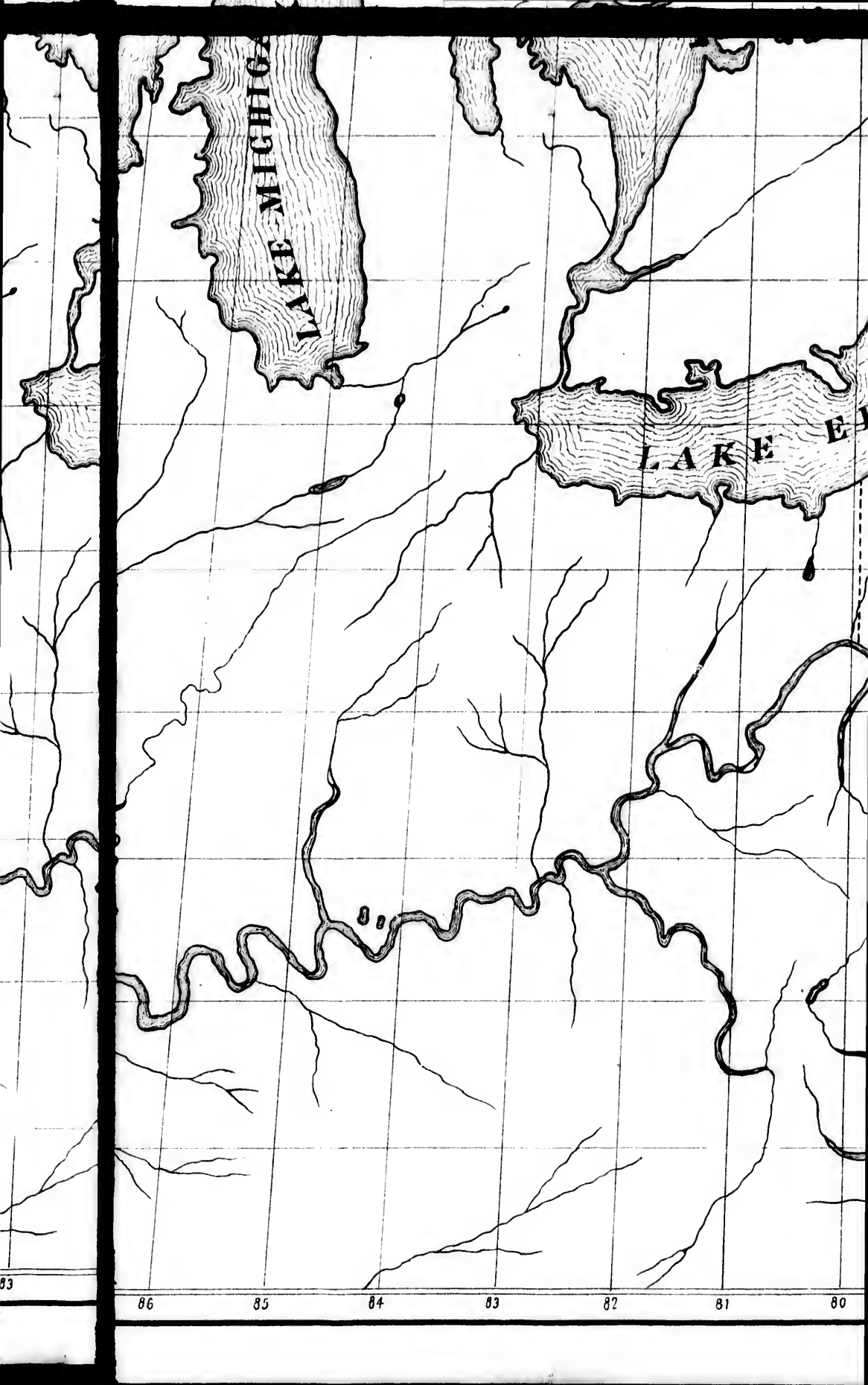
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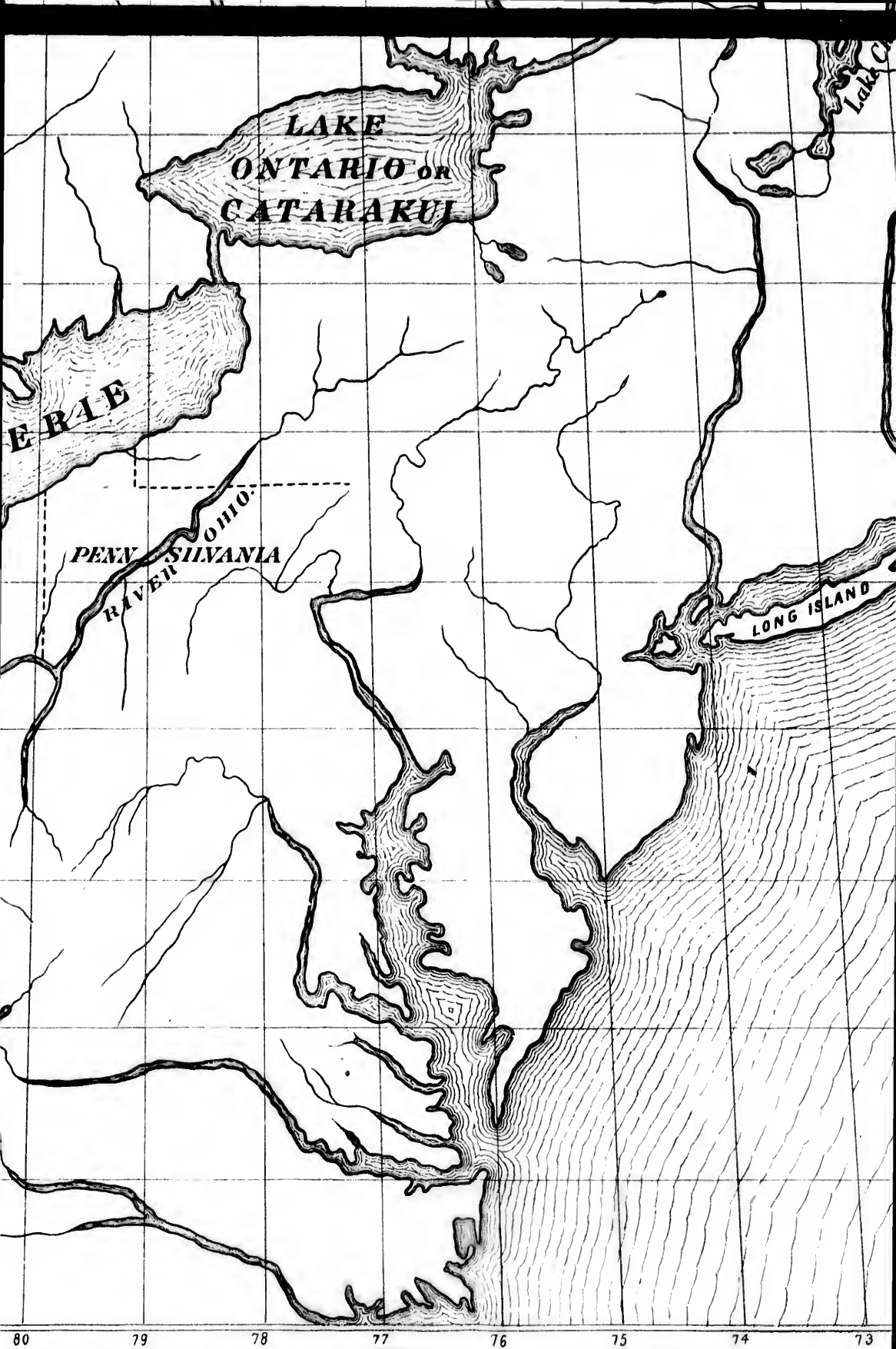
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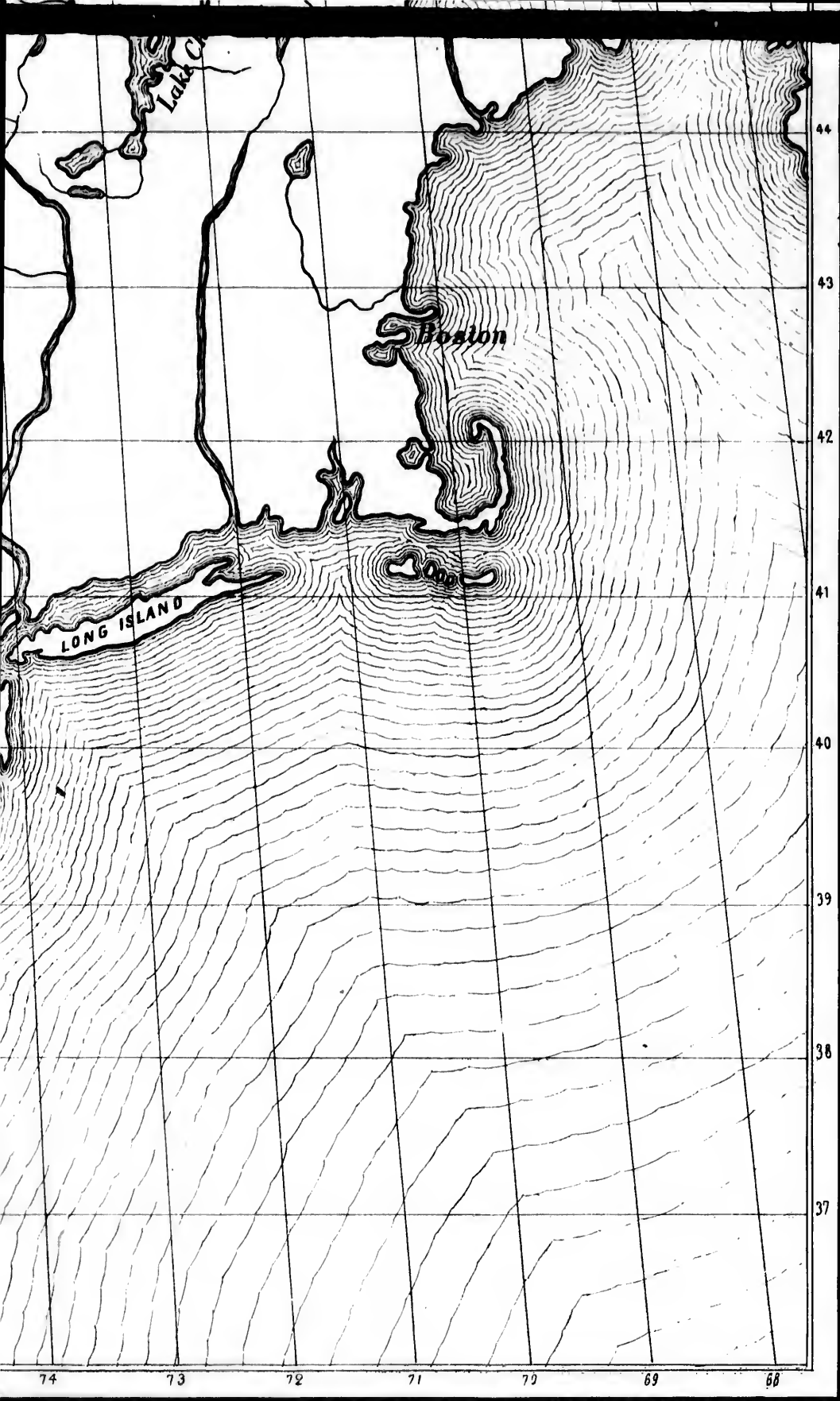
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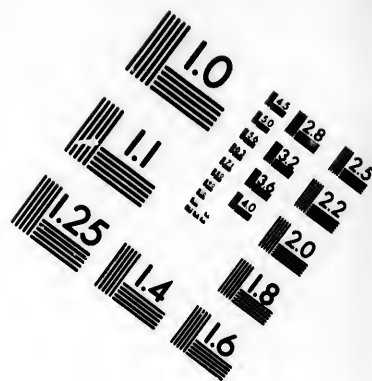
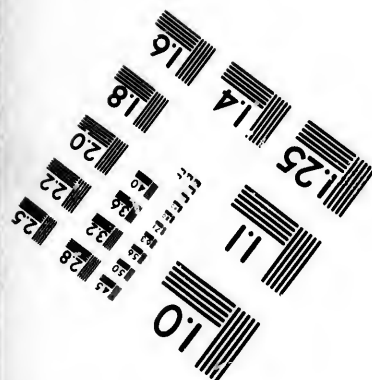
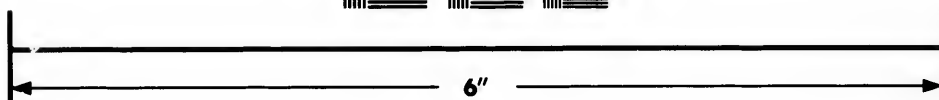
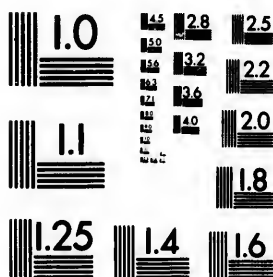


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E3 E6 E8 E12 E16 E20 E25

10 01
11 02
12 03



*This is a tracing of part of
a map published by JOHN SENEX,
F.R.S. in 1711. The line enclosing
CANADA is much the same as
that we find after the treaty
of Utrecht.*

Burkard, Labrecque & Co. Montreal

