90877

SESSIONAL PAPERS.

VOLUME XI.—PART V.

90877

FOURTH SESSION OF THE THIRD PARLIAMENT

OF THE

PROVINCE OF ONTARIO.

Session 1879.

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LIST OF SESSIONAL PAPERS.

VOL. 11, SESSION 1879.

ARRANGED ALPHABETICALLY.

	No.		No.
Agriculture	3	Immigration	6
Agricultural Farm	16, 36	Lepard, E.	82
Asylums	8	Library	12
Appointments to office	72	Magistrates	57
Banks	45	Master and Servant	75
Belleville Asylum	44	Mercer Estate	33, 61
Births, Deaths, and Marriages	9	Municipal Statistics	79
Bonds and Securities of Office	10	McDonald, John	29
Boundary Line	13, 21, 22, 31, 39, 42, 76, 80.	Nottawasaga River	30
		Ontario Gazette	51
		Paris Exhibition	40, 52
		Practical Science, School of	23, 67
Brant License Inspector	83	Printing Contract	47
Business in Departments	71	Public Accounts	1, 77
Cardwell Tavern Licenses	53, 69	Public Works	7
Central Prison	59, 60 78	Quigley, William	56
		Railway Accidents	28
Chancery, Court of	19, 63	Raleigh and Tilbury	66
Charity Aid Act	38	Registrars' Fees	14
Collectors' Rolls	81	Saw Logs	62
Contingencies	84	Scott *vs.* Hooper	73
Court of Appeal	70	School Lands	41
Crown Lands	4	Sessional Clerks	48
Division Courts	43, 58	Simcoe Tavern Licenses	50
Dominion Stock	46	Statutes of Ontario	15
Drainage	35	Tavern and Shop Licenses	11
Dundas License Inspector	65	Trent River Works	34
Education and Schools	5, 24, 32, 49	University College	18, 26
		University of Toronto	55, 64
Election Writs	25	Upper Canada College	17
Estimates	2	Valuators	74
Hilliard, George	27	Voters' Lists	68
Hospitals	20	Welland Registry Office	37
Insurances	54		

SESSIONAL PAPERS.

ARRANGED NUMERICALLY.

CONTENTS OF PART I.

No. 1 .. Public Accounts for the year ending 31st December, 1877; also Statement of Receipts and Expenditures for 1878; also Public Accounts for the year ending 31st December, 1878.

No. 2 .. Estimates for the year 1879.

CONTENTS OF PART II.

No. 3 .. Report of the Commissioner of Agriculture and Arts for the year 1878.

No. 4 .. Report of the Commissioner of Crown Lands for the year 1878.

No. 5 .. Report upon Public Schools, High Schools, Normal and Model Schools for the year 1877.

CONTENTS OF PART III.

No. 6 .. Report of the Immigration Department for the year 1878.

No. 7 .. Report of Commissioner of Public Works for the year 1878.

No. 8 .. Report upon the Asylums, Prisons and Public Charities for the year ending 30th September, 1878.

No. 9 .. Report of the Registrar-General, for the year ending 31st December, 1877.

CONTENTS OF PART IV.

No. 10.. Detailed Statement of all Bonds and Securities recorded in the Provincial Registrar's Office since the last return submitted to the Legislative Assembly upon the 28th day of January, 1878.

No. 11.. Report on the working of the Tavern and Shop Licenses Act for the year 1878.

No. 12.. Report from Librarian respecting the Legislative Library.

No. 13.. A Statement of the Case of the Province of Ontario, respecting the Northerly and Westerly Boundaries of the Province.

No. 14.. Statement of the Return forwarded to the Office of the Provincial Secretary of all Fees and Emoluments received by the Registrars of Ontario for the year 1878.

No. 15.. Return from the Queen's Printer, relating to the disposal of the Ontario Statutes for 1878, and the Revised Statutes of Ontario. (*Not Printed.*)

No. 16.. Report of the Ontario School of Agriculture and Experimental Farm for the year ending 31st December, 1878.

No. 17.. Bursar's Statements of the acsh transactions of the University of Toronto, for the year ending 30th June, 1878.

No. 18.. Bursar's Statement of the cash transactions of Upper Canada College for the year ending 30th June, 1878.

No. 19.. A Return for the years 1876 and 1877, of all orders issued by the Court of Chancery, appointing Guardians *ad litem* to infants, lunatics, and to all other persons under disability, and the names of the Solicitors so appointed ; also, a Return of all Bills of Costs taxed during the above two years in the Court of Chancery for Guardians *ad litem*, giving the amounts of the Bills brought, the amounts allowed, and the names of the Solicitor and Guardian *ad litem*, in each case ; and shewing also the amounts disbursed by such Solicitor and Guardian *ad litem*, in payment to Agents, to the Fee Fund, to Sheriffs, and otherwise ; also, a Return of the amount at the credit of the Suitors' Fee Fund during these years, and the amounts paid out of said Funds, and to whom paid.

No. 20.. Return shewing with respect to the General Hospitals of Hamilton, Kingston, London, Ottawa, Toronto, and the other cities and towns in which Hospitals have been established, the amounts received during 1877 from each municipality in payment of patients' maintenance and from patients resident of said cities and towns ; income from property belonging to Hospitals ; value and description of said property ; fees charged to residents ; fees charged to non-residents ; also, shewing the position of any funds held by the City of London and the County of Middlesex for Hospital purposes. Also, a copy of the agreement between the City of London and the County of Middlesex with reference to such fund.

No. 21.. Copies of all receipts given by individuals for compensation for lands to the Commissioners appointed to settle the Boundary line between the Provinces of Upper and Lower Canada, now the Provinces of Ontario and Quebec, in virtue of the Act of 1860. Also, for the names of persons to whom conveyances have been made, and the numbers of the lots so conveyed by said commissioners, in virtue of sub-section 1 of section 4, of 23 Vic. cap. 26, so far as the same may be found in the Department of the Commissioner of Crown Lands. (*Not Printed.*)

No. 22.. North-western Ontario ; its Boundaries, Resources and Communications.

No. 23.. Report of the Board of the School of Practical Science ; the prospectus and regulations of the School, and syllabus of the course of instruction therein.

No. 24.. Special Report upon the operations of the Depository Branch of the Education Department for the years 1876 and 1877.

No. 25.. Copies of the Writs of Elections for the Return of Members to represent the Electoral Divisions of Algoma and Muskoka respectively, at the last General Election for the Province of Ontario. (*Not Printed.*)

No. 26.. Report of the Counsel of University College, Toronto. (*Not Printed.*)

No. 27.. Return of all communications with the Government and the Crown Lands Department, in relation to the claim of George Hilliard to compensation in respect of the revocation of Timber License No. 143, Township of Cavendish. (*Not Printed.*)

No. 28.. Return of all accidents and casualties (whether to life or property), which have occurred on the railways in the Province of Ontario, under the jurisdiction of the Legislature of the Province, for the year 1877, which shall set forth the names of the respective companies; the cause and nature of such accidents and casualties; the points at which they respectively occurred, and whether by day or night; the full extent thereof, and all the particulars of the same. (*Not Printed.*)

No. 29.. Copies of all correspondence between J. B. McWilliams, or John McDonald, or others, and the Commissioner of Crown Lands, or any officer of the Crown Lands Department, relative to the seizure of certain lumber of the said McDonald, or of Messieurs Gilmour & Co., for alleged non-payment of timber dues; and Copies of all receipts or vouchers for the payment of the dues or any portion thereof, for the non-payment of which such seizure was made. (*Not Printed.*)

No. 30.. Copies of all correspondence between Municipalities in the County of Simcoe and the Government, relating to the Nottawasaga River. (*Not Printed.*)

CONTENTS OF PART V.

No. 31.. Statutes, Documents and Papers bearing on the discussion respecting the Northern and Western Boundaries of the Province of Ontario.

No. 32.. Statement of Statistics contained on pages 18, 24, 30 and 40 (for Cities) of the Report of the Honourable the Minister of Education for the year 1876.

No. 33.. Copies of all correspondence, affidavits, or papers, filed in the office of the Attorney-General, from any person or persons, respecting the south half of lot number fourteen in the tenth concession of the Township of Tecumseh (part of the Mercer Estate), or from any person or persons claiming the right to purchase the said half lot. (*Not Printed.*)

No. 34.. Copies of all correspondence, Orders in Council, or other documents relating to the transfer of the Trent River Works from the Government of the Dominion to the Government of this Province.

No. 35.. Statement of the number of applications for loans which have been made under the Tile Drainage Act of 1878, the Municipalities by which applications have been made, the sums actually paid out of said fund, and the Municipalities to which said payments have been made. (*Not Printed.*)

No. 36.. Return of all moneys received by the Bursar of the School of Agriculture and Model Farm from the sale of stock, crops, or other produce in each year since the organizing of the School; all payments made by the Government, or any officer of the Institution for stock, seeds, implements or other supplies for the Farm or School during that time, specifying each year; and a list of all stock, crops and implements at present on the farm, giving the value thereof. (*Not Printed.*)

No. 37.. Copies of the Reports of the Inspector of Registry Offices on the Welland Registry Office for the years 1877 and 1878. (*Not Printed.*)

No. 38.. Copies of Orders in Council directing that the Ladies' Benevolent and Temperance House in St. Thomas, and the Refuge for Fallen Women in Toronto, be named as Charitable Institutions under the Charity Aid Act. (*Not Printed.*)

No. 39... Return shewing in detail the expenditure each year since 1867 on account of the settlement of the Northerly and Westerly Boundaries of the Province, and the Arbitration in reference thereto, with the names of the persons to whom and what account the payments were made, and the rate of such payments.

No. 40... Reports from Mr. I. Korman, as Commissioner at the Paris Exposition of 1878.

No. 41.. Return of all moneys collected by the Province of Ontario since Confederation, from sale of School Lands.

No. 42.. Copy of a Report of the Committee of the Honourable the Privy Council of the Dominion of Canada, and of an Order in Council of the Province of Ontario, having reference to the appointment of an Arbitrator in the room and stead of the Honourable William Buell Richards, in the matter of the Northern and Western Boundaries of the Province of Ontario.

No. 43... Answers of the Judges as to the jurisdiction and practice of the Division Courts, and other amendments to the Law.

No. 44.. Return in the matter of the buildings, erections, drains, and other works done or contracted for in connection with the Deaf and Dumb Institute at Belleville, for the year 1877, setting forth—1. All tenders for said works. 2. All contracts entered into for the same. 3. All claims for extra work. 4. All amounts allowed on claims for extra work. 5. All claims for extras allowed. 6. All claims for extras in course of adjustment. 7. What sums are yet required for the completion of works so undertaken. (*Not Printed.*)

No. 45.. Statement shewing the amount of Provincial money on deposit in any of the Banks; the name of such Bank or Banks, the respective amounts so deposited; the amount drawing interest, and at what rate; also, the amount and rate of interest received on deposits by the Province in each year from the year 1867 to 1877, both inclusive. (*Not Printed.*)

No. 46.. Copies of all communications, correspondence and negotiations connected with the hypothecation of certain Dominion Stock, to the amount of £149,000 sterling, during the year 1877, stating the amount received on such hypothecation; the rate of interest; the amount of commission for negotiating the loan; the specific time (if any) for which the loan was made; the market value of said stock at the time of hypothecation; the market value of the said stock at the first accrual of interest thereon after such loan, and the present value of said stock. (*Not Printed.*)

No. 47.. Report of Queen's Printer on tenders for Departmental and Legislative printing and binding, and contract with Messieurs Robinson and Warwick.

No. 48.. Return of the names and rates of pay of each Sessional Clerk and Messenger employed during the Session of 1878; and the names and places of residence and rate of pay of all Sessional Clerks and Messengers employed at the present Session, designating such persons as are employed this Session for the first time. (*Not Printed.*)

CONTENTS OF PART VI.

No. 49.. Report of the Minister of Education on County Model Schools for 1878.

No. 50.. Return shewing the number of Tavern and Shop Licenses issued in each of the several Municipalities of the County of Simcoe, including the Townships of Tecumseth, Adjala, Mono and Mulmur, detached therefrom for electoral purposes; also the amounts received by the several Boards of License Commissioners of the Counties of Simcoe, Dufferin and Cardwell, and the amounts of money that have been paid over to the several Municipalities in the said counties out of the License Fund in each and every year since 1876. (*Not Printed.*)

No. 51.. Return shewing the amount earned by the *Ontario Gazette* from Government notices and from other advertisements, and from subscriptions respectively. Also, the cost of printing and the balance due to the Government remaining in the printers' hands on the 31st of December, in the years 1873, 1874, 1875, 1876, 1877 and 1878 respectively. Also, balance in hands of Messrs. Hunter, Rose and Company on 31st January, 1879.

No. 52.. Report of Dr. May, Superintendent of the Depository Branch of the Education Department upon the subject of the exhibit of this Department at the Paris Exposition of 1878. (*Not Printed.*)

No. 53.. Statement shewing in detail the total amount received by the License Commissioners of Cardwell for Tavern and Shop Licenses, and fines for infringement of the License Laws, during the year 1878; also, showing in detail all payments out of the License Fund of Cardwell since the 1st of May, 1878, the person or persons to whom, and the authority on which such payments were made, and the amount of the balance in hand on the 1st day of January last. (*Not Printed.*)

No. 54.. Return shewing value of the Public Buildings belonging to the Province, and Insurances thereon.

No. 55. Copies of the Minutes of all the Meetings of the Senate of the University of Toronto, held during the years 1877 and 1878, giving names of all persons present at each of such meetings.

No. 56.. Copies of all papers and documents of any kind whatsoever, relating to the claims of William Quigley, of the Township of Lutterworth, against the Crown Lands Department, except such papers as have already been brought down. (*Not Printed.*)

No. 57.. Return showing the names of all Magistrates at present on the Commission of the Peace; the date of their several appointments; the date of their qualification; and the counties for which they are respectively appointed. (*Not Printed.*)

No. 58.. Return of all moneys received by the Provincial Treasurer during the years 1874, 1875, 1876, 1877 and 1878, as fees forfeited by Division Court Bailiffs—such return to give the name of the bailiff forfeiting such fees; the name of the Division Court clerk to whom such fees were paid; the style of cause in which such fees were forfeited, and the amount of each forfeit separately (*Not Printed.*)

No. 59.. Certain information in regard to the employment in the Central Prison of prisoners who have served a term of imprisonment in that establishment. (*Not Printed.*)

No. 60.. Return shewing the number of prisoners flogged in the Central Prison during the years 1878 and 1879, up to the present date; by whom so sentenced, if any were, whether by the judges or by the warden of the prison, and for what offence; together with a copy of the by-laws and Orders in Council under which corporal punishments are administered. (*Not Printed.*)

No. 61.. Statement of receipts, expenditure and assets of the Mercer estate, in pursuance of the Statute, 41 Vic., cap. 1, in that behalf. (*Not Printed.*)

No. 62.. Return shewing the quantity in pieces and feet of all Saw logs, Square and Waney Pine Timber returned to the Crown Lands Department, as cut in public and private lands respectively, for each of the years from 1868 to 1877 inclusive.

No 63.. Return shewing the amount of money now in possession of the Court of Chancery unclaimed for five years by the parties entitled to the same. (*Not Printed.*)

No. 64.. Report of the University of Toronto, for the Academic year 1877–1878. (*Not Printed.*)

No. 65.. Copies of all correspondence between any Member of the Government and the License Inspector for the County of Dundas, or any other person, in reference to any prosecutions that have taken place in the said county under the License Act during the years 1877 and 1878. (*Not Printed.*)

No. 66.. Copies of all correspondence between any Department of the Public Service and the municipalities of Raleigh and Tilbury East, or either of them, with reference to the cost of the Licensing system in the West Riding of Kent. (*Not Printed.*)

No. 67.. Report of the School of Practical Science, and the former College of Technology; also, Copy of the Order in Council approving of Rules and Regulations, and the arrangement with University College.

No. 68.. Return of decisions of the Court of Appeal upon cases under the Act of finality to Voters' Lists.

No. 69.. Copies of all correspondence and papers respecting the appointment or re-appointment of William Hughes as Inspector of Licences for the Electoral District of Cardwell. (*Not Printed.*)

No. 70.. Return showing the number of appeals to the Court of Appeal in this Province, including County Court Appeals, and the number of appeals from this Province to the Supreme Court, *shewing in each case* of appeal for the last two years the amounts claimed; the costs incurred; the nature of the action; and the result of such appeal, so far as these particulars appear from the fyles of the Courts. (*Not Printed.*)

No. 71.. Return shewing comparatively the Volume of Business done in each of the Departments of the Government during each year from 1868 to 1877 inclusive; classified as far as practicable under general heads, in accordance with the terms of two Resolutions of the Legislative Assembly.

No. 72.. Statement of the names of all persons who have, since Confederation, received Appointments or promotions in the public service, with the dates of the appointments, and the names and emoluments of the officers; also,

whether such position is temporary or otherwise, and if temporary, shewing the duration of service; also, shewing any increase or decrease in emoluments of officers; and also, shewing the authority under which such appointment or changes have been made. (*Not Printed.*)

No. 73... Copies of all correspondence in the matter of Hooper *vs.* Scott (charged with forgery) between the Honourable Attorney-General Mowat and W. A. Reeve, Esquire, County Attorney, and Scott the said defendant; also, Copies of all letters from the said W. A. Reeve and the said Scott, to the Honourable Attorney-General, together with Copies of all other correspondence and papers, if any, in possession of the Government in reference to the said matter. (*Not Printed.*)

No. 74 Return shewing such counties as have availed themselves of the law giving them the right of appointment and using Valuators in room of Assessors. (*Not Printed.*)

No. 75.. Return from the several counties of the Province, shewing the number of appeals during the past two years to the General Sessions, from convictions or orders, under the Master and Servant Act, or any other Act of the Legislature of Ontario, under which there is an appeal to the said Sessions; the amount of the fine and costs, or sum ordered to be paid by the convicting Justice in each case, the costs incurred in the General Sessions in each case, and the nature of the order or conviction appealed from. (*Not Printed.*)

No. 76.. A Summary of the Arguments of Council before the Arbitrators upon the Northerly and Westerly Boundaries of the Province of Ontario.

CONTENTS OF PART VII.

No. 77.. Return shewing the receipts of the Province of Ontario from the various sources of Revenue; also the expenditures of the Province on account of the various sources authorized by the various Supply Bills or Acts of the Legislature, from 1st July, 1867, to 31st December, 1878.

No. 78.. A Return shewing the number and names of Guards and other officials discharged from the Central Prison since it was first opened, the offence for which they were dismissed, the names of those who were first dismissed and were afterwards either reinstated or transferred to other positions under the Government, the position to which they were so transferred, what sums were given by Government to defray the expenses of transferring them and their families. How many of the Guards or other officials have been fined, for what offence, what sum such fines amount to, what has become of the money accruing from such fines. The amount of money paid to dismissed officials over and above their salaries, and why such moneys were so paid them. The number of nights the Warden of the Prison has been absent from his duties, by whose order or permission, and how often without leave having been first obtained for such absence. (*Not Printed.*)

No. 79.. Municipal Statistics for the Province of Ontario, for the year 1877.

No. 80.. Copies of correspondence between the Honourable the Secretary of State (Canada), and the Honourable the Provincial Secretary (Ontario), respecting the Legislative enactment to give effect to the award made by the Arbitrators to determine the Northerly and Westerly boundaries of the Province of Ontario.

No. 81.. Return from each city, town, incorporated village, and township (so far as heard from), shewing the amount placed on the Collectors' Rolls, for collection for the years 1871 and 1878.

No. 82.. Return shewing all correspondence and affidavits filed in the Crown Lands Department, in reference to E. Lepard's application to purchase the North half of lot No. 14, in the 12th concession of the Township of Mara: also, all rulings of the Commissioner of Crown Lands, respecting the sale and issue of the Patent for said land. (*Not Printed.*)

No. 83.. Copies of all correspondence between the Government or any of the Departments thereof, with Mr. Grace, formerly a License Inspector for the South Riding of Brant, relating to the working of the Temperance Act of 1864, in that Riding, or his position as a License Inspector, or his resignation thereof. (*Not Printed.*)

No. 84... Return shewing the expenditure in the various Departments and Offices of the Government for Expenses and Contingencies for the years 1868, 1871 and 1898.

STATUTES, DOCUMENTS AND PAPERS

BEARING ON THE

DISCUSSION

RESPECTING THE

Northern and Western Boundaries

OF THE

PROVINCE OF ONTARIO,

INCLUDING THE PRINCIPAL EVIDENCE SUPPOSED TO BE EITHER FOR OR AGAINST THE CLAIMS OF THE PROVINCE.

Compiled by Direction of the Government of Ontario;
WITH EXPLANATORY NOTES.

TORONTO:
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1879.

CONTENTS.

	PAGE.
I.—STATUTES.	1-11
Act confirming the Hudson's Bay Company's Charter for seven years, 1690.	1
Quebec Act, 1774.	3
The Constitutional Act, 1791.	4
Act extending the Jurisdiction of the Canadian Courts of Justice, 1803.	4
Act regulating the Fur Trade, &c., 1821	6
The Union Act, 1840	10
The British North American Act, 1867	10
II.—TREATIES, CONVENTIONS, &c	11-24
Treaty of St. Germain-en-Laye, 1632.	11
Breda, 1667.	12
Nimeguen, 1678	12
Neutrality, 1686.	13
(Provisional) concerning America, 1687	15
of Ryswick, 1697.	15
Utrecht, 1713	16
Aix-la-Chapelle, 1748.	17
Paris, 1763	18
Treaties between Great Britain and the United States:—	
The Definitive Treaty, 1783	19
Treaty of Amity, &c., 1794.	20
Treaty of Ghent, 1814.	20
Convention of 1818	21
Treaty of 1842.	21
Oregon Boundary, Treaty, 1846	22
Canadian Treaty with the Indians of Lake Superior, 1850	23
Report of Committee of the Executive Council relating thereto, 1850	22
III.—PROCLAMATIONS	25-29
Royal Proclamation of October, 1763	25
Proclamation by Gen. Gage to the French of Illinois, 1764	26
of Gen. Alured Clarke, 1791	27
of Governor M'Donell, 1814	28
IV.—ROYAL CHARTER, &c	29-30
The Hudson's Bay Company's Charter, 1670	29
License of Exclusive Trade to the Hudson's Bay Company, 1821	37

CONTENTS.

	Page.
V.—OFFICIAL AND HISTORICAL DESCRIPTIONS OF THE BOUNDARIES OF CANADA	40-56
French Official Descriptions	40
Boundaries between New France and Louisiana	41
Descriptions in English Commissions after the Treaty of Paris	43
Boundary Line between New York and Canada, 1768	52
Unofficial Descriptions	53
VI.—DOCUMENTS RESPECTING EARLY FRENCH SETTLEMENTS AND EXPLORATIONS	56-103
Memoir of the Marquis de Denonville on the French limits	56
Taking possession of the countries of the Indian nations of the North and West by Sub-delegate Saint Lusson, 1671	61
Record of the taking possession of the country of the Upper Mississippi, 1680	62
French Correspondence, 1697-1747	63
Discoveries of the Verendryes, 1728-1750	68
The Chevalier de Bougainville on the French Posts, 1757	80
Early French population of Green Bay and Prairie des Chiens—Reports, &c., of the Michigan Commissioners	85
Settlements in the Illinois country, Detroit district, &c	92
Documents relating chiefly to Louisiana	97
Routes which the French of Canada had to the Mississippi	103
VII.—CORRESPONDENCE AND DOCUMENTS RELATING TO HUDSON'S BAY	104-133
French Correspondence and Memoirs, 1668-1745	104
Limits of the Post of Temiscamingue	117
Miscellaneous Papers, 1687-1798	119
Claims and Memorials of the Hudson's Bay Company, 1700-1714	123
VIII.—REMARKS ON EARLY MAPS	133-140
M. Bellin on the Map of North America	133
Notes on Maps examined	135-6, 136*a-z*, *aa-hh*, 137-40
See also the Memorandum by S. J. Dawson, Esq., M.P.P.	274
IX.—INTERNATIONAL NEGOTIATIONS, 1711-1761	140-163
Negotiations for the Peace of Utrecht	140
Negotiations for the Cession of Canada	154
Dumas' Memoir	159
X.—CANADIAN ENTERPRISE IN THE NORTH-WEST AFTER THE CONQUEST: 1761-1819	164-193
Extracts from Henry's Travels in Canada and the Indian Territories, 1761-1776	164
from Carver's Travels	168
Extent of Country which the North-West Company occupied	169

CONTENTS.

PAGE.

Official recognition of the North-west Company 178
Extracts from Mackenzie's History of the Fur Trade 179
from Henry's Journal of Travel in the North-West, &c., 1799-1816 183
from Pike's Travels 188

XI.—LEGAL OPINIONS ON THE HUDSON'S BAY COMPANY'S CHARTER 193-202
Sir D. Ryder and Sir W. Murray, 1748 193
Edward Bearcroft, Esq 194
Sir V. Gibbs, 1804 195
Sir Arthur Pigott, Sergeant Spankie and Lord Brougham, 1816 196
Sir Richard Bethell and Sir Henry S. Keating, 1857 200

XII.—JUDICIAL PROCEEDINGS 203-235
Limits of Tadoussac—Ordinance of Intendant Hocquart, 1733 203
DeReinhard's Case, 1818 207
McLellan's Case, 1818 227
Case of Brown and Boucher, 1818 229
Connolly *v.* Woolrich, 1867 231

XIII.—DOCUMENTS AND ARGUMENTS SUPPORTING ONTARIO'S CLAIMS 235-279
Memorandum from Chief Justice Draper, 1857 235
Paper relative to the Boundaries, by Chief Justice Draper, 1857 240
Memorandum from the Hon. Joseph Cauchon, Commissioner of Crown Lands, 1857 243
Mr. W. McD. Dawson's Evidence before Committee of the Legislative Assembly 268
Memorandum by S. J. Dawson, Esq., M. P.P. for Algoma 274

XIV.—DOCUMENTS AND ARGUMENTS OPPOSING ONTARIO'S CLAIMS 279-291
Discoveries and national rivalries in and around Hudson's Bay (Oldmixon's Account) 279
Hudson's Bay Company's Statement of Title, after the Treaty of Ryswick 286
Statement of Rights, 1850 288

XV.—MISCELLANEOUS DOCUMENTS 291-322
Rights of Postliminy—the Duke of York's Patents 291
Should the object of Voyages be taken into account? 293
General De Montcalm on Corruption among Canadian Officials, 1759.. 294
Extracts from Franklin's Letters to his son 296
Colonization of the Illinois—Sir W. Johnson to the Lords of Trade, 1776 298
Debate on the Quebec Bill in the House of Commons, 1774 299

CONTENTS.

PAGE.

Correspondence relating to affairs in Canada, 1783-1795 :—
Extracts from the Upper Canada MSS..... 306
from the Simcoe Papers 313
Instructions to Captain George Vancouver, 1791..... 320
Lands, west of 88° 50', patented by the Province of Canada before Confederation..... 322

XVI.—OFFICIAL CORRESPONDENCE AND DOCUMENTS, 1869-1874 323-347
Correspondence between Dominion Ministers and the Colonial Office, 1869 323
Negotiations between the Dominion and Ontario Governments, 1871-2 340
Provisional Conventional Boundaries of Ontario, 1874 347

XVII.—SUPPLEMENTARY MISCELLANEOUS DOCUMENTS 348-419
DOCUMENTS RELATING TO THE BOUNDARIES, AND TO THE INDIAN NATIONS, AND FRENCH POSTS OF CANADA, &c., 1671-1878..... 348-391
Ogilby on the Boundaries of Canada, Labrador, &c., 1671..... 348
Estotiland, Nova Britannia, Terra Laboratoris, Cortereali 348
The taking possession of Hudson's Bay and of the Northern lands and seas, by Albanel and St. Simon, 1672 348-9
Traité de Tadoussac, 1672 349
Despatch from Comte De Frontenac, 2nd Nov., 1672..... 349
Answer of the Hudson's Bay Company, 1699, to a French memorial relating to Fort Bourbon, 1699 349-51
French answer to the Hudson's Bay Company's Deduction of Right...351-4
Reply of the Hudson's Bay Company to the last mentioned French Answer, 1699.....354-8
Memorial of the Hudson's Bay Company, 1719 358-9
Extracts from papers relating to the proceedings of the English and French Commissaries under the Treaty of Peace of Utrecht, 1719-20 360-78
The Commissaries 360
Correspondence 360-4, 366-7, 376-7
Instructions to Commissary Bladen.....362-4
Boundaries claimed by the English Commissaries, 1719 .. 365
Extracts from two memoirs of M. D'Auteuil respecting the limits of Hudson's Bay, 1719-20 368-9
Lamothe-Cadillac on the Limits, 1720 369-70
An English view of the boundaries of Canada, and of other matters of interest; together with some account of the native inhabitants..370-2
Boundaries of Hudson's Bay, 1750, 1755-1761 372
Extracts from the private instructions to M. de Vaudreuil, dated Versailles, April 1st, 1755 373-4
Grant at the Post a la Carpe, north of Lake Nepigon, and extending to the shores of Hudson's Bay—Governor La Jonquière to Sieur Simblin, 1751.....375-6

CONTENTS.

PAGE.

Claims of Hudson's Bay Company, 1752-1755-1759. Whereby it is admitted that no limits had been settled up to 1759 376
Memorial of the Company referred to in Mr. Pitt's letter. 377-8
Memoir on the limits in 1755 378
Vaisette on the boundaries of Canada, 1755 378-9
Governor Pownall's account of the French Posts, and the French Dominion in North America, 1756 379-83
Forts in Canada 380-1
Establishments, posts, and settlements of Louisiana 381
Indians of the American Continent 382-3
Jeffreys on the limits of Louisiana, 1761 383
account of the French posts of the West, 1761 383-4
The Right Honourable Edmund Burke on the Quebec Bill, 1774 384-7
The objects of the Quebec Bill, 1774 388
Order in Council, 24th August, 1791, for the division of the Province of Quebec into the Provinces of Upper and Lower Canada... 388-9, 411
Further boundary descriptions in English Commissions, 1794, 1838-9. 389-90
Bouchette on the boundaries of Upper Canada, 1815 390-1
Chief-Justice Draper on the meridian of the source of the Mississippi as a Western Boundary 391
MISCELLANEOUS PAPERS 391-419
Commission of Sieur Talon to be Intendant of Canada, 1665 391-2
Circumstances attending the renewal of the Hudson's Bay Company's Charter for seven years, 1690 392
Joint opinion of the Attorney and Solicitor-General Sir Dudley Ryder, and Sir William Murray, on the Hudson's Bay Company's Charter, 1748 393-5
Report of Committee appointed to enquire into the affairs of the Hudson's Bay Company, 1749. Extracts: 395
Extracts from the evidence of witnesses 395-6
Extracts from the Appendix to the same Report 396-402
orders given by the Company to their Factors in anticipation of an attack overland from Canada 397-9
Correspondence between the Company and their Agents as to their trade with the interior. 399-400
Stations of the Hudson's Bay Company, and the North West Company respectively at the period of their coalition, 1820-21 401-2
The Hudson's Bay Company's statement as to their trade with the interior, prior to 1763 402-3
The British Columbia Act, 1866 403-4
The British North America Act (further extract.) 404
The Rupert's Land Act, 1868 404
Imperial Order in Council respecting Rupert's Land and the North-Western Territory, 1870 405-8

CONTENTS.

PAGE.

Act creating the District of Keewatin (Kee-way-din), 1876 408-9
Licenses to Mine, &c., granted by the Province of Canada, west of 88° 50' 409-11
Description of the Line of Division between the Provinces of Upper and Lower Canada referred to in the Order in Council of 24th August, 1791. (See the Order, p. 388)..... 411
Statement of the Chairman of the Hudson's Bay Company, and of the Agents of the Dominion and Ontario Governments, respectively, as to the result of researches made in England and France 412-19
Analysis of Lines for the Westerly and Northerly boundaries of Ontario, and some combinations of certain of these lines.....420-8
Westerly Boundary 420-3
Northerly Boundary 423-8

STATUTES, DOCUMENTS AND PAPERS,

BEARING ON THE DISCUSSION RESPECTING THE

NORTHERN AND WESTERN BOUNDARIES

OF THE PROVINCE OF ONTARIO.

I.

Statutes.

ACT CONFIRMING THE HUDSON'S BAY COMPANY'S CHARTER FOR SEVEN YEARS. 1690.

AN ACT FOR CONFIRMING TO THE GOVERNOR AND COMPANY TRADING TO HUDSON'S BAY THEIR PRIVILEGES AND TRADING.*

FORASMUCH as his late Majesty King Charles the Second, by his Letters Patent or Charter under the Great Seal of England, bearing date the second day of May, in the two-and-twentieth year of his reign, reciting, or taking notice, that his then Highness Prince Rupert, Christopher Duke of Albemarle, William Earl of Craven, and divers other Lords therein particularly named had, at their own great costs and charges, undertaken an expedition to Hudson's Bay, in the north-west parts of America, for the discovery of a new passage into the South Seas, and for finding some trade for furs, minerals and other considerable commodities, and that by such their undertaking they had made such discoveries whereby might probably arise much advantage to his said Majesty and this Kingdom; for which, and for other reasons and motives in the said Charter mentioned, his said late Majesty was graciously pleased thereby to incorporate, create and make the said Prince Rupert, Duke of Albemarle, Earl of Craven, and other the Lords and persons therein particularly named, and such others as should be admitted into the Society (as therein is mentioned), one body corporate and politic in deed and name, by the name of the Governor and Company of Adventurers of England trading into Hudson's Bay, and by that name to have perpetual succession, and to sue and to be sued, take, purchase or grant; and by the said Letters Patent or Charter of incorporation provision was made as well for the appointment and constitution of the first and present, as well as for the choosing, appointing and admitting of all future governors, deputy-governors, committees, members and officers of the said Company, and for the making of laws, constitutions and ordinances, and for the government of the said Company and trade, and otherwise, and the sole trade and commerce of all the seas, straights, bays, lakes, rivers, creeks and sounds, in whatsoever latitude they shall be, that are within the entrance of the straights commonly called Hudson's Straights, together with all the lands and the territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, which were

* 2 William and Mary, Cap. 15, 1st Session (Private Acts).

not then actually possessed by or granted to any of his said late Majesty's subjects, or possessed by the subjects of any other Christian prince or state, with divers and sundry privileges, liberties, jurisdictions, franchises, powers and authorities, to punish offenders, to sue for and recover penalties, with other powers and authorities, matters and things, in the said Letters Patent or Charter of incorporation mentioned and expressed, were thereby granted to and invested in the same said Company and their successors for ever, in such sort, manner and form as in and by the said Charter or Letters Patent, or enrolment thereof, is mentioned and expressed, and as thereby more fully appears: And forasmuch as the said Governor and Company, at their great charges and with much difficulty and hazard, have settled and made great improvements of the trade to the said seas, straights and places aforesaid, which, as now and for several years past, hath been found to be useful and profitable to this Kingdom, and the navigation thereof for furs, minerals and other considerable commodities; and it appearing that the said trade cannot be carried on or managed so advantageously either to the honour or interest of this realm as in a company and with a joint stock, and it being necessary that such a Company should have sufficient and undoubted powers and authorities, privileges and liberties to manage, order and carry on the said trade, and to make by-laws, orders, rules and constitutions for the due management and regulation as well of the said Company as trade, and for the punishment of offenders, and recovering of forfeitures and penalties, which cannot be so effectually done as by authority of Parliament: Be it therefore enacted, by the King and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the present Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, shall at all times from henceforth stand, continue and be a body politic and corporate in deed and name, by the name aforesaid, and according to the purport and effect of the said Letters Patent or Charter hereinbefore mentioned, and that the said Letters Patent or Charter hereinbefore mentioned, bearing date the said second day of May, in the two-and-twentieth year of the reign of his said late Majesty King Charles the Second, and all things therein contained, be, and by virtue of this present Act shall be from henceforth ratified, established and confirmed unto the present Governor and Company of Adventures of England trading into Hudson's Bay, and to their successors for ever, and also that the said Governor and Company and their successors shall and may have, do, use, exercise and enjoy all and singular the liberties, privileges, powers, authorities, matters and things in the said Letters Patent or Charter mentioned to be granted to them, and also that the said Letters Patent or Charter, and all and every the liberties, franchises, immunities, privileges, jurisdictions, powers, royalties, hereditaments, matters and things whatsoever, and of what nature and kind soever thereby given, granted or demitted, or mentioned to be given, granted or demitted to the said Prince Rupert, Duke of Albemarle, Earl of Craven and other the Lords and persons therein particularly named, and thereby incorporated, and to the Governor and Company thereby created, made or erected, and to their successors, and to all governors, deputy-governors, committees and other members, officers and servants, of or upon the said Governor and Company for the time being, and their successors, or otherwise howsoever, with and under such restraints and prohibitions, and subject and liable to such forfeitures and remedies for recovering thereof, as in the said Charter are contained, shall from henceforth be good and effectual, and available in the law, and to all intents, constructions and purposes to the aforesaid new Governor and Company, and their successors for evermore, and shall and may be by the new Governor and Company and their successors from time to time for ever hereafter holden and enjoyed, and put in execution after and according to the form, words, sentences, purport, effect, and true meaning of the said Letters Patent or Charter, and that as amply, fully and largely, to all intents, constructions and purposes, as if the same Letters Patent or Charter, and the general matters and things therein mentioned, and thereby granted or mentioned to be granted, were word for word recited and set down at large in this present Act of Parliament, any law, statute, usage, custom or other matter or thing to the contrary notwithstanding. Provided always, and be it further enacted, by the authority aforesaid, that the said Governor and Company

shall make at least two public sales of coat beaver in every year, and not exceeding four, and that they shall proportion the same into lots each of about 100*l.* stg., but not exceeding 200*l.* value; and that in the intervals of public sales the said Company may not sell coat beaver by private contract, and at any lower price than it was set up at the last public sale, and that the coat beaver now in the Company's hands shall be liable to the same rules. Provided always, that this Act shall continue and be in force for the time of seven years, and from thence to the end of next Session of Parliament and no longer.

THE QUEBEC ACT, 1774.

AN ACT FOR MAKING MORE EFFECTUAL PROVISION FOR THE GOVERNMENT OF THE PROVINCE OF QUEBEC IN NORTH AMERICA.*

WHEREAS His Majesty, by His Royal Proclamation, bearing date the Seventh day of October, in the third year of his reign, thought fit to declare the provisions which have been made in respect to certain countries, territories, and islands in America, ceded to His Majesty by the definitive Treaty of Peace concluded at Paris on the Tenth day of February, one thousand seven hundred and sixty-three; and whereas by the arrangements made by the said Royal Proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said Treaty, was left without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries; May it therefore please Your Most Excellent Majesty, that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same,

That all the territories, islands, and countries in North America, belonging to the crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point in forty-five degrees northern latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meet the River St. Lawrence; from thence up the eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario and the river commonly called Niagara; 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 said 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 north-western angle of the said Province of Pennsylvania; and thence, by a right line, to the said north-western angle of the said Province; and thence along the western boundary of the said Province until it strike the River 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; and also all such territorities, islands, and countries, which have, since the tenth day of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec as created and established by the said Royal Proclamation of the seventh day of October, one thousand seven hundred and sixty-three.

[Other sections omitted as not affecting the question.]

* 14 Geo. III., Cap. 83.

THE CONSTITUTIONAL ACT, 1791.

AN ACT TO REPEAL CERTAIN PARTS OF AN ACT PASSED IN THE FOURTEENTH YEAR OF HIS MAJESTY'S REIGN, ENTITLED, AN ACT FOR MAKING MORE EFFECTUAL PROVISION FOR THE GOVERNMENT OF THE PROVINCE OF QUEBEC, IN NORTH AMERICA; AND TO MAKE FURTHER PROVISION FOR THE GOVERNMENT OF THE SAID PROVINCE.*

WHEREAS an Act was passed in the fourteenth year of the reign of his present Majesty, entitled "An Act for making more effectual provision for the government of the Province of Quebec, in North America:" and whereas the said Act is in many respects inapplicable to the present condition and circumstances of the said Province: and whereas it is expedient and necessary that further provision should now be made for the good government and prosperity thereof: may it therefore please your most excellent Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, that so much of the said Act as in any manner relates to the appointment of a Council for the affairs of the said Province of Quebec, or to the power given by the said Act to the said Council, or to the major part of them, to make ordinances for the peace, welfare, and good government of the said Province, with the consent of His Majesty's Governor, Lieutenant-Governor, or Commander-in-chief for the time being, shall be and the same is hereby repealed.

II. And whereas his Majesty has been pleased to signify, by his message to both Houses of Parliament, his royal intention to divide his Province of Quebec into two separate Provinces, to be called the Province of Upper Canada, and the Province of Lower Canada; be it enacted by the authority aforesaid, that there shall be within each of the said Provinces respectively, a Legislative Council, and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said Provinces respectively, his Majesty, his heirs or successors, shall have power, during the continuance of this Act, by and with the advice and consent of the Legislative Council and Assembly of such Provinces respectively, to make laws for the peace, welfare, and good government thereof, such laws not being repugnant to this Act; and that all such laws, being passed by the Legislative Council, and Assembly of either of the said Provinces respectively, and assented to by his Majesty, his heirs or successors, or assented to in his Majesty's name, by such person as his Majesty, his heirs or successors, shall from time to time appoint to be the Governor, or Lieutenant Governor of such Province, or by such person as his Majesty, his heirs or successors, shall from time to time appoint to administer the government within the same, shall be, and the same are hereby declared to be, by virtue of and under the authority of this Act, valid and binding to all intents and purposes whatever, within the Province in which the same shall have been so passed.

[The other sections omitted as not affecting the question.]

AN ACT

FOR EXTENDING THE JURISDICTION OF THE COURTS OF JUSTICE, IN THE PROVINCES OF LOWER AND UPPER CANADA, TO THE TRIAL AND PUNISHMENT OF PERSONS GUILTY OF CRIMES AND OFFENCES WITHIN CERTAIN PARTS OF NORTH AMERICA ADJOINING TO THE SAID PROVINCES.†

Whereas crimes and offences have been committed in the Indian Territories and other parts of America, not within the limits of the Provinces of Lower or Upper Canada, or either of them, or of the jurisdiction of any of the Courts established in those Provinces, or within the limits of any Civil Government of the United States of

* 31 George III., Cap. 31.
† 43 George III., Cap. 138. 11th August, 1803.

America, and are therefore not cognizable by any jurisdiction whatever, and by reason thereof great crimes and offences have gone and may hereafter go unpunished, and greatly increase: For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act, all offences committed within any of the Indian Territories, or parts of America not within the limits of either of the said Provinces of Lower or Upper Canada or of any Civil Government of the United States of America, shall be and be deemed to be offences of the same nature, and shall be tried in the same manner and subject to the same punishment, as if the same had been committed within the Provinces of Lower or Upper Canada.

II. And be it further enacted, that it shall be lawful for the Governor or Lieutenant-Governor, or person administering the Government for the time being of the Province of Lower Canada, by Commission under his Hand and Seal, to authorize and empower any person or persons, wheresoever resident or being at the time, to act as Civil Magistrates and Justices of the Peace for any of the Indian Territories or parts of America not within the limits of either of the said Provinces or of any Civil Government of the United States of America, as well as within the limits of either of the said Provinces, either upon information taken or given within the said Provinces of Lower or Upper Canada, or out of the said Provinces in any part of the Indian Territories or parts of America aforesaid, for the purpose only of hearing crimes and offences, and committing any person or persons guilty of any crime or offence to safe custody, in order to his or their being conveyed to the said Province of Lower Canada, to be dealt with according to Law; and it shall be lawful for any person or persons whatever to apprehend and take before any persons so commissioned as aforesaid, or to apprehend and convey, or cause to be conveyed with all convenient speed, to the Province of Lower Canada, any person or persons guilty of any crime or offence, there to be delivered into safe custody for the purpose of being dealt with according to Law.

III. And be it further enacted, that every such offender may and shall be prosecuted and tried in the Courts of the Province of Lower Canada (or if the Governor or Lieutenant-Governor, or person administering the Government for the time being, shall from any of the circumstances of the crime or offence, or the local situation of any of the witnesses for the prosecution or defence, think that justice may more conveniently be administered in relation to such crime or offence in the Province of Upper Canada, and shall by any Instrument under the Great Seal of the Province of Lower Canada, declare the same, then that every such offender may and shall be prosecuted and tried in the Court of the Province of Upper Canada), in which crimes or offences of the like nature are usually tried, and where the same would have been tried if such crime or offence had been committed within the limits of the Province where the same shall be tried under this Act; and every offender tried and convicted under this Act shall be liable and subject to such punishment as may by any Law, in force in the Province where he or she shall be tried, be inflicted for such crime or offence; and such crime and offence may and shall be laid and charged to have been committed within the jurisdiction of such Court, and such Court may and shall proceed to trial, judgment, and execution, or other punishment for such crime or offence in the same manner in every respect as if such crime or offence had really been committed within the jurisdiction of such Court; and it shall also be lawful for the Judges and other Officers of the said Courts to issue subpœnas and other processes for enforcing the attendance of witnesses on any such trial; and such subpœnas and other processes shall be as valid and effectual, and be in full force and put in execution on any parts of the Indian Territories, or other parts of America out of and not within the limits of the Civil Government of the United States of America, as well as within the limits of either of the said Provinces of Lower or Upper Canada, in relation to the trial of any crimes or offences by this Act made cognizable in such Court, or to the more speedily and effectually bringing any offender or offenders to justice under this Act, as fully and amply as any subpœnas or other pro-

cesses are within the limits of the jurisdiction of the Court, from which any such subpœnas or processes shall issue as aforesaid; any Act or Acts, Law or Laws, custom, usage, matter or thing to the contrary notwithstanding.

IV. Provided, always, and be it further enacted, that if any crime or offence charged and prosecuted under this Act shall be proved to have been committed by any person or persons, not being a subject or subjects of His Majesty, also within the limits of any colony, settlement, or territory belonging to any European State, the Court before which such prosecution shall be had shall forthwith acquit such person or persons not being such subject or subjects as aforesaid of such charge.

V. Provided nevertheless, that it shall and may be lawful for such Court to proceed in the trial of any person, being a subject or subjects of His Majesty, who shall be charged with the same or any other offence, notwithstanding such offence shall appear to have been committed within the limits of any colony, settlement or territory belonging to any European State as aforesaid.

AN ACT

FOR REGULATING THE FUR TRADE, AND ESTABLISHING A CRIMINAL AND CIVIL JURISDICTION WITHIN CERTAIN PARTS OF NORTH AMERICA.*

Whereas the competition in the Fur Trade between the Governor and Company of Adventurers of England trading to Hudson's Bay, and certain associations of persons trading under the name of "The North-West Company of Montreal," has been found for some years past to be productive of great inconvenience and loss, not only to the said Company and Associations but to the said trade in general, and also of great injury to the native Indians, and of other persons subjects of His Majesty: And whereas the animosities and feuds, arising from such competition, have also for some years past kept the interior of America, to the northward and westward of the Provinces of Upper and Lower Canada, and of the territories of the United States of America, in a state of continued disturbance: And whereas many breaches of the Peace, and violence extending to the loss of lives, and considerable destruction of property, have continually occurred therein: And whereas for remedy of such evils, it is expedient and necessary that some more effectual regulations should be established for the apprehending, securing, and bringing to justice all persons committing such offences, and that His Majesty should be empowered to regulate the said trade: And whereas doubts have been entertained whether the provisions of an Act past in the forty-third year of the Reign of His late Majesty King George the Third, intituled "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces," extended to the territories granted by Charter to the said Governor and Company; and it is expedient that such doubts should be removed, and that the said Act should be further extended: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, it shall be lawful for His Majesty, his heirs or successors, to make Grants or give His Royal License, under the hand and seal of one of His Majesty's Principal Secretaries of State, to any body corporate, or company, or person or persons, or for the exclusive privilege of trading with the Indians in all such parts of North America as shall be specified in any such Grants or Licenses respectively, not being part of the lands or territories heretofore granted to the said Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of His Majesty's Provinces in North America, or of any lands or territories belonging to the United States of America; and all such Grants and Licenses shall be good, valid and effectual for the purpose of securing to all such bodies corporate or companies, or per-

* 1-2 Geo. IV., Cap. 66. 2nd July, 1821.

sons, the sole and exclusive privilege of trading with the Indians in all such parts of North America (except as hereinafter excepted) as shall be specified in such Grants or Licenses; anything contained in any Act or Acts of Parliament, or any law to the contrary notwithstanding.

II. Provided always, and be it further enacted, that no such Grant or License, made or given by His Majesty, his heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid, shall be made or given for any longer period than twenty-one years; and no rent shall be required or demanded for or in respect of any such Grant or License, or any privileges given thereby under the provisions of this Act, for the first period of twenty-one years; and from and after the expiration of such first period of twenty-one years, it shall be lawful for His Majesty, his heirs or successors, to reserve such rents in any future Grants or Licenses to be made to the same or any other parties, as shall be deemed just and reasonable, with security for the payment thereof; and such rents shall be deemed part of the land revenues of His Majesty, his heirs and successors, and be applied and accounted for as the other land revenues of His Majesty, his heirs or successors, shall, at the time of payment of any such rent being made, be applied and accounted for.

III. And be it further enacted, that from and after the passing of this Act, the Governor and Company of Adventurers trading to Hudson's Bay, and every body corporate and company and person to whom every such Grant or License shall be made or given as aforesaid, shall respectively keep accurate registers of all persons in their employ in any parts of North America, and shall, once in each year, return to His Majesty's Secretaries of State, accurate duplicates of such registers, and shall also enter into such security as shall be required by His Majesty for the due execution of all processes, criminal and civil, as well within the territories included in any such grant as within those granted by Charter to the Governor and Company of Adventurers trading to Hudson's Bay, and for the producing or delivering into safe custody, for purposes of trial, of all persons in their employ or acting under their authority, who shall be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations, and stipulations as shall be contained in any such Grant or License, either for diminishing or preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement, or for any other object which His Majesty may deem necessary for the remedy or prevention of the other evils which have hitherto been found to exist.

IV. And whereas by a Convention entered into between His Majesty and the United States of America, it was stipulated and agreed, that any country on the north-west coast of America, to the westward of the Stony Mountains, should be free and open to the citizens and subjects of the two Powers, for the term of ten years from the date of the signature of that Convention; be it therefore enacted, that nothing in this Act contained shall be deemed or construed to authorize any body corporate, company, or person, to whom His Majesty may have, under the provisions of this Act, made a Grant or given a License of exclusive trade with the Indians in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said Article, to the prejudice or exclusion of any citizens of the said United States of America, who may be engaged in the said trade: Provided always, that no British subject shall trade with the Indians within such limits, without such Grant or License as is by this Act required.

V. And be it declared and enacted, that the said Act passed in the forty-third year of the reign of His late Majesty, intituled "An Act for extending the Jurisdiction of the Courts of Justices in the Provinces of Lower and Upper Canada, to the Trial and Punishment of persons guilty of crimes and offences within certain parts in North America, adjoining to the said Provinces," and all the clauses and provisoes therein contained, shall be deemed and construed, and it is and are hereby respectively declared, to extend to and over and to be in full force in and through all the territories heretofore granted to the Company of Adventurers of England trading to Hudson's Bay; anything in any Act or Acts of Parliament or this Act or in any Grant or Charter to the Company, to the contrary notwithstanding.

VI. And be it further enacted, that from and after the passing of this Act, the Courts of judicature now existing, or which may be hereafter established in the Province of Upper Canada, shall have the same civil jurisdiction, power and authority, as well in the cognizance of suits as in the issuing process, mesne, and final, and in all other respects whatsoever, within the said Indian Territories and other parts of America not within the limits of either of the Provinces of Lower or Upper Canada, or of any civil government of the United States, as the said Courts have or are invested with within the limits of the said Provinces of Lower or Upper Canada respectively; and that all and every contract, agreement, debt, liability, and demand whatsoever, made, entered into, incurred or arising within the said Indian Territories and other parts of America, and all and every wrong and injury to the person or to the property, real or personal, committed or done within the same, shall be and be deemed to be of the same nature, and be cognizable by the same Courts, Magistrates, or Justices of the Peace, and be tried in the same manner and subject to the same consequences in all respects as if the same had been made, entered into, incurred, arisen, committed or done within the said Province of Upper Canada, anything in any Act or Acts of Parliament, or Grant, or Charter, to the contrary, notwithstanding: Provided always, that all such suits and actions relating to lands or to any claims in respect to lands not being within the Province of Upper Canada, shall be decided according to the laws of that part of the United Kingdom called England, and shall not be subject to or affected by any local Acts, Statutes, or Laws of the Legislature of Upper Canada.

VII. And be it further enacted, that all process, writs, orders, judgments, decrees, and Acts whatsoever, to be issued, made, delivered, given and done by or under the authority of the said Courts, or either of them, shall have the same force, authority and effect within the said Indian Territory and other parts of America as aforesaid, as the same now have within the said Province of Upper Canada.

VIII. And be it further enacted, that it shall be lawful for the Governor or Lieutenant-Governor or person administering the Government for the time being of Lower Canada, by Commission under his Hand and Seal, to authorize all persons who shall be appointed Justices of the Peace under the provisions of this Act, within the said Indian Territories, or other parts of America as aforesaid, or any other person who shall be specially named in any such Commission, to act as a Commissioner within the same, for the purpose of executing, enforcing and carrying into effect all such process, writs, orders, judgments, decrees and acts which shall be issued, made, delivered, given or done by the said Courts of judicature, and which may require to be enforced and executed within the said Indian Territories, or such other parts of North America as aforesaid; and in case any person or persons whatsoever, residing or being within the said Indian Territories, or such other part of America as aforesaid, shall refuse to obey or perform any such process, writ, order, judgment, decree, or act of the said Courts, or shall resist or oppose the execution thereof, it shall and may be lawful for the said Justices of the Peace or Commissioners, and they or any of them are, and is hereby required, on the same being proved before him, by the oath or affidavit of one credible witness, to commit the said person or persons so offending as aforesaid, to custody, in order to his or their being conveyed to Upper Canada; and that it shall be lawful for any such Justice of the Peace or Commissioner, or any person or persons acting under his authority, to convey or cause to be conveyed such person or persons so offending as aforesaid, to Upper Canada, in pursuance of such process, writ, order, decree, judgment or act, and such person or persons shall be committed to gaol by the said Court, on his, her or their being so brought into the said Province of Upper Canada, by which such process, writ, order, decree, judgment or act was issued, made, delivered, given or done, until a final judgment or decree shall have been pronounced in such suit, and shall have been duly performed, and all costs paid, in case such person or persons shall be a party or parties in such suit, or until the trial of such suit shall have been concluded, in case such person or persons shall be a witness or witnesses therein; Provided always, that if any person or persons so apprehended as aforesaid shall enter into a bond recognizance to any such Justice of the Peace or Commissioner, with two sufficient sureties, to the satisfaction of such Justice of the Peace or Commissioner, or the

said Courts, conditioned to obey and perform such process, writ, order, judgment, decree, or act as aforesaid, then, and in such case, it shall and may be lawful for the said Justice of the Peace or Commissioner, or the said Courts, to discharge such person or persons out of custody.

IX. And be it further enacted, that in case such person or persons shall not perform and fulfil the condition or conditions of such recognizance, then, and in such case it shall and may be lawful for any such Justice or Commissioner, and he is hereby required to assign such recognizance to the plaintiff or plaintiffs, in any suit in which such process writ, order, decree, judgment, or act shall have been issued, made, delivered, given, or done, who may maintain an action in the said Courts, in his own name, against the said sureties, and recover against such sureties the full amount of such loss or damage as such plaintiff shall prove to have been sustained by him, by reason of the original cause of action in respect of which such process, writ, order, decree, judgment, or act of the said Courts were issued, made, delivered, given, or done as aforesaid, notwithstanding anything contained in any Charter granted to the said Governor and Company of Adventurers of England trading to Hudson's Bay.

X. And be it further enacted, that it shall be lawful for His Majesty, if he shall deem it convenient so to do, to issue a Commission or Commissions to any person or persons to be and act as Justices of the Peace, within such parts of America, as aforesaid, as well within any territories heretofore granted to the Company of Adventurers of England trading to Hudson's Bay, as within the Indian Territories of such other parts of America as aforesaid, and it shall be lawful for the Court in the Province of Upper Canada, in any case in which it shall appear expedient, to have any evidence taken by Commission, or any facts or issue, or any cause or suit ascertained, to issue a Commission to any three or more of such Justices to take such evidence, and return the same, or try such issue, and for that purpose to hold Courts, and to issue subpœnas or other processes to compel attendance of plaintiffs, defendants, jurors, witnesses, and all other persons requisite and essential to the execution of the several purposes for which such Commission or Commissions had issued, and with the like power and authority as are vested in the Courts of the said Province of Upper Canada; and any order, verdict, judgment, or decree, that shall be made, found, declared, or published by or before any Court or Courts held under and by virtue of such Commission or Commissions, shall be considered to be of as full effect, and enforced in like manner, as if the same had been made, found, declared, or published within the jurisdiction of the Court of the said Province, and at the time of issuing such Commission or Commissions shall be declared the place or places where such Commission is to be opened, and the Courts and proceedings thereunder held; and it shall be at the same time provided how and by what means the expenses of such Commission, and the execution thereof shall be raised and provided for.

XI. And be it further enacted that it shall be lawful for His Majesty, notwithstanding anything contained in this Act, or in any Charter granted to the said Governor and Company of Adventurers of England trading to Hudson's Bay, from time to time by any Commission under the Great Seal, to authorize and empower any such persons so appointed Justices of the Peace as aforesaid, to sit and hold Courts of Records for the trial of criminal offences and misdemeanours, and also for civil causes; and it shall be lawful for His Majesty to order, direct and authorise the appointment of proper officers to act in aid of such Courts and justices within the jurisdiction assigned to such Courts and Justices in any such Commission; anything in this Act or in any Charter of the Governor and Company of the Merchant Adventurers of England trading to Hudson's Bay to the contrary notwithstanding.

XII. Provided always, and be it further enacted, that such Courts shall be constituted, as to the number of Justices to preside therein, and as to such places within the said territories of the said Company, or any Indian territories or other parts of North America as aforesaid, and the times and manner of holding the same, as His Majesty shall from time to time order and direct; but shall not try any offender upon any charge or indictment for any felony made the subject of capital punishment, or for any offence or passing sentence affecting the life of any offender, or adjudge or cause any offender to

suffer capital punishment or transportation, or take cognizance or try any civil action or suit, in which the cause of such suit or action shall exceed in value the amount or sum of two hundred pounds; and in every case of any offence subjecting the person committing the same to capital punishment or transportation, the Court or any Judge of any such Court, or any Justice or Justices of the Peace, before whom any such offender shall be brought, shall commit such offender to safe custody, and cause such offender to be sent in such custody for trial in the Court of the Province of Upper Canada.

XIII. And be it further enacted, that all judgments given in any civil suit shall be subject to appeal to His Majesty in Council, in like manner as in other cases in His Majesty's Province of Upper Canada, and also in any case in which the right or title to any land shall be in question.

XIV. And be it further enacted, that nothing in this Act contained shall be taken or construed to affect any right, privilege, authority or jurisdiction, which the Governor and Company of Adventurers trading to Hudson's Bay are by law entitled to claim and exercise under their Charter, but that all such rights, privileges, authorities and jurisdictions shall remain in as full force, virtue and effect, as if this Act had never been made; anything in this Act to the contrary notwithstanding.

THE UNION ACT, 1840.

AN ACT TO RE-UNITE THE PROVINCES OF UPPER AND LOWER CANADA, AND FOR THE GOVERNMENT OF CANADA.*

WHEREAS it is necessary that provision be made for the good Government of the Provinces of Upper Canada and Lower Canada, in such manner as may secure the right and liberties and promote the interests of all classes of Her Majesty's subjects within the same; And whereas to this end it is expedient that the said Provinces be re-united and form one Province for the purposes of Executive Government and legislation: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, 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 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, and thenceforth the said Provinces shall constitute and be one Province, under the name aforesaid, upon, from, and after the day so appointed as aforesaid.

[The other sections omitted as not affecting the question.]

THE BRITISH NORTH AMERICA ACT, 1867.

AN ACT FOR THE UNION OF CANADA, NOVA SCOTIA, AND NEW BRUNSWICK, AND THE GOVERNMENT THEREOF; AND FOR PURPOSES CONNECTED THEREWITH.†

WHEREAS the Provinces of Canada, Nova Scotia and New Brunswick have expressed their desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in principle to that of the United Kingdom:

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the British Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

* Imperial Act, 3-4 Vic. Cap, 35.
† 30 Vic. Cap. 3, March 29th.

And whereas it is expedient that provision be made for the eventual admission into the Union of other parts of British North America.

Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows :—

I. This Act may be cited as the "British North America Act, 1867."

II. The provisions of this Act referring to Her Majesty the Queen extend also to the heirs and successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

III. It shall be lawful for the Queen by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia and New Brunswick, shall form and be One Dominion under the name of Canada ; and on and after that day those three Provinces shall form and be One Dominion under that name accordingly.

IV. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation ; and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

V. Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia and New Brunswick.

VI. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

[The remaining sections omitted as not affecting the question.]

II.

Treaties, Conventions, &c.

TREATY OF ST. GERMAIN, 1632.

TREATY BETWEEN LOUIS XIII., KING OF FRANCE, AND CHARLES I., KING OF ENGLAND, MADE AT ST. GERMAIN-EN-LAYE, THE 29TH OF MARCH, 1632.

(Extract.)

III. On the part of the King of Great Britain, the said Ambassador,* in virtue of the powers with which he is vested, and which shall be inserted at the end of these presents, has promised and promises in the name of his said Majesty to give up and restore (*rendre et restituer*) all the places occupied in New France, Acadia, and Canada, by the subjects of the King of Great Britain, by whom these places shall be restored ; and to this end the said Ambassador shall deliver at the time of the signature of these presents to the Commissioners of His Most Christian Majesty, in due form, the authority which he received from the King of Great Britain for the restitution of the said places, together with the order of his said Majesty to all those who had command in Fort Royal, the

*Sir Isaac Wake.

Fort of Quebec and Cape Breton, for the restoration of the said places and forts to be given up into the hands of those whom it may please His Most Christian Majesty to appoint, eight days after these orders shall have been notified to those who command or may then command; the said time of eight days being given to them to remove from those places and forts their arms, baggage, merchandise or money, utensils, and generally everything that belongs to them; to whom and to all who are in the said places, the term of three weeks, after the expiration of the eight days, is given, that they may during that time, or sooner if possible, retire to their vessels with their arms, munitions, baggage or money, utensils, merchandise, furs, and generally everything that belongs to them, for the purpose of going thence to England without remaining longer in the said countries. And as it is necessary for the English to send to those places to fetch their people and take them back to England, it is agreed that General de Caën shall pay the necessary expense of equipping a vessel of two hundred tons, or two hundred and fifty tons' burthen, which the English shall send to those places; that is to say, the cost of chartering a vessel for the passage to and fro, the provisions of the sailors who work the vessel as well as of those who being on land are to be taken away, the wages of the men, and generally all that is necessary for the equipage of a vessel of the said tonnage for such a voyage, according to the usages and customs of England; and besides for the merchandise remaining unsold in the hands of the English, satisfaction shall be given, according to the cost in England, with thirty per cent of profit, in consideration of the risk of the sea and port charges.

TREATY OF BREDA, 1667.

(Extract.)

Art. X. The before mentioned seigneur, King of Great Britain, shall restore and give up to the above-named seigneur, the Most Christian King, or to those who shall be charged and authorized on his part, sealed in proper form with the Great Seal of France, the country called Acadia, situated in North America, of which the Most Christian King was previously in enjoyment.

TREATY OF NIMEGUEN, 1678.

ARTICLES OF PEACE BETWEEN THE EMPEROR AND THE FRENCH KING, CONCLUDED AND SIGNED AT NIMIGUEN, THE 3RD OF DECEMBER, 1678.

(Extract.)

Their Imperial and Most Christian Majesties, retaining a grateful sense of the offices and continual endeavours the Most Serene King of Great Britain hath used to restore a general peace and public tranquility, it is mutually agreed between the parties that he with his kingdom be included in this treaty, after the best and most effectual manner that may be.

Art. I. That there be a Christian, universal, true and sincere peace and friendship between their Imperial and Most Christian Majesties, their heirs and successors, kingdoms and Provinces, as also between all and every the confederates of his said Imperial Majesty, more particularly the electors, princes and states of the empire, comprehended in this peace, their heirs and successors on the one part, and all and every of the confederates of his said Most Christian Majesty, comprehended in this peace, their heirs and successors on the other; which said peace and friendship shall be so sincerely observed and improved that each party shall promote the honour, advantage, and interest of the other. And there shall be so perpetual an oblivion and amnesty of all hostilities, committed on each side since the beginning of the present troubles, that neither party shall, upon that or any other account or pretence, give or cause to be given hereafter to the other any trouble, directly or indirectly, under colour of law or way of fact, within or without the empire,

any formal agreement to the contrary notwithstanding; but all and every the injuries violences, hostilities, damages and charges sustained on each side by words, writing or deeds, shall without respect of persons or things be so entirely abolished that whatsoever may upon that account be pretended against the other, shall be buried in perpetual oblivion.

TREATY OF NEUTRALITY, 1686.

BETWEEN LOUIS XIV., KING OF FRANCE, AND JAMES II., KING OF ENGLAND. CONCLUDED AT LONDON, THE 16TH OF NOVEMBER, 1686.

(Extract.)

It has been concluded and agreed that from the day of the present Treaty there shall be between the English and French nations a firm peace, union, concord, and good correspondence as well by sea as land in North and South America, and in the isles, colonies, forts and towns, without exception in the territories of his Most Christian Majesty, and of his Britannic Majesty, and governed by the Commandants of their said Majesties respectively.

II. That no vessel or boat, large or small, belonging to his Most Christian Majesty shall be equipped or employed in the said isles, colonies, fortresses, towns and governments of his said Majesty, for the purpose of attacking the subjects of his Britannic Majesty, in the isles, colonies, fortresses, towns and governments of his said Majesty, or doing there any harm or damage. And in this manner, likewise, that no vessel or boat, great or small, belonging to the subjects of his Britannic Majesty shall be equipped or employed in the isles, colonies, fortresses, towns and governments of his said Majesty, for the purpose of attacking the subjects of his Most Christian Majesty in the isles, colonies, fortresses, towns and governments of his said Majesty, or to do them any injury or damage.

III. That no soldiers, or men-at-arms, or any other persons whatsoever, residing or living in the said isles, towns, or governments of his Most Christian Majesty, or come there from Europe in garrison, shall exercise any act of hostility, or do any injury or damage directly or indirectly, to the subjects of his Britannic Majesty in the said isles, colonies, fortresses, towns and governments of his said Majesty; or lend or give any aid or assistance in men or provisions to savages against whom his Britannic Majesty shall be at war. And in like manner, no soldiers or men-at-arms, or any other persons whatsoever, residing or being in the said isles, colonies, fortresses, towns and governments of his said Britannic Majesty, or come there from Europe in garrison, shall exercise any act of hostility or do any injury or damage to subjects of his Most Christian Majesty in the said isles, colonies, fortresses, towns and governments of his Majesty; or lend or give any aid or assistance, in men or provisions, to savages with whom his Most Christian Majesty shall be at war.

IV. It has been agreed that each of the said kings shall have and hold the domains, rights and preeminences in the seas, straits, and other waters of America, and in the same extent which of right belongs to them, and in the same way they enjoy them at present.

V. And therefore the subjects, inhabitants, merchants, commanders of ships, masters and mariners of the kingdoms, provinces, and dominions of each king respectively shall abstain and forbear to trade and fish in all the places possessed or which shall be possessed by one or the other party in America, viz.: the King of Great Britain's subjects shall not drive their trade and commerce nor fish in the harbours, bays, creeks, roads, shoals, or places which the most Christian King holds or shall hereafter hold in America: And in like manner, the Most Christian King's subjects shall not drive their commerce and trade,

nor fish in the waters, bays, creeks, roads, shoals or places which the King of Great Britain possesses or shall hereafter possess in America. And if any ship or vessel shall be found trading or fishing contrary to the tenor of this Treaty, the said ship or vessel, with its lading, proof being given thereof, shall be confiscated; nevertheless the party who shall find himself aggrieved by such sentence or confiscation, shall have liberty to apply himself to the Privy Council of the King, by whose governors or judges the sentence has been given against him. But it is always to be understood that the liberty of navigation ought in no manner to be disturbed, where nothing is committed against the genuine sense of this Treaty.

XI. The commandants, officers, subjects, of either of the two kings, shall not molest the subjects of the other king in the establishment of their colonies respectively, or in their commerce and navigation.

XII. For the greater security of the subjects of His Most Christian Majesty as well as those of his Britannic Majesty, and to prevent vessels of war, or other vessels owned by private persons, doing injury or damage, all captains of vessels, as well of his Most Christian Majesty as those of his Britannic Majesty, and all their subjects who equip vessels at their own expense, also persons in the enjoyment of privileges, and companies, shall be forbidden to do any injury or damage to those of the other nation, on pain of being punished in case of contravention, and be liable for all damages, either by the seizure of their goods or the imprisonment of their persons.

[*By Art.* XIII. all captains of war vessels, armed at the expense of private persons, were hereafter to give bonds in the sum of £1,000 stg., or 13,000 livres, and when the number of men is more than 150, in £2,000 stg., or 26,000 livres that they would make good all damages which they or their officers might cause in the course of their navigation against the present treaty.]

[*By Art.* XIV. the governors and officers of the two Kings were to discountenance all pirates; not giving them any aid nor allowing them to take shelter in their ports respectively; "and that the said governors and officers should be expressly ordered to punish as pirates all those who might be found to have armed one or more vessels sailing without commission or legitimate authority."]

[*Art.* XV. made the taking by the subject of either king, of any commission in the army of a sovereign at war with the other, piracy."]

[*Art.* XVII. If disputes arise between the subjects of the two Crowns in the isles, colonies, ports, towns, and governments under their dominion, they are not be allowed to interrupt the peace, but are to be decided by those having authority on the spot, and in case they cannot decide them, they are to remit them at once to the two Crowns to be settled by their Majesties.]

XVIII. Further, it has been concluded and agreed that if ever, which God forbid, any rupture should take place in Europe between the said Crowns, the garrisons, armed forces, or subjects of whatever condition of his Most Christian Majesty, being in the isles, colonies, forts, towns and governments which are at present, or may hereafter be, under the dominion of his said Majesty in America, shall not exercise any act of hostility by sea or land against the subjects of his Britannic Majesty, inhabitants of any of the colonies of America. And in like manner, in case of a rupture in Europe, the garrisons, armed forces, or subjects of whatever condition of his Britannic Majesty, being in the isles, colonies, forts, towns and governments which are at present, or may hereafter be, under the dominion of his Britannic Majesty in America, shall not exercise any act of hostility, either by sea or land, against the subjects of his Most Christian Majesty inhabiting any colony whatever in America. But there shall always be a firm peace and neutrality between the said peoples of France and Great Britain, just as if no such rupture had taken place.

[XIX. This treaty not to derogate from the Treaty of Breda, July, 1667, all the articles of which are to remain in force and vigour to be observed.]

PROVISIONAL TREATY CONCERNING AMERICA, 1687.

BETWEEN LOUIS XIV., KING OF FRANCE, AND JAMES II., KING OF ENGLAND. (CONCLUDED AT WHITEHALL, 11TH DECEMBER, 1687.

[M. Paul Barillon, Councillor of State and French Ambassador, M. Francois Dusson de Bonrepans, were the Commissioners for France, and Counts Sunderland and Middleton, and Lord of Godolphin, were appointed on behalf of Great Britain, "to execute the treaty concluded on the 6-16 November, 1686, to settle and terminate all the differences which had arisen between the subjects of the two Crowns in America, as well as to fix the bounds and limits of the colonies, islands, lands, and countries under the dominion of the two Kings in America and governed by their commandants or which are of their dependencies."

We the undernamed Commissioners, in virtue of the powers which we have received from the said Kings, our Masters, promise, agree and stipulate in their name, by the present treaty, that, up to 11th January of the year 1689, new style, and after that time until the said Most Serene Kings give some new and express order in writing, all persons and Governors and Commandants of the colonies, isles, lands and countries whatsoever under the dominion of the two Kings in America, are absolutely forbidden to commit any act of hostility against the subjects of either of the said Kings, or to attack them; and the Governors and Commandants are not to suffer, under any pretext whatever, that they shall do any violence; and in case of contravention on the part of the said Governors, they shall be punished, and obliged, in their own private names to make restitution for the damage which may have been done by such contravention; and the same shall be done in the case of all other contraventions; and the present convention shall have full and entire effect in the best manner possible. We have besides agreed that the said most Serene Kings shall, as soon as possible, send the necessary orders to their Commandants in America, and that each shall send to the other authentic copies of the same.

(Signed) BARILLON D'AMONCOURT.
DUSSON DE BONREPANS.
SUNDERLAND.
MIDDLETON.
GODOLPHIN.

THE TREATY OF RYSWICK, 1697.*

(Extracts.)

VII. The Most Christian King shall restore to the said King of Great Britain all countries, islands, forts and colonies, wheresover situated, which the English did possess before the declaration of this present war. And in like manner the King of Great Britain shall restore to the Most Christian King all countries, islands, forts and colonies, wheresoever situated, which the French did possess before the declaration of war; and this restitution shall be made on both sides within the space of six months, or sooner if it can be done. And to that end, immediately after the ratification of this Treaty, each of the said Kings shall deliver or cause to be delivered to the other, or to commissioners authorized in his name for that purpose, all acts of concession, instruments and necessary orders duly made and in proper form, so that they may have their effect.

VIII. Commissioners shall be appointed on both sides to examine and determine the rights and pretensions which either of the said Kings hath to the places situated in Hudson's Bay; but the possession of those places which were taken by the French, during the peace which preceded this present war, and were retaken by the English during this war, shall be left to the French by virtue of the foregoing articles. The capitulation made by the English on the 5th September, 1695, shall be observed according to its

*From the copy published in England by authority in 1697.

form and tenor; the merchandizes therein mentioned shall be restored; the Governor at the fort taken there shall be set at liberty, if it be not already done; the differences which have arisen concerning the execution of the said capitulation and the value of the goods there lost, shall be adjudicated and determined by the said commissioners; who immediately after the ratification of the present treaty, shall be invested with sufficient authority for the settling of the limits and confines of the lands to be restored on either side by virtue of the foregoing article, and likewise for exchanging of lands, as may conduce to the mutual interest and advantage of both Kings.

TREATY OF UTRECHT, 1713.

(Extracts.)

X. The said most Christian King shall restore to the Kingdom and Queen of Great Britain, to be possessed in full right forever, the Bay and Streights of Hudson, together with all lands, seas, sea-coasts, rivers and places situate in the said Bay and Streights, and which belong thereunto, no tract of land or sea being excepted, which are at present possessed by the subjects of France. All which, as well as any buildings there made in the condition they now are, and likewise all fortresses there erected either before or since the French seized the same, shall, within six months from the ratification of the present treaty, or sooner if possible, be well and truly delivered to the British subjects having commission from the Queen of Great Britain to demand and receive the same, entire and undemolished, together with all the cannon and cannon-balls which are therein, as also with a quantity of powder, if it be there found, in proportion to the cannon ball, and with the other provision of war usually belonging to cannon. It is, however, provided, that it may be entirely free for the Company of Quebec, and all other the subjects of the Most Christian King whatsoever, to go by land or by sea, whithersoever they please out of the lands of the said Bay, together with all their goods, merchandises, arms and effects of what nature or condition soever, except such things as are above referred in this article. 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; which limits both the British and French subjects shall be wholly forbid to pass over, or thereby to go to each other by sea or by land. The same Commissioners shall also have orders to describe and settle, in like manner, the boundaries between the other British and French colonies in those parts.

XI. The above mentioned Most Christian King shall take care that satisfaction be given, according to the rule of justice and equity, to the English Company trading to the Bay of Hudson, for all damages 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 Commissioners to be named at the requisition of each party. The same Commissioners shall moreover inquire as well into the complaints of the British subjects concerning ships taken by the French in time of peace, as also concerning the damage sustained last year in the island called Montserrat and others, as into those things of which the French subjects complain, relating to the capitulation in the island of Nevis, and castle of Gambia, also to French ships, if perchance any such have been taken by British subjects in time of peace; and in like manner into all disputes of this kind which shall be found to have arisen between both nations and which are not yet ended; and due justice shall be done on both sides without delay.

XII. The Most Christian King shall take care to have delivered to the Queen of Great Britain, on the same day that the ratification of this treaty shall be exchanged, solemn and authentic letters, or instruments, by virtue whereof it shall appear, that the island of St. Christopher is to be possessed alone hereafter by British subjects, likewise all Nova Scotia or Acadia, with its ancient boundaries, as also the city of Port Royal, now called Annapolis Royal, and all other things in those parts which depend on the said lands and islands, together with the dominion, propriety, and possession of the said islands, lands, and places, and all right whatsoever, by treaties, or by any other way obtained,

which the Most Christian King, the Crown of France, or any the subjects thereof, have hitherto had to the said islands, lands and places, and the inhabitants of the same, are yielded and made over to the Queen of Great Britain, and to her Crown forever, as the Most Christian King doth at present yield and make over all the particulars above said, and that in such ample manner and form, that the subjects of the Most Christian King shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places on the coast of Nova Scotia, that is to say, on those which lie towards the east within thirty leagues, beginning from the island commonly called Sable inclusively, and thence stretching along towards the south-west.

XIII. The island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner, if possible, by the Most Christian King, to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the Most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish and to dry them on land in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the River St. Lawrence and in the Gulf of the same name, shall hereafter belong of right to the French, and the Most Christian King shall have all manner of liberty to fortify any place or places there.

XIV. It is expressly provided that in all the said places and colonies to be yielded and restored by the Most Christian King, in pursuance of this treaty, the subjects of the said King may have liberty to remove themselves within a year to any other place as they shall think fit, together with all their moveable effects. But those who are willing to remain there, and to be subjects to the Kingdom of Great Britain, are to enjoy the free exercise of their religion according to the usage of the Church of Rome, as far as the laws of Great Britain do allow the same.

XV. The subjects of France inhabiting Canada, and others, shall hereafter give no hindrance or molestation to the five nations or cantons of Indians subject to the dominion of Great Britain, nor to the other natives of America who are friends to the same. In like manner the subjects of Great Britain shall behave themselves peaceably towards the Americans who are subjects or friends to France; and on both sides they shall enjoy full liberty of going and coming on account of trade. As also the natives of those countries shall with the same liberty, resort, as they please, to the British and French Colonies, for promoting trade on one side and the other, without any molestation or hindrance, either on the part of the British subjects or of the French. But it is to be exactly and distinctly settled by Commissioners, who are, and who ought to be, accounted the subjects and friends of Britain or of France.

THE TREATY OF AIX-LA-CHAPELLE, 1748.

(Spain.)

(Extract.)

Art. V. All the conquests that have been made since the commencement of the present war, or, which, since the conclusion of the preliminary articles signed the 30th April last, may have been or shall be made, either in Europe or the East and West Indies, or in any part of the world whatsoever, being to be restored without exception, in conformity

to what was stipulated by the said preliminary articles, and by the declarations since signed, the high contracting parties agree to give orders immediately for proceeding to the restitution, as well as to the putting the Most Serene Infant Don Philip in possession of the states which are to be yielded to him by virtue of the said preliminaries, the said parties solemnly renouncing, as well for themselves as their heirs and successors, all rights and claims, by what title or pretence soever, to all the states, countries, and places that they respectively engage to restore or yield; saving, however, the reversion stipulated of the states yielded to the Most Serene Infant Don Philip.

THE TREATY OF 1763.

THE DEFINITIVE TREATY OF FRIENDSHIP AND PEACE BETWEEN HIS BRITANNIC MAJESTY, THE MOST CHRISTIAN KING, AND THE KING OF SPAIN, CONCLUDED AT PARIS, THE 10TH OF FEBRUARY 1763.*

(Extracts.)

Art. II. The Treaties of Westphalia of 1648; those of Madrid, between the Crowns of Great Britain and Spain, of 1667 and 1670; the Treaties of Peace of Nimeguen, of 1678 and 1679; of Ryswick, of 1697; those of Peace and Commerce of Utrecht, of 1713; that of Baden, of 1714; the Treaty of the Triple Alliance of the Hague, of 1717; that of the Quadruple Alliance of London, of 1718; the Treaty of Peace of Vienna, of 1738; the Definitive Treaty of Aix-La-Chapelle, of 1748; and that of Madrid, between the Crowns of Great Britain and Spain, of 1750; as well as the Treaties between the Crowns of Spain and Portugal, of the 13th of February, 1668; of the 6th of February, 1715; and on the 12th of February, 1761; and that of the 11th of April, 1713, between France and Portugal, with the Guarantees of Great Britain, serve as a basis and foundation to the peace and the present Treaty; and for this purpose, they are all renewed and confirmed in the best form, as well as all the Treaties in general, which subsisted between the high contracting parties before the war, as if they were inserted here word for word, so that they are to be exactly observed for the future, in their whole tenor, and religiously executed on all sides, in all their points, which shall not be derogated from by the present Treaty, notwithstanding all that may have been stipulated to the contrary by any of the high contracting parties: and all the said parties declare that they will not suffer any privilege, favour, or indulgence to subsist, contrary to the Treaties above confirmed, except what shall have been agreed and stipulated by the present Treaty.

Art. IV. His Most Christian Majesty renounces all pretentions which he has heretofore formed, or might form, to Nova Scotia or Acadia in all its parts, and guarantees the whole of it, with all its dependencies to the King of Great Britain; moreover, his Most Christian Majesty cedes and guarantees to his said Britannic Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton, and all the other islands and coasts in the Gulf and River St. Lawrence, and in general, everything that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights, acquired by treaty or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, islands, lands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample form without restriction, and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possession above mentioned.

Art. VII. In order to re-established peace on solid and durable foundations, and to remove for ever all subject of dispute with regard to the limits of the British and French territories on the continent of America, it is agreed that, for the future, the confines between the dominions of his Britannic Majesty and those of his Most Christian Majesty,

* To which the King of Portugal acceded on the same day.

in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the River Iberville, and from thence by a line drawn along the middle of this river and the Lakes Maurepas and Pontchartrain, to the sea; and for this purpose the Most Christian King cedes in full right, and guarantees to his Britannic Majesty the river and port of the Mobile, and everything which he possesses, or ought to possess, on the left side of the Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France; provided, that the navigation of the Mississippi shall be equally free as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is between the said Island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth.

THE DEFINITIVE TREATY OF PEACE AND FRIENDSHIP

BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA. SIGNED AT PARIS, THE 3RD OF SEPTEMBER, 1783.

(Extracts.)

ARTICLE I.—His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachussets Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, to be free, sovereign, and independent States; that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, propriety, and territorial rights of the same, and every part thereof.

ARTICLE II.—And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz., from the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of St. Croix River to the highlands, along the highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Cataraquy; thence along the middle of said river into Lake Ontario, through the middle of said Lake until it strikes the communication by water between that Lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said Lake, until it arrives at the water communication between that Lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that Lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Phelippeaux, to the Long Lake; thence through the middle of the said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said Lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude. South, by a line to be drawn due east from the determination of the line last mentioned in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint River; thence straight to the head of St. Mary's River, and thence down along the middle of St. Mary's River to the Atlantic Ocean. East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between

Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean; excepting such islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia.

TREATY OF AMITY, COMMERCE, AND NAVIGATION

BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA, CONCLUDED THE 19TH OF NOVEMBER, 1794.

(Extract.)

ARTICLE IV.—Whereas it is uncertain whether the River Mississippi extends so far to the northward as to be intersected by a line to be drawn due west from the Lake of the Woods, in the manner mentioned in the Treaty of Peace between His Majesty and the United States; it is agreed, that measures should be taken in concert with His Majesty's Government in America, and the Government of the United States, for making a joint survey of the said river from one degree of latitude below the Falls of St. Anthony, to the principal source or sources of the said river, and also the parts adjacent thereto; and that if, on the result of such survey, it should appear that the said river would not be intersected by such a line as is above mentioned, the two parties will thereupon proceed by amicable negotiation, to regulate the boundary line in that quarter as well as all other points to be adjusted between the said parties, according to justice and mutual convenience, and in conformity to the intent of the said treaty.

TREATY OF GHENT CONCLUDED THE 24TH OF DECEMBER, 1814.

(Extract.)

ARTICLE VI.—Whereas by the former treaty of peace, that portion of the boundary of The United States from the point where the forty-fifth degree of north latitude strikes the River Iroquois or Cataraquy, to the Lake Superior, was declared to be "along the middle of said river into Lake Ontario; through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said lake until it arrives at the water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior:" and whereas doubts have arisen what was the middle of the said river, lakes, and water communications, and whether certain islands lying in the same were within the dominions of His Britannic Majesty or of the United States: In order therefore finally to decide these doubts, they shall be referred to two Commissioners, to be appointed, sworn, and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in this present article. The said commissioners shall meet, in the first instance, at Albany, in the State of New York, and shall have power to adjourn to such other place or places as they shall see fit. The said Commissioners shall, by a report or declaration, under their hands and seals, designate the boundary through the said river, lakes, and water communications, and decide to which of the two contracting parties the several islands lying within the said rivers, lakes, and water communications, do respectively belong, in conformity with the true intent of the said Treaty of one thousand seven hundred and eighty-three. And both parties agree to consider such designation and decision as final and conclusive. And in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects as in the latter part of the Fourth Article is contained, and in as full a manner as if the same was herein repeated.

CONVENTION

BETWEEN GREAT BRITAIN AND THE UNITED STATES, CONCLUDED THE 20TH OF OCTOBER, 1818.

(Extract.)

ARTICLE II.—It is agreed that a line drawn from the most north-western point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the line of demarcation between the Territories of the United States and those of His Britannic Majesty, and that the said line shall form the northern boundary of the said Territories of the United States, and the southern boundary of the Territories of His Britannic Majesty, from the Lake of the Woods to the Stony Mountains.

TREATY

BETWEEN GREAT BRITAIN AND THE UNITED STATES, CONCLUDED THE 9TH OF AUGUST, 1842.

(Extract.)

ARTICLE II.—It is, moreover, agreed that, from the place where the Joint Commissioners terminated their labours, under the VI. Article of the Treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the line shall run into and along the ship channel between St. Joseph and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence turning eastwardly and northwardly around the lower end of St. George's or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence up the East Neebish Channel nearest to St. George's Island, through the middle of Lake George; thence west of Jonas' Island into St. Mary's River, to a point in the middle of that river, about one mile above St. George's or Sugar Island, so as to appropriate and assign the said island to the United States; thence adopting the line traced on the maps by the Commissioners, through the River St. Mary and Lake Superior, to a point north of Ile Royale, in said lake, one hundred yards to the north and east of Ile Chapeau, which last-mentioned island lies near the north-eastern point of Ile Royale, where the line marked by the Commissioners terminates; and from the last mentioned point south-westerly through the middle of the sound between Ile Royale and the north-western main land, to the mouth of Pigeon River, and up the said river to and through the North and South Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods; thence along the water communication to Lake Saisaginaga, and through that lake; thence to and through Cypress Lake, Lac du Bois Blanc, Lac La Croix, Little Vermillion Lake, and Lake Namecan, and through the several smaller lakes, straits, or streams connecting the lakes here mentioned to that point in Lac la Pluie, or Rainy Lake, at the Chaudiere Falls, from which the Commissioners traced the line to the most north-western point of the Lake of the Woods; thence along the said line to the said most north-western point, being in latitude 49° 23′ 55″ north, and in longitude 95° 14′ 38″ west from the Observatory at Greenwich; thence, according to existing Treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage, from the shore of Lake Superior to the Pigeon River, as now actually sued, shall be free and open to the use of the citizens and subjects of both countries.

TREATY OF 1846; LAKE SUPERIOR TREATY, 1850.

TREATY

BETWEEN HER MAJESTY AND THE UNITED STATES OF AMERICA, FOR THE SETTLEMENT OF THE OREGON BOUNDARY, CONCLUDED THE 15TH OF JUNE, 1846.

(Extracts.)

ARTICLE I.—From the point on the 49th parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca's Straits, to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both parties.

II.—From the point at which the 49th parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall in like manner be free and open. In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present Treaty.

III.—In the future appropriation of the territory south of the 49th parallel of north latitude, as provided in the first Article of this Treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

IV.—The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company on the north side of the Columbia River, shall be confirmed to the said Company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole or of any part thereof, the property so required shall be transferred to the said Government at a proper valuation to be agreed upon between the parties.

LAKE SUPERIOR TREATY, SEPTEMBER 7TH 1850.

COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE *THE EXECUTIVE* COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 11TH JANUARY, 1850.

The Committee of the Executive Council have had under consideration, on your Excellency's reference, a memorandum presented to the Honourable Colonel Bruce, Superintendent Indian Department, from the Hon. W. B. Robinson, on behalf of certain Indian Chiefs lately arrested at Sault Ste. Marie, on a charge of having been implicated in the attack on the property of the Quebec Mining Company, and who are represented to be now in Toronto, anxious to obtain assistance to return to their houses, as well as an assurance that the Government will speedily takes measures to adjust the claims of the Indians for compensation, on their renouncing all claims to the occupation of the lands in

the vicinity of Lakes Huron and Superior, and portions of which have been occupied for Mining purposes.

The Committee of Council having reference to the proceedings already taken with a view of adjusting the claims of the Indians, and also to a late report on the subject from the Commissioner of Crown Lands, which will form the subject of a separate minute, are respectfully of opinion, that a sum not exceeding £100 be advanced to the Indians to enable them to return; and the Committee are further of opinion that Mr. Robinson be authorized on the part of the Government to negotiate with the several tribes for the adjustment of their claims to the lands in the vicinity of Lakes Superior and Huron, or of such portions of them as may be required for mining purposes.

The Committee of Council are further of opinion that Mr. Robinson should be instructed to communicate to the Indians the fact of his appointment, and that it is his intention to proceed to Lake Superior at such time as may be found most convenient for meeting with the Chiefs; and that he be likewise instructed to impress on the minds of the Indians, that they ought not to expect excessive remuneration for the partial occupation of the territory heretofore used as hunting grounds, by persons who have been engaged in developing sources of wealth which they had themselves entirely neglected.

The Committee of Council are further of opinion, that Mr. Robinson should warn the Indians against listening to the counsels of any one who may advise them to resort to criminal proceedings which will not only render the parties participating in them amenable to the laws of the Province, but likewise entail expenses which will necessarily diminish the fund from which alone the means of affording compensation can be obtained. The Commissioner of Crown Lands will advance to Mr. Robinson the sum required, which must form a charge against any moneys received on account of the mining locations.

Lake Superior Treaty, 1850.

This agreement made and entered into on the seventh day of September in the year of our Lord, 1850, at Sault Sainte Marie, in the Province of Canada, between the Honourable William Benjamin Robinson, of the one part, on behalf of Her Majesty the Queen, and Joseph Peaudechat, John Ininway, Mishemuckqua, Totomenai, Chiefs, and Jacob Wasseba, Ahmutchwagabon, Michel Shebageshick, Manitoshainse and Chigenaus, principal men of the Ogibbeway Indians inhabiting the northern shore of Lake Superior, in the said Province of Canada, from Batchewanaung Bay to Pigeon River, at the western extremity of said lake, and inland throughout that extent to the height of land which separates the territory covered by the Charter of the Honourable 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, of the other part;

Witnesseth, that for and in consideration of the sum of £2,000 of good and lawful money of Upper Canada, to them in hand paid, and for the further perpetual annuity of £500, the same to be paid and delivered to the said Chiefs and their tribes at a convenient season of each summer, not later than the first day of August, at the Honourable the Hudson's Bay Company's posts of Michipicoten and Fort William, they, the said Chiefs and principal men, do freely, fully and voluntarily surrender, cede, grant and convey unto Her Majesty, her heirs and successors, for ever, all their right, title and interest in the whole of the territory above described, save and except the reservations set forth in the schedule hereunto annexed, which reservation shall be held and occupied by the said Chiefs and their tribes in common for the purposes of residence and cultivation. And should the said Chiefs and their respective tribes at any time desire to dispose of any mineral or other valuable productions upon the said reservations, the same will be, at their request, sold by order of the Superintendent-General of the Indian Department for the time being, for their sole use and benefit and to the best advantage.

And the said William Benjamin Robinson, of the first part, on behalf of Her Majesty and the Government of this Province, hereby promises and agrees to make the payments as before mentioned, and further, to allow the said chiefs and their tribes the full and free privileges to hunt over the territory now ceded by them, and to fish in the waters thereof, as

they have heretofore been in the habit of doing, saving and excepting only such portions of the said territory as may from time to time be sold or leased to individuals, or companies of individuals, and occupied by them with the consent of the Provincial Government.

The parties of the second part further promise and agree that they will not sell, lease, or otherwise dispose of any portion of their reservations without the consent of the Superintendent-General of Indian Affairs being first had and obtained; nor will they at any time hinder or prevent persons from exploring or searching for minerals or other valuable productions in any part of the territory hereby ceded to her Majesty, as before mentioned. The parties of the second part also agree, that in case the Government of this Province should, before the date of this agreement, have sold or bargained to sell any mining locations or other property, on the portions of the territory hereby reserved for their use and benefit, then, and in that case, such sale or promise of sale shall be perfected, if the parties interested desire it, by the Government, and the amount accruing therefrom shall be paid to the tribe to whom the reservation belongs.

The said William Benjamin Robinson, on behalf of Her Majesty, who desires to deal liberally and justly with all her subjects, further promises and agrees that in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province, without incurring loss, to increase the annuity hereby secured to them, then and in that case the same shall be augmented from time to time; provided, that the amount paid to each individual shall not exceed the sum of one pound, Provincial currency, in any one year, or such further sum as Her Majesty may be graciously pleased to order; and provided, that the number of Indians entitled to the benefit of this Treaty, shall amount to two-thirds of their present number (which is 1,240) to entitle them to claim the full benefit thereof; and should the numbers at any future period not amount to two-thirds of 1,240, the annuity shall be diminished in proportion to their actual numbers.

Schedules of Reservations made by the above-named and subscribing Chiefs and Principal Men.

First.—Joseph Peaudechat and his tribe; the reserve to commence about two miles from Fort William (inland), on the right bank of the River Kimimtiqua; thence westerly six miles parallel to the shores of the lake; thence northerly five miles; thence easterly to the right bank of the said river, so as not to interfere with any acquired rights of the Honourable the Hudson's Bay Company.

Second.—Four miles square at Gros Cap, being a valley near the Honourable the Hudson's Bay Company's Post of Michipicoten, for Totomenai and tribe.

Third.—Four miles square on Gull River, near Lake Nipigon, on both sides of said river, for the Chief Mishemuckqua and tribe.

Signed, sealed and delivered at Sault Sainte Marie, the day and year first above written, in presence of—

GEO. IRONSIDE, S. I. Affairs,
ARTHUR P. COOPER, Cap. Com. Rifle Brigade,
H. N. BALFOUR, 2nd Lieut., Rifle Brigade,
JOHN SWANSTON, C. F. Honble. Hudson's Bay Co.,
GEO. JOHNSTON, Interpreter,
J. W. KEATING.

W. B. ROBINSON,
JOSEPH PEAUDECHAT,
JOHN ININWAY,
MISHEMUCKQUA,
TOTOMENAI,
JACOB WASSABA,
AH MUTCHWAGABON,
MICHEL SHEBAGESHICK,
MANITON SHAINSE,
CHIGENAUS.

III.

Proclamations.

PROCLAMATION OF OCTOBER, 1763.

GEORGE R. (Extracts.)

Whereas we have taken into our Royal consideration the extensive and valuable acquisitions in America, secured to our Crown by the late Definitive Treaty of peace, concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdoms as of our colonies in America, may avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation, we have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said Privy Council, granted our Letters Patent, under our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said Treaty, four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz. :

First,—The government of Quebec, 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 Nipissim; from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45 degrees of north latitude, passes along the high lands 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 coast of the Baie des Chaleurs and the coast of the Gulph of St. Lawrence to Cape Rosieres; 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.

Secondly, the government of East Florida, bounded, &c.

Thirdly, the government of West Florida, bounded, &c.

Fourthly, the government of Grenada, comprehending, &c.

And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador and adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast from the River St. John's to Hudson's Straits, together with the Islands of Anticosti and Madeline, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.

We have also, with the advice of our Privy Council, thought fit to annex the Islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to our Government of Nova Scotia.

And whereas it will greatly contribute to the speedy settling of our said new Governments, that our loving subjects should be informed of our paternal care for the security of the liberty and properties of those who are, and shall become, the inhabitants thereof; we have thought fit to publish and declare, by this, our Proclamation, that we have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express power and direction to our Governors of our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our Council, summon and call General Assemblies within the said Governments respectively, in such manner and form as is used and directed in those Colonies and Provinces in America which are under our immediate government; and we have also given power to the said Governors, with the consent of our said Council and the representatives

of the people, so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes and ordinances for the public peace, welfare, and government of our said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies; and in the meantime, and until such Assemblies can be called as aforesaid, all persons inhabiting, in, or resorting to, our said colonies may confide in our Royal protection for the enjoyment of the benefit of the laws of our realm of England: for which purpose we have given power under our Great Seal to the Governors of our said colonies respectively, to erect and constitute, with the advice of our said Councils respectively, Courts of judicature and public justice within our said colonies, for the hearing and determining all causes as well criminal as civil, according to law and equity, and as near as may be agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such Courts in all civil cases, to appeal, under the usual limitations and restrictions, to us, in our Privy Council * * * * *

And we do further declare it to be our Royal will and pleasure for the present, as aforesaid, to receive under our Sovereignty, protection, and dominion, for the use of the said Indians, all the lands and territories not included within the limits of our said three new Governments, or within the limits of the territory granted to the Hudson's Bay Company, as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north-west as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license, for that purpose first obtained. * *

Given at our Court of St. James, the 7th day of October, 1763, in the third year of our reign.

PROCLAMATION BY GENERAL GAGE TO THE FRENCH SETTLERS IN THE ILLINOIS, 1764. *

[Captain Stirling was dispatched in 1765 by General Gage to take possession of the posts and settlements of the French in the Illinois country east of the Mississippi. Upon his arrival, St. Ange surrendered Fort Chartres, and retired with the garrison of twenty-one men, and a third of the inhabitants of that settlement, to St. Louis, where he exercised the duties of commandant by the general consent of the people, till he was superseded by the Spanish governor, Piernes, in 1770. Upon assuming the government of the country, Captain Stirling published the following proclamation from General Gage, who was at this time the Commander-in-Chief of the British forces in North America] :—

Whereas, by the peace concluded at Paris, the tenth day of February, 1763, the country of Illinois has been ceded to His Britannic Majesty, and the taking possession of the said country of the Illinois by the troops of His Majesty, though delayed, has been determined upon: We have found it good to make known to the inhabitants—

That His Majesty grants to the inhabitants of the Illinois the liberty of the Catholic religion, as has already been granted to his subjects in Canada. He has consequently given the most precise and effective orders to the end that his new Roman Catholic subjects of the Illinois may exercise the worship of their religion according to the rites of the Romish Church, in the same manner as in Canada.

That His Majesty moreover agrees that the French inhabitants or others, who have been subjects of the most Christian King, may retire in full safety and freedom wherever they please, even to New Orleans or any part of Louisiana, although it should happen that the Spaniards take possession of it in the name of his Catholic Majesty; and they may sell their estates, provided it be to the subjects of His Majesty, and transport their

* Albach's Annals, p. 188.

effects as well as their persons, without restraint upon their emigration, under any pretence whatever, except in consequence of debts or of criminal processes.

That those who choose to retain their lands and become subjects of His Majesty, shall enjoy the same rights and privileges, the same security for their persons and effects, and the liberty of trade, as the old subjects of the King.

That they are commanded by these presents to take the oath of fidelity and obedience to His Majesty in presence of Sieur Stirling, Captain of the Highland Regiment, the bearer hereof, and furnished with our full powers for this purpose.

That we recommend forcibly to the inhabitants to conduct themselves like good and faithful subjects, avoiding, by a wise and prudent demeanour, all causes of complaint against them.

That they act in concert with His Majesty's officers, so that his troops may take possession of all the forts, and order be kept in the country. By this means alone they will spare His Majesty the necessity of recurring to force of arms, and will find themselves saved from the scourge of a bloody war, and of all the evils which a march of an army into their country would draw after it.

We direct that these presents be read, published, and posted up in the usual places.

Done and given at head-quarters, New-York, signed with our hands, sealed with our seal at arms, and countersigned by our Secretary, this 30th of December, 1764.

THOMAS GAGE.

By His Excellency:
G. MASTURIN.

PROCLAMATION OF NOVEMBER, 1791,

DECLARING WHEN THE CONSTITUTIONAL ACT SHALL HAVE EFFECT IN THE PROVINCES OF UPPER AND LOWER CANADA.

ALURED CLARKE:

GEORGE THE THIRD, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth.

To all our loving subjects whom these presents may concern, greeting:—

Whereas we have thought fit by and with the advice of our Privy Council, by our Order in Council, dated in the month of August last, to order that our Province of Quebec should be divided into two distinct Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said two Provinces according to the following line of division, viz:—"To commence at a stone boundary on the north bank of the Lake St. Francis, at the Cove west of Pointe au Bodet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running north twenty-five degrees east until it strikes the Ottawas River, to ascend the said river into the Lake Tomiscanning, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including 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."

And whereas by an Act passed in the last session of Parliament, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,' it is provided that by reason of the distance of the said Provinces from Great Britain, and the change to be made by the said Act in the Government thereof, it may be necessary that there should be some interval of time between the notification of the said Act to the said Provinces respectively, and the day of its commencement within the said

Provinces respectively; and that it should be lawful for us, with the advice of our Privy Council, to fix and declare, or to authorize the Governor or Lieutenant-Governor of our Province of Quebec, or the person administering the Government there, to fix and declare the day of the commencement of the said Act within the said Provinces respectively, provided that such day shall not be later than the thirty-first day of December, one thousand seven hundred and ninety-one. And whereas, in pursuance of the said Act, we have thought fit by another Order in Council, bearing date the twenty-fourth day of August last, to authorize our Governor, or, in his absence, our Lieutenant-Governor, or the person administering the Government of our said Province of Quebec, to fix and declare such day as he should judge most advisable for the commencement of the said Act within the Province of Upper Canada and the Province of Lower Canada respectively, and to that effect have, by our warrant to our right trusty and well-beloved Guy, Lord Dorchester, Captain-General and Governor-in-Chief in and over our said Province of Quebec, or in his absence, to our Lieutenant-Governor or Commander-in-Chief of our said Province for the time being, under our signet and Royal sign-manual, bearing date at St. James's, the twelfth day of September last, signified our will and pleasure that he take the necessary measures accordingly.

Know ye, therefore, that our trusty and well-beloved Alured Clarke, Esquire, our Lieutenant-Governor of our said Province of Quebec, in the absence of our said Governor thereof, hath judged it most advisable to fix upon Monday, the twenty-sixth day of December next, for the commencement of the said Act within the Provinces aforesaid respectively; and it is accordingly hereby declared that the said Act of Parliament, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" shall commence within the said Provinces of Upper Canada and Lower Canada, respectively, on Monday, the said twenty-sixth day of December, in this present year one thousand seven hundred and ninety-one, of which all our loving subjects, and all others concerned, are to take notice and govern themselves accordingly.

In testimony whereof we have caused these our Letters to be made Patent, and the Great Seal of said Province of Quebec to be hereunto affixed. Witness, our trusty and well beloved Alured Clarke, Esquire, our Lieutenant-Governor and Commander-in-Chief of our said Province of Quebec, Major-General commanding our forces in North America, &c., &c., at our Castle of St. Lewis in the City of Quebec, this eighteenth day of November, in the year of our Lord one thousand seven hundred and ninety-one, and in the thirty-second year of our reign.

HUGH FINLAY, A. C.
Acting Secretary.

PROCLAMATION OF GOVERNOR M'DONELL

AFTER THE HUDSON'S BAY COMPANY'S GRANT TO THE EARL OF SELKIRK, JANUARY, 1814.

Whereas the Governor and Company of Hudson's Bay have ceded to the Right Honourable Thomas, Earl of Selkirk, his heirs and successors, for ever, all that tract of land or territory, bounded by a line running as follows, viz.: Beginning on the western shore of Lake Winnipic, at a point in fifty-two degrees and thirty minutes north latitude; and thence running due west to Lake Winnipigashish, otherwise called Little Winnipic; then in a southerly direction through the said lake, so as to strike its western shore in latitude fifty-two degrees; then due west to the place where the parallel of fifty-two degrees north latitude intersects the western branch of Red River, otherwise called Assiniboine; then due south from that point of intersection to the height of land which separates the waters running into Hudson's Bay from those of the Missouri and Mississippi Rivers; then in an easterly direction along the height of land to the source of the

River Winnipic (meaning by such last named river the principal branch of the waters which unite in the Lake Saginagas); thence along the main stream of those waters and the middle of the several lakes through which they pass, to the mouth of the Winnipic River; and thence in a northerly direction through the middle of the Lake Winnipic, to the place of beginning: which territory is called Assiniboia, and of which I, the undersigned, have been duly appointed Governor:

And whereas, the welfare of the families at present forming settlements on the Red River, within the said territory, with those on the way to it, passing the winter at York and Churchill Forts in Hudson's Bay, as also those who are expected to arrive next autumn, renders it a necessary and indispensable part of my duty to provide for their support in the yet uncultivated state of the country, and the ordinary resources derived from the buffalo and other wild animals hunted within the territory are not deemed more than adequate for the requisite supply: Wherefore, it is hereby ordered, that no person trading in furs or provisions within the territory, for the Honourable Hudson's Bay Company or the North-west Company, or any individual or unconnected traders or persons whatever, shall take out any provisions, either of flesh, fish, grain or vegetables, procured or raised within the said territory, by water or land carriage, for one twelvemonth from the date hereof, save and except what may be judged necessary for the trading parties at this present time within the territory to carry them to their respective destinations, and who may on due application to me obtain a license for the same. The provisions procured and raised as above shall be taken for the use of the colony; and that no loss may accrue to the parties concerned, they will be paid for by British bills at the customary rates. And be it further made known, that whosoever shall be detected in attempting to convey out, or shall aid or assist in carrying out, or attempting to carry out, any provisions prohibited as above, either by water or land, shall be taken into custody, and prosecuted as the laws in such cases direct; and the provisions so taken, as well as any goods and chattels of what nature soever, which may be taken along with them, and also the craft, carriages and cattle instrumental in carrying away the same to any part but to the settlement on Red River, shall be forfeited.

Given under my hand at Fort Daer [Pembina], the 8th day of January, 1814.

MILES M'DONELL, *Governor.*

By order of the Governor,
JOHN SPENCER, *Secretary.*

IV.

Royal Charter, &c.

THE CHARTER INCORPORATING THE HUDSON'S BAY COMPANY,

GRANTED BY HIS MAJESTY KING CHARLES THE SECOND, IN THE 22ND YEAR OF HIS REIGN, A.D. 1670.

CHARLES THE SECOND, by the grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c.

To all to whom these presents shall come, greeting:

WHEREAS our dear entirely beloved Cousin, Prince Rupert, Count Palatine of the Rhine, Duke of Bavaria and Cumberland, &c.; Christopher Duke of Albemarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, and Sir Robert Vyner, Knights and Baronets; Sir Peter Colleton, Baronet; Sir Edward Hungerford, Knight of the Bath; Sir Paul Neele, Knight; Sir John Griffith and Sir Philip Carteret, Knights; James Hayes, John Kirke, Francis Millington, William Prettyman, John Fenn, Esquires; and John Portman, Citizen and Goldsmith of London: have, at their own great cost and charges, undertaken an expedition for Hudson's Bay, in

the north-west part of America, for the discovery of a new passage into the South Sea, and for the finding some trade for furs, minerals, and other considerable commodities, and by such their undertaking have already made such discoveries as to encourage them to proceed further in pursuance of their said design, by means whereof there may probably arise very great advantages to us and our kingdom.

And Whereas the said undertakers, for their further encouragement in the said design, have humbly besought us to incorporate them, and grant unto them and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks, and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called the Hudson's Straits, together with all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks, and sounds aforesaid, which are not now actually possessed by any of our subjects, or by the subjects of any other Christian Prince or State.

Now Know Ye, that we, being desirous to promote all endeavours tending to the public good of our people, and to encourage the said undertaking, have, of our special grace, certain knowledge, and mere motion, given, granted, ratified and confirmed, and by these presents, for us, our heirs and successors, do give, grant, ratify and confirm, unto our said Cousin, Prince Rupert, Christopher Duke of Albemarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, Sir Robert Vyner, Sir Peter Colleton, Sir Edward Hungerford, Sir Paul Neele, Sir John Griffith, and Sir Philip Carteret, James Hayes, John Kirk, Francis Millington, William Prettyman, John Fenn, and John Portman, that they, and such others as shall be admitted into the said society as is hereafter expressed, shall be one body corporate and politic, in deed and in name, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and them by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," one body corporate and politic, in deed and in name, really and fully forever, for us, our heirs, and successors, we do make, ordain, constitute, establish, confirm and declare by these presents, and that by the same name of Governor and Company of Adventurers of England trading into Hudson's Bay, they shall have perpetual succession, and that they and their successors, by the name of The Governor and Company of Adventurers of England trading into Hudson's Bay, be, and at all times hereafter shall be personable and capable in law to have, purchase, receive, possess, enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises and hereditaments, of what kind, nature or quality soever they be, to them and their successors; and also to give, grant, demise, alien, assign and dispose lands, tenements and hereditaments, and to do and execute all and singular other things by the same name that to them shall or may appertain to do; and that they and their successors, by the name of The Governor and Company of Adventurers of England trading into Hudson's Bay, may plead and be impleaded, answer and be answered, defend and be defended, in whatsoever courts and places, before whatsoever judges and justices, and other persons and officers, in all and singular actions, pleas, suits, quarrels, causes and demands whatsoever, of whatsoever kind, nature or sort, in such manner and form as any other our liege people of this our realm of England, being persons able and capable in law, may or can have, purchase, receive, possess, enjoy, retain, give, grant, demise, alien, assign, dispose, plead, defend and be defended, do, permit and execute; and that the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors may have a common seal to serve for all the causes and business of them and their successors, and that it shall and may be lawful to the said Governor and Company, and their successors, the same seal, from time to time, at their will and pleasure, to break, change, and to make anew or alter, as to them shall seem expedient.

And further we will, and by these presents, for us, our heirs and successors, we do ordain that there shall be from henceforth one of the same Company to be elected and appointed in such form as hereafter in these presents is expressed, which shall be called the Governor of the said Company; and that the said Governor and Company shall or may select seven of their number, in such form as hereafter in these presents is expressed, which shall be called the Committee of the said Company, which Committee of seven, or

any three of them, together with the Governor or Deputy-Governor of the said Company for the time being shall have the direction of the voyages of and for the said Company, and the provision of the shipping and merchandize thereunto belonging, and also the sale of all merchandize, goods and other things returned, in all or any the voyages or ships of or for the said Company, and the managing and handling of all other business, affairs and things belonging to the said Company: AND WE WILL ordain and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that they the said Governor and Company, and their successors, shall from henceforth for ever be ruled, ordered and governed according to such manner and form as is hereafter in these presents expressed, and not otherwise; and that they shall have, hold, retain and enjoy the grants, liberties, privileges, jurisdictions and immunities only hereafter in these presents granted and expressed, and no other: And for the better execution of our will and grant in this behalf WE HAVE ASSIGNED, nominated, constituted and made and by these presents, for us, our heirs and successors, WE DO ASSIGN, constitute and make our said Cousin PRINCE RUPERT, to be the first and present Governor of the said Company, and to continue in the said office, from the date of these presents until the 10th November then next following, if he, the said Prince Rupert, shall so long live, and so until a new Governor be chosen by the said Company in form hereafter expressed: AND ALSO WE HAVE assigned, nominated and appointed, and by these presents, for us, our heirs and successors, WE DO assign, nominate and constitute, the said Sir John Robinson, Sir Robert Vyner, Sir Peter Colleton, James Hayes, John Kirk, Francis Millington and John Portman to be the seven first and present Committees of the said Company, from the date of these presents until the said 10th day of November then also next following, and so on until new Committees shall be chosen in form hereafter expressed: AND FURTHER we will and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that it shall and may be lawful to and for the said Governor and Company for the time being, or the greater part of them present at any public assembly, commonly called the Court General, to be holden for the said Company, the Governor of the said Company being always one, from time to time to elect, nominate and appoint one of the said Company to be Deputy to the said Governor, which Deputy shall take a corporal oath, before the Governor and three or more of the Committee of the said Company for the time being, well, truly and faithfully to execute his said office of Deputy to the Governor of the said Company, and after his oath so taken, shall and may from time to time, in the absence of the said Governor, exercise and execute the office of the Governor of the said Company, in such sort as the said Governor ought to do: AND FURTHER WE WILL and grant by these presents, for us, our heirs and successors, unto the said Governor and Company of adventurers of England trading into Hudson's Bay, and their successors, that they, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, from time to time, and at all times hereafter, shall and may have authority and power, yearly and every year, between the first and last day of November, to assemble and meet together in some convenient place, to be appointed from time to time by the Governor, or in his absence by the Deputy of the said Governor for the time being, and that they being so assembled, it shall and may be lawful to and for the said Governor or Deputy of the said Governor, and the said Company for the time being, or the greater part of them which then shall happen to be present, whereof the Governor of the said Company or his Deputy for the time being to be one, to elect and nominate one of the said Company, which shall be Governor of the said Company for one whole year then next following, which person being so elected and nominated to be Governor of the said Company, as is aforesaid, before he be admitted to the execution of the said office, shall take a corporal oath before the last Governor, being his predecessor, or his Deputy, and any three or more of the Committee of the said Company for the time being, that he shall from time to time well and truly execute the office of Governor of the said Company in all things concerning the same; and that immediately after the said oath so taken, he shall and may execute and use the said office of Governor of the said Company for one whole year from thence next following: And in like sort we will and grant that as well every one of the above-named to be of the said

Company of fellowship, as all others hereafter to be admitted or free of the said Company, shall take a corporal oath before the Governor of the said Company or his Deputy for the time being to such effect as by the said Governor and Company or the greater part of them in any public Court to be held for the said Company, shall be in reasonable and legal manner set down and devised, before they shall be allowed or admitted to trade or traffic as a freeman of the said Company: AND FURTHER WE WILL and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that the said Governor or Deputy Governor, and the rest of the said Company, and their successors for the time being, or the greater part of them, whereof the Governor or Deputy Governor from time to time, to be one, shall and may from time to time, and at all times hereafter, have power and authority, yearly and every year, between the first and last day of November, to assemble and meet together in some convenient place, from time to time to be appointed by the said Governor of the said Company, or in his absence by his Deputy; and that they being so assembled, it shall and may be lawful to and for the said Governor or his Deputy, and the Company for the time being, or the greater part of them which then shall happen to be present, whereof the Governor of the said Company or his Deputy for the time being to be one, to elect and nominate seven of the said Company, which shall be a Committee of the said Company for one whole year from thence next ensuing, which persons being so elected and nominated to be a Committee of the said Company as aforesaid, before they be admitted to the execution of their office, shall take a corporal oath before the Governor or his Deputy, and any three or more of the said Committee of the said Company, being their last predecessors, that they and every of them shall well and faithfully perform their said office of Committees in all things concerning the same, and that immediately after the said oath so taken, they shall and may execute and use their said office of Committees of the said Company for one whole year from thence next following: AND MOREOVER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO GRANT unto the said Governor and Company, and their successors, that when and as often as it shall happen, the Governor or Deputy Governor of the said Company for the time being, at any time within one year after that he shall be nominated, elected and sworn to the office of the Governor of the said Company, as is aforesaid, to die or to be removed from the said office, which Governor or Deputy Governor not demeaning himself well in his said office WE WILL to be removable at the pleasure of the rest of the said Company, or the greater part of them which shall be present at their public assemblies commonly called their General Courts, holden for the said Company, that then and so often it shall and may be lawful to and for the residue of the said Company for the time being, or the greater part of them, within a convenient time after the death or removing of any such Governor or Deputy Governor, to assemble themselves in such convenient place as they shall think fit, for the election of the Governor or the Deputy Governor of the said Company; and that the said Company, or the greater part of them, being then and there present, shall and may, then and there, before their departure from the said place, elect and nominate one other of the said Company to be Governor or Deputy Governor for the said Company in the place and stead of him that so died or was removed; which person being so elected and nominated to the office of Governor or Deputy Governor of the said Company, shall have and exercise the said office for and during the residue of the next year, taking first a corporal oath, as is aforesaid, for the due execution thereof; and this to be done from time to time so often as the case shall so require: AND ALSO, our will and pleasure is, and by these presents for us, our heirs and successors, WE DO GRANT unto the said Governor and Company, that when and as often as it shall happen any person or persons of the Committee of the said Company for the time being, at any time within one year next after that they or any of them shall be nominated, elected and sworn to the office of Committee of the said Company as is aforesaid, to die or to be removed from the said office, which Committees not demeaning themselves well in their said office, WE WILL to be removeable at the pleasure of the said Governor and Company or the greater part of them, whereof the Governor of the said Company for the time being or his Deputy to be one, that then and so often, it shall and may be lawful to and for the said Governor, and the rest of the Com-

pany for the time being, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, within convenient time after the death or removal of any of the said Committee, to assemble themselves in such convenient place as is or shall be usual and accustomed for the election of the Governor of the said Company, or where else the Governor of the said Company for the time being or his Deputy shall appoint: And that the said Governor and Company, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, being then and there present, shall and may, then and there, before their departure from the said place, elect and nominate one or more of the said Company to be the Committee of the said Company in the place and stead of him or them that so died, or were or was so removed, which person or persons so nominated and elected to the office of Committee of the said Company, shall have and exercise the said office for and during the residue of the said year, taking first a corporal oath, as is aforesaid, for the due execution thereof, and this to be done from time to time, so often as the case shall require:

And to the end the said Governor and Company of Adventurers of England trading into Hudson's Bay may be encouraged to undertake and effectually to prosecute the said design, of our more especial grace, certain knowledge and mere motion, WE HAVE given, granted and confirmed, and by these presents, for us, our heirs and successors, DO give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all these seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes, in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid, and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called "Rupert's Land."

AND FURTHER WE DO, by these presents, for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places, and of all other the premises, SAVING ALWAYS the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same to HAVE, HOLD, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors for ever, TO BE HOLDEN of us, our heirs and successors, as of our manor at East Greenwich, in our county of Kent, in free and common soccage, and not in capite or by Knight's service, YIELDING AND PAYING yearly to us, our heirs and successors, for the same, two elks and two black beavers, whensoever and as often as we, our heirs and successors, shall happen to enter into the said countries, territories and regions hereby granted.

AND FURTHER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO GRANT unto the said Governor and Company, and their successors, that it shall and may be lawful to and for the said Governor and Company and their successors, from time to time, to assemble themselves, for or about any the matters, causes, affairs or businesses of the said trade, in any place or places for the same convenient, within our dominions or elsewhere, and there to hold Court for the said Company and the affairs thereof; and that, also, it shall and may be lawful to and for them, and the greater part of them, being so assembled, and that shall then and there be present, in any such place or places, whereof the Governor or his Deputy for the time being to be one, to make, ordain and constitute such and so many reasonable laws, constitutions, orders and ordinances as to them, or the greater part of them, being then and there present, shall seem

necessary and convenient for the good government of the said Company, and of all governors of colonies, forts and plantations, factors, masters, mariners and other officers employed or to be employed in any of the territories and lands aforesaid, and in any of their voyages, and for the better advancement and continuance of the said trade or traffic and plantations, and the same laws, constitutions, orders and ordinances so made, to put in force and execute accordingly, and at their pleasure to revoke and alter the same or any of them, as the occasion shall require: And that the said Governor and Company, so often as they shall make, ordain or establish any such laws, constitutions, orders and ordinances, in such form as aforesaid, shall and may lawfully impose, ordain, limit and provide such pains, penalties and punishments upon all offenders, contrary to such laws, constitutions, orders and ordinances, or any of them, as to the said Governor and Company for the time being, or the greater part of them, then and there being present, the said Governor or his Deputy being always one, shall seem necessary, requisite or convenient for the observation of the same laws, constitutions, orders and ordinances; and the same fines and amerciaments shall and may, by their officers and servants from time to time to be appointed for that purpose, levy, take and have, to the use of the said Governor and Company, and their successors, without the impediment of us, our heirs or successors, or of any the officers or ministers of us, our heirs or successors, and without any account therefor to us, our heirs or successors, to be made; All and singular which laws, constitutions, orders, and ordinances, so as aforesaid to be made, WE WILL to be duly observed and kept under the pains and penalties therein to be contained; so always as the said laws, constitutions, orders and ordinances, fines and amerciaments, be reasonable and not contrary or repugnant, but as near as may be agreeable to the laws, statutes or customs of this our realm.

AND FURTHERMORE, of our ample and abundant grace, certain knowledge and mere motion, WE HAVE granted, and by these presents, for us, our heirs and successors, DO grant unto the said Governor and Company, and their successors, that they and their successors, and their factors, servants and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use and enjoy, not only the whole, entire, and only trade and traffic, and the whole, entire, and only liberty, use and privilege of trading and trafficking to and from the territory, limits and places aforesaid, but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes and seas into which they shall find entrance or passage by water or land out of the territories, limits and places aforesaid; and to and with all the natives and people inhabiting, or which shall inhabit within the territories, limits and places aforesaid; and to and with all other nations inhabiting any the coasts adjacent to the said territories, limits and places which are not already possessed as aforesaid, or whereof the sole liberty or privilege of trade and traffic is not granted to any other of our subjects.

AND WE, of our further Royal favour, and of our more especial grace, certain knowledge and mere motion, HAVE granted, and by these presents, for us, our heirs and successors, DO grant to the said Governor and Company, and to their successors, that neither the said territories, limits and places hereby granted as aforesaid, nor any part thereof, nor the islands, havens, ports, cities, towns, or places thereof or therein contained, shall be visited, frequented or haunted by any of the subjects of us, our heirs or successors, contrary to the true meaning of these presents, and by virtue of our prerogative royal, which we will not have in that behalf argued or brought into question: WE STRAITLY charge, command and prohibit for us, our heirs and successors, all the subjects of us, our heirs and successors, of what degree or quality soever they be, that none of them, directly or indirectly do visit, haunt, frequent, or trade, traffic, or adventure, by way of merchandize, into or from any of the said territories, limits or places hereby granted or any or either of them, other than the said Governor or Company, and such particular persons as now be or hereafter shall be of that Company, their agents, factors and assigns, unless it be by the license and agreement of the said Governor and Company in writing first had and obtained, under their common seal, to be granted, upon pain that every such person or persons that shall trade or traffic into or from any of the countries, territories, or limits aforesaid, other than the said Governor and Company, and their successors, shall incur our indignation, and the forfeiture and the loss of the

goods, merchandizes and other things whatsoever, which so shall be brought into this realm of England, or any of the dominions of the same, contrary to our said prohibition, or the purport or true meaning of these presents, or which the said Governor and Company shall find, take and seize in other places out of our dominion, where the said Company, their agents, factors or ministers shall trade, traffic or inhabit by the virtue of these our letters patent, as also the ship and ships, with the furniture thereof, wherein such goods, merchandizes and other things shall be brought and found; and one half of all the said forfeitures to be to us, our heirs and successors, and the other half thereof WE DO, by these presents, clearly and wholly, for us, our heirs and successors, give and grant unto the said Governor and Company, and their successors: AND FURTHER, all and every the said offenders, for their said contempt, to suffer such other punishment as to us, our heirs and successors, for so high a contempt, shall seem meet and convenient, and not be in any wise delivered until they and every of them shall become bound unto the said Governor for the time being in the sum of One thousand pounds at the least, at no time then after to trade or traffic into any of the said places, seas, straits, bays, ports, havens or territories aforesaid, contrary to our express commandment in that behalf set down and published; AND FURTHER, of our more especial grace, WE HAVE condescended and granted, and by these presents, for us, our heirs and successors, DO grant unto the said Governor and Company, and their successors, that we, our heirs and successors, will not grant liberty, license or power to any person or persons whatsoever, contrary to the tenor of these our letters patent, to trade, traffic or inhabit, unto or upon any of the territories, limits or places afore specified, contrary to the true meaning of these presents, without the consent of the said Governor and Company, or the most part of them: AND, of our more abundant grace and favour of the said Governor and Company, WE do hereby declare our will and pleasure to be, that if it shall so happen that any of the persons free or to be free of the said Company of Adventurers of England trading into Hudson's Bay, who shall, before the going forth of any ship or ships appointed for a voyage or otherwise, promise or agree, by writing under his or their hands, to adventure any sum or sums of money towards the furnishing any provision, or maintenance of any voyage or voyages, set forth or to be set forth, or intended or meant to be set forth, by the said Governor and Company, or the most part of them present at any public assembly, commonly called their General Court, shall not, within the space of twenty days next after warning given to him or them by the said Governor or Company, or their known officer or minister, bring in and deliver to the Treasurer or Treasurers appointed for the Company, such sums of money as shall have been expressed and set down in writing by the said person or persons, subscribed with the name of said Adventurer or Adventurers, that then and at all times after it shall and may be lawful to and for the said Governor and Company, or the more part of them present, whereof the said Governor or his Deputy to be one, at any of their General Courts or general assemblies, to remove and disfranchise him or them, and every such person and persons at their wills and pleasures, and he or they so removed and disfranchised, not to be permitted to trade into the countries, territories, and limits aforesaid, or any part thereof, nor to have any adventure or stock going or remaining with or amongst the said Company, without the special license of the said Governor and Company, or the more part of them present at any General Court, first had and obtained in that behalf, anything before in these presents to the contrary thereof in any wise notwithstanding. AND OUR WILL AND PLEASURE IS, and hereby we do also ordain that it shall and may be lawful to and for the said Governor and Company, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, to admit into and to be of the said Company all such servants or factors, of or for the said Company, and all such others as to them or the most part of them present, at any Court held for the said Company, the Governor or his Deputy being one, shall be thought fit and agreeable with the orders and ordinances made and to be made for the government of the said Company: AND FURTHER, our will and pleasure is, and by these presents for us, our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, that it shall and may be lawful in all elections and by-laws to be made by the General Court of the Adventurers of the said Company, that

every person shall have a number of votes according to his stock, that is to say, for every hundred pounds by him subscribed or brought into the present stock, one vote, and that any of those that have subscribed less than One hundred pounds, may join their respective sums to make up One hundred pounds, and have one vote jointly for the same, and not otherwise: AND FURTHER, of our especial grace, certain knowledge, and mere motion, WE DO, for us, our heirs and successors, grant to and with the said Governor and Company of Adventurers of England, trading into Hudson's Bay, that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any of the ports or places afore limited, shall be immediately and from henceforth under the power and command of the said Governor and Company, their successors and assigns; SAVING the faith and allegiance due to be performed to us, our heirs and successors, as aforesaid; and that the said Governor and Company shall have liberty, full power and authority to appoint and establish Governors and all other officers to govern them, and that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, factories, colonies or places of trade within any of the countries, lands or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of the kingdom, and to execute justice accordingly; and in case any crime or misdemeanor shall be committed in any of the said Company's plantations, forts, factories, or places of trade within the limits aforesaid, where judicature cannot be executed for want of a Governor and Council there, then in such case, it shall and may be lawful for the chief factor of that place and his Council to transmit the party, together with the offence, to such other plantation, factory or fort where there shall be a Governor and Council, where justice may be executed, or into this kingdom of England, as shall be thought most convenient, there to receive such punishment as the nature of his offence shall deserve: AND MOREOVER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO GIVE and grant unto the said Governor and Company, and their successors, free liberty and license, in case they conceive it necessary, to send either ships of war, men or ammunition into any of their plantations, forts factories, or places of trade aforesaid, for the security and defence of the same, and to choose commanders and officers over them, and to give them power and authority, by commission under their common seal, or otherwise, to continue to make peace or war with any prince or people whatsoever, that are not Christians, in any place where the said Company shall have any plantations, forts or factories, or adjacent thereto, and shall be most for the advantage and benefit of the said Governor and Company, and of their trade; and also to right and recompense themselves upon the goods, estates, or people of those parts, by whom the said Governor and Company shall sustain any injury, loss or damage, or upon any other people whatsoever, that shall in any way, contrary to the intent of these presents, interrupt, wrong or injure them in their trade, within the said places, territories and limits granted by this Charter: And that it shall and may be lawful to and for the said Governor and Company, and their successors, from time to time, and at all times from henceforth, to erect and build such castles, fortifications, forts, garrisons, colonies or plantations, towns or villages, in any parts or places within the limits and bounds granted before in these presents unto the said Governor and Company, as they in their discretion shall think fit and requisite, and for the supply of such as shall be needful and convenient, to keep and be in the same, to send out of this kingdom to the said castles, forts, fortifications, garrisons, colonies, plantations, towns or villages, all kinds of clothing, provisions or victuals, ammunition and implements necessary for such purpose, paying the duties and customs for the same, as also to transport and carry over such number of men being willing thereunto, or not prohibited, as they shall think fit, and also to govern them in such legal and reasonable manner as the said Governor and Company shall think best, and to inflict punishment for misdemeanours or impose such fines upon them for breach of their orders as in these presents are formally expressed: AND FURTHER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, full power and lawful authority to seize upon the per-

sons of all such English, or any other our subjects, which shall sail into Hudson's Bay, or inhabit in any of the countries, islands, or territories hereby granted to the said Governor and Company, without their leave and license, and in that behalf first had and obtained, or that shall contemn or disobey their orders, and send them to England; and that all and every person or persons, being our subjects, any ways employed by the said Governor and Company, within any of the parts, places, and limits aforesaid, shall be liable unto and suffer such punishment for any offences by them committed in the parts aforesaid, as the President and Council for the said Governor and Company there shall think fit, and the merit of the offence shall require, as aforesaid; and in case any person or persons being convicted and sentenced by the President and Council of the said Governor and Company, in the countries, lands, or limits aforesaid, their factors or agents there, for any offence by them done, shall appeal from the same, that then and in such case it shall and may be lawful to and for the said President and Council, factors or agents, to seize upon him or them, and to carry him or them home prisoners into England, to the said Governor and Company, there to receive such condign punishment as his case shall require, and the law of this nation allow of; and for the better discovery of abuses and injuries to be done unto the said Governor and Company, or their successors, by any servant by them to be employed in the said voyages and plantations, it shall and may be lawful to and for the said Governor and Company, and their respective President, Chief Agent, or Governor in the parts aforesaid, to examine upon oath all factors, masters, pursers, supercargoes, commanders of castles, forts, fortifications, plantations or colonies, or other persons, touching or concerning any matter or thing in which by law or usage an oath may be administered, so as the said oath, and the matter therein contained be not repugnant, but agreeable to the laws of this realm: AND WE DO hereby straitly charge and command all and singular our Admirals, Vice-Admirals, Justices, Mayors, Sheriffs, Constables, Bailiffs, and all and singular other our officers, ministers, liege men and subjects whatsoever to be aiding, favouring, helping, and assisting, to the said Governor and Company, and to their successors, and their deputies, officers, factors, servants, assigns and ministers, and every of them, in executing and enjoying the premises, as well on land as on sea, from time to time, when any of you shall thereunto be required; ANY STATUTE, act, ordinance, proviso, proclamation or restraint heretofore had, made, set forth, ordained, or provided, or any other matter, cause or thing whatsoever to the contrary in anywise notwithstanding.

IN WITNESS WHEREOF we have caused these our Letters to be made Patent.

WITNESS OURSELF at Winchester, the second day of May, in the two-and-twentieth year of our reign. By Writ of Privy Seal.

PIGOTT.

LICENSE OF EXCLUSIVE TRADE.

To THE HUDSON'S BAY COMPANY, DECEMBER, 1821.

GEORGE R.

GEORGE THE FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To all to whom these presents shall come, greeting:

WHEREAS an Act passed in the second year of our reign, intituled, "An Act for regulating the Fur Trade, and for establishing a Criminal and Civil Jurisdiction within certain parts of North America;" wherein it is amongst other things enacted, that from and after the passing of the said Act, it should be lawful for us, our heirs or successors, to make Grants or give our Royal License, under the hand and seal of one of our Principal Secretaries of State, to any body corporate or Company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such Grants or Licenses respectively, not being part of the lands or territories heretofore granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of our Provinces in North America,

or of any lands or territories belonging to the United States of America, and that all such Grants and Licenses should be good, valid, and effectual, for the purpose of securing to all such bodies corporate, or companies, or persons, the sole and exclusive privilege of trading with the indians, in all such parts of North America (except as thereinafter excepted) as should be specified in such Grants or Licenses, anything contained in any Act or Acts of Parliament, or any law to the contrary notwithstanding; and it was in the said Act further enacted, that no such Grant or License made or given by us, our heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid, should be made or given for any longer period than 21 years, and that no rent should be required or demanded for, or in respect of any such Grant or License, or any privileges given thereby, under the provisions of the said Act, for the first period of 21 years; and it was further enacted, that from and after the passing of the said Act, the Governor and Company of Adventurers of England trading to Hudson's Bay, and every body corporate and company, and person, to whom every such Grant or License should be made or given as aforesaid, should respectively keep accurate registers of all persons in their employ, in any parts of North America, and should once in each year return to our Principal Secretaries of State accurate duplicates of such registers, and should also enter into such security as should be required by us for the due execution of all criminal processes, and of any civil process in any suit where the matter in dispute shall exceed £200, and as well within the territories included in any such Grant as within those granted by Charter to the Governor and Company of Adventurers of England trading to Hudson's Bay, and for the producing and delivering into safe custody, for the purpose of trial, all persons in their employ, or acting under their authority, who should be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations and stipulations as should be contained in any such Grant or License, either for gradually diminishing and ultimately preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement; or for any other object which we might deem necessary for the remedy or prevention of any other evils which have been hitherto found to exist: And whereas it was also in the said Act recited, that by a Convention entered into between his late Majesty and the United States of America, it was stipulated and agreed, that every country on the north-west coast of America, to the westward of the Stony Mountains should be free and open to the citizens and subjects of the two powers for the term of ten years from the date of the signature of that Convention; and it was therefore enacted, that nothing in the said Act contained should be deemed or construed to authorize any body corporate, company or person to whom His Majesty might, under the provisions of the said Act, make or grant, or give a License of exclusive trade with the Indians in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said article, to the prejudice or exclusion of any citizens of the said United States of America, who might be engaged in the said trade: Provided always that no British subject should trade with the Indians within such limits without such Grant or License as was by the said Act required.

And whereas the said Governor and Company of Adventurers of England trading into Hudson's Bay, and certain associations of persons trading under the name of the "North-west Company, of Montreal," have respectively extended the fur trade over many parts of North America, which had not been before explored: And whereas the competition in the said trade has been found for some years past to be productive of great inconvenience and loss, not only to the said Company and associations, but to the said trade in general, and also of great injury to the native Indians, and of other persons our subjects: And whereas the said Governor and Company of Adventurers of England trading into Hudson's Bay, and William M'Gillivray, of Montreal, in the Province of Lower Canada, esquire, Simon M'Gillivray, of Suffolk Lane, in the City of London, Merchant, and Edward Ellice, of Spring Gardens, in the County of Middlesex, esquire, have represented to us, that they have entered into an agreement, on the 26th day of March last, for putting an end to the said competition, and carrying on the said trade for 21 years, commencing with the outfit of 1821, and ending with the returns of 1841, to be carried on in the name of the said Governor and Company exclusively;

LICENSE OF EXCLUSIVE TRADE TO THE HUDSON'S BAY COMPANY, 1821.

And whereas the said Governor and Company, and William M'Gillivray, Simon M'Gillivray, and Edward Ellice, have humbly besought us to make a Grant, and give our Royal License to them jointly, of and for the exclusive privilege of trading with the Indians in North America, under the restrictions and upon the terms and conditions specified in the said recited Act : Now know ye, That we, being desirous of encouraging the said trade and remedying the evils which have arisen from the competition which has heretofore existed therein, do grant and give our Royal License under the hand and seal of one of our Principal Secretaries of State, to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray, and Edward Ellice, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and westward of the lands and territories belonging to the United States of America as shall not form part of any of our provinces in North America, or of any lands or territories belonging to the said United States of America, or to any European government, state or power; and we do by these presents give, grant and secure to the said Governor and Company, William McGillivray, Simon McGillivray, and Edward Ellice jointly, the sole and exclusive privilege, for the full period of 21 years from the date of this our Grant, of trading with the Indians in all such parts of North America as aforesaid [except as thereinafter excepted]; and we do hereby declare that no rent shall be required or demanded for or in respect of this our Grant and License, or any privileges given thereby, for the said period of 21 years, but that the said Governor and Company, and the said William McGillivray, Simon McGillivray, and Edward Ellice shall, during the period of this our Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and shall once in each year return to our Secretary of State accurate duplicates of such registers, and shall also enter in and give security to us, our heirs and successors, in the penal sum of £5,000, for ensuring, as far as in them may lie, the due execution of all criminal processes, and of any civil process in any suit where the matter in dispute shall exceed £200, by the officers and persons legally empowered to execute such processes within all the territories included in this our Grant, and for the producing and delivering into safe custody, for purposes of trial, any persons in their employ, or acting under their authority within the said territories, who may be charged with any criminal offence.

And we do also hereby require, that the said Governor and Company, and William McGillivray, Simon McGillivray, and Edward Ellice shall, as soon as the same shall be conveniently done, make and submit for our consideration and approval such rules and regulations for the management and carrying on the said fur trade with the Indians, and the conduct of the persons employed by them therein, as may appear for us to be effectual for gradually diminishing or ultimately preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement.

And we do hereby declare, that nothing in this our Grant contained shall be deemed or construed to authorize the said Governor and Company, or William McGillivray, Simon McGillivray and Edward Ellice, or any person in their employ, to claim or exercise any trade with the Indians on the north-west coast of America to the westward of the Stony Mountains, to the prejudice or exclusion of any citizens of the United States of America who may be engaged in the said trade: Provided always, that no British subjects other than and except the said Governor and Company, and the said William McGillivray, Simon McGillivray, and Edward Ellice, and the persons authorized to carry on exclusive trade by them on Grant, shall trade with the Indians within such limits during the period of this our Grant.

Given at our Court at Carlton House, the 5th day of December, 1821, in the second year of our reign.

By His Majesty's command,

Bathurst.

V.

Official and Historical Descriptions of Boundaries of Canada.

FRENCH OFFICIAL DESCRIPTIONS.

1598.—The Letters Patent appointing Sieur de la Roche, January 12, 1598,* make him Lieutenant-General of "Canada, Hochelaga, Newfoundland, Labrador, the River of the Great Bay, of Norembegue, and the lands adjacent to the said provinces and rivers which are the whole length and depth of the country, provided they are not inhabited by the subjects of any other Christian Prince."

1603.—Description in the Commission of Sieur de Monts, November 8, 1603 †: —"We constitute and appoint you our Lieutenant-General, to represent our person in the countries, territories, coasts and confines of Acadia: Commencing at the fortieth degree of latitude and extending to the forty-sixth, and within these limits, or such part thereof as it may be possible to penetrate, and therein make known our name and extend our power and authority; and to bring into subjection, submission, and obedience all the people within the said limits and those of the adjoining country."

1605.—The description in a declaration of the King on the subject of the Commission of de Monts, February 8, 1605, is in different words ‡:—"To represent our person on the coasts and in the interior of the limits of Acadia, Canada, and other places in New France, and to colonize the country."

1612.—Charles de Bourbon, Count de Soissons, Peer and Grand Master of France, the King's Lieutenant-General in New France, in virtue of the power which the King had conferred upon him, commissioned Champlain, October 15, 1612, § to build forts "not only in Quebec, but in other places where our authority extends, and so far in the interior as he may be able, to establish and make known the name, power and authority of His Majesty, and therein to bring under subjection, submission and obedience, all the people of this and the surrounding country. . . . for this purpose to make discoveries and explorations in the said territories, especially above the place called Quebec, as far in the interior as he can penetrate, whether overland or by means of the rivers which discharge into the said great river, the St. Lawrence, with the view of attempting to find a practicable road through the said country to China and the East Indies, or taking another route as far as he can penetrate along the coasts or in the interior."

1651.—Provision in favour of Sieur de Lauzon, appointing him Governor and Lieutenant of the King, January 17th, 1651, "over the whole extent of the River St. Lawrence, in New France, the isles and lands adjacent, on both sides of the river and the other rivers that discharge therein, as far as its mouth, taking in ten leagues near to Miscou on the South, and on the north as far as the lands of the said country extend, (du nord, autant s'étendent les terres du dit pays) in the same manner that it was held and exercised by Sieur Daillebout."‖

* Histoire de la Nouvelle France, par Marc L'Escarbot, ed. 1618, p. 408.
† L'Escarbot, p. 419.
‡ Ibid, p. 427.
§ Voyages du Sieur Champlain, ed. 1830, pp. 307-8.
‖ Commissions des Gouverneurs et Intendants, T. II.

BOUNDARIES BETWEEN NEW FRANCE AND LOUISIANA.

1657.—The extent of the country mentioned in the Commission of Sieur de Lauzon, is repeated in the "Lettres Patentes du Gouverneur de la Nouvelle France," in favour of Vicomte d'Argenson, of 26th January, 1657.

1663—Letters Patent appointing Sieur de Mezy, Governor, for three years, over "the country traversed by the St. Lawrence, in New France," in the place of Sieur du Bois d'Avangour, recalled by the King on the 1st May, 1663.

1665.—The Commission of M. Talon, of March 23, 1665, makes him intendant of Justice, Police and Finances, "in Canada, Acadia, Newfoundland, and other countries of Northern France (France Septentrionelle.)"*

1685.—The expression, "depuis le Nord du Canada jusques à la Virginie," is used in the Commission of M. le Barrois, April 8, 1685, as agent-general for the Compagnie des Indes Occidentales.

1685.—The description in the prolongation of tke Commission of Governor and Lieutenant-General at Quebec, granted by the King to the Sieur Hualt de Montmagny, of the 6th of June, 1685, makes him Lieutenant-General representing the person of the sovereign at Quebec, "and in the Provinces watered by the St. Lawrence, and the rivers which discharge into it, and the places that depend thereon in New France."

1688.—The Commission of M. de Bouteroue, April 8, 1688, Intendant, is in the same terms as that of M. Talon. (1665.)

1748.—The commission of M. Bigot, January 1st, 1748, makes him Intendant of Justice, Police, Finances, and Marine, in "our country of Canada, Louisiana, and in all the lands and islands dependent on New France."

BOUNDARIES BETWEEN NEW FRANCE AND LOUISIANA.

The Charter Granted by Louis XIV. to M. Crozat, September, 1712.†

(Extracts.)

We by these presents, signed by our hand, have appointed and do appoint the said Sieur Crozat solely to carry on a trade in all the lands possessed by us and bounded by New Mexico, and by the lands of the English of Carolina, all the establishments, ports, havens, rivers, and principally the port and haven of the Isle of Dauphine, heretofore called Massacre; the river of St Lewis, heretofore called Mississippi, from the edge of the sea as far as the Illinois; together with the river of St. Philip, heretofore called the Missouri, and of St. Jerome, heretofore called Ouabache, with all the countries, territories, lakes within land, and the rivers which fall directly or indirectly into that part of the River St. Lewis.

* An evident mistake; it should most probably be *L'Amerique* Septentrionale.

† Edits, Ordonnances Royaux, déclarations et arrêts du Conseil d'Etat du Roi. Desbarats: Quebec, 1803, T. I. p. 328. See also French's Hist. Coll. of Louisiana, part III. p. 39. The Parliament of Paris and the Superior Council of New France were ordered to register this edict.—Crozat, Marquis du Chatel, one of the great financiers of the reign of Louis XIV., from whom he obtained this charter. He died June 7th, 1738.

LETTERS PATENT GRANTED TO THE WESTERN COMPANY, 1717.

1.—Our pleasure is, that all the aforesaid Lands, Countries, Streams, Rivers and Islands be and remain under the Government of Louisiana, which shall be dependent upon the General Government of New France, to which it is subordinate; and further, that all the lands which we possess from the Illinois be united, so far as occasion requires, to the General Government of New France, and become part thereof, reserving however to ourselves the liberty of enlarging, as we shall think fit, the extent of the government of the Country of Lousiana.

Letters Patent Granted to the Western Company, 1717.*

(Extracts.)

II.—We grant to the said Company, for the space of twenty-five years, beginning from the day of the registration of the present Letters,† the exclusive right of trading in our Province and Government of Louisiana, and also the privilege of receiving, to the exclusion of all other persons, in our colony of Canada, from the 1st of January, 1718, until and including the last day of December, 1742, all the beaver, fat and dry, which the inhabitants of the said colony shall have traded for, whilst we shall regulate, according to the accounts which shall be sent over to us from the said country, the quantities of the different sorts of beaver, that the Company shall be bound to receive each year from the said inhabitants of Canada, and the prices they shall be bound to pay for them.

V.—With a view to give the said Western Company the means of forming a firm establishment, and enable it to execute all the speculations it may undertake, we have given, granted and conceded, do give, grant and concede to it, by these present letters, and forever, the same way and extent as we have granted them to M. Crozat, by our letters patent of 14th September, 1712, to enjoy the same in full property, seigniory and jurisdiction, keeping to ourselves no other rights or duties, than the fealty and liege homage the said Company shall be bound to pay us, and to the kings our successors at every new reign, with a golden crown of the weight of thirty marks.

X. The said Company shall be at liberty to establish such governors, officers, majors, and others us they may think fit to command the troops, and the said governors and major officers shall be presented to us by the Directors of the Company, in order that we may deliver to them our commissions.

Illinois Annexed to Louisiana, 1717.‡

(Extract from the Registers of the King's Council of State.)

The King in Council, having under consideration the Letters Patent in form of an edict of the month of August last, establishing a commercial company under the name of the Western Company (Compagnie d'Occident), together with those of the 14th September, 1712, granted to Sieur Crozat, and being of opinion that it would be conducive to the service of the King, and of use and advantage to the Western Company, to extend the Government of the Province of Louisiana, by adding to it the country of the savages, called the Illinois: the report being read and everything considered, His Majesty in Council, on the advice of the Duke of Orleans, his uncle, Regent, has united and incorporated the

* Edt. Ord., etc., T. I. p. 377-8. See also French's Hist. Coll. of Louisiana, p. 50.

† The letters were registered by the Parliament of Paris, September 6, 1717. The King issued a mandement, June 19, 1718, ordering the Superior Council of Quebec, to register the above Letters Patent. (See Ed. Ord. etc. T. I. p. 387-9.)

‡ Ed. Ord. etc. T. I. pp. 375-6.

On the 19th June, 1718, the King notified the Marquis de Vaudreuil, Lieutenant-Governor of New France, le Sieur Begon, Intendent, and the officers of the Superior Council at Quebec, to read and publish this arrêt of the Council, and ordered it to be kept and observed according to its form and tenor, notwithstanding any edicts, declarations, arrêts, ordinances, rules, usages, and other things contrary thereto. It was Registered by the Greffier of the Superior Council of Quebec, Oct. 2, 1719.

country of the savages to the Government of the Province of Louisiana; desires and intends that the said Western Company shall enjoy the lands comprised under the name of the said country in the same way that it ought to enjoy those granted to it by the said letters patent in the month of August last,* and that the commandants, officers, soldiers, inhabitants and others who are or who may be in the said country will recognize the authority of the General in command of Louisiana, and yield obedience to him, without any kind of opposition, on pain of disobedience. Done at the King's Council of State, in the presence of His Majesty, held at Paris, on the twenty-seventh of September, 1717.

PHELIPPEAUX.

Compared with the original by our esquire, councillor-secretary of the King, House and Crown of France, and of his finances.

LE NOIR.

LOUIS XV. TO MM. BEAUHARNOIS AND HOCQUART.

Marly, May 8, 1731.

They (MM. de Beauharnois and Hocquart) are to be informed that His Majesty has accepted the surrender of the Province of Louisiana, and of the Illinois country from the India Company, to date from 1st of July next. They will find hereunto annexed copies of the arrêt issued on this subject. That province will in future be dependent on the General Government of New France, as it was previous to the Grant to the Company.

His Majesty has not determined whether the Illinois country is to remain dependent on the Government of Louisiana. That may, nevertheless, be most convenient, as the Governor-General will always be equally able to send him orders to it, and to be informed of what occurs there in regard to the Indians. MM. de Beauharnois and Hocquart will examine whether it be proper to leave this country in its present state, or to disconnect it from the Government of Louisiana, as was the case before it had been granted to the Company. They will be careful to report on that point, and to state the reasons for and against, whereupon His Majesty will communicate his intentions.

BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS AFTER THE TREATY OF PARIS, 1763.

30TH APRIL, 1763.

HENRY ELLIS, ESQUIRE, *Clerk of the Council of the Province of Canada, Commissary or Steward-General of Provisions and Stores, and Clerk of the Enrolments.*

GEORGE THE THIRD, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c.

To all to whom these presents shall come, greeting:

Know ye that We, reposing especial trust and confidence in the faithfulness, experience, and ability of Our trusty and well-beloved Henry Ellis, Esquire, of Our special grace, certain knowledge and mere motion, have given and granted, and by these presents for Us, Our heirs and successors, do give and grant unto the said Henry Ellis, the offices and places of Secretary and Clerk of the Council of Our Province of Canada, and of Com-

* Which would entitle it to sell them to French subjects.

missary or Steward-General of all such provisions and stores as are or shall be from time to time provided and sent for the forces of Us, Our heirs or successors, in Our said Province, and Clerk for the inrolling and registering all deeds and conveyances made and passed in that Our Province, and also all bills of sale and letters patent, or other acts or matters usually inrolled, or which by the laws of that Province shall be directed to be inrolled.

And him, the said Henry Ellis, Secretary and Clerk of the Council of Our said Province of Canada, and Commissary or Steward-General of all such provisions and stores as are or shall be, from time to time, provided and sent for the forces of Us, Our heirs or successors, in Our said Province of Canada, and Clerk of Inrolments, for inrolling and registering of all deeds and conveyances made and passed in that Our Province, and also all bills of sale and letters patent, or other acts or matters usually inrolled, or which by the laws of that Our Province shall be directed to be inrolled, We do make, ordain, and constitute by these presents.

[Commissions of Justices of the Peace, under the Public Seal of the Province for the District of Montreal or Quebec, as the case might be, contained the words "in Our Province of Quebec."]

23RD SEPTEMBER, 1763.

NICHOLAS TURNER, ESQUIRE, *Provost-Marshal of the Province of Canada.*

GEORGE THE THIRD, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c.

To all to whom these presents shall come, greeting:

Know ye, that We, for divers good causes and considerations Us hereunto moving, of Our special grace, certain knowledge, and mere motion, have given and granted, and by these presents for Us, Our heirs and successors, do give and grant unto our trusty and well-beloved Nicholas Turner, Esquire, the office of Provost-Marshal of Our said Province of Canada, and him the said Nicholas Turner, Provost-Marshal of Our said Province of Canada, We do, for Us, Our heirs and successors, make, ordain, and constitute by these presents, &c.

21ST NOVEMBER, 1763.

JAMES MURRAY, ESQUIRE.—*Captain-General and Governor-in-Chief of the Province of Quebec.**

GEORGE THE THIRD, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth.

To our trusty and well-beloved James Murray, Esquire, greeting:

We, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said James Murray, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said James Murray, to be Our Captain-General and Governor-in-Chief in and over Our Province of Quebec, in America; bounded on the Labrador coast by the River St. John, and from thence by a line drawn from the head of that river, through Lake St. John, to the south end of Lake Nipissim, from whence the said line, crossing the River St.

* Lib. A (1) Imperial Commissions, fol. 1. Recorded in the Registrar's office in Quebec, June 7, 1766.

Lawrence and the Lake Champlain in forty-five degrees of northern 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 coast of the Baye des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosiers; 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.

19TH MARCH, 1764.

JAMES MURRAY, ESQUIRE.—*Vice-Admiral, Commissary, &c., in our Province of Quebec, and territories thereon depending.*

GEORGE THE THIRD, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c.

To our beloved James Murray, Esquire, Our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America, greeting:

We, confiding very much in your fidelity, care, and circumspection in this behalf, do by these presents, which are to continue during Our pleasure only, constitute and depute you, the said James Murray, Esquire, Our Captain-General and Governor-in-Chief aforesaid, Our Vice-Admiral, Commissary, and Deputy in the office of Vice-Admiralty in Our Province of Quebec aforesaid, and territories thereon depending, and in the maritime parts of the same and thereto adjoining whatsoever; with power of taking and receiving all and every the fees, profits, advantages, emoluments, commodities, and appurtenances whatsoever due and belonging to the said office of Vice-Admiral, Commissary, and Deputy, in Our said Province of Quebec, and territories depending thereon, and maritime parts of the same and adjoining to them whatsoever, according to the ordinances and statutes of Our High Court of Admiralty in England.

And We do hereby remit and grant unto you the aforesaid James Murray, Esquire, Our power and authority in and throughout Our Province of Quebec aforementioned, and territories thereof, and maritime parts whatsoever of the same and thereto adjacent, and also throughout all and every the sea-shores, public streams, ports, fresh water rivers, creeks and arms as well of the sea as of the rivers and coasts whatsoever of our said Province of Quebec, and territories dependent thereon, and maritime parts whatsoever of the same and thereto adjacent, as well within liberties and franchises as without.

[The expression "Our Province of Quebec and territories thereon depending," or "territories depending on the same," or "territories dependent thereon," occurs seven or eight times.]

7TH APRIL, 1766.

GUY CARLETON, ESQUIRE.—*Lieutenant-Governor of the* "Province of Quebec, in America."

25TH SEPTEMBER, 1766.

In Lieut.-Gov. Carleton's appointment of Francis Maseres as Attorney-General, the attesting clause of the commission reads—

Witness Our trusty and well-beloved the Honourable Guy Carleton, Esquire, our Lieutenant-Governor and Commander-in-Chief in and over our said Province of Quebec, and the *territories depending thereon in America*, at our Castle of St. Lewis, in our City of Quebec, the twenty-fifth day of September, in the year of our Lord one thousand seven hundred and sixty-six, and in the sixth year of our reign.

GUY CARLETON.

BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS, 1768, 1774.

12TH APRIL, 1768.

SIR GUY CARLETON.—*Captain-General and Governor-in-Chief of the Province of Quebec.**

Our Province of Quebec in America, bounded on the Labrador coast by the River Saint John, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of Lake Nipissim, from whence the said line crossing the River Saint Lawrence and the Lake Champlain in forty-five degrees northern latitude, passes along the high lands which divide the rivers that empty themselves into the said River Saint Lawrence from those which fall into the sea, and also along the north coast of the Bay Des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Roziers, and from thence crossing the mouth of the River Saint Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John, together with all the rights, members, and appurtenances whatsoever thereto belonging.

27TH DECEMBER, 1774.

SIR GUY CARLETON.—*Captain-General and Governor-in-Chief of the Province of Quebec.*†

And further know you, that we, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Guy Carleton, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said Guy Carleton, to be our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America, comprehending all our Territories, Islands and Countries in North America, bounded on the south‡ by a line from the Bay of Chaleurs, along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until in the same latitude, it meets with the River Saint Lawrence; from thence up the eastern bank of the said river to the Lake Ontario, thence through the Lake Ontario, and the river commonly called Niagara, 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 strikes the Ohio; but in case the said bank of the said 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 north-western angle of the said Province of Pennsylvania, and thence by a right line to the said north-western angle of the said Province, and thence along the western boundary of the said Province until it strikes the River Ohio, and along the bank of the said river westward to the banks of Mississippi, 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, and also all such Territories, Islands and Countries which have, since the tenth day of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland as aforesaid, together with all the rights, members and appurtenances whatsoever thereunto belonging.

*Lib. C. (3), Imperial Commissions, Fol. 33.

†Lib. B. (2), Imperial Commissions, Fol. 1.

‡This description is printed from a copy of the Commission in the office of the Secretary of State at Ottawa. The words "on the south" are omitted in the Commission as printed in "*Additional Papers, concerning the Province of Quebeck; being an appendix to the book entitled 'An account of the Proceedings of the British and other Protestant Inhabitants of the Province of Quebeck, in North America, in order to obtain a House of Assembly in that Province; by F. Maseres, Corsitor Baron.*' London: Sold by W. White, Horace's Head, Fleet Street, MDCCLXXVI." Maseres probably obtained his copy from the office of the Secretary of State, or of the Crown Law Department, in England. The copy in the Secretary of State's office at Ottawa does not appear to be certified in any way.

BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS, 1775–1786.

17TH APRIL, 1775.

EDWARD ABBOTT, ESQUIRE.—*Lieutenant-Governor and Superintendent of St. Vincenne.**

GEORGE THE THIRD, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c.

To our trusty and well-beloved Edward Abbott, Esquire, greeting:

We, reposing especial trust and confidence in your loyalty, integrity and ability, do, by these presents, constitute you and appoint you to be Lieutenant-Governor and Superintendent of the post established upon the river Wabache, heretofore called St. Vincenne, in our Province of Quebec, in America, to have, hold, exercise, and enjoy the same from and after the first day of May next, during our pleasure, with all the rights, privileges, profits and perquisites to the same belonging or appertaining, and you are to obey such orders and directions as you shall from time to time receive from our Captain-General and Governor-in-Chief of our Province of Quebec, or from the Lieutenant-Governor or Commander-in-Chief of our said Province for the time being.

18TH SEPTEMBER, 1777.

SIR FREDERICK HALDIMAND.—*Captain-General and Governor-in-Chief of the Province of Quebec.*†

[This Commission contains Boundary Line descriptions similar to that of 27th December, 1774.]

22ND APRIL, 1786.

SIR GUY CARLETON, K. B. [afterwards Lord Dorchester]—*Captain-General and Governor-in-Chief of the Province of Quebec.*‡

And further know ye that we, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Sir Guy Carleton, of our especial grace, certain knowledge and mere motion, have thought fit to appoint you, the said Sir Guy Carleton, to be our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America, comprehending all our Territories, Islands, and Countries in North America bounded on the south by a line from the Bay of Chaleurs, along the High Lands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the Atlantic Ocean, to the north-westmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Cataraqui; thence along the middle of the said river into Lake Ontario; through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and

* Imperial Commissions, Vol. I.

† Lib. B (2), Imperial Commissions, Fol. 24.

‡ Ibid, Fol. 47.

Lake Superior; thence through Lake Superior northward of the Isles Royal and Phillipeaux to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; and northward to the southern boundary of the territory granted to the Merchants Adventurers of England, trading to Hudson's Bay; and also all such Territories, Islands, and Countries which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the government of Newfoundland, together with all the rights, members, and appurtenances whatsoever thereunto belonging.

12TH SEPTEMBER, 1791.

GUY, LORD DORCHESTER.—*Captain-General and Governor-in-Chief of the Provinces of Upper Canada and Lower Canada.*

Greeting:

WHEREAS, We did by our Letters Patent, under Our Great Seal of Great Britain, bearing date the twenty-second day of April, in the twenty-sixth year of Our reign, constitute and appoint you Guy, Lord Dorchester [then Sir Guy Carleton], to be Our Captain-General and Governor-in-Chief in and over our Province of Quebec in America, comprehending all our Territories, Islands and Countries in North America, then bounded as in Our said recited Letters Patent was mentioned and expressed.

Now Know Ye, that we have revoked, determined, and by these presents do revoke and determine, the said recited Letters Patent, and every clause, article or thing therein contained.

And Whereas, we have thought fit by Our order, made in Our Privy Council on the nineteenth day of August, one thousand seven hundred and ninety-one, to divide Our said Province of Quebec into two separate provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by a line to commence at a stone boundary on the north Bank of the Lake St. Francis at the Cove west of the Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit to the direction of North thirty-four degrees West to the westermost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running North twenty-five degrees East, until it strikes the Ottowas River, to ascend the said river into the Lake Tommiscanning, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay; the Province of Upper Canada to comprehend all such lands, territories and islands, lying to the westward of the said line of division, as were part of Our said Province of Quebec, and the Province of Lower Canada to comprehend all such lands, territories and islands lying to the eastward of the said line of division, as were part of Our said Province of Quebec.

And Whereas, by an Act passed in the present year of Our Reign, intituled "An "Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's "Reign, intituled 'An Act for making more effectual provision for the Government of "Quebec, in North America, and to make further provision for the Government of the "said Province,'" further provision is thereby made for the good government and prosperity of Our said Provinces of Upper and Lower Canada.

Further, Know Ye that we, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Guy, Lord Dorchester, of Our especial Grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said Guy, Lord Dorchester, to be our Captain-General and Governor-in-Chief of Our said Province of Upper Canada, and of our said Province of Lower Canada, respectively, bounded as hereinbefore described.

BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS, 1796–1818.

15TH DECEMBER, 1796.

ROBERT PRESCOTT, ESQUIRE.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.**

"Of our Province of Upper Canada and of our Province of Lower Canada, respectively, bounded by a line to commence at a stone boundary on the north bank of the Lake Saint Francis, at the Cove West of Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of North, thirty-four degrees West, to the westermost angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running North, twenty-five degrees East, until it strikes the Ottawas River, to ascend the said river into the Lake Tomiscanning, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay—the Province of Upper Canada to comprehend all such lands, territories and islands lying to the westward of the said line of division as were part of Our Province of Quebec; and the Province of Lower Canada to comprehend all such lands, territories and islands lying to the eastward of the said line of division as were part of our said Province of Quebec."

[The following nine Commissions contain Boundary Line descriptions similar to that of 15th December, 1796.]

29TH AUGUST, 1807.

SIR JAMES HENRY CRAIG.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*†

21ST OCTOBER, 1811.

SIR GEORGE PREVOST.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*‡

28TH DECEMBER, 1814.

GORDON DRUMMOND, ESQUIRE.—*Administrator of the Government of the Provinces of Upper and Lower Canada.*§

25TH MARCH, 1816.

SIR JOHN COAPE SHERBROOKE.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*‖

8TH MAY, 1818.

CHARLES, DUKE OF RICHMOND.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*¶

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* Lib. E. (5), Imperial Commissions, Fol. 40.
† Ibid, Fol. 89. ‡ Ibid, Fol. 138. § Ibid, Fol. 157. ‖ Ibid, Fol. 189. ¶ Ibid, Fol. 228.

BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS, 1820–1838.

12TH APRIL, 1820.

GEORGE, EARL OF DALHOUSIE.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.**

24TH NOVEMBER, 1830.

MATTHEW, LORD AYLMER.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*†

24TH NOVEMBER, 1830.

MATTHEW, LORD AYLMER.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*‡

1ST JULY, 1835.

ARCHIBALD, EARL OF GOSFORD.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.*§

30TH MARCH, 1838.

JOHN GEORGE, EARL OF DURHAM.—*Captain-General and Governor-in-Chief of the Province of Lower Canada.*‖

Our said Province of Lower Canada; the said Province being bounded by the adjacent Province of Upper Canada and the boundary line between the said Provinces, commencing at a stone boundary on the north bank of the Lake St. Francis, at the Cove west of the Point au Beaudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north, thirty-four degrees west, to the westermost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running north, twenty-five degrees east, until it strikes the Ottawas River, to ascend the said river into the Lake Tomiscanning; and which said Province of Lower Canada is also bounded by a line drawn due north from the head of the said lake until it strikes the shore of Hudson's Bay.

[The two following Commissions contain Boundary Line descriptions similar to that of 30th March, 1838.]

13TH DECEMBER, 1838.

SIR JOHN COLBORNE.—*Captain-General and Governor-in-Chief of the Province of Lower Canada.*¶

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* Lib. E. (5), Imperial Commissions, Fol. 255.
† Ibid, Fol. 296.
‡ Lib. F. (6), Imperial Commissions, Fol. 47.
§ Ibid, Fol. 108. ‖ Ibid, Fol. 132. ¶ Ibid, Fol. 150.

BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS, 1839–1846.

6TH SEPTEMBER, 1839.

CHARLES POULETT THOMPSON, ESQUIRE.—*Captain-General and Governor-in-Chief of the Province of Lower Canada.**

29TH AUGUST, 1840.

CHARLES, BARON SYDENHAM, *Captain-General and Governor-in-Chief of the Province of Canada.*†

Our Province of Canada, comprising Upper Canada and Lower Canada, the former being bounded on the east by a line dividing it from Lower Canada, commencing at a stone boundary on the north bank of Lake St. Francis, at the Cove west of the Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north thirty-four degrees west to the western-most angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running north twenty-five degrees east, until it strikes the Ottawas River, to ascend the said river into the Lake Temiscanning, by a line drawn due north from the head of the said lake until it reaches the shore of Hudson's Bay; and being bounded on the south, beginning at the said stone boundary between Lancaster and Longueuil, by the Lake St. Francis, the River St. Lawrence, the Lake of the Thousand Islands, Lake Ontario, the River Niagara, which falls[leads] into Lake Erie, and along the middle of that lake; on the west by the Channel of Detroit, Lake St. Clair, up the River Saint Clair, Lake Huron, the west shore of Drummond Island, that of St. Joseph and Sugar Island, thence into Lake Superior.

[The two following Commissions contain Boundary Line descriptions similar to that of 29th August, 1840.]

24TH FEBRUARY, 1843.

SIR CHARLES THEOPHILUS METCALFE—*Captain-General and Governor-in-Chief of the Province of Canada.*‡

16th MARCH, 1846.

CHARLES MURRAY, EARL CATHCART—*Captain-General and Governor-in-Chief of the Province of Canada.*§

1ST OCTOBER, 1846.

JAMES, EARL OF ELGIN AND KINCARDINE,—*Captain-General and Governor-in-Chief of the Province of Canada.*

Our said Province of Canada, comprising Upper Canada and Lower Canada, the former being bounded on the east by the line dividing it from Lower Canada, commencing at a

* Lib. F. (6), Imperial Commissions, Fol. 171.
† Ibid, Fol. 188.
‡ Lib. A A. Commissions, Fol. 405.
§ Lib. A S. Commissions, &c., Fol. 141.
‖ Ibid, Fol. 207.

stone boundary on the north bank of the lake St. Francis, at the cove west of the Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longeuil, running along the said limit in the direction of north, 34 degrees west, to the westernmost angle of the said Seigneurie of New Longeuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running north 25 degrees east until it strikes the Ottawas River, to ascend the said river into the Lake Temiscaming, by a line drawn due north from the head of the said lake until it reaches the shore of Hudson's Bay ; and being bounded on the south, beginning at the said stone boundary between Lancaster and Longeuil, by the Lake St. Francis, the River St. Lawrence, the Lake of the Thousand Islands, Lake Ontario, the River Niagara, Lake Erie, and along the middle of that lake ; on the west, by the Channel of Detroit, Lake St. Clair, up the River St. Clair, Lake Huron, the west shore of Drummond Island, that of St. Joseph and Sugar Island, thence into Lake Superior. The said Province of Lower Canada being bounded by the adjacent Province of Upper Canada, and the boundary line between the said two Provinces, commencing at a stone boundary on the north bank of the Lake St. Francis, at the cove west of the Pointe au Baudet, in the limit between the township of Lancaster and the Seigneurie of New Longueil, running along the said limit in the direction of north 34 degrees west, to the westernmost angle of the said Seigneurie of New Longeuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running north 25 degrees east until it strike the Ottawas River, to ascend the said river into lake Temiscaming ; and which said Province of Lower Canada is also bounded by a line drawn due north from the head of the said lake until it strikes the shore of Hudson's Bay.

[The Commissions of Captains-General and Governors-in-Chief, etc., subsequent to that of the Earl of Elgin and Kincardine, 1st October, 1846, contain no Boundary Line descriptions.]

BOUNDARY LINE BETWEEN NEW YORK AND CANADA, 1768.*

[An order of the King in Council, confirming the Boundary line between the Provinces of New York and Quebec, fixed by Sir Henry Moore, the Governor of New York, and Brigadier-General Carleton, Lieutenant-Governor of Quebec, at a meeting held for that purpose ; and regulating the claims made by His Majesty's new Canadian subjects to lands situated on the south side of that line :]

At the Court of St. James, the 12th day of August, 1768 ; present the King's Most Excellent Majesty, Duke of Grafton, Duke of Rutland, Duke of Queensbury, Marquis of Granby, Earl of Litchfield, Earl of Hillsborough, Earl of Shelburne, Viscount Weymouth, Viscount Falmouth, Viscount Barrington, Viscount Villiers, Lord North, James Stewart McKenzie, Esq., Thomas Hartley, Esq , Sir Edward Hawke.

Whereas there was this day read at the Board a report from the Right Honourable the Lords of the Committee of Council for Plantation affairs, dated the ninth of this instant, upon considering a report made by the Lords Commissioners for Trade and Plantations, upon an extract of a letter from Sir Henry Moore, Governor of New York to the Earl of Shelburne, dated the 16th January last, relative to the settling of the boundary line between that Province and Quebec ; by which report it appears that it having been mutually agreed upon between Sir Henry Moore and the Commander-in-Chief of the Province of Quebec, at a meeting for that purpose appointed, that the line of division between these Provinces should be fixed at the 45th degree of north latitude, conformable to the limits laid down in His Majesty's proclamation of Quebec, 1763 ; and it having been ascertained and determined by proper observations where the said line would pass, it is therefore proposed that these proceedings above stated should be confirmed by His Majesty.

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* New York Council Minutes, XVI. London Documents, XLI., N. Y. Hist. Col., vol I., p. 550.

His Majesty, taking the said report into consideration, was pleased, with the advice of his Privy Council, to approve thereof, and doth hereby confirm the said proceedings above stated, and order that the said line of division be run out and continued as far as each Province respectively extends.

Provided that nothing herein contained shall extend to affect the properties of His Majesty's new subjects having possessions under proper titles on those parts of the lands on the south side of the line, the dominion of which was not disputed on the part of the Crown of Great Britain.

And provided also that this determination shall not operate wholly to deprive His Majesty's new subjects of such concessions on the south side of the said line, on which they may have made actual settlement and improvement, although the lands may have been disputed by Great Britain; but that such possessors shall be entitled to so much of the said concessions as shall be proportioned to their improvements, at the rate of fifty acres for every three acres of improvements, provided they take out grants for the same under the seal of the Province of New York, subject to the usual quit rents.

And provided, also, that the grant to no one person shall exceed twenty thousand acres.

And the governors or commanders-in-chief of His Majesty's said Provinces of New York and Quebec for the time being, and all others whom it may concern, are to take notice of His Majesty's pleasure hereby signified, and govern themselves accordingly.

STEPH. COTTRELL.

UNOFFICIAL DESCRIPTIONS.

The following is an extract from M. de Mofras'* "California": "The treaty recognizing the independence of the United States, signed by England in 1782, those of the 20th January and 30th September, 1783, as also the treaties of 1794 and 1795, between England and the United States, make no mention, in the article *Frontiers*, of the territories situated to the west of the Rocky Mountains. The latter only stipulates that the possessions of the Hudson Company shall not be accessible to citizens of the United States. Now, if the boundaries between New France and that Company were not clearly defined, even after the Treaty of Utrecht in 1713, and that of the cession of Canada in 1763, it is undeniable that either New France or the possessions of the Hudson Company extended as far as the Pacific Ocean, and that if the Spaniards first explored the north-western coast of America, the French first discovered the interior of the continent proceeding from the east, westwards. *All the old maps*, in this in accord with the most reliable authors, place the boundary of the French possessions in Canada only at the Southern Sea. L'Escarbot, who wrote in 1617, among others, states as follows:—'Thus our New France has for its limits, on the western side the lands as far as the sea called the Pacific, on this side the Tropic of Cancer; on the south the Islands of the Atlantic sea, in the direction of Cuba and the island of Hispaniola; on the east by the Northern sea, which bathes New France; and on the north that land called Unknown, towards the icy sea as far as the Arctic pole.' Lastly, in a map engraved in 1757, and attached to the Memorials of the Commissioners of the Kings of France and of England in America, it may be observed that New France extended as far as the Pacific Ocean, and it shows on the western coast of America, at the 46th degree, a large river running in a direction which corresponds exactly with that of the River Columbia. There is, moreover, nothing surprising in this specific description since, from 1711 to 1754, the Captains-General of New France sent out numerous expeditions to the western part of Canada; and after thirty years of uninterrupted explorations under the enlightened government of the Marquis de Beauharnois, an officer, M. de la Verendrye, acquired a thorough knowledge of the river and of the western sea, which were no other than the Pacific Ocean and the Columbia."

* M. Duflot de Mofras, a member of the French Legation at Mexico, whose book was published by the authority of the French Government.—The French of this extract appears in Falconer's *Mississippi*, p. 88.

UNOFFICIAL DESCRIPTIONS OF THE BOUNDARIES, 1609–1743.

1609.—L'Escarbot, an advocate of Paris, in his *Histoire de la Nouvelle France*, published in 1609, defines the boundaries of the French possessions in North America as extending "on the West to the Pacific Ocean, on the South to the Spanish West Indies, on the East to the North Atlantic, and on the North to the Frozen Sea."

1683-1693.—Baron La Hontan, whose *Memoirs of Travels in North America** embraced the decade between 1683 and 1693, says: "All the world knows that Canada reaches from the 39th to the 65th degree of North Latitude, that is from the South of Lake Erie to the North side of Hudson's Bay, and from the 284th to the 336th degree of longitude, viz., from the River Mississippi to Cape Race. . . . . *Were I to reckon in all the countries that lie in the north-west of Canada*, I should find it larger than Europe; but I confine myself to what is *discovered, known and owned—I mean to the countries in which they have forts, magazines, missionaries, and small settlements.*"

1684.—Mr. Parkman, in his "Discovery of the Great West," (p. 284) says:—"the boundaries [of Louisiana] are laid down on the great map of Franquelen,† made in 1684, and preserved in the Depôt des Cartes of the Marine. The line runs along the south shore of Lake Erie, and thence follows the heads of the streams flowing into Lake Michigan. It then runs north-west, and is lost in the vast unknown of the now British Territories. On the south it is drawn by the heads of the streams flowing into the Gulf, as far west as Mobile, after which it follows the shore of the Gulf to a little south of the Rio Grande, then runs west, north-west, and finally north along the range of the Rocky Mountains."

1708.—Captain Vetch (a British officer, and at one time Governor of Nova Scotia), writing in 1708, says: "As to the situation of the country possessed by the French in North America, and commonly all comprehended under the prevailing name of Canada, the seat and residence of their Governor-General being upon the place properly so called, its situation is about from 54° of north latitude to the eastward of Port Nelson, in the country of the Escimoes, extending itself all the way south-west to the mouth of the Mississippi River, which falls into the Bay of Appalachio, in the great Bay of Mexico, about the latitude of 18° 30', comprehending as it goes, their part of Newfoundland, the Island of St. Peter, Acadia or Nova Scotia, which borders on the British Province of New Hampshire, whose boundary to the eastward is the little River St. Croy (as the French allege").

1743.—Salmon's *Modern History*, licensed by the King, Dec. 13, 1743, says: "As to Canada, or New France, the French would scarce admit it had any bounds to the north on this side the pole, till they were limited on that side by an article in the Treaty of Utrecht, which assigns New Britain and Hudson's Bay, on the North of Canada to Great Britain. And Commissioners on both sides afterwards ascertained the limits,‡ by an imaginary line running from a cape or promontory of New Britain in the Atlantic Ocean, 58° 30' north latitude, and running from thence south-west, to the Lake of Misconsink, or Mistassin, and from thence further south-west indefinitely to the latitude of 49°, all the lands to the north of the said line being assigned to Great Britain, and all to the south of the said line, as far as the St. Lawrence, to the French.

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* Pinkerton's Collection, vol. xiii.

† This map is obviously founded on the *Proces Verbal*, by which La Salle took possession of the Valley of the Mississippi on behalf of the King of France.

‡ This is certainly a mistake, though it seems to have been generally believed. If the boundary had been agreed upon, the Hudson's Bay Company would not be ignorant of the fact; nor would the French Governor of Canada, some years later, have claimed the Hudson's Bay for the northern boundary of his province.

UNOFFICIAL DESCRIPTIONS OF THE BOUNDARIES, 1757, 1761.

"The eastern Boundary of New France or Canada, the French admit, are the British plantations of Nova Scotia, New England, &c.; the southern boundary, the line which divides New France from Louisiana; and to the westward, the French extend the country of New France as far as the Pacific Ocean; and the Asiatic continent of Asia shall be found hereafter to be contiguous to North America.

"..... However, as they (the French) have actually been possessed of some countries in Canada, between the River St. Lawrence and New Britain or Hudson's Bay, for about one hundred years, and those countries seem to be confirmed to them, as far as the English had a right to confirm them, I shall readily allow their title to that part of Canada. But as to the rest of Canada and Louisiana, they cannot have a right to any part of them, notwithstanding the posts they have erected on those rivers. The eastern side of the Mississippi is the property of those Indians, subject to Great Britain, and the western side of it belongs to the Indians who are under the dominion of the Spaniards; and we find the Spaniards asserting their title to it by demolishing the forts of Mons. de. Salle and Mons. d'Iberville, erected on the west side of the river, and have as much right to demolish the forts the French have erected on the west side of it."

And the error about the boundary line of Canada having been determined, is repeated: "And it was agreed (at Utrecht) that commissaires on the part of Great Britain and France should determine within a year the limits to be fixed between the said Bay of Hudson and the places appertaining to the French, which limits the subjects of Great Britain and France were not to pass over to each other by sea or land. And commissaires did afterwards settle the limits by an imaginary line, drawn from a promontory situate on the Atlantic Ocean, in 58° 30', and running from thence south-west to the Lake of Misconsink, or Mistassin, and from thence south-west, indefinitely, to the latitude of 49°; all the countries to the north being assigned to Great Britain, and all on the south, between that line and the River of St. Lawrence or Canada, to France."

1757.—Edmund Burke, in his *Account of the European Settlements in America*, says: "Certain British geographers agree with the French, whose maps they have for a long time servilely and shamefully copied."

Again: "With regard to our claims in the Ohio and Mississippi, the rashness of some writers in a matter which is a public concern, seems to me very blamable, some of them timidly or ignorantly drawing out our territories into a very inconvenient narrowness, whilst others have madly claimed all North America from sea to sea; some would give us very narrow bounds, whilst others would listen to no bounds at all." (1757.)

And again: "Posterity will, perhaps, think it unaccountable that, in a matter of such importance, we could have been so thoughtless as to have on our back such a nation as France, without determining, even sufficiently clear to settle our own demands, what part of the country was our own right, or what we determined to leave to the discretion of our neighbours; or that, wholly intent upon settling the sea coast, we have never cast an eye into the country, to discover the necessity of making a barrier against them, with a proper force, which formerly did not need to have been a very great one, nor to be maintained at any great expense."

1761.—"Canada, according to the English accounts, is bounded on the North by the Highlands which separates it from the country about Hudson's Bay, Labrador, or New Britain, and the country of the Eskimeaux, and the Christinaux; on the East, by the River St. Lawrence; and on the South, by the Ontawai River, the country of the Six Nations, and Louisiana; its limits towards the West, extending over countries and nations hitherto undiscovered,"*

* From "A description of New France; or the French Dominions in North America." By T. Jefferys, Geographer to His Majesty, 1761, p. 1.

MARQUIS DE DENONVILLE ON THE FRENCH LIMITS.

1763.—"The official map used by France in its negotiations with Great Britain incontestably proves that the country north and north-west of the Mississippi was ceded as the Province of Canada."—See Falconer's *Mississippi*, p. 88; also Mofras' *Explorations in Oregon and California*; French's *Historical Collections of Louisiana*, Part III., note pp. 50-51.

1795.—The Duke de la Rouchefoucault, in his *Travels in Canada*,* under date of June the 22nd, 1795, says

"The British Possessions in North America are divided into Upper and Lower Canada, New Brunswick, and Nova Scotia. Only the first two of these Provinces are governed by the new constitution. The others are governed as in former times. The boundary between Upper and Lower Canada lies about one hundred miles above Montreal.

The extent of Upper Canada far exceeds that of Lower Canada, as, the western boundary being undefined, it comprises all the known and unknown countries extending as far as the Pacific or Great Sea, and is bounded also northwards by unknown countries.

The population of Lower Canada is estimated at about one hundred and forty thousand souls, and that of Upper Canada at thirty thousand, but this estimate seems rather high."

VI.

Documents respecting Early French Settlements and Explorations, 1603–1763.

MEMOIR OF THE MARQUIS DE DENONVILLE ON THE FRENCH LIMITS IN NORTH AMERICA.†

Memorial explanatory of the right the French have to the property of the countries of North America, especially the south part of Acadia, from Plantagouët to the River Kinibeky, of the countries of the Iroquois and Hudson's Bay, with the posts occupied there by them and by the English, sent to the Court for its information, by the Marquis de Denonville, the King's Governor and Lieutenant-General in New France. Done at Versailles, the 8th March of the present year, 1688.

LOUIS.
COLBERT.

(Extracts.)

Sieur de Champlain has treated the question very fully in his book entitled, *Les Voyages de la Nouvelle France occidentale, dite Canada, par le Sr. de Champlain. A Paris, chez Pierre Le Mur, dans la grande salle du Palais, 1632.* At p. 200, towards the end of that work, Sieur de Champlain makes a sort of dissertation which clearly decides the question. He gives it this title:—"Abstract of the discoveries of New France, as well what we, as of what the English have discovered, from the Virginias to Davis Strait, as of what we and they can pretend to, according to the report of the historians who have written thereupon, as I report below, which will enable every one to judge of the whole."

* U. C. MSS, 1783-95, p. 222.

† Paris Documents, N. Y. Hist. Col., Vol. IX. p. 377.

If a desire exist, then, to treat this matter thoroughly, and to be perfectly informed of the right of the French and of the English, it is necessary only to read that abstract of Sieur de Champlain; everything will be found very well examined, and it will appear that the French have taken possession of all the countries from Florida to Cape Breton, prior to any other Christian Prince. For, to quote only a few words of what that abstract contains, it will be seen there that:

In 1504, the Bretons and the Normands first discovered the Great Bank and Newfoundland, as can be seen in the History of Wiflet Sieur de Magin, printed at Douay.

In 1823, Jean Varason, in virtue of a commission from Francis I., took possession of the territory beginning at the 33rd degree of latitude, as far as 47th.

In 1535, Gibault and Laudonnière having gone to Florida by authority of King Charles IX. to inhabit and cultivate that country, founded Carolina there in the 35th and 36th degrees.

But particularly in 1603 and following years, Sieur de Champlain being in Canada, was in command of that colony, and in 1609, went with the other Frenchmen into Lake Champlain, of which he took possession in the name of King Henry IV., and called it after himself; he relates in his book of voyages, that after he had discovered Lake Champlain, he was as far as the country of the Iroquois. In the years 1611 and 1612 he ascended the Grand River as far as Lake Huron, called the fresh Sea; he went thence to the Petun Nation, next to the Neutral Nation, and to the Macoutins, who were then residing near the place called Sakinau; from that he went to the Algonquin and Huron tribes, at war against the Iroquois. He passed by places he has himself described in his book, which are no other than Detroit and Lake Erie.

And as it is an established custom and right recognized among all Christian nations that the first discoverers of an unknown country not inhabited by Europeans, who plant the arms of their prince there, acquire the property of that country for that prince in whose name they have taken possession of it: On that principle, and no author being found who states that the English had taken possession of the countries of Canada or discovered them, unless subsequently to the French, they having come to the countries of Canada, Virginia and Florida only in 1594, whilst the French took possession of them in 1504, 1523 and 1564, which fact the English cannot question, inasmuch as Jacques Cartier visited in 1534 all the coasts of that country; his Relations and those of Alphonse Xaintongois and Varason attest it, and are inserted at length in the collections of divers accounts which Purchas and Hackluit, Englishmen, have published in London in their language. And it is notorious that Sieur Champlain did for many years prosecute the fur trade at the place where Boston now stands, and further down towards the north and east, along the same coast, during more than ten years, before any English or Dutch inhabited that quarter.

The foundation of the English pretences is this:—About the year 1594, some Englishmen being on the coast of Florida, arrived at a place called Mocasa, and which they since named Virginia. James, King of England, granted them for their encouragement great privileges, among others to extend their right from the 33rd degree to the 45th or 46th. The Royal Charter was issued on the 10th of April, 1607, in these words:—"Protestatem facimus occupandi possidendique tractus omnes ad gradum usque quadragesimum quintum ita si a christianorum principe nulli teneantur. This is all the foundation the English have; it is manifestly null, because it is stated in the above letters patent of King James:—We grant them all the countries up to the 45th degree, not possessed by any Christian Prince. Now, it is indubitable that at the date of the aforesaid grant, the King of France was in possession of at least up to the 40th degree of latitude, the place where the Dutch since settled.

And in 1603, Commander de Chastes was Lieutenant-General for the Most Christian King in New France from the 40th to the 52nd degree, and it is even certain, as already stated, that, as early as the year 1523, Jean Varason took possession of all the countries from the 33rd to the 47th degree. * * * *

In 1656, M. DeLauzon, the King's Governor and Lieutenant-General in New France, sent at the solicitation of the Iroquois themselves, into their country, to a place called

Ganentaa, as many as sixty Frenchmen, including a garrison of twelve soldiers under the command of Sieur Dupuis, who caused to be constructed at that place a royal fort whither were conveyed four pieces of bronze cannon, which have remained there, and will be found again by the French who were there at the time, and are still living. This is proved by said Sieur Dupuis' commission of the 15th May, 1656, (App. D.) by the discharges (congés) granted by said Sieur Dupuis to some of the soldiers in the garrison of Ganentaa,on the 1st and 8th of September, 1657; by the account of the said soldiers; by an Order of the Council of the last of April, 1658, and by another of said Council of 19th May, 1656,for the payment of the repair (réfraction) of the arms of said soldiers, the whole being on the same sheet, signed Penvecet (App. E.) In which country the said sixty Frenchmen cleared and planted lands with French grain and other légumes, built many large houses) statement of the payments and wages made to said Sieur Dupuis and soldiers by the commissary of stores, from 26th November, 1657, also signed Penvecet—(App. F), and lived there peaceably and without any opposition on the part of those who were then in possession of Manat (Manhattan) and Orange [Albany], who, far from being masters of the country of the Iroquois, purchased from them some portion of their lands when they wished for any, as they do still at present. And what is worthy of remark is that the Iroquois themselves came in 1655 on an embassy to Quebec, to request of said Sieur de Lauzon those sixty soldiers aforesaid, and conducted them, the following year, to the said place of Ganentaa, where they located, established and put them in possession (inquest made by the Lieutenant-Governor of Quebec, the 29th and 30th October,1658—App. G.), and where they remained until the Iroquois, having committed some acts of hostility in the direction of Montreal, the commander of said fort thought proper to retire with his garrison, in order to protect the sixty men aforesaid from the wicked designs the Iroquois had concocted against them.

And, in order to show that the country of the Iroquois was at the disposition of the Governor of Quebec to make grants thereof in the same manner as of the other lands of his Government, it is worthy of remark that, at the time Sieur Dupuis was sent with his soldiers on the part of the king, to construct the aforesaid Fort of Ganentaa and garrison it, M. de Lauzon made a grant in due form of a part of said lands to the Jesuit missionary fathers, who were of the sixty Frenchmen aforesaid (the deed is dated the 12th of April, 1656.—App. H.) * * * *

Since that time our Frenchmen have always carried on trade with the Iroquois; M. Courcelles having gone up with a number of French to Lake Ontario, to the place named Catarakui (Kingston) where the said Iroquois being, they were (he was) received by the latter as their Father; and in the year 1673, Count de Frontenac having gone to Kataraqui, likewise accompanied by a number of Frenchmen,had a royal fort to be erected there, where the King has always kept a garrison and a Governor, whom Sieur de Frontenac caused to build at the said Katarakui divers barks which have always navigated and traded with the Senecas and other Iroquois as far as Niagara, where Sieur de la Salle (as is proved by two writings drawn up by Sieur de la Salle for the benefit of Moyse Hilser, dated at Fort Crêvecœur, the 1st and 2nd March, 1680, which affords evidence of said Sieur de la Salle's residence and trade at Niagara in 1676—App. N.), had built in 1676, a store, a forge, and other buildings for the greater accommodation of the trade with the said Senecas and other Iroquois, who used to come to us in the French settlements at Kataraqui and Niagara (see the Procès Verbal, of the new entry into possession of said place of Niagara by the Marquis de Denonville, last July, 1687, on the return march of the army commanded by him against the Senecas,signed,by collation,Penvecet—App.O), and this trade has continued,and our Frenchmen have always had peaceable possession of the Iroquois country, going and coming to their villages, and many residing with the missionaries there, until the war with the Iroquois having broke out, the Frenchmen, missionaries and others were obliged to withdraw(see also the last two depositions in said inquest theretofore lettered G, and by the act of the new entry into possession of the country of the Senecas, dated 19th July, 1687—App. 21), whereupon Colonel Dongan, Governor of New York, took occasion, in 1684, to send to the Iroquois' village to set up the arms of the King of England therein and to take possession thereof, offering them

powder and other munitions of war, to induce them to admit the necessity that existed of giving themselves to him. But this entry into possession being illegitimate and posterior, by so many years, to that of the French, cannot convey any right to the English over those lands, which already belong to the French by so many anterior titles, as has been previously remarked, and by so many lawful and incontestable rights.

The futility of Sieur Dongan's claim to the property of the country of the Iroquois, and that the latter are within his government (that is proved by the said pieces signed by Collation Penvecet, and lettered P.), is manifest, according to what Sieur de Champlain hath done, and what has been heretofore stated, and among other things, by a letter written by the Council of Quebec, the 20th of June, 1651, to the Commissioners of New England, to the effect that the Iroquois had no connection with nor dependence on the English; which is sustained by the commission to the Deputies therein named, from M. d' Aillebout then Governor of New France. (This is again confirmed by the articles of peace made with M. de Tracy and the Iroquois in 1665, lettered already L., and by the Act and Declaration recently made by them at Montreal, the 15th June, 1688—App. L.) For, as regard's Colonel Dongan's assertions that the country of the Iroquois belongs to his Government, because, according to him, it is south of his jurisdiction, we answer, in the first place, that it is not south, but in fact west-north-west of Manatte. Secondly, though it were south, that cannot derogate from the rights of the French, who had taken possession of it even before the Dutch or English had set foot at Manatte, and who, since they are there, never opposed it, until within three or four years, which cannot confer any right on them.

To come now to the possessions and establishments (these will be proved by the Acts which M. Talon has in Paris), which have been acquired in ascending the St. Lawrence, besides the post of Niagara:—Sieur de la Salle, with thirty Frenchmen, of which number was M. Jollier, priest, Superior of the Seminary of Montreal, made the tour of Lake Erie, and took possession of the circumjacent lands, after Sieur Jolliet, with Father Marquet, Jesuit, had long before done the same thing, in order to renew the entry into possession of Sieur de Champlain in 1612.

And after that, in 1676 (proved by a writing of said Sieur de la Salle, for the benefit of Moyse Hillers, in March, 1680, App. N.; by the *procès verbal* of the M. de Denonville, of last July, 1687, App. O.; and by the inquisition of the said Lieutenant-General of Quebec, also App., *supra*, G) said Sieur de la Salle caused a ship and a large house to be built above the Falls of Niagara, within three or four leagues of Lake Erie, where are still visible the stocks whereon was built the said vessel, which having been completed in 1677, about the feast of St. John the Baptist, was conducted, freighted with merchandize, into the said Lake Erie, and thence passed through the Detroit, where Fort St. Joseph or Du Luth is built (where Sieur de la Durantaye renewed the entry into possession, which is dated 7th June, 1687, App. R.) and navigated lake Huron as far as Missilimakinac, and thence through that of the Illinois, or Missagans, beyond the Huron islands. Which said bark was constructed for the greater convenience of trading with the French, who inhabited the said place of Missilimakinac for more than forty years, some French established at the Bay des Puans, with those at Fort St. Louis, established by Sieur de la Salle, who had discovered the great river of Mississippi, and descended it as far as the South Sea. For the continuation of which trade he caused a fort and buildings to be erected, and a bark to be begun at a place called Crêvecœur, in order to proceed as far as the said South Sea, two-thirds of which bark only were built, the said Sieur de la Salle having afterwards employed canoes for his trade in said countries, as he had already done for several years in the river Oyo, Ouabache, and others in the surrounding neighbourhood, which flow into said river Missisippi, whereof possession was taken by him in the King's name, as appears by the relations made thereof. The countries and rivers of Oyo, or Abache, and circumjacent territory were inhabited by our Indians, the Chaouanous, Miamis, and Illinois.

It is to be remarked, that as early as the year 1633, a good many Frenchmen having gone up to the Hurons with the Jesuit Fathers and missionaries, settled there; and ten years afterwards the King sent thirty soldiers thither, who remained there until the de-

struction of all the Hurons by the Iroquois obliged the French to retire for a time; but they returned thither shortly afterwards in a much more considerable number, and spread themselves throughout those vast countries. (It is proved by an *Arrêt* of the Council of State of the 5th March, 1648, that his Majesty had authorized the sending to the Huron country a Company of thirty men, commanded by a captain, for the purpose of escorting the Hurons and other Indian tribes, and to accompany the missionaries, who were no longer able to continue their missions without aid.)

Thirdly, what is more authentic in this matter, is the entry into possession of all those countries, made by M. Talon, Intendant of New France, who, in 1671, sent Sieur de St. Lusson, his sub-delegate, into the country of the Outauas, who invited the deputies of all the tribes within a circumference of more than a hundred leagues, to meet at Ste. Mary of the Sault. On the 4th of June of the same year fourteen tribes, by their ambassadors, repaired thither, and in their presence and that of a number of Frenchmen, Sieur de St. Lusson erected there a post, to which he affixed the King's arms, and declared to all those people that he had convoked them in order to receive them into the King's pretection, and in his name to take possesion of all their lands, so that henceforth ours and theirs should be but one; which all those tribes very readily accepted. The commission of said sub-delegates contained these very words, viz.: That he was sent to take possession of the countries lying between the east and west of Montreal to the South Sea, as much and as far as was in his power. This entry into possession was made with all those formalities, as is to be seen in the Relation of 1671, and more expressly in the record of the entry into possession, drawn up by the said sub-delegate. (See hereupon, M. Talon, who must have the *procès verbal* of the entry into possession by the said Sieur de St. Loison.)

The next year, 1672, the River Mississippi, and, at the same time, the Illinois, Chaouanous, and other tribes unknown to Europeans, were discovered by Sieur Jolliet and the Jesuit Father Marquet, who were as far as the thirty-second degree, and set up the King's arms, taking possesion in his name of all those recently discovered nations.

And some years after, Sieur de la Salle extended the same discovery farther, even unto the sea, taking everywhere possession by the King's arms, which he erected there.

All the foregoing demonstrates sufficiently the incontestable right the French have to the Iroquois lands, to those of the Outaoüas, and all the other tribes inhabiting the countries aforementioned, and others whereof possession has also been taken in his Majesty's name, along the River St. Lawrence, the lakes it forms, and the rivers discharging therein, which constitute the continuation of the waters of said River St. Lawrence (the River St. Lawrence is proved by the concession of M. de Lauzon of the 15th May, 1656, to Sieur Dupuy, already mentioned under App. D), from the gulf always following the same point of the compass, and extends beyond Lake Superior, proceeding from the Lake des Alêpinigons [Nepigon], without any interruption of the navigation. Our barks have always sailed from lake to lake along said river, the one making the voyage from the place called La Galette, to Niagara, on Lake Ontario or Frontenac, and the others from above the Falls of Niagara unto the head of Lake Missigamè, or Illinois, passing through that of Erie; then following said River St. Lawrence by the Detroit and Fort St Joseph, or Du Luth, and thence into Lake Huron, or the Fresh Sea, which communicates (repond) with the said Lake of the Illinois, as well as the said Lakes Superior and Des Alêpinigons, where the French actually are trading and have divers establishments; and it demonstrates their possession of the great River Mississippi, which they have discovered as far as the South Sea, on which river also they have divers establishments, as well as on that of Oyo, Ouabache, &c., which flow into the said River Mississippi, and of the countries and lands in the vicinity of said rivers, where they actually carried on trade, which countries are easily recognized on the general maps of North America. * *

TAKING POSSESSION OF THE COUNTRIES OF THE OUTAOÜAS AND OF THE INDIAN NATIONS OF THE NORTH AND WEST, AT SAULT STE. MARIE, 1671.

M. Perrot's Account.*

M. Intendant Talon asked me if I would consent to go up to the country of the Outaoüas, as interpreter, and to lead there a sub-delegate that he would appoint, in order to take possession of the same. I told him that I was always ready to obey him, and that my services were at his disposal. Therefore I left with M. de Saint Lusson, his sub-delegate, and we reached Montreal, where we remained till the beginning of October (1670). We were compelled, in the course of our journey, to winter amongst the Amikouets; the Saulteurs spent the winter also in the same localities. . . .

They were notified to go back to their homes as early in the Spring as possible, in order to listen to what M. Saint Lusson had to say to them and to all the tribes in the name of the King. I despatched Indians also to inform the Northern tribes that they should not fail to be in their country. I dragged and removed afterwards a canoe on the other side of the island, where I landed. . . . Thence we left for *La Baye des Renards et Miamis*, which is not very far, and I made all the chiefs come to the Sault Ste. Marie, where we intended to erect the posts and affix the arms of France, in order to take possession of the country of the Outaoüas. That event took place in the year 1669 [1671].

I went, on the fifth of the month of May, to the Sault Ste. Marie, accompanied by the principal Chiefs of the Pouteöuatamis, Sakis, Puans, and Malhommis (Mal ammines or Folles-Avoines); those of the Foxes (Outagamis), Mascouetechs (Mascoutins,) Kikabous and Miamis did not go beyond *La Baye*. . . . I found at my arrival, not only the Chiefs of the North, but also all the Kiristinons, Monsonis, and the Indians of entire neighbouring villages; the Chiefs of the Nepissings were there also, as well as the Amikouets and all the Saulteurs who inhabited the locality. The post was set up in their presence, and the arms of France were affixed thereto with the assent of all the tribes, who not being able to write, gave us presents instead of their signatures; they declared thus that they were putting themselves under the protection and Dominion of the King. *Procès verbaux* were drawn on the subject of this taking of possession, upon which I signed as interpreter, with Sr. de Saint Lusson as sub-delegate; the Revd. Fathers Missionaries Dablon, Allouez, Dreuillette and Marquet [Marquette] † signed afterwards, and, below, the Frenchmen who were on the spot, engaged in the fur trade. The proceedings were in conformity with the instructions given by M. Talon. All those tribes went back afterwards to their homes, and lived during many years without any trouble on either side.

I have omitted to say that the Hurons and the Outaoüas did not arive until after the taking of possession; because they had fled from Chagouamikon after having eaten some Sioux. They were informed of what had taken place, and they assented, like all the others, to all that had been decided or concluded.

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* From *Memoire sur les Mœurs, Coutumes, et Religion des Sauvages de l'Amerique Septentrionale*, par Nicholas Perrot, pp. 126-8. [Nicholas Perrot, a man of good family, was born in Canada. He was accustomed from childhood to the excitement and incidents of border life. Being for a time in the service of the Jesuits, he became familiar with the most of the Indian tribes upon the borders of the great lakes, and with their customs and language. These held him in extraordinary esteem, and accorded him the same rights and prerogatives as their native chiefs. He appears to have established the first trading post on the Upper Mississippi. From 1665 to 1701 his name was a familiar one to both French and natives, and he used his influence with the latter largely in the interests of Canada, whose successive Governors courted his services. His family resided at Bècancourt (near Three Rivers), where he himself died during the first year of the 18th century. These particulars are gathered from the preface and notes to his *Memoire* and from Neill's *Hist. of Minnesota*.]

† This is a mistake; it should be Father André, as appears by Margry's article which follows, and also by a note of the French editor of Perrot's book. Father Marquette, the latter states, was with the Hurons and Outaoüas who arrived too late to take part in the ceremony. Vide Perrot's *Memoire*, p. 295, note by Ed.

TAKING POSSESSION OF THE COUNTRY OF THE UPPER MISSISSIPPI, 1680.

FROM THE ARTICLE ON LOUIS JOLIET, BY PIERRE MARGRY.*

Joliet witnessed on the 16th July, 1671, the act by which Simon Francois d'Aumont, Sieur de Saint Lusson took possession at the Sault Ste. Marie of all the adjacent country. Saint Lusson had been ordered to go to this country in order to try to discover mines of any kind, especially those of copper. Talon, besides, had instructed Saint Lusson, wherever he would pass, to take possession or the country inhabited, and to plant there the cross of Christ and the arms of France.....

Saint Lusson, on his arrival at Sault Ste. Marie, a Jesuit misson, met the Achiponai, the Malomechs, and the Nougets, who inhabited the vicinity. There he had collected as many of the surrounding tribes as he could; they were fourteen in number, as follows: besides the nations of Lake Superiour, the Banabeouik, the Makousitek, the Poulteatomis, the Oumalhominis, the Sassassonacottons, which inhabited the Baie des Puants.

These Indians promised to inform the Illinois, Maskoutins, Outagomis, and other tribes of that taking of possessior; whilst the Christinaux, the Assenipoels, the Oumonsomi, the Outawas, Bouscottous, the Niscaks, and Masquikonkioeks, all inhabiting the Northern lands, and present at the Sault, were instructed to announce the same to the tribes with which they were in relations, and that were supposed to reside in great numbers on the shores of the sea.

Saint Lusson having done, read his commission by Nicholas Perrot, King's interpreter, in the presence of these indians, the Jesuit Fathers, and a few Frenchmen, erected a cross as a proof of his desire that Christianity should be fruitful in these localities. The arms of France had been affixed near this cross on a cedar tree.

Saint Lusson had said three times, and with a loud voice: That in the name of the Most High, Mighty and Most Powerful King Louis, fourteenth of that name, Most Christian King of France and Navarre, he took possession of the place of Sainte Marie du Sault, as well as of Lake Huron, Lake Superior, Ecaontoton Island, and of all the other countries, rivers, lakes, and streams continguous and adjacent to those, already discovered or to be discovered, limited on one side by the seas of the North and West, and on the other by the sea of the South, in all their length. Every time that Saint Lusson uttered these words he concluded them, raising a piece of turf, with a shout of *Vive le Roi*, which was repeated by the whole assembly of French and Indians. He declared afterwards to all those present, that in the future they would be subjects of the King, that they would be governed by his laws, and that no other power could occupy this country without incurring his displeasure and the effect of his arms.

Joliet signed, on this occasion, after Nicholas Perrot, the act that was drawn of this taking of possession. The other Frenchmen were, the Rev. Father Claude d'Ablon, Superior of the Missions of those countries; the Rev. Father Gabriel Dreuillettes, the Rev. Father Claude Allouez, the Rev. Father André, Jacques Maugrass, inhabitant of Three Rivers; Pierre Moreau, Sieur de la Taupine, soldier of the garrison of the Castle of Quebec; Denis Masse, Thanevis de Chavigny, Sieur de la Chevirtière, Jacques Lagillier, Jean Mayseré, Pierre Porteret, Robert Duprat, Vital Oriol, Gabriel Bonhomme, &c.

RECORD OF THE TAKING POSSESSION OF THE COUNTRY OF THE UPPER MISSISSIPPI, 1680.†

CANADA, BAY DES PUANTS.

Record of the taking possession, in His Majesty's name, of the Bay des Puants (Green Bay), of the lake and rivers of the Outagamis (Fox River), and Maskoutins (Lake Winnebago), of the River Ouiskonche (Wisconsin), and that of the Mississippi, the country of the Nadouesioux (Sioux), the rivers Ste. Croix and St. Peter, and other places more remote, 8th May, 1689. (*sic.*)

* A writer of note, and custodian of the Archives of the Department of Marine and the Colonies at Paris. See note to Les Varennes de Verendrye, *post.*

† *Historical Collections of Louisiana and Florida.* By B. F. French (second series), p. 122.

Nicholas Perrot, commanding for the King at the post of the Nadouesioux, commissioned by the Marquis de Denonville, Governor and Lieutenant-General of all New France, to manage the interest of commerce among all the Indian tribes and peoples of the Bay des Puants, Nadouesioux, Mascoutins, and other western nations of the Upper Mississippi, and to take possession in the King's name, of all the places where he has hitherto been, and whither he will go.

We, this day, the eighth of May, one thousand six hundred and eighty, (*sic*) do, in presence of the Reverend Father Marest, of the Society of Jesus, missionary among the Nadouesioux; of Mons. de Borie-Guillot, commanding the French in the neighbourhood of Ouiskonche, on the Mississippi; Augustine Legardeur, Esquire, Sieur de Caumont, and of Messieurs Le Sueur, Herbert, Lemire, and Blein, declare to all to whom it may concern, that, having come from the Bay des Paunts, and to the Lake of the Ouiskonches, and to the River Mississippi, we did transport ourselves to the country of the Nadouesioux, on the border of the River Sainte Croix, and at the mouth of the River Saint Peter, on the bank of which were the Mantantans, and farther up into the interior to the north-east of the Mississippi as far as the Menchokatoux, with whom dwell the majority of the Songestikons and other Nadouesioux, who are to the north-east of the Mississippi, to take possession for, and in the name of the King, of the countries and rivers inhabited by the said tribes, and of which they are proprietors. The present Act, done in our presence, signed with our hand, and subscribed by the Reverend Father Marest, Messrs. de Borie-Guillot and Caumont, and the Sieurs Le Sueur, Herbert, Lemire, and Blein.

Done at the Post St. Anthony, the day and year aforesaid. These presents are in duplicate. Signed to the original: Joseph Jean Marest, of the Society of Jesus; N. Perrot, Legardeur de Caumont, Le Sueur, Jean Hebert, Joseph Lemire, and F. Blein.

FRENCH CORRESPONDENCE, 1697—1747.

The Count de Frontenac to the Minister.

Quebec, the 15th October, 1697.

We have caused the King's Ordinance to be published, and have begun to carry it into execution with the utmost severity, and orders are given, generally, to recall generally, next year, not only all the *voyageurs*, but also all the soldiers who are at the posts with the commandants, without excepting the Sr. de Tonty, invalided captain, to whom I had given orders, in case the Sr. de la Mothe Cadillac should descend with the convoy of Frenchmen, and savages that we were expecting, to re-ascend with these last and five Frenchmen, and with the utmost promptitude to go to Missilimackinac, and there to take command in the absence of the said Sr. de la Mothe.

Posts in The North-West.

Conseil de Marine, 7th December, 1717.*

Messieurs de Vaudreuil and Begon having written last year that the discovery of the Western Sea would be advantageous to the colony, it was approved that, to reach it, M. de Vaudreuil should establish three posts, which he had proposed, and he was instructed at the same time to have the same established without any expense accruing to the King—as the person establishing them would be remunerated by trade—and to send a detailed schedule of the cost of continuing the discovery. In reply it is stated that M.

* Library of Parliament MSS., 3rd series, vol. 6, pp. 529, 530.

de Vaudreuil in the month of July last caused the Sieur de la Noüe, Lieutenant to set out with eight cannon to carry out this scheme of discovery. He gave him instructions to establish the first post at the River Kamanistiquoya, to the north of Lake Superior, after which he is to go to Takamanigen [Takamamiononio],* near the Lake of the Christineaux, to establish a second, and to acquire through the Indians the information necessary for the establishment of the third at the Lake of the Assinipoëlles [Winnipeg].

This Journey costs the King nothing, because those engaged in it will be remunerated for their outlay by the trade which they will engage in; but to follow up the discovery it is absolutely necessary that his Majesty should bear the expense, because the persons employed in it will have to give up all idea of trade.

They estimate that 50 good *voyageurs* will be required; of these, 24 will occupy the three posts, and the 26 others will be engaged in making the discovery from the Lake of Assenipoelles to the Western Sea. They calculate the wages of these men at 300 francs a year each, and estimate that the expenditure as well for provisions and canoes, as for goods for presents, will amount to f.29,023 10

There will have to be added, for supplementary outfit, 600 francs for each of the 6 officers employed in the discovery 3,600 00

Total 32,623 10

As it will take about two years to make this journey, they estimate that the expenditure may amount to fifty thousand francs.

RECAPITULATION OF THE LICENSES (CONGES) SIGNED BY VAUDREUIL AND BEGON, FORWARDED IN 1717.

(Extract.)

Quebec, 9th Nov., 1718.†

	LICENSES WHICH HAVE BEEN MADE USE OF IN 1717.	IN 1718.	UNUSED LICENSES.	TOTAL LICENSES.
For Missilimakina.....	2	4	1	7
For La Baie	0	9	0	9
For the Ouyatanons ...	0	3	1	4
For River St. Joseph...	0	6	0	6
For the Illinois.....	0	3	1	4
	2	25	3	30

M. BEGON TO THE MINISTER.

Quebec, December 11, 1718.

Le Sieur de Vaudreuil has been informed by the letters of Sieur de la Noüe, that having arrived very late at Kaministiquoya, where he found but few Indians, he was unable to send any of the canoes to Kamanionen,* and that he will send them after the return of those which he sent this spring to Michilmakinac, in search of provisions; he adds that the Indians of his post were well satisfied with this establishment, and promised to bring there all those who have been accustomed to trade at Hudson's Bay; that he wrote through a Frenchman, who was at Point Chagouamigon, to a chief of the Scioux Nation and he hopes to succeed in making peace between this nation and that of the

* Takamamiouen—Rainy Lake.

† Archives de Paris, 3rd series, Vol. VI., p. 943.

Christineaux; the accomplishment of which would put him in a condition to pursue with less risk the execution of his orders for the discovery of the Western Ocean.

In the margin is written: This first article approved.

MM. DE VAUDREUIL AND BEGON TO THE CONSEIL DE MARINE.

Quebec, 14th October, 1719.*

The Sieur de Vaudreuil has not received, in the present year, any letter from the Sieur de la Noue; he has only learnt, by way of Chagoamion, which is to the south of the bottom of Lake Superior; and where since last year, the Sieur de St. Pierre commands, that the Sieur Pachot had passed through there on his way to the country of the Scioux, where he had been sent by the Sieur de la Noue, with respect to the peace that he was trying to bring about between that nation and that of the Christineaux; but that the Sieur Pachot not having returned to Chagoamion at the date when the last canoes left, no information as to the result of his voyage had been there obtained. The silence of the Sieur de la Noue creates the belief that he has preferred to await the return of the Sieur Pachot, before giving account to the Sieur de Vaudreuil of what he has done in execution of the orders which he had given him, and that he was not able to do so at the date of the Sieur Pachot's arrival at Gamanistigoya, because the season was then too far advanced.

The Sieur de Vaudreuil believes that the absence of the Sieur Pachot will have prevented the Sieur de la Noue from sending this year to Takamamionen, but that that officer will have found means to attract to his post the savages who were in the habit of trading at Hudson's Bay.

THE BOUNDARIES TO BE SETTLED—FROM MM. DE VAUDREUIL TO BEGON.

26th October, 1719.

They [the Canadians] have learnt with joy that his Majesty has given orders to his ambassador in England to propose and to name commissioners on both sides, to settle the limits of New France. This appears to be very necessary to be done, as the English exercise influences upon the French and the Indians in time of peace, to establish themselves on the River Naurantsonak, where they number 500 men; showing a design to maintain themselves there in case of war, and even to drive away the Indians from this mission.

M. DE BEAUHARNOIS TO THE MINISTER.†

27th September, 1727.

Whilst at Montreal, I have not missed writing to the Commandants of Detroit, the Miamis and Ouiatanons, who are closer to the River Ouabache than to that of Detroit, to obtain information as to the establishments which the English intend founding on that river. On my departure from Montreal, I left orders to send a man there for that purpose. I shall have the honour of reporting to you as to what I shall learn from him on his return. I have been informed that last summer, the English had sent to trade in the environs of the said river; that they had erected two cabins which served them for store-houses, and that they had demolished them when about to return to Orange. On this information I have sent orders not to tolerate them there in future.

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* Archives de Paris, 3rd Series, Vol. VII., p. 646.

† Ibid Vol. X., pp. 172—4.

FRENCH CORRESPONDENCE, 1697–1747.

EXTRACT FROM AN ABSTRACT, &c., OF OCCURRENCES IN THE COLONY, AND OF THE VARIOUS INTELLIGENCE RECEIVED SINCE THE DEPARTURE OF THE SHIPS IN NOVEMBER, 1746.*

August 13, 1747.—Captain de Noyelle and Sieur de la Verendrye arrive from Michilimackinac, and deliver to the General a letter dated at that post, on the 23rd July, and addressed to him by Sieur de Noyelle, junr., commanding, in the absence of M. de La Corne, senior, and by other officers, who arrived from other upper posts, and happened to be then at Michilimackinac. The General is informed by this letter of the confusion that prevails among all the nations of that post and neighborhood, Outaouais, Sauteurs, and Mississagues. The Outaouas of Saguinam have killed three Frenchmen who were coming from Detroit to Michilimackinac. Two French canoes which had gone *en prime* from Montreal to the West Sea, *La Mer de l'Ouest*, have been attacked by the Sauteurs, about the place called La Cloche,† near Lake Michigan ; one containing eight men has been wholly defeated ; the second, by striking out into the lake and throwing its cargo overboard, escaped to Michilimakinac. Another Frenchman has been stabbed by the Sauteurs at a place called La Grosse Isle,‡ only two leagues distant from the post. These Indians have offered divers insults and threats at the fort and in the vicinity; they killed all the horses and other cattle that they could not catch ; they designed to surprise the fort, but were discovered and obliged to leave, by ringing the bell and beating the tatoo as usual, and even by making some defensive demonstrations. There had been greater reason for presuming bad intentions on the part of the Indians, inasmuch as a crowd of young men had armed themselves with knives, in a council which had been held at their request on the 8rd July, and which terminated in recrimination. The Indians have not since been permitted to enter the fort, except under certain restrictions. Some Frenchmen from Point Chagouamigon, and M. de Noyelle, senr., on his usual return from *La Mer de l'Ouest*, arrived a few days after. Certain intelligence has also been received there from Detroit. This reinforcement will somewhat tranquilize the fort, which contained before this arrival only twenty-eight men. An Outaoua Indian, named Nequiouamin, arrived on the 2nd July at the post, to communicate in secret to the Commandant and the Missionary, that the Iroquois, the Huron, and the Flathead, had come to an understanding with the English to destroy the French, and drive them to the other side of the Sea ; that the Outaouac of Detroit is in the plot ; that the Poutouatami will co-operate ; that the Mississague and Sauteur are gained over ; that the Outaouac of Saguinam has already struck; that the Outaouac of Michilimackinac would have taken part against us had it not been for the portion of the village which is at Montreal, and that they would yet possibly declare against us on the arrival of seventy men from Sanguinam, who are to be reinforced by the Sauteurs of Grosse Isle; that they were to leave in a few days, and to come in the night to speak to the Outaouas of the post, and that it were well to allow no person to go hunting, and to keep strict watch. M. de Noyelle, junr., adds that he will detain, until further orders, at Michilimakinac, the canoes which were to come from Montreal to the different posts, unless affairs changed, and it became certain that the dispositions of the Indians at these posts were altered. We are co-operating in the adoption of the most effectual measures, either to restore tranquility at the post of Michilimakinac, or at least to place it in a proper state of defence against all attacks of the Indians.

October 14th.—Sieur Masse, who has been the whole year at Cape Chat, has returned. We receive letters from Michilimakinac, informing us of the arrival of Chevalier de la Verendrye, who has found that post very quiet ; the Outaouacs are beginning to be sorry for what occurred last year.

* N. Y. Hist. Col., Vol. X., pp. 119, 120, 129.
† An island north of the Great Manitoulin, in Lake Huron.
‡ An island immediately north of Mackinaw Island ; Map of St. Mary's Straits in Charlevoix's.

FRENCH CORRESPONDENCE, 1697–1747.

EXTRACT, &C., OF WHATEVER OCCURRED OF INTEREST AT QUEBEC, AND THE VARIOUS INTELLIGENCE RECEIVED THERE, SINCE THE SAILING OF THE SHIPS IN NOVEMBER, 1747.*

News from Michilimakinac.

Nov. 10.—We are in receipt of letters from Michilimakinac, Lieutenant de St. Pierre, who had been selected to command the convoy sent to that post, arrived there, without any accident, in 45 days. Captain de Verchères, appointed Commandant at *La Baye*, and who was to remain at Michilimakinac with his traders from Montreal, had taken his departure thence for his post, with his *voyageurs*. M. de St. Pierre writes us on October 22nd that he has not been able to speak to the Indians, who were, when he arrived, all gone to their winter quarters, without having given any token of repentance for the outrage they had perpetrated. It is, hence to be presumed that they persist in their evil dispositions; that the Marquis de Beauharnois' orders, sent with Sieur de Laverendrye, in the month of August, have been badly executed; that 'twas the only means of reducing those nations; that he does not anticipate success otherwise than by depriving them of the supplies they derive for the support of their families, and which they cannot dispense with. This might have been effected, were the traders prevented going to the different posts, according to the Marquis de Beauharnois' intentions: and this officer takes this occasion of saying that it would be well not to allow the canoes to leave Montreal next spring for Michilimakinac and other posts, until he have informed us of the sentiments in which the nations of that country will then be, and as soon as he shall have learned their intentions, he will take occasion to report them to us.

[Extract of a letter from M. Berthet, Commandant at the Illinois, to Sieur Lachine, Trader at the Ouyatanons, dated Cahos, 20th October, 1747, whereof he sends us a copy.]

Sieur de Laverendrye.

March 29.—Sieur de Laverendrye, junior, has returned to Montreal with the Christinaux and other warriors of his party. In the neighbourhood of Corlac he fell in with a party of Mohawks and Dutchmen, who were coming to Sarastua, on a scouting party. He brought two Mohawk scalps, among which is that of the principal chief of that nation; one of a Dutchman; and a Dutch prisoner, who reports nothing of interest—only says that there is considerable talk about peace. This first blow on the Mohawks will not fail to frighten them.

Convoy to Michilimakinac.

June 20.—Count de la Gallissonière orders the despatch from Montreal of the convoy for Michilimakinac, under the command of Lieutenant de St. Vincent. This convoy is well escorted and sufficiently well provided with provisions and merchandise to supply the post abundantly. The General writes to Lieutenant de St. Pierre, Commandant there, that the convoy was delayed in the hope of receiving news from Michilimakinac, but that the advanced season obliged him to order its dispatch, though he is uninformed of what is passing at that post; that, should the troubles continue, nothing remains to be done than to abandon, as already proposed, those posts which are exposed to danger, in order to oblige the guilty to come to Michilimakinac, and even to Montreal, in search of what they want; that he must exact the surrender of the murderers, and, should circumstances force him, grant peace on the same conditions as those accorded to the Hurons of Detroit, who were to bring two English prisoners for every Frenchman they had killed; the promises must, first of all, be performed, in order that these nations may not betray us, as the Hurons have done. The General leaves this officer at liberty to determine, according to circumstances, the carrying into execution the different licenses granted for the northern posts, and observes to him, nevertheless, in regard to the West Sea and Nipigon, that in case these posts were abandoned, it would be to be feared that the

* N. Y. Hist. Col., Vol. X. pp. 137, 154, 167.

English might irretrievably monopolize the entire of that trade which they now share with sufficient advantage. Demands some Panis, in order to indemnify the Indians who have surrendered some English prisoners. Ensigns Laronde and Chevalier de La Verendrye have also taken their departure: the first for Point Chagouamigon, and the second for the West Sea.

DISCOVERIES OF THE VERENDRYES, 1728–1750.

Les Verennes de Verendrye.

(*From the French of Pierre Margry.**)

> "There remains not even a vestige of the empire which we formerly flattered ourselves we had founded in America; and the men who sacrificed their lives there, have not received a sketch in our annals nor a line in our monuments."
> —*Michel Chevalier.*

In 1728, Peter Gaultier de Varenne, Sieur de la Verendrye, one of the sons of the Chevalier René Gaultier, Seigneur de Varenne, and for 22 years Governor of the City of Three Rivers, in New France, continued in sad obscurity in the territories which surround Lake Superior, a career which had commenced brilliantly on the battle fields of Europe.

A cadet in 1697, after two campaigns in America—the one in 1704, in New England, the other in Newfoundland in 1705—he spent the following year in Flanders, in the Grenadiers of the 1st Battalion of the Bretagne Regiment in which his eldest brother, afterwards killed in Italy, was then captain. His conduct in this regiment merited for him the most honourable mention. Notably at Malplaquet, finding the means of distinguishing himself among his comrades, "who themselves did wonders,"† he won the rank of lieutenant, having received nine wounds, from which he recovered, contrary to every hope, after having been left as dead upon the battle-field. This commencement gave some promise of a brilliant future for one so young; but war had never been as destructive to the officers, of whom a great many perished of hunger.‡

M. de la Verendrye's father, a very fine man, who had no fault, says M. de Denonville, except the poverty which he bequeathed to his sons, forced him to return to Canada, there to accept a simple ensigncy to enable him to live.

This rank, which he partly owed to the recommendation of the Marquis de Vaudreuil,§ was inferior to the one he had so gallantly purchased with his wounds.‖ Notwithstading these claims to a better fortune, he, for seventeen years, vainly strove to obtain for his zeal and services a position equal to the one he had held under the Marshal de Villars. He had even several times requested permission to go to France, to obtain at Court, reparation for the oblivion in which he lived; and he grieved deeply at being unable to succeed.

But our misfortunes often form the path we have to traverse in order to attain a success we had never hoped for. M. de la Verendrye gave new proof of this. He had at length obtained leave to go to France; and his first hopes would perhaps have been realized there, when, fortunately, he was detained by a circumstance which promised him glory conjoined with suffering. He went to the confines of the world whither he had been banished, and found the opportunity of making his name illustrious by the services he rendered his country—an advantage which men of mind esteem above honours, riches, and

* M. Margry is keeper of the Archives in the Department of the Marine and the Colonies, at Paris, and all the correspondence which formerly passed between the French officials in Canada and the King and his Ministers, are in his possession. No higher authority could be cited than M. Margry, for no other has an equal opportunity of knowing the history of Canada, while under the dominion of France. The following account appeared as a series of articles in the *Moniteur*, during the Autumn of 1852.

† Letters de Maréchel de Contades.

‡ Lavallèe, Histoire de France, 2 volv., 8vo., Chap VI.

§ Etats du personnel de la Marine.

‖ Mémoire de père de Gonor.

repose. The circumstance I refer to was one of those enterprises which the conqueror of Bing, Rolland Barrin de la Galissonniere,* then Governor of Canada, pronounced to be, "because of its dangers, its fatigues, and its cost, nobler than open war." As that with which M. de la Verendrye's name is associated is but little known even to those who speak of it, I will here give a slight sketch of it preliminary to a longer account which will appear elsewhere.

In 1728, M. de la Verendrye, who was then in command at Lake Nepigon, to the north of Lake Superior, having received divers accounts of a river, whose course was westward, thought it might lead to the discovery of the Western Sea; in like manner as illustrious explorers had in the preceding century, believed—some that the Chickahominy, a river of Virginia,† and others, the Ohio and Mississippi,‡ would conduct them to the Southern Ocean. Consequently he thought to utilize these accounts; and with a man of energy action speedily follows mature consideration.

The project of discovering by the interior a passage to the *Grand Ocean* and by that to China, which was proposed by our officers under Henry IV, Louis XIII, and Louis XIV, had been taken up with renewed ardour during the Regency. Memorial upon memorial had been presented to the *Conseil de Marine* respecting the advisability and the advantages of making this discovery. Indeed the Père de Charlevoix was sent to America, and made his great journey from the north to the south of New France for the purpose of reliably informing the council as to the most suitable route to pursue in order to reach the Western Sea. But the ardour which, during the life of Philip of Orleans, animated the Government regarding the exploration of the west, became feeble and at length threatened to be totally extinguished, without any benefit being derived from the posts which they had already established in the country of the Sioux and at Kamanistigoya. When M. de Verendrye came down to Michilimakinac with the intention of letting the Governor of the Colony know what information he had obtained from the savages respecting the river of the west, he met Father Gonor who had just arrived from the recently established posts of the Sioux, whither he had been sent during the preceding year as missionary.

The Regent, in choosing between the two plans that Father Charlevoix presented to him at the close of his journey for the attainment of a knowledge of the Western Sea, through an unfortunate prudence, rejected the plan which it is true was the most expensive and uncertain—an expedition up the Missouri to its source and beyond—and decided to establish a post amongst the Sioux. The Regent thus set aside the scheme which afterwards led Lewis and Clark to the Columbia; but he thought that through the establishment of this post more certain accounts than those already to hand would be obtained respecting the route to the Grand Ocean, and that then would be the time to incur the expense of the exploration. The post of the Sioux was consequently established in 1727 by Boucher de Montbrun and Father Guignas.§ Father Gonor, however, was obliged to return without having been able to discover anything that could satisfy the expectations of the Court respecting the Western Sea. The meeting at Michilimakinac with M. de la Verendrye, who, on his part was anxious to communicate to the Father the knowledge he sought, was equally pleasing to both the missionary and the officer. Each obtained what he desired—the one information, the other protection. Father Gonor took charge of the memorials of M. de la Verendrye, and promised to support them, which he afterwards really did. Entering into the same idea as M. de la Verendrye, he concluded it would be preferable, in the interests of the discovery they had in view, to establish themselves with the Christinaux, or with the Assiniboels, than to remain with the Sioux. "This was also," wrote he, "the sentiment of Father Guignas, whom I have often heard say that it was a vain endeavour to seek through the Sioux a path to the Western Sea." The discovery of this sea, which for the fifty years following the death of Cavalier de la Salle, had been incessantly sought after, thus touched on a new and most

* Lettre à M. de Maurepas.

† History of Virginia.

‡ MS. de l'Abbe Dolier de Gasson. Relations des Jésuites. Lettres de Jean Talon, Frontenac et autres.

§ Relation d'une grand rivière, qui a flux et reflux, présentée par le père de Gonor, Jésuite missionaire des Sioux, 3 November, 1728. (Account of a large river, which ebbs and flows, given by Father Gonor, a Jesuit missionary of the Sioux, 3rd November, 1728.)

interesting epoch. Action and research were now to replace theory and conjecture. It is of these actions and researches that I now desire to give a summary.

Not contented with his first step, and after having obtained other information respecting the River of the West (*Rivière du Couchant*), and having secured amongst the Indians a brave and faithful guide, capable of conducting a convoy,* M. de la Verendrye himself went to Quebec to discuss with the Governor of New France the project he had formed of going to explore first the River of the Assiniboëls, and then the rivers situated towards Lake Ouinipigon, to within 500 leagues of Kamanistiguoya, thinking that at this distance one would be found leading to the sea.

The Governor who succeeded the Marquis de Vaudreuil (whose death occurred in 1725), was the Marquis Charles de Beauharnois, a member of a family that through its services, and its relationship to the Pontchartrains, held the highest positions in both the naval and colonial services. As captain of his ship, remarkable for his bravery in several combats, and particularly in 1707, on board the *Achille*,† he was not less distinguished by his extensive knowledge. For these several reasons he was not indifferent to the projects of M. de la Verendrye. In the preceding year even, M. de Beauharnois had already shown his sympathy, by restoring him to the rank he held in 1710. But he was induced also by another consideration to patronize the scheme.

The glories of discovery were not unknown to the Beauharnois family. One of the Governor's brothers, Claude de Beauharnois de Beaumont, had, as ensign of a ship, taken an active part in the discovery of the Mississippi, an enterprise undertaken by sea under D'Iberville and de Surgères; and in listening to M. de la Verendrye, he must have conceived the wish to add to this precedent in the history of his family the honour to be derived from promoting an undertaking of this kind. M. de Beauharnois had as an incentive the thought which formerly animated Samuel Champlain, the Récollets, the Jesuits and the Sulpicians, Jean Talon, the Count de Frontenac, the Cavalier de la Salle, the Marquis de Vaudreuil, and the Intendants Raudot, in the execution or the protection of those enterprises of which this last was the continuation. He hoped that from this expedition New France would gain considerable advantages as regarded both trade and science, and that great light would be thrown upon the geography of the new continent, even if the problem of the separation of America and Asia towards the north was not solved on this occasion,—a problem proposed from the time of Cabot's voyage, in 1497, and whose solution should have been the principal object of the expedition.

The West and the North-west of America being still unknown from California to Hudson's Bay, and the remote east of Asia being equally so, as well as the sea which in that direction divided the old world from the new, there were learned men who agreed with the navigators of the 16th century, that the union of the two continents was to be found in the latitude where Behring subsequently discovered the straits that bear his name.

In 1718, Father Bobé, a priest of the *Congrégation*, who had strongly incited the Regent and his ministers to the discovery of the Western Sea, considered the space between New France and the Straits of Uriez as a vast territory.‡ This ecclesiastic, who in other respects was a very learned man, thought that in travelling between the 47th and 70th degrees of latitude no sea would be found until the Gulf of Amur was reached, "which was formed by the countries of Japan, Tartary and Bourbonie." The latter name he gave to that imaginary country which it appeared to him should join America and Asia, and "by which," as he says, "the Tartars and the Tartarised Israelites passed after the dispersion of Salmanazar, as is proved by the appearance of the Sioux, who resemble the Tartars." These chimeras of an enlightened man, believed in also by others no less so, led to the wish that France, placed by her possession of Canada in a position to realize the error, would send across North America an exploring expedition, which might dissipate the darkness resting upon the north-west of the continent.

M. de Beauharnois perceived without difficulty the importance of such an exploration, and by kindly receiving the proposal of M. de la Verendrye, he hoped to lift the veil

* Mémoire de la Verendrye, appended to the letter of M. de Beauharnois, of the 10th October, 1730.
† Gazette de France, Personnel de la Marine.
‡ Mémoire pour la découverte de la mer de l'Ouest, présentée en Avril, 1718.

which hid the ends of the world. Unfortunately, not daring to take that initiative which at this time, and under the pretext of this discovery, was taken by the Governor of Louisiana, M. de Bienville, a man less honest than he, he found himself unable to do anything except under conditions which would take the honour of making the discovery of the Western Sea from France. The Russians were our rivals in the project. Before his death, Peter the Great, who came to Paris in April, 1717, two months after William Delisle had presented his memoir on the Western Sea to the Regent, called to mind as well his conversations with that great geographer, as his promises to the Academy of Sciences,* and he determined that the space between Asia and America should be explored by the east. His successors, in compliance with the orders contained in his will, which was his last act on behalf of Russia, concluded to despatch Vitus Behring and Thschirikoff, who were to advance eastwards to the Western Sea, and so reach America, while the French officers, by a singular coincidence, would (under the Government of one whose grand-nephews were to approach the throne of Peter the Great), explore the interior of the western territories.

But the one party were to be aided by their Princes whilst the others would have to depend solely on themselves, notwithstanding the kindness of the Governors of Canada who were unable to proffer them anything but sympathy.

After M. de Beauharnois† had examined with Chaussegros de Lery, the engineer, the map which had been made by the savage Ochagach, whom M. de la Verendrye chose as guide, he agreed with that engineer that New France "being traversed by two large streams having their sources in the centre, the one—the St. Lawerence—flowing to the east, and the other—the Mississippi—to the south, there could not be a tract of the width of 7 or 800 leagues to the westward without being likewise crossed by a large river." Such a thing would be contrary to all that had been ascertained in other countries, where so extensive a tract is always traversed by a large river. This argument rendered the reports of the savages probable, from which, and considering the rumb line they gave the river, M. de Beauharnois and M. de Lery thought they could reach either the estuary discovered by D'Aguilar, or some other below California.

These considerations gave the Governor some hopes of success, which were increased by the character and tried intrepidity of M. de la Verendrye, whose family held distinguished positions in the army and church, and even in the Sovereign Council, where one of his brothers held the position of *Conseiller-clerc*. To him therefore he confided the execution of the enterprise of which he himself was the patron. Still as he was not blind to the many difficulties of such an enterprise, he deemed it prudent that before travelling through such extensive and unknown countries, the explorer should feel his way and at all events establish a post beyond the known limits, so that after having entered into relations with the Indians he might penetrate further. M. de Beauharnois doubtlessly hoped that when he would be able to speak with a better knowledge of facts, he would obtain the King's protection for the men who so generously devoted themselves to this enterprise. He comanded M. de la Verendrye to first establish a post on Lake Ouinipigon with 50 men and a missionary, and he gave him‡ in order to surmount the difficulties of the establishment, the profits of the exclusive right to the fur trade. Anxious to commence, M. de la Verendyre, by an agreement, signed on the 19th May, 1731, in presence of M. de Chassaigne, Governor of Montreal, entered into partnership with certain persons who advanced goods and equipments, and on the 26th August, after having passed Michilimakinac, where he secured Father Messager as missionary, he found himself at the Grand Portage of Lake Superior, 15 leagues to the S. S. W. of Kamanistigoya.

These beginnings of his enterprise proved to M. de la Verendrye, how great the dangers and expense entailed by such an exploration. He had taken but a few steps in the wilderness when he again placed himself, his nephew, and his two sons at the disposal of the ministry for the purpose of commencing the expedition. On the 10th of October, 1733, two years after the departure of M. de la Verendrye, the Governor and his admin-

* Recherches historiques et géographiques sur le Nouveau-Monde, par J. B. Schérer.
† Letter de M. de Beauharnois à M. de Maurepas. 15th Octobre, 1730.
‡ 1er Août, 1731, Lettre de M. de la Verendrye.

istrator, Hocquart, wrote to M. de Maurepas: "M. de la Jemerays, a nephew of M. de la Verendrye, informed us that if His Majesty would bear the expense, it would be easy to succeed in discovering the Western Sea; that at present they are at Lake Ouinpigon, but that they and their companions were perfectly unable to undertake this enterprise, having lost more than 43,000 livres, and the *voyageurs* would not go further without being paid what was due them, nor would those who had equipped the expedition advance any more goods to enable them to continue their journey. The outlay, monseigneur," added they "will not be great; the cost of the *engagés* for three years, taking into account what can be furnished from the king's stores, would not, according to the calculations we made in presence of M. de la Jemerays, exceed 30,000 livres at most. We have the honour to mention that by the agreement we cannot oblige them to go beyond Lake Ouinipigon; which we did not believe was at so great a distance." A reply was received from the Court that it was not expedient for the king to undertake the expense proposed by MM. de Beauharnois and Hocquart, and that those who had undertaken the enterprise should be in a condition to continue it by means of the profits derived from their privilege of the fur trade. The same words pretty nearly were repeated on 12th April, 1735.

The die was cast. M. de la Verendrye had either to abandon the enterprise or continue it alone at his own risk and peril, without any other means than the privilege of trade. With only this alternative he followed the dictates of honour which bade him brave dangers and impose self-sacrifices. He was already burdened with the debt of the first equipment, and he now assumed that of the second. He employed his nephew and three of his sons, and prepared a fourth, 18 years old, to accompany his brothers the following year, causing him to be taught the art of making plans and drawing maps; and he busied himself with this enterprise, which notwithstanding all obstacles, enabled him to obtain by his energy such great results, as to shed a lasting brilliancy upon his own name and upon that of the man who had encouraged his efforts.

II.

The chief honour that M. de la Verendrye won from his enterprise was owing not to his success, but to his struggles against obstacles more easily imagined than understood at this distant day. However, we must remark that his greatest trials were not due to his enterprise in itself, but to the false and embarrassing position in which he continually found himself, without other provision than the fur trade and its profits.

The fur trade, imposed or accepted as the means of meeting the expenses of the discovery, had in countries so distant as those into which he was to penetrate, the disadvantage of retarding the explorers, who, in obtaining the subsistence and provisions, consumed in travelling between Montreal and the countries they were exploring, a precious portion of the time, strength and energy, which should have been employed in pressing forward. The necessity of trading brought with it that of the establishment of befitting posts to attract the savages, and of placing land marks on the route, which, as it took men, time, and money, tightened the circle of difficulties by which M. de la Verendrye was surrounded. As he was inevitably obliged to obtain by trade all the means required for advancing his explorations, he was compelled to see himself by turns tormented on the one hand by the Ministry, which was dissatisfied with the progress of the exploration, and on the other by his covetous associates, who were anxious to recover, with high interest, the price of the equipments.

Thus it happened that M. de la Verendrye, was incessantly harrassed by his associates, and reproached nearly as often by the Ministry whose half protection he had obtained. In fact if M. de Maurepas had but given the degree of protection which should have been accorded the explorer on the advice of Father Charlevoix*—who spoke with the same freedom with which he wrote his History of New France—he might have concluded that he had done enough. The Reverend Father, to whom the project of M. de la Verendrye had been communicated, at first failed to realize thatas the measure of the king's protection was greater or lesser, so would the execution of the enterprise be affected and he finally made light of the difficulties of the exploration. He said "that these establishments were

* Mémoire du Père Charlevoix, 10th October, 1751.

useless; although they caused but small expense they prolonged the period of exploration; that they might cause it to degenerate to a fur-trading scheme, and that it was best to pursue the discovery at once and without consuming more than two years, aided by the fresh accounts received at the advanced posts, in thoroughly determining its route. Thus it would follow that the expense which such an expedition required would be reduced to some easily carried victuals, some ammunition, whereof a certain portion would serve for necessary hunting and as presents for the savages." The opinion of Father Charlevoix must have been of great weight, for he had been sent some years previously by the Duke of Orleans and the Count of Toulouse to obtain information regarding the Western Sea. We have seen that it was on his advice that the establishment amongst the Sioux had been founded. His judgment in that case may have been that of one who, regretting that he had not been able to make the discovery himself, sought to depreciate beforehand the merits of those who would undertake it. I do not believe it was, but truly the Reverend Father expatiated too much upon the reminiscences of a man who in his travels had only traversed countries which had long been accessible. He thus gave countenance to the rumours which were spread by the envious and the ignorant, and M. de Maurepas, who had extended protection to so many other expeditions having scientific purposes in view, may have regretted having given M. de la Verendrye the privilege of the trade—a privilege which the latter would willingly have exchanged for a well-equipped company of 100 men, as in the case of Lewis and Clark. In fact there is nothing more disagreeable than these half favours, which having provided wind for a man's sails desert him when he has nearly reached port, and which the donors believe give them the right of reproaching the recipient, without realizing that their assistance had, in truth, none the less condemned their protegé to the torments of Tantalus. Such was nearly the treatment experienced by M. de la Verendrye in his enterprises, M. de Beauharnois, however, seeing this officer sinking under the trouble, thought well to give him from 1735, permission to farm, during three years, to some merchants, the posts which he had established, on condition that he would not undertake, directly or indirectly, any kind of commerce; that so he might be able to pursue his enterprise with all possible diligence, as he would have nothing else to see to. But M. de la Verendrye was none the less dependent for supplies upon traders or farmers, who were impatient to receive, but slow to remit. Besides, they did not forward all that he needed; they sent only in proportion to their own earnings, and it followed that M. de la Verendrye was obliged personally to incur debts in order to provide for all—considering himself fortunate when he escaped the most cruel privations.

This officer (left for dead upon the battlefield of Malplaquet 30 years before) pursued his project with an admirable courage and constancy, which called to mind the energy of the great discoverers, and with a disinterestedness which was real although strongly attacked. Notwithstanding this and the generous aid of his four sons and his nephew, M. de la Jemerays—all five indefatigably and fearlessly devoted to his enterprise,—he could not after twelve years of trouble and sacrifice, because of the peculiar circumstances of his position, do more than accomplish the discovery of the territories enclosed between the Rocky Mountains on the west and Lakes Superior and Winnipeg on the east.

Although I cannot speak at any length in this article, I must mention a few occurrences which will throw some light upon the attractive tableau of their efforts. Therefore, I will give, though briefly and drily, a few details of their journey.

If we follow M. de la Verendrye from Kamanistigoya, a post near Lake Superior, established for the second time in the year 1717, by Lieutenant Robutel de la Noue, and where the discoverers arrived in the year 1731,* we shall see their parties, the same year, successively pass by Lac la Pluie, or Tekamamiouen, at the outlet of which they established Fort St. Pierre, cross Lake Minitie, or des Bois, on one of the shores of which Fort St. Charles was erected in 1732; Lake Ouinipigon, within five leagues of which, on their way up the river, they established a fort; Ouinipeg River, which they called Riviere Maurepas, and

* Mémoire de la Verendrye, 31 October, 1744.

which, in 1734, they protected by a fort, also designated by the name of the Minister; the River of the Assiniboëls, otherwise called the River St. Charles, where Fort de la Reine, which was built on the 3rd October, 1738, served as an advanced post; then the River St. Pierre, a branch of the River of the Assiniboëls. This river, to which the Christian name of M. de la Verendrye and M. de Beauharnois was given, was the centre of the establishments and the point of departure of the expeditions which the explorers intended to make to the north and to the south. It is by this river that we see them at the close of 1738 descend to the Mantannes, and in 1742 to the Upper Missouri; then re-ascend to the Yellowstone, and finally arrive, by this route, at the Rocky Mountains, amongst the Gens de Serpents, whose countries formed the limit of their explorations towards the south.

Towards the north, in expeditions, whose precise dates I cannot yet determine, they crossed Lake Dauphin and Swan Lake, reached Riviere des Birches, and ascended to the fork of the Saskatchaouan, which they named the Poskoiac. In these countries they established two forts—one on Lake Dauphin, and the other, which they called Fort Bourbon, on the Riviere des Birches.

In considering this simple narrative of their doings, and viewing the length of time which marked each advance, showing so clearly the efforts the explorers had to make—when the miseries they endured and the dangers which they ran, and in which some of them perished, are taken into account; and finally, when the results of their enterprise are compared with the means they had at their command,—the accusations that were made against them would really astound us were we not accustomed to the criminal follies of envy. But to whom did envy ever allow either honours or profit with impunity?

In the labourious efforts of the Varennes of Verendrye to extend the dominion and commerce of American France to the Grand Ocean, the honour of the discovery of the most westerly regions belongs chiefly to M. de la Verendrye's sons. He himself had undertaken a most difficult task, and one that suited his age best,—that of directing the enterprise, of superintending the trade, of creating and maintaining friendly relations with the Indians, of stimulating the zeal of the ever tardy equippers, of having roads opened, and of sustaining the establishments which he had ordered to be commenced. He was always ready to help in person when occasion required, and the distances which he travelled on foot in frightful weather and through wild countries, in the midst of privations, would terrify the imagination of a European. It was with truth his sons could say, "He marched and made us march in such a way that we should have reached our goal wherever it might be found, had he been better aided."* But his sons and his nephew most frequently went in advance to reconnoitre the route; and their journeys, always full of danger and among tribes constantly at war, sometimes extended over whole years.

One of these journeys cost one of the sons his life, for the Sioux, the enemies of our allies, the Christineaux, massacred him with his whole party of twenty-one men, in June, 1736, on an island of the Lake of the Woods. Amongst the slain was Father Anneau, a Jesuit. A party of five Canadian *voyageurs* discovered their bodies several days after the event. The heads of the Frenchmen were placed upon beaver skins, the greater number of them scalped. The missionary had one knee in the ground, an arrow in his head, his breast cut open, his left hand upon the earth, and his right uplifted. The Sieur de la Verendrye lay face downward, his back hacked with a knife, a hoe buried in his loins, and his headless body ornamented with porcupine garters and bracelets.†

M. de la Verendrye, who was at this time in great destitution at Fort St. Charles, heard of the massacre of his son and of the death of his nephew, La Jemerays, at the same time. The latter was the son of a sister of M. de la Verendrye, Marie-Rénee de Varenne, and the brother of Mme. Youville, the foundress of the Hospitalières de Montreal. M. Dufrost de la Jeremay had associated himself with the labours and fortunes of his uncle from the very commencement of his enterprise. Two years afterwards he had, on M. de Beauharnois' recommendation,‡ been recompensed with a second ensigncy,

* Lettre du Chevalier de la Verendrye, 30 September, 1750.
† Rapport du voyageur Bourassa.
‡ Lettre du Ministre à M. de Beauharnois, 20 Avril, 1734.

for services rendered in these difficult commencements. When the innumerable obstacles that arose in the three and a quarter leagues of the Portage of Nantaouagan disheartened the *engagés*, he had the honour of passing beyond and commencing the first establishment at Lac de la Pluie, or Tekamamiouen. His intelligence, his devotion, and his courage, undismayed neither by dangers nor fatigues, gained him the most complete confidence of M. de la Verendrye, who at his death, had cause to mourn not only a very dear relation, but also a lieutenant invaluable to him in his enterprise.

If it had been possible to remedy such a loss, the courage and the ardour of M. de la Verendrye's sons would have repaired it; but their party was so small that the enterprise could not but suffer. However, the following year they found themselves with the Mandanes, a people who have been rendered most interesting to us through a book by Mr. Catlin,* the distinguished traveller. Clark thought himself to be the first to see them. It was only in 1743 that the eldest son of M. de la Verendrye, with the chevalier, his brother, reached the Rocky Mountains in a journey that lasted from the 29th of April, 1742, to the 2nd July in the following year, by which time they had returned to Fort St. Charles, whence they had started.

I will here give some details of this journey, which must always remain famous, as the courageous action of only four men, who preceded, by nearly sixty years, the visit of the numerous troop of Lewis and Clark to the same place.† The eldest son of M. de la Verendrye having reached the Mandanes, could not, for want of the guides he had hoped to meet, advance beyond; so he returned to his father, who, however, immediately sent him back with the chevalier, his brother, and two other Frenchmen.

This time they succeeded in reaching the Rocky Mountains, after having met on the way the villages of the Beaux-Hommes, the Pioyas, the nation of Petits-Reynards and the Gens de l'Arc (Bowmen). Some of these names, which are found on the maps of Lewis, lead one to suppose that they arrived at the Rocky Mountains by the Yellowstone. On the 1st of January, 1743, these mountains rose before their eyes, and on the 12th of the same month they reached them, and the Chevalier de la Verendrye, who must have left his brother at some distance, prepared to ascend them. He was disappointed at always being led to the South by the guides whom he had asked to conduct him to the sea; he feared that by the route which he had followed he would only find a sea already known — however, he wished to contemplate it from the height of the mountains. Unfortunately, besides the natural obstacles that opposed his design, and which perhaps he did not foresee, a difficulty suddenly arose, of which he could still less have had any idea. So far, he had been led by the great Chief of the Bowmen, who, followed by other tribes, numbering 2,000 warriors, chiefly horsemen, accompanied by their families, was marching against the Gens des Serpents (Snake tribe) inhabiting these mountains. This nation was the terror of its neighbours. The Bowmen were the only ones who did not fear it. It had carried destruction everywhere, as the Chevalier de la Verendrye had witnessed. When he reached the nation of Les Gens des Chevaux he found nothing but grief and desolation, their villages having been entirely destroyed by the Gens des Serpents. In 1741, these latter had completely ruined seventeen villages, and killed all the old men, and made slaves of the women and children, whom they sold on the coast in exchange for horses and other merchandise.

The march of the Bowmen against them was occasioned as much by a desire for the welfare of these countries, as by a common desire for vengeance. But it seemed on this occasion, that with savages, as with civilized people, it is unwise for brave men to depend upon the support of those who have nothing but numbers to recommend them. When the warriors came near the principal village they were warned by their scouts that the enemy had precipitately fled, abandoning their baggage. This news, instead of rejoicing, created disorder and division amongst them. They feared that the enemy had discovered them, and would profit by their absence to make a descent upon their own villages, and might reach them before they did. The Chief of the Bowmen, conspicuous

* Letters and Notes on the Manners, Customs, and Condition of the North American Indians, &c., 1842.

† Journal du Voyage fait par M. le Chevalier de la Verendrye, en 1742, pour parvenir a la découverte de la Mer de l'Ouest, addresseé à M. le Marquis de Beauharnois.

by his intellect, nobility of manner, and bravery, endeavoured to dissuade them, and incited them to follow the enemy, but in vain. No one listened to him, and the Chevalier de la Verendrye was forced to return with them without beholding that sea, the sight of which had so greatly rejoiced Balboa and Cortez two centuries before. No four men could have done better; and indeed it required immense courage on their part to penetrate to these mountains, which they had the honour of reaching sixty years before the great expedition sent thither by Jefferson.

That was the chief résult of their journey. But there was another, which, although only secondary, must not be overlooked. On the return, the Chevalier and his brother were careful to take possession of the countries of the Upper Missouri, where they arrived on the 19th March, 1743, amongst the Gens de la Petite Cerise, a nation encamped on the banks of the river. They interred, to this end, on an eminence near their fort, a leaden plate inscribed with the arms of the king, and as a memorial of their journey they erected pyramids of stones in honour of the Marquis de Beauharnois. So that if the object of the enterprise had been postponed in one sense, it had in this particular the effect of establishing the rights of France on the borders of this great river, which, according to certain geographers, may be regarded as a principal branch of the Mississippi. This opinion admitted, the name of Beauharnois, already connected with the discovery of its mouth, becomes doubly associated with the discovery of both extremities of this American Nile.

Even if these expeditions in some measure justified the thought which made Nicholas de la Salle and Hubert, Commissioners of Louisiana, as well as Bobé and Father Charlevoix, request that the Missouri should be ascended in order to reach the ocean, still this success was not sufficient for M. de la Verendrye, nor did it satisfy the Chevalier or his brother, since by this route they feared to meet the establishments of the Spaniards, and besides they had not solved the problem of the Western Sea, one of the principal objects of the enterprise. Consequently they determine to proceed by the north where, five years later, they discovered the Saskatchaouan. That this discovery was not made earlier, and the explorers had not advanced further, was not their fault but that of others.

M. de la Verendrye was preparing to send his sons back to the north when the conduct of the Ministry, who refused him every preferment, disgusted him. He considered that they treated him with systematic injustice. However, the Ministry were not as guilty as they seemed to M. de la Verendrye. They were excited against him by false accounts and by envious imputations. "When the discoverers outdid themselves in their fatigues and expenditures, their expeditions were represented as chiefly directed to the discovery of the beaver, their large expenditure as dissipation, and their statements as falsehoods." The ministry might, without meaning any harm, accuse of mismanagement and negligence the men who were more occupied with work and travel than with the puffing of themselves by means of memoirs.*

On the 22nd April, 1737, *apropos* of the massacre of M. de la Verendrye's son, M. de Maurepas wrote to the Marquis de Beauharnois, who had defended the explorer against these accusations.† "All that has come to my ears concerning this accident confirms me in the suspicion I always had, and which I have not even disguised from you that the beaver trade had, on the part of M. de la Verendrye, a larger share than anything else in the enterprise of the discovery of the Western Sea." The minister, judging at a distance, and upon the reports of men whose interest it was to disparage, could doubtlessly be pardoned for misjudging; but for the explorer the result was the same, and this did not render the blow any the less painful. He was the oldest of the lieutenants in Canada, and he seemed to the Governor "the most worthy of the King's favours." His rare patience as a leader of men failed him when it came to a rivalry about ranks and titles. Besides, if the patience of a man who has only to think of himself can be unlimited, that of a father succumbs in the presence of the sufferings of his children. Probably, less wearied of sacrificing himself than of compromising the well-being, the advancement, and even the lives of his sons in an enterprise which had already deprived

* Mémoire du Chevalier de la Verendrye.
† Lettre au Ministre, 1er Octobre, 1738.

him of one of them ; tired of seeing himself and them forgotten, not in the dispensation of favours, but in an equitable division of rewards due to the oldest and most meritorious services ; above all, being pressed by want and sickness as well as by his creditors, he finally resolved to satisfy the envious. So, in 1743 he returned to Quebec to show what advantages he had personally gained in his many years of trials. "If," wrote he,* "40,000 livres of debt that I have over my head are an advantage, I can compliment myself on being very rich, and I would have been very much more so in the end if I had continued."

Conscious that he had done all in his power for the service of the King and the good of the Colony, he resigned his charge, that so the Governor might give it to those who thought themselves more worthy and more capable of fulfilling it. He did not exaggerate his own merits. Lewis and Clark, who were much better sustained, had not, in order to be successful, to make an eighth part of the efforts which M. de Verendrye made to go half the distance.

III.

However, the Marquis de Beauharnois, who appreciated M. de la Verendrye's character at its true worth, deeply regretted† to see him desist from his enterprise. M. de Beauharnois depicted to the Ministry the explorer's mortification because of the attempts made "to give to his purity of design in seeking to compass the discovery of the Western Sea, a character so opposed to his real views." He spoke of the advantages that had been secured by the posts he had established; "finally," said he, "the idea which had been current as to his having amassed wealth in these places falls to the ground in view of his indigence. We can assure you, Monseigneur, without any favour or predilection for him, that the twelve years spent by him at these posts did not yield him nearly 4,000 livres, which is all that can remain to him after he has paid the debts contracted on behalf of this enterprise. And finally, Monseigneur, the state in which he has left matters seems to make him worthy of your bounty." But as the Ministry could not overcome its prejudices so easily, M. de Beauharnois, in order to get rid of the evil rumours propagated by the envious, appointed M. de Noyelles to pursue the discovery. The little done by this officer, who was generally looked upon as a man of courage, accustomed to long marches and acquainted with the Upper countries, must have made the intelligent inhabitants of the colony understand that, considering the conditions M. de la Verendrye had accepted, he had obtained great results, and that no one could do better, or even as well, as he. M. de Beaurharnois, satisfied with this trial, which justified him in his first choice, again fixed his eyes upon the discoverer, and once more assured‡ M. de Maurepas that his officer had been accused unjustly—that he had given himself entirely up to the discoveries, and had sacrificed to them all the proceeds of the new posts established by his care with much trouble and at great risks, and that, finally, this man united to great experience a firm yet gentle character, by which he had obtained over the savages of the West an ascendancy which he found it necessary to exercise. M. de Beauharnois had returned to France with the rank of Lieutenant-General in the army as a reward for his services, and M. de la Galissonnière, his successor, took the same stand as he, adding "that discoveries cause greater expenses and expose to greater fatigues and greater dangers than do open wars," and, *apropos* of this, he recalled the death and ruin of Cavalier de la Salle, and of many others. The Ministry gave way to these repeated assurances.§ They first gave M. de la Verendrye a captaincy, and, some time afterwards, the decoration of the Cross of St. Louis, which he had sufficiently merited since 1709, by his wounds at Malplaquet. But, at the same time they asked him to make fresh efforts for the achievement of his enterprise. As much as this even was not needed to stimulate the generous hearts of the old officer and his sons.

As early even as 1748, the Chevalier de la Verendrye had set out to continue his discoveries in the West, and he had reascended the Saskatchaouan to its fork, where, every spring, the Christinaux of the mountains, of the lakes and of the prairies had their rendezvous. There they heard from the savages that this river came from a great distance,—from

* 31 Octobre, 1741, Lettre de M. de la Verendrye.
† Lettre du Marquis de Beauharnois, 27 Octobre, 1744.
‡ Lettre du M. de Beauharnois, 15 Octobre, 1746.
§ 23 Octobre, 1747. Lettre du M. de la Galissonnière.

the height of the lands, where there were very lofty mountains, and that they knew of a great lake on the other side of the mountains, whose waters could not be drunk.* Inspirited by the acts of the ministry who had at last rendered him justice, M. de la Verendrye, whose sons kept him aware of all that transpired, prepared, notwithstanding his age, to leave Montreal in the month of May, 1750, at a time when navigation would be open in the upper countries, that he might reach Fort Bourbon in the first days of the month of December, whence with his sons he was to navigate for the first time the River Poskoyac. There he intended to construct a convenient fort. In the following spring, he was to send to ascertain the altitude of the mountains near which the lake in question was situated. "I intend," said he, "to be as diligent as possible, in order to winter at Fort Bourbon at the base of the River aux Birches, which is the last of all the forts I have established. being too happy, if at the end of all the troubles, fatigues, and risks I have undergone in this long discovery, I can succeed in proving my own and my children's disinterestedness, and our great zeal for the glory of the king and the welfare of the colony." He wrote these words to Quebec on the 17th September, 1749, but in making this promise, he counted without that host, whose name is Death, and who is ever faithful to man. On the 6th of the following December he died, taking with him, so to say, the success of the enterprise. M. de la Galissonnière had just left Canada, to give place to M. de la Jonquière; and the corruptions which were to contribute to the loss of the colony by France, commenced in the painful developments which led to the condemnation of the Intendant Bigot to exile. MM. de la Verendrye were to be this Intendant's first victims. Assuredly, after the death of their father, no one in the colony was as capable of continuing and achieving the discovery which they had so far advanced. The sons of M. de la Verendrye claimed the honour of completing this enterprise as the most precious portion of their inheritance. Furthermore, it seemed impossible to refuse this to men who had already made the greater part of the preparations, and undertaken engagements which absorbed their little fortune, and even more. But the Intendant Bigot and the Governor had formed an association for these discoveries and for the development of the Posts of the West; and the Varennes had to yield to their all-powerful rivals, who were more greedy of profit than of the honour imposed upon them by their high rank. M. Bigot never had money enough to waste, nor M. de la Jonquière to save. Neither of them recognized any principle of right, but entirely forgot their duty.

Having in view the two extreme points traversed or intended to be traversed by the Verendryes, they thought to find the Western Sea by the Mississippi and Saskatchaouan. Father Coquart, a companion of M. de la Verendrye, had about this time come to the conclusion that it would be necessary in order to reach this sea to seek the sources of the Missouri and to cross the Rocky Mountains, if it were found impossible to penetrate the defiles with their canoes, and so reach the great salt water lake. He wrote that his idea had been rejected, because here, added he,† "discoveries are wanted that cost no money except the returns from the beaver, and I have been told that any project proposed to the Court, if it required funds for its execution, would not be listened to." However, his proposition was remembered, and these projects, born of the discoveries of the Chevalier de la Verendrye, were united to those that he and his companions had intended to carry out by the Saskatchaouan. The enterprise thus conceived was confided to two officers: M. Lamarguede Marin was directed to the Upper Mississippi and the Missouri, whilst the north was the destination of Jacques Legardeur de Saint Pierre. These two officers, whose intrepidity was beyond question, do not seem to me, if I am to believe certain indications, to have been equally commendable in character. At all events, on this occasion they considered their desire for advancement and gain more than the feelings of delicacy which should have obliged them to have been careful of the interests and honour of M. de la Verendrye.

An enterprise conceived and conducted by covetous men is at all events generally advantageous to those interested; and so it proved here. If it was said without reason concerning M. de la Verendrye, that the hunting of the beaver delayed the discovery, it could be said with truth in this case. The colony seemed to gain no advantage from this expedition,

* Lettre de M. de la Jonquière, 22 Septembre, 1749.

† Lettre du Père Coquart, 1730.

excepting the establishment of a fort near the Rocky Mountains by a detachment of men, who, in accordance with the plans of the Chevalier de la Verendrye, followed the Saskatchaouan.* Still the officers themselves who commanded the establishment of this post, were only honoured indirectly by it, neither of them being present. M. de Saint Pierre, who from the first steps he took on the road prepared by his predecessors, recognized all the difficulties of their enterprise, must in meeting the unexpected obstacles which victoriously refuted all those calumnies through which doubtlessly he had supplanted them, have felt the injustice of his conduct towards them. He traversed a road which had already been opened by them, yet he owned that at each step there was risk of losing not only provisions and effects, but even life itself. He realized the covetousness of the populations through which he had to pass, although he attributed it to the lenity which he pretended had been shown them. "No matter what presents are made them, they would exhaust," said he, "the king's storehouses." These facts, of which M. de Saint Pierre only spoke to magnify the difficulties of his enterprise, proved a great set off to the acts of M. de la Verendrye, whose merits had been hidden by the modesty of his recital; as did also the conduct by which the new chief of the exploration, in alienating the Christinaux, compromised all the work of the first explorers and proved that he was wrong in accusing them of lenity; the truth being that they were much more prudent and skilful than he in dealing with those nations. The Christinaux burnt Fort la Reine, and nearly killed M. de St. Pierre himself. The illness, also, of his lieutenant, the Chevalier Boucher de Niverville, showed how much he had not only prejudiced his own honour, but also the success of the enterprise, in refusing the earnest request of MM. de la Verendrye to be allowed to accompany him. The Chevalier de Niverville having been sent by him to found a post at the source of the Saskatchauan or Poskyoac, had been obliged to stop on the way, exhausted by the fatigues and miseries to which MM. de la Verendrye had become accustomed, and only some of his men could reach the Rocky Mountains, where they established Fort La Jonquiere, in 1752. The expedition does not seem to have passed the mountains when M. de Saint Pierre, who had been recalled by the Marquis Duchesne de Menneville, who succeeded M. de la Jonquiere, saw M. de la Corne arrive, in 1753, to replace him in the posts of the West. The Seven Years' War, which was about breaking out, prevented the pursuit of this enterprise, of which the English colonies, victorious over ours, were at a future day to reap the benefit.

Thus the covetousness and envy of a few agents, who were but fitting instruments of a government thet everywhere provoked its own decadence, caused France to lose the honour of a discovery which science expected of some of her sons, at the very moment when this honour, which was so earnestly wished for by MM. de la Verendrye, was snatched from them. But how could they hope for it when even their very property was at this time delivered up to shameless pillage. The *sic vos non vobis* of the poet was here realized in all its severity. Nothing can be more pathetic than the complaints of the two brothers on this subject. "At the very time," wrote the elder,† "when they all intended to pursue their discoveries, they had not only suffered considerable losses in establishing the Posts of the West, but they had also been deprived of the enjoyment of a property which they had come to regard as the reward of their labours, having spent their youth and their fortune, and even sold what they had in Canada, to complete an undertaking so beneficial to the colony. After all these expenses, they had the pain of seeing strangers gather the harvest of which they had sown the seed; the influence they had gained lost; the merchandize they had left in the posts given away without their having the slightest hope of deriving any profit therefrom; their provisions eaten by strangers, whilst the *engagés* whom they had to pay were still made use of." The complaints of the Chevalier being more poignant and better expressed, are still more heart-rending. ‡ "I too, am ruined," said he. "My returns of this year being but half gathered, after a thousand inconveniences, my ruin is accomplished. My father's affairs and mine being settled, I remain without either funds or patrimony. I am simply second

* Mémoire ou Journail (*sic*), sommaire du voyage de Jacques le Gardeur de Saint Pierre . . chargé de la découverte de la mer de l'ouest.

† Memoires des services de Pierre Gaultier de la Verendrye, l'ainé.

‡ Lettre au Ministre, 30th September, 1750.

ensign. My elder brother holds the same rank as myself, and my other brother is only a *cadet a l'aiguillette*, and this is the actual fruit of all that my father and my brothers and I have done. My brother who was assassinated some years ago by the Sioux, is not the most unfortunate of us." He was so reduced as to speak thus of death.

For a much lesser cause, in 1809, Lewis, the companion of Clark, with whom it is said the American Government refused to fulfil its engagements, blew out his brains. But MM. de la Verendrye, awaited with more Christian resignation, the end of their misfortunes; they left it in the hands of God. It soon arrived. They re-entered the army, and the Seven Years' War, which occasioned to us, notwithstanding the heroism of Montcalm, the loss of Canada, gave them an opportunity of ending their lives nobly. In this war, several Varennes were killed, but I have been unable to discover whether they were the sons of M. de la Verendrye, or of his brother. The fate of the Chevalier alone is certain. He and another Lieutenant named Varenne perished on the 15th November, 1761, by drowning in the wreck of the *Auguste*, a vessel *armé en cartel*. This wreck, which was an image of the fate of the French power in America, was terrible. Some Canadians, however, who in exile, sought to escape the yoke of the stranger, envied them their destiny. The Chevalier needed no longer to envy his brother who was killed by the Sioux, and in dying, he could say as Camoens did at the sight of the misfortunes of his country, "I die, but I die with it."

Such was, given as briefly as possible, the unhappy, but not inglorious life of these brave officers, who, through the ignorance of history in regard to our ancient colonies, have not even received a memento. Doubtless when it obtains a better knowledge of their enterprise and efforts, they will obtain a fame proportionate to their labours and sacrifices, and to the advantages which must result to America from the interior routes of communication between the Atlantic and the Great Ocean, which will enable that continent, aided by the audacity of its genius, to dispute with Europe the commerce of Asia. Whatever the result, even if the explorers did not entirely succeed in the execution of their plans, their names, after that of Cavalier de la Salle, and before those of McKenzie, Lewis, and Clark, should, to the honour of France, be respected as those of the first discoverers of the West. The courage and constancy which they displayed; the privations which they endured; their life so labouriously sad, entirely devoted to their work, and their pitiful end, will form one of the most interesting episodes as well in the memorial of that enterprise, as in the mournful history of the discoveries in which European civilization advanced against barbarism only by the sacrifice of its noblest children; and this posthumous glory will be but a just and tardily granted compensation to men, whose only reward for patriotic devotion was misery.

PIERRE MARGRY.

BOUGAINVILLE ON THE FRENCH POSTS, 1757.

(EXTRACTS FROM BOUGAINVILLE'S* MEMOIR ON THE STATE OF NEW FRANCE AT THE TIME OF THE SEVEN YEARS' WAR (1757). †)

DETROIT.—Detroit is an important post; it is the entrepôt of the southern forts, which communicate with the Illinois. The lands there are fertile and of easy cultivation; the sky beautiful and serene; the climate magnificent. There is almost no winter; very little snow; animals winter in the fields, where they find their feed; there are already two hundred habitations, or about that number, full of food and cattle, and which furnish supplies for the different posts of the upper countries. This fort is situated on the shore of the river which separates Lake Erie from Lake Huron. . . . The post

* Louis Antoine de Bougainville, author of this Memoir on Canada, was one of the most distinguished French officers in the war which resulted in the conquest of Canada. His "Memoir" was submitted to General Montcalm at the time it was written, and that officer testified to the correctness of the information it contained. Bougainville attained, on his return to France, a high rank in the navy, of which he became Vice-Admiral.

† The French original is given in "Relations et Mémoires Inédits," etc., par Pierre Margry, Paris, 1867, p. 41.

of Detroit, entrepôt of the southern posts is a large town, situated between Lake Erie and Lake Saint Claire. From the entrance of Lake Erie to Detroit, there is a distance of six leagues; from Detroit to Lake Saint Claire, two leagues; from the outlet of this lake, which extends seven leagues, to Lake Huron there is a distance of seven leagues. The site of the post is a very beautiful one the climate is pleasant, the atmosphere very healthy, the soil excellent and good for any productions; the game is abundant. . . . . On the north there are three leagues of land, inhabited by Frenchmen, and on the south two leagues and a half . . ; This post has a commandant, a major, etc.; the garrison comprises men belonging to the companies detached from the marine. This post is worked by means of licenses *(congés)*, whose price is generally five hundred francs, payable in cash, and whose number is not determined.

Michilimakinac.—Michilimakinac is distant from Montreal, travelling by the *Grande Rivière*, some three hundred leagues, and some one hundred leagues and more from Detroit. This post is situate between Lake Michigan and Lake Huron. . . The Governor-General receives generally from the voyageurs five hundred francs upon each canoe laden with merchandizes, and the proceeds thereof are distributed among the officers and the poor families. In ordinary times six or seven hundred bundles *(paquets)* of furs are forwarded from the fort per annum..... Michilimakinac is the entrepôt of all the northern posts, as Detroit is of the southern ones.

Miamis Post.—The post of the Miamis (Bellestre, Lieutenant), is situated on the right shore of the river of that name, and has a fort built with palisades. . . . . This fort is farmed to the commandant for three years, in consideration of a sum of twelve hundred francs per annum. He has the control of the fur trade; the King delivers neither certificates nor presents to the Indians; the farmer must bear these expenses, and, moreover, pay the salary of the interpreter; he receives no gratuity. . . . This post produces generally from two hundred and fifty to three hundred bundles of furs.

Ouyatanons.—The post of Ouyatanons (Camet Bayeul, Ensign), is situated on the right shore of the River Ouabache, or St. Jerome; the fort is built with palisades. This post is on the same footing with that of the Miamis; the commandant is its farmer, and pays on that account twelve hundred francs annually. . . . . This post, and those that are dependent upon it, produce generally from four hundred to four hundred and fifty bundles of furs per annum.

Vincennes.—The post of Vincennes is a pretty village, subject to New Orleans, which sends there a commandant. It has three horse-mills, and contains seventy-five inhabitants, who labour and reap corn.

Illinois Post.—The principal *entrepost* of the post of the Illinois is Fort Chartres, situated upon the Mississippi. There are, for all these posts, a garrison of six companies furnished, as is also the commandant, by New Orleans. The divisions of the Illinois are . . . the Cahoo [Cahokias] . . . . the Metchi . . . . the Kas [Kaskaskias] . . . . These three nations are now comprised under the name of the Illinois. This post is worked by means of licenses, whose price is six hundred francs per canoe. . . . . There is another post on the River of the Illinois, where resides a commandant in a fort called Pimiteoui. The tribes which trade there are the Peorias. Seven hundred men produce two hundred bundles of furs.

Kanses.—In ascending this stream [the Missouri River] we meet the village of the Kansés. We have there a garrison with a commandant, appointed, as is the case with Pimiteoui and Fort Chartres, by New Orleans. This post produces one hundred bundles of furs.

Fort Duquesne.—Fort Duquesne is situated on the left bank of Belle-Riviere [Ohio], at the confluence of the Malangueule [Monongahela]. This post is worked by means of licenses, which are distributed free in order to encourage the traders to forward furs there. It produces generally, per annum, from two hundred to two hundred and fifty bundles of furs.

Fort of La Presqu' Isle.—La Presqu' Isle is a square fort, built with squared timbers, situated on Lake Erie, at a distance of seven leagues from Riviere au Boeuf and Nia-

gara, almost at the entrance of a large bay, about one league and a half long, with a width of half a league. There are at the post a commandant, who receives a salary of 1,000 francs, and a garrison of from fifty to sixty men. This post is for the fur trade in the same position with the two preceding ones; it is important as a necessary *entrepost*, and the first between Niagara and the Belle-Riviere.

Fort of the Riviere au Boeuf.—The Fort of the Riviere au Boeuf, a square fort built with palisades, is situated at thirty leagues from Fort Machault, on the river of which it bears the name. This post is a necessary *entrepost* for Fort Duquesne, but it should be rebuilt in order to be protected against a *coup de main*. This post is not a trading one.

Fort Machault.—Fort Machault is situated at the confluence of the Rivers au Boeuf and Ohio. It is the last *entrepost* towards Fort Duquesne . . . . It is not a trading post.

Niagara.—Niagara may be considered as a strong place; it is situated at the head of Lake Ontario to the south, at the confluence of Niagara River. This post is the key of the upper countries. The soil being most fertile, the climate mild, and game and fish abundant, we should attempt to establish there a town, or at least a village. . . . . The King controls the fur trade of this post, and consequently pays the salaries of the commandant and other employés, but the trade is badly managed. The post produces generally per annum from 250 to 300 bundles of furs.

Toronto.—Situated to the north of Lake Ontario, opposite Niagara, has been established in order to prevent the northern Indians from going to trade at Choueguen. Choueguen existing no more, this post becomes useless. The King controls its trade. It produces about 150 bundles of furs.

Frontenac.—Frontenac or Katarakoui, a fort in bad condition, situated at the entrance of Lake Ontario; had Choueguen not been destroyed, it would have been necessary to repair it. It has a commandant, with some officers under his orders, and a garrison of soldiers. . . . . This post is managed by the King, who consequently defrays all its charges. It can produce annually from twenty to thirty bundles of furs.

La Presentation.—A Mission for the Indians of the Five Nations, established by M. l'Abbe Piquet, on the right shore of the River St. Lawrence, at. . . . . leagues from Montreal. There are now about one hundred Indians of the Five Nations assembled under his care. It has a fort in bad condition, built with palisades, with a commandant and a small garrison. This fort is worked for the King. It produces generally from thirty to forty bundles of furs per annum.

Baye des Puants.—The post of Baye des Puants [Green Bay] (Monsieur de Rigaud) is farmed in consideration of nine thousand francs; every expense on account of the King has been suppressed; the King delivers neither presents nor certificates, and does not pay the salaries of the interpreters; the farmers must bear all those expenses. The commandant (Lieut. Coutrol) is interested in the farming, and manages the trade for his own account as well as for his associates; he receives a gratuity of two thousand francs. The post produces usually from five to six hundred bundles of furs per annum.

River St. Joseph.—The fort of River St. Joseph (Monsieur le Verrier) is situated on the right of the river of that name, at a distance of twenty leagues from the place of its discharge into Lake Michigan. This post is on the same footing with that at La Baye; the commandant is its farmer in whole or in part, according to the pleasure of the Governor-General; all the expenses rest upon him; he receives a gratuity of two thousand francs. . . . . It can produce four hundred bundles of furs.

Post of the Western Sea (la Mer de l'Ouest).—The post of the Western Sea is the most advanced towards the north; it is situated amidst many Indian tribes, with whom we trade, and who have intercourse also with the English, towards Hudson's Bay. We have there seven forts built of stockades, trusted, generally, to the care of one or two officers, seven or eight soldiers, and eighty *engagés Canadiens*. We can push further the discoveries we have made in that country, and communicate even with California.

BOUGAINVILLE ON THE FRENCH POSTS, 1757.

The post of *La Mer d' Ouest* includes the forts ST. PIERRE, ST. CHARLES, BOURBON, DE LA REINE, DAUPHIN, POSKOIA [AND] DES PRAIRIES, all of which are built with palisades that can give protection only against the Indians. Fort St. Pierre is situated on the left shore of Lake Tekamamiouen, or Lac de la Pluie (Rainy Lake), at 500 leagues from Michilimakinak and 300 from Kamanistigoyia, or les Trois Rivieres (Three Rivers), to the north-west of Lake Superior. Fort St. Charles is situated sixty leagues from Fort St. Pierre, on a peninsula that goes far into Lac des Bois (Lake of the Woods). Fort Bourbon is at one hundred and fifty leagues from the preceding one, and at the entrance of lake Ouinipeg. Fort la Reine is situated on the right shore of the River of the Assiniboëls, at seventy leagues from Fort Bourbon. This country is composed of vast prairies; it is the route to go through to the upper part of the Missouri. Fort Dauphin at eighty leagues from the preceding one, on the River Minanghenachequeké, or Eau Trouble. Fort Poskoia is built on the river of that name (now Saskatchewan), at 180 leagues from the preceding one; it takes ten days from this fort to reach Nelson River. The Fort des Prairies is at eighty leagues from Fort Poskoia, in the upper part of the river of that name. This post has been farmed in consideration of the sum of eight thousand francs; the commandant is its farmer, with a fourth interest in its trade. The Indians who trade there are Christinaux and the Assiniboëls; these two tribes form each twelve villages, inhabited respectively by two hundred and fifty men *(hommes)*. This post produces usually from three to four hundred bundles of furs; we must take into account also fifty or sixty slaves, Rouges or Panis, of Jatihilinine, a nation situated on the Missouri, and which plays the same *rôle* in America that the negroes do in Europe. This is the only post where this traffic takes place.

The post of *La Mer d' Ouest* merits special attention for two reasons—the first, that it is the nearest to the establishments of the English at Hudson's Bay, and from which their movements can be watched; the second, that from this post the discovery of the Western Sea may be accomplished; but to make this discovery it will be necessary that the travellers *(voyageurs)* give up all views of personal interest.

The one who advanced this discovery most was the Sieur de la Veranderie; he went from Fort de la Reine to reach the Missouri. Upon this river he first met the Mandanes or Blancs-Barbus, numbering seven villages surrounded by forts of staked earthworks with a moat; then the Kinongewiniris or Brochets, composing three villages; at the upper part of the river he found the Mahantas, also composing three villages, and along the Missouri in descending it to the discharge of the river Wabiek, or to the Coquille, twenty-three villages of Panis.

To the south-west of this river, and on the two shores of Ouonaradeba, or a la Graisse, are the Hactannes or Gens du Serpent. They extend from the foot of a chain of very high mountains (the Rocky Mountains), which run north, east, and south, to the south of which is the Karoskiou or Cerise-Pelée, which is supposed to reach California.

He continued his journey, and found in these vast territories, where the Missouri has its sources opposite to, and about forty leagues from, the Mahantas, the Owilinioek or Beaux-Hommes, four villages; opposite the Brochets the Macateoualasites or Pieds Noirs (Black-feet), three villages, of about 100 cabins each; opposite the Mandanes are the Ospekakaerenousques or Gens du Plat Côté, four villages; opposite the Panis are the Gens de l'Arc, named the Atchapcivinioques by the Christinaux, and Utasibaoutchactas by the Assiniboëls, three villages; after these are found the Makesch or Petits Renards, two villages; the Privassa or Grands-Parleurs, three villages: the Kakakoschena, or Gens de la Pie, five villages; the Kiskipisounouinini or Gens de la Jarretière, seven villages.

He could not go farther on account of the war which was then being waged between the Gens de la Jarretiere and the neighbouring nation. I may here observe, that it is perhaps improper to use the term villages as I have done, for all these nations which inhabit the prairies, form like the Tartars, wandering hordes, live by the chase, and dwell in huts covered with skins.

NEPIGON.—Les Népigons, a post established to the north of Lake Superior; the commandant is its farmer, and pays for that privilege about 4,000 francs; it includes the Lake à la Carpe. . . . The Indians who trade at the post are the Saulteux; this tribe, one of the most numerous in these regions, is wandering, plants nothing, and subsists solely by

the chase and fishing. The post produces generally every year from eighty to one hundred bundles of fur.

CHAGOAMIGON POINT.—The post of Point de Chagoamigon [La Pointe] (Monsieur de Beaubassin) . . . is farmed in consideration of the sum of eight thousand francs, to Sieur de Saint Luc until 1758; there are neither presents nor certificates sent, only the interpreter to be paid. The commandant receives a gratuity of three thousand francs. The Indians who trade at the post are the Saulteux. Generally, the post produces each year about two hundred and fifty bundles.

KAMANISTIGOYA.—The post of Kamanistigoya, or Les Trois Rivieres (Monsieur de Repentigny) was farmed to the late M. Cugnet in consideration of a sum of four thousand francs, he having sub-farmed the same to M. Toussaint Portier, the Crown has granted him the surplus in order to indemnify him for the loss of the licenses of the Saint Maurice. The King bears no other expense than a gratuity of two thousand francs to the commandant; there are neither presents nor certificates; the farming of this fort will expire in 1758. The Indians who trade are the Salteux. The fort produces annually from sixty to seventy bundles.

MICHIPICOTON.—A post situated to the north-east, as that of Kamanistiguia is to the north-west, of Lake Superior. The Saulteux trade at this post. It produces from fifty to sixty bundles of furs.

SAULT STE. MARIE.—Fort built with palisades, situated on the strait which unites Lake Superior to Lake Huron, established in 1750. The fur trade was granted gratis to the commandant in order to promote the settlement. The King gives 400 francs of gratuity charged against Michilimakinac, on which this post depends. The Indians who trade there are the Salteux. The post produces annually one hundred bundles. The Sieur Debonne and the Sieur de Repentigny have obtained its possession by way of a grant, as an hereditary seigniory.

TEMISCAMINGUE.—A post situated on a lake of that name, and farmed in consideration of the sum of 7,000 francs; the Indians call the place where stands the post *Aubatswenanek*. The tribes that trade there are the Tetes de Boule, or Gens des Terres and the *Namcosakio*, who come from the shores of Hudson's Bay.

TABITIBI.—Is a post dependent upon Temiscamingue, situated at one hundred and twenty leagues from the preceding fort, towards Hudson's Bay; each post may contain one hundred men; they subsist on game and fishing; they sow no grain and have no village. All this country is mountainous and not at all fertile. The post produces about 120 bundles of furs.

FUR TRADE AND LICENSES (Congés).—In almost every post, the house occupied by the commandant, being surrounded with palisades, is honoured with the name of Fort. People in Canada give this name to public stores *(comptoirs)*, where the fur trade with the Indians takes place, who, in exchange for their peltries, receive the goods wanted by them. In earlier times these posts were sold by auction, and the traders could obtain their possession, but the Governor-General disposes of them now for his favourites, with the approbation of the Court. The most important are La Mer d'Ouest, La Baye [des Puants], St. Joseph, Nepigon, and Michilimakinac. The post of Detroit is granted to no one; the system of licenses *(congés)* prevails there.

There are posts where the fur trade goes on for the benefit of the King, such as Toronto, Frontenac, Niagara, Petit Portage, Prespu'Isle, Riviere au Boeuf, Fort Machault, Fort Duquesne. The traffic in these posts is not a profitable one for the King, who always loses money in this way; he retains it only to preserve the alliance of the Indians; the storekeepers and the commandants know, however, how to enrich themselves.

We call *congé* the licenses or permits that are granted by the Governor-General for a canoe laden with six thousand pounds of merchandizes intended to be sold in one of the posts indicated; such a license costs fifty pistoles.

The Governor-General, who is at liberty to give more or less, applies these funds to the

maintenance of poor families of officers. Account is given to the King of only twenty-two licenses; the Governor sometimes gives as many as forty; the half of the fifty pistoles goes to the King, and the other half is at the disposal of the Governor for gratuities.

The post of La Baye has given in three years to MM. Rigaud and Marin three hundred and twelve thousand francs, and at the time of M. Marin, the father, who was associated with MM. de la Jonquiere and Bigot, it produced more than one hundred and fifty thousand francs per annum, all expenses paid. . . . .

TRADING POSTS.

Northern Posts.—1. Themiskaming (no commandant there); 2. Michilimakinac; 3. La Baye; 4. La Mer d'Ouest; 5. Sault Ste. Marie (the seigniory and the exclusive trade are granted in perpetuity to M. Deboune or his heirs); 6. Chagouamigon; 7. Kamanistigouya; 8. Nepigon; 9. Michipicoton (no commandant); 10. St. Joseph; 11. The River of the Illinois (no commandant has yet been appointed for that post). The General sells licenses to the traders in order to allow them to trade with the Indians.

Southern Posts.—La Présentation, Frontenac, Toronto, Niagara, (the small Fort of Niagara—the Indian trade is for the King's benefit); Detroit (Licenses are sold to the traders). The Miamis, sixty leagues above Detroit; Ouyatanons, sixty leagues above Miamis, on the Ouabache river; Presque'Isle; River au Boeuf; Fort Duquesne; Fort Machault—(the trade is controlled by the King). Below Quebec there are the posts of Tadoussac and Saguenay, controlled by the King, . . . Mingan, . . . Labrador, . . . Anticosty.

EARLY POPULATION OF THE COUNTRY BETWEEN LAKE MICHIGAN AND THE MISSISSIPPI.

MICHIGAN COMMISSION ON LAND CLAIMS.

*Extract from the letter of instructions to the Agent appointed to receive claims and take evidence concerning land claims at Green Bay and Prairie des Chiens.**

TERRITORY OF MICHIGAN,
Land District of Detroit, August 8, 1821.

It is not practicable for the Commissioners to prescribe the period of time which, by your notices, you will assign at Green Bay and Prairie des Chiens respectively, for receiving the evidences of claims and titles. The law requires *reasonable* notice; what may be deemed *reasonable* notice must depend upon the number of claimants and the remoteness of their relative situations. You must judge of it.

Though the settlement of Green Bay is spoken of by Charlevoix as early as 1720, yet it is believed the whole number of claimants there cannot exceed one hundred and fifty. The settlement at Prairie des Chiens is supposed to have been some thirty years later, though the number of claimants is believed to be considerably greater; but, in respect to both, it is said the settlements are quite compact. All the traditionary or other information which can be procured by you concerning the origin and history of these settlements would be very desirable, and may be of much use in the ultimate investigation of their land claims.

WM. WOODBRIDGE, *Secretary of Michigan.*
PETER AUDRAIN, *Registrar.*
J. KEARSLEY, *Receiver.*
} Commissioners.

ISAAC LEE, ESQ., Agent, etc.

Report of Michigan Commissioners concerning the land titles at Prairie des Chiens, in the County of Crawford, and Territory of Michigan. (1828.)†

Few difficulties have been met with by the Commissioners in their investigation of

* American State Papers, Vol. V., pp. 306-7.

† Ibid., pp. 303-5.

these titles; they are not individually intricate. The determination of a few principles of general applicability, has furnished a rule by which they have all been decided, for they rest upon long continued possession.

Notwithstanding the high antiquity which may be claimed for the settlement of Prairie des Chiens, and the very considerable numbers of which it has so long consisted, no one perfect title, founded upon French or British grant, legally authenticated, has been successfully made out; comparatively but few deeds of any sort have been exhibited to us. To an American, unacquainted with the astonishing carelessness of the Canadians in respect to whatsoever concerns their land titles, this fact must seem unaccountable. It nevertheless accords with whatever is known in this regard of the French population throughout this country.

It became manifest, therefore, immediately after the Commissioners were possessed of the report of the Agent, that whatever claim the people of Prairie des Chiens might have for a confirmation of their land titles, must be founded upon proof of continued possession since 1796—a basis sufficiently broad to have comprehended perhaps all their claims, but for the changes which have occurred within a few years among them, and the interruptions and occasional evictions from their possessions, consequent upon the establishment there, since the late war, of bodies of American troops.

Such interruptions and evictions, though frequent since the period alluded to, seem never, among the French population, to have excited a spirit of resistance, but to have been submitted to in silence. Since their ancestors were cut off, by the treaty which gave the Canadas to the English, from all intercourse with their parent country, the people, both of Green Bay and Prairie des Chiens, have been left, until within a few years, quite isolated, almost without any government but their own. And although the present population of these settlements are natives of the countries which they inhabit, and consequently are by birth citizens of the United States, yet, until within a few years, they have had, apparently, as little political connection with its Government as their ancestors had with that of the British. Ignorance of their civil rights, carelessness of their land titles, docility, habitual hospitality, cheerful submission to the requisitions of any Government which may be set over them, are their universal characteristics. With those who know them, their quiet surrender of their fields and houses upon the demand of those who came ostensibly clothed with authority, would constitute no evidence of the illegality of their titles, or of the weakness of their claims.

A few additional remarks, in conclusion, might seem sufficient to satisfy the requisition of the law; and to explain adequately the grounds of the decisions the Commissioners have made. A circumstance has occured, however, which seems to call for a more detailed exposition of their views. After the Agent had returned from Green Bay and Prairie des Chiens, and when it seemed too late to obtain rebutting or further testimony, a caveat was filed with the Commissioners, at the instance of the Superintendent of Indian trade, by John W. Johnson, Esq., Indian Factor, against the claim to Village Lot No. 14, preferred by the American Fur Company. The principles upon which that caveat is founded, and by which it is endeavoured to be supported, apply with equal force to all the other land claims at Prairie des Chiens. The objections against the claim, and the documents adduced in its support, consist in this—that the settlement at Prairie des Chiens is of recent origin; that its residents have intruded upon the public lands in violation of the laws of the United States, and that, in truth, the Indian title to the country in question has not been extinguished; objections which, if sustained in one case, must conclude all cases there. Upon a critical examination of this matter, so unexpectedly and so recently presented to them, the Commissioners have not been able to discover anything in the protest of the United States Indian Factor, in the documents he has adduced, or in his own fair and candid statement, which could sanction a doubt as to the propriety of confirming the claims set up by the American Fur Company.

It appears to have been in the spring of 1673 that Père Marquette and Mons. Joliet took their departure from the French establishment at Green Bay, on a voyage of discovery up the Fox River, and down the Wisconsin to the Mississippi. This channel of communication between the great lakes and the Mississippi, from about that period, had attracted a considerable portion of public attention. The French voyageurs continued afterwards

generally to take that route; their Indian traders most usually did; and it is the same channel through which Carver also penetrated into the Mississippi country in 1766.

Although the Commissioners have not, on this head, been able in so short a time, to procure that ample and certain information which is desirable, yet it is believed that not very many years after its first discovery in 1673, by the French, a permanent establishment was made by them at the Prairie des Chiens. Vestiges of an old and a strong *French* fort are still discernible there, although it is stated to have been destroyed so early as in the first years of the Revolutionary War.

When, in 1805, the late General Pike was on his voyage up the Mississippi, he computed the fixed white population of the place, in the absence of the traders and those connected with them, at 370, and the total number at from 500 to 600. Mr. Schoolcraft, in 1820, estimates the population of the place at 500. No evidence can be obtained from the traditionary history of the country that, at any *one* period, that settlement has received, by emigration, any sudden and large augmentation in the number of its inhabitants. It has never been characteristic of the French Canadian settlements to increase rapidly, and it is considered a fair inference, from all that can be learned on the subject, that for a long and indefinite time its numbers have been considerable, and increasing only at a tardy pace. This consideration is supposed to be eminently corroborative of the position the Commissioners have assumed, of the antiquity of this settlement.

With what propriety the inhabitants of Prairie des Chiens who were born there, and whose ancestors have for more than a century resided there, may be said to have "taken possession of the public lands in violation of the laws;" how *they* may be said to be "intruders" who, and whose ancestors through so many political changes, have, with the assent, express or implied, of each successive sovereignty continued to inhabit the country which gave them birth, it is hard to imagine.

It has been urged against them that their only right in the soil which they occupy consists in the *permission accorded them by the Indians to remain there.* Surrounded as that settlement always has been, by numerous hordes of ferocious savages, quite well disposed at all times to cause their power to be felt, it may, perhaps, be emphatically said (especially since the power of the French Government here was overthrown), that its inhabitants have occupied their lands "*by permission of the Indians.*" Left with none to defend them, they must have accommodated themselves to their humours; it has from *necessity* resulted that they have been compelled to submit to their commands, and, however reluctantly, to subserve, perhaps often, their vindictive views. But it is not considered that anything in their history, in such respects, detracts from the force of their present claims.

The Commissioners have not had access to any public archives by which to ascertain, with positive certainty, whether either the French or English Government ever effected a formal extinguishment of Indian title at the mouth of the Wisconsin; yet the same observation, with the same truth, may be made in relation to the land now covered by the City of Detroit. It is believed that the French Government particularly, was not accustomed to hold formal treaties for such purposes with the Indians. And when lands have been anciently procured from them, either in virtue of the assumed right of conquest or by purchase, evidence of such acquisition is rather to be sought for in the traditionary history of the country, or in the casual and scanty relations of travellers, than among collections of State papers. Tradition *does* recognize the fact of the extinguishment of the Indian title at Prairie des Chiens by the old French Government before its surrender to the English. And by the same species of testimony, more positive because more recent, it is established also that, in the year 1781, Patrick Sinclair, Lieutenant-Governor of the Province of Upper Canada, while the English Government obtained over this country, made a formal purchase from the Indians of the lands comprehending the settlement of Prairie des Chiens.

In Pike's Journal allusion is made to the last-mentioned purchase (Pike's Journal, appendix to part I. page 47). The agent also took down some testimony concerning the same facts, which may be found in the subjoined abstracts.

Whatever purchases may thus have been made by the French or British authorities, have since been sanctioned by the Treaty of St. Louis, holden June 3, 1816; and by

another treaty (see Acts of 2nd Session of the 14th Congress, pp. 307-309), concluded also at St. Louis, on the 24th of August, of the same year. It is provided (Art. 2) that the United States relinquish to the tribes with whom that treaty was holden, a certain tract of country lying north of a west line from the south bend of Lake Michigan, "*excepting* out of said relinquishment a tract of *three leagues space at the mouth of the Wisconsin*, including both banks," &c.; thus giving additional sanction to the allegation of a previous acquisition of the country comprehending the Prairie des Chiens settlement. For it will not escape observation upon a reference to the Treaty of November 3, 1804 (U. S. Laws, vol. I. p. 428), that the last-mentioned treaty *does not contain a cession* of the tract thus expected by the United States from their relinquishment. The real object of the clause alluded to in the Treaty of the 3rd November, it is apprehended, was to enable the United States, in its election, to erect a fort on the west bank of the Mississippi, where the Indian title has not yet been extinguished, and where a more eligible site, it is supposed, could be selected.

If further evidence were necessary on this head, it it might be found perhaps in the provisions of the Fourth Article of the Treaty of Greenville. The settlement of Prairie des Chiens lies "*east* of the Mississippi;" it is "*west*" from Detroit. It was certainly "*in the possession of the French people*," who, or whose children, still inhabit it. It is believed to be comprehended within both the words and the spirit of the provisions of the third and fourth Articles of that Treaty.

After all, it is not deemed important (except so far as it may seem to strengthen the equity of the claimants) to establish the proposition of an early extinguishment of the Indian title. There can be no doubt but that the Indian title is *now* extinguished. It would be hardly admissible to suppose that the American Government have been themselves guilty of an act of oppressive usurpation and violence; and yet it cannot otherwise be if the Indian title be not extinguished—for they have erected forts and established garrisons there. It would equally violate every principle of decorum for the Commissioners to suppose that they had no power, and that the people of Prairie des Chiens had no right in relation to this matter, when the law of May 11, 1820, under which they act, expressly extends to that people all the benefits and all the rights which, in virtue of former Acts of Congress, the people residing within the Detroit land district heretofore possessed in relation to their land titles; and also imperatively requires of the Commissioners that they give effect to that Act.

The Act of March 3rd, 1807, vested in those for whose benefit it was passed, a right to be confirmed in their claims upon the exhibition of proof of continued possession from July 1st, 1796, to March 3rd, 1807, inclusive. The extension to the people of Green Bay and Prairie des Chiens, of the provisions of that Act, it is presumed, conferred upon them, upon the exhibition of like proof, a like right. Proof of this tenor has been adduced by John Jacob Astor, Ramsay Crooks, and Robert Stewart, co-partners under the firm of "The American Fur Company," (formerly styled "The South-West Company,") as well as by others whose claims they have confirmed, and the Commissioners have not felt themselves justified in adopting any course of reasoning which would frustrate the object of that law from which they derive all the power they have possessed.

A majority of the Commissioners have felt obliged, nevertheless, to withhold from many of the claims the sanction of their confirmation; not because those claims were less equitable but because the proof adduced of occupancy, possession and improvement did not reach far enough back: they considered that the possession, etc., contemplated by the law was an *individual* and *exclusive* possession, from July, 1796, to March 1807. The fact in relation to the claims not confirmed seems to have been that the lands so claimed had been immemorially occupied by the villagers in common, or as a common, and that they had not been individually and exclusively appropriated until after July, 1796.

As no dissent on the part of the villagers was at any time expressed, or rather as none was *proved* or attempted to be proved, one of the Commissioners was willing to deduce from circumstances appearing a presumption of assent, equivalent to a formal conveyance. Upon such hypothesis the present claimants, combining their own exclusive possession with the antecedent occupancy of the villagers in common, "under whom" they might be considered to claim, would be respectively entitled under the law to confirmations; but a majority of the Commissioners, believing that such construction was at least obnoxious

to much doubt, felt obliged reluctantly to reject it, and, without further difference of opinion, they all resolved to present with these cases to the revising power their respectful and most earnest petition in behalf of the unsuccessful claimants, that their claims may be confirmed. Although some of these claimants have been in the exclusive occupancy of their possessions but for a very short space of time, yet their claims are considered not the less meritorious, for those who have thus remained in possession for the shortest period, would seem to have been removed from their former and older possessions, because those possessions were deemed necessary for the convenience of the troops by *whose* permission they have located themselves on the tracts now claimed.

Few cases have occurred at Prairie des Chiens, in which different claimants have applied for the same tract. In regard to other districts of country, much perplexity has been experienced in the selection among many, of that claimant in whose favour the title of right should be confirmed. The Commissioners have uniformly acted upon the principle that their power was intended to be exercised only as between the Government and claimants, and not as between several conflicting claimants. Doubts having been expressed, however, by members of the Supreme Court, as to the power of that tribunal to interfere after the emanation of patents, the Commissioners have become sensible that, without intending it, they might effect injustice by confirming the title in one whose claim, when exhibited before a court having chancery powers, might prove to be much less meritorious than the conflicting claim of some other person. It is most manifest, nevertheless, that a Board of Commissioners constituted as this Board is, are not competent to the undertaking of deciding, in the last resort, between contending individuals. Their proceedings are, of necessity, summary. They cannot administer suppletory oaths to the contending parties, and they have no control over their consciences. Their forms of proceeding are utterly unlike those which obtain in regularly constituted Courts: *forms* which, however slow and troublesome in their operations, are yet the surest guarantee of justice.

They therefore respectfully submit to the revising power, in order to obviate all doubt, the propriety of causing to be inserted in the patents which may issue, clauses saving by express words the rights of all individual claimants; such saving clauses will be in conformity with every decision which has been made.

It only remains for the Commissioners further to remark that, in making abstracts from the testimony adduced, they have felt disposed, in order that their report may be less encumbered with useless matter, to exclude as well copies of all deeds of individuals in cases where they have been satisfied that *bona fide* transfers have been intended, as also irrelevant matter contained in depositions taken.

All of which is respectfully submitted.

WILLIAM WOODBRIDGE, *Secretary of Michigan.*
HENRY B. BREVOORT, *Register of Land Office, Detroit.*
J. KEARSLEY, *Receiver of Land Office, Detroit.*

Report of Michigan Commissioners concerning the Land Titles at Green Bay, in the County of Brown, Territory of Michigan. (1828)*

Except that this French settlement is older than that of the Prairie des Chiens, the claims of its present inhabitants rest upon the same basis.

As the same general observations will apply to each class of cases indiscriminately, the Commissioners beg leave to refer to the views they have submitted in their report relative to the Prairie des Chiens titles.

Père Allowez, an enterprising Catholic missionary, became located at Green Bay, superintending a religious establishment there in 1668; and from that period the settlement at "La Baye" does not seem to have been discontinued while the French remained masters in Canada. The Chevalier de Tonti, having under his command a military force was stationed there in the winter of 1680. The Lieutenant de Luth, a few years afterwards, held military occupancy of the post under the superintendency of the Commandant of Michilimackinac, of which it was a *dependency*.

* Am. State Papers, Vol. V., pp. 283-4.

EARLY POPULATION OF GREEN BAY AND PRAIRIE DES CHIENS.

During the whole period alluded to, the Fox Indians (by Charlevoix called the Outgamies) seemed to have been deemed the proprietors of the country comprehending this settlement. (The Winnebagoes may rather be considered sojourners, their establishment there being of recent origin, *than proprietors of the soil*). These (the Fox Indians) were attacked and signally defeated by the French troops under Captain Morand, with the aid of their allies, the Chippewas, in the winter of 1706, at a place called "La Butte des Morts." A great proportion of them were destroyed in this engagement, and many driven from the country. Upon this historical fact is probably founded the frequent assertion that the country of Green Bay accrued to the French by conquest.

It has been asserted, however, with more positiveness, that the French Missionary, Père Roquette, very many years ago, obtained the possession of several leagues square of this country, comprehending the fort and the whole French settlement. This fact it would have been desirable more fully to establish; but having had access to but few books which treat of the early history of this country, no further light could be obtained on the point, except the above insulated assertion.

But, however this fact may be, "La Baye" was continually occupied as a military post and a missionary establishment, until the Canadas were by treaty surrendered to the British. It seems a fact equally well established, that the latter continued for some time after their acquisition of the country, to keep a military force at Green Bay as a dependency of their more important one at Michilimackinac. The same evidence which tends to establish the fact of the purchase by Lieutenant-Governor Patrick Sinclair, by a treaty holden in 1781, at Michilimackinac, of the country at Prairie des Chiens, establishes also the further one of the purchase of the country of Green Bay.

The antiquity of this settlement being, in the view of the Commissioners, sufficiently established, and they being also satisfied (especially when the subject is considered in connection with the references and the matter contained in their report, concerning the land titles of Prairie des Chiens), that the Indian title must be considered to have been extinguished, little further, on the part of the Commissioners, seems requisite to elucidate the governing principles of their discussions; a repetition here of the matter of their report of the Prairie des Chiens claims can hardly be esteemed necessary.

It will be perceived that a few claims have been confirmed at a place called the Kakalin. Those claims are considered to have been comprehended within the settlement of Green Bay. (See Schoolcraft, 368). Those at the portage between the Wisconsin and Fox Rivers have not been considered as comprehended within the limits either of the Green Bay or Prairie des Chiens settlements.

All of which is respectfully submitted.

WM. WOODBRIDGE,
Sec. of Michigan.
HENRY B BREVOORT,
Reg. of the Land Office, Detroit.
J. KEARSLEY,
Rec. of the Land Office, Detroit.
} Commisioners.

The following is part of the evidence appended to the Commissioners' Report:—

TERRITORY OF MICHIGAN, COUNTY OF CRAWFORD. ss:*

Be it remembered, that on this day personally appeared before me, Isaac Lee, a Justice of the Peace, in and for said County, and Agent duly appointed to ascertain the title to lands at Green Bay and Prairie du Chien. Denis Courtois, of said County, who after being sworn according to law, deposeth and saith that he is fifty-two years old; that he has been a resident of Prairie du Chien, twenty-nine years; that according to the best information that he has been able to obtain from the tradition of the inhabitants at Prairie du Chien, the old French Fort was burned during the second year of the revolutionary war;

* Am. State Papers, Vol. V., p. 284.

that he has no knowledge of any building or fence being erected on the same ground since that time, but that the land between the said fort and the hills or bluffs was occupied before and since the time that deponent arrived in this country; that Prairie du Chien has been formerly occupied much in the manner of an Indian village, the lands being alternately in common, and improved in detached parts as each should please, and this by the common consent of the villagers since deponent's arrival in the country; that he (deponent) has been uniformly told by the old French inhabitants of the Prairie, that it was bought and paid for by the French many years ago; that he has never heard any Indian make claim to said lands.

DENIS COURTOIS.

Sworn and subscribed before me, October 21, A.D. 1820.

ISAAC LEE, Justice of the Peace for
Crawford County, and Agent.

TERRITORY OF MICHIGAN, COUNTY OF CRAWFORD, ss:*

Be it remembered that on this day personally appeared before me, Isaac Lee, a Justice of the Peace in and for said County, and Agent duly appointed to ascertain the title to lands at Green Bay and Prairie du Chien—Michael Brisbois, of said County, who, after being sworn according to law, deposeth and saith that he (this deponent) is sixty years of age; that he has been thirty-nine years in this country; that, from the best information he has been able to obtain, and from his own knowledge, Prairie du Chien, extending from the mouth of the River Wisconsin to the upper part of the prairie, has been occupied and cultivated in small improvements in virtue of sundry claims of French People, both before and since deponent's arrival in the country; that he (deponent) has never heard of any Indian claim to said tract, except that, about eighteen years ago, the French people became somewhat apprehensive as to their title, which fact being made known to the Indians, one of the first Chiefs of the Fox nation, named Nanponis, ratified at Kahokia, near St. Louis, an ancient sale of said prairie to the French; that in the year seventeen hundred and eighty-one, Governor St. Clair bought the Island of Michilimackinac, Green Bay, and Prairie du Chien; that this deponent saw the papers relating to said purchase executed and folded up to be sent to Montreal or Quebec. Deponent was informed on his first arrival at this place, that it derived its name from a large family called Les Chiens who formerly resided here, that the same family, or the descendants, were here at the time of deponent's arrival, and were called Les Chiens.

M. BRISBOIS.

Sworn and subscribed before me, October 21, A.D. 1820.

ISAAC LEE, Justice of the Peace for
Crawford County, and Agent.

TERRITORY OF MICHIGAN, COUNTY OF CRAWFORD, ss:†

Be it remembered that on this day personally appeared before me, Isaac Lee, a Justice of the Peace in and for said County, and Agent duly appointed to ascertain the titles to lands at Green Bay and Prairie du Chien—Pierre La Pointe, of said county, who, after being sworn according to law, deposeth and saith that he is seventy years of age; that he has been forty-four years in this country, of which period he has resided thirty-eight years at Prairie du Chien; that in the year 1781, this deponent was at Michilimackinac, and acted in the capacity of interpreter, at the Treaty held by Governor Sinclair with the Indians for the purchase of the Island of Michilimackinac, Green Bay, and Prairie du Chien; that during

* Am. State Papers, Vol. V., p. 284.
† Ibid.

the time deponent has resided at the Prairie, he has never known the Indians to make claim to said tract of land as their property; that deponent was present at Prairie du Chien, and saw the goods delivered to the Indians, in payment for the said Prairie, by Bazil Gurd, Pierre Antya, and Augustus Ange, according to the stipulations of the treaty with Governor Sinclair above mentioned.

his
PIERRE + LA POINTE.
mark.

Sworn and subscribed before me, October 22nd, 1820.

ISAAC LEE, Justice of the Peace for
Crawford County, and Agent.

MICHILIMACKINAC, April 13th, 1703. [1763].

I have of this date given permission to Messrs. Longlade, père et fils, to live at the post of the La Baye, and do hereby order that no person may interrupt them in their voyage thither with their wives, children, servants, and baggage.

GEO. ETHERINGTON, *Commandant.**

FRENCH SETTLEMENTS IN THE ILLINOIS COUNTRY, DETROIT DISTRICT, &c., AT THE TIME OF THE TREATY OF 1763.

CAPTAIN PITMAN'S ACCOUNT.†

FORT CHARTERS, when it belonged to France, was the Seat of Government of the Illinois. The head-quarters of the English commanding-officer is now here, who, in fact, is the *arbitrary governor* of this country. The fort is an irregular quadrangle; the sides of the exterior polygon are 490 feet. It is built of stone, is plastered over, and is only designed as a defence against the Indians. The walls are two feet two inches thick, and are pierced with loop-holes at regular distances, and with two port-holes for cannon in the faces, and two in the flanks of each bastion. The ditch has never been finished. The entrance to the fort is through a very handsome rustic gate. Within the walls is a banquette raised three feet, for the men to stand on when they fire through the loop-holes. The buildings within the fort are—a commandant's and a commissary's house, the magazine of stores, corps de garde, and two barracks; these occupy the square. Within the gorges of the fort are a powder magazine, a bake-house, and a prison, in the lower floor of which are four dungeons, and in the upper, two rooms, and an out-house belonging to the commandant. The commandant's house is thirty-two yards long, and ten broad, &c. The commissary's house (now occupied by officers) is built on the same line as this, and its proportion and the distribution of its apartments are the same. Opposite these are the store-house and the guard-house; they are each thirty yards long and eight broad. The former consists of two large store-rooms (under which is a large vaulted cellar, a large room, a bed-chamber, and a closet for the store-keeper; the latter, of a soldiers' and officers' guard-room, a chapel, a bed-chamber, a closet for the chaplain, and an artillery store-room. The lines of barracks have never been finished; they at present consist of two rooms each for officers, and three rooms each for soldiers. They are each twenty feet square, and have betwixt them a small passage. There are five spacious lofts over each building, which reach from end to end; these are made use of to lodge regimental

* Am. State Papers, Vol. V., p. 284.

† From "The Present State of the European Settlements on the Mississippi," by Captain Philip Pitman, 4to. London, 1770.

stores, working and entrenching tools, &c. It is generally believed that this is the most convenient and best built fort in North America.

[In 1756, Fort Chartres was rebuilt by order of the French Government, in view of the war with England. It was then half a mile from the Mississippi. In 1766 it was but eighty yards from the bank. In 1768 Captain Pitman writes]:—

The bank of the Mississippi, next the fort, is continually falling in, being worn away by the current, which has been turned from its course by a sand bank, now increased to a considerable island, covered with willows. Many experiments have been tried to stop this growing evil, but to no purpose. Eight years ago the river was fordable to the island; the channel is now forty feet deep.

In the year 1764, there were about forty families in the village near the fort, and a parish church, served by a Franciscan friar, dedicated to Ste. Anne. In the following year, when the English took possession of the country, they abandoned their houses, except three or four poor families, and settled in the villages on the west side of the Mississippi, choosing to continue under the French Government.

[In 1772, the channel of the river reached the fort and the wall, and two bastions upon the west side were undermined and fell, and the British garrison abandoned the place, and Kaskaskia, became the seat of government for the Illinois country.] *

The Village of Notre Dame de Cascasquais is by far the most considerable settlement in the country of Illinois, as well for its number of inhabitants, as for its advantageous situation.

Mons. Paget was the first who introduced water-mills in this country, and he constructed a very fine one on the river Cascasquias, which was both for grinding corn and sawing boards. It lies about one mile from the village. The mill proved fatal to him, being killed as he was working in it, with two negroes, by a party of Cherokees, in 1764.

The principal buildings are the church and Jesuits' house, which has a small chapel adjoining it; these, as well as some other houses in the village, are built of stone, and considering this part of the world, make a very good appearance. The Jesuits' plantation consisted of two hundred and forty arpents of cultivated land, a very good stock of cattle, and a brewery, which was sold by the French commandant, after the country was ceded to the English, for the Crown, in consequence of the suppression of the Order. Mons. Beauvais was the purchaser, who is the richest of the English subjects of this country. He keeps eighty slaves; he furnishes eighty-six thousand weight of flour to the King's magazine, which was only a part of the harvest he reaped in one year.

Sixty-five families reside in this village, besides merchants, other casual people, and slaves. The fort, which was burnt down in October, 1766, stood on the summit side of a high rock opposite the village, and on the opposite side of the Koskaskia river. It was an oblongular quadrangle, of which the exterior polygon measured two hundred and ninety feet by two hundred and fifty-one feet. It was built of very thick squared timber, and dovetailed at the angles. An officer and twenty soldiers are quartered in the village. The officer governs the inhabitants, under the direction of the commandant of Chartres. Here are also two companies of militia.

La Prairie de Roches [Du Rocher], is about seventeen miles from Cascasquias. It is a small village, consisting of twelve dwelling houses, all of which are inhabited by as many families. Here is a little chapel, formerly a chapel of ease to the church at Fort Chartres. The inhabitants here are very industrious, and raise a great deal of corn, and every kind of stock. The village is two miles from Fort Chartres. It takes the name from its situation, being built under a rock that runs parallel with the river Mississipi, at a league distance, for forty miles up. Here is a company of militia, the captain of which regulates the police of the village.

* For a very minute and interesting description of Fort Chartres, see Dr. Beck's *Gazetteer of Illinois*, 1820:—"Over the whole fort there is a considerable growth of trees. . . . Trees more than three feet in diameter are within the walls. It is a ruin in the midst of a dense forest, and did we not know its history, it might furnish a fruitful theme for antiquarian speculation."

FRENCH SETTLEMENTS IN ILLINOIS, ETC., AT TIME OF TREATY OF 1763.

SAINT PHILLIPPE is a small village about five miles from Fort Chartres, on the road to Kaoquias. There are about sixteen houses and a small church standing. All the inhabitants, except the captain of the militia, deserted in 1765, and went to the French side. The captain of the militia has about twenty slaves, a good stock of cattle, and a water-mill for corn and planks. This village stands in a very fine meadow, about one mile from the Mississippi.

The village of SAINTE FAMILLE DE KAOQUIA [Cahokia] is generally reckoned fifteen leagues from Fort Chartres, and six leagues below the mouth of the Missouri. It stands near the side of the Mississippi, and is marked from the river by an island nearly two leagues long. The village is opposite to the centre of this island; it is long and straggling, being three quarters of a mile from one end to the other. It contains forty-five dwelling-houses and a church near its centre. The situation is not well chosen, as in the floods it is generally overflowed two or three feet. This was the first settlement on the Mississippi. The land was purchased of the savages by a few Canadians, some of whom married women of the Kaoquias nation, and others brought wives from Canada, and then resided there, leaving their children to succeed them. The inhabitants of this place depend more on hunting and their Indian trade, than on agriculture, as they raise scarcely corn enough for their own consumption; they have a great plenty of poultry, and good stocks of horned cattle. The Mission of St. Sulpice had a very fine plantation here, and an excellent house built on it. They sold this estate, and a very good mill for corn and planks, to a Frenchman who chose to remain under the English Government. They also disposed of thirty negroes, and a good stock of cattle to different people in the country, and returned to France in 1764. What is called the Fort, is a small house standing in the centre of the village. It differs nothing from the other houses, except in being one of the poorest. It was formerly enclosed with high palisades, but these were torn down and burnt. Indeed, a fort at this place could be of little use.

FROM THE DIARY OF COLONEL CROGHAN, DEPUTY-SUPERINTENDENT OF THE NORTHERN INDIAN DEPARTMENT.*—1764-5.

[Colonel George Croghan, the Commissioner of Sir William Johnson, went to the west to learn the disposition of the French inhabitants, and to secure, if possible, their adhesion to the English interest; and to prevent a second Indian War. He left Fort Pitt on the 15th of May, 1764, and was taken prisoner on the 8th of June, by a party of Indians, and was carried to Vincennes. He says:]

On my arrival there [VINCENNES—POST VINCENT—ST. VINCENNE], I found a village of about eighty or ninety French families settled on the *east* side of this river, being one of the finest situations that can be found. The country is level and clear, and the soil very rich, producing wheat and tobacco. I think the latter preferable to that of Maryland or Virginia. The French inhabitants hereabout are an idle, lazy people, a parcel of renegaders from Canada, and are much worse than the Indians. They took a secret pleasure at our misfortunes, and the moment we arrived, they came to the Indians, exchanging trifles for their valuable plunder. As the savages took from me a considerable quantity of gold and silver in specie, the French traders extorted two half-johannes from them for one pound of vermilion.

Here is likewise an Indian village of the Pyankeshaws, who were much displeased with the party that took me, telling them 'our chiefs and your chiefs have gone to make peace; and you have begun a war, for which our women and children will have reason to cry.' From this post, the Indians permitted me to write to the Commander at Fort Chartres, but would not suffer me to write to anybody else (this, I apprehend, was a precaution of the French, lest their villainy should be perceived too soon), although the Indians had given me permission to write to Sir William Johnson and Fort Pitt on our march, before we arrived at this place. But immediately after our arrival, they had a private council with the French, in which the Indians urged (as they afterwards informed me) that as the French had engaged them in so-

* See also N. Y. Hist. Col., Vol. VIII., p. 781.

bad an affair, which was likely to bring a war on their nation, they now expected a proof of their promise and assistance. They delivered the French a scalp and a part of the plunder, and wanted to deliver some presents to the Pyankeschaws, but they refused to accept of any, and declared that they would not be concerned in the affair. This last information I got from the Pyankeshaws, as I have been well acquainted with them several years before this time.

Post Vincent is a place of great consequence for trade, being a fine hunting country all along the Ouabache (Wabash), and too far for the Indians, which reside hereabouts, to go either to the Illinois or elsewhere to fetch their necessaries.

June 23, [1764].—The distance from Post Vincent to Ouicatanon is 210 miles. This place is situated on the Ouabache. About fourteen French families are living in the Fort, which stands on the north side of the river. The Kickapoos and Musquattinees, whose warriors had taken us, live nigh the fort, on the same side of the river, where they have two villages; and the Ouicatanons have a village on the south side of the river. At our arrival at this post, several of the Wawcattonans (or Ouicatanons), with whom I had been formerly acquainted, came to visit me, and seemed greatly concerned at what had happened. They went immediately to the Kickapoos and Musquattinees, and charged them to take the greatest care of us till their chiefs should arrive from the Illinois, where they were gone to meet me some time ago, and who were entirely ignorant of this affair, and said the French had spirited up this party to go and strike us.

The French have a great influence over these Indians, and they never fail in telling them many lies to the prejudice of His Majesty's interest, by making the English nation odious and hateful to them. I had the greatest difficulties in removing these prejudices. As these Indians are a weak, foolish, and a credulous people, they are easily imposed on by a designing people, who have led them hitherto as they pleased. The French told them that as the Southern Indians had for two years past made war on them, it must have been at the instigation of the English, who are a bad people. However, I have been fortunate enough to remove their prejudice, and in a great measure their suspicions against the English. The country hereabouts is exceedingly pleasant, being open and clear for many miles, the soil very rich and well watered, all plants have a quick vegetation, and the climate very temperate through the winter. This post has always been a very considerable trading place. The great plenty of furs taken in this country, induced the French to establish this post, which was the first upon the Ouabache; and by a very advantageous trade, they have been richly recompensed for their labour.

August 1, [1764].—The Twigtwee village is situated on both sides of a river called the St. Joseph. This river, where it falls in to the Miami River, about a quarter of a mile from this place, is about one hundred yards wide, on the east side of which stands a stockade fort, somewhat ruinous.

"The Indian village consists of about forty or fifty cabins, besides nine or ten French houses, a runaway colony from Detroit, during the Indian War; they were concerned in it and being afraid of punishment, came to this post, were ever since they have spirited up the Indians against the English. All the French residing here are a lazy, indolent people, fond of breeding mischief and spiriting up the Indians against the English, and should by no means be suffered to remain here. The country is pleasant, the soil rich and well watered. After several conferences with these Indians, and their delivering me up all the English prisoners they had, on the 6th of August we set out for Detroit, down the Miami river, in a canoe.

August 17, [1764].—In the morning we arrived at the fort [of Detroit], which is a large stockade, inclosing about eighty houses; it stands close on the north side of the river, on a high bank, and commands a very pleasant prospect for nine miles above and nine miles below the fort; the country is thickly settled with French; their plantations are generally laid out about three or four acres in breadth on the river, and eighty acres in depth; the soil is good, producing plenty of grain. All the people here are generally poor wretches, and consist of three or four hundred French families, a lazy, idle people depending chiefly on the savages for their subsistence; though the land, with little labour,

produces plenty of grain, they scarcely raise as much as will supply their wants, in imitation of the Indians, whose manners and customs they have entirely adopted, and cannot subsist without them. The men, women, and children speak the Indian tongue perfectly well. In the last Indian war, the most part of the French were concerned in it (although the whole settlement had taken the oath of allegiance to His Britannic Majesty); they have therefore great reason to be thankful to the English clemency in not bringing them to deserved punishment. Before the late Indian war, there resided three nations of Indians at this place—the Putawatimes, whose village was on the west side of the river, about one mile below the fort; the Ottawas on the east side, about three miles above the fort; and the Wyandotes, whose village lies on the east side, two miles below the fort. The former two Nations have removed to a considerable distance, and the latter still remain where they were, and are remarkable for their good sense and hospitality. They have a particular attachment to the Roman Catholic religion; the French by their priests have taken uncommon pains to instruct them.

July 18, 1765.—I set off for the Illinois with the Chiefs of all those nations, when by the way, we met with Pondiac, together with the deputies of the Six Nations, Delawares, and Shawanees, which accompanied Mr. Frazer and myself down the Ohio, and also deputies with speeches from the four nations living in the Illinois country, to me and Six Nations, Delawares, and Shawanees, on which we returned to Ouitanon, and there held a conference, in which I settled all matters with the Illinois Indians, Pondiac and they agreeing to everything the other nations had done. . . . . The French had informed them that the English intended to take their country from them, and give it to the Cherokees to settle on, and that if ever they suffered the English to take possession of their country, they would make slaves of them, that this was the reason of their opposing the English hitherto from taking possession of Fort Chartres. . . . They desired that their Father, the King of England, might not look upon his taking possession of the forts which the French had formerly possessed, as a title for its subjects to possess their country as they have never sold any part of it to the French, and that I might rest satisfied that whenever the English came to take possession, they would receive them with open arms.

French Population of the Illinois: Means of Subjecting it.*

"I am assured, by persons lately from Illinois, that exclusively of the French garrison there, the inhabitants are six hundred fighting men, have one thousand negroes, well accustomed to the use of arms, averse to our taking of the country, and having painted us in such colours to the numerous savages near them, that the latter will certainly endeavour to prevent the troops getting there by the Mississippi, even should the Indians near the sea allow them to pass, which they think they will not, unless well paid for it, which will not answer, what may perhaps be expected. They add that this is their opinion also, that all attempts to get possession of the Illinois with less than three thousand men will fail, and that those troops should go down the Ohio River, and that the expedition be carried on with such secrecy, that they may enter the Mississippi ninety miles below Fort Chartres, before the inhabitants can have intelligence of it, and time to apprize all the savages.

Population of the Detroit District, 1763-8.

"When I took possession of the country (Detroit) soon after the surrender of Canada, they were about 2,500 in number, there being nearly 500 that bore arms, and near 300 dwelling-houses." Roger's *Account of North America*, p. 168.

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* From Thoughts on Indian Affairs, by Colonel Broadstreet, N. Y. Hist. Col., vol. VIII., p. 693.

D'IBERVILLE ON THE COUNTRY OF THE MISSISSIPPI, 1702.

"In 1764 there were but men enough to form three companies of militia."—Mute's *History of the War in North America*, p. 525."

In 1768, the census, when taken, showed the population to be 572.

Bancroft says that he has an MS. in his possession containing the recollections of Madame Catharine Thibeau, in which it is stated that "about sixty French families in all when the English took possession of the country; not more than eighty men at the time. Very few farms; not more than seven or eight farms settled."

[The foregoing statements as to population of the Detroit and Illinois districts differ very widely. This difference may in some measure be accounted for by remembering that the men were nearly all fur-traders, and that after the war with Pontiac was over, many went to Mackinac, to Nepigon, Grand Portage, Green Bay, and other points, to carry on the trade of the northwest. Some families went beyond the Mississippi to avoid becoming subjects of Great Britain, not knowing that France had ceded Louisiana to Spain.]

DOCUMENTS RELATING CHIEFLY TO LOUISIANA.

EXTRACTS FROM D'IBERVILLE'S* MEMORIAL ON THE COUNTRY OF THE MISSISSIPPI 1702.

THE RIVER WABASH.—The River Wabash as far as I know, for more than one hundred and twenty miles, is not inhabitated. I wish to possess it and have it occupied by the Illinois, who will hunt buffalo, deer, and similar animals which swarm the environs. Where the Illinois now are they are of no service, being unwilling any longer to carry on the beaver trade. Some people may say, as I have heard it said, that they can hunt buffalo in their own country, but I do not think it would be possible. If they hunt on the Wabash it will be easy to transport the hides and tallow.

MASCOUTENS KIKAPOUS, MIAMIS.—The Illinois having removed, we would cause it to be occupied by the Mauscoutens and Kikapous. This would bring four hundred and fifty men upon the rivers which empty into the Illinois and Mississippi. They now only hunt the beaver, which they sell at the Bay of the Puans and in the country of the Illinois.

The Miamis, *who have left the banks of the Mississippi* and gone to Chicago on account of the beaver, and those who are at Ortithipicatony, and at the St. Joseph, could readily remove to the Illinois, *where they would join one hundred of their nation who are still at Ouisconsin, on the Mississippi.*

The Miamis, Mouscoutens, and Kikapous, who were formerly on the Mississippi, placed upon the Illinois or lower down, will withdraw from Canada yearly a commerce of fifteen thousand livres, the Illinois ten thousand, and the Sioux thirty thousand yearly.

* From Minnesota Historical Collection, Vol. I. pp. 341-4.

Lemoine D'Iberville, a navigator and a man of great reputation, was born at Montreal, in 1642, and died at Havanna in 1706. He was at one time Governor of Louisiana. He discovered the mouth of the Mississippi, in 1699, ascended the river and built a fort on its border, and founded the colony. His father-in-law, Le Sueur, the discoverer of the Minnesota River, appears to have assisted him in the preparation of this manuscript.

D'IBERVILLE ON THE COUNTRY OF THE MISSISSIPPI, 1702.

If Canada did not desire to trade with the Fox tribe, they would return to the Mississippi and that would take away from the Canadian trade, ten thousand yearly.

THE SIOUX.—If the Sioux remain in their own country they are useless to us, being too distant. We could have no commerce with them, except that of the beaver. M. Le Sueur, *who goes to France to give an account of this country*, is the proper person to make these movements. He estimates the Sioux at four thousand families, who could settle upon the Missouri.

MAHAS, OTTOES, IOWAYS.—He has spoken to me of another, which he calls the Mahas, composed of more than twelve hundred families; the Ayooues (Ioways) and the Octootatas, their neighbours, are about three hundred families. They occupy the lands between the Mississippi and the Missouri, about one hundred leagues from the Illinois. These savages do not know the use of arms, and a descent might be made upon them in a river, which is beyond the Wabash on the west.

ASSINIBOIN, CNISTINEAUX.—The Assinibouel, Quenistinos, and people of the north, who are upon the rivers which fall into the Mississippi, and trade at Fort Nelson (Hudson's Bay), are about four hundred men. We could prevent their going there if we wish.

VALUE OF INDIAN COMMERCE.—In four or five years we can establish a commerce with these savages, of sixty or eighty thousand buffalo skins; more than one hundred deer skins, which will produce, delivered in France, more than two million four hundred thousand livres yearly. One might obtain for a buffalo skin, four or five pounds of wool, which sells for twenty sous, two pounds of horse hair at ten sous. Besides, from smaller peltries, two hundred thousand livres can be made yearly.

SUGGESTIONS FOR THE DOMESTICATION OF THE TRIBES.—The savage tribes located in the places that I have marked out, make it necessary to establish three posts on the Mississippi; one at the Arkansas, another at the Wabash, and the third at the Missouri. At each post it would be proper to have an officer, with a detachment of ten soldiers, with a sergeant and corporal. All Frenchmen should be allowed to settle with their families, and trade with the Indians, and they might establish tanneries for properly dressing the buffalo and deer skins for transportation.

No Frenchman should be allowed to follow the Indians in their hunts, as it tends to keep them hunters, as is seen in Canada; and when they are in the woods, they do not desire to become tillers of the soil. * * *

I have said nothing in this memoir of which I have not personal knowledge, or the most reliable sources. The most of what I propose is founded upon personal reflection, in relation to what might be done for the defence and advancement of the colony. *

It will be absolutely necessary that the King should define the limits of this country in relation to the Government of Canada. It is impossible that the Commandant of the Mississippi should have a report of those who inhabit the rivers that fall into the Mississippi, and principally those of the River Illinois.

The Canadians intimate to the savages that they ought not to listen to us, but to the Governor of Canada, who always speaks to them with large presents; that the Governor of the Mississippi is mean and never sends them anything. This is true, and what I cannot do. It is imprudent to accustom the savages to be spoken to by presents, for, with so many, it would cost the King more than the revenue derived from the trade. When they come to us it will be necessary to bring them in subjection, make them no presents, and compel them to do what we wish, as if they were Frenchmen.

The Spaniards have divided the Indians into parties on this point, and we can do the same. When one nation does wrong we can cease to trade with them, and threaten to draw down the hostility of other Indians. We rectify the difficulty by having missionaries, who will bring them into obedience secretly.

The Illinois and Mascoutens have detained the French canoes they find upon the Mississippi, saying that the Governors of Canada have given them permission. I do not

know whether this is so; but if true it follows that we have not the liberty to send any one on the Mississippi.

M. Le Sueur would have been taken if he had not been the strongest. Only one of the canoes he sent to the Sioux was plundered. . . . . .

Extracts from La Harpe's Journal of the Establishment of the French in Louisiana, 1699—1721.*

(1699.) M. le Sueur also came passenger in Gironde, [Dec.] He had acquired celebrity by his travels in Canada, and was now sent on the part of M. L'Huiller, Farmer-General, to make a settlement on the Mississippi, and to work some mines there which he had discovered some years before.

(1700.) On the 19th [Feb.], MM. d'Iberville, and Bienville, with M. Duguè and ten marines arrived at the village of the Bayagoulas. On the same day M. le Sueur, who had set out on his journey to the Scioux Nations, also arrived there.

(1705.) On the 16th November, two canoes with *voyageurs* arrived from the Illinois. One of them was M. Laurain, who had been to the Missouri River. He gave an account of the nations that inhabited that country, as well as of some Spanish settlements on the frontier of Mexico.

(1706.) On the 16th [Jan.], Father Gracio, a Jesuit, returned from the Illinois severely wounded. He had much trouble in making his escape, as that nation had declared war against the French.

(1713.) At the time of the transfer [to Mr. Crozat], there were in the colony four hundred persons, including twenty negroes, and three hundred head of cattle.

(1717.) In the month of August, 1717, a company was formed in France under the title of the "Western Company." At this period there were in the colony seven hundred persons, and four hundred head of cattle. They had entirely neglected to cultivate the land.

(1718.) In the beginning of October, M. de Boisbrilliant [*sic*] set out to take command in the Illinois; and at the same time M. de la Harpe embarked with fifty men for his concession at Cadodaquioa, on Red River, with orders to establish a post there, and so ascertain the number of Indian tribes in that country.

(1719.) On the 29th December, M. de Bienville, received a letter from M. Dutisne, dated Kaskaskias, November 22, 1719, with an account of his travels to the Village of the Missouris by the river, and to the villages of the Osages and the Panis by land. He observed that the water of the Missouri had a strong current, was muddy, and filled with floating timber. The country was beautiful and well wooded. That two rivers from the west, the Osage and Blue Rivers, emptied into the Missouri. At a distance of eighty leagues from the mouth of the Osage are situated the villages of that nation, in the neighbourhood of which are a great number of lead mines. In travelling west he crossed very high mountains, and many streams falling into the Missouri and the Mississippi. That from Kaskaskias to the Osages is 120 leagues. This nation is not stationary like the Missouris, but spend the winter in hunting buffalo. They are stout and well made, and great warriors. The chiefs are absolute in their villages. Lead mines are abundant in their country, but they are unacquainted with the uses of it. From the Osages to the Panis villages is forty leagues in a north-west direction, and he passed over prairies and plains filled with buffalo. They are not civilized, but are accessible by making them a few presents. In fifteen days he reached the Padoucahs, who are a very brave and warlike nation. Here M. Dutisne erected the arms of the King, 27th September, 1719. . . . . .

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* Historical Journal of the Establishment of the French in Louisiana, by Bernard de la Harpe, as translated and given in French's "Historical Collections of Louisiana," Part III. pp. 17, 34, 39, 49, 50, 63, 66-8 84, 87.

M. de la Harpe was a French officer of distinction, who went to Louisiana, 1718, to settle a colony on Red River. He built a fort in January, 1719, near Notchitoches, from whence he explored the country of Texas as far as the Rio Grande. After making further explorations, he returned in 1723 to France, where he wrote his "Journal." French says: "The military force of Louisiana, at that time, did not exceed two companies of infantry, of fifty men each, seventy-five Canadians, and about three hundred persons of every description, scattered over a boundless territory."

CIVIL AND MILITARY DIVISIONS OF LOUISIANA, 1723.

M. Bernard de la Harpe returned to Mobile from Red River on the 26th January, 1720, after having established a post at the Village of the Cododaquious *(sic)*.

It has been previously stated that he arrived in Louisiana, in the month of August, 1718, and set out for Red River with fifty men. He returned to New Orleans the following October, and on the 10th December again he set out for Red River, with a detachment of troops, to establish a fort among the Cadodaquious. When he arrived at Natchitoches (where a fort is built), he found M. Blondel in command, and Father Manual at the mission of the Adayes, about nine leagues distant.

(1720.) The Western Company recommended them (the Company's directors) to have a good understanding with M. de Vaudreuil, Governor of Canada, in regard to the wars with the Indians; ordered that the post established by M. de Boisbriant, nine leagues above the village of the Kaskaskias, should be called Fort Chartres; that at Biloxi, Fort Louis; that at Mobile, Fort Condé.

(1721.) On the 24th [April], M. de Boisbriant wrote to M. de Bienville from the Illinois, that three hundred Spaniards had left Santa Fe, the capital of New Mexico, for the purpose of conquering the colony, but only seventy had put their threat into execution, who had arrived at the Kansas River where they encountered the Octotata and Panis Indians, who massacred all except a priest, who had made his escape on horseback.

Civil and Military Divisions of Louisiana in 1723.*

Louisiana, in 1723, was divided into nine civil and military districts, as follows, viz.:—1st, the district of the Alibamons; 2nd, of Mobile; 3rd, of Biloxi; 4th, of Natchez; 5th, of New Orleans; 6th, of Yazoo; 7th, of Illinois; 8th, of Arkansas; and 9th, of Natchitoches. Each was protected by a fort, and under the jurisdiction of a commandant and judge, who administered the military and civil concerns of each.

Fort Chartres was the headquarters of the commandant of Upper Louisiana, and was deemed one of the strongest French posts in North America. It was erected in the vicinity of Prairie du Rocher (in 1720), about one mile and a half from the river bank, about twenty-five miles below Kaskaskias. Its form was quadrilateral, with four bastions built of stone, and well cemented with lime. Each side was three hundred and forty feet in length; the walls were three feet thick and fifteen feet high. Within the walls were spacious stone barracks, a spacious magazine, well, etc. The cornices and casements, port-holes or loops were of solid blocks of stone. In 1770, the river broke through its banks, and in two years afterwards two of its bastions fell into the river. It was then suffered to fall into decay, and it is now one of the most beautiful and picturesque ruins in the valley of the Mississippi.

Fort Rosalie, at the Natchez, stood on the summit of a hill about six hundred and seventy yards from the shore of the river, and about one hundred and eighty feet above the surface of the water, overlooking a beautiful champaign country, and the river for many miles both up and down. It was an irregular pentagon without bastions, and built of thick plank. The buildings within consisted of a stone house, magazine, houses for the officers, and barrack for soldiers. The ditch surrounding it was partly natural and partly artificial, and in most places nineteen feet from the bottom to the top of the rampart. M. de Bienville named it Rosalie in honour of Madame la Duchesse de Pontchartrain. By the sliding and caving in of the banks of the river, its huge bastions become nearly all destroyed; still it is one of the most interesting and picturesque spots that the traveller can visit in the delta of the Mississippi.

The fort at Pointe Coupee, was a quadrangle with four bastions, built with stockades, on the west bank of the Mississippi River.

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* From Historical Collections of Louisiana, by B. F. French, part iii., note, pp. 84-86.

Fort Arkansas was erected in 1685, about three leagues from the mouth of that river, and about two hundred yards from the water side. It was built of stockades, and the interior sides of the polygon measured about one hundred and eighty feet long, mounted with cannon. The Arkansas, or Quapas Indians lived about three leagues above it, where the celebrated John Law had his concession, which he settled with Germans. After the failure of his great financial schemes the Germans deserted the settlement, and located themselves on the Mississippi, about thirty miles above New Orleans, on small plantations, which has ever since borne the name of the German Coast.

Fort Crevecœur, afterwards called St. Louis, was built by De la Salle, in the country of the Illinois, on his first visit to that country. It was seated on the top of a steep bluff, about two hundred feet high, with a spacious esplanade, and the river washing its base.

M. de la Salle likewise built a stockade fort at St. Bernard's Bay, Texas, in 1685, claiming possession and jurisdiction over all the country from the mouth of the Mississippi to the Rio Grande, or Rio Bravo del Norte, of Mexico.

Fort St. Louis de Carlorette was built in 1719, by the orders of M. de Bienville, on the right bank of Red River, in north lattitude 33° 55′, as a sign of the jurisdiction of France in that part of Louisiana, since called Texas.

The first old Fort Biloxi has been placed by Major Stoddard, in his work on Louisiana, on Perdido Bay, the ancient boundary line of the French and Spaniards, about twelve miles west of Pensacola Bay, where he says M. d'Iberville erected a fort with four bastions, on which he mounted twelve cannons, and where it is said some remains of it may still be seen. But be this true or not, M. d'Iberville, before he sailed for France in 1699, built a fort upon the north-east shore of the Bay of Biloxi, about fifteen miles North of Ship Island, of four bastions and mounted with twelve cannons (the remains of which are still to be seen), which was the sign of jurisdiction of France from the Rio Perdido to the Bravo del Norte, and appointed M. de Sauvolle its commander, who kept a journal or history of the colony up to the day of his death, and which is now printed for the first time in this work.

The Balize Fort, at the mouth of the Mississippi River, was built about the same time on an island, and mounted with cannon to protect the French ships that anchored there, and to drive off the Spaniards.

Fort Louis de Mobilie, or Conde, was built upon the River Mobile, and below the town and about fifteen or sixteen leagues from the fort on Dauphin Island. It was constructed of bricks, with four bastions mounted with cannons, after the manner of Vauban, with half moons, deep ditches, covered ways and glacis, with houses for the officers and barracks for the soldiers. The foundations of this fort are still to be seen, occupying a considerable space in the City of Mobile. Although this was the headquarters of the French Governor for many years, they were afterwards removed to New Orleans, on the banks of the Mississippi, which the French and afterwards the Spanish fortified after the manner of Vauban. A ditch was extended round the city of about eighteen feet in width, with ramparts of earth, and palisades nearly six feet high along the interior or inner side of them. Five large bastions were erected at proper distances, and likewise five intervening redoubts. The bastions were regularly constructed: each of them was furnished with a banquette, rampart, parapet, ditch, covered way, and glacis. The curtains were wholly formed with palisades at a small distance from each other, and were musket proof; they had a banquette within, and ditch and glacis without. A small redoubt, or ravelin, was placed in the centre of each bastion, and all the latter were of sufficient size to admit of sixteen embrasures—four in each face, three in each flank, and two in the gorge facing the city—the whole of which was mounted with heavy cannon; the south west bastion with a counter-guard and traverses, and a small redoubt on the bank of the river. The two forts (St. Charles and Condé) at the angles facing the river, likewise mounted with heavy Spanish ordnance, constituted the defence of the city when Louisiana was ceded to the United States.

IMPORTANCE OF THE COLONY OF LOUISIANA.

MEMORANDUM* INTENDED TO SET FORTH THE IMPORTANCE OF THE COLONY OF LOUISIANA AND THE NECESSITY OF CONTINUING ITS ESTABLISHMENT. BY M. BENARD DE LA HARPE.

(Extracts.)

With respect to the lay of the lands, the longitude of Louisiana, up to the height of 39°, extends from the limits of New Mexico, that is to say, from 275°, to the frontiers of New England in about the 307th degree of longitude; but this extent varies after passing the 38th degree of latitude, because, beyond this distance from the pole, we are entitled to extend westward as far as our discoveries may lead us.

The breadth of Louisiana is better ascertained. It can be run from the 29th° of latitude, which is that of the entrance of the river, up to 42° 30', which is the height of the Strait [Detroit]. This province is exclusively situated between the fourth and the eight zones (*climats*); and this accounts for the length of the days and the nights. Where they are the shortest, they scarcely exceed fourteen hours, thirty minutes; and where they are the longest, not above fifteen hours, thirty minutes. * * *

This position of Louisiana, well described on the map which has been prepared by the Sieur de la Harpe, renders it easy of comprehension, that the first benefit from this discovery has been communication from Canada with the Gulf of New Mexico, through a wild country of nearly five hundred leagues in extent; and nevertheless, it has been very easy to establish this by the River Mississippi, which runs from north to south, and finds its exit in the Gulf of Mexico, and by the rivers Ouabache and Illinois, which, taking their rise on the Canada side, empty themselves in the Mississippi. * * *

The English have allied themselves to a great many savage nations of America, and daily contract fresh alliances with the Iroquois, the Charaquis, the Chaouanons, the Chicachas, the Cahiutas, the Alibamons, and many other nations bordering on Louisiana; where we have seen them push their trade even up to the Mississippi and the gates of the Mobile. If they had carried out their project of establishing themselves on the river of the Ouabaches [Ohio,] which takes its rise in the neighbourhood of New England, but a short space of time would elapse before they appeared and enlisted on their side the Illinois, the Miamis, the Octotata, the Foxes, the Sioux, and the other nations of Upper Canada. This would greatly prejudice New England, of which the Island of Cape Breton is a dependency, which is the only one where we can, with safety, fish for cod. * *

From Louisiana will be obtained skins of wild bulls, the whole of which can be turned to use. No difficulty need be experienced, since M. de Juchereau, Lieutenant-General of the jurisdiction of Mont-Real, who in 1702, had, with thirty-four Canadians, established a post on the Ouabache, in the name of a company, where he had collected in a short space of time, fifteen thousand skins of bulls, as detailed in the narration in the Historical Journal of the month of January, 1705.

From this colony will be obtained skins of fallow-deer, bear, red deer, and finer peltries than from Canada, because the upper part of the Mississippi River communicates with several northern nations who reside at too great a distance from the lakes by which the descent is effected towards the St. Lawrence River, and it is for the self-same reason that these skins of bulls cannot be obtained from Canada, as the Canadians have not pushed their trade so far as that. The Sioux savages and the Assinipolis are those who, by means of the Christinaux, carry the largest part of their finest peltries to the English at Hudson's Bay; but it would be easy to renew alliances with them, and to attract their trade by the Mississippi; because in order to go to Hudson's Bay, it is necessary to make a long journey through a country always frozen and without edibles, carrying their merchandize on their backs, whilst to trade with us, they would only have to descend the Mississippi in their canoes, as far as the entrance of the River Saint Pierre, where they would find a more genial climate, and a country with a greater abundance of all sorts of things. But, in this case, it would be necessary to found establishments on the banks of this river, and adhere to the plan of the late M. le Sueur in the manner agreed on with M. L'Huillier, the Farmer-General.

* Printed in Historical Collections of Louisiana, by B. F. French, part. iii., note pp. 112-118.

ROUTES WHICH THE FRENCH HAD TO THE MISSISSIPPI.*

FROM A REPRESENTATION OF THE LORDS COMMISSIONERS FOR TRADE AND PLANTATIONS TO THE KING, UPON THE STATE OF HIS MAJESTY'S COLONIES AND PLANTATIONS ON THE CONTINENT OF NORTH AMERICA. DATED SEPTEMBER THE 8TH, 1721.

The French Territories in America extend from the mouth of the River St. Lawrence to the embouchere of the Mississippi, forming one continued line from north to south on the back of your Majesty's plantations, and although their garrisons, in many parts, are hitherto but very inconsiderable, yet as they have, by the means of their missionaries, debauched several of the Indian nations to their interest, your Majesty's subjects along the continent have the utmost danger to apprehend from this new settlement, unless timely care be taken to prevent its increase. * * *

From this lake [Erie] to the Mississippi they have three different routes. The shortest by water, is up the River Miamis, or Ouamis, on the south-west of Lake Erie, on which river they sail about 150 leagues without interruption, when they find themselves stopped by another landing of about three leagues, which they call a carrying place, because they are generally obliged to carry their canoes over land in those places to the next river, and that where they next embark is a very shallow one called La Riviere de Portage; hence they row about 40 leagues to the River Oubach, and from thence about 120 leagues to the River Ohio, into which the Oubach falls, as the River Ohio does, about 80 leagues lower, into the Mississsippi, which continues its course for about 350 leagues, directly to the Bay of Mexico.

There are likewise two other passages, much longer than this, which are particularly pricked down in Hennipen's map, and may be described in the following manner:—

From the north-west of Lake Erie to a fort on the Lake St. Clair called Pont Chartrin [Detroit], is about eight leagues sail. Here the French have a settlement, and often four hundred traders meet there. Along this lake they proceed about seven leagues further, and thence to the great Lake Huron about ten leagues; hence they proceed to the Straits of Michillimackinack, one hundred and twenty leagues. Here is a garrison of about thirty French, and a vast concourse of traders, sometimes not less than 1,000, besides Indians, being a common place of rendezvous. At and near this place the Outarwas, an Indian nation, are settled.

From Lake Huron they pass by the Straight of Machillimackinack four leagues, being two in breadth, and of a great depth, to the Lake Illinois; thence one hundred and fifty leagues on the lake to Fort Miamis, situated on the mouth of the River Chigagoe; from hence came those Indians of the same name, viz.: Miamis, who are settled on the forementioned river that runs into Erie.

Up the River Chigagoe they sail but three leagues to a passage of one-fourth of a league; then enter a small lake of about a mile, and have another very small portage; and again another of two miles to the River Illinois; thence down the stream one hundred and thirty leagues to Mississippi.

The next route is from Michillimakinack on the Lake Illinois to the Lake de Puans, ninety leagues; thence to the River Paans, eighty leagues; thence up the same to a portage of about four miles before they come to the River Owisconsing; thence forty leagues to Mississippi.

These distances are as the traders reckon them, but they appear generally to be much overdone, which may be owing to those peoples coasting along the shores of the lakes and taking in all the windings of the rivers.†

* London Documents, N. Y. Hist. Col., Vol. V., pp. 620-2.

† The French had, besides those here mentioned, two other principal routes from the Lakes to the Mississippi: that of the Ohio, which, starting from Presqu' Isle, on the south shore of Lake Erie, proceeded to the Rivière au Boeuf, down that stream to its junction with the Ohio, and by the latter to the Mississippi; and that by Fond du Lac, at the extreme south-western corner of Lake Superior, and thence either south-westerly to the main stream of the Mississsippi, or, more usually, to the head waters of and down the River St. Croix.

VII.

Correspondence and Documents relating to Hudson's Bay.

FRENCH CORRESPONDENCE AND MEMOIRS, 1668-1745.

From Denonville's Instructions to Sieur de Troyes, Feb. 12th, 1668.

The Marquis de Denonville, Feb. 12, 1668, appointed le Sieur de Trois (*sic*) to go in search of the most advantageous posts and occupy the shores of the Baie du Nord and the embouchures of the rivers that enter therein, "to entrench and fortify the said posts, to seize the robbers, *coureurs des bois* and others whom we know to have taken and arrested several of our French engaged in the Indian trade, whom we order him to arrest, especially the said Radisson and his adherents, wherever they may be found, and bring them to be punished as deserters, according to the rigour of the ordinances."

Memoir: M. Talon to M. Colbert.*

Quebec, Nov. 10, 1670,

I learn by the return of the Algonquins, who will winter this year at Tadoussac, that the two European vessels have been seen very near Hudson's Bay, where they wigwam (*cabanent*), as the Indians express it. After reflecting on all the nations that might have penetrated as far north as that, I can only light on the English, who, under the guidance of a man named Des Grozeliers, formerly an inhabitant of Canada, might possibly have atttempted that navigation, of itself not much known—and not less dangerous. I intend despatching thither, overland, some man of resolution to invite the Kilistinons, who are in great numbers in the vicinity of the Bay, to come down to see us, as the Ottawas do, in order that we may have the first pick of what the latter savages bring us, who, acting as pedlars between those nations and us, make us pay for a round-about of three or four hundred leagues.

M. Talon to the King.†

Quebec, Nov. 2, 1671.

Three months ago I despatched with Father Albanel, a Jesuit, Sieur de St. Simon, a young Canadian gentleman recently honoured by His Majesty with that title. They are to penetrate as far as Hudson's Bay, draw up a memoir of all they will discover, drive a trade in furs with the Indians, and especially reconnoitre whether there be any means of wintering ships in that quarter, in order to establish a factory that might when necessary, supply provisions to the vessels that will possibly hereafter discover, by that channel, the communication between the two seas—the north and the south. Since their departure I have received letters from them three times. The last, brought from one hundred leagues from here, informs me that the Indians whom they met on the way have

* N. Y. Hist. Col., vol. IX., p. 67.

† Ibid. p.

assured them that two English vessels and three barks have wintered in the neighbourhood of the Bay, and made a vast collection of beavers there. If my letters, in reply, are safely delivered to the said Father, this establishment will be thoroughly examined, and His Majesty will have full information about it. As those countries having been long ago (*anciennement*) originally discovered by the French, I have commissioned the said Sieur de St. Simon to take renewed possession in His Majesty's name, with orders to set up the escutcheon of France, with which he is entrusted, and to draw up a procès verbal in the form I have furnished him.

It is proposed to me to despatch a bark of sixty tons hence to Hudson's Bay, whereby it is expected that something will be discovered of the communication between the two seas. If the adventurers who form this design subject the King to no expense, I shall give them hopes of some mark of honour if they succeed, besides indemnifying themselves from the fur trade which they will carry on with the Indians.

JOLIET'S VOYAGE TO HUDSON'S BAY.—FROM COUNT DE FRONTENAC.*

6th and 8th Nov., 1679.

[I] send the narrative and map of the voyage Sieur Joliet has made to Hudson's Bay, which the farmers of the revenue of Canada have demanded of him. This relation is dated 27th of October, 1679, and signed JOLIET.

FROM M. DE FRONTENAC, 2ND NOV., 1681.†

Sieur Radisson, who is married in England, had returned to Canada from the Islands where he had served under Marshal D'Estrées. He had applied to him for permission to go in a vessel belonging to Sieur de la Chesnay, to form establishments along the coasts leading towards Hudson's Bay.

FROM DUCHESNEAU'S‡ MEMOIR.§

13th Nov., 1681.

They [the English] are still at Hudson's Bay, on the north, and do great damage to our fur trade. The farmers (of the revenue) suffer in consequence by the diminution of the trade at Tadoussac, and throughout that entire country, because the English draw off the Outawa nations; for the one and the other design, they have two forts in the said Bay—the one towards Tadoussac, and the other at Cape Henriette Marie, on the side of the Assinibouetz.

The sole means to prevent them succeeding in what is prejudicial to us in this regard, would be to drive them by main force from that Bay, which belongs to us; or if there would be an objection to coming to that extremity, to construct forts on the rivers falling into the lakes, in order to stop the Indians at these points.

Should the King adopt the resolution to arrange with the Duke of York for his possessions in this quarter, in which case Boston could not resist, the only thing to fear would be that this country might go to ruin, the French being naturally inconstant and fond of novelty.

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* N. Y. Hist. Col., Vol. IX., p. 795.
† Ibid. p. 796.
‡ The Sieur Jacques Duchesneau, appointed by the King Intendant in Canada, &c., in 1675.
§ N. Y. Hist. Col., Vol. IX., p. 166.

But as this could be remedied by rigorous prohibitions, that consideration ought not to prevail over the great benefit which would accrue, and the great advantages His Majesty and his subjects must eventually derive from the transaction.

Memoir Relating to Hudson's Bay.*

The Ambassador of the King of England, at Paris, complained that the man named Radisson and other Frenchmen having gone with two barks, called *Le St. Pierre* and *La Ste. Anne*, into the river and port of Nelson, in 1682, seized a fort and some property of which the English had been in possession for several years.

Radisson and Desgrozelliers maintained that these allegations are not true ; but that having found a spot on the river Nelson adapted to their trade, more than 150 leagues distant from the place where the English were settled in Hudson's Bay, they took possession of it in the King's name, in the month of August 1682, and had commenced building a fort and some houses there.

That on the 14th September following, having heard cannon, they went out to examine, and on the 26th found some beginning of houses on an Island, and a vessel aground near the coast.

That these houses had been begun since they entered the river and had set about working at their fort and building, and, therefore, that they were the first occupants.

That, since then, each having wished to maintain his establishment, the French were become the masters.

That the ice and bad weather having caused the destruction of an English ship, some men belonging to it had died ; but that they had on their part, treated them with great moderation and kindness, and rendered every assistance to the English, who appeared satisfied.

From M. de la Barre, Governor of Canada.†

Quebec, Nov. 12, 1682.

As to what relates to Hudson's Bay, the company in old England advanced some small houses along a river which leads from Lake Superior. As possession was taken of this country several years ago, he will put an end to this disorder, and report next year the success of his design.

Louis XIV. to M. de la Barre.‡

Fontainebleau, 5th Aug., 1683.

I recommend you to prevent the English, as much as possible, from establishing themselves in Hudson's Bay, possession whereof was taken in my name several years ago ; and as Col. d'Unguent [Dongan], appointed Governor of New York by the King of England, has had precise orders on the part of the said King to maintain good correspondence with us, and carefully to avoid whatever may interrupt it, I doubt not the difficulties you have experienced on the side of the English will cease for the future.

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* N. Y. Hist. Col., Vol. IX., pp 797-8.
† Ibid. p. 798.
‡ Ibid. p. 200.

FRENCH CORRESPONDENCE AND MEMOIRS, 1668–1745.

M. DE LA BARRE TO M. DE SEIGNELAY.*

Quebec, 4th Nov., 1683.

The English of Hudson's Bay have this year attracted many of our northern Indians, who for this reason have not come to trade to Montreal. When they learned by expresses sent to them by De L'Hut, on his arrival at Missilimakinak, that he was coming, they sent him word to come quickly, and they would unite with him to prevent all the others going thither any more. If I stop that pass, as I hope, and as it is necessary to do, as the English of that Bay excite against us the savages, whom Sieur De L'Hut alone can quieten, I shall enter into arrangements with those of New York for the surrender to me of any guilty fugitives. They appear well satisfied with me, but were desirous to obtain an order to that effect from the Duke of York. I judge from the state of European affairs that it is important to manage that nation, and I shall assiduously apply myself thereto. * * * *

A small vessel has just arrived from Hudson's Gulf, two hundred leagues further north than the Bay. She brings back those who were sent there last year by order of Count de Frontenac. You will receive herewith an exact map of the place. But divers little rencontres have occurred between our Frenchmen and the English, of which I send you a particular relation, in order, should any complaint be made to the King of England, and he speak of it to M. Barillon, the latter may be able to inform him of the truth. It is proper that you let me know early whether the King desires to retain that post, so that it may be done, or the withdrawal of the French; for which purpose I shall dispose matters in order to aid them overland beyond Lake Superior, through Sieur De L'Hut and to send to them by sea to bring back the merchandize and peltries.

M. DE SEIGNELAY TO M. DE LA BARRE.†

Versailles, April 10, 1684.

It is impossible to imagine what you pretended when, of your own authority, without calling on the Intendant and submitting the matter to the Sovereign Council, you ordered a vessel to be restored to one Guillam, which had been captured by Radisson and DeGroszeliers, and in truth you ought to prevent these sort of proceedings, which are entirely unwarranted, coming under his Majesty's eyes. You have herein done what the English will be able to make a handle of, since in virtue of your ordinance you caused a vessel to be surrendered which ought strictly to be considered a pirate, as it had no commission; and the English will not fail to say that you so fully recognized the regularity of this ship's papers that you surrendered it to the proprietors, and they will thence pretend to conclude that they had taken legitimate possession of the River Nelson before Messrs. Radisson and Desgroszeliers had been there, which will be very predjudicial to the colony.

FROM THE LETTER WRITTEN BY SIEUR DE L'HUT TO M. DE LA BARRE, FROM BELOW THE PORTAGE TERAGON.‡

10th September, 1684.

As I was leaving the Lake of Almepigon I made, in June, all the presents necessary to prevent the savages from further carrying their beaver to the English. I have met the Sieur de la Croix with his two comrades, who gave me your despatches, wherein you tell

* N.Y. His. Col., Vol. IX. pp. 205, 209.
† Ibid. p. 799; also p. 221.
‡ Archives de Paris, 2nd Series, Vol. IV., p. 263.

me to omit nothing in forwarding your letters to the Sieur Chouart, at Nelson River. To carry out your instructions there was but Mons. Péré, who would have to go himself, the savages having all, at that time, withdrawn into the interior to secure their blueberries. The said Sieur Péré will have left in August. In the month of August last, he will have remitted your letters to the said Sieur Chouart.

It remains for me, Sir, to assure you that all the savages of the north have great confidence in me, and that enables me to promise you that, before the lapse of two years, not a single savage will visit the English at Hudson's Bay. This they have all promised me, and have bound themselves thereto by the presents which I have given, or caused to be given to them. The Klistinos, the Assenepolacs, the people from the Sapinière, the Openens, Dachiling, the Outoubouhys and Tabitibis, which comprise all the nations which are to the west of the Northern Sea, have promised to be, next spring, at the fort which I have constructed near the River à la Maune, at the bottom of Lake Alemepigon ; and next summer, I will construct one in the country of the Klistinos, which will be an effectual barrier. Finally, Sir, I wish to lose my life if I do not absolutely prevent the savages from visiting the English..

M. de la Barre to the King.*

Quebec, Nov. 13, 1684.

It remains for me to request your Majesty's orders in regard to the English, as well those of New York as those settled on Hudson's Bay. I fear they have attacked the French posts last year in Nelson's Gulf, and that Katisson (Radisson), who I learn is at their head, has opposed force and violence to the justice of our cause, of which your Majesty shall be informed. Whether I must oppose force to force, and venture by land against those who might have committed some outrage against your subjects at sea, is a matter on which your Majesty will please furnish me with some precise and decisive orders, whereunto I shall conform my conduct and actions.

[1684]. Gaultier de Comporte, Prevote of Canada,

has heretofore, presented a memoir, by which he requests the grant unto himself and his associates, of the ownership of the River de Bourbon—de Nelson—in Hudson's Bay, of which possession had been taken in the name of the King, for as long a time as it should please, with permission to establish three posts in the river which descends into the said bay, at seventy leagues from the place where the farmers are settled.†

Extracts from the Memoir of Sieur de Callieres‡ to the Marquis de Seignelay.§

Feb. 25th, 1685.

The third pretension of the English is to drive the French from Hudson's Bay, the whole of which country they claim as their property. And, in consequence of this pretension, they dispatched some vessels last year to that Bay, which carried off several Frenchmen, whom a Company, formed at Quebec, settled in that quarter at a place called the River Bourbon, and conveyed them to London, with the beaver and other peltries

* N.Y. His. Col., Vol. IX., p. 251.
† Archives de Paris, 2nd Series, Vol. IV., p. 227.
‡ A Veteran who had served twenty years in the French armies. He was Governor of Montreal; and subsequently, on the death of Frontenac, succeeded him as Governor and Lieutenant-General of Canada.
§ N. Y. Hist. Col., Vol. IX., pp. 265-8.

belonging to the said French Company to the value of nearly two hundred thousand livres. * * * *

As regards Hudson's Bay, the French settled there in 1656, by virtue of an *arrêt* of the Sovereign Council of Quebec, authorizing Sieur Bourdon, its Attorney-General, to make the discovery thereof, who went to the north of said Bay, and took possession thereof in His Majesty's name.

In 1661, Father Dablon, a Jesuit, was ordered by Sieur d'Argenson, at the time Governor of Canada, to proceed to said country. He went thither accordingly, and the Indians, who then came from thence to Quebec, declared they had never seen any European there.

In 1663, Sieur d'Avaugour, Governor of Canada, sent Sieur Couture, Seneschal of the Côte de Beaupré, to the north of the said Hudson's Bay, in company with a number of Indians of that country, with whom he went to take possession thereof, and he set up the King's arms there.

In the same year, 1663, Sieur Duquet, King's Attorney to the *Prevôté* of Quebec, and Jean l'Anglois, a Canadian colonist, went thither again by order of the said Sieur d'Argenson, and renewed the act of taking possession by setting up His Majesty's arms there a second time. This is proved by the *arrêt* of the said Sovereign Council of Quebec, and by the orders in writing of said Sieurs d'Argenson and d'Avaugour.

The English allege that the north coast of Hudson's Bay, where the French established themselves, had been discovered by Chevalier Button, an Englishman, as early as 1621.* But we answer that he made no record there of taking possession, and that they did not have any settlement there before the year 1667, when the Frenchmen named Des Grozelliers and Radisson conducted the English thither to a place called Nelson's River; and in 1676 the said Des Grozelliers and Radisson, having returned from England, and having obtained pardon for their defection, a company was formed at Quebec who sent them to Hudson's Bay, where they founded a settlement north of the said Bay on the River Bourbon, which is the one the English seized last year, in consequence of a new treachery on the part of said Radisson who re-entered their service and conducted them thither. Meanwhile, the company formed at Quebec sent two ships to the said Bay last year under the impression that they would find their people, with a quantity of peltries, at the settlement on the River Bourbon, of right belonging to them, where the company is in a condition to maintain itself if protected by His Majesty.

FROM THE MEMOIR OF M. DE DENONVILLE ON THE STATE OF CANADA.

Nov. 12, 1685.

In regard to Hudson's Bay *(du nord)*, should the King not think proper to enforce the reasons His Majesty has for opposing the usurpations of the English on his lands, by the just titles proving His Majesty's possession of it long before the English had any knowledge of said country, nothing is to be done but to find the means to support the company of said Bay, formed in Canada by the privilege His Majesty has been pleased this year to grant his subjects of New France, and to furnish them, for some years, a few vessels of one hundred and twenty tons, only well armed and equipped. I hope, with this aid, our Canadians will support this affair, which will otherwise perish of itself, whilst the English merchants, more powerful than our Canadians, will with good ships continue their trade, whereby they will enrich themselves at the expense of the colony and of the King's revenue.

* This should be 1612; that being the year of Button's discovery.

FRENCH CORRESPONDENCE AND MEMOIRS, 1668–1745.

Capitulation of Albany Fort.*

Articles agreed upon between the Chevalier de Troyes, Commander-in-Chief of the detachment of the North-West, for the French Company of Canada, and Henry Sergeant, Esq., Governor for the English Company of Hudson's Bay, July 16, 1686.

It is agreed upon to deliver up the Fort, together with all the goods belonging to the said Company, which are to be scheduled for the mutual clearing of us, the forenamed, and satisfaction of all parties.

II. That all the Company's servants at Albany River shall enjoy all wearing apparel belonging to themselves.

III. That the aforesaid Henry Sergeant, Esq., Governor, shall enjoy and possess all that belongs to himself; and that his minister, his three men servants and maid servant shall constantly be permitted to remain with him and attend him.

IV. That the Chevalier de Troyes shall convey all the Company's servants to Charleton Island, there to expect English ships for their transportation; and if English ships should not arrive, then the aforesaid Chevalier de Troyes is to assist them with what vessels the country affords, for their conveyance into England.

V. That the said Chevalier de Troyes shall deliver to the said Henry Sergeant, Esq., Governor, or to his storehouse keeper, such provisions as shall be thought fitting and necessary to carry them to England, if no ships come from thence, and in the meantime give them such sustenance as shall be sufficient for them.

VI. That all the storehouses shall be locked up, and the keys delivered to the said Chevalier de Troyes, Lieutenant, that nothing may be in the said storehouses embezzled, till the account be taken, according to the first article.

Lastly. That the Governor and all the Company's servants at Albany River shall come out of the Fort and deliver it up to the said Chevalier de Troyes, all the men, the Governor and his son excepted, being without arms, which is to be forthwith.

[The French version, which follows is probably the original, though the heading of the English version is fuller; for the French Commander, who denied the honours of war to the retiring garrison, would not likely allow the capitulation to be drawn up in English, especially as its terms must have been dictated by him. Potherie adds that the Treaty was signed by the two contracting parties; that Ste. Helene and Iberville entered the Fort, and afterwards took the Governor to the Isle of Charles Eston (Charleton,) and the rest of the English went to Monsipi. Afterwards Iberville took the English to France.]†

Articles accordées entre M. le Chevalier de Troyes, Commandant le détachment de partie du Nord, et le Sieur Henri Sergent, Gouverneur pour la Compagnie Angloise de la Baye de Hudson, le 16 Juilliet, 1686.

Premièrement. Il a été accordé que le Fort seroit rendu avec tout ce qui appartient à la dite Compagnie, dont on doit prendre une facture pour notre satisfaction particulière, et pour celle des deux parties in general.

Il a été accordé que tous les doméstiques de la Compagnie qui sont à la rivière Albani, jouiront de ce qui leur apartient en propre.

Que le dit Henri-Sergent, Gouverneur, jouira et possédera tout ce qui lui appartient en propre, et qui son Ministre, ses trois Domestiques et sa servante resteront avec lui et l'attendront.

Que le dit Sieur Chevalier de Troyes renvoyera les Domestiques de la Compagnie à l'Isle de Charles-Eston, pour y attendre les Navires qui doivent venir d'Angleterre pour les y passer. Et en cas que les dudit Navires n'arrivent point, le Sieur Chevalier de Troyes les assistera d'un vaisseau tes qu'il pour les renvoyer en Angleterre.

* From "The British Empire in America," Oldmixon, p. 408.
† Voyage de L'Amerique, Par. M. de la Potherie. Amsterdam, 1723, t. I. pp. 161-2.

Que le dit Sieur Chevalier de Troyes donnera audit Henri-Sergent, Gouverneur, ou à son commis, les vivres qu'il croira lui être necessaires pour lui et pour son monde, pour les reconduire en Angleterre, si les bâtimens n'arrivent pas à son port, et pendent ce temps là leur donnera des vivres pour attendre leur vaisseaux.

Que ses magazins seront fermez et scellez, et les clefs seront delivrez au Lieutenant dudit Sieur Chevalier de Troyes, afin que rien ne soit détourné pour en prendre une facture, suivant le premier Article.

Que le Gouverneur et tous les Domestiques de la compagnie qui sont à la rivière Albani, sorteront hors du Fort, et se rendront au du dit Sieur Chevalier de Troyes et tous seront sans armes, excepté le Gouverneur et son fils, qui auront l'épée au côté.

OVERLAND ROUTES TO HUDSON'S BAY.—FROM M. DE DENONVILLE.

October 10, 1686.

We have experienced that, by the Temiskamins and Abitibis, the road is terrible, and that all that could be done would be to carry a sufficient supply of provisions for the round trip. It is believed that that of Nemisbo by Tadoussac is better ; but in truth it is long and painful enough : besides, the navigation of the rivers is so difficult, that it is only possible to pass underneath the trees that lie across the narrow river ; but that may be overcome in time. These, Monseigneur, are the only two roads that lead to the bottom of the Bay [James's Bay].*

It is reckoned 250 leagues from the post of Quichichouane [Fort Albany] to Port Nelson. The overland road is not yet well known to our French ; the next year will not pass without their becoming acquainted with it ; it is not practicable to carry merchandize there.

RIGHT OF THE FRENCH TO HUDSON'S BAY.—M. DE DENONVILLE TO M. DE SEIGNELAY. †

8th November, 1686.

(Extract.)

On the 29th April, 1627, a new [company] was organized, to which the King [Louis XIII] conceded the entire country of New France, called Canada, in latitude from Florida which his Majesty's Royal predecessors had had settled, keeping along the sea coasts as far as the Artic Circle, and in longitude from the Island of Newfoundland westward to the Great Lake called the Fresh Sea, and beyond, both along the coasts and into the interior. * * *

Since that time the French have continued their commerce within the countries of the said grant. In 1656, Jean Bourdon ran along the entire coast of Labrador with a vessel of thirty tons, entered and took possession of the North Bay. This is proved by an extract of the ancient Register of the Council of New France of the 26th of August of said year.

In 1661, the Indians of said North Bay came expressly to Quebec to confirm the good understanding that existed with the French, and to ask for a missionary. Father Dablon went overland thither with Sieur De La Vallière and others. Father Dablon has given his certificate of the fact. In 1663, those Indians returned to Quebec to demand other Frenchmen. Sieur D'Avaugour, then Governor, sent Sieur Couture thither with five others. Said Sieur Couture took possession anew of the head (*fonds*) of said Bay,

* In addition to these two routes by the Saguenay and Temiscamingue, that of the St. Maurice seems also to have been used ; and from Lake Superior the French had several routes—notably by the Michipicoten and Lake Nepigon—to the Moose, Albany, and Nelson Rivers, and so to the Bay.

† N. Y. Hist. Col., Vol. IX., p. 303.

whither he went overland, and there set up the king's arms, engraved on copper. This is proved by Sieur D'Avaugour's order of the 20th May, 1663, and the certificates of those who were sent there.

In 1671, Sieur de Saint Lusson was sent by Sieur Talon, Intendant in Canada, to the Sault Sainte Mary of the Outawas, where all the nations a hundred leagues around, to the number of seventeen, repaired and voluntarily submitted themselves to His Majesty's dominion. Said Sieur de Saint Lusson afterwards erected the cross there, and affixed thereto His Majesty's Arms. These seventeen nations included all those of the Outawas, and of the entire of Lake Huron, those of Lake Superior, of the whole northern country and of Hudson's Bay, of la Baie des Puans [Green Bay], and of the Lake of the Illinois [Lake Michigan], as is proved by the relations thereof, which were sent by the said Sieur Talon, and by the procès-verbal of the taking of possession.

The English cannot derive any advantage from all their voyages, because those who went as far as the 56th degree have only explored some small portions of the coasts of Labrador without entering into the North Bay, and without making any sojourn or establishment there, and the others who proceeded further, were merely in search of the passage whereby they could go westward to the East Indies without intending to make any settlement, and he who approached the nearest to Port Nelson was only about the 63rd degree. Had the English in making their voyages any other design than to discover the said passages, they would not have failed to obtain grants of the countries they discovered, as they had done of Florida in 1607, and of the North Bay when they were conducted thither.

The settlement made by the English in 1662 at the head of the North Bay does not give them any title, because it has been already remarked that the French were in possession of those countries, and had traded with the Indians of that Bay, which is proved still better by the knowledge the men named Desgroselliers and Radisson had of those parts where they introduced the English. They had traded there no doubt with the old French Coureurs des bois. Besides, it is a thing unheard of that rebellious subjects could convey any right to countries belonging to their Sovereign.

MARQUIS DE DENONVILLE, 13TH OCTOBER, AND 10TH AND 16TH NOVEMBER, 1686.*

Affairs are becoming more and more embroiled, and the English who urge on the Iroquois are but too well aware of their evil design.

The French coureurs des bois, with 100 men, took from them three forts they were occupying in Hudson's Bay. * *

The convention concluded with England, that the River Bourbon or Port Nelson shall remain in joint occupation of the two crowns, is not advantageous to the French, for the voyages of the English are too dangerous on account of their attracting the coureurs des bois as much as possible, besides purchasing the beaver at a higher rate, and furnishing their goods cheaper than the French. In his opinion it would be more beneficial for the company and colony that the French merchants restore the posts at the head of the Bay which they took, than that the French should leave them Port Nelson or River Bourbon. If this arrangement was feasible, the Indians could be thus intercepted by land, for it would be useless to attempt to become masters of the upper part of the Rivers Bourbon and Ste. Therèse, inasmuch as it is impossible to prevent the Indians trading with the English.

The latter could, by this means, be intercepted by land, and we should have an opportunity of discovering an infinitude of nations yet unknown, through whom a great many peltries can yet be procured, and possibly, the passage and entrance to the Pacific Ocean eventually discovered.

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* N. Y. Hist. Col., Vol. IX., p. 801.

FRENCH CORRESPONDENCE AND MEMOIRS, 1668–1745.

M. DE DENONVILLE TO M. DE SEIGNELAY.*

Ville Marie, August 25th, 1687.

Du l'Hut's brother, who has recently arrived from the Rivers above the lake of the Allenemipigons, assures me that he saw more than 1,500 persons come to trade with him. They were very sorry to find he had not sufficient goods to satisfy them. They are of the tribes accustomed to resort to the English at Port Nelson or River Bourbon, where they say they did not go this year, through Sieur du l'Hut's influence. It remains to be seen whether they speak the truth.

The overland route to them is frightful, on account of its length and of the difficulty of finding food. He says there is a multitude of people beyond these, and that no trade is to be expected with them except by sea, for by the rivers the expense is too great.

* * *

I have just received news from our forts at the head of Hudson's Bay (*du nord*), where d'Yberville is in command. He has had advices this fall that an English ship was in the nip near Charleston Island. He sent four men thither across the ice to reconnoitre. One gave up through sickness; the others were surprised, taken and bound. One of the latter escaped, though fired at several times—he communicated the news—and the other two were put, bound, into the bottom of the hold, where they passed the winter. The commander of the vessel, hunting on the Island in the spring, was drowned. The time being arrived for setting sail, the pilot and the others, to the number of six, caused the weaker of the two Canadians to work, and obliged him to assist them. One day whilst most of the English were aloft, the Canadian, seeing only two on deck, grasped an axe with which he split both their skulls, then ran to release his comrade; they seized the arms and went on deck, where from being slaves they became masters. They next steered the ship towards our forts, and met Sieur d'Yberville on the way, who had fitted out a vessel to go and release his men at the moment the ice would permit him. The English ship was laden with merchandize and provisions, which have been of great service to our forts.

M. DE DENONVILLE TO M. DE SEIGNELAY.†

January 15, 1690.

Our affairs at Hudson's Bay will prosper, if the Northern Company continue to co-operate with, and second the designs of D'Iberville, one of the sons of the late Le Moyne, whom I left resolved to go and seize Port Nelson, the only remaining post in the possession of the English. For that purpose it is absolutely necessary, I believe, that my Lord the Marquis de Seignelay inform Monsieur de Lagny that the King intends that the Northern Company undertake the capture of that post, and furnish said Iberville with everything he requires to render his design successful. He will want two ships. He has already, at Quebec, one that he took this winter from the English. In truth, my Lord, it would be very advantageous to the King's service had said Iberville some honourable rank in the navy, in order to excite emulation among the Canadians who will follow the sea. A commission of lieutenant would work marvels. He is a very fine fellow, and very capable of rendering himself expert, and doing good service.

The Iroquois war continuing, as there is every appearance it will, both against us and the Indians, in the direction of the Outawas who traffic with us, the greatest part of the trade will be diverted towards Port Nelson, on the River Bourbon. What I have learned of the facilities possessed by the Indians beyond Lake Superior to reach the sea in that direction, very strongly convinces me of the necessity we are under to bethink ourselves of driving the English from that commerce. But it must be effected without fail, for they will get up this year some expeditions against us.

* N. Y. Hist. Col., Vol. IX., pp. 343-4.

† Ibid. p. 443.

FRENCH CORRESPONDENCE AND MEMOIRS, 1668–1745.

MEMORIAL OF LA COMPAGNIE DU NORD, NOV. 15TH, 1690.

The Commercial Company of the North, established at Quebec, by permission and patent of His Majesty, has had the misfortune, after having taken possession of the north country, and the rich and large river of Bourbon, in 1682, to have been robbed, on land, in 1683, by the English, when their vessel had returned to Quebec, by whom were taken from their magazine more than 200,000 livres of beaver, martin and other peltries, at a time when there was no war between the two nations, and by means of bribing two or three Frenchmen in whose charge the peltries in the magazine were. * * *

This occurred at the time when His Majesty had agreed with the King of England that the boundaries of their territories should be fixed by Commissioners, to be appointed on the part of the two kingdoms; they had, however, forbidden their subjects to commit any act of hostility, in which respect the English proved disobedient; arriving, near the end of the year 1688, at the foot of *la Baie du Nord* [James' Bay], occupied by the French, they wintered there with two vessels and about a hundred men belonging to the ships, and built a fort to the north of that of the French.

[The Company asked the assistance of the French Government in the emergency.]

GOBIN PACHOT.
CHARLES AUBERT DE LA CHESNAYS.

LA COMPAGNIE DU NORD OF CANADA TO MONSEIGNEUR DE PONTCHARTRAIN, 1693.

The favour which your Excellency has granted to the Compagnie du Nord of Canada of the King's vessel, the *Poli*, did not produce the effect intended, owing to Captain Iberville having arrived at Quebec only on the 8th of August; too late to undertake anything against the English.

It is hoped you will continue your protection, Monseigneur, in favour of this company, which is ruined and suffers greatly from the necessity of carrying on the war against the London Company, by whom, in a time of peace, Port Nelson, one of the most considerable on the great Bay, was taken from them with 400,000 livres of effects.

This London company, composed of merchants and noblemen of the first quality, estimate at so high a price the commerce of the Bay, that they had given orders to the Commander of the Fort to burn all their effects if the French made their appearance. At the sight of a single vessel of the company, in 1690, they effectively burnt the fort and over 30,000 écus worth of merchandize, which fort, to show this esteem, they rebuilt the next year, because the company of Quebec was not in a condition to occupy it.

It is difficult to speak in terms of deserved eulogy of this great Bay in respect to the commerce which has already been carried on there, and which might be established on the sea coast and in the interior, and as a basis of new discoveries.

The Company could hold everything there if it could seize Port Nelson; but the expense of the war sustained against England has greatly weakened it, and obliged it to have recourse to your Excellency, to obtain sufficient force, and in a suitable time to drive out the English.*

By your very respectful and very obedient servants,

ROUER DE VILLERAY, *for the Ancient Company.*
F. RAZEUE,
MACART,
LE PICART,
PACHOT,
BENACE, *for MM. Catignon and Duprat.*
GOBIN.
FAUVEL.

* "War breaking out between the two nations, the Hudson's Bay Company solicited for soldiers to be sent thither to recover their settlements; and in the year 1693 they retook all the forts and factories which the French had taken from them in time of peace."—*Oldmixon.*

FRENCH CORRESPONDENCE AND MEMOIRS, 1668–1745.

LA COMPAGNIE DU NORD OF CANADA TO MONSEIGNEUR PONTCHARTRAIN, 1693.

The enterprise of Port Nelson could not be carried out in 1691, because M. du Tas, since dead, arrived at Quebec on the first of July, to whom you had ordered to make this voyage, alleged, when here, that it was too late to set out for the north.

Your Excellency, in 1692, gave Captain Iberville, of His Majesty's vessel, the *Poli*, his orders for this voyage and the management of the fleet of merchant vessels of this country, who did not arrive till the 18th August, at which season it was absolutely impossible to think of this enterprise.

Why, Monseigneur, this single Fort, which remains in possession of the English, is of so much importance that the gain or loss of everything in Hudson's Bay depends upon it. The company's establishment at Quebec, to carry on this commerce, claims anew the protection of Your Excellency, that you may give it a sufficient force to enable it to become master of Fort Nelson, which the English took by an act of treason against this company in a time of peace. This they hope from the strong desire which you have for the aggrandizement of the kingdom and from your affection for this colony.

By your very respectful and obedient servants,

HARYON,
THAZEUR,
PACHOT,
CHARLES AUBERT DE LA CHESNAYS,
MIGEON,
DE BRAUSSAC,
MACART,
LE PICART,
GOBIN.

FROM M. DE FRONTENAC ON THE SUBJECT OF ATTACKING FORT NELSON.

August 7th, 1693.

His Majesty having made known to us by his despatch of the 28th March last, that it was his intention that we should cause Sieur Iberville to set out without delay, with his vessels, the *Poli*, the *Intendant*, and that of the Compagnie du Nord, in order to go to Hudson's Bay, according to the private memoir which His Majesty has sent us to this effect, and the instruction of the said Iberville, captain of the *Poli*, we have conferred with Monseigneur de Champigny, Intendant of the country, on the execution of the said orders, and on the 26th of July ordered the said Sieur d'Iberville, charged with the said expedition to the said Fort Nelson, and the gentlemen interested in *la Baie du Nord* (Hudson's Bay), to set out on that expedition.

CAPITULATION OF FORT YORK.

Articles of capitulation between William Allen, Commandant in Chief at Hays or Ste. Therese River, and Sieur. G. de la Forest, Commandant of Fort York or Bourbon, August 31, 1696.

I consent to give up to you my fort on the following conditions:

1. That I and all my men, French as well as Indians, and my English servant, shall have our lives and liberty granted to us, and that no wrong or violence shall be exercised upon us or whatever belongs to us.

2. We shall march out of the Fort, with our arms, to the beat of the drum, match lighted, ball in mouth, flags unfurled, and carry with us the two cannon which we brought from France.

3. We shall be transported all together, in our own vessel, to Plaisance, a French

port in Newfoundland. We do not wish to give up the Fort till we have embarked, and we shall keep the French flag over the Fort till we march out.

4. If we meet with our vessels there shall be a truce between us, and it shall be permitted to transport us with whatever belongs to us.

5. We shall take with us all the beaver skins and other merchandize obtained in trade this year, which shall be embarked with us upon our vessels.

6. All my men shall embark their clothes and whatever belongs to them without being subject to visitation or robbed of anything.

7. In case of sickness during the voyage, you shall furnish us with all the remedies and medicines which we shall require.

8. The two Frenchmen who ought to return with the Indians shall be received in the Fort on their return, where they shall be treated the same as the English, and sent to Europe during the same year, or they shall be furnished with everything necessary to take them to Rochelle.

We shall have the free exercise of our religion, and the Jesuit priest, our missionary, shall publicly perform the functions of his ministry.

Operations during the Peace preceding the War which ended with the Treaty of Ryswick, 1697.

Countries taken by the English during the peace: Fort Bourbon in Hudson's Bay; the French had expelled them from it in 1695; the English took it back from them in 1696. To be surrendered by the English.

Taken by the French during the peace: the two forts on the south of Hudson's Bay; the English recaptured them during the war.—*Correspondence officielle relative au Gouvernment du Canada*, 3me Sèrie, I. Archives de Paris.

From MM. de Vaudreuil and Beauharnois.

19th September, 1705.

The Compagnie du Nord is not in a condition to send next year a vessel to Hudson's Bay with necessary provisions for the garrison, and to bring back beaver skins and other furs which have been obtained in trade, and to take there new merchandize; and as the armaments raised in this country cost immense sums, and as this post is in a better position to be conducted from France than this country, we pray you, Monseigneur, to send a vessel there; for without such assistance the garrison will perish for lack of provisions; Sieur de Grandville, Keeper of Marine, has already made this voyage.

Relative Value of Northern and Southern Furs.*

The furs of the north are beyond question the finest; they always maintain their price, and never occasion a loss, as the strong desire manifested by Aubert & Co. to procure them incontestably proves. Besides, a canoe-load of this kind of furs brings more money than six canoe-loads of southern furs, and does not cost any more.

* Memoir for the Re-establishment of the Commerce of Canada, by DeLino, addressed to Count de Pontchartrain, Minister and Secretary of State, Comptroller-General of the Marine, October 25, 1710.

THE POST OF TEMISCAMINGUE.

The King to settle the limits, 1722.

His (the King's) intention was to settle the single post of Temiscamingue within the limits to which it ought naturally to be confined, to the land watered by the river of this name, and others that discharge therein, without comprising the lands that are below or above the said river.—*Mémoire des Répresentations sur l'adjudication qui vient d'être faite du poste de Temiskamingue*, 1722.

Begon to Monseigneur.

June 10, 1725.

It was agreed *(convenu)* at the time of the adjudication in regard to the limits of the post of Temiscamingue, that it is necessary to embrace the River Lievre, as well to give certain limits for the front and the depth, as because if the river did not belong to it (*n'en dépendait point*), those who may have permission to carry on this trade there would be able to attract there a part of the savages of the Post of Temiscamingue. It is for the same reason that Lake Nepissingue and a part of the grand river of the Ottawas, from the River du Lièvre, which also discharges into the Ottawa River on the south side, was included.

Memorial of Begon, Explaining the Ancient Limits of Temiscamingue, October 20, 1725.

The ancient limits of this post were on the front, from and comprising the River du Lièvre, which discharges in the grand river of the Ottawas, on the north side as far as and comprising Lake Nepissingue, and in depth up to Hudson's Bay, where it is possible to go only by the River Monsony or Monsipy, which discharges into the sea at the head of the said bay. [From Matouan to Temiscamingue the Ottawa River used to be called la Rivière de Temiscamingue.] The height of land is at the Rivers Labyrinthe and Tabitibis, sixty leagues from Lake Temiscamingue. At this portage is a post for trading with the Indians of the environs and those of Hudson's Bay, and who come up the River Monsipy. The course of this river to the ocean is about eighty leagues.

This is the most advanced post towards Hudson's Bay. The French, in order not to expose themselves to the insults of the savages who may be in the pay of the English on Hudson's Bay, where Fort Monsipy is situated, do not go further for fur trading. This is the only river of the post which conducts to Hudson's Bay.

When one is at Matauan, in order to reach Lake Nepissingue, it is necessary to ascend, for fourteen leagues, a river, called La Petite Rivière, as far as a place known as the Portage des Vases, where is the height of the lands. Three portages, amounting together to five parts of a league, are here made. Afterwards, for the space of two leagues, the descent is through a small river which empties itself in Lake Nepissingue, at the head of which, at its northern extremity, is a river called La Fontaine. The course of this river is ascended for about forty leagues to within about ten leagues of Lake Temiscamingue.

FRENCH CORRESPONDENCE AND MEMOIRS, 1668–1745.

M. DE BEAUHARNOIS AND HOQUART TO THE MINISTER.

Oct. 15, 1730.

The Post of Temiscamingue had been taken from Le Sieur Gorgendière, who claims to have incurred considerable expense, during his year of possession, in presents which he had caused to be given to the savages of the different nations living in the neighbourhood of his post, in order to attract them there, and also in the advances which he had made to them, according to the usual custom of traders. [They urged that as one or even two years' possession of a post give no chance of profit, he ought to be relieved from the obligation to pay 200 livres for goods furnished from the King's stores.

M. DE BEAUHARNOIS TO COUNT DE MAUREPAS.*

October 8, 1744.

In regard to the posts on Hudson's Bay and those they [the English] have established on this side, in the direction of Temiscaming, and which His Majesty has been pleased to recommend me to endeavour to neutralize, or to utterly destroy if possible: I have accordingly instructed Sieur Guillet, who farms the post of Temiscaming, and has gained the good opinion of all the nations thereabouts, to prevail on them to assemble together, in the course of this winter, in order to fall, at the opening of the spring, as well on Fort Rupert as on the other posts in the direction of Hudson's Bay. I have in like manner, on receiving news of war, sent orders to Missilimakinac, to be transmitted to Alepimegon and the other posts in that neighbourhood, so that they may all co-operate in the destruction of the English establishments at the north, and among the rest, of that newly built, about twenty leagues above Michipicoton, by a Canadian refugee, who has conducted thither seven or eight Englishmen who trade there; and I have ordered not only the forcible destruction of that establishment, but also that the Canadian be killed, if it be possible to seize him. I have also given Sieur Guillet notice that I should, at the very opening of spring, despatch a party of Frenchmen and Indians under the command of an officer and some others, so as to make a simultaneous attack on those posts. Sieur Guillet is to warn those Indians of this expedition, in order that they may hold themselves in readiness to join it, and, in fact, I calculate on sending it thither as soon as the season will permit, and I beg you, my Lord, to assure his Majesty that I will not neglect anything to utterly destroy, if possible, the English establishments in that quarter, as well as all those the difficulties whereof I shall be able to surmount.

M. DE BEAUHARNOIS TO COUNT DE MAUREPAS.†

Montreal, June 18, 1745.

I am on my guard and merely on the defensive, not being able to act offensively, as I had the honour to inform you, either against New England or the posts on Hudson's Bay, in consequence of the want in the King's stores, and even in those of the merchants, of the supplies necessary for such expeditions, a circumstance I was not informed of last autumn. *Besides*, the preservation of our possessions and forts in the interior of the Colony being my principal object, I consider it more prudent *not* to divest ourselves of our small means of resistance in case of attack, and to suspend the *other* projects until I be in a condition to execute them.

* N.Y. Hist. Col., Vol. IX., p. 1105.

† Ibid. Vol. X., p. 2.

MISCELLANEOUS PAPERS, 1687–1798.

Alleged Discovery of Hudson's Bay by the Danes and Spaniards.

The Danes pretend that this Bay had already been discovered by one of their nation, by whom the name of Christiania, after Christian IV., King of Denmark, was given. They say that the Danes having passed the strait, continued their voyage towards the north, and finally reached the mainland at the mouth of the river, which they called the Danish River, and which the Indians called Monoteousiki, which signifies the strangers' river. They all perished during the winter.*

Another writer, who has paid particular attention to North America, believed the fable of a Spanish vessel having crossed the continent from the Pacific Ocean to Hudson's Bay : "It is alleged that the Spaniards have recently found an entrance in the latitude of 47° 55′ north, which in twenty-seven days brought them to the vicinity of Hudson's Bay; this latitude exactly corresponds to the ancient relation of John de Fuca, the Greek pilot, in 1592."†

Report of the English Commissioners appointed to Treat with the French, concerning damages sustained by the Hudson's Bay Company, etc. 1687.

We your Majesty's Commissioners appointed to treat with the Ambassador and Envoy Extraordinary of His Most Christian Majesty concerning the differences that have happened, or may, to your Majesty or the French in America, have had frequent conferences with the said Ambassador and Envoy Extraordinary, in order to obtain satisfaction for the damages your Majesty's subjects have lately sustained from the French in Hudson's Bay, with restitution of the three forts which by surprise were seized on by them ; as also touching several other differences depending between the two Crowns. And as to the business of Hudson's Bay, having already acquainted your Majesty with our proceedings therein, we do further add, as our humble opinion, that it plainly appears your Majesty and your subjects have a right to the whole Bay and Streights of Hudson, and to the sole trade thereof, so it may be fit for your Majesty to support the said Company of Hudson's Bay, in the recovery and maintenance of their right, since otherwise that trade will be totally lost, and fall into the hands of the French, if they be permitted to continue in the possession of those forts, or of any fort or place within the said Bay or Streights.

His Majesty's Resolutions thereupon.

Whereupon His Majesty did declare, that having maturely considered his own right and the right of his subjects to the whole Bay and Streights of Hudson, and having been also informed of the reasons alleged on the part of the French, to justify their late proceeding in seizing three forts, which for many years past have been possessed by the English, and in committing several acts of hostility, to the very great damage of the English Company of Hudson's Bay.

His Majesty upon the whole matter did conceive the said Company well founded in their demands, and therefore did insist upon his own right and the right of his subjects to the whole Bay and Streights of Hudson, and to the sole trade thereof, as also upon the demand of full satisfaction for the damages they have received, and restitution of the three forts surprised by the French, in the bottom of the Bay.

* Introduction à l'Histoire de l'Asie, de l'Afrique et de l'Amerique. Par M. Bruzen La Martinière. T. II., pp. 409-10.

† Dalrymple's Plan for Promoting the Fur Trade, 1789.

MISCELLANEOUS PAPERS, 1687–1798.

PROPOSED EXCHANGE OF PLACES, 1700.

MR. VERNON, SECRETARY OF STATE TO LORD LEXINGTON, COMMUNICATING TO THE BOARD OF TRADE AND PLANTATIONS THE ALTERNATIVES PROPOSED BY THE AMBASSADOR OF FRANCE, REGARDING THE BOUNDARIES BETWEEN FRANCE AND ENGLAND IN AMERICA, APRIL, 29, 1700.

MY LORD,—Having received the alternative from the French Ambassador, I send your lordship a copy of it, that it may be considered at your board by Wednesday next.

I am, My Lord, &c.,

JA. VERNON.

By the first alternative, I propose that France keep Fort Bourbon, and England that of Chichitouan having for limits between the two nations in that quarter the ———, which is exactly half-way between the two Forts ; and in that case, the limits of France on the side of Acadie, shall be restricted to the River St. George.

By the second alternative, I propose that Fort Chichitouan shall remain with France, and that of Bourbon with England, having for limits the same place of which I spoke above ; but in that case I demand that the limits of France, on the side of Acadie, should extend to the River Kenebec.

As to the fishery, as all commerce between the colonies of the two nations is forbidden, and as under the pretext of fishing, a contraband trade would be sure to be carried on, it is thought, according to the usage established in that country, the fishery should be prevented as far as the eye can reach ; but as difficulties always arise when a determined distance is not agreed upon it is proposed to fix it at eight leagues, and that for the same reason, and for fear of the same inconvenience, the islands which are found comprised within this space should belong to whichever of the two nations on the shores of which they are situated.

OBSERVATIONS OF THE BOARD OF TRADE AND PLANTATIONS ON THE ABOVE, 1700.

What the interest of the Hudson Bay Company may be in keeping Fort Chichitouan, alias Fort Albany, or exchanging it for Fort Bourbon, alias York, they themselves can best determine. * * *

The proposal for settling limits between the English and French in Hudson's Bay is groundless ; for by the late Treaty of Peace, Art. 8, the only right reserved to the French in Hudson's Bay is in relation to those places which were taken from the English by the French during the peace which preceded the late war, and retaken from them by the English during the said war, which cannot imply any extent of territory more than the places so taken and possessed ; and the Hudson's Bay Company challenging an undoubted right to the whole Bay, antecedent to any pretence of the French, it is necessary they be consulted before any concession of territories be made to the French in those parts. * * *

THOMAS HILL.

Plantation Office, Whitehall,
July 12, 1700.

FORT NELSON RESTORED TO THE ENGLISH.

From Relation du Detroit et de La Baye D'Hudson, Par Monsieur Jérémie.

The Fort was named Bourbon, and the river on which it was situated was named St. Therese, because the fort was brought under the authority of the French on the day St. Therese, October, 14. . . . I had the honour to be in command of the fort for years, and I had the honour to be stationed there by express orders of the King, whose missions I still preserve. None of my predecessors had been appointed in the same

MISCELLANEOUS PAPERS, 1687–1798.

In 1714 I received the orders of the Court, with letters from the Count de Pontchartrain, to hand over the post to the English, according to the terms of the Treaty of Utrecht.

Though the Fort was built on the River Ste. Therese, it is by the River Bourbon that the savages come to trade. The first great lake through which this river passes is called by the Savages Tatasquoyaou Secahigan, which signifies the Lake of Forts, in which discharges a river called Quissiquatchiouen, or strong current.

[Jérémie estimates the annual profit of the trade of Fort Bourbon to the French at 100,000 livres. In 1713, the goods they brought out cost 8,000 livres, and in 1714 he made over 120,000, which he took away when relieved by the English.]

CAPTAIN MIDDLETON* TO A. DOBBS, ESQ.,† JANUARY, 1742-3.

I have seriously considered your proposition of laying open the Hudson's bay trade, and settling the country higher up, upon those great rivers which run into the Bay; and though I may agree with you in the great advantage the public would receive from such a settlement (could it be made), both as to their trade, and the cutting of communication with the Mississippi, yet I must declare my opinion, that it is altogether impracticable upon many accounts; for I cannot see where we could find people enough that would be willing or able to undergo the fatigue of travelling in those frozen climates, or what encouragements would be sufficient to make them attempt it, with such dangerous enemies on every side; no Europeans could undergo such hardships as those French that intercept the English trade, who are inured to it, and are called by us wood-runners (or coureurs des bois), for they endure fatigues just the same as the native Indians, with whom they have been mixed and intermarried for two or three or more generations.

As to the rivers you mention, none of them are navigable with anything but canoes, so small that they carry but two men, and they are forced to make use of land carriages nearly the fourth part of the way, by reason of water-falls, during that little summer they enjoy.

Out of 120 men and officers the Company have in the Bay, not five are capable of venturing in one of those canoes, they are so apt to overturn and drown them. Many of our people have been twenty years and upwards there, and yet are not dexterous enough to manage a canoe, so there would be no transporting people that way.

HUDSON'S BAY COMPANY'S POSTS, 1775-1798.

1775.—"The Hudson's Bay Company has at present four factories: Churchill, Fort York, Albany, and that of Moose River. Fort York is reputed the most important: it is

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* The *Quarterly Review* in an article on "Lord Selkirk and the North-West Passage," (Vol. 16, 1816-17, p. 16), says: "At length a gentleman of the name of Dobbs, having well considered what preceding navigators had stated with regard to the high tides from the northward in the *Welcome*, prevailed on the Company, after much importunity, to send a vessel to the northward, in 1737; but she returned without doing anything, never having reached so high as the latitude 63°. Dobbs, perceiving the reluctant and negligent conduct of the company, applied next to the Government, and by his perseverance and sanguine representations, obtained the Furnace bomb, and the pink Discovery, to be appropriated for this service, under the orders of Captain Middleton, a commander in the British Navy, who had served as master in the employ of the Hudson's Bay Company for many voyages. Middleton left England in 1741, wintered in Churchill River, and in the summer 1742 proceeded up the Welcome to Wager River, and looked into (he says sailed round), what he was pleased to call *Repulse Bay*. From hence he returned to the southward."

On page 141 of the same number of the *Quarterly*, it is stated that: "Shut up in summer and winter within their three forts, situated on the shores of Hudson's Bay, these people, for a long time, held no other intercourse with the native Indians than receiving from them, at the foot of their walls, their bear skins and beaver skins, their goose quills and castoreum at one end of a rope and lowering down at the other their value in blankets, baubles and brandy."

† A. Dobbs was the author of "An account of the countries adjoining Hudson's Bay, and of certain voyages thither [which he made] and of the probability of a North-west passage, (1741)."

situated on the south branch of the Hayes River, five leagues above the point where it runs into the sea, at 37 deg. 20 min. lat., and 93 deg. 58 min. long."*

1795.—Winterbotham † gives the following as the forts occupied by the Hudson's Bay Company. They were all on the shores of the Bay :—

	N. Lat.	W. Lon.
Churchill,	59° 0′	94° 30′
York fort,	57° 10′	93° 0′
Severn House,	56° 12′	88° 57′
Albany Fort,	52° 18′	85° 18′
Moose Fort,	51° 28′	83° 15′
East Main,	53° 24′	78° 50′

And he adds :

"The country lying round Hudson's Bay, or the country of the Esquimaux, comprehended Labrador, New Britain, and South Wales, has obtained the general name of New Britain, and is attached to the Government of Lower Canada. A superintendent of trade, appointed by the Governor-General of the four Provinces, and responsible to him, resides at Labrador.

"Before the Canadian merchants pursued the fur trade with such diligence as they now do through the lakes, and had penetrated into the interior parts of the Hudson's Bay, a great number of Indians used to come annually down to the Company's settlements to barter their skins ; and although the Company have now, in a great measure, lost the benefit of this lucrative traffic, it may not be amiss to mention the manner in which the Indians prosecute their voyages to the factories.

"The merchants from Canada have been heard to acknowledge that were the Hudson's Bay Company to prosecute their inland trade in a spirited manner, they must soon be obliged to give up all thoughts of penetrating into the country, as from the vicinity of the Company's factories to the inland posts, they can afford to undersell them in every branch.

"To explain this emulation between the Company and the Canadian traders, it will be necessary to review the state of the Company in the year 1773. About that time, the Canadian traders from Montreal, actuated by a laudable spirit of industry and adventure, and experiencing the peculiar advantages that resulted from their exertions, had become so numerous and indefatigable at the head of the rivers which led to the Company's settlements, that the trade of the latter was in a great measure cut off from its usual channels. The Indians, being supplied with everything they could wish for at their own doors, had no longer occasion, as they had hitherto done, to build canoes, and paddle several hundred miles for the sake of cultivating a commerce with the Company, in which peregrination they were frequently exposed to much danger from hunger ; so much so, that at one time seven canoes of Upland Indians perished on their return to their own country."

1798.—"The whole of the settlements in New Britain are as follows :—Abbitibbi, Frederick, East Main and Brunswick Houses, Moose Fort, Henley, Gloucester and Osnaburg Houses, and a House of Winnipeg Lake, Severn or New Severn, York Fort or Nelson, Churchill Fort or Prince of Wales' Fort, South Branch, Hudson's, Manchester and Buckingham Houses ; the last is the westernmost settlement, and lately erected (1798).

"Hudson's House, one of the Company's factories on the S. W. side of Saskatchewan River, 100 miles east of Manchester House, and 167 S. E. of Buckingham House, or lat. 55° 32′, W. long. 106° 27′ 20″.‡"

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* Histoire et Commerce des Colonies Anglaises dans l'Amerique Septentrionale. London, 1775.

† Historical, Geographical, and Philosophical View of the United States, and of the European Settlements in America and the West Indies, 1795.

‡ American Gazetteer. By Jebediah Morse, D.D., London, 1798.

This would be about the Forks of the Saskatchewan. In another place this fort is said to be 600 miles west of Fort Churchill. The same statement is made in the folio edition of 1794.

CLAIMS AND MEMORIALS OF THE HUDSON'S BAY COMPANY RESPECTING THE LIMITS OF THEIR POSSESSIONS, &c., 1700-1714.

The Company's claims after the treaty of Ryswick.

[*To the Right Honourable the Lord Commissioner of Trade and Plantations.*]

The limits which the Hudson's Bay Company conceive to be necessary as boundaries between the French and them in case of an exchange of places, and that the Company cannot obtain the whole Streights and Bay, which of right belongs to them, viz.:—

1. That the French be limited not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond the bounds of 53 degrees, or Albany River, vulgarly called Chechewan, to the northward, on the west or main coast.

2. That the French be likewise limited not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond Rupert's River, to the northward, on the east main or coast.

3. On the contrary, the English shall be obliged not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond the aforesaid latitude of 53 degrees or Albany River, vulgarly called Chechewan, south-east towards Canada, on any land which belongs to the Hudson's Bay Company.

4. As also the English be likewise obliged not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond Rupert's River, to the south-east, towards Canada, on any land which belongs to the Hudson's Bay Company.

5. As likewise, that neither the French or English shall at any time hereafter extend their bounds contrary to the aforesaid limitations, nor instigate the natives to make war, or join with either, in any acts of hostility to the disturbance or detriment of the trade of either nation, which the French may very reasonably comply with, for that they by such limitations will have all the country south-eastward betwixt Albany Fort and Canada to themselves, which is not only the best and most fertile part, but also a much larger tract of land than can be supposed to be to the northward, and the Company deprived of that which was always their undoubted right.

And unless the Company can be secured according to these propositions, they think it will be impossible for them to continue long at York Fort (should they exchange with the French), nor will the trade answer their charge; and therefore if your Lordships cannot obtain these so reasonable propositions from the French, but that they insist to have the limits settled between [Albany and] York and Albany Fort, as in the latitude of 55 degrees or thereabouts, the Company can by no means agree thereto, for they by such an agreement will be the instruments of their own ruin, never to be retrieved.

By order of the General Court,

Wm. Potter,
Secretary.

Confirmed by the Court }
of the said Company, 10th July, 1700. }

To the Governor or Deputy-Governor of the Hudson's Bay Company, or either of them.

Gentlemen,—Upon consideration of what was this day offered to the Lords Commissioners for Trade and Plantations, by yourselves and other members of the Hudson's Bay Company, their Lordships have commanded me to acquaint you with their desire, that the Resolution of your Court may be taken and communicated to them, whether (in case the French cannot be prevailed with to consent to the settlement of the boundaries proposed in your Court of the 10th July last), the said Court

will not think fit to consent, that the limits on the east side of the Bay be extended to the latitude of 52½ degrees, with whatever further that Court may think advisable to propose, in reference to their own affairs, for the more easy settlement of all disputes between the Company and the French in Hudson's Bay.

W. P[OPPLE].

Whitehall, January 22. 170⅞.

To the Right Honourable the Lords Commissioners for Trade and Plantations.

The Hudson's Bay Company having lately exhibited to your Lordships their Resolution of their Court, the 10th of July last, concerning limits between them and the French in Hudson's Bay, and though the Company cannot but still insist upon their undoubted right to the whole Bay and Streights of Hudson, as has been clearly made out by them :

Yet in obedience to your Lordship's letter of the 22nd inst., and to show how desirous they are to comply therewith as much as in them lies, and is consistent with their future safety, they do further offer to your Lordships the following proposals of limits between them and the French in Hudson's Bay, viz :

1. That the French be limited not to trade by wood-ruuners or otherwise, nor build any House, Factory, or Fort to the northward of Albany River, vulgarly called Checheawan, on the west main or coast.

2. That the French be likewise limited not to trade by wood-runners or otherwise, nor build any House, Factory, or Fort to the northward of Hudson's River, vulgarly called Canute River, on the east main or coast.

3. On the contrary, the English, upon such an agreement, do engage not to trade by wood-runners, nor build any House, Factory, or Fort to the southward of Albany River, vulgarly called Checheawan, on the west coast, on any ground belonging to the Hudson's Bay Company.

4. As also, the English be likewise limited not to trade by wood-runners or otherwise, nor build any House, Factory, or Fort to the southward of Hudson's River, vulgarly called Canute River, on the east coast, on any ground belonging to the Hudson's Bay Company.

5. That all the Islands in the said Bay and Streights of Hudson, lying to the northward of Albany River, on the west coast, and of Hudson's River, vulgarly called Canute River, on the east coast, shall be and remain to the English.

6. Likewise that all the Islands in the said Bay of Hudson, lying to the southward of Albany River, on the west coast, and of Hudson's River, vulgarly called Canute River, on the east coast, shall be and remain to the French.

7. That neither the French or English shall at any time hereafter extend their bounds contrary to the aforesaid limitations, or instigate the natives to make war, or join with either in any acts of hostility, to the disturbance or detriment of the trade of either nation.

These terms the Company are willing to agree to, upon condition they may be secured from any claim that has been, or may be made on them by virtue of the 8th Article of the Treaty of Ryswick, or by any other matter or thing relating to the said treaty. And if the French think fit to accept thereof, the Company are willing to exchange places with them, but not without settling of limits ; for that the said 8th Article which saith there shall be an exchange of places, doth also say, that limits shall be likewise settled, and it would seem very unreasonable that one should be performed without the other. As to the Company's naming of rivers as boundaries, and not latitudes, the same is more certain and obvious, both to the natives as well as Europeans, and the contrary impracticable ; nor can the latitude be so well laid down in that wild country, the Indians well knowing the one, but not the other.

But should the French refuse the limits now proposed by the Company, the Company think themselves not bound by this or any former concessions of the like nature, but must, as they have always done, insist upon their prior and undoubted right to the whole

Bay and Streights of Hudson, which the French never yet would strictly dispute, or suffer to be examined into (as knowing the weakness of their claim), though the first step in the said article of Ryswick directs the doing of it.

By order of the General Court of the said Company.

WM. POTTER,
Secretary.

January 29th, 170$\frac{9}{10}$.

STATE OF THE COMPANY'S AFFAIRS, 1701-2.

To the Deputy Governor of the Hudson's Bay Company.

The Lords Commissioners for Trade and Plantations have commanded me to signify to you their desire that the Hudson's Bay Company would lay before them whatever they may think fit to offer in relation to the trade and security of that place at this time.

I am,
Sir,
Your humble servant,
W. P[OPPLE].

Whitehall, January 9th, 170$\frac{1}{2}$.

To the Honourable the Lords Commissioners for Trade and Plantations.

The humble representation of the Governor and Company of Adventurers of England trading into Hudson's Bay,

SHEWETH:

That the said Company, being required by your Lordships to give in what they thought necessary in relation to their trade, and the security of their factory in Hudson's Bay, do, with all submission, lay before your Lordships the true state and condition thereof.

They will not trouble your Lordships with a repetition of their undoubted rights to all Hudson's Bay, and that the French never laid claim to the same, or ever sailed a ship or vessel into those parts since the creation of the world, till the year 1682 (many years after the incorporation of this Company), and then in a piratical manner, without any commission or authority from His Most Christian Majesty, who was afterwards pleased to disown the said proceeding, as the Company have and are still ready to prove.

These matters have been so fully and clearly made out by them that even the French themselves, with all their sophistry and equivocation, have not been able to disprove.

Therefore we shall proceed to inform your Lordships of the present melancholy prospect of their trade and settlement in Hudson's Bay, and that none of His Majesty's plantations are left in such a deplorable state as those of this Company, for by their great losses by the French, both in times of peace as well as during the late war, together with the hardships they lie under by the late Treaty of Ryswick, they may be said to be the only mourners by the peace.

They cannot but inform your Lordships that the only settlement the Company have now left in Hudson's Bay (of seven they formerly possessed) is Albany Fort, vulgarly called Checheawan, in the bottom of the said Bay, where they are surrounded by the French on every side, viz., by their settlements on the lakes and rivers from Canada to the northwards, towards Hudson's Bay, as also from Port Nelson (Old York Fort) to the southward; but besides this, the Company have, by the return of their ship this year, received certain intelligence that the French have made another settlement at a place called New Severn, 'twixt Port Nelson and Albany Fort, whereby they have hindered the Indians from coming to trade at the Company's factory, at the bottom of the Bay, so that the Company this year have not received above one-fifth part of the returns they usually had from thence, insomuch that the same doth not answer the expense of their expedition.

HUDSON'S BAY COMPANY'S CLAIMS DURING NEGOTIATIONS AT UTRECHT.

The Company being by these and other their misfortunes reduced to such a low and miserable condition, that, without His Majesty's favour and assistance, they are in no ways able to keep that little remainder they are yet possessed of in Hudson's Bay, but may justly fear in a short time to be deprived of all their trade in those parts, which is solely negotiated by the manufacturers of this kingdom.

Upon the whole matter, the Company humbly conceive they can be no ways safe from the insults and encroachments of the French, so long as they are suffered to remain possessed of any place in Hudson's Bay, and that in order to dislodge them from thence (which the Company are no ways able to do), a force of three men of war, one bomb-vessel, and two hundred and fifty soldiers, besides the ships' company will be necessary, whereby that vast tract of land which is of so great concern, not only to this company in particular, but likewise to the whole nation in general, may not be utterly lost to this kingdom.

All of which is humbly submitted to your Lordship's great wisdom and judgment.

By the Governor and Company of adventurers of England trading into Hudson's Bay.

W. POTTER,
Secretary.

Hudson's Bay House, the 19th January, 170$\frac{1}{2}$.

THE COMPANY'S CLAIMS DURING NEGOTIATONS AT UTRECHT.

To the Right Honourable the Earl of Dartmouth.

MY LORD,—In obedience to Her Majesty's commands, signified to us, we have considered the enclosed petition from the Hudson's Bay Company to Her Majesty, and are humbly of opinion, that the said Company have a good right and just title to the whole Bay and Streights of Hudson.

Since the receipt of which petition, the said Company have delivered us a memorial, relating to the settlement of boundaries between them and the French of Canada, a copy whereof is enclosed, and upon which we take leave to offer, that as it will be for the advantage of the said Company, that their boundaries be settled, it will also be necessary that the boundaries between Her Majesty's colonies on the continent of America and the said French of Canada, be likewise agreed and settled: wherefore we humbly offer these matters may be recommended to Her Majesty's Plenipotentiaries at Utrecht.

We are
My Lord,
Your Lordship's most obedient, and most humble servants,

WINCHELSEA,
PH. MEADOWS,
CHAS. TURNER,
GEO. BAILLIE,
ARTH. MOORE,
FRA. GWYN.

Whitehall, February 19th, 17$\frac{1}{2}$.

To the Queen's Most Excellent Majesty.

The Petition [1711] of the Governor and Company of Adventurers of England trading into Hudson's Bay.

HUMBLY SHEWETH:

That your petitioners are far from enquiring into the great affairs of your Majesty's glorious Government, especially as what relates to war and peace, both which they know your high wisdom will so order as shall be most for the good of your whole people; but believing the justice of your cause and the terror of your arms must soon reduce the French King to sue for such a peace as all Europe desires and wants, your petitioners

crave leave with the profoundest duty, to submit the hardships of their case to your Royal consideration.

That the French, in a time of perfect amity between the two kingdoms, viz., Anno 1682, did arbitrarily invade the Company's territorys at Port Nelson, burn their houses and seize their effects.

That in the years 1684 and 1685, they continued their depredations.

That in the year 1686, they forcibly took from the Company three Factories, viz.: Albany Fort, Rupert and Moose River Fort, which violent proceeding they continued the years 1687 and 1688, the whole damages done by the French to the Company in times of peace amounting to £108,514 19s. 8d., as your petitioners are ready to make appear, besides interest for the same.

That in the year 1685, they supplicated his then Majesty King James the Second to interpose on their behalf, and by his Ambassadors at the French Court to demand reparation for the damages done to the Company, and restitution of the places unjustly taken from them by the French in time of peace, whereupon Commissioners were appointed by His Majesty viz., the Earl of Sunderland, the Earl of Middleton, and the Lord Godolphin, to treat with the French Commissioners, before whom the Company clearly made out their right to the whole Bay and Streights of Hudson—to the satisfaction of English Commissioners, who, on the 10th November, 1687, reported the right of your petitioners, upon which King James was pleased to declare, that he conceived the Company well founded in their demands, and therefore did insist upon his own right, and the right of his subjects to the whole Bay and Streights of Hudson, and to the sole trade thereof; as also upon the demand of full satisfaction for the damages they had received, &c., the copy of which report and His Majesty's resolutions thereon, is hereby annexed. This was translated and declared towards the latter end of 1687, at which time the Lord Churchill, Duke of Marlborough, was Governor of the Company, and memorials were repeated by the said King's command at the French Court so pressingly for satisfaction and restitution, that your petitioners had certainly been relieved and restored to their rights, but for the war which soon after broke out between the two Kingdoms.

That upon the late King William's accession to the Throne, the Company renewed their claim to their territories and for reparation of damages suffered from the French in times of full peace, of which his said Majesty was so sensible, that he was pleased to make the proceedings of France in that affair one of the causes and articles of his declaration of war against the French King in hæc verba: "But that the French King should invade our Charibee Islands and possess himself of our territories of the Province of New York and Hudson's Bay in an hostile manner, seizing our Forts, burning our subjects' houses, and enriching his people with the spoil of their goods and merchandizes, detaining some of our subjects under the hardships of imprisonment, causing others to be inhumanly killed, and driving the rest to sea in a small vessel, without food and necessaries to support them, are actions not even becoming an enemy, and yet he was so far from declaring himself so, that at that very time he was negotiating here in England by his Ministers, a treaty of neutrality and good correspondence in America," so that your petitioners did patiently wait the end of that war, not doubting but to have justice to them, when a peace was concluded.

But so it is, may it please your most Excellent Majesty, that the Company found their interest not comprehended in the Treaty of Ryswick, which they are far from attributing to any want of care in that gracious Prince of this Kingdom's honour and trade, and rather think their rights and claims were then overweighed by matters of higher consequence depending in that juncture; for by the said treaty they found their condition much worse than it was before, by the 8th article whereof, the French were left in possession of such places situated in Hudson's Bay, as had been taken by them during the peace which had preceded that war.

That at a meeting of Commissioners on both sides (as directed by the said treaty, to adjust these differences) the Company did again set forth the undoubted right of the Crown of England to the whole Bay and Streights of Hudson, against which nothing but sophistry and cavils were offered on the French side, and the matter remained undetermined.

That the only settlement now remaining to the Company in those parts (of seven they

formerly had) is Albany Fort, on the Chechewan, where they are surrounded by the French on every side, viz.: By their settlements on the lakes and rivers from Canada to the northward towards Hudson's Bay, as also from Port Nelson (at York Fort), to the southward the French have likewise made another settlement between Port Nelson and Albany Fort whereby the Indians are hindered from coming to trade with the English factory at the bottom of the Bay, and if they are suffered to fix and fortify in those parts, beyond all question they will deprive your Majesty's subjects of that tract of land, which is so large a part of your American dominions, and rightly belongs to the Crown of Great Britain.

That not only your Majesty's glory is concerned to preserve these plantations, but it very much imports the general trade of your Kingdom, since your petitioners, notwithstanding the losses and discouragements they have laboured under, and during the war, have brought from thence between 30,000 and 40,000 skins per annum, and doubt not if they were reinstated in their possessions, according to their charter, to bring the said importations to 100,000 skins per annum.

That the said country doth abound with several other commodities (of which your petitioners have not been able to begin a trade, by reason of the interruptions they have met with from the French), as with whale-oil, whale-bone (of which last your subjects now purchase from Holland and Germany, to the value of about £26,000 per annum, which may be had in your own dominions), besides many other valuable commodities, which in time may be discovered.

That if the French come to be once entirely possessed of Hudson's Bay, they will undoubtedly set up whale fishing in those parts, which will greatly tend to the increase of their navigation, and to their breed of seamen.

That there is carried thither, and consumed there, nothing but of the product and manufacture of England, your petitioners encouraging and daily bringing the Indians to wear coarse cloth instead of skins, which in process of time will considerably advance the woollen trade at home.

That it needs must reflect upon the honour of Britain to relinquish to the French that territory, of which their violent usurpation in a time of peace was alleged as a main article in the first declaration of war against that Kingdom.

That if the French could pretend to any right to the said territories by the peace of Ryswick, this right must needs be determined by their notorious infraction of the said treaty.

The premises considered, when your Majesty, in your high wisdom, shall think fit to give peace to those enemies whom your victorious arms have so reduced and humbled, and when your Majesty shall judge it for your people's good to enter into a treaty of peace with the French King, your Petitioners pray that the said Prince be obliged by such treaty, to renounce all right and pretensions to the Bay and Streights of Hudson, to quit and surrender all posts and settlements erected by the French, or which are now in their possession, as likewise not to sail any ships or vessels within the limits of the Company's charter, and to make restitution of the £108,514 19s. 8d., of which they robbed and despoiled your petitioners in times of perfect amity between the two Kingdoms.

And your petitioners, as in duty bound, shall every pray.

To the Right Honourable the Lords Commissioners of Trade and Plantations.

The Memorandum of the Governor and Company of Adventurers of England trading into Hudson's Bay.

That for avoiding all disputes and differences that may in time to come arise between the said Company and French, settled in Canada, they humbly represent and conceive it necessary:

That no wood-runners, either French or Indians, or any other person whatsoever, be permitted to travel, or seek for trade, beyond the limits hereinafter mentioned.

That said limits begin from the island called Grimington's Island, or Cape Perdrix, in the latitude of 58½ north, which they desire may be the boundary between the English and French, on the coast of Labrador, towards Rupert's Land, on the east main, and Nova

Britannia on the French side, and that no French ship, barque, boat or vessel whatsoever, shall pass to the northward at Cape Perdrix, or Grimington's Island, towards or into the Streights or Bay of Hudson, on any pretence whatever.

That a line be supposed to pass to the south-westward of the said Island of Grimington, or Cape Perdrix, to the great Lake Miskosinke, alias Mistoveny, dividing the same into two parts (as in the map now delivered), and that the French, nor any others employed by them, shall come to the north or north-westward of the said lake, or supposed line, by land or water, on or through any rivers, lakes or countries, to trade, or erect any forts or settlements whatsoever; and the English, on the contrary, not to pass the said supposed line either to the southward or eastward.

That the French be likewise obliged to quit, surrender, and deliver up to the English, upon demand, York Fort (by them called Bourbon) undemolished; together with all forts, factories, settlements, and buildings whatsoever, taken from the English, or since erected, or built by the French, with all the artillery and ammunition, in the condition they are now in; together with all other places they are possessed of within the limits aforesaid, or within the Bay and Streights of Hudson.

These limits being first settled and adjusted, the Company are willing to refer their losses and damages formerly sustained by the French in time of peace, to the consideration of Commissioners to be appointed for that purpose.

By order of the Governor and Company of Adventurers of England, trading into Hudson's Bay.

Hudson's Bay House, 7th February, 17$\frac{1}{2}$.

NOTE.—The said Company are by their Charter constituted Lords Proprietors of all those lands, territories, seas, streights, bays, rivers, lakes, and soundings, within the entrance of the Streights, to hold the same, as of Her Majesty's manor of East Greenwich, in the County of Kent.

THE COMPANY'S CLAIMS AFTER THE TREATY OF UTRECHT.

To the Right Honourable the Lords Commissioners of Trade and Plantations.

MY LORDS AND GENTLEMEN,—The Queen has commanded me to transmit to you the enclosed Petition of the Hudson's Bay Company, that you may consider of it and report your opinion, what orders may properly be given upon the several particulars mentioned. In the meantime I am to acquaint you that the places and countries therein named, belonging of right to British subjects, Her Majesty did not think fit to receive any Act of Cession from the French King, and has therefore insisted only upon an order from that Court for delivering possession to such persons as should be authorized by Her Majesty to take it; by this means the title of the Company is acknowledged, and they will come into the immediate enjoyment of their property without further trouble.

I am,

My Lords and Gentlemen,

Your most humble servant,

DARTMOUTH.

Whitehall, May 27th, 1713.

To the Queen's Most Excellent Majesty.

The humble petition of the Governor and Company of Adventurers of England trading in the Hudson's Bay,

SHEWETH:

That your petitioners, being informed that the Act of Cession is come over, whereby (among other matters thereby concerted), the French King obliges himself to restore to

your Majesty (or to whom your Majesty shall appoint to take possession thereof) the Bay and Streights of Hudson, together with all the lands, seas, sea-coasts, rivers and places situate in the said Bay and Streights, as also all forts and edifices whatsover, entire and not demolished, together with guns, shot, powder and other warlike provisions (as mentioned in the 10th Article of the present treaty of peace), within six months after the ratification thereof, or sooner, if possible it may be done.

Your petitioners do most humbly pray your Majesty will be graciously pleased to direct the said Act of Cession may be transmitted to your petitioners, as also your Majesty's commission to Captain James Knight and Mr. Henry Kelsey, gentleman, to authorize them, or either of them, to take possession of the premises above mentioned, and to constitute Captain James Knight to be Governor of the fortress called Port Nelson, and all other forts and edifices, lands, seas, rivers and places aforesaid; and the better to enable your petitioners to recover the same, they humbly pray your Majesty to give orders that they may have a small man-of-war to depart with their ships, by the 12th day of June next ensuing, which ship may in all probability return in the month of October.

And your petitioners as in duty bound shall ever pray.

By Order of the Company.

per Wm. Potter, *Secretary.*

To the Right Honourable the Lords Commissioners of Trade and Plantations.

My Lords,—I send your lordships enclosed, by the Queen's command, a memorandum of the Governor and Company of Hudson's Bay, and a petition of several persons on behalf of themselves and the inhabitants of Mountserrat. It is Her Majesty's pleasure that your lordships should consider the said memorandum and petition, as likewise the several matters which are referred to commissaries by the tenth, eleventh, and fifteenth Articles of the late Treaty of Peace with the Most Christian King, and upon the whole make your representation, to be laid before Her Majesty for her further pleasure therein. * * *

I am,

My Lords,

Your most humble servant,

Bolingbroke.

Whitehall, April 13th, 1714.

To the Queen's Most Excellent Majesty.

The humble memorial of the Governor and Company of Adventurers of England trading into Hudson's Bay.

Sheweth:

That the said Company do, with the utmost gratitude, return your Majesty their most humble and hearty thanks for the great care your Majesty has taken for them by the Treaty of Utrecht, whereby the French are obliged to restore the whole Bay of Hudson and the Streights, being the undoubted right of the Crown of Great Britain.

And whereas, by the 11th Article of the said Treaty, satisfaction is to be made to the said Company for all damages sustained from the French in times of peace, for which commissaries are to be named on both sides to adjust the same: the said Company humbly presume to acquaint your Majesty that whenever your Majesty in your great wisdom shall think fit to name commissaries for that purpose, they are ready to make out their demand of damages sustained from the French, according to the said 11th Article.

All which they nevertheless submit to your Majesty's wisdom and goodness.

The Hudson's Bay Company,

Wm. Potter, *Secretary.*

THE HUDSON'S BAY COMPANY'S CLAIMS AFTER TREATY OF UTRECHT.

To Wm. Popple, Esq.

SIR,—I being one of the Commissioners for the Hudson's Bay Company, give me leave to take this opportunity to inform you, we are sending a gentleman to take possession of our country very speedily. If the Lords have any commands touching the memorial lately presented to Her Majesty by us, relating to the damages the French did us in times of peace, this gentleman, who was in Hudson's Bay at that time, can give their Lordships some information in that matter.

I am,

Your very humble servant,

JNO. PERY.

June 3rd, 1714.

To the Right Honourable the Lord Viscount Bolingbroke.

MY LORD,—In obedience to Her Majesty's commands, signified to us by your Lordship's letter of the 13th of the last month, we have considered the memorial of the Governor and Company of Hudson's Bay, and the petition relating to Mountserrat, and thereupon take leave to offer, that Her Majesty be pleased to signify to the Court of France the necessity of appointing commissaries to treat the several matters pursuant to the 10th, 11th, and 15th Articles of the Treaty of Peace with France, we being informed that the French commissaries who are here, have not full powers to treat on those matters; and as soon as we have their answer, we shall lay it before your Lordship.

My Lord,

Your Lordship's most obedient and most humble servants,

GUILDFORD,
R. MONCKTON,
ARTHUR MOORE,
JNO. COTTON,
JNO. SHARPE.
SAMUEL PYTTS,
THOS. VERNON.

June 18th.

To the Honourable the Lords Commissioners of Trade and Plantations.

The humble representation of the Governor and Company of Adventurers of England, trading into Hudson's Bay,

SHEWETH:

That pursuant to the 10th article of the Treaty of Utrecht, they did, the beginning of June last, send a ship for Hudson's Bay, and therein a Governor, one Captain Knight, and his Deputy, one Mr. Kelsey, to take possession of the whole Bay and Streights of Hudson, together with all other places relating thereto, as mentioned in the said articles, they having not only her late Majesty (of blessed memory) her commission for the same purpose, together with one from the Company, but likewise the most Christian King's order, under his hand and seal, with a power from the Canada Company, to deliver up the same according to the said treaty, which ship, at the request of the said Canada Company, is not only to bring away the French settled in Hudson's Bay, but likewise their effects, pursuant to the aforesaid treaty, they paying freight for the same, which ship may be expected the latter end of September, or beginning of October next.

They further represent to your Lordships, that, according to a memorial formerly delivered this Honourable board, relating to the limits or boundaries to be settled by commissaries 'twixt the English and French in those parts, they humbly prayed, that for avoiding all disputes and differences that may in time arise between the Company and the French set-

tled in Canada, that no wood-runners, either French or Indians, or any other person whatsoever, be permitted to travel, or seek for trade beyond the limits thereafter mentioned.

That the said limits, beginning from the Island called Grimington Island, or Cape Perdrix in the latitude of 58½ north, may be the boundary between the English and the French on the coast of Labrador towards Rupert's Land on the east main, and Nova Britannia on the French side.

That no French ship, barque, boat, or vessel whatsoever, shall pass to the north-westward of Cape Perdrix, or Grimington's Island, towards or into the Streights or Bay of Hudson, on any pretence whatsoever.

That a line supposed to pass to the south-westward from the said Island of Grimington, or Cape Perdrix, to the great lake Miscosinke, alias Mistoveny, dividing the same into two parts (as in the map now delivered), and from the said lake, a line to run south-westward into 49 degrees north latitude, as by the red line may more particularly appear, and that that latitude be the limit; that the French do not come to the north of it, nor the English to the south of it

That the French nor any others employed by them shall come to the north or north-westward of the said lake, or supposed line, by land or water, on or through any rivers, lakes, or countries, to trade or erect any forts or settlements whatsoever; and the English, on the contrary, not to pass the said supposed line, either to the southward or eastward.

The said Company having already delivered to your Lordships an abstract of the damages sustained by the French in times of peace, amounting to £100,543 13s. 9d., according to the direction of the 11th article of the aforesaid treaty, which they humbly entreat your Lordships to take care of, to the relief of the great hardships they have so long laboured under.

By order of the Governor and Company of Adventurers of England, trading into Hudson's Bay.

WM. POTTER,
Secretary.

Hudson's Bay House, 4th August, 1714.

To the Right Honourable the Lords Commissioners of Trade, &c.

MY LORDS,—The Lords Justices desire to have an account forthwith laid before them of what has been done since the peace, relating to Hudson's Bay, Nova Scotia, and St. Christopher's. Some things have passed in my office, others I believe in the treasury, and a considerable deal I doubt not has been done by your Lordships; wherefore if your Lordships be pleased to collect a perfect state of the whole, I will furnish you with what you may want from me.

I am likewise on this occasion to put your Lordships in mind of the point referred by the Treaty of Peace with France, to the discussion of commissaries, that their Excellencies may be acquainted with the orders given to the commissaries of commerce in these matters, and their proceedings thereupon.

Your letter of the 30th July, relating to Captain Van Estegle, has been laid before the Lords Justices, and the orders their Excellencies have been pleased to give thereupon, have been sent to the Treasury and Admirality. It is likewise thought fit that your Lordships, in your station, should advertise the governors and other officers in the plantations, of their duty in the particulars mentioned in your letter, both with respect to the trading to the French settlement, and to the illegal landing of goods from thence.

I am,

My Lords,

Your Lordships' most humble servant,

BOLINGBROKE.

Whitehall, August 12th, 1714.

M. BELLIN'S REMARKS ON THE MAP OF NORTH AMERICA, 1755.

To the Viscount Bolingbroke.

My Lord,—In obedience to their Excellencies the Lords Justices' commands, signified to us by your Lordship's letter of the 12th inst., requiring to know what has been done since the peace relating to Hudson's Bay, Nova Scotia, and St. Christopher's, we take leave to represent:

That upon your Lordship's letter of the 22nd July, requiring us to prepare proper instructions for the British commissaries who are appointed to treat with those of France upon the 10th, 11th, and 15th Articles of the Treaty of Peace, we wrote letters to several persons concerned in the Leeward Islands, and several parts of the continent, for what they might have to offer to such parts of the said Articles as did relate to them respectively, and have received answers from some of them. We pray your Lordship will please lay the enclosed copies thereof before their Excellencies, the Lords Justices, as follows:

Copy of a memorial from the Hudson's Bay Company, describing the limits which they desire may be fixed between them and the French in those parts, as also an abstract of the damages they have sustained by the French in times of peace.

In relation to St. Christopher's we further take leave to represent that upon several references from Her late Majesty in Council, from the Lord High Treasurer, and from the Secretary of State, we prepared a representation relating to the settlement of the French part of that Island, as also a letter to the late Lord Treasurer upon the same subject, copies whereof are here enclosed, which your Lordship will please also lay before their Excellencies the Lords Justices.

Since which time we have received some other petitions from French refugees, also referred to us, of the same nature as those mentioned in our above said representations, which we have not yet been able to consider so as to be able to make a report thereon.

We shall take care by the first opportunity to send directions to the governors and other officers in the Plantations, in relation to the illegal trade between the said Plantations and the said French settlements.

We are,

My Lord,

Your most humble and obedient servants,

Ph. Meadows,
Arthur Moore,
Jno. Sharpe,
Samuel Pytts,
Thos. Vernon.

Whitehall, Aug. 14th, 1714.

VIII.

Remarks on Early Maps.

EXTRACTS FROM M. BELLIN'S REMARKS ON THE MAP OF NORTH AMERICA, 1755.*

Albany River, when the French settled upon it, was called Quitchide Chouen by the Indians; but we gave the name of Ste. Anne to the fort and river. That name long existed, and it is to be found in old maps. The river flows out of a lake of the same name, on the

* Jacques Nicolas Bellin, a French Geographer and Engineer, was born in Paris in 1703, and died in 1772. He executed the maps for the Abbé Prévost's "Histoire Générale des Voyages," and published a collection of charts, entitled "French Hydrography," in 1756. Those extracts are translated from his "Remarques sur la Carte de l'Amérique Septentrionale, comprisé entre le 28e et le 72e dégré de latitude," pp. 12, 70-2, 122-4.

shores of which we had a post called St. Germain. The English built a factory there, and called it Henley, but it amounted to very little.

Moose River, situate at the head of Hudson's Bay, is not the only stream flowing into the bay at the entrance to which Fort Moose is built. On the western shore of that bay, River Perré is found, flowing from the west, and connecting with Lake Alimipegon about one hundred leagues from Fort Moose. The river derives its name from its discoverer—a Canadian—who reached Hudson's Bay by that route.

A large number of rivers, some of considerable size, flow into Lake Superior. About half-way up the north shore are situated St. Ignace Islands, opposite the entrance of a river through which Lake Alimipegon, 25 to 30 leagues from Lake Superior, is reached. Although these parts have long been occupied by our traders and missionaries, my knowledge of the subject lacks the requisite precision. I am ignorant of the size or configuration of Lake Alimipegon or its tributary rivers, or even of the greater part of the rivers flowing into Lake Superior.

On the west coast of Lake Alimipegon, there is a river through which the head of Hudson's Bay may be reached. A Frenchman, from Canada, named Perray, was the first discoverer of that route, and gave his name to the river. On leaving the lake, the river is ascended for about 40 leagues, several small lakes crossed, and a few portages made; then comes a more considerable lake whence the water flows east, into the head of the bay, at the entrance of which the English Fort Moose is built.

We have long been aware of the existence of an extensive chain of lakes, and river connections, to the west and north-west of Lake Superior, forming a convenient highway to the far West; it was even supposed the ocean might be reached in that direction; hence the later discoveries of the French in those parts have only confirmed our previous conjectures, and almost converted them into certainty.

In a MS. map deposited in the Map Department of the Marine Bureau, and drawn in 1687, by Sieur Franquelin, geographical engineer employed in New France, are found to the west of Lake Superior, certain rivers communicating with two large and contiguous lakes, respectively named Assiniboile and Christinaux; from the latter a river (Bourbon) runs to Fort Nelson, on Hudson's Bay. These two lakes are now called Lakes Ouinipique and Bourbon, and we have factories on both.

Another map, fully as interesting as the former, is that drawn up from information received from the Indian Ochagat, the original copy being deposited in the office, which indicates several lakes and river connections tending far towards the west. Although the distances are derived from approximations liable to error, a certain vein of truth is observed and confirmed by more recent investigations in those parts, such as furnished by the memoirs of MM. de la Veranderie, father and son, sent to establish various forts for the protection of the newly discovered territory; and the journal of M. le Gardeur de St. Pierre, an officer of the troops in Canada, who visited the forts in 1750, with instructions to extend his discoveries to the utmost practical extent, make treaties, and establish trading relations with the most distant Indian nations.

Although I have said the sources of the Missoury were unknown, the French ascended that river to a great distance, and formed several establishments; one, especially, named Fort of Orleans, over 80 leagues from the sea, in the midst of the Missouri, Osage, Kansés, and the other Indian tribes.

The Illinois River is only a few leagues distant from the Missoury, but on the other side. We have already seen the forts built in 1679 on that river by M. de la Salle; and in addition, we have since built a fort at Peoria, 20 leagues from its mouth.

On the east side of the Mississippi is found the River Ouisconsing, at the mouth of which Sieur Perrot, a Canadian, built Fort St. Nicolas. Lead mines are found on both sides of the main stream below that point. From River Ouisconsing to Lake Pepin, the distance is about 30 leagues; that lake is merely an expansion of the river, about a league in width, by 5 or 6 in length. A small fort was built at its entrance by Sieur Perrot, and another a little higher, on account of the adjacent lead mines; he named them respectively de Bonsecours and de Lac des Pleurs. A few leagues further are several islands, on the largest of which Fort Le Sueur was built in 1695. The River St. Croix flows from the east, a little above

that place; its sources not being far distant from Lake Superior. A fort, also named St. Croix, has been built on that river, about 40 leagues from its mouth, and not more than 25 leagues from Lake Superior, which was easily reached from thence. There remains but a small portage of some leagues, a little beyond which is found the River de Neouatsicoton, or Neouissacouat, which discharges itself near the foot of the lake. The distance from the River Ste. Croix to the River St. Pierre is estimated at 5 to 6 leagues. The stream is studded in this interval with a number of beautiful islands of varying size. The River St. Pierre, thus named by the French, but by the savages called Oualebamenisouté [Minnesota], flows from the west. It rises in Lake des Tintons, flows over 50 leagues to the east, then turns and runs at least thirty leagues north-east to the Mississippi. At the elbow it receives the Rivers Verte and St. Rémi. At this point old Fort L'Huillier or Fort Vert—thus called on account of a deposit of green earth in the neighbourhood—was built by us. The latitude of Fort Vert is 44° 20′; the mouth of River St. Pierre, 44° 55′. The latitudes are from observations taken in 1700 by Sieur Le Sueur.

NOTES ON MAPS,*

EXAMINED WITH A VIEW TO ILLUSTRATE THE BOUNDARIES OF CANADA WHILE UNDER THE FRENCH DOMINION, AND OF THE BRITISH PROVINCES INTO WHICH THE COUNTRY WAS AFTERWARDS DIVIDED; AND TO SHOW THE PROGRESS OF FRENCH EXPLORATION AND SETTLEMENT. MANY HUNDREDS OF OTHER MAPS HAVE BEEN EXAMINED FOR THE SAME PURPOSE, BUT ARE HERE OMITTED AS CONTAINING NOTHING OF VALUE ON THE SUBJECT IN HAND.

[THE DESCRIPTION FOLLOWING THE TITLE OF EACH MAP, INFRA, IS OF WHAT APPEARS BY SUCH MAP, UNLESS THE CONTRARY IS INDICATED.]

Of the following Maps:—Nos. 3, 5*a*, 12-14, 16-20, 22, 25, 50, 52, 55, 57-63, 74, 92, 108, 113-14, 121-2, 128, 136-7, 142, 151, 183, 185, were consulted at, or may be found in the Parliamentary Library, Ottawa; Nos. 2, 7-11, 15, 21, 26, 28-32, 34, 40-2, 46, 48, 56, 64-7, 75, 81-2, 90-1, 93-8, 100-3, 105-7, 109-10, 115-20, 125-7, 131-4, 140, 147-50, 152-62, 166, 168-9, 172-4, 181-2, (in the New York State Library, at Albany); Nos. 23-4, 77-9, 85-9, 163-4, 175-7, 180, 184, (in the Library of the Legislative Assembly, Toronto); Nos. 1, 35, 47, (at both Albany and Ottawa); Nos. 4, 27, 53-4, 112, (in Paris); No. 5, (St. Mary's College, Montreal); No. 33, (Albany, Ottawa, and Paris; copy on hand); Nos. 43-5, 83, 167, 170-1, 179, (in London); Nos. 68-73, (in Department of Education, Toronto); No. 84, (in Department of the Marine, Paris; Lindsay's Report); No. 99, (copy on hand; Albany); No. 104, (Ottawa, Albany, and London; copy on hand); No. 111, (Education Department, Toronto; Albany); Nos. 123, 135, 178, (Mr. Mills' first Report); No. 138, (Ottawa; Mr. Mill's first Report); Nos. 144, 165, (Mr. Lindsey's Report); No. 145, (in State Department, Washington; Mr. Mills' first Report); No. 146, (mentioned in the evidence on De Reinhardt's trial); and Nos. 36-7, 49, 51, 76, 80, 124, 129-30, 141, 186, (on hand; as are also Nos. 33, 99 and 104).

(1) 1632.—"Carte de la Nouvelle France" in Chaplain's Works, ed. 1632. [Fac similes in the works of O'Callaghan and Laverdière.]

In this map Labrador and Hudson's Bay and Straits, and, westward, the country to the limit of discovery, are included in Nouvelle France: that name commences north of Grand Lac [Superior], and north-west of *Mer Douce* [Lake Huron], and, skirting the foot of James' Bay, terminates at the Saguenay. The route between the St. Lawrence and Hudson's Bay, by the Rivers Saguenay and Rupert and Lake Mistassin, clearly appears. This, which was at all times the chief overland route followed by the French, and by the great Fur Companies, was evidently well known even at this early date.†

† As soon as Canada had been restored to France under the Treaty of St. Germain-en-Laye, in 1632, "La Campagnie de la Nouvelle France dite Canada," which had been chartered (by that name) in 1627, under the auspices of Richelieu, commenced operations; and thenceforward it (and afterwards its successors) carried on an extensive commerce with the Indian nations of Canada. The Indians of

* These maps were examined and the Notes compiled after the body of the work had been completed: they might therefore properly appear in the supplementary section (XVII): but it has been thought best to place them here for greater convenience of reference. All foot notes to this article other than the present are to be found immediately after the remarks on the map to which they relate.

the west and north—even from the shores of Hudson's Bay—were in the habit of bringing their furs to the ports of the St. Lawrence; but these companies, not satisfied with this, sought the Indians in their own countries, and established trading posts and forts within easy reach of them—on the north, at the sources of the Saguenay and other rivers of the southern watershed, at the height of land and on the lakes and rivers of the northern slope. The natives had thus the option of trading at their own doors, or of taking their furs to Tadoussac, Quebec, Three Rivers or Montreal, where—in consideration of their acting as their own carriers—the same company took their furs at a larger, in exchange for goods at a smaller price. The company had thus complete command of the commerce of the Bay and of the surrounding territories. The government of Canada had unquestioned dominion over and possession of these northern waters and countries; there was no pretence of an adverse claim. France had always claimed for Canada an indefinite extension northward; according to its Charter, the limit within which this Company was to exercise its privileges was, on the north, the northern boundary of Canada, described in this instrument as being the Arctic Circle; by the fall of Quebec the English became masters of the whole country; and by the treaty aforesaid they restored all of it to France without limitation. And so, whilst France had thus an unquestioned title to the territories, the Company had an unquestioned monopoly of the trade; no intruders disturbed them; they erected no forts on the shores of the Bay —the necessity for them did not exist; their southern posts gave them as full a possession, as complete a command of the country and its trade as if those posts were on the margin of the Bay. And so it continued till the time of the first English encroachments, 1667-8. The French then were roused to action, carried on (with varying success for a time) an almost continuous warfare against the intruders, whom they finally drove out of the country and the Bay, establishing themselves in the strongholds which the strangers had erected, and thereafter (for over 20 years, and, as to some posts, for over 30 years) so maintaining themselves, as before, sole masters of the country, until their adverse fortune in the wars of another continent compelled them to relinquish at Utrecht a portion—but only a portion—of the territories they had held so long.

This Company had been preceded by William de Caën in the privilege of the fur trade. The Company's term was 25 years, expiring in 1643, but its charter was not surrendered to the Crown till 1663, when a reconstruction of the Government, and a change in the administration of the affairs of Canada took place. Besides its chartered title, this Company was also known as La Compagnie—"de la Nouvelle France," "de Canada" and "des Cents Associes." To it succeeded, in 1664, "La Campagnie des Indies Occidentalis," whose privileges were resumed, by the Crown in 1674. Then we have, "La Compagnie du Nord de Canada;" in 1700 "La Compagnie du Canada" was founded; in 1706 a concession of the "traite du Castor de Canada" was given to the "Sieurs Aubert, Neret et Gayot;" this expired in 1717. Crozats' patent of 1712, limited however to Louisiana, was surrendered in 1717; in the last mentioned year was chartered "La Compagnie d'Occident," to which, besides Louisiana, there was also accorded to the sole right of trading for furs with the inhabitants of Canada. "La Compagnie des Indes, ci-devant la Compagnie d'Occident" is so (officially) referred to in 1719 and also in 1738, as then still existing; it surrendered its patent of Louisiana in 1731, but still retained, it is presumed, its privileges in Canada. (See *Edits et Ords.*)

(2) 1635.—Maps "of the World" and "of America," in Mercator's Atlas, English ed., 1635, and second ed., 1637.

In these maps the name "Nouvelle France" extends northward to Davis' Straits: the name commences, on the last mentioned map, on the south side of these Straits.

(3) 1643.—"La Nouvelle France, dressée sur dernières relations modernes, 1643," (MS. in Library of Parliament, Ottawa.*)

The name Nouvelle France commences north of Grand Lac des Nadouessioux [Superior]; and the name Canada commences east of James' Bay, and north of Lake Mistassin. That country has no limits indicated towards the north; and none to the west, other than the bounds of discovery.

* There is a valuable collection of maps in the Library at Ottawa. In the case of such of them as are in MS., the originals have, in most cases, been, since these notes were put in type, consulted at Paris and elsewhere.

(4) 1650.—"L'Amerique Septentrionale, par N. Sanson...1650." This is the original edition.

The name Canada extends across Hudson's Bay, no northern limit being shewn. "Estotilande, Terre de Labrador ou Nouvelle Bretagne," are named east of Hudson's Bay, and north of lat. 54°.

(5) 1660.—"Tabula Novæ Franciæ, anno 1660," in "Historia Canadensis seu Novæ Franciæ: auctore P. Francisco Creuxio. Paris, 1664." [Fac simile.]

Hudson's Bay and Straits, and, towards the west, the country to the limit of the map (the meridian of the centre of Lake Superior), are included in this map as part of New France.

(5*a*) [Before 1662].—"L'Amerique Septentrionale, par le Sr. Sanson d'Abbeville [Geographe Ordinaire du Roy]. Paris, *A. Peroüynin, Sculp.*"

NOTES ON MAPS, 1632–1857.

In this map "Canada ou Nouvelle France" has no limits on the north; it extends south-westerly to the eastern boundary of Mexico; on the west appears a coloured line, which may represent the then limits of discovery, running, from such last-mentioned boundary, north-easterly to the western shore of Hudson's Bay, in the latitude of Port Nelson. The name runs across Hudson"s Bay, Labrador, and the great Lakes. The name "Canadienne" also, extends from the west shore of Lake Superior (produced), north-easterly and across Hudson's Bay

(6) [Before 1662].—"Le Canada ou Nouvelle France, par N. Sanson."

"Canada ou Nouvelle France" extends westward to the limit of the map (the meridian of the centre of Lake Superior); and southward to the parallel of the confluence of the Ohio and Mississippi. This map has a line (engraved and coloured commencing at the western limit of the map, between Hudson's Bay and Lake Superior, and running thence easterly, in about the position of what is now known as the height of land, to a point near Lake Mistassin, and thence, almost due east, to the ocean. North of this line—east of the Bay—are the names "Estotilande ou Terre de Laborador et Nouvelle Bretagne." The map would seem to be, in part, a reproduction of an English one: this idea is confirmed by finding on it the inscription, "James, his Bay."

(7) 1662.—"Amerique, par P. du Val, Geogr. du Roy." From "Cartes du Monde, Paris 1660-1," and "Le Monde Chrestien, par P. du Val. Paris, 1662."

On this map Canada has no bounds on the north other than the limit of the map, which limit is on the parallel of Hudson's Straits. There is on the map a line (engraved and coloured) which commences on the northern limit, to the west of Hudson's Bay, and runs thence southerly and south-easterly to about the position of the point of confluence of the Mississippi and Ohio rivers. The easterly boundary is the ocean. The first part of the name, "Canada ou N. France," commences west of Hudson's Bay; the second part commences at a point north-west of Lake Superior, near the westerly line above mentioned.

(8) 1662.—"Canada," (another map in the same work.)

By this map Canada includes the country westward, to the limit of the map (a part only of Lac Superieur and of Lac des Puants [Michigan] being shown), and also Hudson's Bay and Labrador. The names "Canada" and "Nlle. France" respectively, are on the face of the map in similar type, the first (Canada) commencing near the mouth of the Rupert, and the other (Nlle. France) further south, east of the Ottawa.

(9) 1662.—"La Virginie par P. du Val, Geographe du Roy, à Paris." (In same work).

The name "Canada" is applied to the country back of the English Atlantic Colonies, to the northern limit of the map in $41\frac{1}{4}°$; "Lac Erie ou du Chat," being included.

(10) 1662.—"La Floride par P. du Val, Geographe Ordinaire du Roy." (In same work).

Canada is bounded on the south-west by a line commencing on the westerly limit of the map, in about latitude 40°; thence south-easterly, along the north-eastern boundary of New Mexico, to the north-western angle of Floida, in about latitude 39°; and thence easterly, along the northern boundary of Florida, to the boundary of Virginia.

(11) 1662.—"Nouveau Mexique." (No other title; but it is in the same work, and clearly attributable to Du Val).

The line referred to as being on the preceding map, is here taken up at the parallel of 40°, and is continued thence north-westward to the limit of the map, in lat. 48°. The territory lying to the north-east of this line is named "Canada ou Nouvelle France."

(12) 1664.—"Le Canada, fait par le Sr. de Champlain, . . . selon les memoires du P. du Val, 1664."

NOTES ON MAPS, 1632–1857.

Hudson's Bay is included in "Nouvelle France ou Canada;" but on James' Bay, between Charleston Island and some islands to the north-west, is the figure "31," referring to the same number in the margin, under which is found the name, "Jamestan, lieu des Anglais."

(13) 1673.—"Carte de la nouvelle découverte . . . 1672 et 1673.—1673." (MS. Lib. Parl.)
This map illustrates the voyage of Marquette and Joliet, on the occasion of their discovery of the Mississippi, under the commission, in that behalf, of the Governor of Canada. They reached the great river by way of Green Bay and the Wisconsin, and descended it as far as the Arkansas, the return to Lake Michigan being by the Rivers Illinois and Chicagou.

(14) 1673.—Autograph Map of the Mississippi, drawn by Marquette at the time of his voyage. (Fac simile given in Shea's "Discovery and Exploration of the Mississippi Valley.")
Shows the Mississippi (here called R. de la Conception) from the Wisconsin to the Arkansas; also the southern and western shores of Lake Superior, and the Missions of Ste. Marie, St. Ignace [Michillimackinac], and Du St. Esprit [Chagouamigon or La Pointe]. On the main shore, opposite Ile Royale, is the note, Chemin aux Assinipoulak* à 120 lieues vers le Nord-Ouest." It evidently refers to the route, by the Pigeon or the Kamanistiquia River, to the country of these Indians.

* It seems clear that the French had, before this time, considerable intercourse and trade with, and a large influence over, this Indian nation. We even find, two years before, in 1671, these Assinipouals, together with the Christinos, Monsonis, and other nations of the North and West, attending before Intendant Talon's sub-delegate, St Lusson, at St. Mary's of the Falls, and putting themselves, and their countries, under the dominion of France. For some account of this assemblage, see *ante*, pp. 61-2. The text of the *procès verbal*, of the taking possession is printed in N. Y. Hist. Col., Vol. IX., p. 803.

(15) [1678.]—"Novissimæ Americæ descriptio. F. de Witt Amsteldami."
A line, engraved and coloured, runs from the easterly point of Labrador to the height of land, east of Mistassin, and thence along the same height of land to a point near Lake Nepigon, which is shown as the westerly limit of discovery. A line of dots is thence continued, not coloured, for about 12° westward. North of this line, and running across Hudson's Bay, is the name "Canada," and south of the line, and extending from beyond Lac des Puans, is the name "Nova Francia." These lines may represent either the limit between separate countries, each extending westward indefinitely; or the limits between certain tribes.

(16) [1680.—"Carte d'une grande partie du Canada, depuis Quebec jusq'au fond du Lac Superieur . . . 1680."] (MS. Lib. Parl.)
This date is given in the catalogue, but does not appear on the face of the map, which, however, is evidently referrable to a very early and probably this date. The great lakes are shown. The Kamanistiquia or the Pigeon River is represented, with the inscription "Par cette rivière on va aux Assinepoulacs à 150 lieues vers le Nord-Ouest ou il y a beaucoup de castors;" and the St. Louis R. (that which falls into L. Superior at Fond du Lac) is also represented with the inscription, "Par cette rivière on va au pays des Nadouessiens à 60 lieues au couchant. . . ." In reference to these inscriptions, it is well established that the French of Canada had, long before the date of this map, considerable intercourse for the purposes of trade and otherwise, with the Assineboine and the Sioux Indians, and exercised a large influence over them, as mentioned in the note to No. 14. The country of the latter, about the sources of the Mississippi, had even been formally taken possession of, in 1679, on behalf of the Governor of Canada. The map shows establishments at Sault Ste. Marie, Michilimakinak and Green Bay.

(17) [1682].—"Parties les plus occidentales du Canada" by Father "Pierre Kuffieux,* J.," whose signature it bears. (M.S. Lib. Parl.)
This map purports to be founded on the discoveries of Marquette, Joliet, "Dulude," La Salle and Hennepin. Of Du Luth it is stated on the map in a note "qui le premier

a esté chez les Sioux ou Nadouessiou en 1678 et qui a esté proche la source du Mississipi, et qui ensuite vint retiré le P. Louis [Hennepin] qui avait esté fait presonnier chez les Sioux. . . . ." Shews the great lakes, the rivers St. Louis, Wisconsin, Illinois and Ohio, and the Mississippi, from a point N. W. of Fond du Lac, to a point below its junction with the Ohio; also the missions "Du Sault," "St. Ignace ou Michilimakina," and "des Postes Outa [ga]mi" [Green Bay].

* We have found this name variously spelled: in the Ottawa Catalogue it is *Kaffeix*; in the "Notes pour servir à la Cartographie, &c.", it is *Raffeix*.

(18) 1688.—"Carte de l'Amerique Septentrionale, contenant le pays du Canada ou la Nouvelle France, la Louisiane . . . . Acadie et Ile de Terreneuve. . . . . en l'année 1688. Par Jean Baptiste Louis Franquelin, Hydrographe du Roi, à Quebec en Canada." (M.S., Lib. Parl.)

This map shews, correctly, the two chief routes of commuication between the St. Lawrence and Hudson's Bay (here called Baie du Nord)—that by the Saguenay, Mistassin and Rupert; and that by the Ottawa, Labirinthe, Lake Abitibis and the River Monsony.

From Lac Buade [Red Lake or Leech Lake], situate N. W. of Fond du Lac, a river [the Red River] runs almost due north to Lac des Assinebouels; out of which the River Bourbon or Nelson issues and, passing through Lac des Christeneaux on the way, runs to Hudson's Bay. The two lakes, last mentioned, appear to represent the southerly and northerly parts respectively of Lake Winnipeg. The main branch of the Mississippi (here called Rivière des François ou des Sioux) has its source in the same L. Buade. Forts St. Croix, St. Antoine,† and St. Nicolas‡ (on or near the Upper Mississippi), St. Louis and Crevecœur (on the Illinois), and Chicagou (at the mouth of the river of that name), as also the Missions of the Sault and St. François Xavier [Green Bay], are represented. Fort Abitibis and [Maison] François, on L. Abitibis, and Fort Latourette, on the north shore of Lake Nepigon, are also shewn. The name "Canada ou Nouvelle France," extends across the country, from the pole to the lakes, and from the western limit of the map to the east coast of Labrador: that country has, therefore, no limits on the north or towards the west.

M. Bellin in his "Remarques sur la Carte," published in 1755, refers to another MS. map of this author as being in the "Depôt de Plans de la Marine:" it bears date 1687, and is stated to shew, "to the west of Lake Superior, branches of rivers which communicate with two great lakes, close to each other, which he [Franquelin] names, the one, Lac des Asseniboels, and the other Lac des Cristinaux; and from this last there issues a river by which it discharges itself into Hudson's Bay at Port Nelson (this is the Bourbon River.) It is certain that these two great lakes are the same which we to-day call Lac Ouinipigon and Lac Bourbon,§ and upon which we have establishments."

† This is the Post St. Anthony at which Perrot drew up the Procés Verbal of his taking possession of the country of the Upper Mississippi, in the name of the King of France.

‡ This fort was at the junction of the Mississippi and Wisconsin Rivers—east of the former and north of the latter—and was afterwards known as Prairie du Chien (or des Chiens.)

§ The southerly and northerly parts respectively of Lake Winnipeg.

(19) 1688.—"Carte generale de la France Septentrionale conténant la decouverte du pays des Illinois, fait par le Sr. Joliet." It is dedicated to Colbert, and signed by Du Chesneau, the then Intendant of Canada. (MS., Lib. Parl.)

This map shews Hudson's Bay and Straits, the River Nelson, issuing from Lac des Assinebouels, and the River Mississippi, from its mouth to a point west of that lake,—all included in the title.

(20) 1688.—"Carte de la partie orientale du Canada ou de la Nouvelle France. Par le Pére Coronelli, 1688." (MS., Lib. Parl.)

The part of the Atlantic shewn on this map is named "Mer du Canada ou de la Nouvelle France." ‖

‖ This name for the north Atlantic, near the American shores, is frequently to be found in ancient maps. It is sometimes referred to as Mer du Canada simply.

NOTES ON MAPS, 1632–1857.

(21) 1688.—"Partie occidentale du Canada ou de la Nouvelle France. . . . par le P. Coronelli, . . . corr. et aug. par le Sieur Tillemon. A Paris, chez J. B. Nolin, . . . 1688."

The name "Partie du Canada" commences, on this map, five degrees west of the Mississippi, on the par. of 47°; "Nouvelle France commences on the same meridian, in about lat. 41°. Hudson's Bay is included in Canada.

(22) 1689.—"Carte de la partie occidentale du Canada ou de la Nouvelle France, par le Père Coronelli, 1689."] (MS. Lib. Parl.) This title is in the catalogue, but not on this copy of the map.

This map purports to have special reference to the discoveries of Marquette, Joliet and La Salle. An affluent of the Mississippi issues from Lac Buade, which is situate due west of L. Nepigon: the main stream marked "Fleuve Miss." comes from the N. W., and is joined by that affluent on the parallel of Fond du Lac. The inscription "Partie du Canada ou Nouvelle France" stretches, from beyond the Mississippi, eastward to the St. Lawrence, and extends south as far as the Ohio.

(23) 1690.—"Mondo Nuovo," by Coronelli; in his Atlas, "Venice, 1690."

This map has an engraved line which commences at the most easterly point of Labrador, in lat. 54°, and runs south-westerly, passing close to (and south of) the foot of James' Bay and the mouth of the Albany river (not shewn), and thence westerly to the merid. of Fort Nelson (not shewn), thence due south to the Gulf of Mexico,—leaving the Mississippi and Lago di Nadouessans (probably intended for Lake of the Woods), to the east. This western line is probably intended to indicate the limit of the most advanced discoveries in that direction, at the time. North of the line, west of the Bay, New South Wales and New North Wales are shown; and east of the Bay "Estotilanda. . . . coperta da Antonio Zeno, nel 1390." The northern part of the Atlantic is named "Mare di Canada, o della N. Francia."

(24) 1690.—"America Septentrionale" by Coronelli (in the same Atlas).

This map has the same engraved line as the preceding. The name "Canada o Nuova Francia" commences at the Mississippi, north of the Ohio, and ends at the Labrador Coast, and is partly above the line in question, which, therefore, could not be intended as a boundary of Canada on the north. "New South Wales" is named, with the memo.: "Scoperta dagl' Inglesi." "R. Frenchman" is the river next south-west of the Rupert. East of the Bay are the names "Estotilanda o the new Bretaigne et Terra di Labrador," but printed in characters less prominent than "Canada," and apparently included in, and subordinate to that country. This map would appear to be founded, in part, on an English map.

(25) 1692.—"Carte Generale de la Nouvelle France, 1692, designed to shew (inter al.) the situation of the several Missions. (MS. Lib. Parl.)

The sources of the Mississippi are laid down in this map at about the par. of Nepigon Bay, extending over a space of 6 degrees—from about 97° to 103° of west long. Lac des Assinebouels is north of these sources, and between it and them, among the Nadouessans [Sioux], a Mission of the Recollets. In this it accords with the map in Hennepin's book, (English ed.) The lower part of Hudson's Bay is shewn, and is included in New France: that country has no limit on the west.

(26) 1695.—"Carte d'une partie de l'Amerique Septentrionale, tirée des Manuscrits de M. Guill. de l'Isle, ou l'on voit son système en 1695, sous les pays située au Nord-Ouest (publiée par M. de l'Isle Professeur Royale, . . . 1752.")

This map contains what appears to be the first representation of the idea of "La Mer de l'Ouest," of which such frequent mention is made in French memoirs and documents, in connexion with explorations west of Lake Superior, during the first half of the 18th century. It is here shewn as an inland sea, east of California and north of New Mexico, and the idea may, as *here* represented, have been founded on the Indian account of the

NOTES ON MAPS, 1632–1857.

Great Salt Lake, or of the Mer Vermillion [Gulf of California.] Any subsequent representations of it on maps, place it in or about the position of the Gulf of Georgia. (See further reference to this sea, under dates 1700, 1717, 1746 and 1752, when the idea had taken better shape).

(27) 1696.—"Le Canada, ou partie de la Nouvelle France, par H. Jaillot, Paris 1696, et Amsterdam, chez Ottens."

Fort Dauphin, and an inscription referring to it, viz.: "Poste François decouvert et occupié par la compagnie qui s'est formée en Canada pour la Baye d' Hudson," are given in MS., but no indication is given as to when this addition was made. It is not at all improbable, however, that the French, who at this time, and up to the Treaty of Utrecht, carried on a large trade between Winnipeg and the other Western Lakes and Hudson's Bay, may have erected Fort Dauphin at this early period, and that Verendrye's Fort of the same name was simply a re-building of it on the same site.

(28) 1699.—"Amerique Septentrionale par le Sieur Sanson, Geographe du Roy, Paris, 1699."

A line, engraved and coloured, which appears to be intended to indicate the south-westerly boundary of Canada, commences on the western limit of the map, and runs southerly at a considerable distance west of the Mississippi, to the parallel of the confluence of that river with the Ohio, and thence easterly to the English Colonies. The name "Canada ou Nouvelle France" commences at this line, south-west of L. Winnipeg, and terminates at the easterly point of Labrador, and clearly includes Hudson's Bay.

(29) 1700.—"Mappe Monde, dressée sur les observations, etc. . . à son Altesse Royal Monseigneur le Duc de Chartres, par. . . G. de l'Isle, Geographe. . . à Paris, chez l'auteur."

Canada includes Hudson's Bay; it has no western limit. The name "Canada ou Nouvelle France," on this map, commences west of the Bourbon [Nelson] R. The sources of the Mississippi are south-west of a lake which occupies nearly the position of L. Winnipeg. The Bourbon River does not issue from, or have on its course any lake.

(30) 1700.—"L'Amerique Septentrionale. . . par G. de l'Isle. A Paris chez l'auteur. 1700."

The name "Canada ou Nouvelle France" commences on this map at Lac des Assenipoils [Winnipeg] and runs easterly, on and below the par. of 50°; it includes Hudson's Bay, and all to the north, except "Terres Arctiques;" and, all to the west, to the limit of discovery, viz.: beyond the Mississippi and L. Winnipeg; the southern boundary is a line, engraved and coloured, running easterly from the border of New Mexico, on about the par. 36°. The source of the Mississippi is about 15° west of Lac des Assenipoils. Lac des Assenipoils does not discharge into Hudson's Bay, but into Lake Superior, thus forming a part of the St. Lawrence system. All the forts on Hudson's Bay, and Fort de Bonsecours, on the Mississippi, are shewn.

(31) 1700.—"Carte dressée par M. Guillaume de l'Isle, au commencement de ce siècle, pour servir à ses conjectures sur l'existence de la Mer de l'Ouest. Publiée par Mr. Joseph Nicolas de l'Isle. . . 1752."*

The "Mer de l'Ouest" is shewn in part—an inland sea, with a strait connecting it with the [Pacific] ocean. "Canada" includes Hudson's Bay and the country westward to the sea: the name commences west of Lake Superior.

* "La mer de l'Ouest," so frequently mentioned in French official and other documents, between 1700-1763, was the name given by the French geographers, commencing with William de l'Isle in 1695, to a supposed inland sea near the western coast of America. On the maps it is represented as connected with the ocean (Mer du Sud), at first by one passage, and subsequently by two passages or straits. The position of this sea, in the later maps, agrees with that of the Gulf of Georgia (Vancouver's Straits), and the two passages represent, respectively the two entrances to the latter, north and south of Vancouver's Island. The discovery of these passages by some of the early navigators no doubt originated the

NOTES ON MAPS, 1632–1857.

idea of such a sea. From a very early period, and particularly after 1700, French explorations, west of the western wathersed of Lake Superior, and in the region of the Upper Missouri, were chiefly directed to the discovery of this sea and of the southern ocean. Verendrye, when at the sources of the Missouri, found that he was too far to the south; and he carried on his subsequent operations in the direction of the Saskatchewan, each step in advance being firmly secured by the establishment of a fort and trading post, which formed a basis for his further progress. His immediate successors reached the Rocky Mountains, at whose eastern base they built Fort Jonquière; and there is ground for the belief that they crossed these mountains to the waters of the Fraser or the Columbia, and, following them, beheld, if they did not actually reach, the long-sought-for sea. The cession of Canada put a stop to their further operations and it was left to British subjects—but still Canadians—to establish for the first time, on the Pacific slope, those permanent establishments, which would undoubtedly have been established at an earlier period by the French explorers, had not the fortunes of war cut short their tenure of the country. The region between the Western watershed of Lake Superior and *La Mer de l'Ouest*, from the Missouri on the south to the head of waters of the Nelson on the north was called by the French the Post of the Western Sea, or, shortly, La Mer de l'Ouest or d'Ouest. Carver having in his map given the name of "West Bay" to the south-westerly portion of Lake Superior, some writers have erroneously supposed from this circumstance that the name Mer de l'Ouest had reference to Lake Superior.

(32) 1700.—"Partie de la Nouvelle France. . . dediée à Monseigneur le Marquis de Seignelay, par Hubert Jaillot. A Paris 1700."

This map includes Hudson's Bay. "Poste du Sr. de St. Germain,"* on Lake St. Anne, on the Albany River; "Poste du Sr. Du Luth"† on the north shore of L. Nepigon; and a Fort on the south-east shore of L. Nemiscau are marked: the latter with the memo: "Poste pour couper les sauvages par le haut de la Traite de Tadoussac, et les empêcher de descendre à la Baye de Hudson." Fort Nemiscau, and also some French establishments on Lake Mistassin—all north of the height of land—were within the Royal (French) Domain of Tadoussac; and appear to have been centres of a large trade with the Indians. Fort Nelson is marked "Poste François;" and Forts Albany, Moose and Rupert, respectively, "Anglois,"—an error, as all the Hudson's Bay forts, with perhaps one exception, were at this time in the hands of the French.

* This post was originally built by Du Luth, in 1684, and continued to be occupied by the French till, it is believed, the conquest of Canada, and certainly till long after the Treaty of Utrecht, in spite of the remonstrances of the Hudson's Bay Company, and even of the English Government. It was far north of the height of land, and within some 100 miles or so of Albany Fort, whose trade it very largely diminished.

† Otherwise known as Fort Latourette.

(33) 1703.—"Carte du Canada ou de la Nouvelle France, par Guillaume de l'Isle, de l'Académie Royale des Sciences, et premier Geographe du Roy. A Paris, chez l'auteur, 1703."

The name "Canada ou Nouvelle France" commences, on this map, south-west of the southern portion of Lac des Assenipoils, and runs easterly, partly to the north of the height of land. It includes Hudson's Bay, and, westward, the whole country as far as shewn, viz., beyond the Mississippi, Lake Winnipeg, and the Bourbon [Nelson] River. The sources of the Mississippi are indicated at a point about 5° S.W. of L. Winnipeg. Forts L'Huillier, Le Sueur and des Abitibis, as also French establishments ("Maison Française") on the S.W. shore of L. Mistassin, the north-west shore of L. Abbitibis and at Chagouamigon, are marked.* Several engraved lines appear within the limits of Canada, which merely denote boundaries of tribes.

On an original proof copy of this map, now deposited in the Bureau de la Marine, at Paris, there appears, as an autograph addition of the author and his brother, a line marked "Ligne selon le mémoire de M. d'Auteuil." This line commences at the entrance to and on the south shore of Hudson's Strait, and runs thence south-westerly (crossing the Rupert River) to about lat. 50½°; thence due west to a point south-west of Fort St. Louis [Moose Fort]; thence north-westward on a direct course to the parallel of 60°. This appears to be the original of the line which was subsequently incorporated, with more or less variation, in some of the maps of this author, published after the date of the Treaty of Utrecht. It was also in all probability the line which the French, at the last extremity, were prepared to concede as the limit between them and the English. M. d'Ateuil was the Procureur-General of Canada, at that time; he was in Paris during the negotiations of the commissaries, 1719, *et seq.*, in frequent consultation with the French commissaries; and his memoirs, which are to be found in the Archives de la Marine et des Colonies, were prepared in

answer to the boundary claims preferred by the English in 1719. (See extracts from them, Sec. XVII, *post.*)

Another autograph addition to the same map is a line, marked "Ligne selon la pretension des Anglois" and "Ligne selon les Anglois:" it runs from the north shore of Davis' Inlet on the Labrador coast (in about lat. 56½°), south-westward, and through Lake Mistassin, to the 49th parallel, which it thence follows to the westerly limit of the map. This line was that formally proposed by the English Commissaries, through Lord Stair, who was then [1719] English Ambassador to the Court of France; it accords, so far as the 49th parallel is concerned, with that which the English Commissioners were instructed to demand; but this latter was to commence at Cape Perdrix, in 58½°, and run thence, south-westerly, and through Lake Mistassin, to the same parallel of 49°.†

* Fort L'Huillier was on the St. Peter's, now the Minnesota, River; Fort Le Sueur on the Upper Mississippi, below the St. Peter's; Fort Abitibis on the south-east shore of the lake of that name, north of the height of land; it was built by the Chevalier de Troyes in 1686, on the occasion of his overland expedition for the capture of the English forts on Hudson's Bay, and was thenceforward occupied, continuously, by the French, till 1763. Chagouamigon (or la Pointe) was situate on the southerly shore of Lake Superior, not far from Fond du Lac.

† It is not improbable that this was the map and these autograph lines the lines referred to in the negotiations preliminary to the Treaty of Utrecht. At all events, no other has been discovered after diligent search in the English and French archives.

(34) 1703.—"Carte du Mexique et de la Floride....dressée sur un grand nombre de memoires, principalt. sur ceux de Mrs. d'Iberville et Le Sueur, par Guillame de l'Isle. A Paris, chez l'auteur....1703."

The source of the St. Peter's [Minnesota] River, and the great bend of the Missouri, are on the westerly limit of the map. "Canada ou Nouvelle France" has no other limit in that direction. The name commences west of the Missouri.

(35) 1708.—"A new map of North America, by H. Moll, Geographer," bound with "The British Empire in America [by Oldmixon]."

"Canada" has no bounds towards the west; its southern limit is the northern boundary of ancient Florida. The source of the Mississippi is in about lat 55°, and long 265° east. The "St. Laurens River" passes through Lakes Assinipouals and Nemepigon to Lake Superior.

In a copy of Brotherton's edition of the book (London, 1741), the map is given in colours, and the southerly boundary of Canada is the same St. Laurens River, from its source, and through the great lakes to the sea; the northerly boundary being the westerly and southerly shore of Hudson's Bay, easterly to a point near Rupert River; thence to and along the Saguenay R. to its mouth. N. E. of this line is "Ter. de Labrador or New Britain....."

(36) 1709.—Map, endorsed "14. Draft of the Bay with the limits prescribed by the Treaty of Utrecht," but marked on its face "made by Saml. Thornton, at the Sign of the Platt in the Minories. London, Anno. 1709." It is in MS., on vellum, and was sent to the Dominion Government by the Hudson's Bay Company, for the purposes of the present arbitration.

This map contains Labrador and Hudson's Bay and Straits. A coloured line runs direct from "Grimington's I." in about lat. 59½° south-westerly to the north-east shore of the "Grand Lake of Misconsink," and thence, on almost the same course, through the centre of the lake to its south-western shore, and thence, on same course, to the limit of the map in about lat. 45½°. The sense of this last extension is not at all apparent, and it must therefore be treated as a nullity. On the westerly side of this line is the inscription, commencing at the same limit of the map, "The French not to goe to the westward of this line;" and on the east side the inscription "The English not to come to the eastward of this line." The country north of Rupert's River, between the line and the bay, is named "Rupert's East Land," and is coloured *yellow*; that east of the line—on which are the names "Nova Britania"

NOTES ON MAPS, 1632–1857.

"Laboradore" and "New France," is *red*,—as is also the whole Hudson's Bay coast from Rupert River westward.*

* This map was prepared for the Company in 1709, in view of the negotiations at the Hague and Gertruydenburg. This was after the Treaty of Ryswick, when their affairs were at the lowest ebb, and all their forts—even Albany Fort for six years of the time, as appears by their own statement of 1748—had, for a long period, been in the hands of the French. The colouring may therefore be taken to indicate, that the Company were ready to concede to the French everything south and west of Lake Mistassin and the River Rupert. See note to map No. 83.

(37) 1710.—"North America, by John Senex, F.R.S., 1710."

This map is an almost servile copy of De l'Isle's, of 1703, and gives, engraved and coloured, certain dotted lines, which appear on De l'Isle's as boundaries of tribes, &c., and have no other significance. The skeleton copies of this map, attached to the report of Mr. Ramsay, and to the first report by Mr. Mills, do not convey a correct idea of these lines of the original. The sources of the Mississippi, Lake of the Assenipolis, and the Bourbon River, are as on De l'Isle's. Canada, or New France, extends southward to Florida, and has no limits assigned to it on the west; the name commences west of the Missouri, on about the parallel of 42°.

(38) 1712.—"Amplissimæ Regionis Mississippi seu Provinciæ Ludovicianæ, à R. P. Ludovico Hennepin—Nova Tabula, edita a Jo. Bapt. Homanno, S.C.M. Geographo, Norimbergæ."

The south-westerly boundary of "Canada" is a line, engraved and coloured, commencing at the south-west angle of Lake Superior; and drawn thence, north-westerly, along what is shewn as the northerly watershed of the Mississippi system, to the limit of the map, west of Lac des Assenipolis. (*Map No. 39 is cancelled here.*)

(40) 1713.—"The Isle of California, New Mexico, Louisiana, the River Mississippi, and the Lakes of Canada," from "Atlas Manuale, or a New Set of Maps . . . by Herman Moll. . . . . London, 1713."

The name "New France or Canada" is on the face of the map. The western watershed of Lake Supérior is shown, though badly laid down. On the west side of Sioux Lake (which, from its position, seems intended to represent Lake of the Woods), is the figure of a tree, with the inscription, "In this tree is cut the arms of France."*

* French traders and explorers appear to have visited this region at a much earlier period than the date of this map; and as early as 1717, La Noüe, commissioned by the Governor of Canada to proceed with the discovery of the Western Sea, established a fort on Rainy Lake.

(41) 1713.—"The English Empire in America," from the same Atlas.

On this map "New France or Canada" includes Hudson's Bay. The name commences—the first part, east of the Bay, north of Rupert R., and the second part, at the western limit of the map, north of L. Huron.

(42) 1714.—"Hemisphere Septentrional, par Guillaume de l'Isle . . . à Paris, chez l'auteur . . . 1714."

The first part of the name "Canada ou Nouv. France" commences west of the Nepigon R., and the second part, at the Mississippi R., below its confluence with the Ouisconsin; the name applies to the country, westward to the limits of discovery, viz., the sources of the Mississippi, and beyond Lac des Assenipoils [Winnipeg]; and northward, to the shores of Hudson's Bay.

(43–5) 1715, etc.—"New and exact map of the Kingdom of Great Britain on the Continent of North America, by H. Moll, London, 1715."

This map gives all the country north of the great lakes to "Canada," as high as lat. 53°, which is the northern limit of the map.

Another of this author's, dated 1720, agrees with the preceding; whilst a third dedicated to Lord Sommers, but without date, includes all Hudson's Bay in "Canada."

(46) 1717.—"Essay d'une Carte que Mr. Guillaume de l'Isle. . .avait joint à son memoire presentée à la Cour en 1717 sur la Mer de l'Ouest. . .presentée. . .1752, par...Buache, premier Geographe de sa Majesté, &c."

NOTES ON MAPS, 1632–1857.

The name "Canada" is on the face of the map and applies to the country west to the "Mer de l'Ouest." In the margin is quoted a memoir of de l'Isle, of 1706, wherein he claims "cette mer de l'Ouest" as a discovery of his, and that he had refrained from marking it on his published maps for fear that foreign nations would benefit by it to the prejudice of France; that he had laid it down on a MS. Map of the World given by him to the Chancellor Boucherat, in 1697, and had given to Pontchartrain, in 1700, proofs of its existence.

(47) 1718.—"Carte de la Louisiane et cours de la Mississippi...par Guillaume de l'Isle...à Paris, chez l'auteur...1718."

The name "Partie du Canada ou Nouvelle France" commences at the Portage between the Fox and Ouisconsin Rivers; and the name "La Louisiane," at the Red R. (lat. 37°): the boundary between the two countries is not exactly indicated, but each would seem to extend westward to the borders of New Mexico.* At the great bend of the Missouri R. (about par. 45°) is the memo: "Les Français n'ont remonte le Missouri que jusqu'ici." Fort L'Huillier, and two forts on or near Lake Pepin are shown.

From the Mississippi, at a point opposite the Ouisconsin, a road is shown as running westerly to the same bend marked "Chemin des Voyageurs."†

*The boundary of Louisiana, on the north, was the head of the streams falling directly or indirectly into the Mississippi on the west, south of its junction with Illinois; and, on the east, south of the Wabash and Ohio. This, of course, include the Missouri and its northern and eastern watershed; but it is to be remembered that the whole of the Upper Missouri and the Yellowstone, to the Rocky Mountains, were discovered and explored and taken possession of by Canadian officers, by order of the Governor of Canada. This was about 1742, and it may be presumed that, after that period at least, these regions might be considered as part of Canada. The Illinois country was attached at times to Louisiana, and at other times, and most generally, to the Government of Canada. It was bounded by a line commencing at the junction of the Wabash [Ohio] with the Mississippi; thence by the Mississippi to its junction with the Illinois; thence by the Illinois to its source; thence easterly along the height of land which divides the waters which fall directly or indirectly into the Mississippi from those which so fall into Lakes Erie and Huron, to the head waters of the Wabash and its tributary streams; thence down the Wabash to its junction with the Ohio; thence along the Ohio or Wabash (as the stream hence is variously called), to the Mississippi or point of commencement.

†An edition of this map was published at Amsterdam, about 1720. It appears to be well established that, for more than a quarter of a century before this date, the French had posts on and west of the Upper Mississippi, and especially on the St. Peter's [Minnesota] River, ascending which, for a very short distance, the Missouri itself was of easy access. No doubt this Chemin des Voyageurs was very largely used by the French Canadian traders, and by the Indians in their interest. Fort St. Nicolas (afterwards Prairie du Chien) was their chief *entrepot*. So convenient a station was it, that, during the period, 1783-94 (when the British held possession of the country south and west of the lakes), it was here that Governor Simcoe proposed to erect a fortified post, for the purpose of controlling the trade of the West.

(48) 1719.—"Amerique Septentrionale...par le Sieur Sanson, Geographe Ordinaire du Roi, presentée à Monseigneur le Dauphin...par Hubert Jaillot...Paris, 1719."

A line engraved and coloured runs from the easterly point of Labrador to the height of land, which it follows to a point near L. Abbitibis, which, with the fort of that name, it leaves to the south, and passing north-westerly, close by the shore of James' Bay, at the mouth of the Moose R., proceeds to a point south-west of Lake Winnipeg, whence it runs south-westerly to the par. of 45°; and thence south-easterly to a point 5° west of the Mississippi, on the parallel of its confluence with the Illinois: and thence easterly, to the English colonies—Florida being to the south, and New Mexico to the west of the line. East of the line, at Lac des Sioux—the source of one of the branches of the Mississippi—the name "Canada ou Nouvelle France" commences; it crosses the foot of James' Bay, and ends on the Labrador coast, being partly above the line described, which cannot therefore be intended as a northern boundary. Sanson's original map, "L'Amerique Septentrionale" (see date 1662), does not contain this northern line; but one like it appears on his map of "Le Canada ou Nouvelle France" (same date).

(49) 1719.—MS. Lines shewing the English claims and what are supposed to have been the French concessions as to the limits of Hudson's Bay, under the Treaty of Utrecht. (See notes on De l'Isle's map of 1703, No. 33 *ante*.)

NOTES ON MAPS, 1632–1857.

(50) 1720.—"Hemisphere Occidental, dressée en 1720, pour l'usage particulier du Roy, sur les observations astronomiques et geographiques raportées, la meme année, dans l'histoire et dans les memoires de l'Academie Royal des Sciences, par Guillaume de l'Isle, premier Geographe de sa Majesté de la même Academie." (Amsterdam, Couvens et Mortier.)

Canada extends westward to the limit of discovery, and south-westward to the northern watershed of the Missouri, from its source to its confluence with the Mississippi; a line, engraved and coloured, commences at a point on the shore of Hudson's Bay, north-west of R. Danoise [Churchill], and runs south-westerly to, and then easterly along, the said watershed. Another line (engraved and coloured) runs from Ungava Bay (Hudson's Straits) south-westerly to the shore of Hudson's Bay at a point immediately north of the East Main River. Recommencing on the same shore, at a point immediately south of Rupert River, it runs westerly and north-westerly, at no great distance from that shore, to Bourbon [Nelson] River, which it follows to the Bay. This line appears intended to represent the limits of the territories of Hudson's Bay and Straits, as the French then understood them. The break in the line, whereby the shore of Hudson's Bay between the East Main and the Rupert are left to France, is probably to be explained by the facts that Fort Rupert was abandoned by the Hudson's Bay Company, and that the French claimed that the Royal domain of Tadoussac extended to the Bay.

(51) 1722.—"Carte d'Amerique, dressée pour l'usage du Roy, par Guillaume Delisle, premier Geographe de sa Majesté, de l'Academie Royale des Sciences, à Paris, chez l'auteur...1722."

This map has a line, engraved and coloured, commencing on the south side of Hudson's Straits; thence westerly, nearly on the line of the 60th parallel, to within 3 or 4 degrees of the eastern shore of the Bay; thence south-westerly, getting closer to the shore and crossing the Rupert R. near its mouth; thence westerly, skirting closely the foot of the Bay, to the Moose R., just above the parallel of 50°; and thence north-westerly and across the Ste. Thérese [Hayes] and Bourbon [Nelson] Rivers, to and along the Danoise [Churchill], to its mouth. This is the only limit to Canada towards the north: and no bounds are assigned to it on the west—the map extending to "La Grande Mer du Sud." Its southern boundary is a line, engraved and coloured, commencing at the mouth of the Kennebec, and running along the back of the English Provinces, to the point where it meets the northern boundary of Louisiana, between the 39th and 40th parallels; thence, following the last mentioned boundary, to the confluence of the Mississippi and Missouri, and along the northerly watershed of the Missouri to its source in the [Rocky] Mountains, where it meets the northern boundary of "Californie;" and thence due west along such last mentioned boundary, and in about lat. 43°, to the Grand Mer du Sud, at Cap Blanc. The name "Canada" is on the face of the map: it commences at about the meridian of 95°, present reckoning. The main source of the Mississippi is in about lat. 49° and long. 105°, present reckoning: it is also connected with Lac Tecamamiouen [Rainy Lake], which is 6° to the north-east, and entirely misplaced. Lake of the Woods is not shown.

(52) 1722.—"Carte de Mexique, dressée sur un grand nombre des memoires, principalement sur ceux de MM. d'Iberville et LeSueur. Par G. de l'Isle. Amsterdam, 1722."

The name "Canada ou Nouvelle France" commences at a point west of the Missouri.

(53) 1722.—"Carte de L'Amerique par Guillaume de L'Isle. Paris, 1722."

The original copy of this map, in the Depôt des Cartes et affaires Etrangères, shows a dotted line starting from Fort Bourbon, and running to a point on the 50th parallel, west of Lake Christinaux, thence along that parallel to the south end of James' Bay, thence coasting along, partially conforming to the shore line, northerly to the intersection of lat. 55° with long. 303° W.

(54) 1725.—Map "par Chaussegrande, delineateur à Québec, le 28th Octobre, 1725." (MS. recently examined in the Archives of the Marine, Paris.)

Canada has no other limits on the north and west than those of the map, which extend

beyond the meridian of Fort Nelson on the north, and considerably beyond Lake Superior on the west and north-west. The name "Canada" commences north-west of Lac Alepimigon, and terminates north of the source of the Albany: it clearly includes Hudson's Bay.

(55) 1728.—"Carte Generale du Canada," bound with "Nouveaux Voyages...et Supplement aux Voyages...du Barron la Hontan. Amsterdam [ed. of] 1728."

"Canada" extends westward of L. Superior, some 5°, and northward to the limit of the map, about C. Henriette Marie; but Forts Rupert and Moose are marked with a memo. to the effect that they are alternately in the hands of the French and English, respectively. Fort St. Germain is also shewn.

(56) 1728.—"Reduction de la Carte tracée per la sauvage Ochagach* et autres...par Philippe Buache...1754."

This tracing shews the waters from Lake Superior westward to Lake Winnipeg; there being a division of these waters between Rainy Lake and Lake Superior, on both the Kamanistiquia and Pigeon River routes. (This map is on the same sheet as Buache's "Carte Physique," 1754.)

*The reports of this Indian, especially respecting the rivers and lakes of the west, and the possibility of reaching by them the Western Sea, fired the imagination of La Verendrye, then in command at Nepigon: and induced him to seek a commission from the Governor of Canada for the discovery of this long-sought for sea: it was granted him, under the express authorization of the King; and his important discoveries, which added to Canada a large part of the continent, are now matters of history.

(57) 1731.—"Carte du Domaine en Canada," dedicated to the Dauphin and signed by "P. Laure, J., à Chikoutimi, 23rd Aout, 1731." (MS., Lib. Parl.)

This map shows—presumably as included in the Royal Domain of Tadoussac†—the Saguenay and its various affluents, the country, lakes and rivers between its head waters and Lake Mistassin, that lake and the Rupert R., (at whose mouth is Fort Rupert,) to its discharge in Hudson's Bay. A French establishment, "Maison des Dorvals," is on the S. W. shore of the Lake. The author, who describes himself as the Missionary of the Domain, states, in a marginal note, that the portion of the map, "depuis Pikouagami jusqu'au Nemiskau," was prepared with the aid of the Srs. Dorval des Groisiliers who had spent, the one two, and the other three winters with success at the Grand Mistassins, on behalf of the Western Company; and he further states, in the dedication, that the savages, with constant fidelity, and notwithstanding innumerable hardships, &c., bring their furs to the posts of the French Domain, in preference to giving them to "their neighbours the English."

Two more MS. Maps by the same author—one with the title "Carte du Domaine du Roi en Canada," and dated 1732—are more elaborate, but contain no new feature, except that they show more of the bay.

†This Domain extended from the St. Lawrence to Hudson's Bay, and from Ile aux Coudres to the Moisie and beyond. See further particulars, p. 203, *ante, et seq.* See also note to map No. 1.

(58) 1732–3.—"A map of the British Empire in America, with the French and Spanish settlements adjacent thereto, by Hen. Popple." (Not dated, but the correct date must be 1732 or 1733. Rich gives the latter.)

The British Dominions are bounded, on the north, by the St. Lawrence Gulf and River, Lake Ontario, the River Niagara, the south-east shore of Lake Erie to the north-westerly angle of Pennsylvania; thence by a line running due south to Virginia; thence by a line running due west to the limit of the map, in 107° of west longitude, and which appears to be an extension of the northern boundary of Virginia. The whole country to the north of these lines, though without a name, is indicated by the colouring to be a French possession. The source of the Mississippi is on the parallel of 50°, and in about long. 105°, with the inscription "The head of the Mississippi, in about the 50th degree north latitude, and in a very boggy country." There is no boundary between Canada and Hudson's Bay. The two French establishments on Lake Abbitibis are marked.

This map is dedicated "to the Queen's Most Excellent Majesty;" and in a note, it is stated that it was undertaken with the approbation of the Lords of Trade, and that the

authentic records and actual surveys transmitted to them by the Governors, had been used in its preparation.

(59) 1737.—"Le cours du Fleuve Mississippi, selon les relations les plus modernes" (in "Recueil des Voyages: Amsterdam," 1737, vol. 9.)

On this map forts are marked on the north shore of Lake Nepigon, and at the position of Lake Nemiscau. "Nouvelle France ou Canada," includes Hudson's Bay; on the west no limits are assigned to it. The name commences east of Hudson's Bay, just south of parallel 55°.

(60) 1737.—"Carte contenant les nouvelles découvertes de l'Ouest, en Canada, mers, rivières, lacs et nations qui y habitent, en l'année 1737. Découverte de la Mer de l'Ouest, joint à la lettre de Mr. de Beauharnois, 14 Octobre, 1737.,, [Dressée par les Varennes de la Verandrye,"* according to the catalogue.] (MS., Lib. Parl.)

This is a sketch of the country from Lake Superior westward to, and including Lakes des Prairies [Manitoba] and Winnipeg; the communication between the latter and Hudson's Bay, by the Nelson River, being also shewn. From Lac Rouge issues a branch of the Mississippi, as does also the Red River. The other sources of the Mississippi are in about their proper position. Forts Kamanistiquia, St. Pierre (on Rainy Lake), St. Charles (on Lake of the Woods), and La Reine, here called Maurepas (on the Assiniboine, south of Lake Manitoba), Pointe du Bois Fort (midway up the Red River), and a Fort at the mouth of the Assiniboine, marked "abandoned," are all shewn: these formed, at the time, the most advanced posts of Canada towards the west; a few years later, Forts Dauphin, on the northern part of Lake Manitoba, and Forts Bourbon, Poskoyac, des Prairies, La Corne, and Jonquière—all on the Saskatchewan—were added to them.

* For an account of the discoveries of MM. de la Verendyre, see *ante* p. 72; for other maps with which their names are associated, see Notes Nos. 63 and 84.

(61) 1738.—"A new and correct map of America, laid down according to the accurate improvements of Senex, Moll, and other modern Geographers. Humbly inscribed to His Royal Highness Frederick, Prince of Wales. 1738," (in Sir William Keith's *History of Virginia*, who says of it, in his address to the reader, that it is "the latest and best of the kind that could be got.")

The map extends to the Great South Sea and to the North Pole. "Canada, or New France," is bounded on the south by Louisiana; on the north and west no limits are assigned to it. A part of the name commences west of the Missouri, in long. 105°, and lat. 41° nearly.† The St. Lawrence River has its source north-west of Port Nelson, and passes through Lakes Assinipouals [the northerly part of Lake Winnipeg], and Nemipigon [the southerly part of Winnipeg], to the Upper Lake [Superior].

† In the body of the work, p. 53, the author says:—"Hitherto, Virginia was understood to extend from thirty-four to forty-five degrees of northern latitude, bounded by the ocean to the east, Florida to the south, and Canada, or New France, to the north; but towards the west unlimited and unknown ....That part .. planted by the English in the year 1606, reaching only from thirty-seven to thirty-nine degrees of latitude....continues at this day to be the proper bounds of the ancient colony and Dominion of Virginia."

(62) 1739.—"Carte d'Amerique, dressée pour l'usage du Roi, par Guillaume de l'Isle, premier Geographe de sa Majesté. Amsterdam, Couvens et Mortier, 1739."

This map has a line engraved and coloured, running from Ungava Bay, south-westerly, crossing the East Main and Rupert Rivers, a short distance from their mouths, and thence westerly and north-westerly, at no great distance from the shores of Hudson's Bay, to the Churchill River, whose eastern bank it follows to the Bay. "Canada" has no limits towards the west; its south-west boundary is the northern watershed of the Missouri, from its source to its junction with the Mississippi.

(63) [1740, about.]—"Carte d'une partie du Lac Superieur, avec découverte de la rivière depuis la Grand Portage, jusqu'au Lac des Bois, et de là jusqu'au Missouri, dressée par M. de la Gemeraye." (MS., Lib. Parl.)

NOTES ON MAPS, 1632–1857.

Shews the discoveries of the Verendryes west of Lake Superior, and the Forts established by them, including Fort Bourbon; also, the Assiniboine, and its affluent, the St. Pierre, and, south-west of the former, a portion of the Upper Missouri, which must have been reached by way of the Assiniboine. It is marked "Rivière qui on croit être le Missouri." La Gemeraye was the nephew, and acted under the orders of M. de la Verendrye, to whom his services, in the explorations which he was pursuing, were invaluable.

(64) 1740.—"Carte des Lieux.....dressée par Phillippe Buache.....gendre de feu Mr. de l'Isle .....1740. A Paris.....1740."

The Mississippi has its source in a lake north-west of Lake Superior. The name "Canada" commences just east of this point, and runs across the foot of Hudson's Bay, which it includes. The boundary between Louisiana and Canada is an engraved line, following the northern watershed of the Missouri, to its junction with the Mississippi.

(65) 1740.—"America, laid down from the observations of the Royal Academy of Sciences .....London: printed for John Bowles.....1740. Engraved by Emanuel Brown, Geographer."

A portion of the name "Canada or New France," commences between the Missouri and the Mississippi. The south-western boundary is, partly, the eastern limit of New Mexico, and a line continued thence, north-westerly; the country west of this line is marked "unknown." North of the terminal point of the line, Canada appears to extend indefinitely westward.

(66) 1741.—Moll's Map of North America, Brotherton's edition. (See notes under date, 1708, *ante*.)

(67) 1741.—"A new and correct map of the trading part of the West Indies.....likewise the British Empire in America, with the French and Spanish Settlements.....1741 .....Henry Overton, London."

The name "Canada or New France" extends from a point west of the Mississippi, near the Missouri. The "Heads of the Mississippi" are shewn in lat. 50° and in long. 275° east. On the west shore of Hudson's Bay, the Albany River and a line continued from its source north-westerly, and on the east shore, the Pitchibourini [East Main] River, and a line continued thence south-easterly to the Gulf of St. Lawrence—are coloured as if to indicate boundaries;* Canada has no other limit towards the north; nor are any limits assigned to it on the west.

* This line nearly accords with that proposed by the Hudson's Bay Company in 1702. It was rejected by the French, who claimed the parallel of 55°.

(68) 1743.—"Carte de l'Amerique Septentrionale dressée, par N. B[ellin], Ing. du Roy et Hydrog. de la Marine, 1743." (In "Historie de la Nouvelle France, par le Père Charlevoix.")

"Nouvelle France ou Canada," has no limits on the West or North. The first part of the name commences west of the Lake of the Woods; and the second part commences on the east bank of the Missouri, in about lat. 45°. Between Lake Superior and "Lac Tecamamiouen" [Rainy Lake] there is no division of the waters; these flow from that lake, on the one hand to Lac des Bois and on the other to Lake Superior. The Mississippi has its source in about lat. 47½°, due south of Lac des Bois.

(69) 1744.—"Carte de la partie Orientale de la Nouvelle France ou du Canada, dediee à Monseigneur le Comte de Maurepas.....par N. Bellin, Ingenieur de la Marine, 1744,' (in same work.)

Canada includes Hudson's Bay, as far as the limit of the map. "Maison les Dorvals" is shewn on a peninsula which juts out from the south-west shore of Lake Mistassin. (See *ante*, No. 57.)

(70) 1744.—"Carte de la Baye de Hudson, par N. Bellin.....1744," (in same work.)

NOTES ON MAPS, 1632–1857.

Fort St. Germain is shewn on Lake Ste. Anne. This fort is also spoken of by the same author, in 1755, in his "Remarques sur la Carte, &c." (See *ante*, pp. 133–134.)

(71) 1744.—"Carte de la Louisiane, cours du Mississippi, et Pais Voisins.....par N. Bellin.....1744."

The Mississippi is cut by the northern limit of the map, viz.: the parallel of 46°, in long. 96° 40', and the Missouri, by the same limit, in long. 107°, west of the meridian of Paris. On the latter river is the memo: "Le Missouri dont tous le cours, n'est pas connus." Forts L'Huillier and Vert are marked. The name "Partie du Canada" commences midway between the Mississippi and Lake Michigan, just below Fox River.

(72) 1744.—"Carte de l'Ocean Occidental, et Partie de l'Amerique Septentrionale..... par N. Bellin.....1744."

"Nouvelle France ou Canada" has no limits on the North or West, except those of the map, viz.: the parallel of 55° and the meridian of 93° respectively. The first part of the name commences at the limit of the map—north of Lake Superior—and the other part commences midway between the Mississippi and B. de Puans [Green Bay].

(73) 1744.—"Carte des Lacs du Canada.....par N. Bellin.....1744."

These lakes are Abitibis, Temiscaming, Nipissing, and the five great Lakes. The posts Abitibis, Chagouamigon, Camanestigouia ou les Trois Rivières, and that at the foot of B. des Puans, are marked.

(74) 1744.—"A New Map of Part of North America," (bound with the work, "Account of the Countries adjoining to Hudson's Bay.....By Arthur Dobbs, Esq.....London, 1744.")

Shews the Lakes west of Lake Superior, and a communication with Hudson's Bay by the Nelson River. These are put down "as described Joseph La France, a French Canadese Indian, who travelled through those countries and lakes, for three years, from 1739 to 1742." The height of land between Lakes Superior and Du Pluis is also shewn.

(75) 1746.—"Carte du Globe Terrestre...par Buache, premier Geographe...1746. A Paris, chez l'auteur."

"Canada" includes Hudson's Bay, on the north; extends westwards to Mer de l'Ouest, here clearly shewn as occupying the position of the Gulf of Georgia (straits of Vancouver); and extends southward to Louisiana. The name stands midway between the Western Sea and the St. Lawrence.

(76) 1746.—"Amerique Septentrionale, publiée sous les auspices de Monseigneur le Duc d'Orleans, premier Prince du Sang. Par le Sr. d'Anville, 1746.....A Paris, chez l'auteur.....Gravé par Guill. Delahaye."

A dotted line commences on the northern limit of the map, in lat. 54°, about 1½° east of Hudson's Bay, and runs thence to south-westerly, in about the same position as the line on De l'Isle's map, (ed. 1722)—crossing the Rupert between Lake Nemiscau and the Bay—to a point in about latitude 50° 15', and longitude 59° 40', west of Ferro, where it touches the height of land, and there stops. This height of land is continued thence southerly to the portage of Temiscamingue, and thence south-easterly, indicating the division of the waters of the Ottawa from those of Saguenay. The western limit of this map is beyond Rainy Lake; and "Canada" has no other boundary in that direction; nor has it on the north, except as already indicated. Forts St. Germain, Abitibis, le Sueur and L'Huillier are marked. The Mississippi is cut off by the border of the map in lat. 45° and long. 89° 5'.

The author of the work, "Remarks in support of the New Chart of North and South America, by F. Green, Esq., London, printed for Thos. Jefferys, 1753," states that "M. D'Anville runs the partition line [between the French and English possessions] through the parallel of fifty, and, to the south of Hudson's Bay, makes it turn off with a sweep northward, and continues it in that direction, at the distance of about 20 leagues only, from the eastern coast of the Bay, to the latitude of 54 degrees," (p. 26); and in an English reproduction of "D'Anville's Map of North America, greatly improved by Mr.

Bolton. . . 1752," the same line east of the Bay, is shewn as terminating at the 50th parallel, with a note by the editor, "M. D'Anville's line east of James' Bay is false." According to these authorities then, the line in question must appear, on some edition of D'Anville, as running to, and westward along the 50th parallel; but how far is not stated. The continuation may have been in colours only, which are not shewn on the copy in hand.

(77) 1747.—"Map of all the Known World, by Emanuel Bowen," (in "Complete System of Geography. . . illustrated with seventy maps, by Emanuel Bowen, Geographer to His Majesty. . . London, 1747."

"Canada" has no bounds here assigned to it on the north or west: on the south and south-west, it is bounded by the northern boundary of ancient Florida—or more properly of Louisiana, viz.: an engraved line following the northern watershed of the Missouri, from its source to a point above its junction with the Mississippi, and thence easterly, partly along and partly south of the parallel of 40°, to the Appalachian Mountains, here shown as the westerly bounds of Virginia and Pennsylvania.

(78) 1747.—"A New General Map of America, by Emanuel Bowen," (in same work).

"Canada or New France," has no limits on the north or west; on the south and south-west they accord with those mentioned in the preceding map. A part of the name, however, commences west of the Missouri, in lat. 42°, thus indicating that Louisiana was a dependency of Canada.

(79) 1747.—"A new and accurate Map of Louisiana, with part of Canada and Florida. . . by Emanuel Bowen," (in same work).

All the territories from the northern limit of the map, which is north of the height of land, to the Gulf of Mexico on the south, and from the "Appalachian Mountains" to the eastern bounds of New Mexico, are comprised in Canada and Louisiana; but no boundary is run between these two Provinces. The name "Part of Canada," commences south of Lake Superior, at about 89° west, and striking the southerly shores of Lakes Michigan, Erie, and Ontario, ends between Lake George and the St. Lawrence River. The Mississippi and Missiouri respectively have their sources south of the 40th parallel. Forts Camanestigouia, Chagouamigon, Luillier, Verte, Machilimakinac, St. Mary, La Baye, Chicagou, St. Joseph, and those in the Illinois country, are marked.

(80) 1748.—"A Map of North America, with Hudson's Bay and Straights, anno 1748. R. W. Seale, sculp."

This is another of the maps sent by the Hudson's Bay Company to the Dominion Government for the purposes of the present Arbitration. It bears the Royal Arms and the arms of the Company. It was undoubtedly prepared by direction and in the interests of the Company, in view of the proceedings of the Parliamentary Committee appointed (in the same year that this map is dated) to inquire into their affairs, and appears intended to show the extent of the limits claimed by the Company for trading purposes. These are indicated by a coloured line, which commences at the most easterly point* of Labrador, and runs thence south-westerly (crossing Frenchman's River in the parrallel of 50°, and leaving Lake Tabitibi considerably to the south-east), to about the parallel of 48°, at a point due south of Moose Fort; thence north-westerly to a point a little north of Lake Superior; thence due west to the eastern shore of a Lake here called Nimigon, but which represents the Lake of the Woods; thence along the easterly banks of that lake, and of a river which connects it with Lake Wini Pegon [the southerly part of Lake Winnipeg], and along the easterly shores of that lake and of another lake (not named), which is intended to represent the northerly part of Lake Winnipeg; and thence northerly to the head of Baffin's Bay. These lakes are here shewn as forming a part of the St. Lawrence system, and discharge into Lake Superior. The only forts of the Company marked are York, Albany, Henly, and Moose; at the mouth of the Slude [East Main] River, a fort is indicated to which no name is attached.

* This point, on the one side, and Cape Farewell or the southerly point of Greenland, on the other, seem to have been looked upon by the projectors of the map, as forming the distant, if not the immediate entrance to Hudson's Straits.

NOTES ON MAPS, 1632–1857.

(81) 1748.—"Mappe Monde par le Sr. Robert. . . 1748" (bound in Vaisette's "Geographie. . . Paris, 1755.")

"Canada" extends to the Western Ocean, and includes Hudson's Bay. The name commences midway between that ocean and Lake Superior.

(82) 1748.—"L'Amerique Septentrionale, par le Sr. Robert, Geographe Ordinaire du Roi, 1748."

"Canada" extends as in the preceding to the Western Ocean, and includes Hudson's Bay; and, in this instance the name crosses the foot of James' Bay. Its south-westerly boundary, which is the northern boundary of Louisiana, is an engraved line which runs from the Rocky Mountains (not named) easterly, along the northerly watershed of the Missouri, to its junction with the Mississippi; thence easterly, partly on, partly above and partly below the parallel of 40°, to the English colonies, where it descends to 39°.

83) 1749.—A MS. Map, on parchment, by William Morris, dedicated to His Excellency William Shirly, Esq., Captain-General and Commander-in-Chief, in and over His Majesty's Province of Massachusetts Bay in New-England, Vice-Admiral of the same, dated Boston, August 6th, 1749. (In the Library of the Foreign Office, London.)

A line is drawn through Lake Mistassin, to the 49th parallel marked "1712. This line by the Treaty of Utrecht was settled as the dividing line between Canada and Hudson's Bay." Another line drawn along 48th parallel to the River St. Lawrence has on it the inscription: "This line of north latitude 48°, was the northern boundary of the grant made by King James the 1st, to the Council of Plymouth, in 1621; but in the year 1632,* King Charles the 1st, ceded all the lands lying to the northward of Canada [St. Lawrence] River to the French, and Canada or New France was indefinite in its northern boundaries till the year 1712."

There is also on the map this further inscription: "By the Treaty of Utrecht, the lines between the English and the French were thus adjusted: Beginning on the North Atlantic Ocean, in north latitude 58° 30′; thence running south-west to Lake Mistassin, and thence continuing south-west till the line touched 49°, north latitude; and thence west indefinitely."†

* By the Treaty of St. Germain-en-Laye. How, after this formal restoration of the country, from the St. Lawrence indefinitely northward, could the English afterwards properly claim prior title to any part of it?

† It is a fact, now placed beyond dispute, that the limits between Hudson's Bay and Canada were never settled, pursuant to the stipulations of the Treaty of Utrecht in that behalf. The Hudson's Bay Company's proposals, in 1712 and subsequently, for a line from Cape Perdrix (afterwards adopted by the British Government in their instructions to the commissaries), and the proposals of these commissaries, in 1719, for a line from Davis's Inlet—in each case extending to, and westward along, the 49th parallel—were indignantly scouted by the French, and no agreement was then, or at any time afterwards, arrived at. The statements made in various English maps and books (and which we have first met with in this map), to the effect that certain lines therein given or mentioned were boundary lines of Hudson's Bay, according to or as settled by commissaries under the Treaty of Utrecht, are entirely without foundation, and probably had their origin from over zealous friends of the Company by whom the authors of these publications were, intentionally or unintentionally, misled; and the error thus first published, was probably adopted in good faith by many subsequent geographers and writers, who incorporated it in their works as an unquestioned fact, and so propagated the error that it was generally believed in as true. Even the commissioners in certain of the boundary negotiations between England and the United States, were thus imposed on. It was claimed on behalf of the latter, and apparently conceded on behalf of the former country, that the parallel of 49° had been settled upon, under the Treaty of Utrecht, as the southern boundary line of Hudson's Bay; and thereupon, and upon that ground, that parallel was fixed as the northern boundary of Louisiana! The variety of the lines confidently referred to by English geographers and others as having been settled as bounds of Hudson's Bay, would carry in itself the refutation of the statement. Then we have, on the French side, the statements, by Gallisonière, in 1750, and by Choiseul, as late as 1761, and that these limits were never settled. If such a settlement, so favourable to the Hudson's Bay Company, had ever been arrived at, that Company would certainly have preserved a record of it. Not only is this not the case, but the Company subsequently preferred a claim to have the limits fixed on an entirely different basis; and, to crown all, recent investigations in London on behalf of the Government of Ontario, have brought to light certain documents, dated 1755 and 1759 respectively (given in Sec. XVII. *post*), whereby it most clearly appears, on the admission of the Hudson's Bay Company themselves, that no boundaries of Hudson's Bay had, up to those dates, been settled pursuant to the Treaty of Utrecht. A diligent search in the English and French archives has failed to show anything to the contrary. (For other information on this subject see Greenhow's *History of Oregon*, &c., pp 281 *et seq.*, and App. F; Twiss's *Oregon Question*, pp. 207 *et seq.*; Papers in Sec. XVII. *post*; and *Oregon; Our Right and Title*, by Wyndham Robertson, Jun., of Virginia. Washington. 1846. This latter is to be found in vol. 287 of Canadian Pamphlets, in the Library of Parliament, Ottawa.)

NOTES ON MAPS, 1632–1857.

France claimed that in *restoring* Hudson's Bay to the English under the Treaty of Utrecht, she was bound only to restore to them such forts, and limited territory, on the immediate shores of the Bay, in their vicinity, as had at any time theretofore been—whether rightfully or wrongfully—in their actual possession; and she maintained for herself, and in fact exercised, the right to dominion over, and to carry on trade and erect posts and fortifications in all the interior country, and even to extend her trading operations to the shores of the Bay, where these shores were not in the possession of the English. As evidence of this, witness the maintenance of old, and the establishment of new, posts on Lakes Mistassin, Nemiscau, Abbitibis, La Carpe, and St. Anne (Albany) and on the Rivers Moose and Albany—all north of the Height of Land. (See in Sec. XVII. *post*, the two memoires of D'Auteuil, that of April, 1755, those of Lamothe-Cadillac and Gallisonnière respectively, and the grant to Sieur Simblin. See also, p. 205 *ante*, the ordinance as to the limits of Tadoussac.) Besides, the Hudson's Bay Company has, in the most formal manner, and in printed documents, admitted, what is otherwise abundantly evident, that, up to 1763, their trade and territorial occupancy were confined to the shores of the Bay. (See their statement of 1857, *post*, sec. XVII.)

In their Memorial of 1719, the Company admit that "the surrender of the Straits and Bay has been made according to the tenour of the Treaty, at least in such manner that [they] acquiesce therein, and have nothing to object or desire on that head." We have been unable to get evidence of what, besides Fort Nelson, was actually delivered to the Company on the occasion referred to: it is supposed to have been the other forts, only, on the shores of the Bay; but we have, on the other hand, ample evidence as to what was *not delivered* to the Company—viz., the French posts, forts and territories in the interior beyond the height of land as aforesaid; some of these territories even extending to the shores of the Bay.

(84) 1750.—"Carte des nouvelles Découvertes dans l'Ouest du Canada, dressée sur les Mémoires de Mr. de la Veranderie, et donnée au Dépôt de la Marine par Mr. de la Galissonière, 1750." (Fac simile in Mr. Lindsey's Report.)

Shews the lakes and connecting rivers, west of Lake Superior, and the division of the waters between that Lake and Lac de la Pluie. The Red, Assiniboine, Poskoyac [Saskatchewan], and Nelson Rivers, are also marked—the latter carrying the waters of Lacs Ouinipigon to Hudson's Bay. Forts St. Pierre on Lac de la Pluie, St. Charles on Lac du Bois, Maurepas at the foot of Lacs Ouinipigon, La Reine on the Assiliboille, Dauphin on the north-west shore of Lac des Prairies, and Bourbon at the mouth of the Rivere aux Biches, are also shewn. It will be noticed, that whereas, in 1737, Fort La Reine was the most advanced of the Canadian posts towards the west, we have now reached the Saskatchewan, which, within two years afterwards, was ascended to its source.

Another MS. map, now in the Depôt de la Marine, at Paris, and also bearing the date 1750, with the following title, viz.: "Carte des nouvelles découvertes dans l'Ouest du Canada, dressée, dit'on, sur les memoires de la Verandrye, manuscrit de M. de la Gallissonière," shews, as occupied by the French at that time, as well the Forts above mentioned as Forts Gamanistoquoya, on the river of that name, Rouge, on the Assineboine River, and also Poskoyac. Two forts only—Albany and Nelson—and marked as occupied by the British.

(85) 1750.—"Diversi Globi Terr'Aquæ, &c." (in Seutter's Atlas, pub. Amsterdam, 1750.)

The name "Canada hod Nova Francia," commences at Lake Winnipeg, and extends eastward across the foot of James' Bay, and to the coast of Labrador. Two other little maps on the same sheet shew the name "Nova Francia," commencing at the Mississippi.

(86) 1750.—Planglobii Terrestris....publice proponit Jo. Bapt. Homann, Sac. Cæs. Maj. Geopraphus, &c." (in same Atlas.)

The name "Canada sive Nova Francia" commences at Lake Winnipeg.

(87) 1750.—"Novus Orbus sive America....Matth. Scutter, Sac. Cæs. Maj. Geogr., &c."

The name "Canada hodie Nova Francia" commences at Lake Winnipeg.

(88) 1750.—"Mappa Geographica Regionem Mexicanam....Matth. Seutterie, &c." (same Atlas).

The name "Canada sive Nova Francia" commences west of the Missouri, in latitude 42½°.

(89) 1750.—"America cum Supplementis Polyglottis" (same Atlas).

The name "Canada" commences at the Mississippi.

(90) 1750 (about.)—"A New Map of Canada....from the Sr. Robert, with improvements;" in a corner of which is "a Supplement for the Lakes of Canada."

NOTES ON MAPS, 1632–1857.

The parallel of 49° is engraved in dots with the inscription "North limits of Canada, by the Treaty of Utrecht."* The name "Canada" commences at the western limit of the map, beyond the Mississippi.

* See note to map No. 83.

(91) 1750.—"Amerique Septentrionale, par le Sr. Robert de Vaugondy, fils de Mr. Robert, Geographe Ordinaire du Roy, 1750."

"Canada" has no limits towards the west; on the north, there is no boundary between it and Hudson's Bay; but the shore lines of that Bay are so coloured as to leave it to be inferred that they are not a French possession.

(92) 1752.—"Carte Physique des terrains les plus éléves de la Partie Occidentale du Canada, ou l'on voit les nouvelles découvertes des officiers Français à l'Ouest du Lac Superieur...." (MS.)

This map shews the discoveries of, and the Forts established by the Verendryes, on the Lakes west of Superior. Of Hudson's Bay only the west shore is given, close to which between the Nelson and the Albany, runs the inscription "Terre Angloise." The Mississippi rises south-west of Lake Winnipeg; the Missouri still further to the south-west. The height of land between these two rivers, is marked by a dotted line, evidently meant as a boundary—the name "Louisiana" being applied to the country west of it; and "Nouvelle France ou Canada" to the country north and east. (This would seem to be the draft of one of Buache's Maps, hereafter mentioned under date 1754.)

(93) 1752.—"Carte des nouvelles découvertes...par Phil. Buache, premier Geographe du Roy, presentée à l'Acad. des Sciences, le 9 Aout, 1752, et approvée dans son assemblée du 6 Septembre suivant.... à Paris."

This map has an engraved line agreeing with that on De l'Isle's map (ed. 1722), heretofore mentioned; it terminates at the Bourbon River. The name "Nouvelle France ou Canada" commences just east of Lake Winnipeg, and applies to the country outside of the line mentioned; south-west to the northern watershed of the Missouri, which is indicated by an engraved line, continued westward to the head of the Colorado River; and west as far as discovery is shown, viz.: a chain of mountains in which the R. de Poskoyac [Saskatchewan] and the R. des Asseniboels [Assiniboine] have their source. The height of land west of Lake Superior is shown, and beyond that, the various rivers and lakes which discharge by the Nelson into Hudson's Bay. The sources of the Missouri and Mississippi are south of Lake Manitoba, and south-west of the Lake of the Woods. [On this, as on many other maps before and after this date an imaginary lake is shewn on the Nelson River between Lake Winnipeg and Split Lake: the error seems to have arisen from a mistaken reading of Jérémie, or by the taking the southern and northern portions respectively of Lake Winnipeg as two separate lakes.]

(94) 1752.—"Carte des découvertes de l'Amiral de Fonte....par Buache....1752."

Shews the line of De l'Isle's Map (ed. 1722), but ending at the Churchill; the height of land west of Lake Superior; the communication with Hudson's Bay by Nelson River; the engraved line representing the northern watershed of the Missouri; and the name "Nouvelle France ou Canada" almost exactly as in the preceding map.

(95) 1752.—"Carte Geometrique des découvertes de l'Amiral de Fonte....Buache....1752."

"Nouvelle France ou Canada" extends westward to the ocean. The name commences near the "Mer de l'Ouest," represented on this and the two preceding maps as being connected with the ocean by two passages, and occupying the position, nearly, of the Gulf of Georgia (Straits of Vancouver). (See note to map of 1700.)

(96) 1752.—Carte des Terres nouvellement connues au nord de la Mer du Sud.... Buache .....1752."

Shews the line on De l'Isle's Map (ed. 1722), from Hudson's Straits to a point south of the Albany. "Canada ou Nouvelle France" extends westward to the ocean. The

name commences at "Mer de l'Ouest." Close to this sea is a chain of mountains in which the Saskatchewan (not named) has its source.

(97) 1752.—Carte marine des parties septentrionales de la Grand Mer [du Sud]..Buache ..1752."

"Canada ou Nouvelle France" extends westward to "Mer de l'Ouest." The name commences north of Lake of the Woods. The map shews, as in the title it professes to shew, the various mountain chains of North America, as far as then known. The water-shed of the St. Lawrence—north, south, west and south-west—is faithfully given; also, the height of land which divides the waters of the Mississippi and Missouri on the one hand, from those of the Winnipeg system on the other, extending from near Lake Superior to a chain of mountains near Mer de l'Ouest. These mountains run southerly to the tropic of Cancer, and northerly and north-easterly to the parallel of 64°—the Saskatchewan and R. Danoise [Churchill] having their sources in them.

(98) 1752.—"Carte generale des découvertes de l'Amiral de Fonte et autres—par Mr. de l'Isle, de l'Academie Royale des Sciences, et Professeur, de Mathematique au College Royal. A Paris, Septembre, 1752."

This map shows "Mer de l'Ouest" with the two entrances from the Ocean, and the inscription "decouv. et parcourue par J. de Fuca en 1592." De l'Isle's line is shewn on the east side of Hudson's Bay; also on the west side, terminating at the mouth of the Churchill; the foot of the bay is cut off, because of the peculiar configuration of the map. The name "Canada," commences north of Lake of the Woods, but applies westward to the sea. An engraved line, intended to represent the boundary between Canada and Louisiana, follows the northern watershed of the Missouri to the Rocky Mountains, close by the sea. In these same mountains, rivers which fall into Lake Winnipeg take their rise. The source of the Mississippi is due south of that lake, and west by south of Lake of the Woods.

(99) 1752—"North America, by the Sr. d'Anville, greatly improved by Mr. Bolton. Engraved by R. W. Seale. 1752." It is also marked on the corner, "North America, plate I., for Mr. Postlethwaite's Dict. of Commerce."

An engraved dotted line, commencing on the limit of the map, N. E. of Lake Mistassin, runs, on an irregular course to a point near Lake Abitibi, which it strikes, on the east shore in about lat. 49.° Recommencing on the west shore it is continued westward (but not on a straight course) to the limit of the map, 15° beyond Kamanistiquia. From the northern limit of the map, east of Hudson's Bay, in lat. 53½°, another line, corresponding to De l'Isle's (ed. 1722), runs south-westerly to the par. of 50°, which it strikes half way between the Rupert and the Moose, where it stops. On the face of the map is the memo: "The line that parts French Canada from British Canada was settled by Commissaries after the peace of Utrecht, making a curve from Davis' Inlet, in the Atlantic Sea, down to the 49°, through the Lake Abitibis, to the N. W. Ocean; therefore Mr. D'Anville's dotted line east of James' Bay is false."* Fort St. Germain is marked.

* See note to map No. 83.

(100) 1752.—"Mappe Monde, par le Sr. Robert de Vaugondy, fils. A Paris, chez lez Srs. Robert, Geogs. Ords. du Roy . . 1752."

The name "Canada" (but not "New France") appears on the face of the map.

(101) 1753.—"Carte du Pays connu sous le nom du Canada...par le Sr. Robert de Vaugondy, fils, Geographe Ordinaire du Roi.... Paris, 1753."

The title claims that the English and French possessions are distinguished in the map; it is dedicated to Monseigneur D'Argenson. An engraved line, not coloured, commencing a little east of Lake Mistassin, follows the height of land (nearly) to a point close to Lake Nepigon, whose easterly shore it strikes and there stops: it has on it in two places the inscription, "Hauteurs des Terres:" it would appear to have no other signification than as representing this height of land. The English colonies are coloured

NOTES ON MAPS 1632–1857.

red, and all to the north of these, and westward to the limit of the map, at Lake Winnipeg, is, as indicated by the blue colour, included in Canada,—except, perhaps the mere shores of Hudson's Bay, which are of the same colour as the English colonies.

(102) 1753.—"New Chart of North and South America, by F. Green. Esq."

Our knowledge of this map is derived from the author's "Remarks in support, etc. London, printed for Thomas Jefferys, 1753," in which he says: "I have drawn the line which parts the French from English Canada, by beginning it at Davis' Inlet, on the east coast of Labrador, or New Britain (in the latitude of about 56°), and drawing it with a curve through the Lake Abitibis down to the 49th degree of latitude; from thence to be continued to the north-west ocean, as it was settled by commissioners after the Treaty of Utrecht. . ." (See note to No. 83.)

(103) 1754.—"Carte Physique des terraines les plus élevés de la partie occidentale du Canada... per Philippe Buache ... publiée sous le privilege de l'Academie... 1754."

A line, engraved and coloured, and conforming nearly to De l'Isle's (ed. 1722), commences at the eastern limit of the map, a little west of the Rupert River, and north of the 50th parallel. It follows this parallel irregularly (crossing the Moose about a degree from its mouth), to the source of the River Perrai, in the height of land, which it touches at no other point; it here abruptly turns, and runs north-westerly and northerly, following the windings of, and at almost even distance from the shores of the Bay, to a point north of the Churchill, where it terminates without approaching the Bay. Within the line is the inscription, "Terres Angloises." The height of land runs from the Perrai north-westerly to a point near Split Lake—the line in question being about midway between it and the bay. The height of land west of Lake Superior is also shewn, as is that which divides the waters of the Mississippi and Missouri on the one hand, from those of the Winnipeg system on the other. This latter reaches a range of mountains which runs northerly, near "Mer de l'Ouest." In them the Missouri, Saskatchewan, Churchill, &c., take their rise. From these mountains another great river flows, westerly, into the Western Sea; its lower part, and its eastern branch in the mountains, are represented by dots; but its western and longest branch is marked as if well-known, and corresponds with the main branch of the Columbia River, which this was probably intended to represent. A branch of the Mississippi has its source in Lac Rouge, but the main branch rises in the same mountains as the Missouri. The northerly watershed of the latter has a line engraved and coloured, running westward to the mountains; it forms the limit between Louisiana and "Nouvelle France ou Canada." The first part of this latter name commences north of Rainy Lake, and the other part west of the Mississippi; it applies to all the territories westward, to the sea. The water communication from west of Lake Superior to Hudson's Bay is correctly shewn, except as to the imaginary lake already mentioned and which will not be further alluded to; and the French Forts are marked. "Gde. Eau, ou Lac Michinipi" is situate north-west of Split Lake; it is probably intended to represent Lake Athabasca, the region around which the French are said to have visited and traded in at a period long anterior to and up to this date.

(104) 1755.—"A map of the British and French Dominions in North America...inscribed to...the Earl of Halifax and the other...the Lords Commissioners for Trade and Plantations...by Jno. Mitchell,... published by the author, Feb. 13th. 1755,...and sold by Andrew Millar, ... Thos. Kitchin, sculp." It appears from a printed memo. of the author, on the face of the map, that this is the second edition, and contains matter not in the first edition. In the margin is also printed the following:—

"This map was undertaken with the approbation and at the request of the Lords Commissioners for Trade and Plantations, and is chiefly composed from draughts, charts, and actual surveys of different parts of His Majesty's Colonies and Plantations in America; great part of which have been lately taken by their Lordships' orders, and transmitted to this office by the Governors of the said Colonies and others.

"JOHN POWNALL,
"*Secretary.*"

"Plantation Office,
"Feby. 13th, 1755."

NOTES ON MAPS, 1632–1857.

This is another of the maps sent by the Hudson's Bay Company to the Dominion Government, for the purposes of the present arbitration.*

A line,† engraved and coloured, commences on the limit of the map, north-east of Lake Mistassin, and runs thence westerly, partly along and partly north of the height of land, and north of what are there called the Northern Mountains or the Land's Height—[it crosses one of the branches of the Moose at something more than a degree from its source; it also crosses the waters of, or connected with Long Lake]—to a point north of Lake Nepigon, and thence, westerly and south-westerly, to a point on the limit of the map in that quarter, north of the most north-western point of the Lake of the Woods, and in about latitude 49° 48′, and longitude 97° 40′ west from London. A copy of this map was used by the negotiators of the Treaty of 1783, whose intention being to run the international boundary line to the head waters of the St. Lawrence system, so ran it through Long and Rainy Lakes and Lake of the Woods, which all here appear as discharging into Lake Superior.‡ The terminal point of the southerly boundary line of Hudson's Bay seems to have been determined by the same circumstance. This line is untruly marked "Bounds of Hudson's Bay by the Treaty of Utrecht" in one place, and in another "Bounds of Hudson's Bay." It forms the northern limit of "New France or Canada:" that country has no limit, on the west, than that of the map, which is in about longitude 103°: the name commences north-west of Kamanistiquoia, in about longitude 92°. Canada is bounded on the south by the St. Lawrence River, the "bounds of the Six Nations," and (from the meridian of 89° westward) the 40th parallel of north latitude, which is also marked as the "northern bounds of Virginia by charter." The main branch of the Mississippi is cut off by the limit of the map at about latitude 47° 11′ and longitude 101° 30′: near it is the memo: "The head of the Mississippi is not yet known. It is supposed to arise about the 50th degree of latitude and western bounds of this map," &c. The western bounds of the map at that latitude would be in the meridian of between 105° and 106°. The Missouri is cut off by the western limit of the map, in latitude 44° 30′ and longitude 103° 30′: on it is the inscription "Missouri River is reckoned to run westward to the mountains of New Mexico," &c. At latitude 43° and longitude 100° is the inscription: "Thus far the French ascend the Missouri." Between that river and the western bank of the Mississippi, opposite the Onisconsin, a track is laid down with the inscription "Route of the French to the western Indians." Forts Abitibis, Le Sueur and Lullier and the French establishment on Lake Mistassin, are marked as subsisting. Fort Rupert is marked "abandoned." On the westerly margin of the map is the memo: ". . . We see that Louisiana, which was granted by Louis XIV. [westward] to New Mexico, is much larger, west of the Mississippi, than all our Colonies taken together would be if extended to the Mississippi. Canada, again, is larger than either of these. . . ."

"A new map of Hudson's Bay and Labrador" occupies a corner of the larger map. It shows a line, engraved and coloured, and marked "Proposed limits of Hudson's Bay," running from "Grimington I. or C. Perdrix," (which point is marked "extent of Sir Humphrey Gilbert's grant, 1578,") on a direct course south-westerly to the limit of the map, being the parallel of 50°: it divides Lake Mistassin into two parts in its course.

* In the Convention of 29th September, 1827, between Great Britain and the United States, this map is referred to as that "by which the framers of the Treaty of 1783, are acknowledged to have regulated their joint and official proceedings." That identical copy, as well as the first edition, have also been examined.

† See note to No. 83.

‡ The intention was to draw the line through the head-stream of Lake Superior, which is in reality the River St. Louis (or du Fond du Lac.) Had this been done it would have given to Canada all the territories north of the parallel of the source of the Mississippi. But the British Commissioner was in ignorance as to what were the true sources of the St. Lawrence: the American Commissioners, on the contrary, can scarcely have been ignorant of the real facts, if, as is said to have been the case, they had beside them and had the benefit of the knowledge of Mr. Peter Pond, a famous North-West Trader, who was familiar with every step of the route followed by the line in question, and cannot but have known the true position of the Western watershed of Lake Superior. Besides, this information was available, to any one who might seek it, in numerous French and English maps and books.

NOTES ON MAPS, 1632–1857.

(105) 1755.—"Carte des Possessions Angloises et Françoises du continent de l'Amerique Septentrionale, 1755, à Amsterdam, chez R. & J. Ottens, Geographes."

Has an engraved and coloured line, corresponding exactly with that on Mitchell's map of 1755, just mentioned, and terminating at the same point, north of the Lake of the Woods, although the limit of the map is considerably west of that point. The territory north of this line to Hudson's Bay, is coloured yellow, such colouring not extending west of the westerly point of such line, or of the westerly shores of Lake Sioux and Assenipouals. The territory south of the line is coloured green, such colouring being continued westerly to the limit of the map, in about the meridian of 100°. The name "Canada" commences midway between Rainy Lake and Lake Nepigon. In the margin it is explained that the yellow and green colours indicate the English and French colonies, respectively. Canada has therefore no western limit; the western limit of the Hudson's Bay territory is the eastern shore of Lake Winnipeg.

(106) 1755.—"Carte de l'Amerique Septentrionale, depuis le 28° de lat. jusqu'au 72° ... par. N. Bellin, .. 1755."

A line, engraved and coloured, runs from Hudson's Straits south-westerly (at a greater distance from Hudson's Bay than the similar line on De l'Isle's and other maps) to and through Lake Nemiscau, and thence southerly to the height of land, south-east of Lake Abitibis, thence along the watershed, westerly to a point north of Lake Nepigon, and northwesterly to the Bourbon (Nelson) River, which it crosses at about the position of Split Lake, and thence north-westerly to and beyond the Churchill. A division of the waters of the Nelson and Churchill is indicated at these points of crossing, flowing, on the one hand to Hudson's Bay, and on the other to Lac Bourbon. The first part of the name "Nouvelle France ou Canada" commences at Fort Dauphin near Lac des Prairies, [Manitoba], and the second part commences west of the Mississippi, south of the St. Pierre [Minnesota] River. The south-western boundary of both Canada and Louisiana, is the easterly boundary of New Mexico. The westerly watershed of Lake Superior is indicated.—In the margin is the memo: "Nota qu'on n'a point marqué de limites."

(107) 1755.—"A new and accurate map of the English Empire in North America ... representing their rightful claim, as confirmed by charter and formal surrender of their Indian friends ... by a Society of Anti-Gallicans. London, 1755."

An engraved line, untruly marked "Bounds of the Hudson's Bay Company according to the Treaty of Utrecht,"* commences on the limit of the map, north-east of Lake Mistassin, and runs thence on a straight course south-westerly to the 49th parallel, which it follows to the westerly limit of the map, at about 100°.

* See note to map No. 83.

(108) 1755.—"North America, from the French of Mr. D'Anville, improved with the back settlements of Virginia and course of Ohio.....May 1755, published....by Thos. Jefferys...." (in Jefferys' History of the French Dominion, in North and South America .... London, 1760.)

From a point east of Lake Mistassin an engraved line follows the watershed westerly to the portage of Temiscaming, and thence, partly along and partly north of the height of land, to a point north-east of Lake Nepigon, and thence westerly, (crossing the Alemipissaki, a river falling into Lake Nepigon from the north, at a point where no stream is in existence), to the limit of the map, (in about the merid. of 88° west of London) in that quarter; it crosses a branch of the Moose. It is marked "Bounds of Hudson's Bay by the Treaty of Utrecht."* Another engraved line commences on the northern limit of the map, east of Hudson's Bay, and runs thence, south-westerly, to a point above the par. of 50°; it is transferred from, and entirely agrees with the like line on the original of D'Anville (1746, *ante*); "Canada" has no limits assigned to it on the west; the map extends beyond Lakes Tecamamiouen and Missisacaigan, Forts St. Germain, Abitibis, Le Sueur and Luillier are marked.

* See note to map No. 83.

NOTES ON MAPS, 1632–1857.

(109) 1755.—"North America, from the French of M. D'Anville. Published by Thos. Jefferys, 1755."

A line engraved and coloured, marked "Bounds of Hudson's Bay by the Treaty of Utrecht,"* follows the height of land from the western limit of the map, in the meridian of L. Nepigon, easterly beyond L. Mistassin. The name "Canada" applies to the country westward beyond Rainy Lake, the limit of the map in that quarter.

* See note to Map No. 83.

(110) 1755.—"Carte des Possessions Angloises et Françoises du Continent de l'Amerique, Septentrionale. 1755. Se vend à Londres chez...Millar, Rocque et autres..."

Shows a line exactly the same as that of Mitchell's map of 1755 already mentioned: it is engraved and coloured, but has no inscription. The map extends further to the westward and to the eastward than Mitchell's, but the line stops, incomplete, at either end, at the same points as on his.* The western boundary of the territory north of this line is indicated by the limitation of the colouring to a line commencing at the western termination of the firstly mentioned line and thence northerly to and along the eastern banks of Lakes Sioux and Assenipouals. The country south of the firstly mentioned line, and south of the parallel of its terminal point, westward to the limit of the map in about 105°, is coloured as a French possession, and named "Canada." This name commences midway between Rainy Lake and Lake Nepigon. (Though the text of this map is French, it is an English publication.)

* See note to map No. 83.

(111) 1755.—"Partie de l'Amerique Septent. qui comprend la Nouvelle France ou le Canada, par le Sr. Robert de Vaugondy, Geog. Ordinaire du Roy...1755."

Extends westward to a point a little west of Lake Abbitibis. The height of land is indicated by an engraved line, marked "Hauteurs des Terres." In the corner is a "Supplement pour les Lacs du Canada," which shows these lakes, from Ontario to Lake of the Woods, inclusive. The division of the waters between Rainy Lake and Lake Superior is shown. Forts Luillier, Le Sueur, St. Pierre and St. Charles are marked.

(112) 1755.—"Carte des Possessions Angloises et Françoises du Continent de l'Amerique Septentrionale, 1755." It is without publisher's or author's name, but the name "Thos. Kitchin, sculpsit," shows it to be an English publication. The marginal explanations are in French and English.

A line, engraved and coloured, follows the 49th parallel, from the western limit of the map, in about long. 105° west from Greenwich, to a point immediately west of Lake Abitibis, whence taking a turn to the south-east it follows the watershed, easterly and beyond Lake Mistassin. It bears the inscription "Borne entre la Canada et la terre de la Comp. de la Baie d'Hudson, reglée par les Commissaires après le Traite d'Utrecht."† The name "Canada," applied to the country south of this line, commences midway between Rainy Lake and Lake Nepigon. (This appears to be the same map as the one hereinbefore mentioned (No. 110) of like title and date, but showing a different boundary line.)

† See note to map No. 83.

(113) 1756.—"America verfertiget von Foh. George Schriberv in Leipsiz," in "Das Brittische Reich in America...Leipsiz 1756."

Gives, as the westerly and south-westerly boundary of "Canada," a coloured line, commencing at the mouth of the Bourbon [Nelson] River, thence up that river to L. Winnipeg, westerly along the line of the Saskatchewan River (not marked) a short distance, south-easterly to the Mississippi at a point due west of L. Superior, and down that river to its confluence with the Ohio. Labrador and Hudson's Bay, except that portion of the west coast north of the Nelson, are included in Canada. The source of the Mississippi is south west of L. Winnipeg.

NOTES ON MAPS, 1632–1857.

(114) 1756.—"Charte von dem Engellændischen u Franzœsischen Besitzungen in Nord America," by the same author, and in same work as the foregoing.

Gives a line,* engraved and coloured, the same as that on Mitchell's Map of 1755, hereinbefore mentioned, but stopping with the map a little east of Rainy Lake, and without inscription.

* See note to map No. 83.

(115) 1756.—"Carte des Possessions Françoises et Angloises en Canada...à Paris, chez le Sr. Longchamps, Geographe. 1756."

A line corresponding to that on De l'Isle's maps already mentioned (ed. 1722), runs from the northern limit of the map (in lat. 52°), east of Hudson's Bay, to a point south of Albany, where it is stopped by the title. The name "Canada," on the face of the map, applies westward to the furthest limit—a little east of Rainy Lake.

(116) 1756 (about).—"Carte Nouvelle de l'Amerique Angloise...Amsterdam, Mortier."

The name "Canada ou Nouvelle France," on the face of the map, applies to the country westward to the sources of the Mississippi. Forts Nemiscau and St. Germain, and the Fort on the north shore of Lake Nepigon, are marked.

(117) 1756 (about).—"Partie Orientale de la Nouvelle France ou du Canada...par Math. Seutter, Geographe de S. M. Imper. D'Augsbourgh."

A line engraved and coloured follows the height of land from the western limit of the map (a little west of the meridian of Lake Nipissing), easterly beyond Lake Mistassin.

(118) 1756 (about).—"Carte de la Nouvelle France.....Amsterdam chez la Veuve de Joselin (*l*) et fils."

The name "Canada ou Nouvelle France" commences just south of Lac des Sioux, but applies to the country westward to the limit of the map near the Western Ocean, and it includes Hudson's Bay.

(119) 1756 (about).—"Canada: ou partie de la Nouvelle France.....Amsterdam chez Covens et Mortier."

An engraved line follows the height of land, from the westerly limit of the map, at Lake Nepigon, to a point near Lake Abbitibi, which it approaches and crosses, running thence north-easterly and crossing Rupert R. midway between Lakes Mistassin and Nemiscau. The name "Canada ou Nouvelle France" is on the face of the map.

(120) 1756.—"Amerique Septentrionale.....par le Docteur Mitchell, traduit de l'Anglois. A Paris, par Le Rouge, Ingr. Geographe du Roy....1756." It is stated in the margin that the additional remarks contained in this edition are taken from the maps prepared by "Mr. le Chevalier de Rigaudière, &c." Another edition of the same map: "A Paris, par le Rouge.....1777, corrigée en 1776 par M. Hawkins, Brigadier des Armeés du Roi," may be noticed at the same time, as the two practically agree.

The northerly boundary line on the original of Mitchell, 1755, is here reproduced as shewing the English contention respecting the limits.* It bears the inscription "Limites selon Mitchel de la Baye d'Hudson selon le Traité d'Utrecht." On the one side—the west and south—this line is coloured blue; on the other side, from the Gulf as far west as the merid. of 85½° it is green; and for the rest of the distance yellow.

Another line commences on the northern limit, east of Hudson's Bay (in about lat. 52° 10′), and runs southerly, in the same position as that on De l'Isle's (ed. 1722), till it touches Mitchell's line (in lat. 50° 10′ and long. 75° 30′ nearly) which it follows to the parallel of 50°, along which it is continued to the westerly limit of the map, north of Lake of the Woods; it intersects Mitchell's line at the height of land, in long. 85° 30′, and again north of the easterly part of Lake of the woods. On the one side—that nearest the Bay—it is coloured yellow throughout; on the other side—from the northern limit of the map, and west as far as 85½°—it is green, and for the rest of the

* See note to map No. 83.

NOTES ON MAPS, 1632–1857.

distance blue. In the small map in the corner, the line from Cape Perdrix south-west to the parallel of 50° is green on the easterly, and yellow on the westerly side. It is marked "Limites proposées pour la Baye d'Hudson." In the margin it is explained that the blue colour indicates what is conceded to belong (according to Mitchell) to the French; the yellow, what belongs to the English; and the green what is in dispute between them. This would leave in dispute the territory intervening between the two lines as far west as 85½°, beyond which each concedes what the other claims. The following memo. appears (inter al.) in the margin:—"Je l'ai traduit et fait copier exactiment, j'ai même laissé les limites selon les pretensions de MM. les Anglois, ce qui sera ici sans consequence;" and again: "On scait que les limites supposées dan scette carte sont ici sans consequence et ne servent qu'à donnee une idée des differentes pretensions." At the mouth of the River Bagouagache, on the west bank is marked "Ancien Fort du Sr. du Luth." This river falls into Lake Superior a little east of the Nepigon.

(121) 1757.—"Carte des Prententions des Anglois dans l'Amerique Septentrionale, &c.," (in the last vol., published in 1757, of "Memoires des Commissaires du Roi et de ceux de Sa Majesté Britannique. Paris, 1755-7.")

The lakes to the westward of Lake Superior, together with the French Forts on or near them, are correctly marked; except Fort Bourbon which is cut off by the limit of the map. Partly on, and partly south of the 48th parallel, is shewn a portion of a river which corresponds with the upper reaches of the Missouri, the lower parts of which are seen further down. The Mississippi has its source in Lac Rouge, about 2° due south from the Lake of the Woods; Lac Rouge is also connected, by a river, with the Assiniboine, and with Lake Winnipeg. On the west coast an island, in the position of Vancouver, is shewn. The line of the main shore south of the Strait of San Juan, is run inwards, in a dotted line, immediately above which, and east of the island, is the inscription, "Mer de l'Ouest, inconnu." The dotted line in question appears to be that erroneously referred to by M. de Mofras as representing the Columbia River.

(122) 1760.—"A map of Canada and the north part of Louisiana, and the adjacent countries, by Thomas Jefferys," (bound with Jefferys' "History of the French Dominions, in North and South America. London, 1760.)"

Gives a pretty accurate representation of the lakes, and river communications, from west of Lake Superior to Hudson's Bay; the French forts in that quarter are marked. An affluent of the Mississippi issues from Red Lake or Missisacaigan, the sources of the main branch being almost due south of the Lake of the Woods, between 44° and 46° north, and 82° west from Ferro. The lower portion only of the Missouri is represented; and higher up, in an incomplete state, the "Manton's River," with the inscripton, "Some suppose a communication between Manton's River and the Missouri and Mississippi." Either of these produced, would connect with the Manton, which in reality represents the upper Missouri. "Canada" has no limits assigned to it on the north or west; the boundary between it and Louisiana is not shewn. "Pointe des Bois Forts," on Red River is marked.

(123) 1762.—"A map of Canada and the north part of Louisiana, with the adjacent countrys, by Thos. Jefferys, Geographer to His Majesty, 1762, published by Thos. Jefferys. . . . ." (copy attached to Mr. Mills' First Report.)

"Canada" is bounded on the north by a coloured line marked "High Lands," which follows the height of land from "Lake des Fortes" to a point west of L. Mistassin; its southerly boundary line is along the St. Lawrence, Ottawa and French Rivers, and Lakes Huron and Superior, and (from the head of L. Superior westward to the meridian of 97° west of Ferro) the northern boundary of Louisiana, viz.: the height of land (marked "Land's Height") which divides the waters of the Mississippi and the Winnipeg systems; on the west and north-west no boundaries are assigned to it. The western watershed of Lake Superior, and the lake and river communication between it and Hudson's Bay, together with the several French forts in that direction are shown; also Forts Abitibis, L'Huillier, Le Sueur, Perrot and Pte. des Bois. The source of the Mississippi is correctly marked with reference to the Lake of the Woods, but a possible extension is in-

dicated by dots. The Missouri is shewn as far as the par. of 44°, where there is a break, north-west of which is seen a portion of a river, and, between the two the inscription, "Some suppose a communication between the Manton River and the Missouri or Mississippi." As already mentioned, this Manton River is the upper part of the Missouri, which the French had explored from the direction of the Lakes of the Woods and Winnipeg; their exploration of the lower part of it having proceeded from its mouth upwards. A line due west from the Lake of the Woods would not touch any part of either the Missouri or Mississippi, as here laid down. The name Manton probably proceeds from the name—Mandane, Manton, Mantane—of one of the most powerful of the Indian nations met with by the Chevalier de la Verendrye and other French explorers on the Upper Missouri. Their chief villages were near the great bend of the river.

(124) 1762.—"L'Amerique Septentrionale, divisée en ses principaux Etats. Par le Sr. Janvier, Geographe. A Paris, chez Lattré, graveur, Rue St. Jacques, à la Ville de Bordeaux, 1762."

Canada extends westward to the Pacific, and northward to the 65th degree. Its southern boundary is shewn by a line engraved and coloured, following the southern watershed of the St. Lawrence system, from the Gulf westward to a point due west of Fond du Lac, thence westerly along the northern watershed of the Mississippi [including the Missouri] system which is also here shewn as the northern boundary of Louisiana, to the south-easterly corner of "Mer ou Baye de l'Ouest." The source of the Mississippi is south-west of the Lake of the Woods, in about long 105° and lat. 45½°. The Missouri rises in a range of mountains, at about long. 112°, and lat. 44°. Lac Michinipi is in nearly the position of L. Athabasca, which it seems intended to represent. Forts Abitibis and St. Germain are marked. The name "Canada" commences at the merid. of 95°.

(125) 1763 (about).—"Chart of the Atlantic Ocean, with the British, French and Spanish settlements. . . . . published by T. Jefferys."

A line, engraved and in part coloured, follows the parallel of 49°, from the westerly limit of the map (about 3° west of Lake of the Woods) to a point near Lake Mistassin, and thence north-easterly to a point on the Labrador coast, in about lat. 56°.* Here it is intimated that "Davis ran into a harbour. . . . . in lat. 56°." Another boundary line on the north, is indicated by the colouring of the face of the map: this line commences at Hudson's Straits, and passes south-westerly to a point south of Lake Abitibi, thus far conforming to the line on Bellin's map of 1755, already mentioned; it passes thence north-westerly near the estuary of the Moose, crossing the Albany between Lake St. Anne and Hudson's Bay; and running thence to and along the east shore of Split Lake, it ends on the limit of the map north of the Churchill. "Canada" extends westward to the limit of the map; the boundary between it and Louisiana is a line, engraved and coloured, following the 45th parallel from the same western limit easterly to the Mississippi, which it follows southerly. The source of this river is at a point due south of Lake of the Woods.

* See note to map No. 83.

(126) 1763 (about).—A map of part of North America, without author's or publisher's name, but clearly a section of the preceding map of Jefferys. On the corner is pasted a piece of paper with the following printed thereon: "The claims of the French in 1756 are coloured yellow." The paper and print of this memo. seem conformable to those of the map, and to have been contemporaneous with it.

This map has a line starting from Hudson's Straits, passing south-westerly, midway between the Bay and Lake Mistassin, and to a point south of Lake Abitibis, and thence north-westerly, crossing the Moose and the Albany as in the preceding, to Split Lake, and thence north-westerly, beyond the Churchill. It is marked "Limits of Canada from Bellin's Carte, 1754." Outside this line—westward to the limit of the map, south-westward to the western watershed of the Missouri, south to the Gulf of Mexico, south-easterly to the Alleghanies, and along the rear of the English colonies to the sea at Casko Bay—all is coloured yellow as a French possession. Another engraved line following the 49th parallel is shown, as in the preceding map.*

* See note to map, No. 83.

NOTES ON MAPS, 1632–1857.

(127) 1763 (about).—The same section of the same map as the preceding. A piece of paper pasted in the corner has the following printed on it: "Plate II. The French dominions, as proposed by M. de Bussy, in 1761, are coloured yellow, and the lands proposed by M. de Bussy to be neutral are coloured green." The paper and print of this memo. are of the same character as those of the memo. on the preceding map.

An engraved line follows the parallel of 49° as in the two preceding maps. The southern boundary of Canada is a coloured line, commencing at the western limit of the map in latitude 45½°, thence easterly between that and the parallel of 46°, and along the northerly watershed of the Mississippi to Fond du Lac, thence through Lake Superior, St. Mary's River, &c. South of this line the yellow colouring extends westward to the westerly watershed of the Missouri.

(128) 1763 (about).—"A general map of North America.....from actual surveys and observation made in the army employed there from the year 1754 to 1761. Drawn by the late John Roque, Topographer to His Britannic Majesty. London, published by M. A. Roque and A. Dury."

A line, engraved and coloured, runs from a point east of Lake Mistassin, westerly, along the height of land (but crossing the head waters of the Moose on the way) to the north shore of Lake Nepigon, and thence, north-westerly and across the Nelson and Churchill rivers to the parallel of 60°. All to the north of this line is distinguished by a difference of colour from the territories to the south. On the west shore of bay is the name "British Canada." Another engraved line follows the 49th parallel, from a point due south of Moose Fort, westward. It is marked "The southern boundary of the Hudson's Bay Company's territories settled by the Commissaries after the Treaty of Utrecht."* The inscription "Hudson's Bay Company's lands," extends on the 50th parallel, from a point 10° west of L. Manitoba, to a point south of Fort Rupert. The sources of the Mississippi are in lat. 45½° and long. 101°. The Missouri is cut short: it has on it the inscription "The head not yet discovered." Further north and west, a portion of a river corresponding with the Manton River already mentioned, is shown, with the inscription: "It is not yet determined whether this is the source of the Missouri or not." The French forts on the lakes beyond Superior are represented as being in existence.

* See note to map, No. 83.

(129) 1763 (about).—"A map of the British and French settlements in North America. J. Lodge, delin. et sculp." No author's or publisher's name. It seems to have been specially intended to show the claims of the English. In the margin reference is made to "The French encroachments."

An engraved line marked "Bounds of Hudson's Bay by the Treaty of Utrecht" commences at a point north-east of L. Mistassin, and runs westerly, exactly as in Mitchell's map of 1755, to the terminal point of the like line on that map north of the Lake of the Woods: it is continued thence westerly about a degree, leaving a space* of nearly another degree between its terminal point and the western limit of the map. This line crosses a branch of the Moose as in Mitchell's; and from this point westward to near Nepigon river, "The Northern Mountains or Ye Land's Height," are delineated as being considerably below the line. The name "New France or Canada," commences at Rainy River between Rainy Lake and Lake of the Woods: it applies westward to the limit of the map. The sources of the Mississippi are in nearly the proper position with reference to Lake of the Woods. Forts Abitibis, Lullier and Le Sueur are marked as in existence.

* See note to map, No. 83.

(130) 1763.—"A new map of North America from the latest discoveries, 1763."

Has an engraved line marked "Bounds of Hudson's Bay by the Treaty of Utrecht,"* corresponding exactly with that on the preceding map, but here extending to the westerly limit of the map, which is on the same meridian as the limit of the preceding. The sources of the Mississippi, in relation to Lake of the Woods, are marked in nearly the proper positions. Forts Abitibis, L'Hullier and LeSueur are also marked.

* See note to map, No. 83.

NOTES ON MAPS, 1632–1857.

(131) 1763.—"L'Amerique, par le Sieur Janvier en 1753, revuè...par Desnos en 1763. A Paris, chez Desnos, Ing. Geographe...."

A line, engraved and coloured, commences at the south-easterly point of Labrador, and runs north-westerly and westerly to the Albany River, leaving Lake Mistassin to the north and closely skirting the foot of James' Bay. West of the Bay is the name "Nouvelle Albion"—a name properly applicable to a tract of country on the Pacific.

(132) 1763.—"A new map of North America...1763. J. Spilsburg, sculpt."

The western limit of the map is a little west of the Lake of the Woods. A line, engraved and coloured, and marked "Bounds of Hudson's Bay by the Treaty of Utrecht,"* commences at the point in the western limit where the line on Mitchell's map of 1755 (hereinbefore mentioned), produced westerly would end, and runs thence easterly, and in about the same position as that on Mitchell's, to the eastern limit of the map, beyond Mistassin. The name "New France, or Canada," commences just east of the Lake of the Woods, but refers to the country westward to the limit of the map: the southern boundary, west of Lake Superior, being the parallel of 48°, is here marked "The north bounds of New England by Charter." The waters of Lake of the Woods find their outlet through Long Lake into Lake Superior.

* See note to map No. 83.

(133) 1763 (about).—"A New Map of North America, showing the advantages obtained therein to England by the Peace."

Has a line* corresponding to that on Mitchell's map of 1755 (hereinbefore mentioned), as far west as the terminal point of that line, and running thence south-westerly to the western limit of the map, in about long. 103° and lat. 49° 12'. The name "Canada," on the face of the map applies westward to the same limit. The sources of the Mississippi are in about their true position. Lake of the Woods has no feeders, and finds outlet through Rainy and Long Lakes into Lake Superior.

* See note to map No. 83.

(134) 1763.—"A new and accurate map of North America including the British acquisitions gained by the late war...1763."

An engraved line, marked "Bounds of Hudson's Bay by the Treaty of Utrecht,"* runs from the eastern limit of the map, east of Lake Mistassin, westerly along the height of land (but crossing the Moose on the way), to a point north of Lake Nepigon; thence westerly and south-westerly, north of Lake of the Woods and to the limit of the map, in about 100°, a little below the 50th parallel. The name "New France, or Canada," commences just east of Rainy Lake. A small river appears as a feeder to the Lake of the Woods, whose discharge is through Rainy and Long Lakes into Lake Superior.

* See note to map No. 83.

(135) 1763 (about).—"North America, from the French of Mr. D'Anville, improved with the English surveys made since the Peace." (Copy attached to Mr. Mills' first Report.)

A line, coloured and marked as a mountain chain, commences east of L. Mistassin, and follows the position of the height of land westerly to the portage of Temiscamingue, thence westerly, partly along and partly north of the position of the height of land, to a point north of Lake Nepigon, and thence (and from this point marked "The Land's Height") north-westerly in the direction of Split Lake to the limit of the map, in about lat. 53° 30' and long. 96° 30'. The line crosses a branch of the Moose. "Canada" has no limit on the west but that of the map; on the south-west it is bounded by the Mississippi, from its confluence with the Ohio to the point, in lat. 45°, where it is cut short by the border of the map. From the Mississippi eastward, the Ohio forms the boundary.

(136) 1764.—"Carte de la Partie Septentrionale et Occidentale de l'Amerique...1764," in work "Mémoires et Observation Geographiques par Mr..... [Bailly d'Engen], Lausanne, 1765."

Shows the western watershed of Lake Superior, and thence westward, the lake and

river communication to Hudson's Bay. The two branches of the Poskoyac [Saskatchewan] rise in the Rocky Mountains (not named).

(137) 1771.—"Amerique.....par le Sr. Robert de Vaugondy, Geo. Ord. du Roi.....1771, à Paris chez l'auteur."

Has a line, engraved and coloured, corresponding with that on De l'Isle's map (ed. 1722), but ending on the shore of the Bay, considerably to the west of the mouth of the Churchill. Within this line is the name "Nouvelle Bretagne." The Mississippi and Poskoyac rise in a chain of mountains, in which other rivers that flow westward to the sea have also their sources. The Upper Mississippi is indicated as the boundary between Louisiana and Canada. North of the Poskoyac are two large lakes, one of which, named Michinipi, seems intended, as heretofore mentioned, to represent Lake Athabasca.

(138) 1772.—"A map of the British Dominions in North America, according to the Treaty in 1763. By Peter Bell, Geographer, 1772." It is bound with the work, "History of the British Dominion in America...London: Strachan.....and Beckett & Co., 1773."

The Mississippi is coloured as a boundary, from its confluence with the Illinois to the point where it stops, incomplete, south-west of Lake of the Woods, in long. 102°, and lat. 47½°. All to the west of it is named Louisiana; north and north-east of it is "Canada," having for northern boundary a line, engraved and coloured, commencing north-east of Lake Mistassin, and following the height of land (crossing the Moose, however, on the way) westward to a point north of Lake Nepigon, whence it runs south-westerly to the river Winnipeg. West of this point, all is blank and marked, "Parts undiscovered." These parts would appear by the map to pertain to Canada.* The waters of Lake of the Woods flow through Lac Tecamamiouen and Long Lake into Lake Superior. (No. 139 has been cancelled.)

* These "parts undiscovered," however, had long before been discovered and occupied by the French, and were at this period in the occupation of their Canadian successors, French and English. The Hudson's Bay Company had not yet set foot in the Winnipeg basin.

(140) 1772.—"A map of the whole continent of America...compiled from D'Anville's maps of that Continent, 1772."

An engraved line, marked, "The southern boundary of Hudson's Bay Company's Territories settled by Commissaries after the Treaty of Utrecht,"† follows the parallel of 49°, from Red River easterly to a point south-east of Moose Fort; thence it follows the height of land to a point north-east of Lake Mistassin; and thence it runs north-easterly to the Labrador coast, in about lat. 56½°. The height of land west of Lake Superior, and also that from Nepigon to Split Lake, are marked. The map extends to the Pacific.

† See note to map No. 83.

(141) 1773.—"Partie de l'Amerique Septentrionale, qui comprend le Canada, la Louisiane...&c., ...projettée et assujettie par Mr. Bonne. A Paris, chez Lattré, rue St. Jacques, à la Ville de Bordeaux. Avec priv. du Roy, 1773."

A line, engraved and coloured, commencing east of Lake Mistassin, takes a sweep northward of that lake to Lake Nemiscau, whence it accords with the line on Bellin's map of 1755, terminating as in that map at a point beyond the Churchill. The name "Canada" commences at the Mississippi, north of the Illinois. A line, engraved and coloured, follows the Mississippi to its source (nearly); and thence north-westerly to Red River; thence it is continued as a coloured line to the southerly shore of Lac Ouinipigon, where the River Maurepas [Winnipeg] discharges into it; thence along the westerly shore of that lake to the southerly bank of the river which connects it with Lac des Prairies [Manitoba]; and thence along that southerly bank and the easterly shore of Lac des Prairies, to the limit of the map at about the centre of that lake. No boundary is assigned to Canada toward the north-west. The source of the Mississippi is in nearly the right position with reference to the Lake of the Woods; it is marked, "Sources du Mississippi." The waters of the Churchill and Nelson Rivers flow, from the point where they are respectively intersected by the northerly line, on the one hand to Hudson's Bay, and on the other to Lac Burbon.

NOTES ON MAPS, 1632–1857.

(142) 1774.—"A map of the British Empire in North America. By Samuel Dunn, mathematician. London: 10th January, 1774."

The name "Canada" commences east of Rainy Lake. It applies westward to the limit of the map, beyond Lakes Winnipeg and Manitoba. The height of land, marked "The Land's Height" is shewn as running to Split Lake. In the margin is the memo.:—"The Hudson's Bay Company's Territories comprehending New South Wales, New North Wales, Prince William's Land, with the Arctic Lands, down to the London coast in Greenland, and New Britain or Labrador.—Canada, divided into the Government of Quebec and Indian Canada.—The Reserved Lands which contain all the countries comprehended between the Apellaches and the Mississippi." The name Labrador or New Britain is here applied to the territory north of the parallel of the East Main River; New South Wales to that north of the Albany as far as Nelson River; New North Wales to that west of Button's Bay.

(143) 1774.—"North America, as divided among the European Powers. By Samuel Dunn, Mathematician. London: Sayer, 1774." (Dedicated to Gov. Pownall, on whose recommendation it is here stated to have been undertaken.)

"Canada" is bounded on the south-west by the Mississippi to its source. No limits are assigned to it on the west or north. The map extends to the Pacific Ocean, into which a river falls, which occupies the position of and is evidently intended to represent the Columbia.

(144) 1774.—"A Map of the British Dominions in North America," (in work, "A complete History of the late War. Dublin: 1774.")

Contains a line marked "Bounds of Hudson's Bay by the Treaty of Utrecht."* It follows substantially the height of land, from a point west of L. Mistassin to a point north of Lake Nepigon (crossing however a river), whence it runs westerly of the northern watershed, passing the Lake of the Woods at a distance of about half a degree north of that Lake.†

* See note to map No. 83, *ante*.

† Summarized from Mr. Lindsey's "Unsettled Boundaries of Ontario," p. 98.

(145) 1775.—"Pownall's Map of the British Provinces in North America, A.D. 1775."* (Copy in Mr. Mills' First Report: the original is to be found in the Department of the Secretary of State, at Washington).

Shews the "Province of Quebec," as constituted by the Quebec Bill, 1774. The name commences at the Mississippi. A line, engraved and coloured, follows what are here called "High Lands." It commences south-east of Lake Mistassin, and ends on the limit of the map towards Split Lake, in about 51½° north, and 94° west. It crosses a branch of the Moose, and the position of the waters of or connected with Long Lake; otherwise it substantially follows the height of land. The southern boundary of the Province from the Bay of Chaleurs, westward to the Mississippi, is that set out in the Act of 1774; it thence follows the Mississippi northerly to the limit of the map in latitude 45½° and longitude 96° nearly. An affluent of this river issues from Red Lake.

* This map shews the Province of Quebec, as constituted in 1774. It will be observed, that north of the point of confluence of the Ohio and Mississippi, the western boundary is along the latter river, and not by a line drawn due north from that point of confluence. This evidence of contemporaneous opinion, and from so high an authority as Governor Pownall, is entitled to great weight. Dr. Russell, whose opinion is also of value, in his History of America, written probably immediately after the passing of the Act, and published as early as 1778, states that one of the objects of the Quebec Bill was the extension of the Province of Quebec "westward to the banks of the Mississippi." (Vol. 2, p. 469). See also for the Mississippi, as a westerly boundary line, certain maps hereinafter mentioned, viz., the map (1775 or subsequently, mentioned on De Reinhard's trial; D'Anville's map, published by Sayer & Bennett, *post*, 1775; Pownall's 1776, *post*; De la Rochelle's, 1781; Buell's, 1783; Long's, 1791.

(146) 1775 (or subsequently).—Maps referred to in the evidence of MM. Bouchette and Sax, respectively, in De Reinhard's case, pp. 210-12, *ante*; viz.:

(*a*) A Map by Mr. Bouchette, Surveyor-General, shewing the western boundary of

Quebec to be the Mississippi River, from its junction with the Ohio to its source in Turtle Lake, and thence by a line drawn due north to Hudson's Bay.

(*b*) A Map by Jefferys shewing the western boundary of the same Province to be the Mississippi to Turtle Lake; whence no boundary is laid down.

(*c*) Certain Maps mentioned by Mr. Bouchette, shewing the Mississippi, from its confluence with the Ohio to Turtle Lake, to be the western boundary of Upper Canada.

(*d*) A Map* of Bowen's shewing the western boundary of Upper Canada as running due north from the confluence of the Ohio and Mississippi.

* This is the only published Map of which mention has been found made as shewing the westerly boundary to be a line drawn due north from the confluence of the Ohio and Mississippi. Search has been made here and abroad for any map shewing such a line, but unsuccessfully; and one is led to doubt without at all calling the good faith of the witness in question, whether the line on this particular map of Bowen's was not really in MS.

(147–9) 1775 (about).—"An accurate Map of North America describing and distinguishing the British and Spanish Dominions according to the Treaty of the 10th February, 1763. By Eman. Bowen, Geographer to His Majesty, and Jno. Gibson, Engraver." (From "The American Atlas.....engraved by the late Thomas Jefferys, Geographer to the King [and others]. London: Sayer and Bennett, 1776."

An engraved line follows the height of land, from a point north-east of Lake Mistassin, westerly to the meridian of Moose Fort where it meets the 49th parallel; it is continued thence west, along that parallel, to Red River where the map stops; it is marked "The southern boundary of the Hudson's Bay Company's territories settled by Commissaries after the Treaty of Utrecht."* The Mississippi runs from a short distance north-west of, and into Red Lake: from that lake southward it is indicated by an engraved and coloured line, as the limit between Louisiana and the English possessions; it forms in its upper part the south-western boundary of "Canada:" but north of Red Lake no western limit is assigned to that country. The Mississippi and the Missouri are correctly laid down in relation to each other: there is added after the name of each: "whose head is unknown." The old Province of Quebec is shewn.

Another edition of Bowen and Gibson's map, "London, printed for Thomas Sayer, 2nd July, 1775," practically agrees with the preceding. A space, however, intervenes between Red River and the western limit of the map, and over this space the boundary line of the 49th parallel is not continued; and the colouring (but not the engraving) of the Mississippi line extends a little to the north-west of Red Lake.

In yet another of Bowen and Gibson's maps, without date, but published by Robert Sayer, the boundary line of 49° is carried west to the meridian of about 103°, which is also the limit of the map; and the name "New France or Canada" commences in long. 92½° west of Greenwich.

In Greenhow's *History of Oregon*, it is stated (app. F.), that on a certain map therein mentioned, of these authors, the boundary line of Hudson's Bay is continued from the point where the 49th parallel intersects the Red River, down that river to Lake Winnipeg; this accords in effect with certain maps wherein the southern boundary terminates at or near the River Winnipeg; and is carried to and along the eastern shore of the lake.

* See note to map No. 83.

(150) 1775.—"North America from the French of Mr. D'Anville. London: Sayer & Bennett, 1775." On it is the memo:—"The boundaries of the Provinces, since the conquest of Canada, are laid down as settled by the King in Council."

"Canada" extends westward to the limit of the map, midway between Rainy Lake and Lake of the Woods. The name commences on the westerly shore of Lake Superior. The height of land, marked, "The Land's Height," is laid down from the limit of the map, in the direction of Split Lake, to a point north-east of Lake Nepigon. So far, it is only a range of mountains. Thence easterly to a point beyond Mistassin it is doubly coloured; and from thence it proceeds—also coloured—to the limit of the map, in the direction of Davis' Inlet. A division of the waters is marked, though not correctly,

between Rainy Lake and Lake Superior. The southern boundary is carried from the Bay of Chaleurs westward to the Ohio, and along the Ohio to its confluence with the Mississippi; and thence the boundary line runs northward along that river to the limit of the map in latitude 45°. It may fairly be assumed—notwithstanding that the territory between the Great Lakes and the Mississippi is marked "Reserved Lands," and that the name of that Province is confined within its bounds of 1763—that this southerly and south-westerly line was intended to represent that provided for by the Quebec Bill of 1774, as the limit, in those directions, of the Province of Quebec; the Ohio boundary, at all events, could have no other significance.

(151) 1776.—"North America" (from Jefferys' American Atlas, or a geographical description of the whole continent of America, and chiefly the British colonies, composed from numerous surveys which were made by order of the Government.....engraved by Thomas Jefferys, London, 1776-8."

Shews the first Province of Quebec; the lakes and rivers from Lake Superior to Lake Winnipeg; but not the communication between the latter and Hudson's Bay, the River Nelson not flowing out of it. "Canada" has no limits on the north or west; the Mississippi bounds it on the south-west.

(152) 1776.—"A general Map of the middle British Colonies in America...also of the bordering parts of the Province of Quebec, and corrected from Gov. Pownall's late Map, 1776...London: Sayer & Bennett, 1776..."

In the corner is given "A sketch of the upper parts of Canada," which shows the Mississippi, to about the St. Croix river, as included in that Province.

(153) 1776.—"A Map of the Province of New York, by order of His Excellency, William Tryon, Esquire, Captain General and Governor of the same, by Claude Joseph Sauthier...Engraved by Faden, successor to the late Mr. Thomas Jefferys. 1776."

The portion of Canada which is shewn, extending westward to about a league beyond Fort Frontenac, is named "Canada, or Province of Quebec."

(154) 1776.—"North America and the West Indies, with the opposite coasts of Europe and Africa" (from "The American Atlas...by the late Mr. Thomas Jefferys [and others]. London: Sayer & Bennett. 1776."

Shews the western watershed of Lake Superior. A height of land runs to and north-westerly beyond Split Lake, but is only indicated as a mountain range, and marked "The Land's Height." There is no communication between Lake Winnipeg and Hudson's Bay."*

* In this, as in many other maps, the waters of the Winnipeg system are not shewn as discharging themselves by the Nelson or any other river into Hudson's Bay. In many cases even, where the river is laid down as connected at either end with Lake Winnipeg and the Bay, a division of the waters is shewn at Split Lake (Lac des Forts), flowing, on the one hand, to the Bay, and, on the other, to Lake Winnipeg. Hence it came to pass that these maps,—some of them published in the interests of the Company,—conceded to Canada, till recently, the whole Winnipeg Basin, in fact, everything south and west of the Height of Land, which was thought to extend continuously even beyond the Churchill. These waters were supposed meantime to find egress from the Winnipeg Basin in one of two ways—*first*, by the Great River of the West (understood to be the Saskatchewan or Assiniboine united to the Columbia); or, *secondly*, by the St. Lawrence, of whose system the waters of those lakes of the far west were indicated as forming a part.

(155) 1777..."A New Map of the British Colonies in North America.....by John Andrews. London: Published January 16th, 1777, by John Andrews...and Andrew Dury."

This is another of the maps sent by the Hudson's Bay Company, to the Dominion Government, for the purposes of the present arbitration. It has a line, engraved and coloured, which commences at the western limit of the map, in longtitude 87°, and runs easterly, partly along and partly north of the height of land, to a point east of Lake Nepigon; whence it runs north-easterly to the limit of the map, in lat. 53° and long. 66°,

nearly. It crosses a branch of the Moose. The name "Canada" commences north of this line, midway between Lake Abitibis and Hudson's Bay. Fort Abitibis is marked, as also the "French House," on Lake Mistassin; Fort Rupert is marked "abandoned."

(156) 1777.—"Amerique Septentrionale, par le Docteur Mitchell, traduit de l'Anglois . . . . A Paris: Par Le Rouge, 1777."

This map has been already referred to, in connection with Le Rouge's earlier edition, 1756.

(157) 1777.—"A new and correct map of North America...corrected from the original materials of Gov. Pownall. London: Sayer & Bennett, 1777."

An engraved line, commencing on the limit of the map, north-east of Lake Mistassin, follows the height of land westward to the portage of Temiscaming; it is marked "land's height;" it does not extend further west. The intention may have been to treat the 49th parallel as the continuation, but there is no indication of this on the face of the map. A stream enters Red Lake from the north-west; it is marked "Mississippi R., whose head is unknown;" a line of dots, marked "conjectural," connects it with Red River. From Red Lake downwards its course is marked by a line, engraved and coloured, which would seem to form the south-western boundary of "Canada." North of Red Lake, no western limit is shown, and on the north there is no line except that already mentioned. The map extends westward to Lake Winnipeg, and northward to Cape Henriette Marie.

(158) 1777.—"Amerique ou Indes Occidentales...par Vaugondy 1778," in "Atlas Ameriquain Septentrional...Traduit des cartes levées par ordre du Gouvernment Britannique, par le Major Holland, &c. Paris, chez Le Rouge, 1778."

Has a line corresponding with that on De l'Isle's Map (ed. 1722), but ending at the mouth of R. du Loup west of the Churchill. Between this line and Hudson's Bay is the name "Nouvelle Bretagne."

(159) 1778.—"Theatre de la Guerre en Amerique," from the same Atlas.

A line corresponding with that on De l'Isle's Map (ed. 1722), runs from the par. of 53°, being the northerly limit of the map east of Hudson's Bay, to the 50th parallel, which it follows to the westerly limit, a little beyond the meridian of Michipicoton.

(160) 1778.—The World, with the latest discoveries, from the best authorities...J. Lodge, sculpt," (in work, "History of America...by William Russell, Esq., of Gray's Inn ...London...1778."

Shews a line running from about Cape Perdrix direct to Lake Mistassin. Recommencing south of, but not touching that Lake, it runs westerly in about the same position as that on Mitchell's Map of 1755, to a point north of Lake of the Woods, being the same point at which it stops in Mitchell's.*

* See note to map No. 83.

(161) 1778.—"An exact map of the Five Great Lakes...and Hudson's Bay Territories." "J. Lodge, sculpt." (in the same work).

A range of mountains, along portions of which a line of engraved dots appears, extends from the head of Nodway's River, on the eastern limit of the map, westward to a point north of Lake Nepigon; and thence north-westward, in the direction of Split Lake, to the limit of the map in that quarter, in 92° west and 53° north. It crosses the middle branch of the Moose, and is marked "Bounds of the Hudson's Bay Company."* The name "Canada" commences midway between Rainy Lake and the R. Nepigon.

* See note to map No. 83.

(162) 1778.—"A General Map of North America," "engraved by J. Lodge from the late Mr. Jefferys..." (in same work).

An engraved line, marked "Bounds of Hudson's Bay by the Treaty of Utrecht."* and commencing at a point north-east of Mistassin, conforms exactly to the line on

* See note to map No. 83.

NOTES ON MAPS, 1632–1857.

Mitchell's Map of 1755, as far west as the terminal point of that line, whence it passes westward to the limit of the map, a short distance beyond Lake of the Woods. It crosses the middle branch of the Moose.

(163) 1778.—"A new Map of North America, from the latest discoveries, 1778. Engraved for Carver's Travels."

An engraved line marked "Proposed limits of Hudson's Bay," runs from the position of Cape Perdrix on a straight course south-west to the north-east shore of Lake Mistassin. This was the line proposed by the Hudson's Bay Company in 1712. Another engraved line* commences at a point north east of this Lake, and runs thence westerly and to the north of what are there called the Northern Mountains, and north of the true position of the height of land, to a point north of Lake Nepigon. From the last mentioned point, the line runs westerly, corresponding exactly with that on Mitchell's map of 1755, and terminating at the same point, north of the lake of the Woods, as the line on that map. The sources of the Mississippi in reference to the Lake of the Woods are near their true position. The water communications between this Lake and Hudson's Bay are shown with some approach to correctness. The map extends to the Pacific; an inland sea—"Western Sea,"—being indicated in the same position as on the maps of De l'Isle and Buache.† No limits are assigned to "Canada" on the west, nor is the boundary between it and Louisiana shewn. Forts Charles, Maurepas and Bourbon are marked.

* See note to map No. 83.

† See note to map of 1700, *ante*.

(164) 1778.—"A Plan of Captain Carver's Travels in the interior parts of North America, in 1766 and 1767," (in same work).

The sources of the Mississippi are placed in almost their true position, and due south of L. of the Woods. The division of the waters between Lakes Superior and La Pluie is clearly marked.

(165) 1779.—A map in the "History of the American War," published in Dublin, 1779.

Has a line marked "Bounds of the Hudson's Bay by the Treaty of Utrecht." It rises north of lat. 50°, near the merid. of 68°, and terminates on the west at lat. 50° north of Lake of the Woods. (Summarized from Mr. Lindsey's work, p. 99.)

(166) 1780.—"L'Amerique..par le Sieur Janvier, à Paris, chez Lattré, graveur...1780."

Shows "Mer ou Baye de l'Ouest," as in Buache's maps hereinbefore referred to. A coloured line, which seems to indicate the northern boundary of "Canada," runs easterly from this sea, just above the parallel of 50° to the coast of Labrador; the southern boundary is marked by a line engraved and coloured, which runs from the south-east corner of the sea in question, easterly to and along the watershed between the Mississippi and Winnipeg systems, and thence following the southerly watershed of the great lakes and of the St. Lawrence to the [Atlantic] sea.

(167) 1781.—De la Rochelle's Map, published in London, 1781.

Shews as the western boundary [of the Province of Quebec,] a line following the Mississippi River to Red Lake, thence north to Rainy Lake, and thence some distance north, to Hudson's Bay boundary, north of Rainy Lake.

(168) 1782.—"Hémisphère Occidental ...par Guillaume de l'Isle...revué, corrigé et augmenté par Dezauche, successeur des Srs. De Lisle et Phil. Buache...1782. A Paris chez Dezauche...a seul charge de l'entrepot general des Cartes de la marine... ;" there is in the corner a memo.: "Phil Buache...gendre de l'auteur."

Has a line, engraved and coloured, corresponding nearly to that on De l'Isle's map (ed. 1722) but crossing the R. Danoise [Churchill] and terminating at a point north of it, without approaching the Bay. The western watershed of Lake Superior is marked, and beyond it the various lakes and rivers which form the communication with Hudson's Bay. The source of the Mississppi is south-west of Lake of the Woods. "Canada" extends to the Western Sea: the name commences at Lake Manitoba. The boundary between it and Louisiana is a line, engraved and coloured, commencing at the Rocky

Mountains (not named), and running thence easterly to and along the northerly water-shed of the Missouri, to the parallel of the junction of the Illinois and Mississippi, and thence due east to the Alleghanies.

(169) 1783 (about).—"A new map of the United States ... with the British Dominions, by Samuel Dunn, improved ... from ... Carver. London, Laurie & Whittle."

A line, engraved and coloured, and evidently intended to represent that of the Treaty of 1783, but carried along the Kamanistiquia (named also Long Lake), and north of Rainy Lake, runs to and through the Lake of the Woods, and thence westerly a short distance, with the inscription "To the Mississippi." Canada has no limits on the west or north: the name commences east of Rainy Lake. The limit of the map on the west is beyond Lake of the Meadows [Manitoba]. "The land's height," shewn as a range of mountains only, runs to Split Lake. No communication is shewn between Lake Winnipeg and Hudson's Bay.

(170) 1783.—"America. New and correct map of the United States of North America, agreeable to the peace of 1783, showing the boundary of Hudson's Bay according to the Treaty of Utrecht. By Abel Buell, New Haven."

The southern boundary of Hudson's Bay, extends, by a well-marked red line north of Lake of the Woods and north of Lake Temiscaming, and does not follow the water-shed. The Ohio River, and the Mississippi as far as it runs north, are given as the southern and western boundaries respectively of the then Province of Quebec.

(171) 1785.—"United States of North America, with the British and Spanish Territory, according to the Treaty of 1784, pub. 1785."

Shews the Mississippi as the boundary of "Canada," westward of Lake of the Woods.

(172) 1785.—"Etats-Unis . . à Paris, chez de la Marche, 1785."

The international boundary is shewn, from a point 1½° due west of Lac des Bois, easterly to the head of the Connecticut River; all north of it, including James's Bay, to the limit of the map, in 53°, is "Canada." A little to the south-west of L. des Bois, is shewn the head of the Mississippi with the memo.: "Mississippi tant la source, est encore inconnu." From the westerly termination of the international boundary, already mentioned, a coloured and engraved line is drawn to this supposed source of the Mississippi, and is thence continued down the river to the Illinois, thence eastward to the Alleghanies, and thence northward to the international boundary line in Lake Erie. Across the face of the country enclosed by these lines is the memo.: "Cedées aux Etats-Unis le 30, *9bre*, 1782."

(173) 1786.—"Americæ Mappa Generalis . . Hommannianinis Heredibus, 1786."

Has a line corresponding with that on De l'Isle's map; it is closer, however, to the Bay than is shewn on the ed. of 1722, and ends at the mouth of the Churchill. Within it is the name "Nova Britannia." The name "Canada v. Nova Frangia" commences west of L. Assinipouals [Winnipeg].

(174) 1787.—"Mappe Monde—Hémisphère Occidental," in the "Atlas Encyclopédique ... par M. Bonne, Ing. Hyd. de la Marine, et par M. Desmarest, de l'Academie Royale des Sciences. A Paris, 1787."

The name "Canada" commences just east of Lake Winnipeg. That country has no limit on the west, and Hudson's Bay is included in it. (Several other maps in this Atlas show the same features).

(175) 1790.—"A particular map of the American Lakes, Rivers, etc., par le Sr. D'Anville ... London: Drawn and engraved for John Harrison, 1790."

A dotted line, without inscription, follows the water-shed from a point south-east of L. Mitassin, westerly and northerly, to a point west of and close to the same lake, in about lat. 50 40'. "Canada ou Nouvelle France" has no limits on the north or west.

(176) 1791.—"Sketch of the Western Countries of Canada," bound in work 'Voyages and Travels of an Indian Interpreter and Trader ..... By J. Long..... London, 1791."

NOTES ON MAPS, 1632-1857.

The map extends to the western watershed of Lake Superior, and includes the Upper Mississippi. There is no boundary line on the west or on the north; but circling James' Bay from the Albany to the Rupert, is the inscription: "Territories of the Hudson's Bay Company."*

*See note to map No. 83.

(177) 1791.—"A Map of North America.....by D'Anville. Drawn and engraved for J. Harrison.....[London] 1791."

From the south-east corner of Lake Mitassin, a dotted line, marked "Hauteurs des terres," runs north-easterly a distance of some 7° or 8°; no other limit is shown to "Canada" on the north, nor has it any bounds on the west. A coloured line runs from Lake Superior westerly along the Kamanistiquia (not named) and some streams which run to the north of, and almost parallel with, the line of the international boundary, to a point north of the westernmost point of the Lake of the Woods. This line seems intended to represent the southern boundary of Canada in that quarter. The source of the Mississippi is due south of the Lake of the Woods.

(178) 1794.—"North America, wherein are particularly distinguished the British Dominions, the United States and the adjacent Spanish Territories, by Thomas Kitchin, Hydrographer to His Majesty. London: Laurie & Whittle,...1794."

An engraved line, commencing at a point north-east of Lake Mistassin, runs westerly along the watershed to a point south of Lake Abitibis, thence westerly, partly along and partly north of the watershed and partly north of what are there called the "Northern Mountains or the Land's Height" to the meridian of 90°, and thence north-westerly in the direction of Split Lake to the limit of the map, in longitude 93° 45', and latitude 52½°, about. It is marked "Boundary of Hudson's Bay Company."† This line crosses the middle branch of the Moose, and also the head waters of one of the branches of the Albany. The international boundary is run to the limit of the map, nearly 2° west of the Lake of the Woods, at which point is the inscription: "Due west to the Mississippi." The Mississippi is cut off by the same limit in about latitude 46°. At the parallel of 45° is the inscription: "Thus far the Mississippi has been accended." "Canada" has no limits assigned to it towards the west or north.

†See note to map No. 83.

(179) 1795.—"Map exhibiting all the new discoveries in the interior parts of North America, inscribed by permission to the Honourable Governor and Company of Adventurers, trading into Hudson's Bay, in testimony of their liberal communications, by A. Arrowsmith, London. 1795, corrected to 1802."

This map shows the word "Upper" in "Upper Canada," north of Height of Land, the letter "U" being on the 50th parallel, in about longitude 87° 50'. There is no boundary indicated between Hudson's Bay and Canada. The map published in 1804, is the same in these respects. In the map published under the same auspices in 1822, the position of the words Upper Canada is changed to south of the height of land, the country north of height of land being marked as "Rupert's Land." In no other of Arrowsmith's maps is any boundary line indicated as between Canada and Hudson's Bay. It is a curious and perhaps significant fact, that in an edition of Arrowsmith's said map of 1795, and so dated, but published in 1850, the words "Upper Canada" had been re-engraved along the shores of Lake Superior, instead of being, as in the original, partly above the height of land.‡

‡These facts were ascertained through searches recently made in London at the instance of the Government of Ontario.

(180) 1798.—"A new map of Upper and Lower Canada, 1798." (In work "Travels through the States of North America, and the Provinces of Upper and Lower Canada during the years, 1795, 1796 and 1797, by Isaac Weld, junior...London...1799."

The map extends westward to and includes part of Lake Winnipeg. The name "Upper Canada" commences north of the Lake of the Woods: no limits are assigned to that Province on the west or on the north.

NOTES ON MAPS, 1632–1857.

(181) 1799.—Map, published by Phillips, London, 1799, in La Rochefoucauld's Travels, (Eng. Ed.)

"Upper Canada" extends to the western limit of the map, in longtitude 95°. From this limit, in about lat. 51° a line, (which, produced, would probably have gone toward Split Lake) runs easterly, substantially following the height of land to a point near Lake Mistassin, thence northerly, on a winding course, to and a little beyond the River Rupert.

(182) 1802.—"Northern Hemisphere. London: Faden, Geographer to the King and to the Prince of Wales. 1802."

A line, engraved and coloured, commences north of Lake Mistassin, near the Slude River, and runs thence easterly and southerly to the height of land, which it follows to a point north of Lake Nepigon, whence it passes westerly and then north-westerly to a river which runs into Lake Winnipeg from the north-east. The international boundary is run some little distance west of the Lake of the Woods, and forms to that point the southern boundary of "Upper Canada" and of "Canada." These names commence,—the first, north of Rainy River; the second, at Kaministiquia.

(183) 1808.—"Carte des Etats-Unis.....par Tardieux. Paris, 1808" (being a new edition of his map of 1802).

The international boundary line is carried westward to Rainy Lake, where it is stopped by the limit of the map, in lat. 49°. Thus far it is also the southern limit of "Upper Canada." The Mississippi is doubly coloured, as the boundary line between Louisiana and the United States, to its source in White Bear Lake. Here the red colour which indicates the Louisiana side stops, and the green which indicates the United States side, is carried northerly to a point outside the border of the map, where is the inscription: "Lake of the Woods." Hence it may be inferred that the northern boundary of Louisiana under the Treaty of 1763, was not considered by the Geographer to extend beyond the parallel of the source of the Mississippi.

(184) 1809.—"Map of Canada, etc.," in "Letters from Canada....by Hugh Gray..... London: 1809."

The names "Canada" and "Upper Canada" respectively, commence at the western limit of the map, in about long. 102°.

(185) 1815.—"Map of the Provinces of Upper and Lower Canada, with the adjacent parts of the United States of America, etc....By Joseph Bouchette. Published August 12th, 1815, by W. Faden, London." The dedication is to H. R. H. the Prince Regent, and is signed, "Joseph Bouchette, His Majesty's Surveyor-General for Lower Canada, and Lieut.-Col., C.M."

The map extends to the par. of 55° on the north, and to and including a part of Lake Winnipeg on the west. The height of land north of Lake Superior, etc,, is clearly marked without being named. The international boundary line is run to the north-west angle of the Lake of the Woods, and forms to that point the southerly boundary of "Upper Canada;" no limits are assigned to that Province on the north or west; the name commences at Lake Savane, north of the height of land, and continues so to the north till it deflects to the south on approaching the inter-provincial boundary, at Temiscaming. The Mississippi is coloured as a boundary line to its source in Turtle Lake, where the line stops.

(186) 1857.—"Map of North America, drawn by J. Arrowsmith,...London, pub'd. 1857, by John Arrowsmith. Ordered by the House of Commons to be printed, 31st July and 11th August, 1857." In the margin is the memo: "On this map the territories claimed by the Hudson's Bay Company, in virtue of the charter granted to them by King Charles the Second, are coloured green; the other British territories pink; and those of Russia yellow." This is another of the maps sent by the Hudson's Bay Company to the Dominion Government for the purposes of the present arbitration.

It shews the Company's claims at that date, in respect of limits, to have been to all the lands, north of the international boundary line, whose waters flow, directly

or indirectly, to Hudson's Bay or Straits, or into the bays and channels which are approachable through these on the north: there is but one exception, viz.: east of Lake Nepigon, where the waters of, or to the south of Long Lake, are cut by the line of boundary. On the Labrador coast the line does not approach Cape Perdrix, Grimington's Island, Davis' Inlet, or any other point which in the last century was claimed as its terminal point by the Company or by English Geographers. It runs from Cape Chudleigh (the entrance point of Hudson's Straits) southerly to and along the watershed. The portions of the northern watershed of the Missouri whichis north of the international boundary, is notclaimed to belong to the Company.

[A map published by the Company in 1850, for the information of Parliament, almost agrees with that of 1857.]

[See also the Memorandum by S. J. Dawson, Esq., M.P.P., on Early Maps of the Disputed Territory, in Section XIII.] *post.*

IX.

International Negotiations: 1711–1761.

NEGOTIATIONS FOR THE PEACE OF UTRECHT.

Overture from France.

That, as it could not be doubted but the King was in a condition of continuing the war with honour, so it could not be looked on as a mark of weakness in His Majesty to break the silence he had kept since the conference of Gertruydenberg, and that before the opening of the campaign; he now gives farther proof of the desire he always had to procure the repose of Europe. But after what he hath found, by experience of the sentiments of those persons who now govern the Republic of Holland, and of their industry in rendering all negotiations without effect, his Majesty will, for the public good, offer to the English nation those propositions which he thinks fit to make for terminating the war, and settling the tranquility of Europe upon a solid foundation. It is with this view that he offers to enter into a Treaty of Peace, founded upon the following conditions:—

First. The English nation shall have real securities for carrying on their trade in Spain, the Indies, and the ports of the Mediterranean.

Secondly. The King will consent to form a sufficient barrier in the Low Countries for the security of the Republic of Holland; and this barrier shall be such as England shall agree upon and approve; his Majesty promising at the same time an entire liberty and security to the trade of the Dutch.

Thirdly. All reasonable methods shall be thought of with sincerity and truth, for giving satisfaction to the allies of England and Holland.

Fourthly. Whereas the affairs of the King of Spain are in so good a condition as to furnish new expedients for putting an end to the disputes about that monarchy, and for the settling it to the satisfaction of the several parties concerned, all sincere endeavours shall be used for surmounting the difficulties arisen upon this occasion; and the trade and interest of all parties engaged in the present war shall be secured.

Fifthly.—The conferences, in order to treat of a peace upon these conditions, shall be immediately opened, and the Plenipotentiaries, whom the King shall name to assist thereat, shall treat with those of England and Holland, either alone or in conjunction with those of their allies as England shall choose.

Sixthly. His Majesty proposes the Towns of Aix-la-Chapelle or Laize, for the place where the Plenipotentiaries shall assemble, leaving the choice likewise to England of either of the said Towns, wherein to treat of a general peace.

Done at Marlay, the 22nd of April, 1711.

De Torcy.

NEGOTIATIONS FOR THE PEACE OF UTRECHT.

To Lord Raby.

Whitehall, April 27, 1711.

My Lord,—I send Your Excellency inclosed, by Her Majesty's order, the copy of an overture from France, which came a few days since to our hands.

The Queen's pleasure is, that Your Excellency do take the first opportunity of communicating it to the Pensionary,* and of letting that Minister know, that Her Majesty, who is resolved, in making peace as in making war, to act in perfect consort with the States, would not lose a moment in transmitting to him a paper of this importance.

Your Excellency will please to add that the Queen earnestly desires this secret may be kept among as few as possible, and that she hopes the Pensionary will advise upon this occasion with no person whatever, except such as are by the constitution of that government, unavoidably necessary.

As soon as the matter has been considered in Holland, Your Excellency will please to despatch Barlow, who brings you this pocket-book, with the opinion of the Dutch Ministers.

Mr. Prior is fully instructed and authorized to communicate our preliminary demands to France, and to report the answer to us.

A. R.

Bolingbroke to the Queen.

Whitehall, September 20th, 1711.

He (M. Mesnager) has put into our hands the answer signed by the King of France to the demands last sent over by your Majesty's order, and this answer complies with every article except the 8th, relating to North America. We find, however, that we shall be able to compound this point with him in the manner which your Majesty some time ago proposed to pass it in, provided France gave you satisfaction on the 7th article, as she has now entirely done.

Preliminary Demands of Great Britain more Particularly.

1. The succession to the Crown of these Kingdoms, according to the present establishment shall be acknowledged.

2. A new Treaty of Commerce between Great Britain and France shall be made in the most just and reasonable manner.

3. Dunkirk shall be demolished.

4. Gibraltar and Port Mahon shall remain in the hands of those who now possess them.

5. The Treaty of the Assiento shall be made with the English in the same manner as the French hold it at present; and such places in Spanish America shall be assigned to those concerned in the traffic, for the refreshment and sale of their negroes, as shall be found necessary and convenient.

5. All advantages, rights and privileges now granted, or which may be hereafter granted by Spain to the subjects of France, or of any other nation whatever, shall be in like manner granted to the subjects of Great Britain.

7. And for the better protection of commerce in Spanish America, the English shall then be put into possession of such places as shall be named in the Treaty of Peace. France having offered a real security for the trade of her Majesty's subjects in Spanish

* Buys.

America no one doubted but that such places were intended; and in confirmation of this opinion, France proposed Gibraltar as a security to the commerce to Spain and the Mediterranean. The advantages and privileges offered by M. Mesnager cannot be considered as real securities: it will always be in the power of Spain to resume them, therefore it is supposed that France is under an engagement either to cause to be ceded to Great Britain the places demanded in that Article, or to procure for that nation some new advantages, such as the love of peace may induce them to look upon as an equivalent; upon this they consider themselves as under an obligation to insist that the Minister aforesaid be furnished with full powers. And to mark still plainer the sincerity with which the treaty is carried on, and the desire of her Britannic Majesty to promote a general peace, she judges it expedient to declare that the difficulty which occurs upon that Article may be removed by granting to her the following:—

That the Pacte de Assiento be made with Great Britain for the term of 30 years.

That the entire island of St. Christopher be assured to Great Britain.

That the advantages and exemptions from duties promised by M. Mesnager, and which he affirms to amount to 15 per cent. on all merchandise of the growth or manufacture of Great Britain, be effectually allowed.

Great Britain can refresh the negroes at Jamaica, and there distribute those to be sent to La Vera Cruz, to Portobello, and to the other factories in that part of the Indies. But as on the coast of the River de la Plata the English have no colony, it is required that an extent of land be assigned upon this river, where they may not only refresh their negroes, but keep them in safety until they be sold to the Spaniards. And as in this demand no trick is meant, they shall be in this respect subject to the inspection of an officer to be appointed for this purpose by the King of Spain.

8. Newfoundland, Hudson's Bay and Straits shall be completely restored to the English. Great Britain and France shall respectively keep and possess all the countries, domains and territories in North America that each nation shall be in possession of at the time when the ratification of the treaty shall be published in those parts of the world.

THE ANSWER OF FRANCE TO THE PRELIMINARY DEMANDS OF GREAT BRITAIN, MORE PARTICULARLY.

The King being particularly informed by the last memorial which the British Minister delivered to M. Mesnager, of the dispositions of that Crown to facilitate a general peace to the satisfaction of all parties concerned in the war; And His Majesty finding in effect, as the said memorial declares, that he runs no hazard by engaging himself in the manner therein declared, since the preliminary will be of no force until the signing of the general peace, and being besides sincerely desirous to advance to the utmost of his power the re-establishment of the repose of Europe, especially by a way so agreeable to His Majesty as the interposition of a Princess, whom so many ties of blood ought to unite to him, and whose sentiments for the public tranquility cannot be doubted.

His Majesty, moved by these considerations, has ordered M. Mesnager, Knight of his Order of St. Michael, Deputy of the Council of Commerce, to give the following answers, in writing, to the articles contained in the memorial transmitted to him, intituled "Preliminary Demands of Great Britain more Particularly."

1. His Majesty will acknowledge the King of Great Britain in that quality as also the succession of that Crown according to the present establishment.

2. The King consents to make a new Treaty of Commerce with Great Britain in a manner most just, reasonable, and advantageous to both nations.

3. Although Dunkirk has cost his Majesty very large sums, as well in the purchase of it as in its fortifications, and though it be necessary still to be at a considerable charge to destroy the works, the King will, nevertheless, engage to demolish them immediately after the conclusion of a peace, provided that for the fortifications of this place he receive a proper equivalent; and, as England cannot furnish that equivalent, the discussion of it shall be deferred to the conferences to be held for the negotiations of a general peace.

4. The King promises, in the name of his grandson the King of Spain, and pursuant to the power which His Majesty has received from that Prince, that Gibraltar and Port Mahon shall remain in the hands of the English, who at present possess both.

5. After the conclusion of peace, the English shall have the Treaty of Guinea negroes to the West Indies, otherwise called the Pacte de Assiento, on the same conditions as were entered into by the King of Spain with the French, so that the company which will consequently be established in England shall be privileged to refresh, sell, and dispose of the negroes in all the towns and ports of America, of the North Sea, Buenos Ayres, and generally in all places and ports where permission was granted to the vessels of the Company established in France, under the title of the Assiento.

6. The King promises, for himself and for the King of Spain, according to the power in His Majesty's hands, that in case a peace is concluded, this Article shall be granted in like manner as the preceding, and that it shall be punctually executed.

7. Though the King of Spain, at the beginning of his reign was induced to favour the French nation when he wanted supplies of money for the expenses of an impending war, that Prince, notwithstanding, granted the privilege of transporting negroes to the French for a term of ten years only; it would therefore be a great favour to the English to give up to them for twenty years a prerogative of which it seems all European nations would wish to partake each in its turn. Nevertheless, His Majesty promises that the King, his grandson, shall grant to the English during twenty successive years, the transportation of negroes from Guinea to the West Indies, otherwise called the Pacte de Assiento, with the same conditions, prerogatives, and privileges granted to the French Company, and which they do or might enjoy from the 1st of May, 1702, to the present time.

The King consents to this Article.

His Majesty in like manner promises, in the name of the King of Spain, the advantages and exemptions from duties mentioned in that Article, and which the English shall enjoy immediately after the conclusion of the peace, upon the exchange of the ratifications.

The general peace being effected, an assignment shall be made to the English Assiento Company of an extent of land on the River de la Plata, where they may not only refresh their negroes, but keep them in safety until they be sold, according to the conditions stipulated in the agreement to be entered into for the Assiento. And to prevent any abuse of this concession, the King of Spain will nominate an officer as Superintendent, to whose inspection those interested in the Company, and in general those employed in their service, shall be subject.

8. The discussion of this Article shall be deferred to the general conferences for the peace, it being well understood that the right of fishing and drying cod upon the island of Newfoundland be reserved to the French.

In execution of the King's order, we, the undersigned, Knight of his Order of St. Michael, Deputy of the Council of Commerce, have stated the present answer to the preliminary demands for Great Britain, to the amount of eight Articles, by virtue of authority from His Majesty, of which we have delivered a copy, signed by us: and we promise, in the name of his said Majesty, that the said answers shall be regarded as conditions which he agrees to grant, the Articles of which shall be put into the common form of treaties, and explained in the plainest and most intelligible manner to the common satisfaction of the Crowns of France and Great Britain, and this in case of the signing of a treaty for a general peace.

In faith of which we have signed and sealed. Done, &c. MESNAGER.

The Most Christian Prince having signified to Her Majesty, his sincere desire for the re-establishment of the general tranquility of Europe by a peace definitive, sure, lasting and suitable to the interests of all the allies, and having expressed his desire that the Queen would promote the negotiations of such a peace, it has been found just and reasonable that the interests of Great Britain should be, in the first place, adjusted and ascer-

tained. On this account His Most Christian Majesty has sent over M. Mesnager, Knight, &c.; he has stated the above eight Articles by authority from His Most Christian Majesty, a copy of which he has given us, signed by him; of which Articles we, the undersigned, declare by virtue of the express order of Her Majesty, her acceptance as preliminaries which contain only those securities and advantages, which Her Majesty thinks she has a right to expect, whoever be the Prince who may acquire the monarchy of Spain. And these Articles must be regarded as conditions which His Most Christian Majesty agrees to grant. These Articles to be put into the common form of treaties, &c., &c.

Done at London, 27th September, O. S., 8th October, N. S., 1711,

DARTMOUTH,
H. ST. JOHN.

PRELIMINARY ARTICLES ON THE PART OF FRANCE FOR THE ATTAINMENT OF A GENERAL PEACE.

The King being willing to contribute all that is in his power to the re-establishment of a general peace, His Majesty declares:—

1st. That he will acknowledge the Queen of Great Britain in that quality, as well as the succession to the Crown according to the present settlement.

2nd. That he will freely and *bona fide* consent to the taking all just and reasonable measures to prevent the re-union of the Crowns of France and Spain on the head of the same prince, His Majesty being persuaded that that excess of power would be contrary to the welfare and peace of Europe.

3rd. The King's intention is, that all the parties engaged in the present war, without excepting any one, may find their reasonable satisfaction in the treaty of peace to be made; that commerce may be re-established and maintained for the future, to the advantage of Great Britain, of Holland, and of other nations who have been accustomed to carry it on.

4th. As the King will also strictly support the observance of the peace when concluded; and as the object of His Majesty is to secure the frontiers of his kingdom without molesting, in the smallest degree, the neighbouring States, he promises to agree by the future treaty of peace that the Dutch shall have in their possession the fortress which shall be named in the Netherlands to serve in future as their barrier, which may secure the quiet of the Republic of Holland against any enterprise from France.

5th. The King consents likewise that a secure and convenient barrier should be formed for the Empire and for the House of Austria.

6th. Though Dunkirk has cost the King large sums, as well in its purchase as in its fortification, and though it be necessary still to be at very considerable expense to raze the works, His Majesty will, nevertheless, engage to demolish them after the conclusion of the peace, on condition that he do receive a proper equivalent for the fortification of that place; and as England cannot provide that equivalent, the discussion shall be deferred to the conference to be held for the negotiation of a peace.

7th. When the conferences for the negotiation of the peace shall be formed, all the pretensions of the Princes and States engaged in the present war shall be there discussed, *bona fide* and amicably, and nothing shall be omitted to regulate and terminate them to the satisfaction of all parties.

By virtue of the King's authority, we, &c. MESNAGER.

GENERAL PLAN OF PEACE, 1712.

[*O.* Offers of France confidentially communicated to the British Ministry by Count De Torcy. *D.* Further demands of Great Britain. *R.* Reply of the King of France to those further demands.

For Great Britain.

O. 1. The King promises to consent without difficulty to everything contained in the 1st, 2nd, 3rd, 4th and 5th Articles of the specific demands of the Queen of Great Britain.

O. 2. The King will demolish the fortifications of Dunkirk, as well those of the town as the citadel, the Rysbanks, and the other forts on the seaside, and in three months after, those on the land side; to be computed from the day of exchanging the ratifications, the whole at his own expense, and with a promise never to repair them, in the whole or in part.

O. 3. The King will give up the island of St. Christopher to Great Britain, as also Newfoundland, on condition that the Town of Placentia be razed, [and] that the French retain the free right to fish and dry cod at Newfoundland, in the place where they have been accustomed so to do. The small islands adjoining, and in the neighbourhood of Newfoundland, shall be likewise ceded to England, it being well understood that the island of Cape Breton, and others in the Gulf and mouth of the River St. Lawrence, of which France is actually in possession, shall remain to the King.

O. 4. The King will give up the Province of Acadia, with the Town of Port Royal and its dependencies, to Great Britain, as also Hudson's Straits and Bay.

O. 5. In the countries of North America, ceded to Great Britain, the French shall be at liberty to withdraw their effects, as also His Majesty to withdraw the cannon and warlike stores.

D. England demands that the Town of Placentia remain in its present state.

That the cannon and warlike stores in Hudson's Bay remain for England.

R. His Majesty offers to let the fortifications of Placentia remain as they are, upon giving up that place to England; to consent to the demand made of the cannon in Hudson's Bay; and, besides, to cede the Island of St. Bartholomew; to give up even the right to fish and dry cod on the coast of Newfoundland—if the English will restore Acadia, for these new concessions proposed as an equivalent.

In this case, His Majesty consents that the River St. George shall be the boundary of Acadia, as England insists.

Should the Plenipotentiaries of that Crown refuse to enter into any expedient for the restitution of Acadia, the King, rather than break off the negotiations, will comply with their demands already made; that is to say, to give up Placentia fortified, and the cannon in Hudson's Bay; it being well understood that the offer to cede the Islands of St. Martin and St. Barthoiomew, and that of the foregoing right to fish and dry cod upon the coast of Newfoundland, are also to be considered as if they had never been made.

O. 6. After the peace, Commissioners shall be appointed on both sides to ascertain, within the compass of a year, the boundaries of Canada, or New France, on one side, and of Acadia and the land of Hudson's Bay on the other, and to settle in a friendly manner, all just and reasonable recompenses insisted upon on both sides for injuries done prejudicial to the rights of peace and war.

O. 7. The boundaries being once settled, the subjects of both Crowns shall be reciprocally prohibited from passing the same, whether by sea or land; as also from disturbing the trade of the subjects of each nation, and molesting the Indian nations, allies or subjects of the Crown.

O. 8. The King will permit the House of Hamilton, Colonel Charles Douglas, and others, to represent to him their several rights and pretensions, and will do them strict justice.

D. That the Duke of Richmond be considered as the heir of his mother.

R. The Duke of Richmond having obtained the King's letters of naturalization, shall, when peace is made, enjoy the privilege attached to the favour granted to him by His Majesty.

D. That the 4th Article of the Treaty of Ryswick be established, and that the King do give no opposition to the regulating of affairs of religion in the empire, pursuant to the Treaty of Munster.

R. In consideration of England, the King wishes this affair should be regulated with the empire; His Majesty having no intention to derogate from the Treaties of Westphalia, on the subject of religion.

O. 9. The King, in the name of the King of Spain, his grandson, promises that Gibraltar and Port Mahon shall remain in the hands of the English.

D. That the extent of country round Gibraltar, equal to two cannon shot, and the whole Island of Minorca, be ceded to England.

R. The King had great difficulty to induce the King of Spain to give up Gibraltar to

the English, that Prince's intention being, as he often declared, not to yield an inch of land in Spain. It will be still much more difficult to obtain from him the smallest concession, on so important a point, now when he is urged to renounce his rights to the Crown of France, and look upon Spain as the only patrimony he can leave to his descendants.

So that this new demand will be sure of a refusal; and the power which His Majesty has received from the Catholic King is directly contrary to such a pretension.

As he has not explained himself with regard to the entire cession of the Island of Minorca, the King will use his endeavours to obtain it, as a sort of equivalent for territory around Gibraltar; and on this consideration, and from this time, His Majesty promises that the whole Island of Minorca shall be ceded.

O. 10. After the conclusion of peace, the English shall have the transportation of negroes to the West Indies, otherwise called the Assiento Treaty for negroes, upon the same conditions as agreed upon between the King of Spain and the French; so that the Company which for the purpose will be established in England, shall have the privilege of refreshing, selling, and delivering their negroes in all places and ports of America, upon the North Sea, in Buenos Ayres, and generally in all places and ports where the ships of the Company established in France, under the name of Assiento, are permitted to enter.

D. That the French do not withdraw their Assiento effects, otherwise than by English or Spanish vessels.

R. Those concerned in the Assiento Company will strictly observe the terms of their agreement; consequently they cannot, under the pretence of bringing away their effects, trade to the Indians direct: and they would absolutely lose them, should they be forced to put them on board other vessels than those of their Company.

The peace having for its object the general benefit of both French and English, it would be unjust that one of the first advantages which results to England, should be to the prejudice of France; if the English will enter into a bargain to purchase the effects of the French Company, this inconvenience will be avoided.

O. 11. The said treaty shall be for thirty years, and there shall be assigned to the English Assiento Company an extent of land upon the River de la Plata, where they may not only refresh their negroes, but keep them in safety until they be sold according to terms to be stipulated in the Assiento contract; and to prevent any abuse of this concession, the King of Spain will appoint an officer to superintend, to whose inspection those concerned in the said Company, and generally those whom they shall employ in their service, shall be subject.

D. That this extent of territory be submitted to the choice of the English, and that the Spanish Inspector be suppressed.

R. The demands made to the King in this Article are known in England: His Majesty obtained them from the King, his grandson, with great difficulty. He can neither demand nor grant in his name any further addition to what has been acceded to for the sake of peace; if the English think proper to insist upon further advantages, they must make a direct application to the Spanish Plenipotentiaries, who, for this purpose, must have the necessary passports sent to them, that they may repair to Utrecht.

O. 12. All advantages, rights and privileges now granted, or which hereafter may be granted by Spain to the subjects of France, or to any other nation whatever, shall be in like manner granted to the subjects of the Queen of Great Britain.

O. 13. His Majesty promises in like manner that all merchandise of the growth of Great Britain going from the ports of Spain, from whence vessels are dispatched for the Spanish Indies, shall be free of all duties of import and export, as well in Spain as in the Indies.

O. 14. All the above articles shall be understood in the most ample and proper manner in the treaty of peace, and to them shall be added clauses for the cessation of hostilities, and other mutual assurances, according to the custom of preceding treaties which shall be acknowledged to possess and have their former force and effect, except where they are repealed by this; and this clause shall be added at the end of each instrument.

NEGOTIATIONS FOR THE PEACE OF UTRECHT.

MEMORIAL SENT BY M. GAULTIER.

March 4th, 17$\frac{1}{2}$

From the commencement of the correspondence between Great Britain and France on the subject of peace, it has been an established maxim that we must not, if it can be avoided, expose ourselves to the events of the campaign; the Queen continues of this opinion, and has taken all necessary precautions, on her part, to bring the negotiations at Utrecht to a happy conclusion. From what has lately occurred here, one may have remarked the favourable disposition of the House of Commons, which, according to the constitution of this Government, is principally to be looked up to in concerns of peace and war. . . Mr. Harley sets off to-morrow for Utrecht; he is amply instructed in Her Majesty's intentions upon all the essential points that may come to be discussed in the negotiation, and he carries their last orders to the Plenipotentiaries. . . . . The Queen has been sensibly affected by the misfortunes lately happened to France; she does not doubt that the death of those princes may be used as an argument by those who desire the continuance of the war, but she believes the surest means of rendering their scheme fruitless will be to agree without loss of time upon the necessary measures to prevent the union of the two crowns. For this purpose the Queen suggests a proposal that the Prince now in the possession of the Crown of Spain should, for himself and his issue, execute a formal renunciation of that of France, and that the line of succession to both should be declared and fixed in the Treaty of peace; it were also to be wished that the Cortes or States of Spain should one way or other concur with this act.

REPLY TO THE MEMORIAL DELIVERED BY M. GAULTIER.

March 23rd, 1712.

The King desires as sincerely as the Queen of Great Britain to prevent the events of the campaign, and to agree before it opens on terms of peace. . . . . The King is assured that those who with so much ability manage the affairs of the Queen of Great Britain, will know well how to make the party submit, and oblige them to conform to the true interests of the nation, whenever the Plenipotentiaries of France and England at Utrecht, shall have agreed upon a just and reasonable plan of peace. To forward this, His Majesty has directed his Plenipotentiaries to grant further compliances, of which they will inform Mr. Harley. He learns with pleasure that the Queen of Great Britain has fully instructed him in her intentions, and has given him her last orders, not doubting that Princess restraining within the bounds of justice and reason, the vague terms, "reasonable satisfaction," and "real security," which her allies extend not only to the most extravagant demands, which they have actually made, but also to those which they have not yet thought of, and which they reserve with the apparent intention of protecting the negotiation. . . . . France will never consent to become a Province of Spain; Spain says the same thing with respect to France. The question then is, What well-founded means can be used to prevent the union of the two Monarchies? But we should absolutely go from the point we aim at, and fall into infinite dangers, worse, if possible, than that we anxiously desire to avoid, were we to contravene the fundamental laws of this Kingdom. According to these laws, the Prince next the Crown is the necessary heir to it; it is a patrimony which he receives neither from the King, his predecessor, nor from the people, but by virtue of the law; so that upon the demise of a king, another immediately succeeds him without awaiting the consent of any one. He succeeds not as heir, but as monarch of the kingdom, the lordship of which belongs to him, not from election, but from right of birth alone; he is indebted for his crown neither to the will of his predecessor nor to any act or decree, nor, in a word, to the generosity of any one, but to the law; this law we consider as to the work of Him who hath founded all monarchies, and we in France are persuaded that God alone can abolish it.

No renunciation can then destroy it, and if the King of Spain gave in his for the sake of the peace, and in obedience to his grandfather, we should deceive ourselves if we received it as a sufficient expedient to prevent the evil we propose to avoid. It would, on

the contrary, be the source of the greatest evils; it would open the door for civil war in the kingdom, the flame of which would again spread itself through Europe. We must then look out for other expedients to prevent for ever an union equally dangerous to France, to Spain, and to all Europe.

MARQUIS DE TORCY TO LORD BOLINGBROKE.

VERSAILLES, March 20th, 1712.

SIR,—The King's Plenipotentiaries receive new orders from His Majesty, to agree with the Bishop of Bristol and the Earl of Stafford, upon the conditions he can grant to the demands of Great Britain. As His Majesty cannot suppose your Plenipotentiaries have orders to exact such terms as would prove the ruin of the trade of his subjects, and of the navigation of his kingdom, so is he persuaded that these new concessions, both for Great Britain and for those powers whose interests she espouses, will promote the success of the negotiation. But in the meantime, sir, the King expects your Plenipotentiaries will show less eagerness in the support of the demands of the House of Austria, of the States-General, and of many princes of the Empire, who only complain because they are urged so to do by the enemies to the peace. The most effectual way to promote it is for the Queen of Great Britain also to send new directions to her Ministers at Utrecht, to act in future more in concert with the King's Plenipotentiaries.

Suffer me again to entreat your best exertions for so great a blessing, and do me the justice to believe that I am, etc.,

DE TORCY.

VERSAILLES, March 28th, 1712.

SIR,—However great the pleasure I have in receiving the honour of your letters, I shall be no longer uneasy at their delay, finding by your last that the period of your silence is employed so usefully towards the success of that important business which I hope you will conduct to a fortunate conclusion. Monsieur Gaultier has given me an account of all the measures you have taken to promote it. He goes to Utrecht, where I judge his presence necessary to strengthen the union and confidence between the King's and the British Plenipotentiaries. I hope the last orders given by Her Majesty to her Ministers, will establish this good understanding upon solid grounds, and that you will finish what remains to the glory of the Queen your Mistress.....

DE TORCY.

FROM THE REPORT OF THE FRENCH PLENIPOTENTIARIES TO THE KING, APRIL 18, 1712.

We have made every possible effort to regain Acadia, or at least to retain Newfoundland; but it has been impossible for us to conclude the matter. They (the English Plenipotentiaries), have protested a hundred times that they had express orders to break off the negotiations rather than to give way on either point, or upon that of Hudson's Bay, where they claim even the cannon. We should not have taken their word for this if le Sieur Gaultier had not confirmed what they said.

Count de Pontchartrain remarked on the project of the English, that it would have to be considered whether the savages were subjects. If so, they could not pass the limits that would afterwards be fixed; if not, there would be no right to make any rule regarding them. Lord Bolingbroke agreed to prohibit the subjects of France and England from passing over the boundary when it had once been established.

NEGOTIATIONS FOR THE PEACE OF UTRECHT.

LORD BOLINGBROKE TO MARQUIS DE TORCY.—MEMORIAL CONCERNING NORTH AMERICA.

To terminate all existing disputes concerning North America, the Queen proposes:—

First.—That His Most Christian Majesty do cede to her the Island of Newfoundland, with Placentia, and the fortifications, artillery, and ammunition thereto belonging; the adjacent small islands nearest to the Island of Newfoundland; as also Nova Scotia or Acadia, according to its ancient boundaries.

Secondly.—That the subjects of His Most Christian Majesty may continue to fish and dry their fish on that part of Newfoundland which is called the Petit Nord, but upon no other part whatever.

Thirdly.—That the subjects of His Most Christian Majesty may possess, in common with those of the Queen, the Island of Cape Breton.

Fourthly.—That the islands in the Gulf of St. Lawrence, and in the mouth of the river of that name, which are now occupied by the French, remain to His Most Christian Majesty; but upon this express condition, that his said Majesty do engage, neither to build or suffer to be built, any fortifications upon those islands or upon those of Cape Breton. Her Majesty the Queen, engaging also not to fortify or suffer to be fortified, the islands adjacent and nearest to Newfoundland, or those of Cape Breton.

Fifthly.—The Queen insists to have the guns and ammunition in all the forts and places in Hudson's Bay and Straits. . . . .

[Here follow articles concerning commerce, and concerning the suspension of arms.]

Whitehall, May 24, O. S., 1712.

THE KING'S ANSWER TO THE MEMORIAL SENT FROM LONDON, MAY 24, O. S., JUNE 5, N. S.—SENT TO LORD BOLINGBROKE BY MARQUIS DE TORCY.

Article 1.—His Majesty consents to cede to the Queen of Great Britain, the island of Newfoundland, with the town of Placentia, fortified; but the artillery and ammunition in this place shall be withdrawn, and not comprehended in the cession of that place and island, as not being attached to either; and, to use a common comparison, the ammunition and artillery of a place may be considered as the furniture of a house which, the individual takes away with him, when by voluntary agreement he gives up the house. The isles adjacent to Newfoundland were neither demanded nor promised in the articles signed at London in October last. As these have been from the beginning considered as the basis of the present negotiations, the King's intention is to comply with them exactly, as the most sure method of arriving at a conclusive treaty; and His Majesty is persuaded, that the Queen of Great Britain, true to her word, will not insist upon a new demand, and which cannot be found in the agreement signed in her name. The King will add to that agreement the cession of Acadia, according to its ancient boundaries, as demanded by the Queen of Great Britain.

Secondly.—The articles signed at London, reserve to the King's subjects, the right to fish and dry their cod upon the island of Newfoundland; an arrangement which both sides have agreed to, cannot be restricted nor altered but by mutual agreement for their common advantage. Upon this plan, His Majesty offers to England, to give up the artillery and ammunition of Placentia, the isles adjacent to Newfoundland, to forbid his subjects the liberty of fishing and drying cod on the coast of that island, even the district called the Petit Nord; to add to these conditions the cession of the islands of St. Martin and St. Bartholomew, close to that of St. Christopher, on condition that the Queen of Great Britain do consent to restore Acadia, of which the River St. George is in future to be the boundary, as the English formerly required. It is then submitted to the choice of the Queen of Great Britain, either to abide by the articles signed at London, or to accept the exchange proposed by His Majesty. In the latter case, His Majesty would promote, by every means in his power, the settlement of the business relating to the ransom of Nevis to the satisfaction of Great Britain.

Thirdly.—As one of the chief advantages of the peace will be if it pleases God, the good understanding, which the King proposes to establish between his subjects and those of the Queen of Great Britain, everything which can disturb that happy union should be removed; experience has too well proved, how impossible it was to preserve it in places inhabited in common by French and English; this reason alone would therefore be sufficient to prevent His Majesty's consent to the proposal of permitting the English to possess Cape Breton with the French. But a consideration of still greater importance may be urged against the proposition, and as it too often occurs, that nations, the most friendly to each other, become enemies, it is a point of prudence that the King should retain possession of the only island that can in future keep the river St. Lawrence open to him. It would be absolutely shut to his ships, if, while the English are masters of Acadia and Newfoundland, they should also be in possession of Cape Breton in common with the French; and Canada would be lost to France as soon as any event should occur to rekindle the war between the two nations, which God long forbid! But the surest method to prevent it, is frequently to call to mind that it may happen.

Fourthly.—We should not dissemble that it is for the same reason, that the King will reserve to himself the liberty natural and general among all sovereigns, to erect in the islands of the Gulf and River of St. Lawrence as well as in Cape Breton, such fortifications as his Majesty shall judge necessary. These works, intended solely for the security of the country, can never be of prejudice to the neighbouring islands and provinces. It is just that the Queen of Great Britain should have the same liberty of fortifying where she may judge it necessary, whether in Acadia or Newfoundland; and upon this article the King does not pretend to demand anything contrary to the rights which property and possession naturally give to the Princess.

Fifthly.—From his particular regard for the Queen of Great Britain, the King will leave to her the artillery and ammunition in the forts and places in Hudson's Bay and Straits, notwithstanding the urgent reasons His Majesty has to withdraw them, and to appropriate them elsewhere. . . . .

[Here follow articles relating to commerce and the suspension of arms.]

Marli, June 10th, N. S., 1712,

BOLINGBROKE TO MONSIEUR DE TORCY.

WHITEHALL, Nov. O. S., 1712.

I have examined the projects of treaty drawn up by the Plenipotentiaries of the King as well as by those of the Queen, and I do not find any great difference except in two articles—that on North America and that on Commerce. I do not desire to enter into this detail; it would be too long an affair and too long a discussion, and instead of writing you a letter I should send you a book. Mr. Prior will discuss these points with you, and I confine myself to praying you to agree with him upon some expedient, in order that the Ministers at Utrecht, having no subject of dispute, may unanimously entertain pacific sentiments.

MARQUIS DE TORCY TO LORD BOLINGBROKE.

Dec. 29th, 1712.

In the name of God, sir, order your Plenipotentiaries to be less excellent grammarians. Ours, who also understand the force of Latin expressions, are out of patience when they see difficulties, which have been long adjusted, started again, and the difference between *cession* and *restitution*, and the meaning of those terms. In truth, sir, such questions ought not to be the amusement of honourable men. They are at best excusable only to those to whom we may apply *amantium iræ*. Finish these disputes, which, if they continue longer, will only profit our enemies.

NEGOTIATIONS FOR THE PEACE OF UTRECHT.

LORD BOLINGBROKE TO MARQUIS DE TORCY.

7th January, O.S., 171$\frac{2}{3}$.

There are certain things which derive their consequence purely from being disputed; the difference between the expressions *cedendis* and *restituendis*, between *assumpsit* and *usurpavit* or *arrogavit* is not very essential; the mind was, however, not a little heated in the dispute, and it required some trouble to convince certain people that the matter was not worthy of attention.

MEMORIAL FROM M. DE TORCY FOR MR. PRIOR. RECEIVED 7TH JANUARY, 171$\frac{2}{3}$.

The 9th (10th) article of the plan imports, that the King shall give up to the Queen of Great Britain, Hudson's Bay, &c., in the manner they are now possessed by the King and the French.

The Plenipotentiaries of Great Britain insist that it shall be expressed that France shall *restore not only what has been taken from the English*, but also *all that England has ever possessed in that quarter*. This new clause differs from the plan, and would be a source of perpetual difficulties; but to avoid them the King has sent to his Plenipotentiaries the same map of North America as had been furnished by the Plenipotentiaries of Great Britain. His Majesty has caused to be drawn upon this map a line which describes the boundaries in such a manner as he has reason to think they easily may agree [upon] this point on both sides.

If, however, there should be any obstacle which the Plenipotentiaries cannot remove, the decision must be referred to Commissaries to be named for the adjustment of the boundaries of America. The same article says that the King's subjects shall be at liberty to depart from their lands, in places ceded by his Majesty to the Crown of Great Britain, to carry with them their goods and moveables, and to go wherever they please by sea or land. The Plenipotentiaries of France have also reserved to them the right of disposing of their immoveable effects in the space of three years. . . . . .

The Plenipotentiaries of Great Britain agree to one year. . . . Under the name of places *ceded* they include Acadia and the Island of St. Christopher. Under the name of places *restored*, Hudson's Bay and Straits, and the Island of Newfoundland.

Upon Article 10 (11) the Plenipotentiaries of France demand that the English, obtaining the right to prefer their complaints of loss sustained in Hudson's Bay before the Commissaries, the King's subjects should have the same right with regard to the business at Nevis and Gambia.

This mutuality, which the Plenipotentiaries of Great Britain have not yet been willing to grant, seems just. The English shall have the same liberty to represent their losses at Montserrat, and to solicit a reparation, which shall be granted to them.

THE DUKE OF SHREWSBURY TO LORD BOLINGBROKE.

PARIS, February, 22, 1713, N. S.

In the Treaty of Peace, they [the French King and M. de Torcy] said there still remained two difficulties: one is about the immoveable estates to be disposed of in the places which France is to yield up or restore, which we thought was adjusted by the paper sent by Mr. Prior, January 19th, and which you have likewise herein enclosed; it certainly is so as to Hudson's Bay in particular. Monsieur de Torcy says that, as far as he knows, the whole affair stands at Utrecht in the manner as this enclosed paper specifies.

The Plenipotentiaries of Great Britain had hitherto made a distinction between places ceded by the King to the Queen of Great Britain, and the places which they denominated restored. Under the name of places restored they included Hudson's Bay and Straits, and the island of Newfoundland. They agreed to allow the French settled in places ceded, the

liberty to sell their immovable effects, but insisted that the same liberty ought not to be allowed in places restored, upon a plea that such effects were taken from the English, who had a right to have them restored. The Plenipotentiaries now make no distinction between places ceded and places restored, though the same expression remains in Article 14.

MEMOIRE DE MONSIEUR DE TORCY TOUCHANT LES BONA IMMOBILIA.

[*This paper, without date, is communicated by the Earl of Shrewsbury to Lord Bolingbroke, from Versailles March 8, 1713, N.S.*]

The King consented to leave to Commissaries, to be named after the peace, authority to give possession to the English who should prove that they were proprietors, or the heirs of proprietors, of those who possessed such property in Hudson's Bay.

[The instruction of the English Commissioners, C. Whitworth, J. Murray, Esq., Jos. Martin, Knt., and Frederick Herne, Esq., appointed under the 9th Article of the Treaty of Navigation and Commerce, concluded at Utrecht, 31st March, 1711, were dated February 15, 1713-4. On the 15th May the French Commissioners stated they had no authority to treat of Hudson's Bay.]

BOLINGBROKE TO THE DUKE OF SHREWSBURY.

May 29, 1713.

In Monsieur de Pontchartrain's letter to the Marquis de Vaudreuil, the latter is directed to yield the forts and settlements belonging to the Hudson's Bay Company. This order, my Lord, the merchants are afraid will not answer their ends. They are dispatching two ships to the Bay, which being at a considerable distance from Quebec, where the Marquis de Vaudreuil resides, the French who are in possession of the forts on the Bay may either be ignorant, or pretend ignorance, of His Most Christian Majesty's orders, may refuse to evacuate these places, and the season may by consequence be lost, which your Grace knows continues in these northern seas but a very few months. The merchants therefore desire, and Her Majesty would have your Grace endeavour to obtain, either direct orders to the commanders in these places, or authentic duplicates of the orders sent to the Marquis of Vaudreuil, which may be put into the hands of the officer appointed to go to the Bay of Hudson, and to take possession of the places the French are to evacuate.

THE DUKE OF SHREWSBURY TO LORD BOLINGBROKE.

PARIS, June 23rd, 1713, N. S.

Concerning the letters which this Court sends to the French Governor of the forts in Hudson's Bay, which your Lordship desires to be transmitted to you, in order to their being sent thither more immediately by the two ships which we dispatched thither, Mr Prior has spoken to Monsieur Pontchartrain, who promises that your Lordship shall have such letters ; but as you say that M. Nicholson will have Her Majesty's orders to give the French subjects the liberty of selling their immovable estates, Monsieur Pontchartrain desires that authentic copies of such orders may be sent hither, or delivered to the Duke d'Aumont. Their Hudson's Bay Company have some moveable effects upon the place, for which they are now sending, and they hope they will find no opposition there on our part to their so doing.

NEGOTIATIONS FOR THE PEACE OF UTRECHT.

From the Memoirs of the Marquis de Torcy.*

His Majesty gave orders to Mesnager to add to the cession of Newfoundland, that of the Bay and Strait of Hudson; and in order to shew the Queen of Great Britain and her Ministers the desire which he had to facilitate their intentions, he permitted Mesnager, by a private clause, separate from the Memoir to remit to the general negotiation of the peace the entire discussion on the article of North America.

On the morrow of the second conference, Saint John, on his return from Windsor, to London, notified Mesnager that he was awaiting him at Prior's house. . . . . The Queen with her council had resolved not to dwell on (s'arrêter) the observations made on some expressions of the King that appeared ambiguous. The Secretary of State said the desire for peace had obtained the ascendency in the mind of his Royal mistress over every other consideration; she only desired to change the term from North America *(d'Amerique Septentrionale)*, and confined herself to demanding that this part of America should be designated by the expression America on the North Sea *(d'Amerique sur la mer du Nord)*.

The difficulty of leaving to the French the right of fishing and drying fish on the shores of Newfoundland was raised; the Queen gave her consent. Mesnager was too wise to contest the change of term which this princess desired; thus he and St. John were equally satisfied.

Memorial Concerted with Marquis de Torcy, 19th January, 1713, and forwarded to Lord Bolingbroke, by the Duke of Shrewsbury.

The inhabitants of Hudson's Bay, subjects of the Queen of Great Britain, who have been dispossessed of their lands by France, in time of peace, shall be entirely and immediately after the ratification of the treaty, restored to the possession of their said lands; and such proprietors shall also have a just and reasonable satisfaction for the losses they have suffered, with respect to their goods, moveables and effects: which losses shall be settled by the judgment of Commissaries, to be named for this purpose, and sworn to do justice to the parties interested.

Prior to Bolingbroke, 8th January, n. s., 1713.

As to the limits of Hudson's Bay, and what the ministry here seem to apprehend, at least in virtue of the general expression, *tout ce qua l'Angleterre a jamais possedé de ce coté là* (which they assert to be wholly new, and which I think is really so, since our Plenipotentiaries make no mention of it), may give us occasion to encroach at any time upon their dominions in Canada, I have answered, that since, according to the *carte* which came from our Plenipotentiaries, marked with the extent of what was thought our dominion, and returned by the French with what they judged the extent of theirs, there was no very great difference, and that the parties who determine that difference, must be guided by the same *carte*, I thought the article would admit no dispute. In case it be either determined immediately by the Plenipotentiaries or referred to commissioners, I take leave to add to your Lordship that these limitations are no otherwise advantageous or prejudicial to Great Britain than as we are better or worse with the native Indians and that the whole is a matter rather of industry than dominion. If there be any real difference between *restitution* and *cession, queritur?* Yet since, in either case, the right of the inhabitant as to transferring his goods and effects, or disposing of his person and family is always provided for in treaty, I leave it to your Lordship's better judgment if a fixed time in either case (suppose eighteen months or two years), does not put the subject, who is to have the benefit which *restitution* or *cession* grants him, upon a more equal foot, &c.

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* By Messieurs A. Petitot and Monmerique, T. II., pp. 54, 64.

NEGOTIATIONS FOR THE CESSION OF CANADA, 1761.

Memorial of French Propositions, 15th of July, 1761.

I. The King cedes and guarantees Canada to the King of England, such as it has been, and in right ought to be possessed by France, without restriction, and without the liberty of returning upon any pretence whatever against this cession or guaranty, and without interrupting the Crown of England in the entire possession of Canada.

II. The King, in making over his full right of Sovereignty over Canada to the King of England, annexes four conditions to the cession :

First.—That the free exercise of the Roman Catholic religion shall be maintained there, and that the King of England will give the most precise and effectual orders that his new Roman Catholic subjects may, as heretofore, make public profession of their religion, according to the rites of the Roman Church.

Secondly.—That the French inhabitants or others, who have been subjects of the King in Canada, may retire into the French colonies with all possible freedom and security ; that they may be allowed to sell their effects and to transport their property as well as their persons, without being restrained in their emigration, on any pretence whatever (except for debt) ; and the English Government shall engage to procure them the means of transportation at as little expense as possible.

Thirdly,—That the limits of Canada, with regard to Louisiana, shall be clearly and firmly established, as well as those of Louisiana and Virginia, in such manner, that after the execution of peace there may be no more difficulties between the two nations, on the interpretation of the limits relative to Canada, or the other possessions of England.

[*N.B.*—M. Bussy has a memorial on the subject of the limits of Louisiana, which gives him power to come to a final treaty on that article with the Ministry of his Britannic Majesty.*]

Fourthly.—That the liberty of fishing, and of drying their codfish may, on the banks of Newfoundland, be confirmed to the French as heretofore ; and as this confirmation would be illusory if French vessels had not a shelter in those parts appertaining to their nation in these countries, the King of Great Britain, in consideration of the guaranty of his new conquests, shall restore Isle Royal, or Cape Breton, to be enjoyed by France in entire sovereignty. It is agreed to fix a value on this restitution, that France shall not under any denomination whatever, erect any fortifications on the island, and shall confine herself to maintaining a civil establishment there, and the port for the convenience of the fishing vessels landing there.

Private Memorial of France, of July 15, 1761, Relating to Spain.

[The Duc de Choiseul proposes that Spain should be invited to guarantee the future Treaty of Peace. And he says,—]

The King will not disguise from His Majesty, that the differences of Spain with England fill him with apprehensions, and give him room to fear that, if they are not adjusted, they will occasion a fresh war in Europe and America. The King of Spain has communicated to His Majesty the three Articles which remain to be discussed between his Crown and the Crown of Britain, which are :

1. The restitution of some captures which have been made during the present war upon the Spanish Flag.

2. The privilege for the Spanish nation to fish upon the Banks of Newfoundland.

3. The demolition of the English settlements made upon the Spanish territories in the Bay of Honduras.

* Note by the Duc de Choiseul.

NEGOTIATIONS FOR THE CESSION OF CANADA, 1761.

From M. Bussy's Note to Mr. Pitt.

Since the Memorial of the Propositions from France was formed, and at the instant that the courier was ready to set out for London, the King received the consent of the Empress-Queen to a separate peace with England, but upon two conditions :

1. To keep possession of the countries belonging to the King of Prussia.

2. That it shall be stipulated that the King of Great Britain, neither in his capacity of King or Elector, shall afford any succour, either in troops or of any kind whatever, to the King of Prussia ; and that His Britannic Majesty will undertake that the Hanoverian, Hessian, Brunswickian and other auxiliaries in alliance with Hanover, shall not join the forces of the King of Prussia, in like manner as France shall engage on her part not to yield succour of any kind to the Empress-Queen nor her allies.

Both these conditions appear so natural and equitable in themselves, that His Majesty could not do otherwise than acquiesce in them, and he hopes that the King of Great Britain will be ready to adopt them.

From Mr. Pitt's Letter to M. Bussy.

July 24, 1761.

It is my duty to declare further to you in plain terms, in the name of His Majesty, that he will not suffer the disputes with Spain to be blended in any manner whatever in the negotiation of peace between the two Crowns ; to which I must add, that it will be considered an affront to His Majesty's dignity, and as a thing incompatible with the sincerity of the negotiation, to make further mention of such a circumstance.

Moreover, it is expected that France will not at any time presume a right of intermeddling in such disputes between Great Britain and Spain. These considerations so just and indispensable, have determined His Majesty to order me to return you the Memorial which occasions this, as wholly inadmissible.

I likewise return you, Sir, as totally inadmissible, the Memorial relative to the King of Prussia, as implying an attempt upon the honour of Great Britain, and the fidelity with which His Majesty will always fulfil his engagements with his allies.

British Answer to Memorial of French Propositions.

[On the 27th of July, 1761, the answer of the British Court to the memorial of French propositions was forwarded to Mr. Hans Stanley, the English Envoy at Paris. The first two relate to Canada.]

1. His Britannic Majesty will never recede from the entire and total cession, on the part of France, without any new limits, or any exception whatever, of all Canada with its appurtenances ; and His Majesty will never relax, with regard to the full and complete cession on the part of France, of the Isle of Cape Breton, and of the other islands in the Gulf and River of St. Lawrence, with the right of fishing which is inseparably incident to the possession of the aforesaid coasts, and of the canals or straits which lead to them.

2. With respect of fixing the limits of Louisiana with regard to Canada, or the English possession situate on the Ohio, as also on the coast of Virginia, it never can be allowed that whatever does not belong to Canada shall appertain to Louisiana, nor that the boundaries of the last Province shall extend to Virginia, or to the British possessions on the borders of the Ohio ; the nations and countries which lie intermediate, and which form the true barriers between the aforesaid Provinces, not being proper, on any account, to be directly or by necessary consequence ceded to France, even admitting them to be included in the limits of Louisiana. * * *

10. The demand of the restitution of the captures at sea before the declaration of war cannot be admitted, such a claim not being founded on any particular convention, and

by no means resulting from the law of nations, as there is no principle more incontestable than this, viz.: that the absolute right of all hostile operations does not result from a formal declaration of the war, but from the hostilities which the aggressor had first offered.

FROM THE ULTIMATUM OF FRANCE IN REPLY TO ENGLAND, AUGUST 6, 1761, REMITTED TO THE DUC DE CHOISEUL BY MR. STANLEY.

The King renews the declaration which he made to His Britannic Majesty, to the Memorial of Propositions for Peace, which has been transmitted to Mr. Stanley, and to which the Court of England has given no answer, either by word of mouth or in writing. His Majesty again declares that if the negotiation entered into at London and Paris for the re-establishment of peace between the two Crowns, has not the desired success, all the articles agreed to in that negotiation by France cannot be represented, on any occasion, as settled points, any more than the Memorial of the month of March last, relative to the *Uti possidetis*.

I. The King consents to cede Canada to England in the most extensive form, as specified in the Memorial of Propositions, but his Majesty will not recede from the conditions which he has annexed to the said Memorial, relative to the Catholic religion, and to the power, facility, and liberty of emigration for the ancient subjects of the King. With regard to the Fishery in the Gulf of St. Lawrence the King means to maintain the immemorial right which his subjects have of fishing in the said Gulf; and of drying their fish on the banks of Newfoundland, as it was agreed by the Treaty of Utrecht. As this privilege would be granted in vain if the French vessels had not some shelter appertaining to France in the Gulf, His Majesty proposed to the King of Great Britain the restitution of the Island of Cape Breton; he again proposes either that Island or St. John [Prince Edward] or such other port without fortifications, in the Gulf, or within reach of the Gulf, which may serve the French as a shelter, and secure to France the liberty of fishing, from whence His Majesty has no intention to recede.

II. The King has, in no part of his Memorial of Propositions, affirmed that all which did not belong to Canada, appertained to Louisiana; it is even difficult to conceive such an assertion could be advanced. France, on the contrary, demands that the intermediate nations between Canada and Louisiana, as also between Virginia and Louisiana, shall be considered as neutral nations, independent of the Sovereignty of the two Crowns, and serve as a barrier between them. If the English Minister would have attended to the instructions of M. Bussy on this subject, he would have seen that France agreed with England as to this proposition.

MR. PITT TO M. BUSSY.

August 15th, 1761.

It belongs, Sir, to Europe to judge whether this is the Court which has shown an aversion to peace, or whether it is not that which, after so many variations and delays on her part, arbitrarily continues to insist on objects in America which we have a right to by the *Uti possidetis*, and which would make a direct attempt on the essential right of our conquests in Canada and its appurtenances in the Gulf of St. Lawrence, which, in Germany, not only refuses to give up her conquests, gained over His Majesty's allies, as a just compensation for the important restitutions with which His Majesty is willing to accomodate France, but even pretends to impose an obligation on His Majesty not to fulfil the engagements of his Crown towards the King of Prussia; which, moreover, not satisfied with throwing so many obstacles in the way of peace, has not scrupled to interpose new perplexities in opposition to this precious blessing, for which the nation sighs, by intermixing, too late, matters so foreign to the present negotiation between the two Crowns as the discussions between Great Britain and Spain.

NEGOTIATIONS FOR THE CESSION OF CANADA, 1761.

FROM THE ANSWER OF THE BRITISH MINISTER TO THE ULTIMATUM OF FRANCE, DELIVERED TO M. BUSSY.

August 16th, 1761.

His Most Christian Majesty having repeatedly declared, in the *ultimatum* of the Court of France, remitted to Mr. Pitt by M. Bussy, as well as in the Memorial of the Propositions of Peace, which was remitted by the Duke de Choiseul to Mr. Stanley, that if the negotiations entered into between the two Crowns has not the desired effect, all the articles conceded in that negotiation by France cannot be considered in any case as points agreed upon, any more than the memorial of the month of March last, in relation to the *Uti possidetis*. The King declares, in return, that if the concessions His Majesty has made to bring about peace shall not be accepted by his Most Christian Majesty, the important restitutions offered to France, as well as the other circumstances hereinafter expressed, cannot for the future be considered as given up.

ARTICLE I.—The King will not desert his claim to the entire and total cession of all Canada and its dependencies, without any limits or exceptions whatever; and likewise insists on the complete cession of the Island of Cape Breton, and of other islands in the Gulf and River St. Lawrence.

Canada, according to the lines of its limits traced by the Marquis de Vaudreuil himself, when that Governor surrendered the said Province by capitulation to the British General, Sir J. Amherst, comprehends on one side the Lakes Huron, Michigan, and Superior; and the said line drawn to Red Lake takes in, by a serpentine progress, the River Ouabachi [Wabash], as far as its junction with the Ohio, and from thence extends itself along the latter river as far, inclusively, as its influx into the Mississippi.

It is in conformity to this state of the limits made by the French Governor, that the King claims the cession of Canada; a Province which the Court of France, moreover, has offered anew by their *ultimatum* to cede to His Britannic Majesty, in the most extensive manner, as expressed in the Memorial of Propositions of Peace of 13th July.

As to what concerns the public profession and exercise of the Roman Catholic religion in Canada, the new subjects of His Britannic Majesty shall be maintained in that privilege without interruption or molestation; and the French inhabitants or others, who may have been subjects of the most Christian King in Canada, shall have full power and liberty to sell their effects, provided they dispose of them to the subjects of His Britannic Majesty, and to transport their property, as well as their persons, without being restrained from their emigration, under any pretence whatever (unless in case of debt, or for a breach of criminal laws); it being always understood that the time granted for the said emigration shall be limited to the space of one year, to be computed from the day of the ratification of the Definitive Treaty.

ARTICLE II.—As to what respects the line to be drawn from Rio-Perdido, as contained in the note remitted by M. Bussy, of the 18th of this month, with regard to the limits of Louisiana, His Majesty is obliged to reject so unexpected a proposition, as by no means admissable in two respects.

1. Because the said line, under colour of fixing the limits of Louisiana, annexes vast countries to that Province, which, with the commanding posts and forts, the Marquis de Vaudreuil has, by the most solemn capitulation, incontestably yielded into the possession of His Britannic Majesty, under the description of Canada, and that consequently, however contentious the pretentions of the two crowns may have been before the war, and particularly with respect to the course of the Ohio, and the territories in that part, since the surrender of Canada, and the line of its limits has been traced, as aforesaid, by the Marquis de Vaudreuil, all those opposite titles are united, and become valid without contradiction, to confirm to Great Britain, with all the rest of Canada, the possession of those countries on that part of Ohio which have hitherto been contested.

2. The line proposed to fix the bounds of Louisiana cannot be admitted, because it would compromise in another part, on the side of the Carolinas, very extensive countries

and numerous nations, who have always been reputed to be under the protection of the King, a right which His Majesty has no intention of renouncing; and then the King, for the advantage of peace, might consent to leave the intermediate countries under the protection of Great Britain, and particularly the Cherokees, the Creeks, the Chicasaws, the Chactaws, and another nation, situate between the British settlements and the Mississippi.

ARTICLE IV.—The important privilege granted by the 13th Article of the Treaty of Utrecht, under certain limitations and restrictions, to the subjects of France, for fishing and drying their cod fish on a certain part of the Banks of Newfoundland, has not been refused by Great Britain, but connected with a reciprocal satisfaction on the part of France, with regard to the indispensable object of Dunkirk, which the King has required, and still requires: it is, therefore, on condition that the town and port of Dunkirk shall be put in the condition it ought to have been in by the last Treaty of Aix la Chapelle, that His Majesty consents to renew to France the privilege of fishing and of drying their fish, by virtue of the Treaty of Utrecht, upon the aforesaid district of Newfoundland.

H. STANLEY.

FROM THE LAST MEMORIAL OF FRANCE TO ENGLAND, DATED SEPTEMBER 9, DELIVERED TO MR. PITT BY M. BUSSY, SEPT. 13, 1761.

The King accepts the declaration of the King of England contained in the preamble of the answer, and renews that which he before made to his Majesty on this head, in such manner that it is concluded between the two Courts finally and without ambiguity, that if peace is not the result of the present negotiation, all that has been said, written and negotiated between the two Crowns, since the memorial of the 26th March inclusive, to the moment of the rupture, shall be void and of no effect, and shall not be brought as an argument in favour of either of the parties in any future negotiation of peace.

ARTICLE I.—The King has declared in his first memorial of propositions, and in his *ultimatum*, that he will cede and guarantee to England the possession of Canada, in the most ample manner. His Majesty still persists in that offer, and without discussing the line of its limits marked on a map presented by Mr. Stanley,—as that line, on which England rests its demands, is without doubt the most extensive bound which can be given to the cession,—the King is willing to grant it.

His Majesty had annexed four conditions to his guaranty; it seems that England agrees to them: only the King conceives that the term of one year for the sale of the French effects and for emigration is too short, and his Majesty desires that it may be agreed to extend the term of one year to eighteen months at least.

As the Court of England has added to the first article of its answer to the entire and total cession of Canada, as agreed between the two Courts, the word *dependencies*, it is necessary that she should give a specific explanation of this word, that the cession might not in the end occasion difficulties between the two Courts with regard to what she understands by the word "dependencies."

ARTICLE II.—The first paragraph, with regard to the limits of Louisiana, contained in the second article of the answer from England, is agreed to by France. The second paragraph is neither just nor explicit, and it is finally proposed to express it in the following terms:—

The intermediate savage nations between the lakes and the Mississippi, and within the line traced out, shall be neuter and independent, under the protection of the King, and those without the line, on the side of the English, shall likewise be neuter and independent, under the protection of England. The English traders shall also be prohibited from going among the savage nations beyond the line, on either side; but the said nations shall not be restrained in their freedom of commerce with the French and English, as they have exercised it heretofore.

NEGOTIATIONS FOR THE CESSION OF CANADA, 1761.

ARTICLE IV.— . . . England always endeavours to connect the liberty of fishing and drying codfish on part of the coast of Newfoundland, granted by the fifteenth article of the Treaty of Utrecht, with the ninth article of the same Treaty, which stipulates the demolition of Dunkirk. It is given in answer to England for the fourth and last time that the two stipulations of the Treaty of Utrecht have nothing in common between them, unless that they are both comprised in the said Treaty; and that the concession expressed in favour of the French in the thirteenth article of that Treaty, is a compensation for the cession of Newfoundland and Annapolis Royal, made on the part of France to England by the twelfth and thirteenth articles of the same Treaty.

M. DE VAUDREUIL TO THE DUC DE CHOISEUL.

October 30th, 1761.

MY LORD,—I was astonished to see, by the historical account of the Memorial of the negotiations between France and England, what I am charged with by the English, with regard to the limits of Canada, as it is entirely false and groundless. I shall give your Grace a true account of what passed between Mr. Amherst and me on that head. When I capitulated, I traced no limits whatever, and in all the messages that passed between the English General and me, I made use of the word "Canada" only. Eight or ten days after the surrender of the country, he sent an officer to me for maps, to inform him of the extent of the colony. I returned for answer, that I had none, my maps having been taken away with my baggage at Quebec, in breach of the capitulation of that place; and the officer then showing me a map which he had in his hand, I told him the limits marked on it were not just, and verbally mentioned others, extending Louisiana on one side, to the carrying place of the Miamis, which is the height of the lands whose rivers run into the Ouabache, and on the other, to the head waters of the Illinois.

What I have the honour to tell you, my lord, is strictly true; I am not afraid that the English can produce any proof of the contrary—for nothing passed in writing, on this head, nor was any line drawn on any map. I take the first opportunity to acquaint you with this, to prevent any further imposition.

DUMAS' MEMOIR ON THE BOUNDARIES OF CANADA, 1761.*

'Tis supposed that the Plenipotentiaries named for the future Congress, are incapable of adopting the frivolous ideas entertained in France respecting our possessions in Canada; statesmen have notions different from the simple vulgar. The French are too volatile and too superficial to trouble themselves about the future; but ministers, whom wisdom has selected and ability directs, will of themselves observe that the interests of commerce, the progress of navigation, the good of the State, and the King's glory necessarily require that the restitution of Canada be laid down as a preliminary in the Treaty of Peace.

In more favourable conjunctures, we would be justified in demanding of the English damages corresponding to the enormous depredation of our marine, as well commercial as national; but the circumstances which will exist at the conclusion of the peace are to decide the sacrifices we shall be obliged to make, or the advantages which are possibly to result therefrom. Commerce has changed the face of Europe; it is now evident that, in the long run, the more commercial nation will become the more powerful.

We can no longer dispense with America, without falling sensibly from our state of splendour.

On the restitution of Canada depends the fate of the rest of our colonies.

* *Paris Documents*, XVII., p. 115. This document seems to have governed the conduct of the Duc de Choiseul in his propositions [illegible] Mr. Pitt, and is appended as serving to elucidate the foregoing correspondence.

These principles, clearer than the day, once admitted, that restitution ought to form the basis and foundation of the Treaty of Peace.

But will the work of our ministers be durable? For want of local knowledge, will they be in a condition to manage beneficially the interests of the king and nation in this regard? Will they prevent the subterfuges in which English trickery will not fail to envelop them? If the English desire peace, do they desire it to be lasting? Will they renounce that system of maritime despotism which constitutes the sole object of their policy? Will they not preserve a constant hankering to render themselves masters of the whole of America? And will they not allow it to appear when we shall be least on our guard? Incapable of accomplishing that project now, in consequence of the exhaustion of their finances, will they not renew it at another time? In front of an enemy so active, so ambitious, so enterprising, conjectures are as good as demonstrations; the past cannot render us too cautious for the future.

By a fatality which cannot be comprehended, the English were better acquainted than we were before the war with the topographical map of our possessions. Aided by similar help, what advantage do they not possess to cheat us? To this object, then, should be directed all the prudence and sagacity of our Plenipotentiaries.

Boundaries.

I limit their labours, respecting Canada, to four general objects:

1st. The entire property of both shores of the River and Gulf of St. Lawrence.

2nd. The property of the lakes and rivers which form the natural communication between Canada and Louisiana; they consist of Lake Ontario, Lake Erie, and the Ohio.

3rd. That neither of the two nations can form any establishments on the rivers watering the possessions of the other.

4th. That both colonies shall exist and increase by population, without covering their frontiers with advanced posts, which is a principle of jealousy, suspicion and distrust; an occasion always at hand, or a pretext often specious, for a rupture between the two nations.

As for the first article—to cede to the English, as they pretend, the entire peninsula of Acadia is to reduce ourselves evidently to a precarious possession. That peninsula is susceptible of an immense population; its position is one of the most advantageous, both for the erection of fortifications, and of posts there; solid settlements of every description can be formed there; agriculture can be followed with the greatest success. In vain would France flatter herself that she should preserve in peace the possessions of the mouth of the river, if the English obtained the entire cession of that peninsula. Already masters of Newfoundland they should grant us the property of a country whereof they would guard the entrance.

The peace will scarcely be signed, when the activity of that ambitious people will be revived; soon will they be seen establishing themselves on the north side of that peninsula, and neglecting the remainder, if necessary, in order to transport to that quarter all their industry in favour of plantations.

What service would not the Plenipotentiaries be rendering the State, if, by their ability, they would induce the English to consent to a division of that peninsula, so that France should preserve the property of the northern part, from Cape Canso to Minas?

But if their zeal become useless, if English firmness leave no hope on that point, they ought to be prepared to rather break all conference than to give up an inch of ground on that continent. 'Tis evident that our colony would lose thereby all communication with the metropolis: we should no longer possess the free entrance of the river, except so far as the English would think proper. The lines of demarcation which separate the respective possessions on the map annexed to this memoir,* are drawn in accordance with the largest sacrifices that it is possible for France to make. 'Tis for the Plenipotentiaries to take advantage of favourable events, to obtain the best terms; but in all possible reverses, 'twill be more advantageous for the King and the State to renounce Canada, and consequently Louisiana, which cannot exist without it, than to cede an inch of territory beyond that division.

The blue colour indicates the French possessions.

The red indicates the English possessions.

* [The map is wanting.—Ed.]

The green, what can be ceded towards Hudson's Bay—should events require France to make further additional sacrifices.

I have said, and repeat it, Louisiana cannot exist for us without Canada. But 'tis more advantageous for France promptly to cede these two colonies to the English, than to accept conditions worse than those indicated by the lines drawn on that map.

On this hypothesis, let the river Pentagouet be the boundary of the English possessions on the continent, on the N.E., and let them be precluded from settling only the right bank.

Let the River St. John bound the French settlements, and let them be precluded from settling only the left bank.

The territory between these two rivers shall perpetually remain neutral and undivided between both nations, as marked on the map by the yellow colour.

The second object of the labour of our Plenipotentiaries relative to Canada, regards the communication of that colony with Louisiana. The projects of the English would be accomplished beyond their hopes, were the freedom of that communication not stipulated and solidly established by the treaty of peace; 'twould be separating two colonies, which cannot sustain themselves except by their immediate affinity. Now that communication can occur only by the Ohio: by every other route it is very difficult, often even impracticable. 'Tis essential, then, to insist strongly on the entire possession of the Ohio.

That river, navigable throughout all its course for very large craft, threatens Louisiana afar, and combines the advantage of distance in concealing preparations, with that of extreme rapidity of current for promptitude of execution.

To make the Ohio the boundary of the respective colonies, is to surrender it entirely to the English. In fact, already the English population is advancing towards that river; it has only one step to take to clear the Apalachies, and that step would be taken on the day after the signing of the treaty. The left bank of the Ohio would be under English cultivation in less than four years, whilst our population would not reach that point in the space of a century. Who does not perceive in that explanation the approaching and inevitable fall of Louisiana?

The entire possession of the Ohio cannot, then, be too much insisted on, the Apalachies constituting the limits; but if events were such as to force us to give way on that important article, the only middle course to adopt is marked on the map by the yellow colour, viz., to leave the course of that river neutral, unsettled without ownership, free to both nations to convey on it their goods for moveable trade, with express reservation to France of the communication between both those colonies.

The possession of Lakes Ontario and Erie, which are the continuation of that communication, is a point of the greatest interest to us, the rather as for want thereof, those lakes assure another passage by the Miamis and Onabache rivers, more difficult, more uncertain, but which furnishes nevertheless a resource in times of misfortune. I admit that very favourable events would be required to reduce the English to abandon the south shore of Lake Ontario, of which they are a long time in possession, through Fort Chouequen—a possession usurped, but constant, and, as it were, unopposed: an empty protest by the French Government, when the first foundations of that post were laid, is the only contradiction they have experienced.

If circumstances were such, on the conclusion of the peace, as that France had to make good its advantages, that would be the moment to protest against that usurpation. This important object merits the greatest attention of our Plenipotentiaries. It is sufficient to consider the course of the waters to perceive that that lake commands the whole of Canada. General Amherst has found no route more certain for invasion; the event has not over-justified his principles and mind.

If, on the contrary, we are reduced to take back Canada in the same condition that we possessed it before the war, France might consent to confine its cultivated settlements to the north shore of Lake Ontario, leaving the south shore free from the Bay of Niaouré to the River Niagara.

The English would preserve the freedom of conveying their merchandize for moveable trade to the mouth of the Chouequen river, and could extend themselves only to the Onondagan river on one side, and as far as the River à la Famine on the other.

But nothing should make France give up the property of the soil, so that the freedom of trade granted to the English could not at any time invest them with a title thereto.

Let their possessions be always confined to the heads of the rivers by which they are watered, and let the height of the land be constantly the limit between the two nations.

The entire possession of Lake Erie ought to belong to France incontestably up to the head waters of the streams that empty into that lake on the south side; the rivers flowing towards the Ohio are included in the neutrality proposed by that river.

The third object proposed at the head of this Memoir will be rendered clearer by a brief inspection.

The English are ten to our one in America. But if passing the height of lands, we should push our posts as far as the heads of the rivers which water the English colonies, all their superiority in numbers, means and resources would not guarantee them against an invasion when it should please us to attempt it.

He who meditates an expedition, prepares it secretly, and when 'tis time to put it in execution, if he have in his favour the current of the stream which conveys him with rapidity, he surprises his enemy and infallibly succeeds; the same is not the case where the aggressor has to ascend the rivers, has portages to make, lakes to traverse, and mountains to pass. The immense preparations necessary to be made for that purpose discover the movement, and the slowness of the execution affords time to the menaced province to place itself in a state of defence.

The English colonies are in the latter position in respect to Canada, and Canada would be in the first relative to the English Colonies were the English to advance their settlements on Lake Champlain, Lake Ontario, or the Ohio.

I am fully convinced, and every man of sense who is conversant with the manner in which war can be carried on in that country, will agree with me that all the resources of the State will never preserve Canada if the English are once settled at the head of our rivers. 'Tis, again, one of the conditions that must never be consented to. Should peace be concluded under favourable circumstances to France, I point out the only middle course to be adopted, which is the neutrality of certain districts; such might Lake St. Sacrament be without prejudice to us, provided the English confine their settlements to the sources of the waters flowing into the River of Orange [the Hudson].

Come we now to the fourth principle:—

I know nothing more useless in that country than forts to cover the frontiers; they are equally a burden to both nations, which have an equal interest in demolishing them; they are, in time of peace, a source of useless expense, and experience has demonstrated that in time of war they would be good for nothing. These frontier posts are adapted only to create difficulties, to afford umbrage, and sometimes furnish pretexts for a rupture.

They would favour that nation which would preserve the desire to seize the possessions of the other. By aid of the stand-points, it would pounce on its enemy when least expected, whilst every considerable enterprise becomes more difficult, more tedious, were they no longer in existence. If entrepôts must be established, the step forward is a cry, "to arms!"

The French Plenipotentiaries will labour usefully for that Colony, and more profitably still for the Royal Treasury, if they agree with the British Ministers on not preserving any post on the frontiers on either side; thus Chouequen and Niagara will be demolished.

That does not exclude useful settlements in the interior of the possessions, either relatively to trade or otherwise, which each nation is to be at liberty to direct, according to its interests, but merely on what is called frontier, an outlet which may tend to supply means of an invasion.

To place matters at the worst, if the fortune of war be unfavourable to France this campaign, and peace be concluded in an unpropitious moment for us:

If, in order to obtain the conditions I propose, we be under the necessity of making new sacrifices in any part of Canada, the least dangerous for us would be to allow more

extent to the English possessions in the direction of Hudson's Bay. Let us cede to them the whole of Lake Superior, rather than one inch of territory in the south part, at this side the height of land or the Apalachies. That sacrifice which is to be made by France at the most critical moment, is marked by the green colour on the map.

Anything beyond those lines of demarcation, and France must give up Canada, inasmuch as it is evident she cannot preserve it; moreover, to maintain ourselves in that state, the Minister must essentially and constantly occupy himself therewith; but above all things must men be carefully selected, to whom the Government, the Police and Finances are to be confided.

Otherwise we shall labour for our enemies. Canada, bathed in the blood of our unfortunate colonists, will soon be the appendage of the English. Our clearances, our settlements, our villages, will be so much fruit to be gathered by them when they have arrived at maturity.

Let the height of land and the Apalachies be the limits between the two peoples. Nature appears to have marked them expressly.

The caprice of man cannot change that barrier, always permanent, and always ready to protest against the usurper. People aspire to a factitious peace when they seek to establish it on arbitrary lines which the revolutions of time or the interests of men can destroy. 'Tis, perhaps, a fault into which have fallen our ablest negotiators, yet 'tis the most important object of a treaty of peace, since it destroys or foments the fatal germ which is the occasion of most wars. The height of land and the Apalachies once determined on as the line of separation between the two colonies, the modifications, the compromises I propose, neutralizing certain districts, may be admitted according as circumstances will be more or less favourable to France, when peace will be concluded.

One reflection more remains to be submitted, which, although not bearing directly on the boundaries, is, nevertheless, very intimately connected with them.

Considering the enormous expense entailed on us by the service of Indians in the war, I have always thought that the King would maintain at much less expense in Canada, a permanent corps of troops, capable of defending it at all times; and when I have weighed with reflection the utility of their assistance, I have found it to be only one of opinion and prejudice. But this prejudice is founded on the terror inspired by their cruelty and barbarity in their customs; it consequently will preserve its power.

This terror will be always very useful to the nation which will best be able to manage the alliance and attachment of those people. We possess one real advantage over the English in this regard; let us carefully avoid doing it the smallest damage by any convention with our enemies which would cause the Indians to suspect our alliance and good faith. However simple and natural such an accord might be, the English would not fail to present it to the Indians in the light that would render it odious to them. These people are proud, jealous, suspicious and vindictive; an appearance of defection on our part, after all the blood they have poured out in our defence, would render these irreconcilible to us from generation to generation, and that would be the greatest of misfortunes for both our colonies.

Our Plenipotentiaries ought to be distrustful on this point. I am fully convinced that the British Ministers will set snares for them on this point, which is of more importance for them in America than the gain of many battles.

As for the rest, a Governor-General, instructed and attentive, will know how to maintain the alliance of all the people of this continent, in peace as in war, without those enormous expenses which knavery conducts and ignorance tolerates.

DUMAS.

Paris, 5th April, 1761.

X.

Canadian Enterprise in the North-West after the Conquest: 1761-1819.

EXTRACTS FROM HENRY'S TRAVELS IN CANADA AND THE INDIAN TERRITORIES.*

(1761.) Fort Michilimackinac was built by order of the Governor-General of Canada, and garrisoned with a small number of militia, who, having families, soon became less soldiers than settlers. Most of those whom I found in the fort had originally served in the French army.

The fort stands on the south side of the strait which is between Lake Huron and Lake Michigan. It has an area of two acres, and is enclosed with pickets of cedar wood (*Thaya occidentalis*); and it is so near the water's edge, that, when the wind is in the west, the waves break against the stockade. On the bastions are two small pieces of brass English cannon, taken some years since by a party of Canadians who went on a plundering expedition against the post of Hudson's Bay, which they reached by the route of the River Churchill.

Within the stockade are thirty houses, neat in their appearance, and tolerably commodious; and a church in which mass is celebrated by a Jesuit Missionary. The number of families may be nearly equal to that of houses; and their subsistence is derived from the Indian traders who assemble here in their voyages to and from Montreal. Michilimackinac is the place of deposit, and point of departure, between the Upper countries and the Lower. Here the outfits are prepared for the countries of Lake Michigan and the Missisipi, Lake Superior and the North-West, and here the returns in furs are collected and embarked for Montreal.

Relieved as I now imagined myself from all occasion of anxiety as to the treatment which I was to experience from the Indians, I assorted my goods, and hired Canadian interpreters and clerks, in whose care I was to send them into Lake Michigan and the River Saint Pierre, in the country of the Nadowessies [Sioux]: into Lake Superior, among the Chippeways; and to the Grand Portage, for the North-West. Everything was ready for the departure, when new dangers sprung up and threatened to overwhelm me.

At the entrance of Lake Michigan, and at about twenty miles to the west of Fort Michilimackinac, is the Village of L'Arbre Croche, inhabited by a band of Otawas, boasting of two hundred and fifty fighting men. L'Arbre Croche is the seat of the Jesuit Mission of St. Ignace de Michilimackinac, and the people are partly baptized and partly not. The Missionary resides on a farm attached to the Mission and situated between the village and the fort, both of which are under his care.

At noon, three hundred troops, of the sixtieth regiment, under the command of Lieutenant Leslie, marched into the fort; and this arrival dissipated all our fears from whatever source derived. After a few days, detachments were sent into the Bay des Puans, by which is the route to the Missisipi, and to the mouth of the St. Joseph, which leads to the Illinois. The Indians, from all quarters, came to pay their respects to the commandant; and the merchants despatched their canoes, though it was now the middle of September, and therefore somewhat late in the season.

The Village of L'Arbre Croche supplies, as I have said, the maize, or *Indian Corn* with which the canoes are victualled. This species of grain is prepared for use by boiling it in a strong lye, after which the husk may be easily removed; and it is next mashed and dried.

* Travels and Adventures in Canada and the Indian Territories, between the years 1760 and 1776, in two parts, by Alexander Henry, Esq., pp. 39, 40, 46-7, 51-3, 58, 105, 186, 191-3, 195-6, 214, 218-19, 237-8, 244, 252-3, 255, 259-61, 264-5, 268, 272-3, 314, 317, 319-22, 327.

In this state it is soft and friable like rice. The allowance for each man on the voyage is a quart a day; and a bushel with two pounds of prepared fat is reckoned to be a month's subsistence. No other allowance is made of any kind; not even of salt; and bread is never thought of. The men, nevertheless, are healthy, and capable of performing their heavy labour. This mode of victualling is essential to the trade, which, being pursued at great distances, and in vessels so small as canoes, will not admit of the use of other food. If the men were to be supplied with bread and pork, the canoes could not carry a sufficiency for six months; and the ordinary duration of the voyage is not less than fourteen. The difficulty which would belong to an attempt to reconcile any other men than Canadians to this fare, seems to secure to them and their employers a monopoly of the fur trade.

(1762.) On the 19th (May) I reached the SAULT [STE. MARIE.] Here was a stockade fort in which under the French Government there was kept a small garrison, commanded by an officer who was called *the governor*, but was in fact a clerk, who managed the Indian trade here on government account. The houses were four in number, of which the first was the governor's, the second the interpreter's, and the other two, which were the smallest, had been used for barracks. The only family was that of M. Cadotte, the interpreter, whose wife was a Chipeway.

(1763.) Of the English traders that fell into the hands of the Indians at the capture of the fort [of Michilimackinac], Mr. Tracy was the only one who lost his life. Mr. Ezekiel Solomons and Mr. Henry Bostwick were taken by the Otawas, and, after the peace, carried down to Montreal and there ransomed. Of ninety troops, about seventy were killed; the rest, together with those of the posts in the Bay des Puants and at the River St. Joseph, were also kept in safety by the Otawas till the peace, and then either freely restored or ransomed at Montreal.

(1764.) On the day [Aug. 9th.], following that of the Treaty of Peace, Captain Howard was detached with two companies and three hundred Canadian Volunteers for Fort Michilimackinac, and I embarked at the same time.

(1765.) Under the French Government of Canada, the FUR TRADE was subject to a variety of regulations, established and enforced by the royal authority; and in 1765, the period at which I began to prosecute it anew, some remains of the ancient system were still preserved. No person could go into the countries lying to the north-westward of Detroit unless furnished with a license, and the exclusive trade of particular districts was capable of being enjoyed in virtue of grants from military commanders.

The exclusive trade of Lake Superior was given to myself by the Commandant of Fort Michilimackinac, and to prosecute it I purchased goods which I found at this post at twelve months' credit. My stock was the freight of four canoes, and I took it at the price of ten thousand pounds weight of good and merchantable beaver. It is in beaver that accounts are kept at Michilimackinac; but in defect of this article, other furs and skins are accepted in payments, being first reduced into their value in beaver. Beaver was at this time at the price of two shillings and sixpence per pound, Michilimackinac currency; otter skins, six shillings each; marten, at one shilling and sixpence, and others in proportion.

To carry the goods to my wintering grounds in Lake Superior, I engaged twelve men at two hundred and fifty livres, of the same currency, each; that is a hundred pounds weight of beaver. For provisions I purchased fifty bushels of maize, at ten pounds of beaver per bushel. At this place specie was so wholly out of the question that in going to a cantine you took with you a marten's skin to pay your reckoning.

(1765.) On my arrival at Chagouemig [CHAGOUAMIGON], I found fifty lodges of Indians there. These people were almost naked, their trade having been interrupted first by the English invasion of Canada, and next by Pontiac's war.

Adding the Indians at Chagouemig to those which I had brought with me, I had now a hundred families, to all whom I was required to advance goods on credit. At a council which I was invited to attend, the men declared that unless their demands were complied with, their wives and children would perish; for that there were neither amunition nor

clothing left among them. Under these circumstances I saw myself obliged to distribute goods to the amount of three thousand beaver skins. This done the Indians went on their hunt at the distance of a hundred leagues. A clerk acting as my agent accompanied them to Fond du Lac, taking with him two loaded canoes. Meanwhile, at the expense of six days' labour, I was provided with a very comfortable house for my winter's residence.

(1767). On reaching the trading post [of MICHIPICOTEN] which was an old one of French establishment, I found ten lodges of Indians. These were *Gens de Terres* or *Opimitish Ininiwac* [also called *Tetes de Boule*], of which nation I have already had occasion to speak. It is scattered all over the country between the Gulf of St. Lawrence and *Lake Arabuthcow* [Athabasca] and between Lake Superior and Hudson's Bay.

(1768.) On the twentieth day of the month [May] the first party of Indians came in from their winter's hunt. During the season some of them had visited one of the factories of the Hudson's Bay Company. Within a few days following, I had the satisfaction of seeing all those to whom I had advanced goods, return. Out of two thousand skins, which was the amount of my outstanding debts, not thirty remained unpaid; and even the trivial loss which I did suffer was occasioned by the death of one of the Indians for whom his family brought, as they said, all the skins of which he died possessed, and offered to pay the rest from among themselves. His manes, they observed, would not be able to enjoy peace, while his name remained in my books, and his debts were left unsatisfied.

(1775.) On the 10th day of June, I left the Sault [for the North-West] with goods and provisions to the value of three thousand pounds sterling, on board twelve small canoes, and four larger ones. The provisions made the chief bulk of the cargo; no further supply being obtainable till we should have advanced far into the country. Each small canoe was navigated by three men, and each larger one by four.

It was by the River Pijitic* that the French ascended in 1750, when they plundered one of the factories in Hudson's Bay, and carried off the two small pieces of brass cannon which fell again into the hands of the English at Michilimackinac. On the river bank are a band of Wood Indians, who are sometimes troublesome to the traders passing.

By this River [NIPIGON] the French carried on a considerable trade with the Northern Indians. They had a fort or trading house at its mouth, and annually drew from it a hundred packs of beaver of a quality more in esteem than that from the north-west. They had another trading house at Caministiqua. As we proceed north-west along the lake, the mountains recede widely from the beach.

THE LAKE OF THE WOODS is thirty-six leagues long. On the west side is an old French fort or trading house, formerly frequented by numerous bands of Chipeways, but these have since been almost entirely destroyed by the Nadowessies.

I kept the north side of the lake [WINIPEGON], and had not proceeded far before I was joined by Mr. Pond, a trader of some celebrity in the north-west.

On the seventh of September we were overtaken by Messrs. Joseph and Thomas Frobisher and Mr. Patterson. On the twentieth we crossed the bay together, comprising a fleet of thirty canoes and 180 men.

On the first October we gained the mouth of the RIVER DE BOURBON, Pasquayah, or Sascatchiwaine,† and proceeded to ascend its stream.

At the north end [of Lake de Bourbon, called by the English, after the Indians, Cedar Lake] there was, in the French time, a fort or trading house called FORT DE BOURBON, and built by M. de St. Pierre,‡ a French officer, who was the first adventurer into these parts of the country.

On the twenty-sixth [October] we reached CUMBERLAND HOUSE, one of the factories of Hudson's Bay Company, seated on Sturgeon Lake in about 54° north latitude and 102° longitude west from Greenwich. This house had been built the year before by Mr. Hearne,

* [*Note by Henry.*]—According to Carver, it was by the Michipicoten. If he is correct it must have been from Moose Fort in James's Bay, and not from Churchill that they took the cannon.

† [*Note by Henry.*]—The lower part of the Sascatchiwaine was once called the River de Bourbon. *Pasquayah* is the name of an upper portion of the Sascatchiwaine.

‡ This is a mistake. The fort was built by M. de la Verendrye. See *ante* pp. 74, 77.

who was now absent on his well-known journey of discovery. We found it garrisoned by Highlanders from the Orkney Islands, and under the command of a Mr. Cockings, by whom, though unwelcome guests, we were treated with much civility. The design in building this house was to prevent the Indians from dealing with the Canadian merchants, and to induce them to go to Hudson's Bay.

At Cumberland House the canoes separated; M. Cadotte going with four to Fort des Prairies; Mr. Pond, with two, to FORT DAUPHIN, and others proceeding on still different routes; Messrs. Frobisher retaining six, and myself four; and we resolved on joining our stock and wintering together. We steered for the River Churchill, or Missinipi, to the east of Beaver Lake, or Lake aux Castors.

Our first object, after crossing BEAVER LAKE, was to procure food. We had only three days' stock remaining, and we were forty-three persons in number. Our forty men were divided into three parties, of which two were detached to the River aux Castors, on which the ice was strong enough to allow of setting the nets in the manner heretofore described. The third party was employed in building our house or fort, and in this, within ten days, we saw ourselves commodiously lodged. Indeed, we have almost built a village, or, in soberer terms, we had raised buildings round a quadrangle such as really assumed, in the wilds which encompassed it, a formidable appearance. In front was the house designed for Messrs. Frobisher and myself, and the men had four houses, of which one was placed on each side and two in the rear.

(1776.) On the first day of January, I left our fort, on Beaver Lake, attended by two men, and provided with dried meat and frozen fish. . . . On the fourth of the month we arrived at Cumberland House. . . . The next morning [5th] I took leave [for FORT DES PRAIRIES.]

No trace of anything human presented itself on our road *except that we saw the old wintering ground of Mr. Finlay, who had left it some years before, and was now stationed at Fort des Prairies.* This fort was the stage we had to make before we could enter the prairies or plains, and on examining our provisions we found only sufficient for five days, while even at the swiftest rate we had travelled, a journey of twelve days was before us.

At Fort des Prairies, I remained several days, hospitably entertained by friends, who covered their tables with the tongues and marrow of wild bulls. The quantity of provisions which I found collected here exceeded everything of which I had previously formed a notion. In one heap I saw fifty ton of beef, so fat that the men could scarcely find a sufficiency of lean.

Fort of the Prairies, as already intimated, is built on the margin of the Pasquayah or Sascatchiwaine, which river is here two hundred yards across, and flows at the depth of thirty feet below the level of its banks. The fort has an area of about one acre, which is enclosed by a good stockade, though formed only of poplar or aspenwood, such as the country affords. It has two gates, which are carefully shut every evening, and has usually from fifty to eighty men for its defence.

Four different interests were struggling for the Indian Trade of the Sascatchiwaine, but fortunately they had this year agreed to join their stock, and, when the season was over, to divide the skins and meat.

On the 7th [April] we left Cumberland House; and on the 9th, in the morning, we reached our fort on Beaver Lake, where I had the pleasure of finding my friends well. . . .

On the 12th, Mr. Thomas Frobisher, with six men, was despatched to RIVER CHURCHILL, where he was to prepare a fort, and inform such Indians as he might see on their way to Hudson's Bay, of the approaching arrival of his partners.

On the 15th June we reached the River Churchill, Missinibi, or Missinipi, where we found Mr. Thomas Frobisher. . . . The river is called the Churchill River from Fort Churchill, in Hudson's Bay, the most northerly of the Company's factories or trading houses, and which is seated at its mouth. By Mr. Joseph Frobisher it was named English River. . . . We were estimated by the Indians to be distant 300 miles from the sea. Cumberland House was to the south of us, distant 400 miles. . . . We resolved on ascending the river, and to go as far westward as Lake ARABUTHCOW (called also Athapuscow and Athabasca), distant . . . 450 miles. With these views we embarked on the 16th, with six Canadians, and also one Indian woman in the capacity of a guide. . . . On the fifth

day we reached the Rapide du Serpent, which is supposed to be 300 miles from our point of departure. . . . We continued our voyage until the 24th, when . . . we saw a number of canoes filled with Indians . . . We proposed to them to return with them to our fort, where we were provided with large quantities of such goods as they wanted.

On the 25th of June we embarked, with all the Indians in our company, and continued our voyage day and night. . . . We reached our house on the 1st of July.

Mr. Frobisher and myself left the remainder of our merchandise in the care of Mr. Thomas Frobisher, who was to proceed with them to Lake Arabuthcow.

EXTRACTS FROM CARVER'S TRAVELS,* 1766-8.

The latter end of July, I arrived, after having coasted through West Bay, at the GRAND PORTAGE, which lies to the north-west borders of Lake Superior. Here those who go on to the North-West Trade, to the Lakes DePluye, Dubois, &c., carry over their canoes and luggage about nine miles, till they come to a number of small lakes, the waters of some of which descend into Lake Superior, and others into the River Bourbon. Lake Superior from West Bay is bounded by rocks, except towards the south-west part of the bay where I first entered it, there it was tolerably level. . . .

Here I met a large party of Killistinoe and Assinipoil Indians, with their respective kings and their families. They will come to this place in order to meet the traders from Michillimackinac, who make this their road to the north-west. From them I received the following account of the lakes that lie to the north-west of Lake Superior:

LAKE BOURBON, the most northern of those yet discovered, received its name from the French traders who accompanied a party of Indians to Hudson's Bay some years ago; and was thus denominated by them in honour of the Royal Family of France. It is composed of the waters of the Bourbon River, which, as I have before observed, rises a great way to the southward, not far from the northern heads of the Mississippi. This lake is about 80 miles in length, north and south, and is nearly circular. The land on the eastern side is very good; and to the south-west there are some mountains. In many other parts there are barren plains, bogs and morasses. Its latitude is between fifty-two and fifty-four degrees north, and it lies nearly south-west from Hudson's Bay. As through its northern situation the weather there is extremely cold, only a few animals are to be found in the country that borders on it.

LAKE WINNIPECK, or as the French write it, Lake Ouinipique, which lies nearest to the foregoing, is composed of the same waters. It is in length 200 miles, north and south; its breadth has never been properly ascertained, but it is supposed to be about 100 miles in its widest part. This lake is very full of islands; these are, however, of no great magnitude. Many considerable rivers empty themselves into it, which, as yet, are not distinguished by any names. . . .

The land on the south-west part of it is very good, especially about the entrance of a large branch of the River Bourbon (Assiniboine), which flows from the south-west. On this river there is a factory that was built by the French, called FORT LA REINE, to which the traders from Michilimackinac resort to trade with the Assinipolis and Killistinoes. To this place the Mahahs, who inhabit a country 250 miles south-west, come also to trade with them; and bring great quantities of Indian corn to exchange for knives, tomahawks, and other articles. . . .

Lake Winnipeck has on the north-east some mountains, and on the east many barren plains.

On the waters that fall into this lake, the neighbouring nations take great numbers of excellent furs. Some of these they carry to the factories and settlements belonging to

* Travels Through the Interior Parts of North America, pp. 107, 109, 134, 137, 151.—Jonathan Carver, an American traveller, was born in Connecticut in 1732, and served as Captain in the war against the French in Canada. He passed about three years (1766-68) in the Exploration of North America, which he crossed to the Pacific Ocean, and published his Travels in 1778. He died in London, in 1780.

Hudson's Bay Company, situated above the entrance of the Bourbon River: but this they do with reluctance on several accounts; for some of the Assinipoils and Kilistinoes, who usually traded with the Company's servants, told me that if they could be sure of a constant supply of goods from Michilimackinac, they would not trade anywhere else. They showed me some cloth and other articles that they had purchased at Hudson's Bay, with which they were much dissatisfied, thinking that they had been greatly imposed upon by the barter.

Allowing that their accounts were true, I could not help joining in their opinion. But this dissatisfaction might probably proceed, in a great measure, from the intrigues of the Canadian traders; for whilst the French were in possession of Michillimackinac, having acquired a thorough knowledge of the trade of the north-west countries they were employed on that account after the reduction of Canada, by the English traders there, in the establishment of this trade, with which they were themselves quite unacquainted. One of the methods they took to withdraw these Indians from their attachment to the Hudson's Bay Company, and to engage their good opinion in behalf of their new employers, was by depreciating on all occasions the Company's goods, and magnifying the advantages that would arise to them from trafficking entirely with the Canadian traders. In this they too well succeeded, and from this, doubtless, did the dissatisfaction the Assinipolis and Killistinoes expressed partly proceed. But another reason augmented it, and this was the length of their journey to the Hudson's Bay factories, which, they informed me, took them up three months of the summer heat to go and return, and from the smallness of their canoes they could not carry more than a third of the beavers they killed. So that it is not to be wondered at, that these Indians should wish to have traders come and reside among them.

The French always kept a small schooner on Lake Superior whilst they were in possession of Canada.

Two very large rivers empty themselves into this lake on the north and east sides: one is called the NIPEGON RIVER, or, as the French pronounce it, the Allanipegon, which leads to a band of the Chipeways, inhabiting a lake of the same name; and the other is termed the MICHIPICOOTON RIVER, the source of which is situated towards James' Bay, from whence there is but a short carriage to another river, which empties itself into that bay, at a fort belonging to the Company. It was by this passage that a party of French from Michillimackinac invaded the settlements of that society in the reign of Queen Anne. Having taken and destroyed their forts they brought the cannon which they found in them to the fortress from whence they had issued; these were small brass pieces and remain there to this present time.

At the upper end of the straits of STE. MARIE stands a fort that receives its name from them, commanded by Mons. Cadot, a French Canadian, who, being a proprietor of the soil, is still permitted to keep possession of it.

The banks of the RIVER DETROIT, both above and below these towns, are covered with settlements, that extend more than twenty miles; the country being exceedingly fruitful and proper for the cultivation of wheat, Indian corn, oats, and peas. The inhabitants, who are chiefly French that submitted to the English Government, after the conquest of these parts by General Amherst, are more attentive to the Indian trade than to farming. It is badly cultivated.

EXTENT OF COUNTRY WHICH THE NORTH-WEST COMPANY OCCUPIED.*

[Mr. David Thompson, astronomer and surveyor of the North-West Company, commenced in 1796 to survey the position of its posts, some of which had been placed as far south as the source of the Mississippi, or even further, when that point was supposed to be the northern boundary of the United States. But when the 49° became the northern boundary line, it was necessary to ascertain what posts were on the south of it, as the company would

* From "An Investigation of the Unsettled Boundaries of Ontario," by Charles Lindsey, pp. 225-245.

be required to vacate them. Mr. Thompson had previously been in the employ of the Hudson's Bay Company; but the aversion of that organization to new discoveries caused him to accept employment under the North-West Company, when his first engagement had expired. In the summer of 1795, he had, with no other aid than that of two young Indians, who knew nothing about the country to be travelled over, and one Irishman, made his way from the shores of Hudson's Bay to the east end of Athabaska Lake. He has left behind him a manuscript, giving an account of his travels when he determined the position of the North-West Company's posts; and it is of great importance as showing exactly what extent of country was still held by that company, the successor of the original discoverers of the North-West, some of whose posts it still continued to keep up. This country, so held, and of which the Hudson's Bay Company had not taken possession, had not ceased to be part of Canada at a period later than 1791. I shall follow Mr. Thompson's MS. closely; and it may be advisable to resort to some details connected with this official survey of the country, on account of the great importance of the subject.]

After returning from Athabaska, Mr. Thompson was informed by a letter from Mr. Joseph Colen, the resident at York Factory, with whose sanction the expedition to Athabaska Lake had been undertaken, that he could not sanction any more surveys, whatever might be the extent of the territory still unknown to the H. B. Company. Mr. Thompson's term of service had expired, and his thirst for further discoveries determined him to seek employment from the North-West Company, composed of Canadian merchants, and carrying on their traffic with the Indians from Lake Superior. Accompanied by two Indians, he proceeded to the nearest trading house of that company, which was under the charge of Mr. Alexander Fraser; and thence, by the usual canoe route, to the great carrying place on the north shore of Lake Superior, then the depôt of the Company's treasures: of merchandize from Montreal and furs from the interior. The agents of the company, the Hon. William McGillivray and Sir Alexander McKenzie, were also partners; men of enlarged views: one of them had already crossed the Rocky Mountains, by the Peace River, and had proceeded far by the Fraser towards the Pacific Ocean, when the hostility of the natives, and want of provisions, had obliged him to return, and who was destined to make discoveries in these countries that would render his name immortal.

The services of Mr. Thompson were very acceptable to these gentlemen. They desired to learn the position of their trading-houses, with respect to one another, and also to the 49° of north latitude, become, since the Treaty of 1792, the boundary line between Canada and the United States, from the north-west corner of the Lake of the Woods to the Rocky Mountains, in lieu of a line from the former point to the head of the Mississippi, as designated by the Treaty of 1783. The source of the Mississippi was then known only to the Indians and a few fur traders and was supposed to be further north than the Lake of the Woods. Mr. Thompson was instructed to survey the 49th parallel of latitude, to go as far as the Missouri River, visit the ancient villages of the agricultural natives who dwelt there, to inquire for the fossils of large animals, and to search for any monuments that might throw light on the ancient state of the countries to be travelled over and examined. He received orders on all the agents and trading posts of the company for men and whatever else he might require. This liberality and display of public spirit he could not help contrasting with the stinginess of the Hudson Bay Company, who had done little in the way of discovery which had not been forced on them by the demands of the British Government.

But the way in which it performed this duty was calculated to conceal the very knowledge which it was desired to obtain. It had, in 1785, been requested to send out a competent person to ascertain the latitude and longtitude of the west end of Athabaska Lake. Mr. Peter Pond, one of the clerks of the North-West Company, who had wintered three years at Fort Chippewayan, on the north side of Athabaska Lake, had made a rough map of the country, which placed the west end of Athabaska Lake near the Pacific Ocean. If this were true, the route across the continent, at this point, might be made available for one purpose or another. Pond had taken his distances from the suppositious leagues of the canoe-men, which Mr. Thompson found to average only two miles each. The agents of the company

sent a copy of this map to Sir Hugh Dalrymple, who was then in office; and he, by comparing it with the charts of Captain Cook, found that it brought the west end of Athabaska Lake within less than one hundred miles of the Pacific Ocean. This was the point which the British Government required the Company to determine by actual survey.

And Mr. Thompson relates how the Company performed this duty. It sent out a boy, fifteen years of age, first making him an apprentice for seven years, of the name of George Charles. Having spent one year at a mathematical school, and, armed with a quadrant, thrice performed the feat of bringing down the sun to a chalk line on a wall, he was forthwith pronounced competent for the duty required. The result of entrusting this lad with a duty which he was quite incompetent to discharge, was to keep from the Colonial Office the required knowledge for five years; and it was not till 1790 that it was obliged, by the pressing instance of the Colonial Department, to send out a properly qualified person, Mr. Philip Turner, by whom the desired information was obtained.

This Peter Pond, who had so inaccurately laid down the west end of Athabaska Lake, was a violent and unprincipled character, became implicated in the death of Mr. Ross, a fur trader, and was afterwards accused as principal in the murder of Mr. Wadden, another fur trader. He was sent to Quebec, to be tried on the latter charge; but was released on the ground that the jurisdiction of the court did not extend to these distant territories. Being set at liberty, he went to Boston, Massachusetts, his native city, in 1792. Next year brought peace between the thirteen old colonies and England. The British Commissioners, who had to deal with the boundary question, were ignorant of the geography of the country beyond Lake Ontario; and they had but wretched assistance for their guidance in the shape of maps; one of them, by Farren, dated 1773, stopped short in any actual information at Toronto; the whole country to the west being represented as alternations of rock and swamp, and uninhabitable. Mitchell's was somewhat better, and was the best to which they had access. The American Commissioners had Pond at their elbow; and though his knowledge of the true position of places was extremely inaccurate, he had much knowledge of the value of the interior countries. Pond is said to have designated to the American Commissioners a boundary line through the middle of the Upper St. Lawrence and the lakes, and through the interior countries to the north-west corner of the Lake of the Woods, and thence west to the Mississippi; a line that was accepted by the British Commissioners.

Before proceeding to give an account of Mr. Thompson's survey of the boundary line, we must trace the route of the North-West Company of those days from Lake Superior to Winnipeg. In August, 1796, Mr. Thompson started from the south-east end of the Great Carrying Place on Lake Superior, in latitude 47° 58′ 1″ north, longitude 89° 44′ 10″ west of Greenwich. To this point came the canoes from Montreal, each one carrying from forty to forty-five pieces of merchandise, each piece weighing from ninety to one hundred pounds, besides spirituous liquors; the return cargoes consisting of furs. Then the merchandize was made into assorted packages of ninety pounds each. The canoes destined to carry them into the interior were of less capacity, but each one was capable of carrying twenty-five pieces, besides the necessary provisions for the voyage, and the baggage of the men; making altogether a weight of about 2,900 lbs; to which add five men, and the complete canoe load will reach 3,700 lbs.

These moved in brigades of four to eight canoes, to different points in the interior country. That on which Mr. Thompson embarked contained four, and was under charge of Mr. Hugh McGillis; the day of starting being August 9, 1796. His instruments consisted of a sextant of ten inches radius, with quicksilver and parallel glasses, an excellent achromatic telescope, one of a smaller kind, drawing instruments and thermometers; all by Dolland. They proceeded over the Great Carrying Place, which takes a north-west direction from the starting point, and is eight miles and twenty yards long, to Pidgeon River. This point is about three hundred feet above Lake Superior. These eight miles odd consumed five days—days of severe labour to the men. From Pidgeon River to the height of land the distance is thirty-eight miles, in which there are twelve carrying places, which are together five and a half miles of the distance. The height of land to which we have now come is in latitude 48° 6′ 43″ north, longitude 90° 34′ 38″ west, variation six degrees east. South-

east from this dividing ridge the streams run into Lake Superior, north-east by east into Lake Winnipeg, and thence into Hudson's Bay.

The country passed over in the forty-eight miles between here and Lake Superior contains many brooks and small lakes of good clear water, and parts of it seem adapted for pasturage.

The country now declines to the north east, and is intersected by many streams having the same direction: they collect finally into a fine river. Rainy Lake is a fine body of water, nine or ten miles in length, and emptying into Rainy River by a descent of about ten feet. Here, below this fall, stood a trading-house of the North-West Company, in latitude 48° 36′ 58″ north, longitude 93° 19′ 30″ west. The distance from the height of land to this point is one hundred and seventeen miles. The country is more favourable for agriculture than the previous section from Pidgeon River to the height of land; and "in several places good farms can be made." Rainy River is a fine stream about two hundred yards wide, interrupted in its course by only one rapid; at the foot of which, in the season, the natives spear, or used to spear, many fine sturgeon. By this river we travel fifty miles and a half to the Lake of the Woods. The banks present all the appearance of a country capable of cultivation; but the rock lies at no great distance from the surface. The Lake of the Woods is thirty-two and a half miles long, and it contains many bays. Its area may be estimated at about eight hundred square miles, over which are scattered many islets. The north-east shores are of granite; the western of limestone, touch on the great alluvial.

The Lake of the Woods is memorable in geographical and diplomatic history. It has been the starting point in every treaty of the boundary line between the dominion of Great Britain and the territories of the United States. It is the southernmost lake of the Stony Region; the first having limestone on its western side, has granite, greenstone and clay slate on the north and the east.

Out of the lake flows the River Winnipeg (sea river) in a north-western direction, into Lake Winnipeg. It is a bold deep stream about three hundred yards in width, contains many isles, and has thirty-two falls and several channels. It is of granite formation throughout its whole course of one hundred and twenty-five miles. At the point of its entrance into Lake Winnipeg, the North-West Company had a trading-house, which owed its origin to the French. Its position was latitude 50° 37′ 46″ north, longitude 95° 59′ 34″ west, variation nine degrees east. Though the falls are so numerous, the aggregate length of the carrying places is only three miles.

From Grand Portage to Lake Winnipeg the country was probably never rich in fur-bearing animals; and it has now long since been exhausted as a hunting ground either for fur-bearing or food producing animals, but few of either remaining. The natives, who are Chippeways, drew their chief means of subsistence from the waters: sturgeon, white fish, pike, mackerel, and carp being the principal kinds of fish found there. Winnipeg House was an important depôt of provisions, which were brought in canoes from the bison countries that surround the Red River (of the North) and the Saskatchewan, and distributed to the canoes and boats for the several wintering places on Lake Winnipeg. Red River enters the lake at a distance of forty-two miles from Winnipeg House; further north the Dauphin contributes its waters, and at the north-west corner of the lake the Saskatchewan in latitude 53° 43′ 45″, longitude 98° 31′ west, comes in on its way to Hudson's Bay. This lake recives many lesser streams both on the east and on the west. All these waters were va uable as highways for fur-traders. From Winnipeg House to the lower end of the Saskatchewan, the western coast line, which runs north thirty-six degrees west, is two hundred and thirty-one miles; the eastern side is longer, being about two hundred and seventy miles; the width at either end is about forty-five miles. The area of this lake, with its islands, is about ten thousand and eighty square miles. The woods all round the lake are composed of small trees, full of branches. Neither deer nor other animals were abundant, but the waters abounded with good fish.

Mr. Thompson set out from Winnipeg House, coasting along the limestone shores of the lake, mostly low, but sometimes forming cliffs fifty feet high, to the mouth of the Dauphin River. The course in a straight line was north 43° west, one hundred and twenty-seven miles. He then proceeded up the Dauphin River, which is about thirty yards

wide and three deep, and runs through a forest. Both the soil and the timber improved in quality as he proceeded, but deer and beaver were scarce. The general course for the first eight miles was south by west; but there were many turnings in the river. This brought him to the Meadow Carrying Place, two thousand seven hundred and sixty yards long, which took him to Lake Winepagos (the little sea). It would have been practicable to reach the lake by continuing on the river; but it was so circuitous as to cause the carrying place to be preferred. On this lake he went a distance of fifty-nine miles to Swan River, a small stream only about fifteen yards wide and three deep, and which runs with a gentle current through a fine country. He was now among low hills and the heights; which the deer, after spending the summer there, were beginning to leave. Beaver now became plentiful.

Having proceeded twelve miles up the river, he came to Swan River House; of the North-West Company, in latitude 52° 24′ 5″ north, longitude 100° 36′ 52″, variation 13° east. There were but two families of the native tribe to whom those countries belong, Nathaways. Several Chippeways had lately come from the south, their own country being exhausted of beaver and deer.

From Swan River (date September 26th, 1796) he proceeded with horses across the country, to the Stone Indian River, on which the North-West Company had several trading-houses, to the upper house, in charge of Mr. Cuthbert Grant; course forty degrees and a half west ninety miles; most of the way through fine forests, the ground being very good for the horses, except a few pieces of wet meadow, and even here they did not sink ankle deep.

He now made for the trading-house, in charge of M. Belleau, between Swan River and Stone Indian River, which by observation was found to be in latitude 51° 51′ 9″, longitude 102° 3′ west; course for the last thirty miles having been north twelve degrees west. This stretch contained much wet ground and ponds occasioned by beaver dams. He now returned and proceeded to the upper trading-house, in charge of Mr. Hugh McGillis, latitude 52° 59′ 7″, longitude 102° 32′ 27″, on a course north ten degrees east, a distance of one hundred and eleven miles in a direct line, the travelled distance owing to the *détours* occasioned by the beaver ponds, being one hundred and fifty miles. These animals held full possession of the country; but they were being rapidly destroyed. All these trading-houses of the North-West Company were on the south side of the range of hills which border on the great plains.

The countries were the hunting grounds of the Nathaway Indians. Mr. Thompson was disappointed in not finding numerous mineral springs in a country having such variety of hill and plain, forest and prairie; beyond the saline brooks of the Red River, from which even then salt was obtained by evaporation, he learned of none.

The Nepissings, Algonquins, and Iroquis, their own countries being exhausted of animals, spread themselves over this country, with destructive march, so far as the beaver was concerned, northward and westward, meeting no molestation from the native Nathaways. The Chippeways and other tribes used the fatally baited steel-trap.* While the great beaver harvest lasted, the Indians were rich; and they all, men, women and children, made a barbaric display of their wealth, in the use of silver brooches, earrings, wampum, beads and other trinkets. They wore fine scarlet cloth mantles, and sported other absurd fineries in dress. The canoes of the fur-traders were loaded with beaver packs; and the supply outran the demand so far as to bring down the price in the London market. But neither the inflated prosperity nor the excess of production could last long. Over countries of such vast extent as these, four years sufficed almost to complete the work of destruction. The Indians fell back into worse than their original poverty.

Mr. Thompson proceeded to the trading-house in charge of Mr. Thornburn, in latitude 50° 28′ 58″, longitude 101° 45′ 45″. Having determined the position of this place, he went down the Stone Indian River to the house in charge of Mr. John McDonell, latitude 49° 40′ 56″, longitude 99° 27′ 15″, the course being south by east, and the distance in one straight line one hundred and thirty-one miles. This river is about thirty yards in width, and as it derives its water from the rains and snows, is of varying depth, according to the seasons. Its course is on the east side of the great plains and the west side of the low hills, whence it receives several brooks, and from the plains of Calling River a few. In addition to its

* The bait was castorum, and was quite irresistible.

EXTENT OF COUNTRY WHICH THE NORTH-WEST COMPANY OCCUPIED.

being always shoal in autumn, its course is very sinuous. The Stone Indian River everywhere runs through an agreeable country with a good soil, well adapted for agriculture.

The bison, the moose, the red deer, and two species of antelope, here gave the Nathaways an easy means of subsistence.

The Stone Indians, a numerous tribe of the Sioux nation, possessed the country south and west of this river to the Missouri; but the more southerly and western parts they shared in common with several other tribes.

Mr. Thompson's journals, surveys, and sketches, having been translated out of crayon into ink, and there being nothing more to be done there, he set out from Mr. McDonell's on a winter's journey for the Mandan villages, on the banks of the Missouri, the 28th November, 1797. The guide and interpreter, Monsieur René Jussomme, had resided eight years in those villages, and spoke the Mandan language with fluency. There were also in the party, Mr. Hugh McCracken, a good-hearted Irishman who had been to the villages many times, and even resided there for weeks and months; seven French Canadians, good-humoured fellows, willing to hunt for the means of securing their greatest enjoyment—eating—who possessed not the least tincture of education, and did not see its value. All these, except Mr. Thompson's servant man, A. Brossman, were for the time free-traders, on their own account, each of them having taken from Mr. McDonell, on credit, a venture in goods to the value of forty to sixty skins, to be paid for in kind. Having been supplied with ammunition, tobacco, and trinkets to pay expenses on the way, Mr. Thompson provided with two horses, and Mr. Jussomme with one, the men having their own dogs, to the number of thirty, to haul their goods on flat sleds, everything was now ready for the journey. The half-wolf dogs had all been obtained in trade from the Stone Indians, by whom numbers are kept in their encampments. These brutes are extremely voracious.

After thirty-three days' travel, with the thermometer nearly always below zero, and sometimes descending to 36° below, having encountered high winds and blinding snowdrifts, depending chiefly on the precarious chase for means of subsistence, and sometimes being in danger from hostile Indians, the party arrived at the village of the Fall Indians, lat. 47° 25′ 11″, long. 101° 21′ 5″, the whole distance travelled in that time being two hundred and eighty miles.

Although few of the Mandans had guns, they had already received some from trading parties of the Hudson's Bay Company, who had probably straggled through the country in a favourable season, much as the men belonging to Mr. Thompson's party were doing, or more likely they obtained them from traders they had met at a distance from their villages. This does not prove that the Company had any substantial occupation of this part of the country. The lower village of the Mandans was found to be in lat. 47° 17′ 22″, long. 101° 14′ 24″, variation ten degrees east.

The road from the Mandan villages to Stone Indian River House, travelled by Mr. Thompson, may be thus divided. Following from one piece of woods to another, where fuel and shelter could alone be obtained, the course to the Dog Tent Hill, twenty-eight degrees east was fifty miles; thence to the elbow of the Moose River, north forty-nine degrees east, twenty miles; then to the south end of Turtle Hill, north nine degrees west, fourteen miles; thence to the Ash House, on Moose River, north three degrees west, twenty-four miles; thence to the house of Mr. McDonell, north sixty-nine degrees east, forty-five miles. A straight line between the two extreme points would run north twenty-six degrees east, one hundred and eighty-eight miles.

Mr. Thompson spent three weeks in calculating the astronomical observations made in the late journey. Stone Indian River House was by a series of observations found to be in latitude 49° 40′ 56″, longitude 99° 27′ 15″, variation eleven degrees east.

On the 26th February, 1798, Mr. Thompson took leave of his hospitable friend, Mr. John McDonell, by whom he was furnished with everything necessary for his journey of survey. He was accompanied by three Canadians and an Indian guide, and six dogs hauled three sleds laden with provisions and baggage. The course was sometimes on the ice of the Stone Indian River, but, to avoid its windings, mostly on the north side. In the afternoon the Manito Hills were reached—a long, low ridge of sand knolls, steep on the west side, sloping more gradually on the east, growing only a few patches of grass, and retaining

no snow during the whole winter; which phenomenon the Indians regard as preternatural, and fix that idea in the name. Except the sand ridge, the country is very fine, especially at the junction of the Moose River, about half a mile below the trading-house.

As the journey proceeded day after day, the snow was found to increase in depth, and it was no easy task to beat a path for the dogs and sleds; the snow shoes of the foremost man sinking six inches at every step. The guide became so fatigued that he had to be relieved two or three hours every day.

On the 7th March he arrived at the junction of Stone Indian with Red River, in latitude 49° 53′ 1″, longitude 97°, variation nine degrees east. In a straight line the course is north 82° east, one hundred and twelve miles; the windings of the river are more than three times this distance, and the distance travelled was one hundred and sixty-nine miles.

On the 7th March, 1798, Mr. Thompson began the survey of the Red River, and on the 14th he arrived at the trading-house of the North-West Company, under charge of Monsieur Charles Chaboiller, by whom the party were kindly received. The travelling during these eight days was very difficult. The snow was fully three feet deep, and the surface of the river ice was covered by water, the weather being mild, with showers of rain. The snow, mixed with water, stuck to the sleds, and made it impossible for the dogs to haul them. Many times a couple of men had to assist the dogs in extricating them. In wet weather everything was soaked, and had to be dried. To beat the road was slavish work. Ankles and knees were sprained by the weight of wet snow that adhered to the snow-shoes; and the difficulty was increased by the long grass that had to be walked over.

Mr. Thompson had to take the place of the guide. He tied a string to the toe of each snow-shoe, and holding the opposite ends in his hands, lifted them out of the soft snow. In this way, with his gun slung on his back, the party marched on the west side of the river. The whole distance was over long prairie grass, very difficult to walk among. The only trees were of oak, ash, alder and nutwood; but the numerous charred stumps afforded evidence that on this side of the river had once grown a pine forest. In the more northern regions the pines, when destroyed by fire, have been succeeded by aspens, poplars and alders; but along the Red River the excellence of the soil and the mildness of the climate made the successors of the pines similarly destroyed, oak, ash, alder and nutwood.

At this trading-house, where he arrived on the 14th, Mr. Thompson remained for six days. He determined its position to be latitude 48° 58′ 24″, longitude 97° 16′ 40″, variation of the compass eight and a-half degrees east, being one minute and thirty-six seconds south of the United States boundary line, which Mr. Thompson pointed out, in order that the trading-house might be removed beyond it. This line was, several years later, confirmed by Major Long, of the united corps of engineers. From the junction of the Stone Indian with the Red River, it is south eleven degrees and a quarter, west sixty-five and a half statute miles; to the boundary line sixty-four miles.

The number of Indians (Chippeways) who traded at this house was ninety-five men; and supposing every one of them to represent a family of seven souls, we have an aggregate of 665. At Rainy River House, in latitude 48° 36′ 58″, longitude 93° 19′ 30″, on a course hence south eighty-two degress east, a distance of one hundred and eighty-four miles, sixty of the same tribe traded, representing four hundred and twenty more. If we divide the families by the mileage of the hunting-ground, every seven souls will be found to have had a hunting ground of one hundred and fifty to one hundred and eighty square miles. And yet they had very little provisions to spare; proof that this part of the country did not even then abound in wild animals. This circumstance would furnish a reason why the Hudson's Bay Company would not care to extend their operations there. The beaver had became scarce; not being obliged to use the same hard materials in building his house as are necessary further north, this animal had been a comparatively easy prey to the Indian. In summer these Indians subsist on fish, and in autumn, part of them on wild rice.

The Red River is here one hundred and twenty yards wide. Eleven miles further

down it receives the waters of the Reed River, from the eastward. It is about the same width, but less deep. This part of the river is called Pembina, from a small stream that comes in. The deep rich soil of the Reed River is everywhere fit for cultivation.

York Factory, on Hudson Bay, was distant, north twenty-four degrees east, six hundred and sixteen miles in a straight line, and not less than nine hundred miles by the only practicable route. The obstructions occasioned by carrying places would greatly lengthen the time and labour of the voyage.

On the 21st March, Mr. Thompson and party started on their journey down the banks of the river, and on the 25th arrived at the North-west Company's house, under charge of Monsieur Baptiste Cadotte, latitude 47° 54′ 21″, longitude 96° 19′, variation 10° east. The weather was fine during the journey, and the frosts of night made the snow firm several hours of the day. In some places there was a fine border of woods along the river, from thirty to three hundred yards wide. Among the varieties were oak, ash, elm, and basswood; the aspens became more frequent. There is a fine rich, deep soil the whole distance.

On the 9th April, the Red River being clear of ice, Mr. Thompson left the trading-house in charge of M. Cadotte, whither he had returned, in a canoe eighteen feet long, accompanied by three Canadians and a native woman, the wife of one of the men, provided with a stock of twelve days' provisions. The object of the expedition was to survey the country to the source of the Mississippi River. There was a choice of two routes; that direct to Red Lake, where the current was moderate, but liable to be encumbered with ice from the lake; or Clear Water River, where the current was swift, but where there was no fear of ice. The latter was chosen, and a slow progress up it commenced. This river was fifty yards wide, and now, from the melting of the snow, about eight feet deep, though in August and September its depth is not over two feet.

On the 11th, the junction of Wild Rice River was passed; after which the current became more moderate, and the quantity of water less. Next day the carrying place which leads to Red Lake River was reached, a distance of sixty-four miles up this sinuous river having been made. The east or right bank was covered with a fine forest of pine, but higher up the aspen prevailed. On the west bank grew patches of hard wood, with a rich soil and fine meadows leading to the plain. The carrying place is four miles long, part marsh and part ground; it leads to the banks of the Red Lake River, in latitude 48° 0′ 55″, longitude 95° 54′ 28″, variation ten degrees east.

The course now lay up this river to Red Lake, a distance of thirty-two miles. Both banks were well timbered, oak, ash, and other hard-woods being intermixed with aspen and poplars, the rich deep soil everywhere covered with water from the melting of the snow. So level was the surface that only here and there a bit of dry land was to be seen. At night the party cut down trees to sleep upon.

The head of this river, at its junction with the lake, was found by observation to be in latitude 47° 58′ 15″, longitude 95° 35′ 37″. To make a distance in a straight line north 82° east, it was necessary to travel one hundred and seventeen statute miles, and consume seven days of fourteen hours each.

At this lake, the old Chief She-she-she-pas-kut, with six lodges of Chippeways, was encamped. The Chippeways being without a canoe, Mr. Thompson lent them his, with which to spear fish in the night.

Three sturgeon, weighing sixty pounds each were caught. They were good for clear water lake sturgeon; this fish, like the hog, being most at home in mud.

Red Lake is a fine sheet of water, about thirty miles in length and ten in breadth; the banks twenty to thirty feet high; the soil, somewhat sandy, produces fine firs and other woods; in some places dwarf white cedar. The North-West Company occasionally has a trading-house here for a winter. The country, poor in furs, would be exhausted by a winter's hunt, and would require to lie fallow for some time. The lake being partly covered with ice, the canoe was paddled in open places, and hauled on a rude sled, extemporized for the occasion, over patches of ice. This amphibious kind of travelling was continued over a distance of seventeen miles; wet, laborious work, performed amid many showers of rain and sleet.

A carrying place, six miles long, had now to be passed, in a southerly direction, the road

leading through a forest of firs and aspens, with a sprinkling of oak and ash. The ground in the middle of the carrying place presented numerous ascents and descents of from twenty to forty feet: the first met since Red River was left. By nine o'clock, P.M., April 23, everything had been carried overland to Turtle Lake. The source of the Mississippi River was reached four days later. The journey was very fatiguing. The country travelled over presented a succession of lakelets or ponds, some of which were open and some partly covered with ice, winding brooks and carrying places. The low level country everywhere presented the appearance of an immense marsh, growing an abundance of wild rice over an area of at least 6,000 square miles.

The distance from Red River, south, 70° east, fifty-six statute miles, was made in nineteen days—not quite three miles in a direct line, a day. Owing to the winding character of the brooks, an hour's paddling would sometimes produce scarcely any progress.

Turtle Lake, the head of the Mississippi River, is about four miles square. Its small bays give it the shape of a turtle. This lake was supposed, in 1783, to be farther north than the north-west corner of the Lake of the Woods, and this supposition led to the error in the treaty of that year. The error arose from the fur-traders who ascended the Upper Mississippi counting every pipe a league, at the end of which it was the habit to take a rest. Mr. Thompson found these pipe distances to be as unsubstantial as the smoke itself, and that each instead of three only measured two miles. And the error was, not to make due allowance for the sinuosities of the river. By this false method of reckoning the notion had arisen that the head waters of the Mississippi were 128 geographical miles farther north than Mr. Thompson's survey proved them to be. The north bank of the lake is in latitude 47° 38′ 20″, longitude 95° 12′ 4″.

Mr. Thompson here fell in with two canoes of Indians on their way to Red Cedar Lake, and as his own canoe was leaking he went with them in one of theirs. On the south-west corner of Turtle Lake is Turtle Brook, three yards wide, two feet deep, and having a current of two-and-a-half miles an hour. Rather than follow its windings, they made a portage of 180 yards to a small lake, out of which they emerged into a brook, the fantastic windings and turnings of which they followed through a country of grass and marsh. Three portages had to be made to avoid as many falls, and several rapids with a gravelly bottom were passed over. On approaching Red Cedar Lake, several brooks from either side contributed their waters; the stream at the entrance of the lake being fifteen yards wide, two feet deep, and having a current of three miles an hour. Crossing the lake, a distance of five miles, Mr. Thompson reached a trading-house of the North-West Company, in charge of John Sayer, one of the partners, which was found to be in latitude 47° 27′ 56″, longitude 94° 52′, variation six degrees east. From the mouth of Turtle Lake to this trading-house the distance is south, 58 degrees east, 25 miles; but the windings of the river more than treble the distance to be travelled. On each side of the valley grew oak, ash, elm, birch, pine, aspen, and, where there was a little elevation, fine maple; soil deep, grass long. Mr. Sayer and his men had passed the whole winter here, on no more substantial food than wild rice and maple sugar. The rice made good soup, but when Mr. Thompson tried to live on it he soon became ill. About sixty heads of families traded at this house, and Mr. Sayer estimated each Indian family at seven persons, which would make the whole number 420.

On the 3rd May, Mr. Thompson started down the river, now expanded to twenty-six yards in width by three deep, and having a current of two miles an hour. The valley of the Mississippi had here the appearance of a meadow of long, half-dried grass, free from water, and scarcely half a mile wide, gradually expanding as it descends. At the mouth of Sand Lake River the river becomes sixty-two yards wide and twelve feet deep. Sand Lake River, south 48 degrees east, is sixty-eight miles from Red Cedar Lake. In this distance there are ten miles of Lake and fifty-eight of river. The windings on the river make the distance to be travelled on it two hundred miles. The descent from Turtle Lake to Cedar Lake is ninety-seven feet nine inches, and from Cedar Lake to Sand Lake River 333 feet four inches, making a change of level of no less than 431 feet in an apparently even country.

Arriving at Sand Lake River, on the 6th, Mr. Thompson entered it to make his way to

Lake Superior. This river is twenty yards wide, five in depth, and runs a mile and a half an hour. When he had proceeded a mile, half the distance to Sand Lake, Mr. Thompson arrived at another trading-house of the North-West Company, under the charge of Mr. Boiské. Here were the women and children of about twenty families. All the furs bought at this post were the produce of the country between the Mississippi River and Lake Superior. Twenty heads of families brought their furs here; reckoning seven to a family, this post must have been supported by the labour of two hundred and ninety-four Indians, men, women, and children. This trading-house was found to be in north latitude 46° 46′ 30″, longitude 93° 44′ 17″ west.

Mr. Thompson had now to cross the country to reach the river St. Louis, by which he was to descend to Lake Superior. Crossing Sand Lake, May 7th, which is about four miles in length and one wide, to Savannah Brook, he proceeded eight geographical miles—made nine by detours—to a great swamp a mile wide, in a north 81 degrees east direction, the latter portion, consisting of a bog, being passed over by means of a few sticks to form a road, to slip from which entailed the penalty of sinking down to the waist. Across this description of country, growing scrubby pines a few feet high, all the baggage of the party had to be carried. Over this route the North-West Company had to carry all the furs, provisions, baggage, goods, and canoes connected with their trade between Lake Superior and the Missisippi. The custom was for the person in charge of the brigade to cross this bog and swamp as rapidly as possible, leaving the men to take their own time. It was so difficult to get canoes or goods over this swamp, of which no one standing in the middle could see the end, in any direction, it was the custom of the North-West Company to keep canoes at both ends. The swamp having been crossed after a hard day's work, and with the aid of an extra man, Mr. Thompson found the latitude to be 46° 52′ 3″ north, longitude 92° 28′ 42″ west, variation six degrees east.

Passing through a small brook a distance of twelve miles in a direct line, but twenty by its course, Mr. Thompson entered the River St. Louis, a stream about one hundred yards wide and eight deep. The men of his party, who had been in the habit of navigating this river for years, assured him that in August and the two following months it has only eighteen inches of water, running among stones, which it is often necessary to turn the canoe aside to avoid. In one of the many rapids of this river the canoe filled with water. Then came cataracts formed by a series of small steps round a point of rock, necessitating resort to a carrying place 1,576 yards long. Then after four miles more another carrying place of seven miles, where, on the left of the travellers, the river has a series of falls estimated at one hundred and twenty feet, below which the river flows with a moderate course into Lake Superior. Near the mouth of the river was a trading-house of the North-West Company, under charge of M. Lemoine, in latitude 46° 44′ 33″ longitude 92° 9′ 45″, variation five and a half degrees east. M. Lemoine's returns were six hundred pounds of furs, and he expected to obtain four hundred pounds more, nine kegs of gum from the fir trees to staunch the canoes, and one hundred and twenty gallons of maple sugar. . . .

"I have," says Mr. Thompson, "only set down my observations made at certain places, but they are numerous all over the survey, as every clear day no opportunity was omitted of taking observations for latitude and longitude to correct the course and distances of the survey."

It was customary to lay up the canoes that decended the river to Lake Superior, as well as those that came up the lake. Mr. Thompson's party had to take a northern canoe twenty-eight feet in length, in a state of dilapidation. They repaired it and fitted it up with two oars, as there were only three men, to encounter the winds and waves of Lake Superior.

In canoes such as Mr. Thompson here obtained, the fur trade was carried great distances into the interior; in his own words, it "extended to within two or three days' march of the shores and factories of Hudson's Bay."

OFFICIAL RECOGNITION OF THE NORTH-WEST COMPANY.

From the official instructions of the Commissioners for executing the office of Lord High

EXTRACTS FROM MACKENZIE'S HISTORY OF THE FUR TRADE.

Admiral of the United Kingdom of Great Britian and Ireland, to William Edward Parry, Commander of the Expedition comprising the Hecla and Griper, May 1, 1819.*

You will endeavour to prevail on them [Indians or Esquimaux] by such reward, and to be paid in such manner, as may best answer the purpose, to carry to any of the settlements of the Hudson's Bay Company, or of the North-West Company, an account of your situation and proceedings; with an urgent request that it may be forwarded to England with the utmost despatch.

MELVILLE,
G. MOORE,
G. COCKBURN.

[The foregoing clause had previously been inserted in the official instructions of John Ross, R. S., Captain Royal Navy, who had command of His Majesty's ships the *Isabella* and the *Alexander*, March 31, 1818, signed Melville, J. S. Yorke, George Hope, and G. Moore, Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland.] †

EXTRACTS FROM MACKENZIE'S HISTORY OF THE FUR TRADE.

[Sir Alexander Mackenzie, in *A General History of the Fur Trade, from Canada to the North-West*,‡ shows how the Canadian traders preceded the Hudson's Bay Company in the North-West. The following is extracted from his work:] —

The Indians, therefore, to procure the necessary supply, were encouraged to penetrate into the country, and were generally accompanied by some of the Canadians, who found means to induce the remotest tribes to bring the skins which were most in demand, to their settlements, in the way of trade.

At length, military posts were established [by the French] at the confluence of the different large lakes of Canada, which, in a great measure, checked the evil consequences that followed from the improper conduct of these foresters [coureurs des bois], and at the same time protected the trade. Besides a number of able and respectable men retired from the army, prosecuted the trade in person, under their respective licenses, with great order and regularity, and extended it to such a distance, as in those days was considered to be an astonishing effort of commercial enterprise.

They [the Missionaries] were, during their mission, of great service to the commanders who engaged in those distant expeditions, and spread the fur trade as far west as the banks of the Saskatchiwine river, in 53° north latitude and longitude 102° west. * * *

Notwithstanding all the restrictions with which commerce was oppressed under the French government, the fur trade was extended to the immense distance which has been already stated; and surmounted many most discouraging difficulties which will be hereafter noticed; while at the same time, no exertions were made from Hudson's Bay to obtain even a share of the trade of a country which according to the Charter of that Company, belonged to it, and from its proximity, is so much more accessible to the mercantile adventurer * *

For some time after the conquest of Canada, this trade was suspended, which must have been very advantageous to the Hudson's Bay Company, as all the inhabitants to the westward of Lake Superior were obliged to go to them for such articles as their habitual use had rendered necessary. Some of the Canadians who had lived long with them, and were become

* Journal of a Voyage for the Discovery of a North-West passage from the Atlantic to the Pacific, performed in the years 1819-20, in His Majesty's ships *Hecla* and *Griper*, under the orders of William Edward Parry, R. N., F. R. S., and Commander of the Expedition. Second Edition, 1821, p. 23.

† A Voyage of Discovery, made under the orders of the Admiralty in His Majesty's ships, *Isabella* and *Alexander*, for the purpose of exploring Baffin's Bay, and inquiring into the probability of a North-West passage. London, 1819, Second Edition, vol. II., p. 72.

‡ Pp. 1, 3, 5-22, 53, 57-8, 65, 69, 73, 91. It is printed with and forms an introduction to the work: Voyages from Montreal, on the River St. Lawrence, through the Continent of North America, to the Frozen and Pacific Oceans, in the years 1789 and 1793, by Alexander Mackenzie, Esq. London: 1801.

EXTRACTS FROM MACKENZIE'S HISTORY OF THE FUR TRADE.

attached to a savage life, accompanied them thither annually, till mercantile adventurers again appeared from their own country, after an interval of several years, owing, as I suppose, to an ignorance of the country in the conquerors, and their want of commercial confidence in the conquered. There were, indeed, other discouragements, such as the immense length of the journey necessary to reach the limits, beyond which this commerce must begin; the risk of property; the expenses attending such a long transport; and an ignorance of the language of those who from their experience must be necessarily employed, as the intermediate agents, between them and their natives. But, notwithstanding these difficulties, the trade by degrees began to spread over the different parts to which it had been carried by the French, though at a great risk of the lives, as well as the property of their new possessors, for the natives had been taught by their former allies to entertain hostile feelings towards the English from their having been in alliance with their natural enemies the Iroquois; and there were not wanting a sufficient number of discontented, disappointed people to keep alive such a notion; so that for a long time they were considered and treated as objects of hostility. To prove this disposition of the Indians, we have only to refer to the conduct of Pontiac at Detroit, and the surprise and taking of Michilimakinac, about this period.

Hence it arose that it was so late as the year 1766, before which the trade I mean to consider commenced at Michilimakinac. The first who attempted it were satisfied to go the length of the River Camenistiquia, about thirty miles to the eastward of the Grande Portage, where the French had a principal establishment and was the line of their communication with the interior country. It was once destroyed by fire. Here they went, and returned successful in the following spring to Michilimakinac. Their success induced them to renew their journey, and invited others to follow their example. Some of them remained at Camenistiquia, while others proceeded to and beyond the Grande Portage, which since that time has become the principal entrepôt of that trade and is situated in a bay, in latitude 48° north, and longitude 90° west. After passing the usual season there, they went back to Michilimakinac as before, and encouraged by the trade, returned in increased numbers. One of these, Thomas Curry, with a spirit of enterprise superior to that of his contemporaries, determined to penetrate to the furthest limits of the French discoveries in that country; or at least till the frost should stop him. For this purpose he procured guides and interpreters, who were acquainted with the country, and with four canoes arrived at Fort Bourbon, which was one of their posts at the west end of Cedar Lake, on the waters of the Saskatchiwine. His risk and toil were well recompensed, for he came back the following spring with his canoes filled with fine furs, with which he proceeded to Canada, and was satisfied never again to return to the Indian country.

From this period people began to spread over every part of the country, particularly where the French had established settlements.

Mr. James Finlay was the first who followed Mr. Curry's example, and with the same number of canoes, arrived in the course of the next season at Nipawee, the last of the French settlements on the bank of the Saskatchiwine River, in latitude nearly 43½° [53½?] north, and longitude 103° west; he found the good fortune, as he followed, in very respect, the example of his predecessor.

As may be supposed, there were now people enough ready to replace them, and the trade was pursued with such avidity and irregularity, that in a few years it became the reverse of what it ought to have been. An animated competition prevailed, and the contending parties carried the trade beyond the French limits, though with no benefit to themselves or neighbours, the Hudson's Bay Company; who, in the year 1774, and not till then, thought proper to move from home to the east bank of Sturgeon Lake, in latitude 53° 56′ north, and longitude 102° 15′ west, and became more jealous of their fellow subjects, and, perhaps, with more cause than they had been of those of France. From this period to the present time, they have been following the Canadians to their different establishments, while on the contrary, there is not a solitary instance that the Canadians have followed them; and there are many trading posts which they have not yet attained. This, however, will no longer be a mystery, when the nature and policy of the Hudson's Bay Company is compared with that which has been pursued by their rivals in this trade.

EXTRACTS FROM MACKENZIE'S HISTORY OF THE FUR TRADE.

This competition which has been already mentioned, gave a fatal blow to the trade from Canada, and, with other incidental causes, in my opinion, contributed to its ruin. * * *

Thus was the trade carried on for several years, and consequently becoming worse and worse, so that the partners, who met them at the Grande Portage, naturally complained of their ill-success.

It was about this time that Mr. Joseph Frobischer, one of the gentlemen engaged in the trade, determined to penetrate into the country yet unexplored, to the north and westward, and, in the spring of the year 1775, met the Indians from that quarter on their way to Fort Churchill, at Portage de Traite, so named from that circumstance on the banks of the Missinipi or Churchill River, latitude 55° 25′ north, longtitude 103¼° west. It was, indeed, with some difficulty that he could induce them to trade with him, but he at length procured as many furs as his canoes could carry. * * * He then sent his brother to explore the country still further west, who penetrated as far as the lake of Isle à la Crosse, in latitude 55° 26′ north, and longtitude 108° west. * *

The success of this gentleman induced others to follow his example, and in the spring of the year 1778, some of the traders on the Saskatchiwine River, finding they had a quantity of goods to spare, agreed to put them into a joint stock, and gave the charge and management of them to Mr. Peter Pond, who, in four canoes, was directed to enter the English River, so called by Mr. Frobisher, to follow his track, and proceed still further; if possible, to Athabasca, a country hitherto unknown but from Indian report. In this enterprize he at length succeeded, and pitched his tent on the banks of the Elk River, by him erroneously called the Athabasca river, about thirty miles from the Lake of the Hills, into which it empties itself.

Here he passed the winter of 1778-9; saw a vast concourse of the Knisteneaux and Chepewyan tribes, who used to carry their furs annually to Churchill; the latter by the barren grounds, where they suffered innumerable hardships, and were sometimes even starved to death. The former followed the course of the lakes and rivers, through a country that abounded in animals, and where there was plenty of fish: but though they did not suffer from want of food, the intolerable fatigue of such a journey could not be easily repaid to an Indian: they were, therefore, highly gratified by seeing people come to their country to relieve them from such long, toilsome, and dangerous journeys; and were immediately reconciled to give an advanced price for the articles necessary to their comfort and convenience. Mr. Pond's reception and success was accordingly beyond his expectation; and he procured twice as many furs as his canoes would carry. They also supplied him with as much provisions as he required during his residence among them, and sufficient for his homeward voyage. Such of the furs as he could not embark, he secured in one of his winter huts, and they were found the following season, in the same state in which he left them.

These, however, were but partial advantages, and could not prevent the people of Canada from seeing the improper conduct of some of their associates, which rendered it dangerous to remain any longer among the natives.

Most of them who passed the winter at the Saskatchiwine, got to the Eagle Hills, where, in the spring of the year, 1780, a few days previous to their intended departure, a large band of Indians being engaged in drinking about their houses, one of the traders, to ease himself of the troublesome importunities of a native, give him a dose of laudanum in a glass of grog, which effectually prevented him from giving further trouble to any one, by setting him asleep for ever. This accident produced a fray in which one of the traders and several of the men were killed, and the remainder saved themselves by precipitate flight.

About the same time, two of the establishments on the Assiniboin River were attacked. . . . Nothing but the greatest calamity that could have befallen the natives, saved the traders from destruction: this was the small-pox which spread its destructive and desolating power, as the fire consumes the dry grass of the field. The fatal infection spread around with a baneful rapidity which no flight could escape, and with a fatal effect that nothing could resist. * *

The consequence of this melancholy event to the traders must be self-evident, the

means of disposing of their goods were cut off; and no furs were obtained but such as had been gathered from the habitations of the deceased Indians, which could not be very considerable; nor did they look from the losses of the present year with any encouraging expectations to those which were to come. The only fortunate people consisted of a party who had again penetrated to the northward and westward in 1780, at some distance up the Missinipi, or English River, to Lake la Rouge. Two unfortunate circumstances, however, happened to them, which are as follow:

Mr. Wadin, a Swiss gentleman, of strict probity and known sobriety, had gone there in the year 1779, and remained during the summer of 1780. * * *

The other circumstance was this. In the spring of the year, Mr. Pond sent the abovementioned clerk to meet the Indians from the northward, who used to go annually to Hudson's Bay; when he easily persuaded them to trade with him, and return back, that they might not take the contagion which had depopulated the country to the eastward of them; but most unfortunately they caught it here, and carried it with them, to the destruction of themselves and neighbouring tribes.

The country being thus depopulated, the traders and their friends from Canada, who, from various causes already mentioned, were very much reduced in number, became confined to two parties, who began seriously to think of making permanent establishments on the Missinipi River, and at Athabasca; for which purpose, 1781-2, they selected their best canoe-men, being ignorant that the small-pox penetrated that way. The most expeditious party got only in time to the Portage la Loche, or Mithy-Ouinigam Portage, which divides the waters of the Misinipi from those that fall into the Elk River, to despatch one canoe strong-handed, and light-loaded, to that country; but, on their arrival there, they found, in every direction, the ravages of the small-pox; so that, from the great diminution of the natives, they returned in the spring with no more than seven packages of beaver. The strong woods and mountainous countries afforded a refuge to those who fled from the contagion of the plains; but they were so alarmed at the surrounding destruction, that they avoided the traders, and were dispirited from hunting except for their subsistence. The traders, however, who returned into the country in the year 1782-3, found the inhabitants in some sort of tranquility, and more numerous than they had reason to expect, so that their success was proportionably better.

During the winter of 1783-4, the merchants of Canada engaged in this trade formed a junction of interests, under the name of the North-West Company, and divided it into sixteen shares, without depositing any capital; each party furnishing a proportion or quota of such articles as were necessary to carry on the trade; the respective parties agreeing to satisfy the friends they had in the country, who were not provided for according to this agreement, out of the proportions which they held.

In the spring, two of those gentlemen went to Grande Portage with their credentials, which were confirmed and ratified by all parties having an option, except Mr. Peter Pond, who was not satisfied with the share allotted him. Accordingly, he and another gentleman, Mr. Peter Pangman, who had a right to be a partner, but for whom no provision had been made, came to Canada with a determination to return to the country, if they could find any persons to join them and give their scheme a proper support.

[The traders in the country, and merchants in Montreal, entered into a co-partnership, and were successful. Pond joined them; but Pangman, Gregory and Macleod formed a separate business. Mackenzie had been five years in Gregory's counting-house, and now left him to seek his fortune at Detroit, where Gregory established an agency, admitted Mackenzie as a partner, and sent him to the Indian country. After the murder of one of the partners, the laming of another, and the narrow escape of one of the clerks, who received a bullet through his powder-horn, in the execution of his duty, those who were in possession of the trade of the country were compelled to allow Mackenzie and his partners a share of the trade, and a union was completed in July, 1787. In 1788 the gross adventure for the year did not exceed £40.000. In 1798 the number of shares was increased from 20 to 46. The French, when in possession, had several trading establishments upon the islands and banks of Lac Bois Blanc, and also several settlements in and

about Lake du Bois, which is in latitude 49° 37′, longtitude 94° 31′. The northernmost branch of the source of the Mississippi is in latitude 47° 38′, longtitude 95° 6′.]

On these waters [those of the Dauphin River, &c.] are three principal forts for trade —Fort Dauphin, which was established by the French, before the conquest; Red Deer River and Swan River forts, with occasionally posts detached from these. The inhabitants are the Knistineaux, from the north of Lake Winnipic; and Algonquins, from the country between Red River and Lake Superior. * *

There are on this River [Saskatchiwine] five principal factories for the convenience of the trade with the natives. Nepawi House, South-Branch House, Fort George House, Fort Agustus House, and Upper Establishment. There have been many others, which for various causes have been changed for these. * *

It may be proper to observe that the French had two settlements upon the Saskatchiwine long before, and at the conquest of Canada: the first at the Pasquia, near Carrot River, and the other at Nipawi, where they had agricultural instruments and wheel-carriages, marks of both being found about those establishments, where the soil is excellent.

Till the year 1782, the people of Athabasca sent or carried their furs regularly to Fort Churchill, Hudson's Bay; some of them have since that time repaired thither, notwithstanding they could have provided themselves with all the necessaries which they required . . . At present, however, this traffic is in a great measure discontinued.

EXTRACTS FROM MR. HENRY'S JOURNAL OF TRAVEL IN THE NORTH-WEST AND ACROSS THE ROCKY MOUNTAINS TO THE PACIFIC, 1799 TO 1816.*

(1800.)

Monday, 4th August.—At day-break we embarked and passed the old Hudson's B. C. establishment, which has now been abandoned for several years. †

Tuesday, 19th August.—We began early this morning to unpack the goods, to assort and divide them, the one-half being intended for Portage la Prairie, and the remainder for the Red River. This employed us the greatest part of the day, settling the men, delivering the baggages, and attending to the Indians who were still drinking. At twelve o'clock five Hudson Bay Company's boats from Albany Factory or rather Martin's Falls, arrived here,—Mr. Robert Goodwin, Master, assisted by a Mr. Brown; they put ashore and remained with us until four o'clock, when they embarked and proceeded up the Assiniboine River. Their boats carry about forty-five packages of unequal weight, but may be said to average eighty pounds each, conducted by four oars and a steersman, they are neatly built and painted, and sharp at both ends.

Upon this point in the time of the French, there was a trading establishment, traces of which are still to be seen. Their chimneys and cellars stood. I am also informed that there was at the same time a chapel and a missionary here for several years, but I don't believe they ever made much progress towards civilizing the nations.

. . . Brigade of canoes and boats overtook and camped with us, with Mr. John McDonell, one of the proprietors of the North-West Company. . . . He proposes to winter himself at Rivière Qui Appelle.

Wednesday, 20th.—Early this morning Mr. McDonell with his brigade left us . .

Friday, 5th September.—Early this morning I sent off the Indians ahead on discoveries. We came to the Paubian River and crossed over to the old fort which was built in 1797-8 by Mr. Cholailler,‡ opposite to the entrance of the river. On the east side of the Red River are the remains of an old fort built by Mr. Peter Grant some years ago, and was the first establishment ever built on the Red River.

* MS. in the Library of Parliament Ottawa.
† Below Monitore Rapids on Rivière Noire, near the entrance of the Lake of the Woods.
‡ Probably Chaboiller. See p. 175, *ante*, eleventh line from top.

EXTRACTS FROM HENRY'S JOURNAL OF TRAVEL IN THE NORTH-WEST.

(1806.)

[The whole of this year appears to have been spent at the old settlement of Kaministiquia, on the north-west of Lake Superior. . . . .

At this period, scattered around the country, was a population of about 80,000, which he has noted down as follows :—]

Departments.	Whites.			Indians.		
	Men.	Women.	Children.	Men.	Women.	Children.
Athabasca	208	48	84	..	..	..
Athabasca River	37	12	15	55	38	66
English River	78	40	63	211	380	1,100
Rat River	25	7	10	70	90	150
Fort des Prairies	136	59	103	4,823	13,632	45,906
Fort Dauphin	45	22	18	19	17	31
Upper Red River	56	52	82	1,170	1,200	2,500
Lower Red River	75	40	60	160	190	250
Lake Winipic	88	11	15	90	111	194
Lac La Pluie	46	10	10	103	141	195
Fond du Lac	128	29	50	449	784	1,944
Nepigon	90	20	20	238	283	299
Kaministiquia, Mille Lac and des Chenes	62	16	36	70	84	178
Pic	16	2	3	44	45	58
Traders	520	37	31	..	..	..
Total	1,610	405	600	7,502	16,995	52,871

(1807.)

August 31st.—This season we were troubled by an augmentation of freemen from Canada etc.; their total numbers now in this [Paubian] river amount to forty-five men. More worthless fellows could not be found in the North-West.

September 14th.—I sent off a boat for above, Wm. Henry, master, with T. Veaudrie, interpreter, and seven men to build at the Grande Fourche.

(1808.)

August 22nd.—We passed old Fort Bourbon, near which we entered one of the channels of the Saskatchewoine.

24th.—At eleven o'clock we entered the main channel of the Saskatchewoine, and soon after we arrived at the Opas. This place may be said to be the first spot of real dry land we have seen since we left Lac Bourbon. The little river of the Montagne du Pas (or Pasquiaw Mountain) comes in here on the south side. Formerly the French had an establishment at this spot, some trails of which are to be seen. It was also a place of general rendezvous for the different tribes of Indians previous to the small-pox.

26th.—We came to the entrance of Sturgeon Lake, where we put ashore on an island whose black, rocky shore gave us every reason to suppose that we have our feet once more on a spot of *terra firma*. Upon this island our northern bound brigades generally unload and proceed to Cumberland House for their supply of provisions, which having brought, they loaded and proceeded along the lake in a northern direction to the entrance of Rivière Matine, about twelve leagues from this; then up this river and through a succession of lakes and rivers to their respective destinations, some even to the Columbia on the westward, and others to the McKenzie River to the north-west. It is from this vast extent of country from which the North-West Company may be said to draw their treasures. It is true, profits arise from the trade in other parts of the country to the eastward, but nothing in comparison to what we obtain from the Athabasca country.

EXTRACTS FROM HENRY'S JOURNAL OF TRAVEL IN THE NORTH-WEST.

Tuesday, 30th August.—At twelve o'clock we passed the old establishment at the *Nepawee*, which stands on the south side [of the River Saskatchewoine].

Wednesday, 31st August.—At six o'clock we encamped at the spot where the French formerly had an establishment, called Fort St. Louis, built by Luc La Corne.* It stands in a low bottom, south side. At this place, some years ago were to be seen agricultural instruments and remains of carriage wheels. Their road to the open plains is still to be seen, winding up a valley on the south side.

Thursday, September 1st.—At four o'clock we were again upon the water, and at nine o'clock we arrived at an old establishment of our own, which had been abandoned since 1805, called Fort St. Louis, from its proximity to the old French fort below.

Saturday, 3rd September.—At two o'clock we passed old Fort Providence, which stands upon an island, and soon after we came to the Surgeon Fort, where there still appeared the remains of several old establishments. . . . We passed those ruins, and soon afterwards came to the entrance of the Setting River, or Pucketowasipi, where we found a camp of twenty leather tents of Crees, a few Saulteux, and two Freemen on the south side. I crossed over and camped upon the north side, upon a beautiful small meadow, on the banks of the river, where there was every appearance of a range of forts having stood many years ago. . . . Among them were several Mongrels, who were very troublesome during the night. I was frequently on the point of chastising one of them in particular for his insolence. I had always observed in this country that whenever any of those people are living among the Indians, and have abandoned themselves entirely to the savage life, they are the worst of Indians, given to all kinds of roguery, and incite the natives to be more troublesome than they would otherwise be.

Sunday, 4th September.—Having finished my business with those troublesome fellows, and purchased three horses from them, and hired one of those rascals as hunter, to go up in company with us, I packed up the skins I had traded and gave them in charge of the freemen, to be delivered at my house at the South Branch, which is only one day's journey from this across by land. At seven o'clock I sent the hunter and my guide off by land, on the north side with the horses, as the country above will not admit of travelling by horses near the river, being covered with pine and brush wood, and overrun by swamps and marsh-grasses. . . . . At two o'clock we passed Hudson's house on the north side, an old establishment of the Hudson's Bay Company, and at sunset we arrived at *Les Ecores Jaunes* which is open on the north side. Here we found a camp of ten Crees and a few Salteaux and Freemen, who had a number of horses belonging to them. I gave them liquor for some provisions they gave me, and I purchased three horses from them. They were not so troublesome as those we left this morning. . . . . .

Wednesday, 7th September.—On our coming to the canoes we met a Freeman from above who had been sent down in a small canoe to inform us that the Crees having fled from above had assembled at the Battle River, and had determined to prevent us from passing upwards, to keep the Slave Indians from receiving any supplies from us in arms or ammunition, as they were apprehensive that a serious war would be the consequence.

Thursday, 8th September.—Passed the old Fort of Montagne D'Aigle, which is now only a heap of ruins, which lays in a low bottom on the north side of the river. It was at this point where the traders who then wintered here and the Crees had a battle in the spring of the year 1780, when one of the traders was killed by a Canadian and one Cree. The traders were obliged to fly, and abandon their property to the mercy of the Indians, who pillaged and destroyed the major part.

Sunday, 11th September.—We found them [our men] encamped near the old Fort Brulé which has been abandoned for some years past. It was built on a presqu'isle on the north side. At this place the H. B. Co. servants were plundered by the Fall Indians,

* See Bougainville's Memoire.

and narrowly escaped being all murdered. The same attempt was made upon the N. W. Co. establishment, but by the intrepid behaviour of one of the clerks, they were repulsed, and obliged to retire with the booty they had got from the H. B. Co. house.

Tuesday, 13th September.—At sun-set arrived in sight of our establishment of Fort Vermillion, which lays in a long flat bottom of meadow directly opposite the Vermillion River on the south side, where we observed a large camp of Slave Indians, who, on observing us coming down the hills, began to hoope and halloo, and appeared rejoiced at seeing us. We passed the H. B. Co. fort, and soon after entered our own, where all hands were happy to see us. . . . . Soon after my arrival I was visited by our H. B. neighbours, MM. Hallette and Longmore, who were anxious to hear the news from Europe, having been deprived that satisfaction since this time last year. Nothing extraordinary had occurred here in the course of the summer, further than the disturbance between the Slave Indians and the Crees. The former were still exasperated against the treacherous behaviour of the latter, and threatened to be revenged.

In the dressing and preparing of their robes, they [the Big Bellies or Rapid Indians] are far superior to the Slave Indians, and fully equal to the Mandanes. They are a most audacious and turbulent race, and have repeatedly attempted to destroy and massacre us all. The first glaring attempt was made at old Fort Brulez, in 1793, where they pillaged the H. B. Co. fort instantly, and were proceeding to commit a similar outrage upon that of the N. W. Co., but through the spirited conduct of one of the clerks they were repulsed, and fled with the booty they had already acquired from the H. B. Co Establishment. The summer following they assembled and made a formal attack upon the the H. B. Co. Fort at the South Branch, which they destroyed, massacred and took away everything they could find, leaving the place in ashes. At the same time they attempted to destroy Co. the N. W. fort, which stood near that of the H. B. Co , but meeting with an unexpected resistance, they retired with the loss of one of their principal chiefs, and some others killed and wounded, since which period they have been more peaceable—(p. 797).

(1809.)

Friday, 20th October.—My men finished repairing their houses, and this evening every one was entered and settled for the winter, viz:—

		Men.	Women.	Children.
No 1.	Parrenteau	1	1	5
	Perain	1	1	1
	Clement	1	1	2
	Dubois	1	1	1
				17 persons.
No. 2.	Cardinalle	1	1	5
	La Doucure	1	1	0
	Ottowa	1	1	3
	Pichette	1	0	0
				15 persons.
No. 3.	Crevier	1	1	1
	Thyfault	1	1	1
	Dument	2	1	4
	Le Jeunesse	1	0	0
				14 persons.
No. 4.	Guillion	1	1	0
	Durand	1	1	1
	Carrière	1	1	2
	Martelle	1	1	4
	La Blanc's Wife	0	1	2
				18 persons.

EXTRACTS FROM HENRY'S JOURNAL OF TRAVEL IN THE NORTH-WEST.

No. 5.	Faille	1	1	4
	La Puire	1	1	3
	Susscier	2	1	1
	Gagnion	1	1	0
				17 persons.
No. 6.	Parririan	1	1	6
	Languedoc	1	1	1
	Croite	1	1	1
	Beauvois	1	0	0
				15 persons.
No. 7.	Jerome	1	0	4
	Rocque	1	1	1
	Rehelle	1	0	0
	Fleming	1	0	0
				10 persons.
No. 8.	Hamelle	1	0	0
				1 person.
No. 9.	Mr. Small	1	0	0
				1 person.
No. 10.	Self	1	1	3
				5 persons.
Tent.	F. Deschamp	1	1	4
	F. Deschamp, junr	1	1	1
				9 persons.
Tent.	Martin	1	1	6
				8 persons.
		36	27	67
				130 persons.

Tuesday, 24th.—I invited the H. B. Co. agents to breakfast, and settled with them concerning our trade with the natives for the winter. I determined upon taking a jaunt up to Fort Augustus, took inventories, etc., and packed up the property for that purpose, that nothing might be given out in my absence.

Friday, 27th.—Passed the ruins of old Fort George, the chimneys of which are now only to be seen. At five o'clock it began to snow and blow hard. The country here is more level than this morning. At dark we came to the Dog Rump River, which having crossed, we stopped for the night. This river comes from the north-west and falls into the Saskatchewoine, which is about two leagues south from us. The Moose River, where my horse-keeper is tented, takes its rise in the hills of that name, and empties itself into the Saskatchewoine also, below Fort George.

Monday, 30th.—This may be said to be the final termination of the plains in this direction to the west, on the north side of the Saskatchewoine River. We now meet a long string of Indians on their march, most of them intoxicated; they wished us to stop, and called loudly for rum, but we continued on until we came to the very entrance of the strong wood, where the track brought us upon the bank, in sight of the river, between which and us lay a flat bottom, on which the two establishments presented themselves at our feet. The hill was steep and slippery. At four o'clock we entered the fort, after a tedious but expeditious journey from Fort Vermillion to Fort Augustus.

Tuesday, 31st.—They [the Blood Indians] appear much more troublesome here at present than they were when at Fort Vermillion, in September last. The Saskatchewoine River is only 15 yards wide; the current is very swift, and bound in by high banks at no great distance from each other; the flat bottoms are not so extensive as below, but the banks are

more steep and elevated, and covered with wood. . . . . The ice is generally from ten to fifteen days later thawing here than at Fort Vermillion.

Wednesday, 1st November.—Early, the Blood Indians were crossed over, and began to trade. Forty principal men at our Fort [Augustus], and the sixty others at the H. B. . . . This afternoon two of our men arrived with a large gang of horses from the Rocky Mountain portage, where they had left our Columbia canoes safely embarked on the west side of the mountain, twenty-seven days ago. They would not have been more than half that time had they passed by the usual route on the south side of the Saskatchewoine, but it would have been dangerous on account of the trouble among the natives last summer. They came through a most dreadful country on the north side.

Tuesday, 7th.—Here [Moose Creek] we had proposed sleeping, but an old woman arriving from the fort brought us news that all the Assiniboines and Crees had declared war upon us, and were every moment expected to arrive at the fort, as they were coming up on both sides of the river, and determined to go up to Fort Augustus also, and sweep the river clear of all the whites they could find, and take every horse that was belonging to us.

EXTRACTS FROM PIKE'S TRAVELS,* 1805-1807.

Observations on the Trade, Views, and Policy of the North-West Company, and the National Objects connected with their Commerce as it interests the Government of the United States. 1806.

The fur trade in Canada has always been considered as an object of first importance to that colony, and has been cherished by the respective governors of that Province by every regulation in their power, under both the French and the English administrations. The great and almost unlimited influence the traders of that country had acquired over the savages was severely felt, and will long be remembered by the citizens on our frontiers.

Every attention was paid by the Cabinet of St. James, in our Treaty with Great Britain, to secure to their Canadian subjects the privilege of the Indian trade within our territories; and with what judgment they have improved the advantages they obtained, time will soon unfold.

In the year 1766, the trade was first extended from Michillimackinac to the north-west by a few desperate adventurers, whose mode of life on the voyage, and short residence in civil society, obtained for them the appellation of *Coureurs des Bois.* From this trifling beginning arose the present North-West Company; who, notwithstanding the repeated attacks made on their trade, have withstood every shock; and are now, by the coalition of the late X. Y. Company, established on so firm a basis as to bid defiance to every opposition that can be made by private individuals. By a late purchase of the King's posts in Canada, they extended their lines of trade from Hudson's Bay to the St. Lawrence, up that river on both sides to the lakes, frome thence to Lake Superior,—at which place the North-West Company have their head quarters,—from thence to the source of Red River and on all its tributary streams, through the country to the Missouri, through the waters of lake Winipic to the Saskashawin, on that river to its source, up Elk River to the Lake of the Hills, up Peace River to the Rocky Mountains, from the Lake of the Hills up Slave River to the Slave Lake; and this year they have despatched a Mr. Mackenzie on a voyage of trade and discovery down Mackenzie's River to the North Sea; and also a Mr. McKay to cross the

* Exploratory travels through the Western Territories of North America, by Zebulon Montgomery Pike. London, 1811. Pp. 138-46.—The author was an American officer and traveller, born 1779. In 1805 he set out to explore the sources of the Mississippi, and subsequently visited the interior of Louisiana. He rose to the rank of Brigadier-General in the war of 1812, and was killed during the attack upon York (now Toronto), in 1813.

Rocky Mountains, and proceed to the Western Ocean with the same objects. They have had a gentleman by the name of Thompson making a geographical survey of the north-west part of the continent, who for three years, with an astonishing spirit of enterprise and perseverance, passed over all that extensive and unknown country. His establishment, although not splendid (the mode of travelling not admitting it), was such as to allow of the most unlimited expenses in everything necessary to facilitate his enquiries; and he is now engaged in digesting the important results of his undertaking. I find from the observations and suggestions of Mr. Thompson, that when at the source of the Mississippi, it was his opinion the line of limits between the United States and Great Britain must run such a course from the head of the Lake of the Woods as to touch the source of the Mississippi; and this I discovered to be the opinion of the North-West Company, who, we may suppose, or reasonably conclude, speak the language held forth by their government. The admission of this pretension will throw out of our territory all the upper part of Red River, and nearly two-fifths of the territory of Louisiana; whereas if the line is run due west from the head of the Lake of the Woods, it will cross Red River nearly at the entrance; and, it is conjectured, strike the Western Ocean at Birch Bay, in Queen Charlotte Sound. These differences of opinion, it is presumed, might be easily adjusted between the two Governments at the present day; but it is believed that delays, by unfolding the true value of the country, may produce difficulties which do not at present exist. The North-West Company have made establishments at several places on the south side of Lake Superior, and at the head waters of the rivers Sauteaux and St. Croix, which discharge themselves into the Mississippi. The first I met with on the voyage up, was at lower Red Cedar Lake, about one hundred and fifty miles above the Isle de Corbeau, being on the eastern side of the river, and distant therefrom six miles. It is situated on the north point of the lake, and consists of log buildings, flanked by picketed bastions on two right angles. The next establishment I met with was situated on Sandy Lake.

The Fort at this place is situated on the south side of the lake near the east end, and consists of a stockade of one hundred feet square with bastions, and the south-east and north-west angles pierced for small arms. The pickets are squared, on the outside, and round within, of about one foot in diameter, and are thirteen feet above ground. There are three gates. The principal one fronts the lake on the north, and is ten feet by nine; the one on the west, six feet by four; the one on the east, six feet by five; as you enter by the main gate you have on the left a building of one story twenty feet square, the residence of the superintendent; opposite to this house on the left of the east gate is a house twenty-five feet by fifteen, the quarters of the men; on entering the west gate you will find the store-house on the right, thirty feet by twenty, and on your left a building, forty feet by twenty, which contains rooms for clerks, a workshop and a provision store.

On the west and north-west is an enclosure of about four acres, picketed in, in which last year they raised four hundred bushels of potatoes, cultivating no other vegetable; in this enclosure is a very ingeniously constructed vault to contain the potatoes, but which likewise has secret apartments to conceal liquors, dry-goods, etc.

Midway between Sandy Lake and Leech Lake is a small house worthy of notice. On the south-west side of the latter lake from the outlet of the Mississippi, stand the head-quarters of the Fond du Lac department.

The fort is situated on the western side of the lake in 47° 16′ 13″ north latitude; it is built near the shore on the declivity of a rising ground, having an enclosed ground of about five acres on the north-west. It is a square stockade of one hundred and fifty feet, the pickets being fifteen feet in length, three feet under, and thirteen above ground, and are bound together by horizontal bars, each ten feet long; pickets of ten feet are likewise driven into the ground on the inside of the work opposite the apertures between the large pickets. At the west and east angles are square bastions pierced for fire-arms. The main building in the rear fronting the lake, is sixty feet by twenty-five, one-and-a-half stories high, the west end of which is occupied by the director of the Fond du Lac department; he has a hall eighteen feet square, bed-room and kitchen, with an office. The centre is a trading-shop of twelve-and-a-half feet square with a bed-room in the rear, of the same dimensions; the east end is a large store, twenty-five feet by twenty, under which there is an ice-house well filled; the

loft extends over the whole building, and contains bales of goods, packs of peltries, also chests containing wild rice; besides the ice-house, there are cellars under all the other parts of the building. The door and window-shutters are musket proof.

On the western side is a range of buildings, fifty-four by eighteen feet, fronting the parade, the first end of which is a cooper's shop, eighteen feet by fourteen, with a cellar; adjoining to which is a room called the Indian Hall (expressly for the reception of the Indians, and in which the chiefs who met me in council were entertained). In this hall are two close bunks for interpreters; its dimensions are twenty-two feet by eighteen. Adjoining to this is a room, eighteen feet square, for the clerks (in which my small party were quartered); under both of the latter rooms are cellars. On the eastern side is a range of buildings fifty feet by eighteen, which has one room twenty feet, and one of fifteen feet, for quarters for the men; also a blacksmith's shop of fifteen feet, which is occupied by an excellent workman. On the left of the main gate, fronting the river, is a flag staff of sixty feet in height.

They intend building a small block-house over the main gate fronting the lake, to place a small piece of artillery in. There are likewise gates on the north and east flanks, of about ten feet by eight.

Here resides the director of this department. This department brings in annually forty canoes, and it appears by a calculation made by a gentleman of veracity and information, who has been eighteen years in the Indian trade, and in the habit of importing goods by Michillimackinac, that the annual amount of duties would be about thirteen thousand dollars. The lower Red River, which I conceive to be within our territory, would yield about half that sum, viz.: six thousand five hundred; and the Hudson Bay Company servants, who import by the way of Lake Winipic, six thousand five hundred more.

Thus is the United States defrauded annually of about twenty-six thousand dollars.

From my observations and information, I think it will be an easy matter to prevent the smuggling of the Fond du Lac department, by establishing a post with a garrison of one hundred men, and an office of the customs near the mouth of the River St. Louis, where the Fond du Lac department must enter. This is at present the distributing point, where the Company have an establishment, and the goods, on being received from Kamanitiquia, are embarked for their different destinations. That point also commands the communication with Sandy Lake, Leech Lake, Red Lake, &c., &c. I am also of opinion that the goods for Red River (if it is within our boundary) would enter here, in preference to being exposed to seizure. It is worthy of remark that the charter of the Hudson's Bay Company extends to all its waters; and if the British Government conceive they have authority to make such a grant, they must certainly claim the country therein specified, which would extend far south of the west line from the head of the Lake of the Woods. The North-West Company were about to push their trade down the Mississippi until they should meet the traders of Michillimakinac, but I gave them to understand this could not be permitted.

Z. M. PIKE,
First United States Regiment of Infantry.

To HUGH MCGILLIS, *Esq., Proprietor and Agent of the North-West Company established at Fond du Lac.*

NORTH-WEST ESTABLISHMENT ON LAKE LEECH,
February, 1806.

SIR,—As a proprietor of the North-West Company and director of the Fond du Lac department, I conceive it my duty as an officer of the United States (in whose territory you are) to address you solely on the subject of the many houses under your instructions. As a member of the greatest commercial nation in the world, and of a company long renowned for their extent of connection and greatness of views, you cannot be ignorant of the rigour of the laws of the duties of imports of a foreign power.

Mr. Jay's treaty, it is true, gave the right of trade with the savages to British subjects in the United States territories, but by no means exempted them from paying the duties,

obtaining licenses, and subscribing to all the rules and restrictions of our laws. I find your establishments at every suitable place along the whole extent of the south side of Lake Superior to its head, and from thence to the source of the Mississippi, down Red River, and even extended to the centre of our newly-acquired territory of Louisiana, in which it will yet probably become a question between the two Governments if our treaties will authorize the British subjects to enter into the Indian trade on the same footing as in the other parts of our frontiers, this not being an integral part of the United States at the time of the said treaty. Our traders to the south on the Lower Mississippi, complain to our government with justice, that the members of the North-West Company encircle them on the frontiers of our north-west territory, and trade with the savages upon superior terms to what they can afford, who pay the duties of their goods imported from Europe, and subscribe to the regulations prescribed by law; these representations have at length attracted the attention of our government to the object in question, and with an intention to do themselves as well as their citizens justice, they the last year took some steps to ascertain the facts, and make provision against the growing evil. With this, some geographical, and also local objects in view, was I despatched with discretionary orders, with a party of troops to the source of the Mississippi. I have found, sir, your commerce and establishments extending beyond our most exaggerated ideas, and in addition to the injury done our revenue by the evasion of the duties, other acts which are more particularly injurious to the honour and dignity of our government.

The transactions alluded to are, the presenting medals of his Britannic Majesty, and flags of his government, to the chiefs and warriors resident in the territory of the United States. If political subjects are strictly prohibited to our traders, what would be the ideas of the executive to see foreigners making chiefs and distributing flags, the standard of a European power? The savages being accustomed to look on that standard which has been the only prevailing one for years, as that which alone has authority in the country, it would not be in the least astonishing to see them revolt from the limited subjection which is claimed over them by the American Government, and thereby be the cause of their receiving chastisement, although necessary, yet unfortunate, as they have been led astray by the policy of the traders of your country. I must likewise observe, sir, that your establishments, if properly known, would be looked on with an eye of dissatisfaction by our government, for another reason, viz., there being so many furnished posts. In case of a rupture between the two powers, the English Government would not fail to make use of these as places of deposit for arms, ammunition, etc., to be distributed to the savages who joined their arms, to the great annoyance of our territory, and the loss of the lives of many of our citizens. Your flags, sir, when hoisted in enclosed works, are in direct contradiction to the laws of nations, and their practice in the like cases, which only admits of a foreign flag being expanded on board of vessels, and at the residence of Ambassadors or Consuls.

I am not ignorant of the necessity of your being in such a position as to protect you from the sallies of drunken savages, or the more deliberate plans of the intended plunderer, and under these considerations have I considered your stockades. You, and the Company to which you belong, must be conscious from the foregoing statement, that strict justice would demand, and I assure you the law directs under similar circumstances, a total confiscation of your property, personal imprisonment, and fines; but having discretionary instructions, and no reason to think the conduct above noticed was dictated through ill will or disrespect to our Government, and conceiving it in some degree departing from the character of an officer to embrace the first opportunity for executing those laws, I am willing to sacrifice my prospect of private advantage, conscious that the Government looks not to interest but to its dignity in the transaction. I have therefore to request of you assurances on the following heads, which, setting aside the chicanery of law, as a gentleman you will strictly adhere to, viz.: That you will make representations to your agents at your head-quarters on Lake Superior, of the quantity of goods wanting the ensuing spring for your establishment in the territory of the United States, time sufficient, or as early as possible, for them to enter them at the Custom House of Michilimackinac, and obtain a clearance and license to trade in due form, and that you will give immediate instruction to all your party in the said territory under your direction, at no time and under no pretence

whatever, to hoist, or suffer to be hoisted, the English flag: if you conceive a flag necessary, you may make use of that of the United States,—it is the only one which can be admitted; that you will on no future occasion present a flag or medal to an Indian, hold Councils with them on political subjects, or others foreign from that of the trade; but on being applied to on those heads, will refer them to the American Agents, informing them that they are the only persons authorized to hold Councils of a political nature with them. There are many other subjects, such as the distribution of liquor, etc., which would be too long to be treated of in detail; but the Company will do well to furnish themselves with our laws, regulating the commerce with the savages, and regulate themselves in our territories accordingly. I embrace this opportunity to acknowledge myself and command under similar obligations to yourself and agents for the assistance which you have rendered us, and the polite treatment with which I have been honoured. With sentiments of high respect for the establishment and yourself,

I am, Sir,
Your most obedient servant,
Z. M. PIKE.

To LIEUTENANT PIKE, *First Regiment United States Infantry.*

LEECH LAKE, 15th February, 1806.

SIR,—Your address, presented on the 6th instant, has attracted my most serious consideration to the several objects of duties on importations; of presents made to, and our consultations with, the Indians; of enclosing our stores and dwelling houses; and finally, of the custom of hoisting the British flag on the territory belonging to the United States of America. I shall, at as early a period as possible, present the agents of the North-West Company with your representations regarding the payment of the duties on the importation of goods to be sent to our establishments within the boundaries of the territories of the United States, as also their being entered at the Custom House at Michillimackinac; but I beg to be allowed to present for consideration, that the major part of the goods necessary to be sent to the said establishment for the trade of the ensuing winter, are now actually in our stores at Kamanitigua, our headquarters on Lake Superior, and that it would cause us vast expense and trouble to be obliged to convey those goods to Michillimackinac, to be entered at the Custom House office: we therefore pray that the word of a gentleman with regard to the quantity and quality of the said goods to be sent to the said establishment, may be considered as equivalent to the certainty of a Custom House register. Our intention has never been to injure your traders, paying the duties established by law, and hope those representations to your government respecting our concerns with the Indians may have been dictated with truth and not exaggerated by envy, to prejudice our interests, and throw a stain upon our character which may require time to efface from the minds of a people to whom we must ever consider ourselves indebted for the lenity of procedure, of which the present is so notable a testimony. The inclosures to protect our stores and dwelling-houses from the insults and barbarity of savage rudeness, have been erected for the security of property and person in a country, till now, exposed to the wild will of the frantic Indians. We never formed the smallest idea that the said inclosures might ever be useful in the event of a rupture between the two powers, nor do we now conceive that such poor shifts will ever be employed by the British Government. In a country overshadowed with wood, so adequate to every purpose, forts might in a short period of time be built far superior to any stockades we may have occasion to erect.

We were not conscious, Sir, of the error I acknowledge we have been guilty of, by exhibiting to view on your territories any standard of Great Britain. I will pledge myself to your government, that I will use my utmost endeavours, as soon as possible, to prevent the future display of the British flag, or the presenting of medals, or the exhibiting to public view any other mark of European power, throughout the extent of the territory known to belong to the dominion of the United States. The custom has long been established, and we innocently and inoffensively (as we imagined), have conformed to it till the present day.

OPINION OF SIR D. RYDER AND SIR W. MURRAY, 1748.

Be persuaded that on no consideration shall any Indian be entertained on political subjects, or on any affairs foreign to our trade, and reference shall be made to the American agents should any application be made worthy such reference. And be assured that we, as a Commercial Company, must find it ever our interest to interfere as little as possible with affairs of Government in the course of trade, ignorant as we are, in this rude and distant country, of the political views of nations.

We are convinced that the inestimable advantages arising from the endeavours of your Government to establish a more peaceful course of trade in this part of the territory belonging to the United States, are not acquired through the mere liberality of a nation, and are ready to contribute towards the expense necessarily attending them. We are not averse to pay the common duties established by law, and shall ever be ready to conform ourselves to all rules and regulations of trade that may be established, according to common justice.

I beg leave to be allowed to say that we have reason to hope that every measure will be adopted to secure and facilitate the trade with the Indians, and these hopes seem to be confirmed beyond the smallest idea of doubt, when we see a man sent among us who, instead of private consideration to pecuniary views, prefers the honour, dignity, and lenity of his Government, and whose transactions are in every respect so conformable to equity.

When we behold an armed force ready to chastise or protect, as necessity or policy may direct, we know not how to express our gratitude to that people whose only view seems to be to promote the happiness of all,—the savages that rove over the wild confines of their domain, not excepted.

It is to you, Sir, we feel ourselves most greatly indebted, whose claim to honour, esteem, and respect will ever be held in high estimation by myself and associates. The dangers and hardships by your fortitude vanquished and by your perseverance overcome, are signal, and will ever be preserved in the annals of the North-West Company. Were it solely from the consideration of those who have exposed their lives in a long and perilous march, through a country where they had every distress to suffer, and many dangers to expect (and this with a view to establish peace in a savage country), we should think ourselves under the most strict obligations to assist them; but we know we are in a country where hospitality and gratitude are to be esteemed above every other virtue, and therefore have offered for their relief what our poor means can allow.

And, Sir, permit me to embrace the opportunity to testify that I feel myself highly honoured by your acceptance of such accommodations as my humble roof could afford.

With great consideration and high respect for the Government of the United States, allow me to express my esteem and regard for you.

I am, Sir,

Your most obedient servant,

H. McGILLIS,

of the North-West Company.

XI.

Legal Opinions on the Hudson's Bay Company's Charter.

OPINION OF SIR D. RYDER AND SIR W. MURRAY, 1748.*

JOINT OPINION *of the Attorney and Solicitor-General,* SIR DUDLEY RYDER *and* SIR WILLIAM MURRAY, *on a Petition which had been referred to the Privy Council, praying that the Petitioners might be incorporated, and that the Crown would grant to them the Property of all the Lands they should discover, settle, and plant in North America, adjoining to Hudson's Bay, not already occupied and settled by the Hudson's Bay*

* Forsyth's "Constitutional Law," p. 432.

OPINION OF EDWARD BEARCROFT, ESQ.

Company, with the like Privileges and Royalties as were granted to that Company, with the Right of exclusive Trade. 1748.

. . . We have taken the same (petition) into consideration, and have been attended by counsel both on behalf of the petitioners and the Hudson's Bay Company, who opposed the petition as it interferes with their charter. The petitioners insisted on two general things: that the Company's Charter was either void in its original creation, or became forfeited by the Company's conduct under it; that the petitioners have, by their late attempts to discover the North-West passage and navigation in those parts, merited the favour petitioned for.

As to the first, the petitioners endeavoured to show that the grant of the country and territories included in the Company's Charter was void for the uncertainty of its extent, being bounded by no limits of mountains, rivers, seas, latitude or longitude; and that the grant of the exclusive trade within such limits as these were, was a monopoly, and void on that account. With respect to both these, considering how long the Company have enjoyed and acted under this Charter without interruption or encroachment, we cannot think it advisable for his Majesty to make any express or implied declaration against the validity of it until there has been some judgment of a Court of Justice to warrant it; and the rather because, if the Charter is void in either respect, there is nothing to hinder the petitioners from exercising the same trade which the Company now carries on. And the petitioner's own grant, if obtained, will itself be liable in a great degree to the same objection. As to the supposed forfeiture of the Company's Charter by nonuser or abuser, the charge upon that head is of several sorts, viz., that they have not discovered, nor sufficiently attempted to discover, the north-west passage into the South Seas or Western Ocean; that they have not extended their settlements through the limits of their Charter; that they have designedly confined their trade to a very narrow compass, and have for that purpose abused the Indians, neglected their own forts, ill-treated their own servants, and encouraged the French.

But in consideration of all the evidence laid before us by many affidavits on both sides (herewith enclosed), we think these charges are either not sufficiently supported in point of fact, or in a great measure accounted for from the nature and circumstances of the case. As to the petitioners' merit, it consists in the late attempts made to discover the same passage, which, however as yet unsuccessful in the main point, may probably be of use hereafter in that discovery if it should ever be made, or in opening some trade or other if any should hereafter be found practicable, and have certainly cost the petitioners considerable sums of money. But, as the grant proposed is not necessary in order to prosecute any further attempt of the like kind, and the Charter of the Hudson's Bay Company does not prohibit the petitioners from the use of any of the ports, rivers, or seas included in their Charter, or deprive them of the protection of the present settlements there, we humbly submit to your Lordship's consideration whether it will be proper at present to grant a Charter to the petitioners, which must necessarily break in upon that of the Hudson's Bay Company, and may occasion great confusion by the interfering interests of two Companies setting up the same trade against each other in the same parts under the like exclusive Charters.

All which is humbly submitted to your Lordship's consideration.

D. Ryder.

August 10th, 1748. ——— W. Murray.

OPINION OF EDWARD BEARCROFT, ESQ.*

Q. 1st. Whether the King, without the co-operation of the other Legislative powers, can grant to any company an exclusive trade for ever, together with a right of seizing the person and goods of a fellow-subject, without legal process; and if not, whether his having illegally granted such advantages and power, does not annul the charter?

A. I am of opinion that the King, without the assent of Parliament, cannot legally grant to any company, or to any individual, an exclusive trade for ever, together with a right to seize the person and goods of subjects, without process of law; and that such a grant, if made, is illegal, void, and without effect.

* Occurrences in the Indian Countries of North America. Montreal, 1818. App., p. 11.

OPINION OF SIR V. GIBBS, 1804.

Q. 2nd. If this Charter is not valid [void?] upon the principle above stated, whether it is not voidable by the Company's neglecting to fulfil the views the King had when he granted it?

A. If such a Charter could be considered legal and valid in its commencement, yet it will be voidable by *Sci. Fa.* if the grantees neglect to endeavour, by reasonable and adequate means, to carry the purpose of it into effect.

Q. 3rd. Whether the grant to them, of the right of fishing, is exclusive, or whether the Greenland fishermen, who have a right to fish at Greenland and the seas adjacent, have not a right to fish at Hudson's Bay?

A. The Charter in question, as to so much of it as affects to grant an exclusive trade and inflict penalties and forfeitures, being, as I conceive, illegal and void, I am of opinion that the Greenland fishermen, who have a right to fish there, have also a right to fish in Hudson's Bay.

Q. 4th. If an individual invades the Charter, by fishing or trading in any of the places granted to the Company, and they seize his people, ship or goods, whether they have any and what remedy?

A. If the Hudson's Bay Company, or those acting under their authority, shall venture to seize the person, ship, or goods of a British subject fishing there, the action is by action of trespass against the Company, or against the persons who do the act complained of, which action may be brought in any of the Courts of Westminster Hall.

Q. 5th. If you should be of opinion that the Charter is in its present form illegal, which is the best way of attacking it—by invading the patent, and permitting them to seize or bring an action, and complaining or defending, according to the circumstances, or by applying to Parliament?

A. It is obvious that the safest way of attacking the Charter is by applying to Parliament or by *Sci. Fa.*, though in case of seizure, I cannot help thinking an action of trespass by the party injured would be successful.

Q. 6th. And generally to advise the parties proposing the present case, who wish to fish and trade in and near Hudson's Bay (and have sent out a ship which means to winter there, unless cut off by the Company's engines, and only wait for your opinion whether to send several more), for the best.

A. Upon the whole of this case, I am strongly inclined to think that the parties interested, if it is an object of importance to them, may venture to carry on the proposed trade immediately. The case of the East India Company and Sandys, determined at such a time, and by such Judges as it was, I cannot take to be law; and as to the length the said Charter has been granted and enjoyed, it is a clear and a well-know maxim of law, that which is not valid in the beginning cannot become so by lapse of time.

EDWARD BEARCROFT.

OPINION* OF SIR V. GIBBS,† 1804.

1st. Such a charter may certainly be good in some cases, but I am of opinion that the Charter in question was originally void, because it purports to confer on the Company exclusive privileges of trading which, I think, the Crown could not grant without the authority of Parliament. In Sandys against the East India Company, Skinn. 132, 165, 197, 223, the arguments used against their Charter, which was not then confirmed by Act of Parliament, appear to me decisive upon the subject; and although both J. Jefferies and the other judges of the King's Bench decided in favour of the Charter, I have understood that their judgment was afterwards reversed in Parliament.

Adam Smith, in his "Wealth of Nations," treats it as an admitted point, that the Charter granted to the Hudson's Bay Company, and others of the like sort, not being confirmed by Parliament, are void, which I mention, not as a legal authority, but only to show how the question has been generally understood.

2nd. A Charter may be forfeited on this ground.

* Occurrences in the Indian Countries of North America. App., p. 13.
† Afterwards Chief Justice of the Common Pleas.

3rd. I should doubt whether they had by this acquiescence forfeited their exclusive privilege, if it ever existed; but this question is immaterial after my answer to the first.

4th. If the former were legal, this would be so likewise. I think them both legal on the ground of my answer to the first query.

5th. Probably they might prosecute the captain; but if this question was material, it would be necessary that I should see a copy or abstract of the Charter before I could answer it.

6th. He might, if there were any legal cause of prosecution.

7th. I hardly think that they would be held to fall within this Act, nor does it signify whether they do or not. If my opinion is well founded, the North-West Company may navigate Hudson's Bay and carry on their trade as they please, without any fear of legal molestation in consequence of the monopoly claimed by the Hudson's Bay Company under their Charter, and I think they may act as if no such Charter existed.

V. GIBBS.

Lincoln's Inn, Jan. 7th, 1804.

OPINION OF SIR ARTHUR PIGOTT, MR. SPANKIE, AND MR. BROUGHAM, 1816.*

IN THE MATTER OF THE HUDSON'S BAY COMPANY'S CHARTER AND THEIR GRANT TO LORD SELKIRK.

1st. Whether the exclusive trade, territories, powers and privileges granted by the Charter of Charles the Second, confirmed by the expired Act of King William, is a legal grant, and such as the Crown was warranted in making; and if it was, whether it entitles the Company to exclude the Canadian traders from entering their territory to trade with the Indians, and authorises the Governors and other officers appointed by the Company to seize and confiscate the goods of the persons so trading without the license of the Company?

The prerogative of the Crown to grant an exclusive trade was formerly very much agitated in the great case of "The East India Company *versus* Sandys." The Court of King's Bench, in which Lord Jefferies then presided, held and decided that such a grant was legal. We are not aware that there has since been any decision expressly on this question in the Courts of Law, and most of the Charters for exclusive trade and exclusive privileges to Companies or Associations, have, since the Revolution, received such a degree of legislative sanction or recognition, as perhaps to preclude the necessity of any judicial decision on it. Much more moderate opinions were, however, entertained concerning the extent of the prerogative, after the Revolution, than prevailed in the latter part of the reign of Charles the Second, and in the reign of James the Second, and to those is to be attributed the frequent recourse which, after the Revolution, was had to legislative authority on such cases, and particularly in the very case of this Company, evidenced by the temporary Act of the 2nd of William and Mary, "for confirming to the Governor and Company trading to Hudson's Bay their privileges and trade;" a confirmation the duration of which the Legislature expressly limited to seven years and the end of the next session of Parliament and no longer: and part of the preamble of that Act is, in effect, a legislative declaration of the insufficiency and inadequacy of the Charter for the purposes professed in it, without the aid and authority of the Legislature; which legislative aid and authority entirely ceased soon after the expiration of seven years after that Act passed.

7 State Trials, 493; 10 State Trials, new ed. 371, Skinner, 132, 167, 197, 223. In 4, Bacon's Abr. Monopoly, p. 74, it is laid down in the text as Law, that the King cannot by Charter grant an exclusive trade. See also 6 Com. Dig. Prerogative, D. 2, etc. Trade, D. 1, 4, etc.

In 1745, indeed, the 18th Geo. II., cap. 17, for granting a reward for the discovery of a North-West Passage through Hudson's Straits, enacts, "that nothing therein contained shall any ways extend, or be construed to take away or prejudice any of the estate, rights, or privileges of or belonging to the Governor and Company of Adventurers of England trading into Hudson's Bay;" but this provision gives no validity whatever to the

* Occurrences in the Indian Countries of North America. App., p. 16.

Charter, and only leaves its effect and authority as they stood before that Act, and entirely unaffected by it.

These parliamentary proceedings may at least justify the inference that the extent of the prerogative in this matter was considered as a subject which admitted of great doubt, in times when the independence of the judges insured a more temperate and impartial consideration of it. They may, however, be perhaps considered as too equivocal to afford any certain and conclusive authority on the strict question of law. Such rights, therefore, as the Hudson's Bay Company can derive from the Crown alone, under this extraordinary Charter, such as it is, may not be affected by these proceedings or declarations, and they may now rest entirely upon and stand or fall by, the Common Law Prerogative of the Crown to make such a grant.

Upon the general question of the right of the Crown to make such a Grant, perhaps it may not be necessary for the present purpose that we should give any opinion. The right of the Crown merely to erect a company for trading by charter, and make a grant of territory in King Charles the Second's reign, may not be disputable; and on the other hand, besides that this Charter seems to create, or attempt to create, a Joint Stock Company, and to grant an *exclusive* right of trading, there are various clauses in the Charter, particularly those empowering the Company to impose fines and penalties, to seize or confiscate goods and ships, and seize or arrest the persons of interlopers, and compel them to give security in £1,000, &c., &c., which are altogether illegal, and were always so admitted to be, and among other times [things?] even, at the time when the extent of the Prerogative in this matter was maintained at its height, to grant an *exclusive* right to trade abroad; and even if, by virtue of their Charter, they could maintain an *exclusive* right to trade, we are clearly of opinion that they and their officers, agents or servants, could not justify any seizure of goods, imposition of fine or penalty, or arrest or imprisonment of the persons of any of His Majesty's subjects. Probably the Company would have some difficulty in finding a legal mode of proceeding against any of those who infringe their alleged *exclusive* rights of trading, or violate their claimed territory; for we hold it to be clear that the methods pointed out by the Charter would be illegal, and could not be supported.

Horn *v.* Ivy, 1, Siderfin, 441; Nightingale *v.* Bridges, Show-er, 135, and the cases in Viner, *ubi supra*, admitted by Lord Jefferies, Ch. J. in the East India Company, *v.* Sandys, *ubi supra*, p. 519. These clauses seem to be of a similar description to those in the East India Company's Charter in that case considered.

But we think that the Hudson's Bay Company and their grantee, Lord Selkirk, have extended their territorial claims much farther than the Charter or any sound construction of it will warrant. Supposing it free from all the objections to which we apprehend it may, in other respects be liable, the words of the Grant, pursuing the recital of the petition of the grantees, with a very trifling variation, and with none that can affect the construction of the instrument, are of "the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks, and sounds, in whatever latitude they shall be, that lie WITHIN the entrance of the Straits, commonly called Hudson's Straits, together with the lands and territories UPON *the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid:*" that is, *within* the Straits—and these limits are frequently referred to in the subsequent parts of the Charter, and always referred to throughout the Charter as "*the limits aforesaid.*"

There is, indeed (p. 10), an extension of the right of trade, and his Majesty grants that the Company "shall for ever hereafter have, use and enjoy not only the whole entire and only liberty of trade and traffic, and the whole entire and only liberty, use and privilege of trading and traffic to and from the *territories, limits, and places aforesaid* but also the whole and entire *trade and traffic* to and from all havens, bays, creeks, rivers, lakes, and seas *into which they may find entrance, or passage by water or land, out of the territories limits*, and places aforesaid, *and to and with all the* natives and people, inhabitant, or which shall inhabit WITHIN the territories, *limits*, and places aforesaid, and to and with all other nations inhabiting any of the *coasts adjacent* to the said territories, *limits*, and places aforesaid, which are not already possessed as aforesaid."

It is plain, therefore, that the Territorial Grant was not intended to comprehend all

the lands and territories that might be approached *through Hudson's Straits*, by land or water. The Territorial Grant then appears to be limited by the relation and proximity of the territories to Hudson's Straits. The general description applying to the whole, is the seas, etc., that lie WITHIN Hudson's Straits, and the land, etc., *upon the countries, coasts, and confines*, of the seas, etc., that is *Reddendo Singula Singulis*, the lands *upon* the countries, coasts and confines of each of the seas, rivers, etc., naturally including such a portion of territory as might be reasonably necessary for the objects in view; but it is not a grant of all the lands and territories in which the seas, rivers, etc., lie, or are situated, or which surround them to any indefinite extent or distance from them. Still less is it a grant of all the lands and territories lying between the seas, straits, rivers, etc., though many hundred or thousand miles or leagues of land and territories might lie between one sea, strait, river, lake, etc., and another sea, strait, river, lake, etc., and though the quantity of land comprised in this interior situation, and far distant from any coast or confine of the specified waters, might exceed in dimensions the extent of many existing powerful kingdoms or states. *Within* the Straits, must mean such a proximity to the Straits as would give the lands spoken of a sort of affinity or relation to Hudson's Straits, and not such lands as, from their immense distance (in this case the nearest point to Hudson's Bay being 700 miles, and from thence extending to a distance of 1,500 miles from it), have no such geographical affinity or relation to the Straits, but which are not even approached by the Canadians through or by the Straits in question. The whole Grant contemplates the Straits as the *access* to the lands and territories therein referred to; and, as there is no boundary specified, except by the description of the coasts and confines of the places mentioned, that is the coasts and confines of the seas, &c., within the Straits, such a boundary must be implied as is consistent with that view, and with the professed objects of a trading company intending, not to found Kingdoms and establish States, but to carry on fisheries in those waters, and to trade and traffic for the acquisition of skins and peltries, and the other articles mentioned in the charter; and in such a long tract of time as nearly 150 years now elapsed since the grant of the Charter, it must now be, and must indeed long since have been, fully ascertained by the actual occupation of the Hudson's Bay Company, what portion or portions of lands and territories in the vicinity, and on the coasts and confines of the waters mentioned and described as within the Straits, they have found necessary for their purposes, and for forts, factories, towns, villages, settlements or such other establishments in such vicinity, and on such coasts and confines, as pertain and belong to a Company instituted for the purposes mentioned in their Charter; and necessary, useful, or convenient to them within the prescribed limits for the prosecution of those purposes. The enormous extensions of land and territory now claimed appears therefore to us not to be warranted by any sound construction of the Charter; if it could be so, we do not know where the land and territory of the Hudson's Bay Company, granted by this Charter, terminate, nor what are the parts of that vast Continent, on which they have taken upon them to grant 116,000 miles of territory, exempted from their proprietorship under their Charter.

Indeed, there may be sufficient reason to suppose that the territories in question, or part of them, had been then visited, traded in, and in a certain degree occupied by the French settlers or traders in Canada, and their Beaver Company, erected in 1630, whose trade in peltries was considered prior to the date of the Charter. These territories, therefore, would be expressly excepted out of the Grant; and the right of British subjects in general to visit and trade in these regions would follow the national rights acquired by the King, by the conquest and cession of Canada, and as enjoyed by the French Canadians previous to that conquest and cession.

No territorial right, therefore, can be claimed in the districts in question; and the *exclusive* trade there cannot be set up by virtue of the Charter, these districts being remote from any geographical relation to Hudson's Bay and to the Straits, and not being in any sense *within the Straits*, and not being approached by the Canadian traders, or other alleged interlopers, through the interdicted regions. Of course no violence to or interruption of trade could be justified there under these territorial claims.

2nd. Whether the Hudson's Bay Company were warranted in making a Grant to Lord

OPINION OF SIR ARTHUR PIGOTT, MR. SPANKIE, AND MR. BROUGHAM, 1816.

Selkirk, as one of their own body, of the immense district of territory described in Governor M'Donell's Proclamation, notwithstanding the opposition of part of the Proprietors of Stock; and after making such Grant, has the Company any right to exercise their jurisdiction in appointing Governors and other officers over that district; or can they grant or transfer such power to his lordship? If you should be of opinion that the Grant to his lordship is illegal, or unwarranted by the Charter, what measures ought to be taken to set aside the same?

The validity of the Grant to Lord Selkirk may be considered both as it affects the members of the Company and the public at large.

If, contrary to our opinion, the land and territory in question were within the Grant, then the Grant of so large a portion of territory as that of Lord Selkirk, being not less than 116,000 square miles, might perhaps seem an abuse of the Charter, which might justify the interference of the Crown. Because, though the Company might have a right to make Grants of land, such Grants must be for the promotion of, or at least must be consistent with, the object of the Institution. But the Grant to Lord Selkirk tends to an establishment independent of the Company, inconsistent with the purposes of their Institution and its effect; erecting a sub-monopoly in one person, to the detriment both of the Company and of the public. The Company could confer no power upon Lord Selkirk to appoint Governors, Courts of Justice, or exercise any independent authority, nor could they, directly or indirectly, transfer their authority to him, to be exercised by him in his own name. Supposing the Grant of land to be such a Grant as falls within the power of the Company to make, their superior lordship and authority would continue as before, and must be exercised through them.

3rd. Whether the jurisdiction given by the Act of 43rd George III., to the Canadian Courts of Criminal Judicature, extends to the Territories of the Hudson's Bay Company, so as to entitle those Courts to try and punish offences committed within those territories. And whether Governor M'Donell and Mr. Spencer, his Sheriff, can legally be tried before the Canadian Courts for the offence with which they now stand charged?

There seems no reason to doubt that offences actually committed in the territories and districts in dispute, where no Court of Judicature is or ever has been established, might, in point of jurisdiction, legally be tried by the Courts of Canada, under the 43rd Geo. III., Cap. 138; and indeed, unless this district was within the provisions of that Act, we cannot discover what territory was meant to be included in it; but we think that though the jurisdiction might be capable of being supported, the acts done by Messrs. M'Donell and Spencer could not be deemed larceny, and that they, or others acting in similiar circumstances, ought not to be indicted or brought to a trial for the crime of larceny. They acted, perhaps erroneously, upon a claim of territorial dominion and of exclusive commercial privilege, and may be liable to be proceeded against as for a trespass or other injury to persons or property; but we think they could not be properly convicted on a charge of felony.

4th. Is it competent to the Governors and other officers already appointed, or that may be appointed by the Hudson's Bay Company, to seize and bring to trial before their Courts of Judicature, His Majesty's Canadian subjects who may be found trading within the Company's territories, for infringing the Company's monopoly, or for committing any other alleged crime or offence?

Supposing the Charter of the Company valid, and the districts in dispute to be within their limits, we should still doubt whether the Governor and Company have lawful power by the Charter to establish Courts for the trial by the laws of England of offences committed therein. That power the Company have never yet attempted to exercise, though nearly 150 years have elapsed since they procured their Charter. But if they should still possess this extraordinary power without further authority, legislative or regal, we should nevertheless think that no Courts there established would have authority to try, and punish as an *offence, the act of going there* simply; which, if the grant be legal, could amount at most only to a misdeameanour or contempt of the King's lawful authority to be prosecuted at the suit of His Majesty. But the Charter itself seems to take the offence, as

far as the Company are concerned, out of the jurisdiction of the local Courts by (illegally indeed) prescribing certain forfeitures, and declaring (page 12) "that every the said offenders, for their said contempt to suffer such punishment as to us, our heirs and successors, shall seem meet or convenient, and not to be in amprize [anywise?] delivered until they and every of them shall become bound unto the said Governor for the time being in the sum of £1,000 at least, at no time thereafter to trade," &c. A subsequent clause (page 16) authorizes the seizing and sending to England those who come into their territories without authority. It seems therefore that the Courts in question would have no power to try as an offence at Common Law the mere coming into the Company's territories contrary to the prohibition in the Letters Patent, which point out other modes of proceeding, and legally confer no other powers applicable to the case.

If the question were merely a question of boundary between two acknowledged adjacent colonies or provinces, it might perhaps be determined by the King in Council, where we apprehend such a jurisdiction is vested, and has been exercised, but that probably would not set at rest the principal points, or prevent interference. The validity of the Grant of an exclusive trade might, we apprehend be tried directly by *Scire Facias*, or incidentally in actions of trespass, which, however might still leave other main points undecided: and the Company might perhaps be capable of retaining some part of what has been granted to them, and might fail as to many others. In these circumstances, it appears that interests and pretensions so opposite, and which may be productive of so much confusion and disorder, and of consequences so dangerous and destructive to the persons and properties of those who, by reason of the failure of the ordinary means of protection afforded by the law, may be said to be peculiarly under the safeguard of Government, can only be effectually and satisfactorily adjusted and reconciled by Government, with the aid and authority of Parliament; and by that authority (after causing such an investigation into them as Government would, in such a case, probably feel it indispensable to make, and are fully possessed by the law officers of the Crown and otherwise, of all the means of making,) due allowance would be made for such rights of the Company as were deemed legal and well founded, and protection and freedom secured to the Canadians as well as to the rest of the King's subjects, in the prosecution of that commerce which the Canadians have long enjoyed, and which the rest of the King's subjects have frequently, and whenever they thought proper, carried on, and which, it is stated to us, they have never been hitherto attempted to be interrupted in by the Hudson's Bay Company.

OPINION OF SIR RICHARD BETHELL, A.G., AND SIR HENRY S. KEATING, S.G., 1857.*

LINCOLN'S INN, July, 1857.

SIR,—We are favoured with Mr. Merivale's letter of the 9th of June ultimo, in which he stated that he was directed by you to transmit to us copies of two despatches from the Governor of Canada, inclosing the copy of a Minute of his Executive Council, and extract from another Minute of the same in reference to the questions respecting the affairs of the Hudson's Bay Company, then under investigation by a Committee of the House of Commons.

We were also requested to observe from the former of these Minutes that the Executive Council suggest, on the part of Canada, a territorial claim over a considerable extent of country, which is also claimed by the Hudson's Bay Company, as owners of the soil, and with rights of government and exclusive trade under their Charter.

We were also requested to observe by the annexed parliamentary papers of the 12th of July, 1850, that the statement of the Hudson's Bay Company's rights as to the territory

* Printed with the Report from the Select Committee [of the House of Commons] on the Hudson's Bay Company, etc. 1857, p. 403.

trade, taxation, and government, made by them to Earl Grey, as Secretary of the Colonies, on the 13th September, 1849, was submitted to the then law officers of the Crown, who reported that they were of opinion that the rights so claimed by the Company properly belonged to them, but suggested at the same time, a mode of testing those claims by petition to Her Majesty, which might be referred to the Judicial Committee.

Mr. Merivale was further to annex a Parliamentary Return made in 1842, containing the Charter of the Company, and documents relating thereto; and another of 23rd April, 1849, containing, among other papers, an Act of 2nd William and Mary, "for confirming to the Governor and Company trading to Hudson's Bay their privileges and trade."

The rights so claimed by the Company have been repeatedly questioned since 1850 by private persons in correspondence with the Secretary of State, and were then questioned to a certain extent, as appears by those despatches, by the present local Government of Canada.

Mr. Merivale was also to request that we should take those papers into our consideration, and report—

Whether we thought the Crown could lawfully and constitutionally raise for legal decision, all or either of the following questions:—

The validity at the present day of the Charter itself.

The validity of the several claims of territorial right of government, exclusive trade and taxation insisted on by the Company.

The geographical extent of this territorial claim (supposing it to be well founded to any extent).

And if we were of opinion that the Crown could do so, we were requested further to state the proper steps to be taken, in our opinion, by the Crown, and the proper tribunal to be resorted to; and whether the Crown should act on behalf of the local Government of Canada, as exercising a delegated share of the Royal authority, or in any other way.

And, lastly, if we should be of opinion that the Crown could not properly so act, whether we saw any objection to the questions being raised by the local Government of Canada, acting independently of the Crown, or whether they could be raised by some private party in the manner suggested by the law advisers in 1850, the Crown undertaking to bear the expense of the proceedings.

In obedience to your request, we have taken the papers into our consideration, and have the honour to report—

That the questions of the validity and construction of the Hudson's Bay Company's Charter cannot be considered apart from the enjoyment that has been had under it during nearly two centuries, and the recognition made of the rights of the Company in various acts, both of the Government and the Legislature.

Nothing could be more unjust, or more opposed to the spirit of our law, than to try this Charter as a thing of yesterday, upon principles which might be deemed applicable to it if it had been granted within the last ten or twenty years.

These observations, however, must be considered as limited in their application to the territorial rights of the Company under the Charter, and to the necessary incidents or consequences of that territorial ownership. They do not extend to the monopoly of trade (save as territorial ownership justifies the exclusion of intruders), or to the right of an exclusive administration of justice.

But we do not understand the Hudson's Bay Company as claiming anything beyond the territorial ownership of the country they are in possession of, and the right, as an incident to such ownership, of excluding persons who would compete with them in the fur trade carried on with the Indians resorting to their districts.

With these preliminary remarks we beg leave to state, in answer to the questions submitted to us, that in our opinion the Crown could not now, with justice, raise the question of the general validity of the Charter; but that on every legal principle the Company's territorial ownership of the lands, and the rights necessarily incidental thereto (as, for example, the right of excluding from their territory persons acting in violation of their regulations), ought to be deemed to be valid.

But with respect to any rights of government, taxation, exclusive administration of justice, or exclusive trade, otherwise than as a consequence of the right of ownership of

the land, such rights could not be legally insisted on by the Hudson's Bay Company as having been legally granted to them by the Crown.

This remark, however, requires some explanation.

The Company has, under the Charter, power to make ordinances (which would be in the nature of by-laws) for the government of the persons employed by them, and also power to exercise jurisdiction in all matters, civil and criminal; but no ordinance would be valid that was contrary to the Common Law, nor could the Company insist on its right to administer justice as against the Crown's prerogative right to establish courts of civil and criminal justice within the territory.

We do not think, therefore, that the Charter should be treated as invalid because it professes to confer these powers upon the Company; for to a certain extent they may be lawfully used, and for an abuse of them the Company would be amenable to law.

The remaining subject for consideration is the question of the geographical extent of the territory granted by the Charter, and whether its boundaries can in any way and what manner be ascertained. In the case of grants of considerable age, such as this Charter, when the words, as is often the case, are indefinite or ambiguous, the rule is, that they are construed by usage and enjoyment, including in these latter terms the assertion of ownership by the Company on important public occasions, such as the Treaties of Ryswick and Utrecht, and again in 1750.

To these elements of consideration upon this question must be added the enquiry (as suggested by the following words of the Charter, viz., "not possessed by the subjects of any other Christian prince or state") whether, at the time of the Charter, any part of the territory now claimed by the Hudson's Bay Company could have been rightfully claimed by the French as falling within the boundaries of Canada or Nouvelle France, and also the effect of the Acts of Parliament passed in 1774 and 1791.

Under these circumstances, we cannot but feel that the important question of the boundaries of the Hudson's Bay Company might with great utility, as between the Company and Canada, be made the subject of a quasi-judicial inquiry.

But this cannot be done except by the consent of both parties, namely, Canada and the Hudson's Bay Company; nor would the decision of a Committee of the Privy Council have any effect as a binding judicial determination.

But if the Hudson's Bay Company agree to the proposal of the Chief Justice of Canada, that the question of the boundaries should be referred to the Privy Council, it being further understood by both parties that the determination of the Council shall be carried into effect by a declaratory Act of Parliament, we think the proceeding would be the best mode of determining that which is, or ought to be, the only real subject of controversy.

The form of procedure might be a petition to the Queen by Chief Justice Draper, describing himself as acting under the direction of the Executive Council of Canada, unless, which would be the more solemn mode, an address were presented to Her Majesty by the Canadian Parliament.

Counsel would be heard on behalf of Canada, and of the Company.

We are, &c.,

RICHARD BETHELL,
HENRY S. KEATING.

The Right Honourable
H. Labouchere, M.P., &c.

XII.

Judicial Proceedings.

LIMITS OF TADOUSSAC.

ORDINANCE ON THE SUBJECT OF THE BOUNDARIES OF THE KING'S DOMAIN, CALLED THE LIMITS (TRAITE) OF TADOUSSAC, MAY, 23RD, 1733.*

GILLES HOCQUART, ETC.†

Reference being had to the request presented to us by M. Pierre Carlier, Adjudicator-General of the united farms of France and the domain of the West, stipulating for himself and Sieur Cugnet, director of the said Western domain in this country, seeing that for the reasons therein contained, it is our pleasure (reference being had to the decree (arrêt) of the King's Council of State, May 16, 1677, and the decree of the Superior Council of Quebec, of the 19th October, 1658, giving control of the trade of Tadoussac to Sieur Demaure, the ordinance of M. Raudot of the 25th September, 1707, and the ordinance of M. Begon of the 5th April, 1720), to ordain that the said Carlier, his successors, farmers of the said Western domain, their attorneys, deputies, and overseers, continue to enjoy (faire) alone to the exclusion of all others, the trade (traite), hunting, fishery, in the extent of the King's domain, from the Isle aux Coudres to a point two leagues below the Seven Islands, and in the posts of Tadoussac, Chekoutimy, Lake St. John, Nekoubau, Mistassinoc, Papinachois, Naskapis River Moisy, the Seven Islands, and the places dependent on them, comprising the lands and Seigneury of Malbaye;

Consequently all persons, of whatever quality and condition they may be, as well merchants and habitans of the colony, captains and masters of fishing boats, barques, bateaux, ships, crews, and passengers, and all others whomsoever, are forbidden to trade, hunt, fish, or to carry on any commerce under any pretext, directly or indirectly, by themselves, or by sending merchandise, provisions, liquors, or ammunition through friendly savages, in the country dependent on the said limits (traites) of His Majesty's domain, without the express commission in writing of the said Carlier, the farmers his successors, their attorneys, deputies, overseers, on pain of the confiscation of the arms, products of the hunt (chasse), merchandise intended to be used in trade, furs and other effects obtained in trade, canoes, large boats, barques, fishing-boats, bateaux, and all other vessels whatever, and a fine of two-thousand livres, which can neither be remitted nor lessened under any pretext whatever; of which confiscations and fines two-thirds shall belong to the said Carlier, and the other one-third to the informer;

All persons, of whatever quality and condition, who descend the river St. Lawrence in canoes, large boats, fishing boats, or other small vessels, are equally forbidden to land on this domain otherwise than at the posts and French establishments on the said river, on pain of being regarded as having traded with the Savages, in fraud of the privilege of the said Carlier and the penalties above mentioned;

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*Edits, Ordonnances, etc., Quebec, 1855, Vol. II., p. 358.

La Traite de Tadoussac is also referred to in the following official documents, of an earlier date than this, appearing in the same work, viz.:—

Arrêt of the Superior Council of Quebec, of 4 October, 1663, setting aside a lease of the Limits of Tadoussac made by the former Governor, Sieur Davaugour, to sundry persons in the month of March previous. Vol. II., pp. 7-9.

Arrêt of the King's Council of State, dated at Versailles, 8th April, 1666, confirming the Company of the West Indies in their enjoyment of the Limits of Tadoussac. Vol. I., p. 60.

Mandement of the King, dated 8 April, 1666, relating to the preceding arrêt. Vol. I., p. 61.

Reply of MM. de Tracy, Courcelle and Talon, dated 11th September, 1666, to a petition of the Agent-General of the same Company, referring to the terms upon which the Company held *inter al*, the privilege of the Limits of Tadoussac. Vol. I., p. 53.

Memorial of the farmer of the Limits of Tadoussac presented to the King; the royal answer to which is dated Saint Germain-en-Laye, 15 April, 1676. Vol. I., p. 87.

†Intendant, etc., of Canada.

The said Carlier is to have the liberty of sending to the posts dependent on the domain, such persons and by such routes as he may judge proper, to guard the limits and to prevent trading that might be made to his prejudice; but they are not to trade on the way outside of the bounds of the domain under the penalties which such illicit trading would incur;

The said Carlier, his attorneys, deputies or overseers are to be empowered to seize all canoes found within the extent of the said domain laden with merchandise, suitable for trading or with furs and other objects of trade, wines and liquors (boissons) and ammunition and other effects, whether concealed (en cache) or exposed, in the country dependent on the said domain to whomsoever they belong, and also to seize and arrest all vessels whatever which are found trading, or have traded, with the Savages in the extent of the said domain, and the confiscation of the goods is to be made public by a minute of the transaction drawn up by the deputies of the said Carlier and affirmed by them;

And for the execution of our ordinance, the said Carlier is permitted to cause it to be posted up where it may be, or he may judge it to be, necessary;

Our ordinance delivered on the said request of March 30, 1731, by which before giving judgment, and in execution of private orders which we have received from His Majesty on the subject, to fix in an invariable manner the boundaries of the limits of Tadoussac, in the country reserved for the domain of His Majesty according to the said arrêt of the King's Council of State of the 16th May, 1677, and the ordinance of M. Begon of the 5th April, 1720;

We have ordered that the diligence of Sieur Cugnet should be engaged to make an exact map of the extent of the said domain on which shall be designated the banks of the River St. Lawrence from the Isle aux Coudres to the River Moisy and in the interior of the country, the rivers and lakes which discharge into the Saguenay River, with their magnetic bearings, the extent of the country through which they run from their source to their embouchure and the names of the principal posts where trading is or can be carried on with the Savages;

In consequence of which we have commissioned Sieur Louis Aubert de la Chenaye to reckon up and measure the banks of the River St. Lawrence, comprised in the extent of the said Domain of His Majesty, from the Isle aux Coudres to the River Moisy, as well as the Saguenay River and the rivers and lakes which discharge into it, with their magnetic bearings and the extent of ground through which they run from their source to their embouchure; to make figured plans and to draw up an account of the same in the form of a journal, marking the points to which navigation by barques, bateaux or canoes extends; the falls or rapids where portages have to be made, the names of the lakes and rivers, and the countries situated upon them; the establishments and magazines where trade is carried on with the Savages; and the seal and salmon fishing, together with the ancient establishments where trade was previously carried on, the vestiges of which still remain, the names of the Savage nations inhabiting the country, and generally every thing which can contribute to determine precisely the extent of the said limits, and make their advantages known according to the private instruction annexed to our said ordinance;

Another ordinance rendered by us, May 12th, 1732, by which we named and destined Sieur Joseph-Laurent Normandin to execute conjointly with Sieur de la Gamère, our ordinance of 30th March, 1731, instead of the Sieur Aubert de la Chenaye, who was obliged to return to Quebec, having broken his thigh at the Petite Rivière, at the house of a person named Simard, in the same way it would have been done by the said Sieur de la Chenaye, conformably to our instruction of the said day, March 30, 1731; and for this purpose they are to traverse all the rivers and lakes which discharge into the River Saguenay, taking a westerly direction from the post of Checoutimy to the height of land,* marking the limits there by placing the lillies of France (fleurs-de-lis) on the trees, and keeping a journal containing all the observations mentioned in our said ordinance and instruction;

* This height of land was probably that between two valleys which run transversely to the River St. Lawrence.

LIMITS OF TADOUSSAC, 1733.

The procès verbaux of the said Sieurs de la Chenaye and Normandin, in the form of a journal, the map which we have caused to be drawn up therefrom;

Reference being had also to our ordinance of the twelfth of the present month, between M. Pierre Carlier, Adjudicator-General of the United farms of France and of the domain of the West, stipulating by the said Sieur Cugnet, Plaintiff, to reply to us on the 26th September, 1732, of one part, and Francis Bissot, as much in his own name as having had ceded to him the rights of the deceased Sieur de Vallerenne, and Jeanne Bissot his wife, and of the deceased Sieur Charles Bissot, Sieur Joseph Fleury de Lagorgendière and Claire Jolliet, his wife, daughter of the deceased Louis Jolliet, and Claire Françoise Bissot, as much for themselves as for the co-heirs of the said deceased Sieur and Madame Jolliet, defendants, and Sieur Jacques Gourdeau, son of the deceased Jacques Gourdeau and Marie Bissot, heir of his said father, acting as much for himself as for the co-heirs of the said deceased Bissot, his mother, also defendant of the other part, by which we have given effect to the abandonment made by them, in writing of the 12th April last, of the land conceded to the deceased François Bissot, Sieur da la Rivière by the Company of New France, of the 25th February, 1661, from the Isle-aux-Œufs to the River Moisy; and having in consequence regard to the demand of the said Sieur Cugnet, in said name, conveyed by his written reply of the 31st March last;

We have, as far as necessary, re-united to the domain of His Majesty, the land granted to the said Sieur Bissot, from the said Isle-aux-Œufs inclusive, to Pointe des Cormorans, which is five or six leagues below the said River Moisy; doing this,

We have forbidden the said defendants and *intervenants*, as well as all others, to carry on directly or indirectly any trade, hunting, fishery, commerce, or establishments within the extent of this land, either in the River Moisy or other lakes and rivers which form its affluents, or to disturb Monsieur Cugnet in the enjoyment, possession, and improvement of the said land and rivers under the penalties which the law provides:

The arrêt of the Superior Council of Quebec, vesting Sieur Demaure with jurisdiction over the farm of the trade of Tadoussac, containing the limits and privileges of the said trade;

The arrêt of the King's Council of State, of May 16th, 1677;

Ordinance of Monsieur Raudot, of September 26th, 1707, forbidding all persons, even foreign Savages, to trade or hunt within the extent of the Limits of Tadoussac;

Another ordinance of my said Sieur Raudot, of the 7th September, 1709, prohibiting all persons to treat (faire festin) the Savages of the Tadoussac, or to draw them away in any manner, and permitting the sub-farmers of the Limits of Tadoussac to plunder the French whom they shall find trading within the extent of the said limits;

Another ordinance of my said Sieur Raudot, of April 7th, 1710, giving permission to seize merchandise found in the hands of the French who have traded within the extent of the limits of Tadoussac, even that which may be found concealed in the said limits;

Ordinance of M. Begon, of April 5th, 1720, prohibiting trading, hunting, and fishing within the extent of the Limits of Tadoussac, and every thing considered:

We have bounded the extent of the domain of the King called the Limits of Tadoussac, that is to say, on the north bank of the river Saint Lawrence from the bottom of the seignory of Eboulemens, which is opposite the north-east point of the Isle-aux-Coudres, to the Point or Cape of Cormorans, being about ninety-five leagues of front, with the Isle-aux-Œufs and other isles, islets, and shallows adjacent; on the western side by a supposed line drawn east and west, to commence from the bottom of the Seignory of Eboulemens to the height of land at the portage of Lake Patitachekao, latitude 47° 15', on which portage the said Lieur Normandin has planted four fleurs-de-lis on four balsam firs, in which Lake Patitachekao the River Metabetchouanon has its source, and discharges into Lake St. John, whence it falls into the Saguenay; further to the west by Lakes Spamoskoutin, Sagaigan, and Kaouakounabiscat, at the height of the lands, in the latitude of 47° 27', where the said Sieur Normandin has also placed four fleurs-de-lis on four balsam firs; the said Lake Kaouakounabiscat forming other Lakes, and the River Ouiatechouanon, which discharges into the Saguenay through the said Lake St. John, which two lakes form the boundary of the hunting country in the depths of Batiscan; and running still to the west beside Three Rivers, and in depth by the height of land, about two leagues from the little lake Pati-

taouaganiche, latitude 48° 18′, where the said Sieur Normandin has also placed four fleurs-de-lis on four balsam firs, which lake flows through Lake Askatiche where it falls into the River Nekoubau, where flow also the waters of Lake Nekoubau, all of which lakes and rivers pass through Lake St. John into the Saguenay, and form the boundary which separates the lands of the domain from the hunting country of Three Rivers and Rivière-du Lièvre ; the said boundaries above designated, according to the journals of the said Sieurs de la Chenaye and Normandin, and the map which we have caused to be made therefrom, the minutes of which will remain deposited in our Secretary's office ; in the extent of which boundaries are found the posts of Tadoussac, Malbaie, Bondésir, Papinachois, Islets-de-Jérémie and Pointe-des-Bersiamites, Chekoutimy, Lake St. John, Nekoubau, Chomonthouane, Mistassins, and behind the Mistassins as far as the Hudson's Bay; and on the lower part of the river the domain will be bounded, in consequence of our said ordinance of the twelfth of the present month, by Cape Cormorans as far as the height of land, in which extent will be comprised the River Moisy, the Lake of the Kichestigaux, the Lake of the Naskapis, and other rivers and lakes which discharge therein.

We ordain that the said M. Pierre Carlier, the farmers, his successors of the western domain, deputies and overseers, continue to carry on alone, to the exclusion of all others, the trade, hunting and fishing, in the whole extent of the country included within the limits above designated.

We forbid all persons, of whatever quality and condition, as well merchants as habitans of the colony, captains and masters of fishing boats, bateaux and vessels, the men employed to manage them and passengers, and all others whomsoever, even foreign Savages, who do not reside in the lands of the domain, to trade, hunt, fish, or carry on any commerce under any pretext whatever, directly or indirectly, whether by themselves or by sending in merchandise, victuals, liquors, and ammunition, through friendly Savages, in any part of the country designated by our present ordinance, and generally in any rivers or lakes of which the waters flow through the Saguenay River, and the River Moisy, though they may not be specially named in our said ordinance; to treat the Savages who live in the same extent of country, or to draw them away in any manner, or even to approach within ten leagues of the limits above drawn in the lands, for the purpose of trading with the Savages or other establishments without the express permission in writing of the said Carlier, the farmers his successors, their attorneys, deputies, and overseers, on the pain of confiscation of the arms, products of the hunt, merchandise for trading, furs and other objects obtained in trade, canoes, large boats, barques, fishing boats, bateaux, and other vessels of whatever kind, and a fine of two thousand livres, which can neither be remitted nor lessened under any pretext, of which confiscation and fine two-thirds are to belong to the said Carlier, and the other third to the informers.

We permit the said Carlier, the farmers his successors, their attorneys, deputies and overseers, to send into the said posts dependent on the domain, to guard its limits, and to prevent trading which might be made to the prejudice of the above prohibition, such persons and by such roads as they shall judge proper, but they are to be charged not to pass beyond the limits assigned by our present ordinance, without having previously obtained permission from us in writing, on pain of all the costs, damages, and interests payable to those to whom it belongs.

We also permit the said Carlier, his successors, their attorneys, deputies and overseers, to seize and hold all the canoes which shall be found within the extent of the said domain laden with merchandise, provisions, liquors, and ammunition suitable for trade, or furs and negotiable effects, which shall be found hidden or not hidden in the country dependent on the said domain, to whomsoever they may belong ; as also to seize and hold all vessels whatever which shall be found trading, or to have traded, with the Savages, within the extent of the said domain, and to proceed, before us, with the confiscation of the articles seized, upon the procès-verbaux of the said attorneys and overseers, duly affirmed.

And our present ordinance shall be read, published and posted up wherever need be.

We order, etc.

Done in our house, at Quebec, the 23rd May, 1733.

HOCQUART.

DE REINHARD'S CASE, 1818.*

[Charles De Reinhard was tried in the District of Quebec on the 18th day of May, 1818, before Chief Justice Sewell and Mr. Justice Bowen, under the authority of a Special Commission, issued by Hon. John C. Sherbrooke, Governor of Lower Canada, dated 29th April, 1818, and authorizing such trial under the Act 43 Geo. III., chap. 138, for murder committed at the Dalles, on the assumption that this place was situate in the Indian Territory, or parts of America not within the limits of Upper or Lower Canada, or of any Civil Government of the United States of America ; and the jurisdiction depended on whether the place where the murder was committed was within Upper Canada. The following evidence on this point was given :]—

The Evidence.

William Sax, Sworn.—I am a surveyor ; I am acquainted, according to a map which I have here, with the limits of Upper Canada, that is to say, of the old Province of Quebec ; the western limit, the mouth of the River Ohio, is in longitude 88° 50′ west from Greenwich, and latitude 37° 10′ north. That appears by a map which I have made and have in my hand, to be the latitude and longitude of the junction of the Ohio River with the Mississippi.

Chief Justice Sewell.—When you speak of the junction of the Ohio River with the Mississippi River, do you mean where the Ohio River empties itself into the banks of the Mississippi ?

Mr. Sax.—That is the understanding, and the Statute provides also—

Chief Justice Sewell.—We do not require any information or assistance in the construction of the statute ; we require it as to the fact. The construction of the statute, it is our province to decide on.

Attorney-General.—Would a line running north, from the junction of the Ohio and Mississippi Rivers strike, in its passage to the Hudson's Bay territory, the great lakes, and where would it strike Lake Superior ? And where would it leave Fort William ?

Mr. Sax.—Such a line drawn due north, would strike Lake Superior on its passage, and at or about a degree east of Fort William, or perhaps three quarters of a degree.

Attorney-General.—That is to say, the west end of Lake Superior ?

Mr. Sax.—Yes, nearly so—when I say that such a line would strike east of Fort William, I mean that it would leave Fort William about three-quarters of a degree to the west of it. It is so laid down in all the maps.

Attorney-General.—From your knowlege of maps, will you then explain in French to the jury, this line ?

Mr. Sax having done so, continued his evidence. I am acquainted with the River Winnipic by the maps, and it is between the 50th and 51st degree of north latitude. The Portage des Rats is in 49¾° by this map, or 49° 45′, and longitude 94° 6′ west from Greenwich, and the River Winnipic is consequently about 5° west of the line running north from the junction of the Rivers Ohio and Mississippi, and certainly, without the old Province of Quebec.

Chief Justice Sewell.—What are you speaking of now ?

Mr. Sax.—That a line, supposing it ran due north from the junction of the Ohio and Mississippi Rivers, would leave the River Winnipic five degrees out of the Province of Upper Canada,—not a northward line, but a due north line.

Attorney-General.—Do you mean to say that a northward line is not a north line ?

Mr. Sax.—It is not always ; it may be north by east, or north by west, or north-north-west, or many other points of the compass. A due north line is one that goes direct to the north pole without any deviation whatever.

Attorney-General.—And does not a northward line go to the north pole ? If you had a northward line to run, would you not run it to the north pole ?

* From the Report in the "Canadian Pamphleteer," vol. 5.

Mr. Sax.—Perhaps I might and perhaps not; I would certainly run it northerly, though I might not run it due north.

Attorney-General.—What is to prevent you taking it due north? If you had a line to run from a given point till it struck a river, and thence to continue along the course of that river northward, would you call that drawing a northern line?

Mr. Sax.—Undoubtedly it would be a northern line, but not a due north line.

Attorney-General.—Would it not? Could it be east or west?

Mr. Sax.—It might according to circumstances be a north-eastward or north-westwardly line, and yet a northern line, that is a line having a northward course or drawing nearer to the north pole as it progressed, though not an astronomical north line.

Attorney-General.—Is not a north line a line northward?

Mr. Sax.—Certainly, a line running due north is undoubtedly a northward line.

Attorney-General.—And a line true-north-westward you would call a north-westward line.

Mr. Sax.—Certainly; a line due north-west is a north-westward line, but a line, for instance, that runs towards the north, notwithstanding it may gain in its course more northing than westing or easting, is not therefore necessarily a due north line, but is a northern or northward line.

Chief Justice Sewell.—I really do not comprehend the distinction; to say that a northward line is not a north line, I confess appears to me to approach the "*reductio ad absurdum.*" Suppose that we had a compass here, and from a given point I drew a line. north-westward, that is to say, terminating at a point north-westward, would not that be a due north-west line?

Mr. Sax.—It would, if drawn due north-west, but if in drawing it you gained northerly, it would, from the course of its deviation, be a line northward, though not a north line.

Chief Justice Sewell.—Then its course northward must unquestionably be due north—if a line north-westwardly is a north-west line.

Mr. Vallière de St Réal.—Your honour will observe that he added, "but if deviated so, as to 'gain a little north,' it would then be a northward line."

Chief Justice Sewell.—If a line is to be drawn from a given point of the compass, say from the west in a northward direction, to say that such a line would not be a due north line, appears to me to be a contradiction to the plainest principle of common sense, and totally irreconcilable. I will put the question to you again, sir. Do I understand you to say, that a line drawn from a given point northward is not a north line?

Mr. Sax.—Surveyors usually call lines running—

Chief Justice Sewell.—I am not asking you what surveyors usually call—I want to know whether in point of fact, a fact that any man can tell as well as a surveyor, whether a line from the eastern or western point of the compass, drawn northward, is, or is not a north line? Just answer that question, yes or no, and then you may explain that answer in any way you think proper.

Mr. Sax.—It certainly must be, to a certain extent, a north line, but not a due north line.

Chief Justice Sewell.—Why not?

Mr. Sax.—A line drawn from any point, between two cardinal points of the compass direct to any cardinal point, is a due north or west line, as the case may be; but a line may be so drawn between two points as to be called by surveyors a northward or a southward line, as it may chance to gain in the course of running it upon that point of the compass to which it is approaching; as I might draw a line from a point north-westwardly, but gaining in a northerly direction in its course, so that at its termination it would be a line northward, from having more northing there than at the point from which I started.

Chief Justice Sewell.—Would not a line drawn from a westerly point, one half north and one half east, be a due north-east line, or must not lines drawn from any point in one half the compass between east and west be a north, and, in the other half, a south line?

Mr. Sax.—Certainly, while progressing north or south, but they might be gaining east or west.

Chief Justice Sewell.—Is it then equally true, that lines running east from points between north and south are due east lines?

Mr. Sax.—Yes, if progressing east.

Attorney-General.—Then they cannot be northward any more than north.

Mr. Sax.—An identical line from any point running a direct course east, is undoubtedly an eastern line, but if inclining in its course half north and half east it is a north-east line.

Chief-Justice Sewell.—Am I to understand you that one and the same line can be a northern and eastern line?

Mr. Sax.—The same line may be a north-east line.

Chief-Justice Sewell.—Let me be clearly understood by you, because at present I do not at all comprehend what you mean. Taking as a point of departure a centre, and travelling on the radius of a circle, would not the line, according to what you say, be at one and the same time a due north-east and a due north-west line—which appears to me completely a "*reductio ad absurdum*," though you certainly have said so.

Attorney-General.—If your Honour will permit me, I will ask him a question.—If you were directed simply to draw a boundary line northward, would you qualify it in any way by drawing it to the east or west, or would you go as nearly in a direct north course as possible?

Which question being repeated in French—

Mr. Sax.—If I were directed to draw a northward line without any other instruction, I should draw it as due north as I could. It would also depend upon whether I was desired to draw it astronomically or magnetically, for the variations between an astronomical and a magnetic line extend in some places from twenty to thirty degrees, and in some places they agree. The astronomical line is the true parallel.

Attorney-General.—But whether you run the line astronomically or magnetically, still in running an unqualified northward line, you would get as much to the north as you could?

Mr. Sax.—Yes; if I had to draw a line northward, without other instruction, I should draw it due north, either astronomically or magnetically; magnetically if there was any variation, and astronomically if there was none.

Attorney-General.—Will the Court have the goodness to take that down? How, sir, would a line drawn due west from the Portage des Rats, strike the River Mississippi?

Mr. Sax.—A line drawn due west from the Portage des Rats would never strike it at all.

Chief-Justice Sewell.—What line are you speaking of now—the American line?

Attorney-General.—Yes, your Honour. Well, but if a line was drawn from Portage des Rats, any way to the Mississippi, would it in its passage strike the lake or River Winnipic, or how would it leave them?

Mr. Sax.—A line drawn from Portage des Rats to the River Mississippi would leave the whole of the River Winnipic to the north-west of such a line.

Chief-Justice Sewell.—But Portage des Rats is not the point of departure; it is "the most north-western point of the Lake of the Woods" which we want.

Attorney-General.—The most north-western corner of the Lake of the Woods is Portage des Rats. Do not the English and American maps agree in that particular?

Mr. Sax.—Yes; they both make that the most north-western point of the Lake of the Woods; and a line drawn from there to the Mississippi, would leave both the lake and River Winnipic entirely to the north-west of it.

Attorney-General.—And if a line were drawn due west, as the Americans contend it ought to be, would the effect be the same?

Mr. Sax.—Yes; a line drawn due west would leave the whole of the River Winnipic to the north-west.

[Mellish's Map of the United States, produced by the Attorney-General.]

Attorney-General.—Are you acquainted with the map which Mr. Mellish has published under the auspices of the Government of the United States? Look at it, if you please, and tell the Court and the gentlemen of the jury how it lays down the Portage des Rats, or the River Winnipic.

Mr. Sax.—The map leaves it wholly to the north-west, except perhaps a particular elbow, where the river runs into the Lake of the Woods.

Attorney-General.—It must be so entirely, for if not, you do not draw your line correctly after the Statute; it must be from the dead water of the lake you start, or you take your departure from a river.

Mr. Sax.—It may be and actually is the proper point of departure, at the very point where the two join. And that is in conformity with the best charts or maps both English and American.

Attorney-General.—Will your Honour please to take that down?

Cross-examined by Mr. Vallière de St. Réal.

Mr. Sax.—I have seen many charts and maps, and it is from them I derive my knowledge of the latitudes and longitudes of which I spoke. The maps of Jeffreys and Bouchette, I believe, agree, and in these maps the western limit of the old Province of Quebec runs from the junction of the Ohio and the Mississippi, following the Mississippi until its source, which is called Turtle Lake, in latitude 47° 38′ north, and longitude 94°, or more correctly, 95° west.

Mr. Vallière de St. Réal.—Of Greenwich?

Mr. Sax.—Yes, west from Greenwich.

Mr. Justice Bowen.—What did you say was the latitude?

Mr. Sax.—47° 38′ north.

Chief-Justice Sewell.—Do I understand you right, sir, when I take you to say that the head of the Mississippi in Turtle Lake has about 47° 38′ northern latitude, and about 95° western longitude, calculating it from the meridian of Greenwich?

Mr. Sax.—Yes, that is about the latitude and longitude.

Mr. Justice Bowen.—From whence does the line go?

Mr. Vallière de St. Réal.—Northward or due north, is it?

Attorney-General.—I beg my learned friend will permit the Court to put their own questions as they think proper.

Chief-Justice Sewell.—You are certainly right. The Court can have no desire but that which is common to all parties—that of obtaining truly and correctly the facts of the case, and if, Mr. Vallière, the Court does not obtain thereby the information you think important to obtain, you can extract it yourself. Our question does not deprive you of your right of cross-examination. How does the line run?

Mr. Sax.—From the source of the River Mississippi it runs by a line due north to Hudson's Bay. It is thus drawn in Bouchette's map—it stops in Jeffrey's map at Turtle Lake—and consequently it will leave the source (beginning) of the Lake of the Woods to the east of such a line, and the Dalles is also to the east.

Mr. Vallière de St. Réal.—You only know that from maps, I believe; you were never there, I imagine?

Mr. Sax.—I was never there; it is only from maps that I speak.

Mr. Vallière de St. Réal.—I have done with Mr. Sax.

Attorney-General.—Respecting these maps—what nation does Jeffreys belong to?

Mr. Sax.—Jeffreys is an English author or geographer.

Mr. Vallière de St. Réal.—I wish that to be taken down.

Attorney-General.—Where was his map published?

Mr. Sax.—I do not know; it does not mention on the map.

MR. JOSEPH BOUCHETTE, JUN., Sworn.

Attorney-General.—You, Sir, are, I believe, Deputy-Surveyor-General of this Province, and can give us the western line of Upper Canada?

Mr. Bouchette.—I am Deputy-Surveyor-General of this Province. The western limit of Upper Canada is a line running due north from the junction of the Rivers Ohio and Mississippi to the southern limits of the Bay of Fundy.

Attorney-General.—Not Fundy, I believe?

Mr. Bouchette.—No, Hudson's Bay; and the latitude of the junction of those rivers is 37° 10′ north, and the longitude is 88° 58′ west from the meridian of Greenwich; and

this line will leave the whole of the River Winnipic to the west. The Portage des Rats is in latitude 49° 51′ north and longitude 94° 10′ west from Greenwich.

Attorney-General.—Do you know the Dalles?

Mr. Bouchette.—I have discovered it laid down in Arrowsmith's chart, as being about twelve miles above, that is further north than Portage des Rats. The place called the Dalles is twelve miles to the north of Portage des Rats, according to Arrowsmith. The most north-western point of the Lake of the Woods is in latitude 49° 28′ north, and longitude 94° 25′ west from Greenwich.

Attorney-General.—How would a line drawn from there to the Mississippi leave the Winnipic, as relates to the United States of America?

Mr. Bouchette.—It would leave the whole of the River Winnipic to the north, and consequently out of the limits of the United States of America; it would leave the head of the Mississippi to the south.

Attorney-General.—Yes, but I want the Winnipic only; and also tell us what would be the effect of a line drawn due west from the most north-western point of the Lake of the Woods?

Mr. Bouchette.—A line running from the most north-western point of the Lake of the Woods to any part of the River Mississippi will leave the whole of the River Winnipic to the north, and the same thing will happen if a line be drawn due west; and consequently that river is without the boundaries of the United States of America.

Attorney-General.—Now, sir, you say you know the Dalles?

Mr. Bouchette.—According to Mr. Arrowsmith's map, they are four leagues to the north of Portage des Rats, and consequently not within the United States.

Chief Justice Sewell.—The Dalles, are they on the Winnipic?

Mr. Bouchette.—Yes; to the north of the Lake of the Woods, and also of Portage des Rats.

Cross-examined by Mr. Stuart.

Mr. Stuart.—What age are you, Sir?

Mr. Bouchette.—I am nineteen years old.

Mr. Stuart.—I observe you have a map before you; what map is it?

Mr. Bouchette.—It is the map lately published by my father, the Surveyor-General.

Mr. Stuart.—I believe you never were at any of these places beyond Upper Canada, or at the mouth of the Ohio, or ever out of Lower Canada; never I believe in the United States?

Mr. Bouchette.—I never was at the mouth of the River Ohio, nor at the Lake of the Woods, nor at the River Winnipic; I have been out of Lower Canada, and in the United States, but not in that part. My sole knowledge of the latitudes and longitudes is derived from my father's map now before me, and Mr. Arrowsmith's, published in 1795.

Mr. Stuart.—You have spoken of a line as being the boundary of Upper Canada. Does it appear upon your father's map?

Mr. Bouchette.—The green line upon the manuscript map before me prolonged from longitude 88° 58′ west and running due north, was copied from a map by Emanuel Bowen, in 1775, at London. It runs due north from the confluence of the rivers. In other maps the western limit of Upper Canada is drawn as running from the mouth of the River Ohio in the Mississippi until its source in Turtle Lake.

Mr. Stuart.—Here is a purple line, what does that show?

Mr. Bouchette.—That is principally for a heading to the map; it is, however, copied from some map, but I do not recollect of what geography.

Mr. Stuart.—I observe another line, but I hardly know what colour to call it (though blue I believe), as marking some boundary.

Mr. Bouchette.—It is a line denoting the boundary fixed by the treaty of Utrecht, and is taken also from Emanuel Bowen, and there is also a line in the map taken from Bennett's, being the boundary of the Hudson's Bay territory.

Mr. Stuart.—I imagine, Sir, you know nothing of the correctness of any line under the treaty of Utrecht.

Mr. Bouchette.—No, I have read the treaty, that is all.

Mr. Stuart.—The same, I presume, with respect to the Hudson's Bay territory?

Mr. Bouchette.—Yes, certainly; I never was there.

Attorney-General.—I really do not see what we have to do with the Hudson's Bay territory, or Mr. Bouchette's knowledge of it.

Mr. Stuart.—It may probably appear very immaterial to my learned friend, the Attorney-General, but it is very material to us.

[The map was here handed to the Court].

Mr. Justice Bowen.—From what geographer is the south boundary of the Hudson's Bay taken?

Mr. Bouchette.—From Emanuel Bowen.

Chief Justice Sewell.—I thought, and you certainly did say just now, that that line was copied from Bennett.

Mr. Bouchette.—No, Sir, the line from Bennett is the line running from St. Croix River to the highlands, and thence along them.

Chief Justice Sewell.—Here is a line on 49° latitude.

Mr. Bouchette.—That is from Emanuel Bowen also, and drawn by the Commissioners, under the treaty of Utrecht, and the line coloured violet, is the southern limit of the territory of Hudson's Bay, according to Emanuel Bowen's map.

WM. BACHELOR COLTMAN, ESQ., Sworn.

Attorney-General.—Are you, Sir, a magistrate for the Indian territories, as well as for this district?

Mr. Coltman.—I am a magistrate for this district, and a Commissioner in the Indian territory.

Mr. Justice Bowen.—Let the examination be in French, if you please.*

Attorney-General.—Have you been in the Indian territory, and when?

Mr. Coltman.—I have been in the Indian territories; I was there last year.

Attorney-General.—What do you consider the most north-west point of the Lake of the Woods?

Mr. Coltman.—My mind being occupied by the business of my mission, I did not make any particular local observations, but I always understood, and I myself consider, the Portage des Rats to be the most north-western part of the Lake of the Woods, and that also according to what I observed; but I had no opportunity of making exact observations on the spot.

Attorney-General.—You have, no doubt, a knowledge of the River Winnipic. Does it run out of the Lake of the Woods, or in to it?

Mr. Coltman.—It is true that the River Winnipic runs out of the Lake of the Woods, and into Lake Winnipic.

Attorney-General.—What is the distance between them?

Mr. Coltman.—I cannot say exactly.

Attorney-General.—Not exactly: but how many leagues do you think; twenty or thirty?

Mr. Coltman.—I think about one hundred leagues; probably from eighty to a hundred leagues.

Attorney-General.—What is the general course of the River Winnipic?

Mr. Coltman.—The general course of the River Winnipic is north-west, or about that course; but it is necessary that I should repeat, that I had no time to make particular observations.

Attorney-General.—Is any part south of a line drawn due west from the north-west angle of the Lake of the Woods?

Mr. Coltman.—I think assuredly not. I do not believe that any part of the River Winnipic would be to the south of a line running west from the most north-western point of the Lake of the Woods, or at most a very small portion.

* This was done, but it has been thought sufficient to print here the English translation.

Attorney-General.—It is hardly necessary to ask you if a line drawn from that point to the Mississippi would leave any part of the Winnipic to the south.

Mr. Coltman.—Without doubt it would not. It is more to the south, and a line running from the Lake of the Woods to the Mississippi will leave the whole of the River Winnipic to the north-west of such a line.

Chief Justice Sewell.—Such a line must necessarily run due south.

Attorney-General.—Do you know a place called the Dalles?

Mr. Coltman.—I do know a place called the Dalles: I passed it twice.

Chief Justice Sewell.—Are the Dalles upon the River Winnipic?

Mr. Coltman.—The spot called the Dalles is a part of that river.

Attorney-General.—At what distance are the Dalles from the Portage des Rats?

Mr. Coltman.—I cannot say with accuracy, being always accustomed to read whilst travelling in a canoe in the Indian countries; but the places are not very near to each other: they are, I should think, at the distance of two or three hours march.

Attorney-General.—At what rate, sir, do you generally travel in the canoes?

Mr. Coltman.—We go just according to the currents we meet with. Our progress is entirely regulated by them, but perhaps generally a league and a half or two leagues per hour.

Chief Justice Sewell.—Then it is perhaps about fourteen miles?

Mr. Coltman.—I should think it more; I should imagine it to be about five or six leagues from Portage des Rats.

Mr. Justice Bowen.—To the north, sir, of Portage des Rats and Lac des Bois?

Mr. Coltman.—It is by a line running to the north with a little westing, and they are distant from five to six leagues, I believe from Portage des Rats and the Lake of the Woods.

Attorney-General.—Are you, sir, acquainted with the place where Owen Keveny was killed, or said to be killed?

Mr. Stuart.—I object to that question being put, for, if answered, it could not be made evidence. The place must have a name, and must be identified before any question can be put relative to anything whatever that may be supposed to have occurred there.

Chief Justice Sewell.—It can be a matter of no consequence to put the question; we know enough of this case to know that if the murder was committed at all, it was committed at the Dalles, or very near them; but you must first establish the fact,

Attorney-General.—For the present I have done with Mr. Coltman, reserving to myself the right hereafter, should it be necessary, to examine Mr. Coltman again.

Chief Justice Sewell.—Certainly, Mr. Attorney-General.

Cross-examined by Mr. Stuart.

Mr. Stuart.—You speak, I think you have said, Mr. Coltman, about the boundaries, and other places you have mentioned in your examination in chief, only from belief?

Mr. Coltman.—I speak about the lines and other places, only from belief.

Chief Justice Sewell.—But from having been there also?

Mr. Stuart.—Yes, your honour, but Mr. Coltman adds to his having been there, from belief only. Will you give your former answer to the jury, in French, Sir?

Mr. Coltman—I speak only according to my belief, being generally engaged in reading whilst travelling in those parts, and I had not an opportunity of making particular observations in the localities of the River Winnipic.

Mr. Stuart.—Am I to understand you as speaking in the same way, when you say that the Portage des Rats is the most north-western point of the Lake of the Woods?

Mr. Coltman.—Yes. I speak according to the same belief, a belief likewise founded upon this circumstance. I was told that it was the most north-western point, and when I passed it, I saw nothing that could make me call this in doubt. I was informed that that was the point whence the boundary line ran between the United States of America and the English, agreeably to the treaty of 1783.

Mr. Stuart.—Can you say, sir, where it was you were told this, or at what time, whether before or after passing it?

Mr. Coltman.—I cannot say, but it was on the passage, or during the time I was in the upper country, that I was informed it was the most north-western point of the Lake of the Woods.

Mr. Stuart.—You made no astronomical observations, or any other, so as accurately to ascertain the latitudes and longitudes ?

Mr. Coltman.—None whatever ; my only observations were those of the eye, in passing accidental remarks.

Chief Justice Sewell.—Then I will add, sir, "according to my observations, or remarks made in passing."

Mr. Stuart.—Your honour will remark that my question was not only whether Mr. Coltman made any astronomical observations on the places, but also whether they came under his eye in such a manner as accurately to observe these two places, and Mr. Coltman's answer is in the negative—they did not.

Chief Justice Sewell.—You spoke of Portage des Rats.

Mr. Stuart.—I spoke, or intended to speak, of both places, your Honour, and Mr. Coltman's answer referred to both. Is not Fort William, Sir, reputed generally to be in the Province of Upper Canada ?

Mr. Coltman.—Yes ; Fort William is usually considered to be in the Province of Upper Canada, and I understand it to be so.

Solicitor-General.—I submit to your Honour, that there is nothing in this case to which this can apply.

Mr. Stuart.—We are not called upon at present to show its application ; it is a fact, and therefore evidence.

Solicitor-General.—But I contend that my learned friend, Mr. Stuart, ought to show how he intends to apply evidence, which *primâ facie* has no bearing on the case, before he is entitled to proceed in such a course of examination ; I therefore thought it right to check it in the commencement.

Chief Justice Sewell.—All that Mr. Stuart has obtained, is the naked fact that Fort William is, according to general repute, in Upper Canada. Whether any or what use he may propose to make of it, we cannot say ; as a fact it is evidence.

Mr. Stuart.—Do not writs issue in the Western District of Upper Canada on that presumption ?

Mr. Coltman.—The Chief Justice of Upper Canada told me—

Solicitor-General.—You must not tell us that Mr. Coltman.

Mr. Stuart.—I will ask you, Sir, is it not a matter of *public notoriety*, that the processes of the magistrates of the Western District, are issued for offences at Fort William, and executed there ?

Mr. Coltman.—Yes, it is a matter of notoriety that writs are issued by the magistrates of the Western District of Upper Canada, to be executed at Fort William.

Mr. Stuart.—You have traversed a good deal, Sir, in that country ; did you observe any vestiges of French Forts above Fort William in your way to Red River ?

Mr. Coltman.—I do not recollect that I did ; I do not think I did.

Chief Justice Sewell.—Is it worth while to take that ?

Mr. Stuart.—No, it is not necessary. I have done with Mr. Coltman at present ; we propose to examine him on the defence.

SAMUEL GALE, ESQ., Sworn.

Attorney-General.—You have been in the Indian territory, I believe, Sir ?

Mr. Gale.—I was in the Indian territory last summer.

Attorney-General.—Did you go down the River Winnipic ?

Mr. Gale.—Yes, I went down the River Winnipic, from the Lake of the Woods, to within Lake Winnipic.

Attorney-General.—Do you know the Portage des Rats.

Mr. Gale.—I do know Portage des Rats.

Attorney-General.—What course has the River Winnipic from Portage des Rats to Lake Winnipic ?

Mr. Gale.—Its course from Portage des Rats to Lake Winnipic is the same as before, north of north-west.

Chief Justice Sewell.—North, tending a little west.

Mr. Gale.—Yes; nevertheless, less to the west than to the north.

Attorney-General.—Then the whole is north; is it not?

Mr. Gale.—I should not like to speak positively, but I believe that a line drawn from the source (beginning) of the River Winnipic to Lake Winnipic, would be to the north of north-west, but, as a lawyer, I would not say that such a line was a north line.

Chief Justice Sewell.—From what we have heard this morning, I should think it would puzzle a dozen lawyers to describe a line.

Attorney-General.—Are you, Sir, acquainted with the Hudson's Bay territory, and its line of separation from the Province of Upper Canada, by maps or any other way?

Mr. Gale.—I have never seen a map in which they were correctly delineated, according to my idea.

Attorney-General.—By the treaty of Utrecht, was not the boundary established?

Mr. Gale.—I know that by the treaty of Utrecht no line was given, nor any boundary fixed as to the Hudson's Bay territory south, or on the side of Upper Canada. I have examined that treaty for the purpose of ascertaining. I do not know that any line has been drawn between the territories of Hudson's Bay and Canada in pursuance of the treaty of Utrecht, and that treaty did not describe a boundary line.

Cross-examined by Mr. Stuart.

Mr. Stuart.—Do you mean, Sir, to state positively that no part of the River Winnipic is in a more southern latitude than Portage des Rats?

Mr. Gale.—I, perhaps, do not know precisely where it commences. I considered that I entered it at Portage des Rats, and I do not think that any part is more south, but it may perhaps begin a mile or two before.

Mr. Stuart.—Will you undertake to say positively one way or the other?

Mr. Gale.—I should not like to be positive, but I will mention why I think I am correct as to its course. [Intimated to speak French]. I had a small compass before me, and I observed that the general course of the River Winnipic is, as I have said, for a short distance, more north than afterwards.

Chief Justice Sewell.—For what distance, Sir, does its progress preserve the more northerly course?

Mr. Gale.—Perhaps about ten or twelve leagues from the Portage des Rats. The whole course of the river is certainly not due north, but if a line were drawn from its commencement at the one lake to its discharging itself into the other, the course of the river would certainly be more north than any other.

THE ARGUMENT.

[The following was the argument on the point on a subsequent day:—]

Mr. Stuart.—In excepting to the jurisdiction of the Court, I beg leave to remark, that the exception is made as an exception by the counsel of the prisoner only. Our opposition does not arise from any apprehension as to the verdict of the jury ultimately being that De Reinhard is innocent; but we are counsel for the prisoner, and your Honours know that even of technical objections, where the life of a defendant is at stake, it is the duty of his counsel to avail themselves; and, although they entertain no doubt of the acquittal of the prisoner, in the duty which, as his legal advisers, we have to perform, and a trying and distressing duty it is, we feel ourselves compelled to neglect nothing that, by possibility, can lead to his acquittal; we therefore except to the jurisdiction of the Court; and as I shall have the honour of being followed by a learned friend with me, who has bestowed considerable time and attention to the subject, I shall trouble the Court very shortly in opening, as I shall have an opportunity of again addressing the Court in reply to the Crown officers. The first objection I shall have the honour to submit is, that the offence charged in the indictment, if committed at all, was not committed in the Indian territory as alleged, but in His Majesty's province of Upper Canada.

Chief Justice Sewell.—Will you stay one moment. If I understand you correctly, it is a geographical objection you make. You argue that the spot, "en haut des Dalles," is not in the Indian territory, but in the Province of Upper Canada?

Mr. Stuart.—That is my proposition, and in support of it, I proceed to remark that the first enactment relative to the management of this portion of His Majesty's dominions took place in 1763. It is known to all of us, that the conquest of this portion of North America by the British arms took place in 1759 and 1760, but from that period to 1763, nothing was done to provide a government for, or to regulate, this conquered country. In that year (1763) a Province called Quebec was created by proclamation. The affairs of this territory, notwithstanding the proclamation of 1763, remained in a very unsettled state till the year 1783, when the whole of the country called Canada was ceded to the English, who have retained possession ever since. According to the most respectable historians, we contend that the portion of country thus ceded was exceedingly extensive, going, agreeably to some writers, as far as the River Ohio. The pretensions of the French, as we gather from history, carried them into countries distant, remote, and, in fact, unconnected altogether with the Province created in 1763. The people of Montreal and Quebec, we shall show, had long traded in those wilds which are now so fancifully called the Hudson's Bay Territory, and from which, after an uninterrupted enjoyment of traffic for ages by the French traders, it is now sought to exclude enterprise and competition. It must be apparent to every one, that after the conquest, this immense tract of country required a government adapted to the change which had taken place in its circumstances by becoming a Province of another nation. Its remote situation from the parent state, rendered it impossible as well as unadvisable, to legislate hastily for its necessities, but the parliament proceeded to provide what it stood most in need of. Accordingly, by the 14th of the King, the Province of Quebec was enlarged, and here let me remark that a great deal of the misapprehension which exists on the subject, arises from confounding the Province of Quebec as thus erected and enlarged, with what, under the French régime, was denominated Canada. This Act merely provided a government for a portion of the conquered country, as will immediately appear on referring to history. Adverting to the 14th of the King, the Act of 1774, it will be seen that the country, erected and enlarged thereby into the Province of Quebec, was not commensurate to the country known by the name of Canada as a French colony, and recognized as such by the French and British governments. The object of this legislative provision was to provide a government for that portion of His Majesty's Province whose necessities required it. It was to establish a temporary government for a portion of an immense continent larger than England herself, that this Act of the British Parliament provided. As settlers pushed themselves into the settlements of Upper Canada, as civilization extended its stride, it became necessary to adopt a government for the whole, and the interval from 1774 to 1791 afforded time to maturely form a suitable government for the immense territory known as Old Canada.

Chief Justice Sewell.—You are making a small mistake ; it was not to provide a government for Old Canada that the Act of 1791 provided, but for the new Province of Quebec.

Mr. Stuart.—I know the Act of 1791 mentions the Province of Quebec, and it speaks also of Canada. The proclamation issued in consequence of this Act, I contend, must be construed liberally. It must be looked at, not as a deed of property, in which only a minute survey can be taken ; we must not look at it like lawyers, in our study ; we must not contemplate it as the act of an attorney surrounded by his musty papers and parchments ; but we must view it as the act of great and enlightened statesmen legislating for the population of an immense and distant territory, with whose wants they were acquainted, and whose affections they were desirous of securing by liberal and magnanimous policy. But even looking into this proclamation strictly and minutely, we shall find this country where it is alleged the offence was committed, to be strictly and minutely the Province of Upper Canada, agreeably to the Act of 1791, upon which the proclamation was grounded. This Act, in providing for the more suitable government of the province, created by the former one of 1774, divided it into two parts, and we think, even in a strict construction of the provisions of that statute, and the proclamation issued in consequence of it, that, if this offence had been committed at all, it had been committed in the Province of Upper Canada, and consequently beyond the jurisdiction of this Court. But let us look into this act and proclamation with a broad, liberal, and enlarged disposition, and we must arrive at the same conclusion, that, agreeably to this Act,

this country must form a part of the Province of Upper Canada. I am well aware that in the preamble to this Act the Province of Quebec is adverted to, but the preambles of Acts of Parliament are never looked at as explaining the design of the Legislature, except doubt arises in the construction of the enacting clauses. It is almost superfluous to remark that, for ascertaining the spirit of an Act of Parliament, we must refer to its enacting clauses; if they are clear, there is no necessity for references to the preamble, which is but an introduction—a sort of preface, setting forth the necessity for legislative provision on the subject of the Act, but not making the provision. On the other hand, I freely admit, if the words of the Act are uncertain, if different constructions may be put on the enacting sections, then we ought to go back to the preamble for the intention of the Legislature; but that should never be done except doubt and uncertainty prevail in the body of the Act. Adopting this sound principle, let us take up the Act we are at this moment considering, and we shall find it so clear that misunderstanding cannot exist for a moment. In the proclamation issued in consequence of the 31st of the King, cap. 31, we find the boundaries of His Majesty's Province of Upper Canada thus set forth: After a short introduction, stating that His Majesty had thought fit, by and with the advice of his Privy Council, by an Order of Council to divide his Province of Quebec into two distinct provinces, to be called the Province of Upper Canada, and the Province of Lower Canada, by separating the said line of Provinces, according to the following line of division, viz.: "To commence at a stone boundary on the north bank of Lake St. Francis, at the cove west of Point aux Bodet, in the limit between the Township of Lancaster and the seigneurie of New Longueuil, running along the said limit in the direction of north, thirty-four degrees west, to the westernmost angle of the said seigneurie of New Longueuil, thence along the north-western boundary of the seigneurie of Vaudreuil, running north, twenty-five degrees east, until it strikes the Ottawas river, to ascend the said river into the lake Temiscaming, and from the head of the said lake, by a line drawn due north, until it strikes the boundary line of Hudson's Bay, including 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."

Now, what was the utmost extent of the country commonly called or known by the name of Canada, we all know. It is that territory conquered by British arms in 1759, and ceded finally in 1763 to the British Crown; it was Canada, recognized as such in treaties of peace, and other most important documents entered into between France and England. This is Canada, the whole of which, after the Act of the thirty-first of the King, by the advice of his Privy Council, His Majesty declared it his royal will and pleasure, should form the Province of Upper Canada, with the exception of the comparatively small part situated to the north and east of those boundaries, which constitutes the Province of Lower Canada. The Province of Quebec was quite another thing, and could not have been meant as designating the boundaries of Upper Canada. If that had been intended to form its limits, that is the limits of the new province, the course was simple and easy: it was to have said, the utmost extent of country commonly known as His Majesty's Province of Quebec; but that is not the case; the boon was not so circumscribed. Let us now, for a moment, examine the fact strictly and minutely, according to rigorous municipal principles, and we shall, I think, arrive at a similar result. His Majesty's Province of Quebec was always defined, whereas Canada was more undefined. Had the Province of Quebec been intended as exhibiting the proposed boundaries of the about-to-be-created province, a word could have sufficed to express His Majesty's pleasure. It would merely have been necessary to have referred to the royal proclamation of 1763, founded on the Treaty of Paris, in conjunction with the Act of 1774, and we should immediately have known the extent of Upper Canada; but it is manifest that such was not the intention, but that instead of the then Province of Quebec as established by the Act of 1774, it was intended, as clearly expressed in the proclamation issued in consequence of the 31st of the King—the Act by which it was constituted a Province—that Upper Canada was to include "all the territory to the westward and southward of the said line" (the line of its boundaries), "to the utmost extent of the country commonly called or known by the name of Canada. I am fully aware that I may be told that in the preamble of this Act and of the proclamation, the term "his Majesty's Province of Quebec" is made use of. It is almost unnecessary for me again to remark

that the preambles of Acts of Parliament, are, in general, loosely and vaguely drawn up, and ought to form no criterion by which to estimate the objects contemplated by the Acts themselves. That this is the case is known to every lawyer and every legislature. It is to the enacting clauses of any statute that we must refer to ascertain with accuracy the provisions of the Act. Adopting this certain rule for our guide here, we have a clear manifestation of the intention of Parliament in the Act of 1791; it was to create two Provinces of Canada, and, in defining the limits of the Upper, it declares that it shall, in a certain direction, include "the utmost extent of the country commonly called" what? the Province of Quebec? no; it shall include "the utmost extent of country commonly called and known by the name of Canada;" the utmost extent of that country which, as I have before remarked, was the conquest of British valour in 1759, by force of arms, and which was finally ceded to Britain by the treaty of Paris, of 1763; of that immense territory which has never, by any treaty, been surrendered, which as it is, and has, from the time of its discovery, as well as its cession, been known as Canada, must be the territory which was intended by this municipal enactment to form the Province of Upper Canada. That being the case (and I think it is the only construction, even in a minute point of view, that can with propriety be given to the statute), we find that the Dalles was strictly within the Province of Upper Canada, consequently out of the jurisdiction of this Court, and the offence charged, if committed at all, is not cognizable under the Act upon which the indictment is founded.

I come now to the more broad and liberal interpretation of the Act, and I shall, as I apprehend, have no difficulty in showing that we can not arrive at any other conclusion. The 14th of the King was evidently intended to provide a temporary government for that part of the newly-acquired territory, which stood most in need of it. It was passed at a season of great difficulty, when anxiety and alarm pervaded all classes of society in England relative to the issue of the disputes between the parent state and those of the colonies which she has since acknowledged as the United States of America; at a period when the intercourse between the Province and the mother country was so limited that it could hardly be said to belong to it. Such was the moment in which the Act erecting the Province of Quebec was passed—an Act whose temporary nature may be clearly deduced upon a single reference thereto. This Province was to subsist only, by the Act of 1774, till the King should see fit to alter its limits. In 1791, the situation of affairs relative to this portion of the British possessions was widely different, and the British Parliament proceeded to form a people whose loyalty during a contest which had severed such numerous colonies from the dominion of Britain had well entitled them to be distinguished, and distinguishing privileges secured to them by the munificent Act of 1791. Refer to the Acts of 1774 and 1791, and, surveying the difference, is it possible for a moment to imagine that the government of 1791, intended only to legislate for a part of Canada? Is it, I would ask, reasonable to consider that the Minister of a great nation such as England,—contemplating an extensive and valuable, though distant territory, belonging alike by conquest and affection to the mother country, and entitled to protection in time of war from its superior strength, in time of peace from its extensive and unequalled trade, entitled to receive and have secured to it the due administration of justice and the unrestricted enjoyment of religious freedom,—is it, I ask, reasonable to suppose that from 1763 to 1791, the great men who presided over the councils of Britain, intended at that period to propose a government for a part of Canada? To suppose so is to suppose they were sleeping at their post. Can it, I ask, be imagined that a Minister could be found so regardless of his duty, so ignorant of the necessities, so insensible to the loyalty, of this country, or so negligent to the interests of his master, as, in 1791, to propose a government to a *part* of Canada? We cannot suppose it; they have not so neglected us. They have given us a government and a constitution, superior to any on earth, excepting their own, after which it was modelled; a government suited to our necessities and gained by our unshaken and persevering loyalty, when revolution tore our sister provinces from their allegiance, and strove to associate us in the revolt. I ask them, is it for a moment to be believed, that such magnanimity would be tarnished by these advantages being confirmed to only a part of a people of the same blood, equally brave, loyal, and grateful, and equally standing in need of, and

equally entitled to, all these privileges? If any should be found disposed to support by argument a contrary opinion, they ought to be confident, before they make so heavy a charge as is involved therein, that they can substantiate it beyond the power of contradiction. But there is no occasion to apprehend such an argument, for the proclamation is clear as the noonday sun upon the subject. It tells us that the Act of 1791 has provided a liberal and equitable, and a permanent Government for the brave, the loyal, and grateful population of an extensive tract of country, within certain latitudes and longitudes. "including all the territory to the westward and southward of a line drawn due north from the head of the Lake Temiscaming until it strikes the boundary of Hudson's Bay, to the utmost extent of the country commonly called or known by the name of Canada." What that country consisted in I have had the honour of submitting to the Court, in the early part of the argument I have had the honour of addressing to the Court. In conclusion, I contend on this part or view of the subject, namely, the broad and liberal construction of the Act of 1791, that by Canada must be meant Canada as known to the French, from whom it was taken, and who, in ceding this part of North America to the British Crown, in 1763, actually as a part of Canada ceded the Dalles. Reverting to the whole question, I contend that, whether the Act of 1791 is construed according to strict, rigid, municipal rules, or contemplated with a broad, liberal, and statesman-like spirit, the Dalles form a part of His Majesty's Province of Upper Canada, and if the offence has been committed at all, it has been committed out of the jurisdiction of this Court.

Mr. Vallière de St. Réal.—May it please the Court; I have the honour to submit that it appears to me that the statute of the fourteenth of the King (upon which the Crown officers rely) must instantly strike the reader as being a temporary Act, and that it never was intended to be a permanent one. It is true that the boundaries were given by this Act to the old Province of Quebec, but these boundaries were only to remain during the King's pleasure, and his will is clearly made known by the Act of 1791. But the principal objection which my learned brethren the counsel for the Crown make to our construction of that Act is this, that in the preamble or title to it, the Province of Quebec in mentioned. But it was well remarked by my learned brother Stuart, that the preamble of an Act is nothing, that it is like the preface of a book, but that we must look at the enacting clauses to discover its spirit. We know that it is necessary in the preamble of one Act to recite the title of the old Act which is amended, and it is perhaps to that circumstance that may be ascribed the introduction of the words, "the Province of Quebec," in the Act of 1791. But that does not signify; it is impossible to consider the proclamation of the King, or his order in council, otherwise than as giving to the Province of Upper Canada, "All the country to the west of a line drawn due north, from the head of Lake Temiscaming to the boundary of Hudson's Bay, which was known as Canada." Let us look at the boundaries and we shall see that the boundary line between the Provinces is this, namely, from "a stone boundary on the north bank of the Lake St. Francis, at the Cove West of Pointe au Bodet, in the limit between the Township of Lancaster and the seignory of New Longueuil, running along the said limit in the direction of north thirty-four degrees west, to the westernmost angle of the said seignory of New Longueuil, thence along the north-western boundary of the seignory of Vaudreuil, running north twenty-five degrees east, until it strikes the Ottawas River, to ascend the said River into the Lake Temiscaming, and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including 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." I beg to remark that these limits are very well known, and also that they were well known before the proclamation. My learned brother, Stuart, has well explained the extent of these limits, and he has not taken too wide a purview of them. The words of the proclamation are very remarkable. After having described the lines which separated the Province of Upper Canada from the Province of Lower Canada, it adds, "*including*" (a very remarkable expression) "*including* all the territory to the west and south of the said line," (the line drawn due north from the head of Lake Temiscaming until it strikes the boundary of Hudson's Bay), "to the utmost extent of the country commonly called or known by the name of Canada." Let us consider these words, "the utmost extent

of the country commonly called or known by the name of Canada." The words are not "of the country commonly called or known by the name of the Province of Quebec; no, not at all; but they say: "by the name of Canada." The question therefore is, what is the utmost extent of the country known as Canada? The Abbé Raynal in his "History of the Indies," speaking of this country, vol. 8, book 17, page 238, says, "the year 1764 beheld the rise of a new system. Canada was dismembered of the coast of Labrador, which was added to Newfoundland; of Lake Champlain and the whole tract of land to the south of the 45° of latitude with which New York was augmented; of the immense territory to the westward of Fort Golette and of Lake Nipissim, which was left without a government; and the remainder, under the designation of the Province of Quebec, was placed under one governor. The description which this respectable historian here gives of the territory thus dismembered gives a correct idea of the country known as Canada. This new system, he says, gave a part of Canada to Newfoundland. New York was increased by another part, namely, the tract to the southward of the 45° of latitude. "The immense territory to the west of Fort Golette and of Lake Nipissim was left without any government," (and as my learned brother Stuart has well maintained, it is this immense territory which the proclamation of the year 1791 gave to Upper Canada, as being a part of the country called or known by the name of Canada) "whilst the remainder" (to wit, of the country known by the name of Canada) "was placed, under the designation of the Province of Quebec, under one governor." I have the honour to submit to your honours, that looking at the words of the proclamation of 1791, and comparing them with this description of the Abbé Raynal, of the territory left without any government, we shall find it to be the country which, by this proclamation, it was proposed to make a part of Upper Canada, at the time when it was declared that the line should be "drawn from the head of the Lake Temiscaming due north until it strikes the boundary line of Hudson's Bay," and moreover, "including 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." This territory was then known by the name of Canada, and it is situated to the westward of that line, and therefore it proves to be a part of Upper Canada. Again I beg the attention of the Court to the work of Mr. Pinkerton, a well-known English geographer. This distinguished author, speaking of the extent of Canada, gives very large bounds to it; vol. 3rd, page 234, he says: "This country" (Canada) "is computed to extend from the Gulf of St. Lawrence and Isle of Anticosti, in the east, to the Lake of Winnipic in the west, or from longitude 64° to 97° west from London; 33°, which, in that latitude, may be about 1,200 geographical miles. The breadth from the Lake of Erie in the south or latitude 43°, may extend to latitude 49°, or 360 geographical miles, but the medial breadth is not above 200." So far he speaks of the absolute geographical extent of Canada; the subsequent observation which he makes relative to the original population of the country, strongly supports the argument which we have the honour to submit to the Court, viz.:—that this country described by the Abbé Raynal as "l'immense territorie qui fut laissé sans aucun gouvernment," is the very country intended by the Proclamation of 1791, to receive a government and become a part of Upper Canada. "The original population," (says Mr. Pinkerton,) "consisted of several savage tribes, whose names and manners may be traced in the early French accounts, which may also be consulted for the progressive discovery, the first settlement being in Quebec in 1608. During a century and a half that the French possessed Canada, they made many discoveries towards the west, and Lahontan, in the end of the 17th century, has given a tolerable account of some lakes beyond that called Superior, and of the River Missouri. Quebec being conquered by Wolfe in 1759, Caanda was ceded to Great Britain by the Treaty of Paris in 1763." I therefore confidently submit that this western territory which had been discovered by the French, and is described by Lahontan and other writers under the name of Canada becaame in reality a part of Upper Canada by the Proclamation of 1791, and consequently does not form a part of the Indian territory, nor is it within the jurisdiction of this Court. The Abbé Raynal and Mr. Pinkerton agree in their description of the western boundary of Canada, and for the southern boundary of Canada let us again look at the Abbé Raynal's work. This writer, in the same volume of his "History of the Indies," treating of the extent, soil

and climate of Louisiana, says (book xvi., page 111):—"Louisiana is a vast country, bounded on the south by the sea, on the east by Florida and Carolina, on the west by New Mexico, and on the north by Canada, and by unknown lands which may extend to Hudson's Bay. It is not possible to fix its length with precision, but its medium breadth is 200 leagues." Here we see that the northern limit of Louisiana is Canada and unknown lands, which may extend to Hudson's Bay. With the proclamation of 1791 before our eyes, which tells us that the boundaries of Upper Canada include the whole of the country to the west and south known under the name of Canada to the utmost extent of that country, it is impossible to say but that that country which bounds Louisiana to the northward according to the Abbé Raynal, must at this moment form, in conformity with that proclamation, a part of Upper Canada. The country known as Canada extends to the south as far as Louisiana, and to the west as far as the 97° of longitude. There remains now for us to consider the northern limits of Canada, and here we have not the same certainty. In the maps of New France, it is true that the whole of the River Winnipic is included in it, and the northern boundary line is drawn in conformity with the interpretation of the limits of Canada, which we have submitted to the Court. To prove that this interpretation is a correct one, and that it in effect agrees with the limits of Canada as they were known to the French Government, I will take the liberty of praying the attention of the Court to what we look upon as a very strong authority. It is an Act of the Duke of Ventadour, dated 1625, and will be found in the "Edicts and Ordinances," vol. 2, page 11, under the title of "Commission of Commandant in New France, of the 15th February, 1625, by his Grace the Duke of Ventadour, who was Viceroy of the country, in favour of the Sieur de Champlain." This instrument begins by reciting other patents of Commission obtained by him, and proceeds in the 12th page to declare in the most precise manner, the view taken by the Government of France, of the extent of this part of their possessions. This instrument will support the position that the territory which the French knew as being called by the name of Canada, to the south and west of the line so frequently mentioned in the course of my speech, proves to be ordered, by the King's proclamation of 1791, to make, and that it will be found actually to make part of his Province of Upper "as far as the utmost extent of that country." Let us look at this Act, and we shall perceive from it, that the most extended powers were given to the Sieur de Champlain, powers which it must also be maintained did not at the time awaken any doubts as to the right which France had to grant them, nor any impediment to their exercise, on the part of any other nation. This Commission, in the first place, ordains and deputes, "the Sieur de Champlain, our Lieutenant, to represent our person in the country of New France, and to that effect, we have ordered him to go and reside with all his people at the place called Quebec, being within the River St. Lawrence, otherwise called the great river of Canada, in the said country of New France." Now, we will look at the powers which were granted by this Commission; "and in the said place, and in other places which the said Sieur de Champlain may think fit, to cause to be erected and built such forts and fortresses as may be wanted, and necessary to him for the preservation of his people, which fort or forts he shall keep for us in his power, in order, at the said place of Quebec, and other places and stations within the extent of our said power (vice-royalty), as much and as far as may be, to establish, extend and make known the name, power and authority of His Majesty, and in the premises to conquer, subject and bring to obedience all the people of the said country, and of the circumjacent countries, and by means thereof, and of other lawful means, to call them, cause them to be instructed, excited, and moved towards the knowledge and service of God, and of the Catholic, Apostolic, and Roman religion: to establish it there, and in the exercise and profession thereof to maintain, guard, and keep the said places, under the obedience and authority of his said Majesty; and in order to have regard thereunto, and more surely to fulfil the same, we have in virtue of our said authority (vice-regal) permitted to the said Sieur de Champlain, to commission, appoint and substitute such captains and lieutenants for us as need may be, and in the like manner to commission officers for the distribution of justice, and the observance of the police regulations and ordinances, until by us otherwise may be provided: to treat for and contract, to the same effect, peace, alliances, confederations, good

friendship, correspondence and communication with the said people and their princes or others having the command over them; to maintain, observe, and carefully keep the treaties and alliances which he may enter into with them, provided that they fulfil the same on their parts, and in default thereof to make open war upon them to constrain them, and bring them to such terms as he shall deem requisite for the honour, the obedience, and the service of God, and the establishment, maintenance, and preservation of the authority of His said Majesty amongst them; at least to reside amongst, haunt and frequent them, in all safety, freedom, frequentation and communication; to trade and traffic amicably and peaceably; for that purpose to cause to be made discoveries in the said countries, and specially from the said place of Quebec, until as far as he may be able to penetrate beyond the same within the lands and rivers which discharge themselves into the River St. Lawrence, in order to endeavour to discover a convenient way to go through the said country into the Kingdom of China and the East Indies." Here, may it please your Honours, we behold powers the most extensive, granted by the Government of France for all the objects which might require attention to make peace and war; to spread the name, power and authority of the King of France over a country, the bounds of which were not exactly known to themselves; to establish religion; to commission and in the like manner to establish military and civil officers; to treat for and contract peace, alliances, and good friendship with other nations and their princes, and on their being in default thereof, to wage open war against them. In fine, powers are granted by this Commission which would not have been granted unless by a government which, by the law of nations, was entitled to grant them. These powers extend over all the lands and rivers which discharge themselves into the River St. Lawrence; assuredly the river Winnipic does not discharge itself into that river, but by the old maps that river (Winnipic) is situated within the country known to the French as Canada. After this proof of what was at the time considered as the territories of France by herself, it is only necessary to inquire whether the possession thereof was actually held by that kingdom. The species of possession, which the law of nations admits as a proof of actual sovereignity, will equally appear to be maintained. We see that by this commission power is given to cause to be erected and built such forts and fortresses as may be wanting and necessary to him, the Sieur de Champlain; now forts and fortresses were erected, and to this day there are ruins of French forts remaining in that country which incontestibly prove actual posssession. We therefore now take up this position; that, neither at the time of the actual possession of the country by the French, nor since its conquest by the English, have the boundaries of Canada been actually defined. In support of this position, which is especially true as regards the northern limits, I submit that Charlevoix, the Abbé Raynal, Mr. Pinkerton, and all authors agree in representing that the boundaries of Canada under the French *régime*, were not positively fixed or known. As an authority for saying that they are not fixed even at the present time, I produce the Topography of Mr. Bouchette, the Surveyor-General of this Province, who has bestowed great attention to everything that is interesting on this subject. I flatter myself that his work must be esteemed very strong authority. Mr. Bouchette, speaking of Upper Canada, says, page 590 of his Topography, "on the west and north-west no limits have been assigned to it." I pray the particular attention of the Court to the expression "no limits have been assigned to it; therefore it may be supposed to extend over the vast regions that spread towards the Pacific and the Northern Oceans. The separation between it and the United States is so vague and ill-defined, and the prolific source of so many disagreements between the two powers, that it has long called for the revision which is now about to be performed in fulfilment of the fourth and fifth articles of the Treaty of Peace of 1815." Here we have the declaration of the Surveyor-General of this Province, that on the west and north-west no limits have been assigned to the country called Canada. Mr. Bouchette speaks of the proclamation of 1791, but this is his opinion. In case there are no precise limits fixed, we must inquire how those who were contemporaries, and who had a knowledge of the country—how the geographers of those days understood the matter. Let us look at the maps and we shall find that the whole of the River Winnipic is delineated as belonging to Canada. When Mr. Bouchette, speaking of this country in his Topography, says that it has no limits assigned to it, and adds, "therefore it may be supposed to extend over the vast regions that spread towards

the Pacific and the Northern Oceans," it is very certain, as it appears to me, that he alludes to the proclamation of 1791, which bestows the whole country, to its utmost extent, commonly called or known by the name of Canada, upon the Province of Upper Canada. The Indian Territories are to the north of a line drawn as above, because the whole of the country to the south and to the west is within Upper Canada. The only point to consider seems to me to be this : that the proclamation of 1791 did not give the boundary of the Province of Quebec for the limits of the two Provinces, but, that, in the actual words of the proclamation the limits of Upper Canada extend on the one side "from the head of the Lake Temiscaming by a line drawn due north until it strikes the boundary line of Hudson's Bay, including 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."

By Fort Bourbon and Fort Dauphin, and by many other circumstances, it is also beyond a doubt that the country where the Dalles are situated was in possession of the French, and, as we say, and, as I hope, we have proved by the maps and by enlightened authors (with whom the Surveyor-General of this Province agrees), the country to the southward and westward was called and known by the name of Canada. In conclusion, I say the French knew the country as Canada, and that nothing to the contrary can be brought forward, and, moreover, that if we do not produce positive evidence, that the Dalles are within the limits of Upper Canada, we have proved that no fixed limits have been assigned to it, and, by the same authority (an authority well entitled to respect on account of the official situation held by the writer), that it is considered to extend over the vast regions to the west and north. It is for your Honours to decide whether the Dalles are within it or not.

Attorney-General.—The point before the Court appears to me to be so clear that it is almost unnecessary to argue it. A great deal of learning has been produced, and much ingenuity exercised by my learned friends to prove the point with which they set out, viz., that if the offence alleged in the indictment to have been perpetrated, and that by the prisoner at the bar, has been committed at all, it must have been in the Province of Upper Canada, and consequently out of the jurisdiction of this Court. In support of this position a variety of arguments have been resorted to, and numerous authors have been referred to. Fortunately for us, standing in a Court of law, there is positive law upon the subject; there is, therefore, no occasion to have recourse to the Abbé Raynal, or to Charlevoix, or any other of the speculative writers (writers, at the same time, for whom I entertain great respect), to whom my learned friend who last addressed the Court has referred as furnishing authorities upon the question. It is our advantage that in this case, without referring to authors who, however respectable they may be, were exposed to the too common failing of endeavouring to secure the favour of their respective Governments. I do not intend to throw the slightest imputation on the veracity of the very eminent writers whose opinions and arguments have been with so much ability brought forward, but merely to state that reference to them is completely unnecessary, as we have positive Acts of the British Parliament to guide both the examination and decision of the question. But we do not differ at all with our learned friends as to the extent of territory formerly claimed by the French, and which, undoubtedly, came into the possession of the British Crown at the Treaty of Paris of 1763 ; but all we submit to the Court is, that the whole of the French possessions did not constitute Canada, but that the country known by the name of Canada was much more circumscribed in its extent than my learned friends have described (and, I doubt not very accurately too,) the old French possessions to have been. The argument of my learned friend who opened this question is, that in construing this and every other Act of Parliament, we should proceed in a liberal and statesmanlike manner to apply its provisions. If we trace the movements of the British Government, we shall see the impossibility of that construction, which my learned friends contend for, being admitted to be correct. In 1760, these colonies were conquered, and capitulated to the British forces. By the Treaty of Paris, 1763, the whole conquest was finally ceded to His Majesty. In 1763, a part of this conquest was, by Proclamation, erected into a Province, denominated the Province of Quebec. By the Act of 1774, the Province of Quebec was enlarged. By the Treaty of Peace with the United States of America, the situation and boundaries between the late Colonies and Province of Quebec and other of His Majesty's

dominions in North America were clearly defined, and in 1791 this series of legislative and diplomatic measures were completed by his Majesty dividing his then Province of Quebec into his two Provinces of Upper and Lower Canada. Let us for a moment look at what the Act of 1791 proposes to effect and everything like difficulty disappears in a moment. It was to divide a large Province, namely, that of Quebec, into two small ones, to be called Upper and Lower Canada: and consequently the boundaries of these two Provinces could only be commensurate to that of Quebec, and Upper Canada must be a part of the former Province and of that only; otherwise the Act, instead of being an Act to divide the Province of Quebec, ought to have been denominated an Act to enlarge its boundaries, and from its extended limits to form the two Provinces therein created. The error of my learned friend is this: that because Canada happens to be mentioned, therefore the avowed object of the Act, viz., that of dividing the Province of Quebec, must be abandoned, or give place to what my learned friend calls the broad and enlightened policy of providing a government for the whole of His Majesty's dominions in North America. I again take up the Act, and looking at its title, I find it to be an Act to repeal certain parts of an Act passed in the 14th year of His Majesty's reign entitled an Act for making more effectual provision for the government of the Province of Quebec in North America. What the Province of Quebec comprehended is as well known as the limits of this room. The Act of the 14th of the King, commonly called the Quebec Act, defines them precisely, and how then did this Act of 1791 amend that of 1774? Why, His Majesty having been pleased to signify by message to both Houses of Parliament his royal intention to divide his Province of Quebec into two Provinces, it was enacted by this statute that it should be so divided, and that two Provinces should be created. If my learned friend's observations are correct, then the 14th of the King amounts to nothing, because though the Act of 1791 is professedly an Act to amend, not to repeal the Act of 1774, still it is indispensable to a correct interpretation of the Act to divide the Province of Quebec (according to my learned friend's doctrine) that you add a very considerable territory to it—a mode of division I confess I am not acquainted with. The Act being to divide the Province of Quebec, I contend that the limits of the two Provinces must be found in those which constitute the Province out of which they were formed, and that whilst on the one hand they must be commensurate to those limits, so on the other hand they cannot exceed them; that more cannot be included in the two than in the one Province; and, that being the case, the Province of Upper Canada can consist only of that part of the former Province of Quebec which does not form the Province of Lower Canada. This proposition I consider so clear—that a Province, any more than any anything else, cannot comprehend or contain more when divided into two Provinces than it did when a whole—that I should feel myself very unjustifiably taking up the time of the Court were I to pursue the argument further. If any other construction is to be given to the Act, then the 14th of the King, defining the Province of Quebec, amounts to nothing, and the Act of the 31st, instead of being an Act to divide, is in reality an Act to enlarge the Province of Quebec under the new title of Upper and Lower Canada.

Solicitor-General.—I consider the point so extremely plain, that it is not only wasting, but almost trifling with, the time of the Court, seriously to argue whether the division of a Province into two parts can, by any possibility, be construed to mean the addition thereto of a vast and almost (according as my learned friends contend) immeasurable territory. In support of this apparently most novel and extraordinary proposition, my learned friend, Stuart, contends that the expression in the designation of the boundaries, "the country commonly called or known by the name of Canada," is conclusive that it was in this manner that His Majesty intended to divide the Province of Quebec. The enquiry, and the only enquiry upon the subject, appears to me to be one extremely easy of decision. It is simply whether that one sentence is to preclude or set aside the whole of the first clause of the Act in which the intention of His Majesty and of Parliament is so clearly expressed. The Act of 1791, after reciting the title of the fourteenth of the King, assigns the reason which induced the Legislature to pass the Act for the internal regulation of the two separate Provinces, which His Majesty had signified his royal intention of forming, by the division of his then Province of Quebec, namely, "that the said Act is, in many respects, inapplicable to the present condition and circumstances of the said Province, and that it was expedient and

necessary that further provision should now be made for the good government and prosperity thereof." It is not said that it is necessary or expedient to enlarge the said Province of Quebec, but that further provision should be made for the good government thereof; of it, as it thus stood: of that Province which had, by proclamation, been created in 1763 and whose limits have been extended to what they then were by the Act of the 14th of the King, commonly called the Quebec Act. My learned friend must most surely be driven to the last state of despair, when he sets up a loose expression in a declaratory Act which he well knows is the weakest of all Acts of the Crown, in affording a just ground or foundation for such an opinion. I know that it is not to the preamble of an Act of Parliament that we generally must look for a clear exposition of its objects; but, whilst I admit the correctness of that position, I would also remind my learned friend, that there is a wide difference between the enacting and declaratory clauses of a Statute, and that we ought not to set aside the obvious meaning, and overturn the avowed intention of an Act of Parliament because of a loose expression in the declaratory clause. I cannot think so meanly of the whole French nation as to suppose they ever claimed these territories and wildernesses, as belonging to or forming a part of Canada. As to the authorities my learned friend who spoke second has advanced, they cannot, in a court of law, be styled authorities. I have a very great respect for the Abbe Raynal, but his work is merely speculative and philosophical, and is no geographical authority upon a question of territory; the same remark will apply to Pinkerton,—we all esteem it as a very useful work, but it forms no geographical authority in a Court. Upon the whole, I contend with the Attorney-General that the former Province of Quebec must be found in the Provinces of Upper and Lower Canada, and that no more can be included in them, than what was contained in that Province; for the Act by which they were erected into Provinces was nothing more butan Act to divide it into two parts thereafter to be designated Upper and Lower Canada. Again, the learned gentlemen say, that all to the south and west of this line from Temiscaming Lake to Hudson's Bay, must be esteemed Canada; what then was the use of this Act of the forty-third of the King? The Legislature, if my learned friends' argument was correct, were idly passing an Act that could have no object. Instead of Indian territories it is all Upper Canada, according to my learned friends' statement. But it is a position completely untenable for a moment. Upper Canada extends no farther south and west than the Province of Quebec did, any more than does Lower Canada to the north and east. In the two Provinces are now to be found that which before the separation constituted the Province of Quebec; and Upper Canada consists of that part, and of that part thereof only, which is south and west of the Province of Lower Canada. I refrain from enlarging, confident that, in the view we take of the subject, we are correctly construing the intention of the Legislature, and that we shall have our own opinion strengthened and confirmed by your Honours' decision.

Mr. Stuart.—I confess I look in vain for these grounds of confidence on which my learned friends rely. If supporting their opinions by confident assertions entitle them to expect the result they anticipate, they have certainly gone a good way towards obtaining it; but I look in vain for anything that can be called argument upon the question that is now before the Court, in the observations that have been submitted by the officers of the Crown. If there was anything that demanded attention, it was the remark of my learned friend the Solicitor-General, on the Act of the 43rd of the King; but in that the learned gentleman has made a mistake; for if my learned friend referred to the chart, he would perceive that nine-tenths of the whole Indian territories, according to the description of them, lie beyond the boundary which we claim as that given to Upper Canada by the Act of 1791. If my learned friend traced the parallel of 52° he would perceive that nearly the whole of the North-West Company's stations, and the whole of those of the Hudson's Bay Company, are to the north of that line. Then surely it is obvious that this was not an Act without an object. It was an Act to extend the jurisdiction of the Provincial Courts to the trial and punishment of offences committed in the Indian territories, and they are to be found in the immense and almost boundless wilderness to the north and west of the Province of Upper Canada, as established by the Act of 1791. The Act of the 14th of the King was obviously temporary; the Proclamation of 1791, defining the boundaries of the two Provinces—and which, I must confess, I was extremely surprised to hear so slightly spoken of by the Crown officers—was

founded upon an Act of a very different description. The former was merely a temporary, whilst this was a permanent Act.

Mr. Justice Bowen.—From what part of the Act of 1774 do you conclude that it was only a temporary Act? I see no part of it that warrants such a conclusion, except with reference to the last clause.

Mr. Stuart.—The words there made use of are general, and, I conceive, must be understood to refer to the whole of the Act. I mean, however, independently, to contend that the time at which that Act was passed, and the situation of England with reference to her American Colonies, concur to show that this Act was merely temporary. But it is needless to refer to the Act of 1774, as it does not bear upon the case, being completely done away by the broad and liberal proclamation of 1791. That proclamation created two Provinces. I am surprised that the Crown Officers should treat so lightly His Majesty's Proclamation; it is certainly not the quarter from which we should expect it. How was the Province of Quebec created? By proclamation—and surely my learned friends will allow as much weight to one of His Majesty's proclamations as to another. They will not deny the same power to His Majesty in 179_ which he exercised in 1765 [1763?]. If proclamations are such weak acts, what are we to think of the proclamation that has been put in evidence on the present trial and has been resorted to upon all occasions as the justification for all the apparent aggressions which have marked the progress of these unfortunate disputes? But I differ in opinion with my learned friends on that point; if, in 1763 His Majesty could create a Province by proclamation, he, in 1791, could divide and enlarge a Province in the same way. This he has been pleased to do, and all we have to do with this expression of the royal will and pleasure is, to adopt it as the rule by which we are to be governed in considering and deciding the question of jurisdiction now before the Court; and we contend that, looking at this proclamation, it is impossible to say that this offence, if committed at all, was committed within the jurisdiction of this Court being perpetrated at the Dalles, which form a part of His Majesty's Province of Upper Canada, as created by his Royal Proclamation of 1791.

Friday, 29th May, 1818.

Chief Justice Sewell.—The Court are most distinctly of opinion, on referring both to the Act of 1791 and that of 1774, that the argument on the defence must fail. What was the object of each Act? Amongst others, that of 1774 was to enlarge the Province of Quebec, which had been created in 1763. That of 1791 was to separate or divide the Province of Quebec into two Provinces, to be denominated Upper and Lower Canada, and make each respectively independent of the other, by giving a Legislature to each respectively, but still retaining between or within the two Provinces, the same extent of country, the same space as the one province contained. What is the Act? What is its object, its avowed object? To repeal certain parts of the Act of 1774; and what is the part repealed? It is that part of it which gives authority to the Council of the Province of Quebec; and what is the reason assigned for so doing? Why, that His Majesty had signified it to be his royal will and pleasure to divide his Province of Quebec. To assert that he intended by this that the limits of the Province should be extended by the separation appears to me repugnant to the plainest principles of common sense, and therefore I cannot assent to it. The short history of the Act of 1791 is briefly this: The King signifies to parliament his royal intention of dividing his Province of Quebec, and he calls on the Legislature to provide for this alteration by granting an Act adapted to the change. The Legislature pass an Act providing for the due government of the two Provinces, and under the authority of this Act, and the Royal Proclamation, the Province of Quebec was accordingly divided, the Royal Proclamation being an exercise of sovereign authority. His Majesty in that Act, by and with the consent of his Privy Council, declared what should be the line of separation between Upper and Lower Canada, and how much of the former Province of Quebec shall belong to the one, and how much to the other. The object of the Act and the object of the Royal Proclamation are so clearly expressed that we cannot for a moment doubt upon the subject. What says the Act? "His Majesty having been pleased to signify his royal will and pleasure to separate and divide the Province of Quebec." What says the Proclamation? Why, the very same

words. To divide the Province of Quebec, not to add to it, any more than to take away from it. Therefore upper Canada, in the purview, could include only that part of the Province so divided as was not contained in Lower Canada ; but it could not extend beyond those limits which constituted the Province of Quebec, otherwise it would certainly have been an Act to enlarge, rather than an Act to divide. In delivering this opinion I am speaking our unanimous sentiment, for we have consulted our brother Perrault upon the subject and he clearly concurs with us. According to our understanding of the Act and the Royal Proclamation, we are bound to say, that we consider the argument of the gentlemen concerned for the prisoner, though presented with great ability and ingenuity must fail, because the western boundary of the Province of Upper Canada is "a line drawn due north from the head of Lake Temiscaming till it strikes the boundary line of Hudson's Bay."* The question of fact will remain with the jury ; it is they who are to say whether this place, the Dalles, is or is not to the west of the line which we now declare to be the western boundary of His Majesty's Province of Upper Canada. If they are of opinion that it is within, or to the east of this western line, then it is in the Province of Upper Canada, and not within our jurisdiction ; but if they are of the opinion that it is to the west of this line, then I am giving you our unanimous opinion when I declare, that the Dalles are in the Indian territory, and not within the limits of the Province of Upper or Lower Canada, but clearly within the jurisdiction of this Court by the Act 43rd of the King, cap. 138, which extends our power to " the trial and punishment of persons guilty of offences within certain parts of North America."

McLELLAN'S CASE,† 1818.

[Archibald McLellan was tried under the same Commission as De Reinhard on the 12th June, 1818, on a charge of murder committed in the Indian territory. The question of jurisdiction arose in this case also.]

Extracts from Chief Justice Sewell's Charge.

The indictment now under trial is founded upon the Act of the forty-third of the King, which extends the jurisdiction of the Courts of Justice of the Provinces of Lower and Upper Canada, to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces. In the recent trial we had an opportunity largely to consider the boundaries of Upper Canada, as settled by the statute of 1791. We were called upon then to declare or decide, what was the western boundary of that Province, and, as in duty bound, according to the light we possessed upon the subject, we charged the jury that the western boundary of the Province of Upper Canada was, "a line drawn from the head of Lake Temiscaming, due north, till it strikes the boundary line of Hudson's Bay,"‡ but also including "all the territory to the westward and southward of such line, to the utmost extent of the country commonly called or known by the name of Canada;" and we are also clearly of opinion that in so charging the jury, we only gave them as the western boundary of Upper Canada that which formed part of the western boundary of the ancient Province of Quebec. In this opinion the Court are unanimous, for I have consulted my learned brothers who sat with me in the late trials. We also concur in declaring that the western boundary of Canada is a line drawn astronomically " North from the junction of the Ohio and Mississippi Rivers, till it strikes the southern boundary of the Hudson's Bay territory," and we consider the point of departure to be in 88° 58′ of western longitude. As *we*, gentlemen, are bound to take from you all decisions upon questions of *fact*, so you are bound to receive from *us* decisions upon questions of *law*. Having given you our decision as to the limits of Upper Canada, and the line of separation between the United States and the two

* A manifest error, probably on the part of the person who prepared the report for the press. It may be presumed that the description of the western boundary given by the Chief Justice on this occasion was in the words which he subsequently employed in describing it in his charge to the jury (p. 445 of the Report), viz :—" La limite ouest du Haut Canada est une ligne tirée vrai nord de la junction des Rivières Ohio et Mississippi, dans la latitude de 37° 10′ nord, et la longitude de 88° 50′ ouest." [The western boundary of Upper Canada is a line drawn due north from the junction of the Rivers Ohio and Mississippi, in the latitude of 37° 10′ north, and the longitude of 88° 50′ west.]

† From the "Canadian Pamphleteer," Vol. 5.

‡ As to this mistak, see note *supra*.

Provinces, it remains only for you to settle one point: are, or are not, the Dalles within those limits? That is a question completely with you. It is a matter of fact, and is exclusively your province to decide. I shall now call your attention to the evidence that has been produced, as it relates to locality, because by that will, indeed I might say must, your judgment be guided, in declaring, whether the Dalles are or are not without the lines which separate the United States and the Province of Upper Canada from the Indian territories. Upon this subject, we have first the evidence of Mr. Coltman, who knows and has visited the spot. He tells us that "during the last year he has passed through the Lake of the Woods into the River Winnipic, that the course of that river is northerly, inclining a little west, and that he conceives the Dalles to be from twelve to perhaps twenty miles from the beginning of the river at the Lake of the Woods," and Mr. Coltman also states that "he always considered and understood Portage des Rats to be the north-westernmost point of the Lake of the Woods," and on this part of the question he concludes his evidence by saying, "a due west line from Portage des Rats would leave, as he thinks, the whole of the River Winnipic to the north of it." Mr. Bouchette's testimony corroborates that of Mr. Coltman as to the locality of the Dalles, which are therefore stated to be situated from twelve to fifteen leagues (miles) farther north than the boundary line described. We, therefore, think it right to tell you (as we told the jury in the late case), that if, in examining the fact, you find that the Dalles are to the north of a line drawn due west from the most north-western point of the Lake of the Woods, then you are bound to say that it is not in the United States of America; for whether such a line would reach the Mississippi or not is of no consequence to this trial, as a line drawn to that river would have just the same effect. It remains only to inquire: Is it within the Province of Upper Canada? As I abstain from reading more evidence than I consider necessary to show, and I presume satisfy you on, the point to which I am directing your attention upon this branch of the question, involving our jurisdiction, I shall read you the testimony of Mr. Bouchette, which is exceedingly clear as to the locality of the Dalles in reference to Upper Canada. Mr. Bouchette says "from different authors and maps I am acquainted with the latitude of Portage des Rats. It is in 49° 39′ north latitude, and 94° 5′ western longitude, calculating from the meridian of Greenwich." He says further, "that the western boundary of Canada is a line drawn astronomically north from the junction of the Ohio and Mississippi Rivers to the Hudson's Bay territory, and that such a line would leave the Lake of the Woods and the River Winnipic entirely to the west; about six leagues to the west." You have now, gentlemen, before you, the whole of the evidence on the subject of the jurisdiction, and there can be no manner of doubt, if you credit the testimony, that the Dalles are to the north and west of these lines which we have, as the expositors of the law, felt ourselves bound to tell you, constitute the boundaries of Upper and Lower Canada in relation to each other and to the United States of America. This question will be submitted to the decision of His Majesty in Council, as it is only by His Majesty, with the assistance of his Council, that the boundaries or limits of his territories can be legitimately and permanently defined. The question, however, having been incidentally brought before us, we have been compelled to declare the limits of Upper Canada. As judges of the law we have done that which we could not avoid; and as the same authority which appoints you the sole judges on matters of fact, constitutes us equally so on points of law, we are bound to tell you that our decision upon the law of the case must be your guide; for, if, on the one hand, we are bound to receive your decisions on matters of positive evidence, so on the other, you are equally obligated to adopt our decisions on points of law, as your only guide. If, ultimately, our judgment, or rather decision, should be set aside, by the competent authority, any inconvenience which may result from our erroneous direction will assuredly be obviated, but at present we feel it our duty thus to define the boundary lines; and, comparing our decision with the evidence which I have recapitulated, it is, I think, apparent that the spot, "*en haut des Dalles*," is from eighteen to twenty miles beyond the American line, and from four to five leagues* without the boundary of the Province of Upper Canada. Relative to the Lower Province, it is unnecessary to say anything.

* Read degrees.

CASE OF BROWN AND BOUCHER,* 1818.

[These persons were charged with the crime of murder, said to have been committed in the Indian Territory, and tried, under Commission, at York, Upper Canada, 19th October, 1818. The question of jurisdiction arose. The following evidence was given]:—

The Honourable Wm. Bachelor Coltman, sworn.

Examined by the Attorney-General.

Mr. Coltman.—I went up to the Indian country in the year 1817, and to the place where the settlement at the Red River was established. I never made any survey of the distance which it was from Lake Winnipic, but I should think that it was about sixty miles, and having about a south bearing from the nearest point, but as to distance I cannot speak so positively. It was situated at the Forks of the Red and Assinboin Rivers, which I have generally understood to be in about 49° 30′ north latitude, and the Red River Settlement commenced at a short distance below the Forks. Its longitude I do not recollect, so as to speak with any degree of certainty, but I should judge it to be in between 90° to 100° of west longitude; my recollection, however, is very imperfect, but I should think it had something more than 90°; it certainly was more than 80°, and according to my recollection and own idea, rather more than 90°. The Red River settlement was to the west of the River Winnipic, to the south-east of the Lake Manitoboh, and between that lake and the River and Lake Winnipic. Upon consideration I should think, according to the best of my recollection, that its longitude must have been nearly 100° west. *. * * * *

Cross-examination conducted by Mr. Sherwood.

Mr. Coltman.—I have been at Fort Douglas, and also at the spot where it was represented to me that the affair of the 19th June took place. I did not go farther north into the Indian country than into the Red River country, through the River Winnipic and part of the lake of that name. It is certainly a matter of notoriety that the Red River country was formerly frequented by the French traders, that is, before the conquest by the English; but I do not know whether Nouvelle France was considered as taking in this part of the Indian territory.

Chief Justice.—I am tolerably conversant with maps myself, but not sufficiently so as to say whether this part of the country was or was not a part of Canada. I never understood, extensive as were the limits of what the French called Louisiana, that they spread so far north as this; nor can I say distinctly that it formed part of Canada. Relative to Nouvelle France, it was never, I believe, defined with sufficient accuracy to enable us to say what where its limits. If they have been, it is beyond my knowledge.

Attorney-General.—There is one more question, Mr. Coltman, which I will trouble you with, whether as a magistrate of the Indian territory you acted at Red River in virtue of your commission under the Act of the 43rd Geo. III.

Mr. Coltman.—Yes, it was in prosecution of my duties under the commission that I went into that country, and proceeded to the investigation of the difficulties which had occurred there.

Extracts from Chief Justice Powell's Charge.

It only remains that we consider our jurisdiction, connected with locality, to give us a right to try them under the Act upon which they are indicted. The offence must have been committed out of the limits of this province; whether we have a right or not, I declare I am at a loss to decide. Mr. Attorney-General has put in evidence the latitude and longitude of the Frog Plains, but he does not put in evidence whether this latitude and longitude is without or within the boundaries of Upper Canada, and I do not know

* Report of the proceedings connected with the disputes between the Earl of Selkirk and the North-West Company. Montreal, 1819.

whether from 90° to 100° or 150° form the western limit of Upper Canada, nor do I know whether a place at that longitude, and having 49° or 49½° north latitude, is within the Province of Upper Canada or beyond its boundaries.

Attorney-General.—Your Lordships will remember that by the questions which I put to Colonel Coltman, I ascertained the precise situation of the place in which Mr. Semple was killed; that is, I proved it to be somewhere between 90° and 100° west longitude, nearer, as Mr. Coltman said, to 100°, and in 49½° north latitude. I proved it to be at the Forks of the Red River, formed by its junction with the Assiniboin, and that it was situated between the River Winnipic and the Lake Manitouba, about twenty miles west of the former. I had thus established the situation of the place by immutable boundaries, and I conceive it is for your Lordship to instruct the jury, whether a place so situate, be or be not without the Provinces of Upper or Lower Canada, and part of the Indian territories. This I conceive to be matter of law, and not matter of fact, deducible from treaties, acts of parliament and proclamations, a point self-evident, and not depending upon extrinsic testimony.

Your Lordship sees that the opinion of an illiterate, uninformed man upon this point would have been, in fact, no evidence. Mr. Coltman was the most proper person to interrogate on the subject. I therefore ascertained from him the exact situation of the *locus in quo*, and thus laid the foundation for future discussion, if there appeared to be doubt on the subject of jurisdiction. I also prove by him that, when at the Forks commissioned to investigate offences that had arisen out of the unhappy differences in that country, he had acted, by virtue of his commission, as a magistrate of the Indian territories, and not as a justice of either Province of Canada; this showed, at least, his impression. I could push him no farther. I could not, my Lord, ask Mr. Coltman to swear positively an oath respecting a matter of opinion, which I have reason to know engages, at this moment, the doubt of many men who have given the matter most serious investigation; and, even if he had, I conceive it would not have been conclusive evidence. I have proved the latitude and longitude of the Red River settlement; it is for the Court to instruct the jury within what territory a place so situated is comprehended, by treaties or acts of parliament, which are matters of public law; and I have always considered that, if this appeared to the Court to require discussion, they would direct the jury, if they should find the prisoners guilty, to bring in a special verdict, declaring them guilty of murder at a place situated, as I have proved by the witnesses, but whether the said place so situated be without the limits of the Provinces of Upper or Lower Canada, and of any civil government of the United States of America, and therefore within the jurisdiction of this Court, by virtue of the Great Seal instrument, produced in evidence, the jury pray the advice of the Court; a special verdict would be drawn up in form, and then the question of jurisdiction would come fairly in discussion before the Court upon the facts of locality found by the jury; and of course guilty, or not guilty, would depend upon the decision of that point.

Chief Justice.—That is what I was about saying. Brown, from there being no evidence against him, must be acquitted. If, on the testimony that has been produced, the jury shall be of opinion that the homicide was murder, and that Boucher was a principal, present, aiding, helping, abetting, comforting, assisting, and maintaining the person who committed the murder, from malice aforethought, in himself, or in those that sent him, and that this lamentable effusion of blood did not arise from a sudden impression on rude and half-savage minds, from seeing their comrades assailed, or from any apprehension of death to themselves, but that it was the result of a felonious intention, then you will find him guilty on a special verdict to this effect: "We find François Firman Boucher guilty "of the murder of Robert Semple. We cannot see from any evidence before us what are "the limits of Upper Canada." Then when the case is made up for argument, it will be set forth that the spot was in about 49½° north latitude, and between 90° and 100° west longitude, and a solemn decision being had upon it, justice will eventually be administered according to the decision.

[The verdict was "Not Guilty."]

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CONNOLLY *VS.* WOOLRICH, 1867.*

[The question in this case, which was tried before the Honourable Justice MONK, of the Superior Court, Lower Canada, 9th July, 1867, was as to the legality of a marriage by a Lower Canadian, which took place according to the Indian customs at Rat River, in the Athabasca District (latitude 58° north, and 111° west longitude), in the North-West Territory; and one point in the case was, whether this place was within the territory of the Hudson's Bay Company. The learned judge held that it was not, and the following are extracts from his judgment on this point]:—

It will be necessary for me, in the first place, to advert briefly to the discoveries made and trading posts established in those vast and remote regions of the North-West previous to the Charter granted by Charles II. to the Hudson's Bay Company, in 1670.

Spain, England, and France have been the most conspicuous among the European States in the discovery and colonization of America. About the year 1627, the authority of France was successfully established on the banks of the St. Lawrence, though discovery, hunting, and trading by these Europeans had extended farther west previous to that time. Forty-three years after this date, the Charter of King Charles II. was granted to the Hudson Bay Company; and one hundred years later, the whole of North America belonging to France was finally ceded to Great Britain. Long prior to 1670, and so far back as 1605, Quebec had been established, and had become an important settlement. In the early part of the seventeenth century, anterior to 1630, the Beaver and several other companies had been organized at Quebec for carrying on the fur trade in the West, near and around the great lakes and in the North-West Territory. The enterprise and trading operations of these companies and the French colonists generally, extended over vast regions of the northern and western portions of this continent. They entered into treaties with the Indian tribes and nations, and carried on a lucrative and extensive fur trade with the natives. Neither the French Government, nor any of its colonists or their trading associations, ever attempted, during an intercourse of over two hundred years, to subvert or modify the laws and usages of the aboriginal tribes except where they had established colonies and permanent settlements, and then only by persuasion and as the fiercer and more barbarous of the Indian nations receded, or in the lapse of time, when their barbarism had been subdued by contact with the whites, or mitigated by the influences of European civilization. It is quite true, it is contended, they had no right, no lawful authority to do so, yet, as a matter of fact they appear to have wholly abstained from the exercise of any unjust or arbitrary power in this respect. In the prosecution of their trade and other enterprises, these adventurers evinced great energy, courage and perseverance. How far they carried their hunting and trading explorations into the interior, I am unable precisely to determine; but I am inclined to think they had extended them to the Athabaska country, though perhaps not to Rivière-aux-Rats, where Connolly was stationed in 1803. The Rat River locality is, so near as I can ascertain, situate in latitude 58° north, and longitude west from Greenwich about 111°. It is on the north shore of the lake, and about 600 miles from the Hudson Bay coast. It is due east 300 miles from the Rocky Mountains, and due north from the boundary line of the United States 650 miles; and it is nearly the same distance, due south, from the Arctic or Frozen Ocean. Of course, the deviations along the existing lines of travel would make the distances by these routes much greater than the estimate here made. As before stated, I have no positive evidence that any French trader or hunter visited Rivière-aux-Rats during the sixteenth, or the first half of the seventeenth century, though there is every reason to believe they had been there. It is, in my opinion, more than probable, from all I can collect or learn from a careful examination of the authorities at my command, that some portions of the Athabaska country had, before 1640, been visited and traded in, and to some extent occupied by the French colonists and traders in Canada, and their Beaver Company, formed in 1629. From that date, during the thirty years which immediately preceded the grant of King Charles II. in 1670, these discoveries, and trading settlements had considerably increased in number and importance.

* Lower Canada Jurist, vol. XI. p. 197.

If this be true it will be seen hereafter that, apart from the question of the Company's limits, the Athabaska region was, by a general clause, excepted from the grant of King Charles; for although neither the laws of France nor of those of her contiguous colonies, may have obtained at those distant posts in 1670, the date of the Hudson Bay Charter, yet I think it is beyond all doubt that the Athabaska, and other regions bordering on it, belonged to the Crown of France at that time, to the same extent and by the same means as the countries around Hudson Bay belonged to the Crown of England—that is to say, by discovery, by hunting and trading explorations—with this difference, that in the case of the French traders there was a kind of occupation, whereas the English never occupied or settled any part of the Hudson Bay coast till 1669. * * *

In the celebrated case of Worcester against the State of Georgia (6th Peter's Reports pages 515–542). Chief Justice Marshall—perhaps one of the greatest lawyers of our time—in delivering the judgment of the Court, said—

"The great maritime powers of Europe discovered and visited different parts of this Continent at nearly the same time. The object was too immense for any of them to grasp the whole; and the claimants were too powerful to submit to the exclusive or unreasonable pretensions of any single potentate. To avoid bloody conflicts, which might terminate disastrously to all, it was necessary for the nations of Europe to establish some principle which all would acknowledge, and which would decide their respective rights as between themselves. This principle, suggested by the actual state of things, was, 'that discovery gave title to the government by whose subjects or by whose authority it was made, against all other European governments, which title might be consummated by possession.' Johnson *vs.* McIntosh, 8 Wheaton's Reports, 543.

"This principle, acknowledged by all Europeans, because it was the interest of all to acknowledge it, gave to the nation making the discovery, as its inevitable consequence, the sole right of acquiring the soil, and of making settlements on it. It was an exclusive principle which shut out the right of competition among those who had agreed to it. * * *

"Soon after Great Britain determined on planting colonies in America, the King granted charters to companies of his subjects who associated for the purpose of carrying the views of the Crown into effect, and of enriching themselves. The first of these charters was made *before possession* was taken of any part of the country. They purport, generally, to convey the soil *from the Atlantic to the South Sea.* This soil was occupied by numerous and warlike nations, equally willing and able to defend their possessions. The extravagant and absurd idea, that the *feeble settlements made on the sea coast, or the companies under whom they were made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man.* They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The Crown could not be understood to grant what the Crown did not affect to claim, nor was it so understood."

Phillimore in his International Law, CCXLI, p. 208, Ed. of 1854, says:—"The nature of occupation is not confined to any one class or description; it must be a *beneficial use and occupation (le travail d'appropriation),* but it may be by a settlement for the purpose of prosecuting a particular trade, such as a fishery, or for working mines, or pastoral occupations, as well as agriculture, though Bynkershoek is correct in saying 'cultura utique et cura agri possessionem quam maxime indicat.'"

Vattel justly maintains that the pastoral occupation of the Arabs entitled them to the exclusive possessions of the regions which they inhabit. "Si les Arabes pasteurs voulaient cultiver soigneusement la terre, un moindre espace pourrait leur suffire. Cependant, aucune autre nation n'est en droit des les ressevier, à moins qu'elle ne manquât absolument de terre; car enfin ils possèdent leur pays; ils s'en servent à leur manière ils en tirent un usage convenable à leur genre de vie; sur lequel ils ne reçoivent la loi de personne."

It has been truly observed that, "agreeably to this rule the North American Indians would have been entitled to have excluded the British fur-traders from their hunting-grounds; and not having done so, the latter must be considered as having been admitted *to a joint occupation of the territory,* and thus to have become invested with a similar right

of excluding strangers from such portions of the country as their own industrial operations pervade."

Authorities might be accumulated on this point, concerning which all writers agree. * *

Hudson's Bay had been discovered prior to the attempt in which Hudson perished in 1610; but from the voyage of Sir Thomas Button, 1611, till the year 1667, it appears to have been wholly neglected by the English Government and nation. In the latter year, the communication between Canada and the Bay was discovered by two Canadian gentlemen, Messrs. Radisson and DeGroselliers, who were conducted thither across the country by Indians. Succeeding in this, they returned to Quebec, and offered the merchants to conduct ships to Hudson's Bay, the proximity of which to the principal fur districts was now ascertained. This proposal was rejected as well as a subsequent one to the French Government at Paris; there they were persuaded by the English Ambassador to go to London, where they were favourably received by some merchants and persons of high rank, who commissioned a Mr. Gillam, long accustomed to the Newfoundland trade, to prosecute the discovery. Mr. Gillam sailed in the *Nonsuch*, in 1667, into Baffin's Bay, to the height of 75° north latitude, and thence to 51°, where he entered a river, to which he gave the name of Prince Rupert's; *and, finding the Indians friendly*, erected a small fort. The persons interested in this vessel, upon the return of Gillam, applied to Charles the Second for a patent, who granted them the Hudson's Bay Charter, dated the 2nd May, 1670. * * *

It is no part of my duty, upon the present occasion, to offer any opinion upon the validity of this extraordinary charter, though that point is not without interest in this case; and it is worthy of note, that some of its clauses have given rise to doubts among lawyers, and has been the occasion for considerable controversy both in England and in this country. Several modes of testing the question have been suggested; but, as yet, none have been adopted. Apart from the immense and irresponsible powers conferred upon the Company, it has been contended that the grant in free and common soccage, in fee simple, of such extensive regions of territory in the actual possession of aboriginal and powerful nations, was not in the power of the Crown, and was a violation of the plainest principles of public international law. Some have gone further, and contended that, without the authority of Parliament, such a grant of land and exclusive privileges and monopoly could not be made; that the concession of the exclusive right of trade with the Indian tribes was an illegal exercise of the Royal Prerogative; that the Company have never carried out the intentions of the Crown, either by proper attempts to find a north-west passage to the Southern Ocean, or by making useful discoveries, and planting, settling, and colonizing the territory; that they have not attempted, by even ordinary means, to civilize the natives; nor have they by judicious and appropriate regulations, laws and government, endeavored to render such a vast and important dominion of the Crown beneficial to the Parent State. The Company, when called upon, from time to time, have answered these charges more or less successfully, and they have further urged, that in the reign following that in which this Charter was granted, the cession received the confirmation of Parliament; however, it was specially provided that the act of confirmation should only remain in force for the period of seven years, "and from thence to the end of the next session of Parliament, and no longer." After this no re-confirmation of the Charter by Parliament ever took place, though its existence has frequently been incidentally recognized in Acts of that body, and among others may be noticed the following:—By an Act of Parliament of Great Britain (43 George III., chap. cxxxviii), passed in August, 1803, it was provided that crimes committed within the Indian territories, which, though not conveyed by Charter to the Company, have long been leased to them, should be cognizable by the Courts of Upper and Lower Canada. The preamble of this Act recites that crimes and offences committed within the Indian territories were not cognizable by any jurisdiction whatever. In 1821, an Act (1 and 2 George IV., chap. lxvi.) was passed, extending the provision of the above-named Act to crimes and offences committed within the territory covered by the Company's Charter, anything "in any Grant or Charter to the Company to the contrary notwithstanding."

This latter Act also gave to the Canadian Courts a right of jurisdiction within the Indian territory, as well as over Rupert's Land which is covered by the Company's Charter. The existence of the Charter has also been referred to in Royal Proclamations.

All this may give rise to interesting investigations hereafter. * * *

Lord Brougham and his associate Counsel, consulted in 1814 by the North-West Company, were of opinion that the territorial grant was not intended to comprehend all the lands and territories that might be approached through Hudson's Straits by land or by water, but must be limited to the relation of proximity to the Straits, and to the confines of the coasts of the Bay within the Straits; and likewise that the boundary must not be such a one as is inconsistent with that view, and with the professed objects of a trading Company, intended not to found Kingdoms and establish States, but to carry on fisheries in their waters, and to trade and traffic for the acquisition of furs, peltries, etc.; and they add, that as one hundred and fifty years had then elapsed since the grant of the Charter, it must have been ascertained by the actual occupation of the Company what portion or portions of lands and territories in the vicinity, and on the coast and confines of the waters mentioned and described as within the Straits, they had found necessary for their purposes and for forts, factories, towns, villages, settlements, or such other establishments in such vicinity and on such coasts and confines as pertain and belong to a Company established for the purposes mentioned in their Charter, and necessary, useful and convenient to them, within these prescribed limits, for the prosecution of these purposes: and they say, that the enormous extension of land now claimed (and they had reference only to the Red River District transferred in 1812 by the company to Lord Selkirk; for no pretence was ever made by the Hudson Bay Company that Rebaska, Rat River, or Arthabaska, was within the chartered boundaries, till it was first put forth in this case), appears therefore, not to be warranted by any sound construction of the Charter. Sir Samuel Romilly Scarlett, afterwards Lord Abinger, and others consulted in 1814 by the Hudson's Bay Company, were of opinion that the grant of land contained in the Charter was good; and that, moreover, it would include all the countries the waters of which flow into Hudson's Bay.

All this is pretty vague; and what is most apparent and precise, in these opinions, is the different way in which they view the Charter and the western limits of the Company's territories. The Charter grants the right of exclusive trade and commerce of all *seas, straits, rivers, etc.*, that lie within the entrance of *Hudson's Straits;* also together with all lands and territories *upon* the countries, coasts and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid. It seems to me, if these words, taken together, are susceptible of any reasonable construction or interpretation, they were intended to concede a vast extent of country round the whole coast of Hudson's Bay and the rivers flowing into it; that all the regions westward from the shores of the Bay along the great rivers, tributaries of that inland sea, so far as those streams are navigable for the purpose of trade and commerce, are included in the grant; in other words, their limits extended as far west as the head of the water-shed were navigation ceases, in longitude west, 95°.

Assuming this view to be correct, yet the Athabaska region would not be included within the western boundaries of the Company's territory. The Elk, or Athabaska River, rises in the Rocky Mountains, and, after flowing north and west 300 miles, discharges its waters into Lake Athabaska, otherwise known as the Lake of the Hills. By two outlets, the waters of Lake Athabaska flow into Peace River, an affluent of the MacKenzie, through it to the Frozen Ocean. It is idle, therefore, in the opinion of the Court, to contend that Rat River or the Athabaska country are or were ever within the chartered limits of the Hudson's Bay territories. * * *

By the 10th Article of the Treaty of Utrecht it is provided that:—"X. *The said Most Christian King shall restore to the Kingdom and Queen of Great Britain to be possessed in full right forever, 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 lands or of sea being excepted, which are at present possessed by the subjects of France.*"

The Hudson's Bay territory, as described in the latter treaty, would seem to be restricted to the limits contended for by Lord Brougham, rather than to those laid down

by Sir Samuel Romilly; and in any case, I believe, as before stated, that the Athabaska region was beyond and without the chartered limits of the Company, and could not, therefore, come under the operation of that grant. There may, moreover, be urged another reason, and in my opinion successfully, why the Athabaska country should be excluded from the limits of the Hudson Bay territory, and an argument more cogent than that to be found in the vague and doubtful terms of the Charter. It is declared by that remarkable instrument, that the grant is made of all those seas, bays, straits, etc., together with all lands and territories, etc., that are not already actually possessed by or granted to any of our subjects, *or possessed by the subjects of any other Christian Prince or State.* Now, as I have before remarked, it appears to me to be beyond controversy that in 1670 the Athabaska country belonged to the Crown of France.

It had previously been discovered by French colonists, and been more or less explored by these adventurers and the trading companies of New and Old France. It is true their settlement and occupation was not precisely that of colonists; but they were traders with trading posts, explorers, hunters, discoverers, carrying on a trading intercourse with the natives. If this be true, and there can be no doubt of it, the region in question was expressly excepted out of that grant; and such was the opinion of Lord Brougham and his associate counsel. * * *

It will be observed that between 1670 and 1763, nearly one hundred years had elapsed, and during that period the French colonists and French trading companies had made settlements and established trading posts as far as the Rocky Mountains; that these countries were in the occupation of the French.

XIII.

Documents and Arguments Supporting Ontario's Claims.

MEMORANDUM FROM CHIEF JUSTICE DRAPER, AGENT OF THE PROVINCE OF CANADA, ENCLOSED IN LETTER TO THE SECRETARY OF STATE, MAY 6TH, 1857.*

It is not proposed at present to discuss the validity of the Charter of the Hudson's Bay Company. A careful perusal of it will suggest many doubts whether it be not altogether void. But assuming that it may be sustainable for every or for any of the purposes for which it was intended, and for the moment conceding that the indefinite description of the territory purporting to be granted, does not vitiate the grant, there is a question as to the limits of that territory in which the Province of Canada is deeply interested.

The parts of the Charter bearing on this question are as follows:—

1.—"All the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid" (stated in a preceding part to be those which lie within the entrance of the straits, commonly called Hudson's Straits, in whatsoever latitude such bays, etc., should be), "that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or state, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the seas, bays, inlets, and rivers within the premises; and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems, and precious stones, to be found or discovered within the territories, limits, and places aforesaid; and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called Rupert's Land: And, further, we do by these presents, for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits, and places afore-

* Printed in the Report from the Select Committee [of the House of Commons] on the Hudson's Bay Company, etc., 1857, p. 374.

said, and of all other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties, and appurtenances whatsoever, to them, the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, as of our Manor of East Greenwich, in our County of Kent, in free and common soccage."

And, 2.—"And furthermore, we do grant unto the said Governor and Company, and their successors, that they and their successors, and their factors, servants, and agents, for them and on their behalf, and not otherwise, shall forever hereafter have, use and enjoy, not only the whole, entire, and only trade and traffic, and the whole, entire and only liberty, use and privilege of trading and trafficking to and from the territory, limits and places aforesaid, but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes, and seas into which they shall find entrance or passage, by water or land, out of the territories, limits or places aforesaid, and to and with all the natives and people inhabiting within the territories, limits and places aforesaid, and to and with all other nations inhabiting any of the coasts adjacent to the said territories, limits and places which are not granted to any of our subjects."

Prior to this Charter, there was little or nothing done within Hudson's Bay in the way of taking any actual possession of the territory granted. The bay had been discovered, several ships from time to time had entered it, and probably some interchange of commodities with the Indians had taken place while the vessels remained within the Straits; but nothing whatever was known of the interior. Charles the Second claimed, for it was no more than a claim, all the territory which the discovery of the Straits and Bay could confer on the British Crown. The French Crown in like manner had claimed, by reason of their actual settlement of Canada, and of their progressive discoveries and trade, not only all the western territory, including that now in dispute, but even the Bay of the North, and thence to the Pole; but neither French nor English had, in 1670, actually penetrated, so far as appears, within many hundred miles of the Red River.

The settlements made by the Hudson's Bay Company were at first confined to those on the shores of James Bay, and at the Churchill and Hayes Rivers. Henley House, which is about 150 miles up the Albany River, was not erected before the year 1740. The Company afterwards erected Fort Nelson, which is laid down on the maps at about 200 or 230 miles from the mouth of Churchill River, and the Fort at Split Lake, which is represented as about 140 miles from the mouth of the Nelson River. It is believed that these two last named forts are of comparatively modern erection, but that, at all events for more than a century after the date of the Charter, these, together with the forts on or near the shores of the bays, were the only settled posts of the Hudson's Bay Company.

This throws some light upon the view which the Company practically adopted, of the extent of their territories.

In many written documents they treat Hudson's Straits and Bay as the governing and principal matter, in reference to or for the purpose of securing which, the grant of territory was made to them.

In a petition addressed by the Hudson's Bay Company to Charles the Second, in 1682, they say that his majesty was graciously pleased to incorporate them, and to grant to them for ever all the said Bay, and the Straits leading thereunto, called Hudson's Straits, with all the lands and territories, rivers and islands in and about the said Bay, and the sole trade and commerce there; and, referring to a letter of Monsieur de la Barre, the Governor of Canada, threatening to drive them out, they observe, they doubt not but that by the King's Royal authority and protection, they will be enabled to defend his undoubted right and their own within the Bay, "wherein never any nation but the subjects of your Imperial Crown has made discoveries or had any commerce."

In a letter dated January 25, 1696–7, they urge, "whenever there be a treaty of peace between the Crowns of England and France, that the French may not travel or drive any trade beyond the midway betwixt Canada and Albany Fort, which we reckon to be within the bounds of our Charter."

In 1698, in a letter written by their Deputy-Governor to the Lords Commissioners of Trade, they repeat the same desire.

MEMORANDUM FROM CHIEF JUSTICE DRAPER, 1857.

In a memorial, dated in June, 1699, they represent the Charter as constituting them the true and absolute proprietors of Hudson's Bay, and of all the territories, limits and places thereto belonging. They further set forth the attacks made in 1682 and 1686 by the French from Canada, and their applications for redress, and the declaration made by James the Second that he, upon the whole matter, did conceive the said Company well founded in their demands, and therefore did insist upon his own right and the right of his subjects to the whole Bay and Straits of Hudson, and to the sole trade thereof; and they pray the then King, William the Third, to insist upon the inherent right of the Crown of England and the property of his subjects not to be alienated, that so considerable a trade might not be lost and the Hudson's Bay Company, "be left the only mourners" in the peace of Ryswick.

At this time all their forts but one (Albany Fort) had been taken by the French; some of them, indeed, while the two Crowns were at peace; an act of aggression specially referred to by His Majesty in the declaration of war in 1689.

In January, 1700, being called upon by the Lords of Trade and Plantations, they offered proposals for limits between them and the French in Hudson's Bay, insisting at the same time upon their undoubted right "to the whole Bay and Streights of Hudson." The proposed limits were to confine the French from trading or building any house, factory or fort to the northward of Albany River, situate in about 53° of north latitude on the west main coast, or to the northward of Rupert's River, on the east main or coast of the Bay, binding themselves not to trade or build any house, factory, or fort to the southward of these two rivers "on any ground belonging to the Hudson's Bay Company." They urged that these limits should be settled; stating, that if the French refused, they must insist upon their prior and undoubted right to the whole Bay and Straits of Hudson, which, they observed, the French never yet would strictly dispute or suffer to be examined into, though the first step of the eighth article of the Treaty of Ryswick directs the doing of it. These limits would have given the French access to the Bay by the Moose River.

The French Ambassador did, however, in March 1698-9, set forth the claims of his sovereign in a long answer to the English memorial, among other things observing that the different authors who have written about Canada or New France, gave it no limits northwards, and that it appeared by all the grants or letters of corporation made at several times by the Kings of France to the companies settled in New France, and particularly in 1628, that all the Bay of the North is comprehended in the limits mentioned by the said grants.*

He also further suggested, that if the English had had any knowledge of the Bay, or any claim thereto, they would not have failed to have insisted on it, and expressly to mention it in the treaty of 1632 (that of St. Germain-en-Laye), when they restored to the French New France. Admitting that the French neither then nor for a long time afterwards had any forts on the coasts of the Bay, he explains it by saying, that being masters of the inland country, the savages, with whom they had a continual trade, brought their furs over lakes and rivers.

In April, 1714, the Hudson's Bay Company thank the Queen "for the great care your Majesty has taken for them by the Treaty of Utrecht, whereby the French are obliged to restore the whole Bay and Streights of Hudson; the undoubted right of the Crown of Great Britain."

In August, 1714, in reference to the same treaty, the Hudson's Bay Company proposed that the limits between the English and French on the coast of Labrador, should commence from the island called Grimington's Island or Cape Perdrix, in the latitude of 58½° N., which they desire may be the boundary between the French and English on the coast of Labrador; and that a line be drawn south-westerly, to pass through the centre of Lake Mistassinnie; and from that lake a line to run south-westward into 49° north

* L'Escarbot describes Canada at the period of the appointment of De la Roche, in 1598, thus: "Ainsi notre Nouvelle France a pour limites du côté d'ouest les terres jusqu' à la Mer Pacifique au delà du Tropique du Cancer, au midi les îles de la Mer Atlantique du côté de Cuba l'île Espagnole, au levant la Mer du Nord qui baigne la Nouvelle France; et au septentrion cette qui est dite inconnue vers la Mer Glacée jusqu' à la Pole Arctique."

latitude: and that such latitude be the limit, that the French do not come to the north nor the English to the south of it.

In another paper of about the same period, they give the following account of the motives which induced the formation of the Company: "It was, therefore, after the happy restoration of King Charles II. that trade and commerce began to revive, and in particular that some noblemen and other public spirited Englishmen, not unmindful of the discovery and right of the Crown to those parts of America, designed at their own charge to adventure the establishing of a regular and constant trade to Hudson's Bay, and to settle forts and factories there, whereby to invite the Indian nations (who lived like savages many hundred leagues up in the country) down to their factories."

In August, 1719, the Hudson's Bay Company acknowledges the surrender by the French of the Straits and Bay, in such manner that they had nothing to object or desire further on that head. But they urged the settlement of the limits between the English and French territories without delay, since the French subsequently to the conclusion of the peace (in 1715) made a settlement at the head of Albany River, upon which the Company's principal factory was settled, whereby they interrupted the Indian trade from coming to the Company's factories. It was therefore proposed and desired, "that a boundary or dividend line may be drawn so as to exclude the French from coming anywhere to the northward of the latitude of 49°, except on the coast of Labrador; unless this be done, the Company's factories at the bottom of Hudson's Bay cannot be secure, or their trade preserved."

In all the foregoing documents it will be observed, that whether upon the peace of Ryswick, when English affairs looked gloomy, and those of France were in the ascendant, or after the Treaty of Utrecht, when the power of France was broken, the Hudson's Bay Company sought to have the boundary between the territories they claimed and those forming part of Canada, settled by some defined and positive line which was to be the result of negotiation, not then pretending that there was anything in their Charter which gave them a rule by which they could insist that the extent of their territories to the southward should be ascertained.

Even in October, 1750, they entertained the same views, while at that time they were pushing their pretensions, both to the northward and westward, to the utmost limits. They state that the limits of the lands and countries lying round the Bay, comprised, as they conceived, within their grant, were as follows: All the lands lying on the east side or coast of the said Bay, eastward to the Atlantic Ocean and Davis' Straits, and the line hereafter mentioned as the east and the south-eastward boundaries of the said Company's territories, and towards the north, all the lands that lie "on the north end or on the north side, or coast, of the said Bay, and extending from the Bay northwards to the utmost limits of the lands there towards the North Pole; but where or how these lands terminate is at present unknown. And towards the west, all the lands that lie on the west side or coast of the said Bay, and extending from the Bay westward to the utmost limits of those lands; but where or how those lands terminate to the westward is also unknown, though probably it will be found they terminate on the Great South Sea. And towards the south, all the lands that lie on the south end, or south side of the coast of the said Bay, the extent of which lands to the south to be limited and divided from the places appertaining to the French in those parts, by a line," &c., describing the line from Cape Perdrix, to the 49th parallel, and along that parallel westward, as in their proposals of August, 1719, excepting that they state the starting point to be in latitude 59½° N. They add, with regard to this boundary, that "to avoid as much as possible any just grounds for differing with the French in agreeing on those boundaries which lie nearest their settlements, it is laid down so as to leave the French in possession of as much or more land than they can make any just pretensions to, and at the same time leaves your memorialists but a very small district of land from the south end of the said Bay necessary for a frontier." It is worthy of remark that this line would have given to France the southerly portion of the Lake of the Woods, Rainy River and Rainy Lake, which are now claimed as within the Company's territories.

The foregoing extracts are deemed sufficient to establish what the Company con-

sidered their territorial rights in reference to their connection with and proximity to Hudson's Bay itself, where they had planted their factories, and desired to attract the Indian trade. They certainly show that neither after the treaty of Ryswick, nor that of Utrecht, when they stated the boundaries, they were either willing to submit to, or were desirous of obtaining, nor yet in 1750, when they set forth what they thought themselves entitled to claim under their Charter, did they ever think of asserting a right to all the countries the waters of which flow into Hudson's Bay. Their claims to lands lying both northward and westward of the Bay are entirely at variance with any such idea. Sir J. Pelly, before a Committee of the House of Commons, in March, 1837, seems to have adhered to the views expressed in 1750, when he said "the power of the Company extends all the way from the boundaries of Upper and Lower Canada away to North Pole, as far as the land goes, and from the Labrador coast all the way to the Pacific Ocean," though he afterwards explains that the Company claimed in fee-simple all the lands the waters from which ran into the Hudson's Bay.

It is submitted, that if this latter claim were well founded, the further grant in the Charter of exclusive trade beyond the limits of the territories granted in fee-simple, would give colour to the assertion of the "power" of the Company extending to the Pacific; assuming that the word "power" was used to designate the exclusive right of trade, and not the ownership of the territory. For if the Charter gives the fee-simple of the lands to the Rocky Mountains, the Pacific is a "Sea," and Frazer's and McKenzie's are "rivers," into which "entry or passage by water or land out of the territories" actually granted may be found; though in such case the application for a license for the exclusive trade would, if the Charter be in this respect valid, have been unnecessary.

The French Government, it appears, would not agree to the proposal which would have limited them to the 49th parallel. Colonel Bladen, one of the British Commissioners under the Treaty of Utrecht, wrote from Paris in 1719 in reference thereto, "I already see 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." No settlement of the boundary could be arrived at.

If the later claim of territorial limits had been advanced during this negotiation, there can be no doubt it would have been resisted even more strenuously than the effort to make the 49th parallel the boundary was, not merely by contending that the territory so claimed formed part of Canada, and had been treated as such by the French long before 1670, but also that the French King had exercised an act of disposition of them, of the same nature as that under which the Hudson's Bay Company claim by making them the subject of a Charter to a Company under the Sieur de Caen's name, and after the dissolution of that Company had, in 1627, organized a new Company, to which he conceded the entire country called Canada. And this was before the Treaty of St. Germain-en-Laye, by which the English restored Canada to the French. In 1663, this Company surrendered their Charter, and the King, by an edict of March in that year, established a council for administration of affairs in the colony, and nominated a Governor; and about 1665, Monsieur Talon, the Intendant of Canada, despatched parties to penetrate into and explore the country to the west and north-west, and in 1671 he reported from Quebec that the "Sieur du Lusson is returned, after having advanced as far as 500 leagues from here, and planted the cross, and set up the King's arms in presence of 17 Indian nations assembled on the occasion from all parts, all of whom voluntarily submitted themselves to the dominion of His Majesty, whom alone they regard as their sovereign protector."

The French kept continually advancing forts and trading posts in the country, which they claimed to be part of Canada: not merely up the Saguenay River towards James' Bay, but towards and into the territory now in question, in parts and places to which the Hudson's Bay Company had not penetrated when Canada was ceded to Great Britain in 1763, nor for many years afterwards.* They had posts at Lake St. Anne, called by the

* In the evidence given by the Honourable William M'Gillivray, on one of the North-West trials at York (now Toronto), in 1818, he stated that there were no Hudson Bay traders established in the Indian country about Lake Winnipeg or the Red River for eight or nine years after he had been used (as a partner in the North-West Company) to trade in that country.

PAPER BY CHIEF JUSTICE DRAPER, 1857.

older geographers Alenimipigon; at the Lake of the Woods; Lake Winnipeg; and two, it is believed on the Saskatchewan, which are referred to by Sir Alexander M'Kenzie in his account of his discoveries.

Enough, it is hoped, has been stated to show that the limits of the Hudson's Bay Company's territory are as open to question now as they have ever been, and that when called upon to define them in the last century, they did not advance the claim now set up by them; and that even when they were defining the boundary which they desired to obtain under the Treaty of Utrecht, at a period most favourable for them, they designated one inconsistent with their present pretensions, and which, if it had been accepted by France, would have left no trifling portion of the territory as part of the Province of Canada.

So far as has been ascertained, the claim to all the country the waters of which ran into Hudson's Bay, was not advanced until the time that the Company took the opinions of the late Sir Samuel Romilly, Messrs. Cruise, Holroyd, Scarlett, and Bell. Without presuming in the slightest degree to question the high authority of the eniment men abovenamed, it may be observed that Sir Arthur Piggoti, Sergeant Spankie, Sir Vicary Gibbs, Mr. Bearcroft, and Mr. (now Lord) Brougham took a widely different view of the legal validity of the Charter, as well as regards the indefinite nature of the territorial grant, as in other important particulars.

Of the very serious bearing of this question on the interests of Canada, there can be no doubt. By the Act of 1774, the Province of Quebec is to "extend 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."

And in the division of the Provinces under the statute of 1791, the line was declared to run due north from the Lake Temiscaming "to the boundary line of Hudson's Bay;" and the Upper Province is declared to consist "of or include all that part of Canada lying to the westward and southward of the said line"

The union of the Provinces has given to Canada the boundaries which the two separate Provinces of Upper and Lower Canada had; the northern boundary being the territory granted to the Hudson's Bay Company.

It is now becoming of infinite importance to the Province of Canada, to know accurately where that boundary is. Plans for internal communication connected with schemes for agricultural settlements, and for opening new fields for commercial enterprise, are all, more or less, dependant upon or affected by this question, and it is to Her Majesty's Government alone that the people of Canada can look for a solution to it. The rights of the Hudson's Bay Company, whatever they may be, are derived from the Crown: the Province of Canada has its boundaries assigned by the same authority; and now that it appears to be indispensable that those boundaries should be settled, and the true limits of Canada ascertained, it is to Her Majesty's Government that the Province appeals to take such steps as in its wisdom are deemed fitting or necessary to have this important question set at rest.

PAPER RELATIVE TO CANADIAN BOUNDARIES, DELIVERED BY CHIEF JUSTICE DRAPER TO THE HOUSE OF COMMONS COMMITTEE, MAY 28, 1857.*

On the 25th January, 1696–7, not long before the Treaty of Ryswick (which was signed on the 20th September, 1697), the Hudson's Bay Company expressed their "desire that whenever there should be a treaty of peace between the Crowns of England and France, that the French may not travel or drive any trade beyond the midway betwixt Canada and Albany Fort, which we reckon to be within the bounds of our charter."

The 8th Article of the Treaty of Ryswick shows that the French at that time, set up a claim of right to Hudson's Bay, though that claim was abandoned at the peace of Utrecht, and was never set up afterwards.

In 1687, James the Second declared to the French Commissioners, MM. Barillon and

* From the Report of the Select Committee [of the House of Commons] on the Hudson's Bay Company, etc., 1857, p. 378

PAPER BY CHIEF JUSTICE DRAPER, 1857.

Bonrepos, that having maturely considered his own rights, and the rights of his subjects, to the whole Bay and Straits of Hudson, and having been also informed of the reasons alleged on the part of the French to justify their late proceedings in seizing those forts (Fort Nelson and Fort Charles), which for many years past have been possessed by the English, and in committing several other acts of hostility, to the very great damage of the English Company of Hudson's Bay, His Majesty, upon the whole Matter, did consider the said Company well founded in their demands, and, therefore, did insist upon his own right and the right of his subjects to the whole Bay and Straits of Hudson, and to the sole trade thereof.

"The grants of the French King signify nothing to another prince his right, and they may name what they will in their grants, places, known or unknown, but nobody is so weak as to think that anything passeth by those grants but what the King is rightfully and truly possessed of or entitled to, for *nemo dat quod non habet* is a maxim understood of all; but whereas the French would have no bounds to Canada to the northward, nor, indeed, to any parts of their dominions in the world if they could."—Extract from the Reply of the Hudson's Bay Company to the French Answer left with the English Commissioners, 5th June, 1699, under the Treaty of Ryswick.

In 1687 there were discussions between the English and French respecting the right to the Bay and Straits, in which it was, among other things, submitted on the part of the Hudson's Bay Company as follows: "It shall not be the fault of the Company of Hudson's Bay, if their agents and those of the Company of Canada do not keep within their respective bounds, the one pretending only to the trade of the Bay and Straits above-mentioned, whilst the other keeps to that of Canada; and that the forts, habitations, factories and establishments of the English Company be restored, and their limits made good, as the first discoverers, possessors and traders thither."

The Company having already waived the establishments of a right to Hudson's Bay and Straits "from the mere grant and concessions of the King, which, indeed, cannot operate to the prejudice of others that have the right of discovery and continued possession on their side, it is again averred that His Majesty's subjects only are possessed of such a right to the coasts, bays and straits of Hudson."

"The Hudson's Bay Company having made out His Majesty's right and title to all the bay within Hudson's Straits, with the rivers, lakes and creeks therein, and the lands and territories thereto adjoining, in which is comprehended Port Nelson as part of the whole,"—10th July, 1700—the Hudson's Bay Company proposed the following limits between themselves and the French, in case of an exchange of places, and that they cannot obtain the whole of the Straits and Bay which of right belongs to them.

1. That the French be limited not to trade nor build any factory, &c., beyond the bounds of 53° N. or Albany River, to the northward on the west or main coast, and beyond Rupert's River, to the northward on the east main coast.

2. The English shall be obliged not to trade nor build any factory, &c., beyond the aforesaid latitude of 53° or Albany River, or beyond Rupert's River, south-east towards Canada, on any land which belongs to the Hudson's Bay Company.

3. As likewise that neither the French nor English shall at any time hereafter extend their bounds contrary to the aforesaid limitations . . . which the French may very reasonably comply with, for that they by such limitations will have all the country south-eastward betwixt Albany Fort and Canada, to themselves, which is not only the best and most fertile part, but also a much larger tract of land than can be supposed to lie to the northward, and the company deprived of that which was always their undoubted right.

By this document it appears the French were insisting on having the limits settled between York and Albany Fort, as in the latitude of 53° or thereabouts.

22nd January, 1701-2, the Lords of Trade and Plantations asked the Company to say "whether, in case the French cannot be prevailed with to consent to the settlement proposed on the 10th July preceding by the Company, they will not consent that the limits on the east side of the Bay be the latitude of 52½°." This proposal would have given the East Main River and Rupert's River to Canada.

On the 29th January, the Hudson's Bay Company alter their proposals, offering the boundary on the east main or coast, to be Hudson's River, vulgarly called Canute or Canuse

PAPER BY CHIEF JUSTICE DRAPER, 1857.

River (which I take to be the river now marked on the maps as the East Main River); but, they add, should the French refuse the limits now proposed by the Company, the Company think themselves not bound by this or any former concessions of the like nature, but must (as they have always done) insist upon their prior and undoubted right to the whole Bay and Straits of Hudson, which the French never yet would strictly dispute, or suffer to be examined into (as knowing the weakness of their claim), though the first step in the 8th Article of the Treaty of Ryswick directs the doing of it. If either proposal had been accepted, the French would have had access to James' Bay. The first propositions left them Moose River; the second appears to have given up Rupert's River

In February, 1711-12, prior to the Treaty of Utrecht, the Hudson's Bay Company proposed that the limits between them and the French in Canada should begin at "Gremmington's Island, or Cape Perdrix, in the latitude of 58½° north, which they desire may be the boundary between the English and French, on the coast of Labrador, towards Rupert's Land on the East Main, and Nova Britannia on the French River." That a line be drawn from Cape Perdrix to the Great Lake Mistassing, dividing the same into two parts beyond which line the French were not to pass to the north, nor the English to the south.

In August, 1717, they renewed their application for the settlement of the limits, adding to their former proposition, that from the Lake Mistassing a line should run southwestward into 49° north latitude, and that such latitude be the limit, and that the French do not come to the north, or the English to the south of the boundary.

In August, 1719, in a memorial, they say that "the surrender of the Straits and Bay aforesaid has been made according to the tenure of the Treaty, at least in such manner that the Company acquiesced therein, and have nothing to object or desire further on that head." But they even then complained that since the conclusion of the peace, viz., in 1715, "the French had made a settlement at the head of Albany River, upon which very river our principal factory is settled, whereby they intercept the Indian trade from coming to the factories; and will, in time, utterly ruin the trade, if not prevented. It is, therefore, proposed and desired, that a boundary or dividend line may be drawn so as to exclude the French from coming anywhere to the northward of the latitude of 49°, except on the coast of Labrador; unless this is done, the Company's factories at the bottom of Hudson's Bay cannot be secure, or their trade preserved." This shows that the Company there sought to establish an arbitrary boundary, and that the object of it was to secure the fur trade from the French.

The English Commissioners made the demand to have limits established according to the prayer of the Hudson's Bay Company, and for the giving up the new fort erected by the French: adding a demand that the French should make no establishments on any of the rivers which discharged themselves into Hudson's Bay; and that the entire course of the navigation of these rivers should be left free to the Company, and to such of the Indians as desire to trade with them.

The precise terms of the instructions to the Commissioners hardly seem to have contemplated the latter part of the demand, for they (the instructions of 3rd September, 1719) merely designate the boundaries beyond which the French and English respectively are not to cross. They contain this passage, however: "But you are to take especial care in wording such articles as shall be agreed upon with the Commissioners of his Most Christian Majesty upon this head that the said boundaries be understood to regard the trade of the Hudson's Bay Company only."

Colonel Bladen, on the 7th November, 1719, wrote to the Lords of Trade that the English Commissioners would that day deliver in the demand, and that he foresaw "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, as your Lordship will perceive by the carte I send you herewith."

Colonel Bladen was right. After receiving the English demands, the French Commissioners, the Maréchal d'Estrées and the Abbé Dubois, never met the English Commissioners again, all the instances of the English Ambassadors failed to procure a renewal of the conferences.

The Company were again called upon on the 25th July, 1750, to lay before the Lords

of Trade an account of the limits and boundaries of the territory granted to them. They replied, among other things, that the said Straits and Bay "are now so well known, that it is apprehended they stand in no need of any particular description than by the chart or map herewith delivered; and the limits or boundaries of the lands and countries lying round the same, comprised, as your memorialists conceive, in the same grant, are as follows, that is to say: all the lands lying on the east side or coast of the said bay, and extending from the bay eastward to the Atlantic Ocean and Davis' Straits, and the line hereafter mentioned as the east and south-eastern boundaries of the said Company's territories; and towards the north, all the lands that lie at the north end, or on the north side or coast of the said Bay, and extending from the Bay northwards to the utmost limits of the lands; then towards the North Pole; but where or how these lands terminate is hitherto unknown. And towards the west, all the lands that lie on the west side or coast of the said Bay, and extending from the said Bay westward to the utmost limits of those lands; but where or how these lands terminate to the westward is also unknown, though probably it will be found they terminate on the Great South Sea, and towards the south," they propose the line already set out by them, before and soon after the Treaty of Utrecht, stating that the Commissioners under that treaty were never able to bring the settlement of the said limits to a final conclusion; but they urged that the limits of the territories granted to them, and of the places appertaining to the French, should be settled upon the footing above mentioned.

MEMORANDUM FROM HON. JOSEPH CAUCHON, 1857.*

THE COMMISSIONER OF CROWN LANDS SUBMITS THE FOLLOWING REMARKS ON THE NORTH-WEST TERRITORIES OF CANADA, HUDSON'S BAY, THE INDIAN TERRITORIES, AND THE QUESTIONS OF BOUNDARY AND JURISDICTION CONNECTED THEREWITH.

The question now under special consideration has more particular reference to the subject of the renewal of a Lease held by the Hudson's Bay Company for the "*Indian Territories*," which are not considered to be within the boundaries of Canada, though subject to Canadian jurisdiction.

But the Hudson's Bay Company's "Map and Statement of Rights," under their orginal Charter, as submitted to the Imperial Government in 1850, by Sir J. H. Pelly, the Chairman of the Company, has also, however, to be considered in connection with it.

It becomes necessary, therefore, to expose the fallacies of the "Statement of Rights and Map" referred to, in order that the rights of the Province may not be misunderstood or the pretensions of the Company taken for granted.

The rights of the Hudson's Bay Company, and the effect of their operations upon the interests of Canada, will best be considered under the following separate heads, viz:

First—With respect to their operations under their original Charter on the territories affected thereby.

Second—With respect to their operations within the boundaries of this Province.

Third—With respect to their operations on what has been termed the Indian Territories, now under lease to them.

Fourth—Arising out of the foregoing, the more important question of the boundaries of the above Territorial Divisions; and

Fifth—With respect to jurisdiction, as exercised, and as sanctioned by law.

OPERATIONS OF THE COMPANY ON THEIR OWN TERRITORIES.

On the first head, as regards their operations under their Charter on the territories which, if valid, it would cover, it is a matter of very secondary importance to Canada. The territories of the Hudson's Bay Company, taken at the largest extent which any sound construction of their Charter in connection with international rights would warrant, if not in point of distance so very remote, are nevertheless so situated, that it can only be when all the localities to the south and west, more available for purposes of agriculture and

*Appendix No. 17 [(B.) to Vol. XV., of the Journals of the Legislative Assembly of the Province of Canada, 1857.

settlement, have been filled to overflowing, that settlers may be gradually forced into that vicinity from the suberabundant population of more favoured countries.

The most direct interest that Canada could have in the matter at the present moment, being responsible for the administration of justice there, would be rather of a moral and political than of an interested or commercial character. But as the necessities of the Company, in whose hands a monopoly of the trade has practically existed since the Treaty of Utrecht, together with the powers which they profess to derive from their Charter, has induced them to establish a jurisdiction which, for the moment, seems to have been successful in maintaining tranquillity and order, Canada has had no special reason to intervene, though if any complaints had been made on this score she would of course have felt called upon to exercise the power vested in her by Imperial Statutes.

It is not, indeed, to be denied that the freedom of the trade, consisting of furs and fisheries, would be of advantage to this country; but as this involves a question of the validity of the Charter, and whether or not, if valid in respect of the territory really affected by it, it would also affect the open sea of the Bay, and seeing that the question is not now raised of any further legislation to give effect to the powers it professes to confer, the consideration of this point is immaterial at the present moment, compared with the more important subjects that have to be treated of.

Operations of the Company on Canadian Territories.

The second point to be taken into consideration, and which is of a more important nature, is that which affects the operations of the Company within the boundaries of Canada, and on this head it must be admitted that they have had every facility they could possibly enjoy in their own territories, if such exist; whether on the coasts of Labrador, Lakes Huron, Superior, or Winnipeg; whether on the Saguenay, the St. Maurice, the Ottawa, the Red River, the Assiniboine, or the Saskatchewan; wherever they have operated within the boundaries of Canada they have had precisely the same scope as within their own territories on the shores of Hudson's Bay; not indeed but what if opposition had sprung up, the same facilities must necessarily have been afforded to any rival traders, had they not been effectually protected from such rivalry by their unlimited means, their extensive ramifications and complete organization, with which no rival traders were able to compete, unless indeed to a very limited extent in the immediate vicinity of the settlements.

There are indeed parts of the Province so remote from established settlements, and having so little direct intercourse with them, that in former years it might have been to some extent a tax upon the country to have established tribunals sufficient to enforce the laws over regions inhabited only, with one exception, by the servants of the Company and the Indians, though it may now be reasonably questioned whether corresponding benefits would not have accrued from such a course, while it must be admitted that the Company have at all events reaped a profit, taking together the costs they have been put to from the want of legal tribunals and the monopoly of the trade which the non-organization of such tribunals has practically been the means of enabling them to enjoy.

The exception referred to, where a considerable settlement exists, besides the employees of the Company and the Indians, is the Red River Country.

But the time has passed when any considerations of expense, or temporary inconvenience, even if proved to exist, can be allowed to stand in the way of opening up those territories, when indeed the necessity for expansion compels the Provincial Government to create further facilities for it; and as an additional reason why the Government should no longer permit the present state of things to continue, it must be added that rumours have been gaining ground of late years, with a force and clearness which almost compel conviction, that the jurisdiction actually exercised in those remote localities has been as contrary to the wishes of the people as it has been manifestly without the sanction of law, all which has created a necessity for early investigation and action on the part of the Canadian Government.

With this view preparations were made in the Crown Lands Department last summer for a preliminary survey from the head of Lake Superior westward, preparatory to the opening of the free grant roads, which have been so successful in other parts of the country, for the purpose of forming the nucleus of a settlement which would gradually penetrate to

the valley of the Red River and the prairies beyond; besides which, a first-class thoroughfare would be necessary to afford easier means of communication with the navigable waters flowing to the west, &c., to facilitate the administration of justice in the distant settlements, and the necessary intercourse generally between those parts and the more populous districts of the country, and which would at the same time throw open to emigration, agriculture and commerce a far larger area, with at least an equal average mildness of climate, and susceptible of more rapid development (a known characteristic of prairie countries) than all other parts of the Province heretofore rendered available for settlement.

The question of the renewal of the license of exclusive trade on the Indian Territories does not, of course, affect the country above referred to, any more than it does the lands, whatever they be—for they have never been defined upon authority—which the original Charter of the Hudson's Bay Company may, upon investigation, be construed to cover.

Operations of the Company on the Indian Territories.

The third point is, for the moment, of less importance than the last, though within the period of another such lease as the Act 1 and 2 Geo. 4, cap. 66, authorizes, as it would be impossible to calculate the immense influence it must have upon the future of this country, and the British institutions which have taken root so deeply and thrive so nobly on its soil. The present operations of the Hudson's Bay Company on these "Indian Territories" are conducted on the same principle precisely as within the boundaries of Canada, the jurisdiction they exercise having heretofore had the excuse of necessity, if not the sanction of law; and so far as it can be shown to have been exercised to the benefit of those countries, the Company might fairly claim indemnity for the consequences, should that become necessary, and there is no reason to doubt either the generosity or the justice of the Legislature if called upon to ratify such a measure.

It now becomes necessary, under the fourth head, to treat the questions of boundary arising out of the three foregoing; and these questions have, heretofore, been so little understood that it would be necessary to enter into the subject at some length.

The difficulty of describing definite boundaries in countries which at the time were but very imperfectly or partially known, has always been a matter of serious embarrassment. In the present instance, however, the difficulties can only be in matters of detail, and it may be safely assumed that they will be still further lessened by the fact, that whether uncertainty can be supposed to prevail in any point of real importance, it can only be between the Province of Canada on the one hand, and the "Indian Territories" on the other (not between Canada and the Territories of the Hudson's Bay Company, unless at a point of comparatively little consequence); and it would be difficult to conceive that it would be adverse to the interests of the Crown or the community, if the principle question of boundary were sunk altogether, and the whole of the "Indian Territories" incorporated with this Province.

Boundary of the Company's Territories under Charter of 1670.

In the first place, then, with respect to the Territory affected by the Charter of the Hudson's Bay Company, it may be admitted that it would not only be difficult but absolutely impossible to define it; it is therefore fortunate that its limited extent renders the question of little importance further than it becomes necessary to consider and rebut the very large pretensions of the Company.

The extent of the territory affected by the Charter is subject to two distinct conditions:

First—It is confined to all such territory as was then the property of the donor.

Second—It is confined to all such unknown territories as by the discoveries of the Company, his subjects, might become his property.

These distinctions, though not directly expressed, are nevertheless conditions resulting from the circumstances and necessary to a proper understanding of the case.

With respect to the first, viz., the territory which was the property of the donor, it is necessarily limited by usage and by common sense to what was known or discovered, for the unknown and undiscovered could not be his property, and might never become

his property, that being dependant upon circumstances then in the future: it is further limited by specific condition, expressed in the Charter itself, to such portions of what was then known as did not belong to any other Christian Prince, which condition, it must be admitted, was an acknowledgement on the part of the donor that some part of the territory he was describing was not his, and of doubt as to what did or did not belong to him.

With respect to the extent of territory that *might have been* affected by the second condition above stated (that is, as regards exclusive trade, the grant of soil being less extensive and more ambiguous), it has no particular limit, for it embraces all countries which could be reached either by "water or land" through Hudson's Straits, and to limit or extend it merely to the sources of rivers discharging into Hudson's Bay would be a construction which the Charter will in no sense admit of. But while it extends to all unknown countries or infidel nations, which the Company could reach through Hudson's Straits or Bay, it is at the same time inferentially and *necessarily* restricted from extending to any of those unknown parts which might be first discovered and possessed by the subjects of any other Christian Prince or State. This is not, indeed, expressed in the Charter in relation to undiscovered territories, but it is emphatically so as regards the then state of the rights and possessions of Christian Powers. While the King, therefore, is so careful, at least in the wording of the document, not to infringe upon the rights of others *already acquired*, it can scarcely be supposed that he meant to infringe upon the rights of others *to acquire* what then belonged to none. The inference is altogether against the supposition that King Charles meant by his Charter to deny the right of any other civilized nation to make further discoveries and appropriate the countries discovered, and even if he had so intended it, he had not the power to alter the law of nations in this respect. Besides, the Charter is expressly one of discovery as well as trade, &c.; the advantages granted to the "adventurers" are incidental and subordinate to that greater object, but there could be no *discovery* on their part wherever they were preceded by prior discovery and possession on the part of the subjects of any other Christian Prince. The right of discovery is and was so well established, and wherever considered of any importance, has been so jealously watched that volumes of diplomatic controversy have been written on single cases of dispute, and the King of Great Britain could not by his Charter annul the recognised law of nations, or limit in any degree the right of other States to discover and possess countries then unknown. It may even be considered extravagant to affirm that he could convey a right of property to territories *not then*, but which might *afterwards become* his or his successors' by the prior discovery and possession of the Company themselves, his subjects: were it necessary to dwell upon this point, it could easily be shown that most of the territories now claimed under the Charter which were not discovered at that date, the Company were not afterwards the first, nor were any other British subjects the first discoverers of it; that, in fact, except the Coppermine River, the Company never discovered anything or penetrated beyond the *Coasts and Confines* of the Bay (to which perhaps they at that time justly considered their rights restricted) for upwards of a hundred years after the date of their Charter, and that when they did so penetrate, the only *discovery* they made was that the whole country in the interior had been long in the peaceful possession of the subjects of another Christian Prince.

But the position as regards discovery after the date of the Charter, it is unnecessary to dwell upon, particularly as an adverse title can be proved prior to the date of the Charter, and that too, sanctioned by treaty.

The early discovery and occupation of the country in and about Hudson's Bay are, as in many other cases, shrouded in a good deal of obscurity. The British claim as the first discoverers of the whole coasts of this part of North America, in the persons of John and Sebastian Cabot, about the year 1497; but it is contended on the other hand their discoveries did not extend to the north of Newfoundland, which still retains the name they gave it, and which they supposed to form part of the main land. It is *said* indeed that the Cabots penetrated to a very high latitude far to the north of the Straits now bearing the name of Hudson; but it must be remarked that there appear to be no authentic records of the two voyages of the Cabots, their journals or observations. There appears to be only *hearsay* evidence of what they did, or where they went, told afterwards at second-hand to third par-

MEMORANDUM FROM HON. JOSEPH CAUCHON, 1857.

ties. The voyages of the Cabots, therefore, although they are matters of history, not admitting of any reasonable doubt, in a general way, as to their having reached the coast of America, lose much of their force as the bases of specific territorial claims, from the want of any record of their proceedings. Did they ever land ? If so, where ? What observations did they make ? Did they take formal possession ? &c.

The French claim through fishermen of Brittany who established fisheries on the coast as early as 1504, and through a map published by Jean Deny, of Honfleur, in 1506. The map would be valuable if any authentic copy of it be extant. There does not appear to be any such record of the operations of the Breton fishermen as would fix precisely the spot where their trade was carried on, though a British geographical work, published in 1671, with a map attached, fixes it at Hudson's Straits, naming the country after them, on the south side of the Straits and within the Bay. The next navigator through whom the French claim is maintained is John Verezzani, who visited the country by order of Francis the First of France, in 1523-4. This is the first voyage, in behalf of either France or England, of which any authentic or circumstantial record exists, as written by the navigator himself, who gave the country the name of New France. In 1534, Jacques Cartier's discoveries commenced, and these are so well known that it is unnecessary to say more of them.

Thus, then, it appears that the Cabots' voyages, unsustained by any authentic record, affording no means of basing even a probable surmise as to whether so much as a landing was effected, formal possession taken, or any act done to constitute the assumption of sovereignty or of territorial dominion, comprise the only grounds on which England can base a claim to the country north of Newfoundland, prior to the voyage of Jacques Cartier. Apart, therefore, from the question of "*beneficial interests*" (to use the expression of a British diplomatist) which were acquired by France, commencing with the discoveries of Cartier, the preponderance of *admissible* evidence is altogether in favour of French discovery of that part of the continent between Newfoundland and Hudson's Bay. But even if the question rested altogether between the unauthenticated discoveries of the Cabots and the commencement of settlement by Cartier, it would not be inappropiate to assume the British view of a similar question as maintained in the Oregon dispute, in the following words :

"In the next place, it is a circumstance not to be lost sight of, that it (the discovery by Gray) was not for several years followed up by any act which could give it value in a national point of view ; *it was not in truth made known to the world either by the discoverer himself or by his Government.*"

The next English attempts at discovery commenced in 1553, when Willoughby penetrated to the north of Hudson's Bay, which, however, he did not discover or enter. This was nineteen years after Jacques Cartier's first voyage, and was followed by various other attempts at finding a north-west passage, all apparently directed to the north of Hudson's Straits until 1610, the period of Hudson's voyage, in which he perished after wintering in the Bay which bears his name : by this time it must be observed that Canada was colonized by the French.

In 1540 De Roberval was made Viceroy of Canada, the description of which as given in his commission included Hudson's Bay, though not then of course known by that name.

L'Escarbot gives a full description of Canada at the period of De La Roche's appointment in 1598 as follows :—

"Ainsi notre Nouvelle France a pour limites du côté d'ouest les terres jusqu' à la mer dite Pacifique au deça du tropique du cancer ; au midi les iles de la mer Atlantique du côté de Cuba et l'Isle Espagnole ; au levant la mer du Nord, qui baigne la Nouvelle France ; et au Septentrion cette terre, que est dite inconnue, vers la mer glacée jusqu'au Pole Articque."*

Notwithstanding failures and difficulties, France continued the effort to colonize Canada and in 1598 De La Roche was appointed Governor of the whole of Canada as above described ; in 1603 or 1604 the first exclusive charter was granted for the fur trade of Canada up to the 54° of north latitude ; in 1608 Champlain founded the City of Quebec ; and in 1613 he accompanied his Indian allies, to the number of between two and three thousand,

* Therefore, New France has for boundaries on the west the Pacific Ocean within the Tropic of Cancer ; on the south the Islands of the Atlantic towards Cuba and Hispaniola ; on the east the Northern Sea, which washes its shores, embracing on the north the lands called Unknown, towards the Frozen Sea, up to the Arctic Pole.

up the Ottawa and by Lake Nippissing and the French River, to war with a hostile nation at the Sault Ste. Marie. It must now be observed that the great incentive to the colonization of Canada was the enormous profits of the fur trade, without which it is scarcely likely that such persevering efforts would have been made for that purpose while so many countries with more genial climates remained in a manner unappropriated.

Tadousac, at the mouth of the Saguenay River, was the first important post established by the French on the St. Lawrence; it was the entrepôt of the fur trade before Quebec was founded, and continued to be so afterwards. This will not be deemed extraordinary when it is considered that the Saguenay River afforded the best means of access into the interior, and was the best inland route, in fact is the best canoe route yet, to the Great Bay now bearing the name of Hudson. There is indeed no authentic record of any of the French having made an overland journey to the Bay at so early a period, but when it is considered at what an early date the *Coureurs des Bois* traversed the whole country in search of peltries, how readily they amalgamated with the Indians, who in that locality were in friendly alliance with them, and when it is also considered what extraordinary journeys the Indians undertook, as instanced by the war carried into the enemy's country at the Sault Ste. Marie, already referred to, the presumption is that the fur traders of Tadousac not only enjoyed the trade of the Great Bay, but must also have penetrated very far in that direction, if not to the Bay itself, a journey at the most of less distance and not greater difficulty than that which Champlain successfully accomplished with an army, while it had the strong incentive of profit to stimulate it. It is not necesary, however, to prove that every corner of the country known to the world as New France or Canada had been first visited by the actual possessors of the region so known.

However strong the probabilities, therefore, of the *Coureurs des Bois* having been in communication with the great northern Bay before the visit of Hudson in 1610, or of Button, who succeeded him in 1612, it is not necessary to base any argument thereon; nor is it necessary to dwell on the reputed voyage of Jean Alphonse, of Saintonge, in 1545, which, although quoted by French historians, does not appear to be sufficiently authenticated. For, granting that the rights accruing from discovery resulted from the voyages of Hudson and Button, these discoveries were practically abandoned, in fact were never dreamt of being followed up by way of occupation, the finding of a north-west passage having been their sole object; but waiving even this point, it will be found that the rights of France were made good by international treaty long before the Charter of Charles the Second was granted.

It will be seen from L'Escarbot's description, and those contained in the commissions of the Governors already referred to, that France claimed the whole country extending to the north of Hudson's Bay, her title resting in the first instance upon the discoveries already mentioned, of which those of Verezzani, Cartier and Champlain are of unquestioned authenticity, to which they had added, when L'Escarbot wrote in 1611, the title resulting from actual possession in the shape of permanent settlement. England, on the other hand, claiming under Cabot's discovery, denied the right of France generally to the whole and practically to the more southerly parts where she endeavoured to plant settlements of her own, in which she was successful at a period somewhat later than the French.

The fact is, each was trying to grasp more than they could take actual possession of; and if mere discovery of parts of a continent without actual possession or settlement were made the basis of permanent rights, neither of the contending parties would perhaps have had any right at all. Gradually the state of the actual possessions of the two Powers settled down into a sort of intelligible shape, though without any very distinct boundaries, the most northerly of the English possessions being known as New England, and *all* the country to the north thereof, being known as New France or Canada, where the French *only* were in possession, there being no possession or settlement of any kind to the north of them. Still, had England colonized Hudson's Bay at that period and been successful in keeping actual possession of it, she would just have had the same right to do so that she had to colonize New England. That England persevered with extraordinary energy in trying to find a north-west passage there can be no doubt, nor does it appear that France, though publicly claiming the country, made any objection; but neither country

made the most distant attempt at settlement or occupation of those remote and inhospitable regions at that period.

In 1615 another expedition was made into Hudson's Bay, in search of a north-west passage, by Baffin and Bylot. 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. In 1629, Quebec was taken by the British, as were also most of the other principal towns founded by the French, in Acadia and Nurembega (now Nova Scotia and New Brunswick) which were then Provinces of New France, the two nations being then at war. In 1631, Fox and James, on two different expeditions, prosecuted a further search for a north-west passage in Hudson's Bay, and from the latter of these navigators the southerly portion of the Bay takes its name.

At this period the authenticated voyages of the English into Hudson's Bay were Hudson in 1610, Button in 1612, Bylot and Baffin in 1615, and Fox and James in 1631; the numerous other expeditions having been apparently directed to the north of Hudson's Straits. At the same time, the extent of New France or Canada, as claimed by the French, was publicly known throughout the civilized nations of Europe. It is not necessary to say that that claim was admitted by Great Britain; it is sufficient that it was known. British authorities even of a later period, it must be observed, have contended that the French were intruders in America altogether in violation of the title accrued through the discoveries of the Cabots, and had no right whatever to any part of it *until acquired by treaty.* It therefore becomes immaterial whether the claims of the French were disputed or not, so far as they were afterwards confirmed or a title created by Treaty.

In 1632, peace was concluded, and by the Treaty of St. Germain-en-Laye, Canada or New France was relinquished to the French without any particular designation of its limits, and the British forces were to be withdrawn from the places they had taken, which being the most important, including the seat of government, might almost be said to have amounted to the conquest of the whole country.

Admitting, then, that but a disputed title of discovery had previously existed on either part—nay, admitting more, that the right vested by prior discovery was in England, this Treaty sets the matter at rest as regards all that was at that time called by the name of New France or Canada. There is indeed no getting behind this Treaty, of which the Charter afterwards granted by Charles the Second was in fact, but for the saving clause it contains, a violation, and Canada might well be content to rest her case here as against a Charter which, referring to a country previously guaranteed by the Treaty to a foreign power, is expressly conditioned (as a Charter of discovery) not to interfere with what belonged to that other power. If, as is asserted by some English writers, France had no rights in America but such as she acquired by Treaty, what, it may be asked, were the limits of the territory she acquired by the Treaty of St. Germain-en-Laye, if not all that she claimed under the name of New France? It must be observed, too, that Champlain, the Viceroy of Canada, was made prisoner when Quebec was taken in 1629, and carried to England, where he remained for some time, and that the very year in which the Treaty was entered into, he published a work, containing a map of New France, by which Hudson's Bay was included in the country so called. Can it then for a moment be supposed, with Champlain, the Viceroy of New France, a prisoner in their hands, and their flag floating in triumph from the battlements of its capital, that the British Government and the Diplomatists who negotiated the Treaty were ignorant of the meaning attached to the terms "Canada" or "New France," or could attach any other meaning to those terms than that which Champlain's published maps of a previous date indicated, and with which the descriptions of other French writers whose works were known throughout Europe coincided? Can it be supposed that in the negotiations preceding the Treaty, Champlain's views of the extent or boundaries of his Viceroyalty were wholly unknown, or that the British Diplomatists meant something less by the appellation than what was known to be understood by France? If, indeed, something less than the known extent of country called New France had been agreed upon, some explanation would undoubtedly have been contained in the Treaty, or if there had been any misunderstanding on the subject, the map which issued the same year, in Champlain's work of 1632, would at once have been made a cause

of remonstrance, for, coming from the Chief Officer of the Colony, who was re-appointed to or continued in his office after the Peace, and published in Paris under the auspices of the King, it could not be otherwise looked upon than as an official declaration of the sense in which France regarded the Treaty.

Even, then, if the rights of France were wholly dependant upon international Treaties, her right became as good by the Treaty of St. Germain-en-Laye to the shores of Hudson's Bay as to the shores of the St. Lawrence. If she had rights before, the Treaty confirmed them; and if she had no rights before, the Treaty created them; and in either case, the effect was as great in the one locality as the other. Every further step, however, in the history of the country will only tend to show that even if there had been no such treaty as that of St. Germain-en-Laye, the Charter could not be sustained in opposition to the rights of France.

The provisions of the Treaty of 1632 seem to have been respected for a period of thirty-six years, when, in 1668, the next English expedition entered the Bay, which was the first *trading-voyage* ever made by British subjects to the Bay, and which resulted in the formation of the Hudson's Bay Company and the grant of the Charter two years after. In saying that this was the first purely commercial enterprise of the British in Hudson's Bay, it is not meant to be implied that no trade was had with the Indians by those engaged on the former expeditions, but that such enterprises were undertaken with the definite object of reaching the Pacific, and without the least idea of any practical occupation of, or trade with the country.

The British having ceased any attempt upon Hudson's Bay from the time of Fox and James' voyages and the Treaty of St. Germain-en-Laye, for a period of thirty-six years, it now remains to be seen what the character of this their next attempt was, and what had been the circumstances of the country in the interim.

That the name of Canada or New France continued to attach to the whole country during that period is indisputable; the French published maps of these times leaves no doubt upon the subject; and when we find the French not only designating the country by these names in their maps published by royal authority, but also entering upon the practical occupation of the since disputed parts of the country so designated, the carrying on of the trade with it both by sea and land, and the establishing of missions, all within the period intervening between the Treaty of St. Germain-en-Laye and the granting of the Charter, or the voyage which preceded the Charter, and all without interference on the part of Great Britain, we must conclude that the rights of the French were incontestable, and that if ever an adverse claim had been preferred it was considered to have been abrogated by the Treaty.

In 1656 the first exclusively commercial sea voyage was made into Hudson's Bay by Jean Bourdon, who found the trade in furs so profitable that others immediately followed. The first missionary establishment was made in 1663 by La Couture, who went overland by direction of D'Avaugour, Governor of Canada, who had been twice solicited by deputations of Indians from the Bay to send them missionaries; and now the French being fully established in the trade and in the occupation of the country both by sea and land, of the coast and of the interior, the English "Adventurers" first appear upon the scene, in a business way, under the countenance of two Canadians, De Grozelier and Radisson, who having been already engaged in the trade of the Bay, and having failed in procuring certain privileges they desired from their own Government, went to England and induced some Englishmen to join them in a trading voyage in 1668, which was so successful that, as already stated, it resulted in the formation of a Company, and the grant in 1670 of one of those extraordinary Charters which were so much in vogue in those days that the whole of the Continent of America, north of the Gulf of Mexico, known and unknown, may be said to have been covered by them, and some of it doubly so, if the vague and ambiguous descriptions, of which this was the most vague, could be said to mean anything.

This was the origin of the Hudson's Bay Company, and they immediately commenced to build forts and establish themselves in the trade, but no sooner was this known in France than orders were given to expel them. Accordingly a desultory warfare was kept up for a number of years between the Canadian traders and the Company, in which the latter were nearly expelled, but again recovered themselves and strengthened their position, when it be-

came necessary to take more effective means for their expulsion. Troops were accordingly despatched from Quebec overland for that purpose, under the Chevalier de Troyes, who commenced his work very effectually by taking the principal Forts of the Company. It must be observed, that this was in 1686, in time of peace between Great Britain and France, and yet these proceedings were not made a cause of war, which in itself would strongly imply an admitted right on the part of France to extirpate the Company as trespassers upon her territory.

War having afterwards broken out, the Forts on Hudson's Bay were successively taken and retaken, till the Peace of Ryswick, in 1697, put a stop to hostilities, at which time the British appear to have been possessed of Fort Albany *only*, the Canadians having possession of all the other establishments and the trade of the Bay.

By the Treaty of Ryswick, Great Britain and France were respectively to deliver up to each other generally whatever possessions either held before the outbreak of the war, and it was specially provided that this should be applicable to the places in Hudson's Bay taken by the French during the peace which preceded the war, which, though retaken by the British during the war, were to be given up to the French. There could scarcely be a stronger acknowledgment of the right of France to expel the Company as trespassers upon her soil for it is impossible to construe the Treaty in this particular otherwise than as a justification of the act.

Moreover, commissioners were to be appointed in pursuance of the Treaty, to determine the rights and pretensions which either nation had to the places in Hudson's Bay. Had these commissioners ever met, of which there appears no record, there might have been a decision that would have set the question at rest as to which were "*rights*," and which were "*pretensions*." The commissioners must, however, have been bound by the text of the Treaty wherever it was explicit. They *might* have decided that France had a right to the whole, but they could *not* have decided that Great Britain had a right to the whole. They would have been compelled to make over to Franceall the places she took during the peace which preceded the war, for in that the Treaty left them no discretion. The following are the words of the Treaty :—"But the possession of those places which were taken by the French, during the peace that preceded this present war, and were retaken by the English during the war, shall be left to the French by virtue of the foregoing article." Thus the Treaty of Ryswick recognized and confirmed the right of France to certain places in Hudson's Bay distinctly and definitely, but recognized no right at all on the part of Great Britain ; it merely provided a tribunal to try whether she had any or not.

So strongly has the Treaty of Ryswick been interpreted in favour of France in this particular, that some historians merely state the fact, that by it she retained all Hudson's Bay, and the places of which she was in possession at the beginning of the war.

The commissioners having apparently never met to try the question of right, things remained *in statu quo*, and the most reliable accounts show that the Hudson's Bay Company retained possession of Fort Albany *only* from that time up to the Treaty of Utrecht, in 1713. Now, whatever the commissioners might have done, had they ever passed judgment on the cause the Treaty provided they should try, they could not have given Fort Albany to the British, for it was one of the places taken by the French during the preceding peace, and retaken by the British during the war, and therefore adjudged in direct terms of the Treaty, to belong to France.

Thus then it will be seen, that the only possession held by the Hudson's Bay Company during the sixteen years that intervened between the Treaty of Ryswick and the Treaty of Utrecht was one to which they had no right, and which the obligations of the Treaty required should be given up to France.

Here, therefore, for the second time an International Treaty interposes a barrier against the pretensions of the Company.

By the Treaty of Utrecht, in 1713, the whole of the Hudson's Bay was ceded to Great Britain without any distinct definition of boundaries, for the determining of which commissioners were to be appointed. No official statement of the action of such commissioners is at present available for reference, but it is stated that no such action threw any additional light upon the subject. Indeed no such Commissioners ever have done much to

determine boundaries in unexplored countries, as witness for instance the dispute so long pending on what was called the North-Eastern boundary question between Great Britain and the United States, which was finally compromised by the Treaty of Washington, concluded by Lord Ashburton; and again, the difficulties arising out of the same ambiguous description, and which so many Commissions endeavoured in vain to settle, between the Provinces of Canada and New Brunswick.

There is no denying the fact that the ancient boundaries of Canada or New France were circumscribed by the Treaty of Utrecht, and it is difficult to determine precisely the new boundaries assigned to it. The general interpretation adopted by the British geographers, as the country gradually became better known from that time up to the final cession of Canada, was that the boundary ran along the high lands separating the waters that discharged into the St. Lawrence from those that discharge into Hudson's Bay to the sources of the Nipigon River, and thence along the northerly division of the same range of high lands dividing the waters flowing direct to Hudson's Bay from those flowing into Lake Winnipeg, and crossing the Nelson, or rather (as it was then known) the Bourbon River, about midway between the said Lake and Bay, thence passing to the west and north by the sources of Churchill River, &c., no westerly boundary being anywhere assigned to Canada. It may indeed be held doubtful whether the terms in which Hudson's Bay was ceded could possibly be interpreted to mean more than the Bay and its immediate environs, but whatever the legitimate interpretation of the Treaty, the actual *acceptation* of it gave to France *at least* all to the south of the dividing high lands above described, for she remained in undisputed possession thereof until the final cession of Canada in 1763; while on the other hand the acceptation of it on the part of Great Britain, as proved by the same test of occupation, confined her at least to the north of the said high lands, if not to the very shore of the Bay, beyond which her actual possession never extended.

It must here be observed, however, that the Treaty of Utrecht conferred nothing upon the *Hudson's Bay Company.* It gave them nothing that was not theirs at the Treaty of Ryswick, and the Treaty of Ryswick gave them nothing that was not theirs before. The Charter obtained from King Charles the Second may have granted all that was his (if anything) to grant in 1670, but it would have required a new Charter to have granted what France ceded to Great Britain forty-three years afterwards. No doubt the Treaty of Utrecht had this important bearing upon the Company, that although it conferred no territorial rights upon them, the territory it conferred upon Great Britain was then inaccessible to British subjects by any other route than through the Bay and Straits of Hudson, over which (if over anything) the Company's Charter gave exclusive control, and over which, whether rightfully or wrongfully, they have exercised such control.

Matters continued in this state as regards the territorial rights of Great Britain and France for 50 years more, when Canada was ceded to Great Britain by the Treaty of Paris in 1763. During this period the Hudson's Bay Company occupied the posts on the coasts of the Bay, *and these only*, having made no attempt to penetrate into the interior or occupy even what the *British Geographers* of the time construed the Treaty of Utrecht as conferring, not upon the Company, but upon Great Britain; while on the other hand the French had covered that part of New France which still remained to them (according to the British authorities) with posts or forts from the Lake of the Woods to the lower end of Lake Winnipeg, and remained in peaceable possession thereof, and in the most active prosecution of the trade until the whole country was given up to the British by the Peace of Paris, in 1763; by which, however, nothing was conferred upon the Hudson's Bay Company any more than there had been by the Treaty of Utrecht, the rights acquired by these treaties being simply in common with other British subjects.

For a few years, about the time of the transfer of Canada from French to British dominion, the trade of the western territories languished, from a very natural want of confidence on the part of the Canadians by whom it had, up to that time, been carried on, and who now owed a new allegiance and had to seek a new market for the produce of their industry; but a fresh impulse was soon given to it, first by separate individuals, then by small companies, and finally by the great North-West Company of Montreal, who not only spread their operations over all the territories formerly possessed by the French, but explored new

countries to the north and west, while the Hudson's Bay Company had not yet made a single establishment beyond the immediate confines of the sea coast.

The temporary depression of the fur trade at the period of the transfer of Canada to British dominion, was of course advantageous to the Hudson's Bay Company, for the Indians inhabiting those parts of Canada where the French posts were established around Lake Winnipeg and its tributaries, would naturally seek a market in Hudson's Bay during the comparative cessation of demand at the establishments in their midst. But when confidence was restored, and a new impulse was given to the trade in the north-west of Canada, the supply was again cut off from Hudson's Bay, and now the Company *for the first time* entered into competition with the Canadian traders *in the interior* where their first establishment was made in 1774. And why, it may be asked, did not the Hudson's Bay Company oppose the French Canadians in the interior a few years earlier, as well as they opposed them (principally the same people) now that they had become British subjects? The answer is very simple. During French dominion they could not do it because the country belonged to France, but by the cession of the country to Great Britain, the Company had acquired the same right as any other British subject to trade in it, and they availed themselves of that right accordingly.

From this period an active competition was carried on between those companies, but the Canadian North-West Company were everywhere in advance of their rivals. They were the first to spread themselves beyond the limits of the French, over the prairies of the Saskatchewan; they were the first to discover the great river of the north, now bearing the name of McKenzie, and pursue its course to its discharge in the Frozen Ocean; they were the first to penetrate the passes of the Northern Cordilleras and plant their posts upon the shores of the Pacific; and with such indomitable energy did they carry on their business, that, at the period of Lord Selkirk's interference, they had upwards of 300 Canadians, "*Voyageurs*," employed in carrying on their trade to the west of the Rocky Mountains.

It would be a useless task now to enter into a detail of the attempt made by the Earl of Selkirk, as a partner of the Hudson's Bay Company, to ruin their opponents. It is only necessary to refer to it here as the first endeavour made to exercise the privileges contended for under the Charter over those territories which had not been acquired by Great Britain till the conquest or cession of Canada. Lord Selkirk having become principal partner and acquired a predominant influence in the affairs of the Hudson's Bay Company, it was determined to assert the assumed privileges of the Company to an extent never before attempted, and for this purpose a grant of the country on the Red River was made to his lordship, who commenced in 1811-12 to plant a colony there.* A Governor was appointed, the colonists and the servants of the Company were armed and drilled, and in 1814 the claims of the Company to soil, jurisdiction and exclusive trade were openly asserted, and for the first time attempted to be enforced by the actual expulsion of the North-West Company, several of whose forts were surprised and taken, their people being made prisoners, their goods seized, and the channel of their trade obstructed by the interception of their supplies. Overawed somewhat for the moment by this bold assumption of authority, the Canadian Company appear to have avoided the contest, but when forced into it they proved the stronger: the Governor was killed in leading an attack upon a party of the North-West Company, who turned and gave battle, and the colony was dispersed. This final catastrophe occurred in the spring of 1816, while in the meantime Lord Selkirk was organizing a more formidable force than had hitherto taken the field. Having procured a commission of the peace from the Government of Canada, he engaged a large force of the disbanded DeMuron soldiers, equipped them in military style, procured arms, ammunition, artillery even, and started for the interior.

It must be allowed that it was a somewhat anomalous course for the Government of Canada to have pursued to permit such a force to be organized; but when it is considered that great ignorance prevailed as to the state of those remote localities, that it was known

* "Who have been the aggressors in their different quarrels, I am not able to determine; however, previous to 1811, at which time Lord Selkirk became connected with the Company trading to Hudson's Bay, and sent settlers from Europe to that country, no great difference existed between the servants of that Company and the fur traders of Canada. There might be difficulties between different posts, but seldom attended with serious consequences."—Despatch of Lieutenant-Governor Gore to Earl Bathurst, 9th September, 1816.

that there had been disturbances and bloodshed the previous year ; when also Lord Selkirk's position is considered, and that he went as a pacificator professedly to maintain peace, it may not be deemed so extraordinary that so much confidence should have been placed in him, for he was even granted a sergeant's guard of regular troops. It is not the object here, however, to enter into a discussion of the unfortunate occurrences of that period, or the particular action of the provincial government, and the circumstances are only referred to, to show that Canada actually exercised the jurisdiction, that Lord Selkirk's destination was the Red River Colony, and that he deemed it necessary to fortify himself doubly with commissions as a Canadian magistrate, first for Canadian territory, and second (under 43 Geo. 3rd) for the "*Indian territories*," so that those who resisted his authority on the ground that they were in Canada, he could judge under the one commission, and those who resisted on the ground that they were in the Indian territories, he could judge under the other, while the judicial and governmental attributes claimed for the Company would have served as a third basis of operation ; and thus with the actual force at his disposal there was a pretty fair prospect of the Hudson's Bay Company being made the absolute masters of the north-west country.

At the Sault Ste. Marie, however, Lord Selkirk met intelligence of the death of Governor Semple and the dispersion of his colony ; nevertheless he still proceeded with his force as far as Fort William, on Lake Superior, where he arrived about the 11th of August, 1816, and soon after arrested the partners of the North-West Company, who were there at the time, and took possession of the whole establishment, including the merchandize and stores of the Company. The course pursued on this occasion, as appears by documents published at the time, shews the character of the pretensions set up at that period—pretensions which were then and not till then presumed upon.

It will be observed that Fort William was the principal depot of the Canadian merchants, through which all their supplies for, and peltries from, the North-West had to pass. By seizing on this point, therefore, Lord Selkirk had possession of the key of their whole trade, and was enabled to permit or refuse the transit of their goods as he saw fit. For whatever purpose, therefore, he obtained his two commissions of the peace in Canada, the expedition simply resolved itself into a continuation of the attempt to destroy the North-West Company of Canada, the rivals in trade of the Hudson's Bay Company ; for, however desirable it might be to arrest and bring to trial all parties implicated on either side in the death of Governor Semple, there could be no excuse for seizing the persons of those gentlemen who were known not to have been at the time within hundreds of miles of the scene of that catastrophe, merely because they were partners in the North-West Company, nor, even if there were cause for their arrest, did that justify the taking possession of their property without the sanction or the form of law.*

The object of entering upon this brief record is, to point out that all this occurred at *Fort William*, on the shores of Lake Superior, within what the Hudson's Bay Company, by their map and statement of "rights," now admit to be within the boundaries of Canada. And thus it will be seen that, while the pretension of extending the privileges of the Charter beyond the "coasts and confines" of the Bay to the western territories of Canada was a mere invention of that period, to further their own ends and to destroy the rival Company of Canada, they were as ready to employ force at Fort William as in the Valley of the Red River.

In further proof that the transactions at Fort William were openly done in violation of Canadian law and in defiance of Canadian authority, it is only necessary to add that when Lord Selkirk's proceedings became known, warrants were issued for his apprehension and a party of constables sent to arrest him, and that refusing obedience to the laws of this country, and presuming upon the force for the moment at his command in that remote locality (remote *then* as regards the *time* it took to reach it, though at our doors to-day), he caused the constables to be taken prisoners themselves, and treated the Deputy Sheriff of the Western District, who afterwards made the attempt, in like manner.

*"From these documents it appears that the Earl of Selkirk, acting in his own cause, aided by an armed force, had not only made the Partners of the North-West Company prisoners, but had also seized their Papers and Property."—*Lieut.-Gov. Gore to Earl Bathurst 9th Sept., 1816.*

MEMORANDUM FROM HON. JOSEPH CAUCHON, 1857.

This war between the Companies, though injurious to both, failed to exterminate either, and the final result was a compromise by which they entered into partnership; and thus the trade has been carried on since, under the name indeed of the Hudson's Bay Company, but *expressly* in conjunction with the North-West Company of Canada, so that Canada can at no time be said to have been out of possession of her western territories within the limits occupied by the French at the time of the conquest, nor out of possession of the "Indian Territories" beyond, which, after the conquest, were first discovered by the Canadian traders, and for which the License of exclusive trade was granted to the partners of the North-West Company of Canada, as such, in conjunction with the Hudson's Bay Company.

It is true that after the amalgamation of the Companies and the License of exclusive trade granted in 1821, competition became *illegal* in the "*Indian Territories*," beyond the boundaries of Canada, as indeed it had always proved *impracticable* on the part of minor traders either within or beyond the remote parts of the province, small traders being altogether unable to cope with the two great Companies. It is true also that after they, the two great Companies, had been for some time united, and when by the policy pursued by them the trade had ceased to be beneficial to, and had been lost sight of in, Canada, an arrangement was effected between the two sections of the United Company by which the name of the North-West Company was dropped entirely, the lease relinquished, and a new one obtained in which the name of the Hudson's Bay Company alone appeared; but it must be observed that this new arrangement was accepted and entered into by the British government by consent of the partners representing the original Canadian Company, for although this lease or License only affects the Indian Territories beyond the actual boundaries of Canada, it can scarcely be supposed that the government would have agreed to give it, had Canadian traders still remained in the field. The policy of the Companies when joined, has however been so far successful that they have managed heretofore to secure themselves against opposition, many no doubt being imposed upon by the pretentious but erroneous construction put upon their Charter, and the public in general kept in the dark respecting a trade which, though partly carried on in the very centre of Canada, and within range of steam navigation, is so managed as to pass by a circuitous route, by means of the primitive canoe and over portages on men's backs, away hundreds of miles into the interior and round by Hudson's Bay.

But the time has come when Canada must assert her rights, not only from that necessity for expansion which her growing population and trade require, but also because if she does not now begin to provide for the future by opening up her remote territories to colonisation, and securing the loyalty and attachment of the people by extending to them the rights and privileges of her laws and institutions, there is a moral certainty that a power far more formidable than the Hudson's Bay Company must in a very short period acquire the actual possession of those countries.

This brief chronological sketch of the history of the Company and of the circumstances connected therewith, must sufficiently show that they have acquired no territorial grant whatever under either of the two conditions stated, to which their Charter was subject; first as regards the countries then known upon the "coasts and confines" of Hudson's Bay, because they were already in the possession of the subjects of another Christian Prince, and were therefore excluded from the grant in terms of the Charter itself; and second, as regards discoveries, because when they first penetrated into the interior, 104 years after the date of their Charter, they found the country and a long-established trade in the hands of others—unless indeed as regards some discoveries to the north, which are of no special importance to Canada, such as the Copper Mine River, discovered by Hearne under the auspices of the Company.

Under the first head the most sanguine advocate of the Company, upon a full investigation of all the circumstances, could only urge on their behalf a claim to certain points, or stations, on the sea coasts of the bay, and even to these a doubtful and disputed title.

The high-legal authorities that may be quoted in favour of the claims of the Company cannot be held as of weight against the conclusions inevitably resulting from a fuller investigation of the subject, inasmuch as they are merely opinions *upon the cases submitted*. The latest opinion given upon the subject is that of Sir John Jervis and Sir John Romilly in their letter to Earl Grey, in January, 1850, in which they gave it as their opinion, "That

the rights claimed by the Company do properly belong to them." Before arriving at this conclusion, however, these learned gentlemen are careful to specify precisely what papers they had then under consideration, and to which alone they refer as the basis of their opinion. These papers were simply the "*Statement of Rights and the Map,*" submitted by the chairman of the Company, Sir J. H. Pelly.

This opinion therefore, can only be taken as affirmative of the power of the King to grant such rights and privileges as the Charter specifies, and that the Charter would cover all the territory claimed; but the question of whether that territory belonged to the King to grant was not before them. With respect to the territory which the wording of the Charter would cover, it would be difficult to say what it would not cover; and with respect to the validity of the grant of such powers, it is to be remarked that very high authorities have given a directly opposite opinion; and it may be asked why, if the Charter was valid, did the Company procure an Act of Parliament to confirm it in 1690, and why, when that Act expired, which was limited to seven years, did they again ask for an Act to continue it? It is worthy of notice, too, that the seven years' Act was passed during war with France, when it appears that Parliament did not scruple to grant or confirm a Charter for countries to which Great Britain had, at best, but a disputed title, based only upon a very partial, and even during peace, a very precarious possession; nor is it less worthy of remark, that when Parliament refused to re-grant or continue the Charter, the Treaty of Ryswick had intervened, by which the rights of France were recognized, and those of Great Britain left, at most, in doubt, and when, therefore, any such Act would have been a direct violation of an international Treaty.

Another opinion appears to have been obtained by the Hudson's Bay Company at an earlier period, from Romilly, Holroyd, Cruse, Scarlett and Bell, equally upon the case drawn and without reference to the real points at issue, merely affirming that the grant of the soil contained in the Charter is good, and that it will include all the countries the waters of which flow into Hudson's Bay. This opinion is, therefore, like the other, of no weight on questions which were not before the learned gentlemen who gave it.

Opposite opinions were obtained at an earlier period by the North-West Company, viz., in 1804, from Sir V. Gibbs, and Mr. Bearcroft. These opinions, however, although they touched the fundamental principles of the Charter, had no reference to the interior countries on the Red River, Lake Winnipeg, the Saskatchewan, &c., for the simple reason that no opinion was asked on a case which only arose six or seven years later, when Lord Selkirk came on the field.

The position of the question at this period was that the North-West Company being in possesion not only of all the country formerly possessed by the Canadian-French in that direction, but also of the country first discovered by themselves, to the north-west of the Churchill River, came to the conclusion that their trade could be more conveniently carried on with these more remote parts through Hudson's Bay than through Canada. The question they submitted, therefore, was solely in regard to the validity of the Charter in respect of the navigation, trade, and fisheries of the Bay itself. The North-West Company as little dreamt of asking an opinion respecting the legality of their trade in the interior as the Hudson's Bay Company thought, at that period, of attempting its forcible restraint. In the case put it is to be remarked that no reference is made to the early possessions of the French on the coasts of the Bay, and consequent possession of the Bay itself in communicating therewith, and yet, and even without this, these opinions are entirely adverse to the exclusive privileges claimed under the Charter.

After the difficulties occasioned by the more recent assumption of power in virtue of the Charter to expel the North-West Company from the Red River country, under the auspices of Lord Selkirk, had become serious, another opinion was obtained by that Company in 1816, from Sir Arthur Pigott, Sergeant Spankie and Lord Brougham. This opinion must be held to be more valuable than those obtained by the Hudson Bay Company, inasmuch as it enters more into the merits of the case, and is therefore more explicit as to the real views of the learned counsel on the subject submitted to them, whereas the opposite opinions are such as the gentlemen who gave them would be at liberty to ignore upon a fuller submission of the case, without incurring a charge of inconsistency.

MEMORANDUM FROM HON. JOSEPH CAUCHON, 1857.

The opinion under consideration is very decided on the point that the Red River and Saskatchewan countries are not within the limits of the Charter, even upon the merits of the description contained in the Charter itself, apart from the question of prior possession by another State. The question of prior occupation of these localities by the French is indeed lightly touched upon, though the opinion, as above, is definitely given without it; but the rights of Canada now for the first time fully discussed, based on prior discovery, at least of the whole of the interior, prior occupation on the shores of the Bay itself, and international treaties, do not appear to have ever been pronounced upon by any of those high legal authorities who have heretofore been consulted, because no such case has ever been submitted; and yet, based upon history and facts, it may be taken to supersede all necessity for raising any question as to the extent of the royal prerogative in giving validity to such a Charter.

Had the Hudson's Bay Company indeed deemed their position good in law, as against the North-West Company, in respect of the Red River country, it can scarcely be supposed that they would have resorted to force at such a lavish expense (and it must be added, involving no small amount of bloodshed), when the question could have been so easily determined by the legal tribunals, at an expense altogether inconsiderable as compared with the actual losses and costs incurred. They have indeed attempted to show that they had not an equal chance with their rivals in the courts of this Province; but not to speak of the injustice of such an insinuation in itself, the objection is untenable while *they had the right of appeal*, and to suppose that they were deterred from taking such a course from any difficulty attending the proceeding would be simply absurd, when we find them organizing an *army* to defend their claims in those remote localities, and thus voluntarily removing the venue from the courts at law, by a far more difficult and expensive process, to the arbitrament of force, where the interference of law could not be so readily invoked to check their proceedings.

And if any justification of this course could be based on the supposed validity of their Charter, and on the ground that it could be construed to cover that locality, why, when they failed to maintain their position by force, when the North-West Company, even after the temporary interruption of their trade through the seizure of Fort William by Lord Selkirk, still continued in the ascendant, why did they not then resort to a trial at law, which, if it had resulted in their favour, would at once have secured a power exactly commensurate with the emergency to maintain their rights? for then, if the civil power had proved insufficient, the whole power of the empire would have been available as far as necessary. But instead of trying the issue in a Court of Law, they finally amalgamated with their rivals, affording thereby a clear proof that they had no hope of being able to treat them otherwise than as possessing equal rights, thus consenting to their opponents sharing with them what they had previously contended to be their private property.

To conclude the question of the Hudson's Bay Company's territories under their Charter, therefore, it is difficult to arrive at the result that they have any territorial rights at all, for in the first place, the country was practically occupied by the French before the date of the Charter, and consequently excluded from it; and in the second place, because the whole country, including Hudson's Bay, was known as New France or Canada, as per maps and descriptions publicly known throughout Europe previous to that date, and therefore, if not so before, became the property of France by the Treaty of St. Germain-en-Laye, in 1632, and as such *necessarily could not be* and *expressly was not* granted by their Charter; and in the third place, because by the Treaty of Ryswick the right of France to expel them as trespassers on her soil was manifestly admitted. And finally, even assuming that Great Britain originally had acquired a divided right with France, each to the extent of the establishments which their subjects respectively were the first to form, the Hudson's Bay Company would only have a right, under their Charter, to those particular posts, or forts, which they were the first to take possession of in localities previously unoccupied, for the Treaty of Ryswick conferred nothing upon them (if it even permitted them to retain anything, which is doubtful); the Treaty of Utrecht, although it gave Hudson's Bay to the British, conferred nothing upon the Company, apart from other British subjects; and the Treaty of Paris (although it gave Canada to Great Britain) conferred nothing upon them, except rights in common with other British subjects; while until eleven years after the last-

named treaty, they never occupied anything beyond their original establishments on the coast, and those (also on the coast) conquered from or ceded by France at the Treaty of Utrecht, but which could not, by such subsequent conquest, or cession, be made subject to their Charter.

BOUNDARIES OF CANADA.

Having thus disposed of the boundaries of the Hudson's Bay Company's Territories—if such can be said to exist—the boundaries of Canada next come to be considered, and a division of the subject will naturally suggest itself into two heads. First, the original boundaries of Canada under the French; and second, the boundaries of Canada as acquired by Great Britain in 1763. The southerly boundaries, when not affecting the present question, need not of course be particularly referred to.

It will not be necessary to enter at length into the question of the original boundaries under the French, as they have already been sufficiently indicated. They *claimed* all to the north of the St. Lawrence, and were the first to *occupy* Hudson's Bay. If the British, besides their visits in search of a north-west passage, had seen fit to occupy the country for any practical purpose and been the first to do so, they might no doubt have claimed it for their own. Had any such actual occupation followed the voyages of Hudson and Button, notwithstanding the French footing on and claim to the whole continent north of the St. Lawrence, it must be admitted that a valid title would have been created. But when such occupation was only first attempted some fifty or sixty years later, in support of a commercial project of two Frenchmen, who had been already engaged in the trade, and when France was in formal and actual possession, it cannot be denied that the French title was the preferable one. Of the original territories of Canada, Great Britain therefore acquired a part by the Treaty of Utrecht, the residue remaining to France for fifty years later. On this head there seems to be no dispute, for British authorities designate a part of what they claim to have been acquired by that treaty, as Canada.

It now remains to be considered what were the boundaries of the country finally acquired by the Treaty of 1763, which, according to French and other authorities, was much larger than according to British authorities; but it will perhaps be most satisfactory for the present to adopt the latter.

One of the most circumstantial British accounts of the westerly possessions of the French is to be found in a geographical and historical work published by Thos. Jefferys in 1760. After giving the French account of Canada, he proceeds to give the English version of its boundaries in the following words:—

"Canada, according to the English account, is bounded on the north by the high lands which separate it from the country about Hudson's Bay, Labrador or New Britain, and the country of the Eskimeaux and the Christeneaux; on the east by the River St. Lawrence; and on the south by the Outawais River, the country of the Six Nations and Louisiana, *its limits towards the west extending over countries and nations hitherto undiscovered.*"

The high lands referred to in the above are distinctly delineated on the maps published with the work as the northerly section of the range which, dividing to the north-west of Lake Superior, separates the waters flowing direct to Hudson's Bay from those flowing into Lake Winnipeg, crossing the Nelson River at Split Lake or Lac des Forts, &c. Describing the country from Lake Superior westward, the author goes on, at page 19, as follows:—

"At the mouth of Les Trois Rivières, or the Three Rivers, is a little French Fort called Camenistagouia; and twenty-five leagues to the west of the said Fort, the land begins to slope and the river to run towards the west.

"At ninety-five leagues from this greatest height lies the second establishment of the French that way, called Fort St. Pierre, in the Lake des Pluies. The third is Fort St. Charles, eighty leagues further, on the Lake des Bois. The fourth is Fort Maurepas, a hundred leagues distant from the last, near the head of the Lake of Ouinipigon. Fort La Reine, which is the fifth, lies a hundred leagues further on the river of the Assiniboels. Another Fort had been built on the River Rouge, but was deserted on account of its vicinity to the two last. The sixth, Fort Dauphin, stands on the west side of Lac des Prairies, or of the Meadows; and the seventh, which is called Fort Bourbon, stands on the shore of the Great Lake Bourbon. The chain ends with Fort Poskoyac, at the bottom of a river of that name, which falls into Lake Bourbon. The River Poskoyac is made by De Lisle and Buache to rise within twenty-five leagues of their west sea, which they say communicates with the Pacific ocean. *All these Forts are under the Governor of Canada.*"

The above, it will be observed, is the English account of what was still French Canada in 1760, just after the taking of Quebec, and before the final conquest and cession of the country. The River Poskoyac is that which now bears the name of the Saskatchewan, upon

which Sir Alexander McKenzie, states that the French had another Fort higher up than Fort Poskoyac. *

The same author, Jefferys, in his description of Louisiana, says : "It is bounded on the N. by Canada ; on the E. by the British Colonies of New York, Pennsylvania, Maryland, Virginia, &c., &c." The map accompanying this description claims the British colonies Virginia, &c., as coming up to the east bank of the Mississippi, and therefore it is Louisiana west of the Mississippi that he refers to as bounded by Canada on the north, that is to say, from the sources of the Mississippi westward.

The same year in which this work was published, all Canada was surrendered to the British, though not finally ceded till three years after.

In surrendering the country to the British, the Marquis de Vaudreuil submitted articles of capitulation which were marked "granted," or "refused," &c., according as they were finally agreed to by General Amherst. In guarding the interest of the Canadian colonists in every part of the country surrendered, the localities above described by English authority as being under the "Governor of Canada," are designated as "*the Countries above*," and the 46th article of the capitulation is as follows :

"The inhabitants and merchants shall enjoy all the privileges of trade under the same favours and conditions granted to the subjects of Her Britannic Majesty as well in the *Countries above* as in the interior of the Colony.—Granted."

By which these countries were manifestly surrendered along with the rest of Canada, and the future rights of the Canadians guaranteed thereto by the provision that no British subjects should ever enjoy any privileges of trade there in which they did not share ; not indeed that this guarantee, although it would decidedly have that effect, could have been foreseen as a safeguard against the Hudson's Bay Company who had never at that period penetrated into the country, it being simply intended to prevent any cause whatever from depriving the French colonists of the benefits of a trade, which had always been one of the most important in the country.

In the negotiations for peace that followed in 1761, which were directed on the one part by Mr. Pitt, and by the Duke de Choiseul on the other, and which ended, for the time, in failure, France contended for the boundaries of Louisiana extending to Canada, which Great Britain opposed. Finally, the Treaty of 1763 allowed Louisiana to extend west of the Mississippi to its source, and made that river from its sources downwards the boundary between the British and French possessions,—the boundary from the sources of the Mississippi westward being left undetermined, a question which had ultimately to be settled with the United States instead of with France.

The system adopted and industriously followed by the two rival Companies after their union had indeed so disseminated an erroneous appellation, that the country north and north-west of the Mississippi had come to be commonly called the Hudson's Bay Company's Territories ; but when diplomatists and statesmen came to study the subject, tracing up from history and fact their respective claims, as bearing upon the Oregon question, they did not stultify themselves by the use of such an erroneous term ; accordingly we find Mr. Buchanan, now President elect of the United States, using the following language, in concluding a proposition made by him on 1st July, 1846 :

"The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of *ancient Louisiana and Canada* to the Pacific along the same parallel of latitude which divide *them* east of the Rocky Mountains."

The same line of argument sustains the British plenipotentiary when, in arguing the pretensions of his government to Oregon, he traces the progress of the Canadians westward across the Rocky Mountains to the Pacific.

The next step in the natural progress of events is the description of Canada under British sway. The first step after the Treaty of Paris was to provide for the government of the settled parts of the country, for which purpose the government of Quebec was organ-

* "It may be proper to observe, that the French had two settlements upon the Saskatchiwine long before, and at the conquest of Canada ; the first at the Pasquia, near Carrot River, and the other at Nipawi, where they had agricultural instruments and wheel carriages, marks of both being found about those establishments, where the soil is excellent."—Note to General History of the Fur Trade, p. lxxiii. See McKenzie's Voyages. London, 1801.

ized, comprising however a very limited portion of Canada, as per proclamation of 7th October, 1763, the rest of the country being thereby reserved from survey or settlement, for the moment, for the protection of the Indians. The descriptions of Canada, however, of that period, took in the country to the westward of Pennsylvania, by the Ohio River, to the Mississippi. And the Imperial Statute of 1774, commonly called the "Quebec Act," describes the Province as extending "Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of England trading to Hudson's Bay," *but does not specify what their boundaries are*, and it will be seen, by what follows, that the construction put upon this Act by the British Government, nine years later, was adverse to the present pretensions of the Company. The Treaty of Independence of the United States provided a new southerly boundary for Canada, a part of what had formerly gone under that name having been ceded to the United States; and by the commission issued to Lord Dorchester—the first after this Treaty—the same words are used in describing the boundaries of Canada, as in the Treaty, viz.:

"Through Lake Superior, northwards of the Isles Royal and Philipeaux to the Long Lake; thence, through the middle of the said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence, through the said Lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi, and northward to the southern boundary of the territories granted to the Merchant Adventurers of England trading to Hudson Bay."

This description, it will be seen, leaves the boundaries beyond the sources of the Mississippi indeterminate. On the supposition that a line due west from the Lake of the Woods would intersect the Mississippi, the King was obliged to limit the extent of Canada on such line to the Mississippi proper, because by the Treaty of Paris, France retained the whole country to the west of the Mississippi from its source downwards. Had the King's Commission said from the intersection of the *due west* line with the Mississippi "*due north*," it might have been argued that it provided a westerly boundary, but it simply says "*northerly*," because although it was necessary to limit it to the Mississippi, where Louisiana commenced, there is no need for being specific beyond the sources of that river where the westerly boundary of Canada was yet unknown. Of the extent of Canada to the north by this description, it is enough to say that it was the same as by the Act of 1774, and required the boundaries of the territory granted to the Hudson's Bay Company to be defined *first*, and if that failed it had no other limit, short of its original extent under the French.

At the "definitive Treaty of Peace" with the United States, their territory did not extend to any point to the west of the Mississippi, until they acquired Louisiana in 1803. It will be remembered that Mr. Pitt objected to the northerly boundary of Louisiana coming so far north as the southerly boundary of Canada in 1761, that nevertheless it was so settled in 1763 that the Mississippi should be the boundary to its source. This result seems to have been a compromise by which Louisiana was confined almost entirely to the west of the Mississippi, Great Britain thus gaining her point on the east, which came more nearly in contact with her old possessions, and giving to France entire scope on the west to the very sources of the Mississippi, the boundary from thence westward being left undetermined. This point had accordingly to be afterwards settled with the United States, who had in the meantime acquired the rights of France. This settlement ultimately admitted the 49th parallel of latitude as the northerly boundary of Louisiana, and as such necessarily the southerly boundary of Canada from the Lake of the Woods due west to the Rocky Mountains, passing north of the source of the Mississippi proper, though intersecting some of its tributary streams, the only error in which was that the line should not have been north of the source of the Mississippi, an error resulting from a previous treaty with the United States, at a time when it was supposed that the parallel of latitude agreed upon east of the Mississippi would intersect that river.

Were the King's letters patent to Lord Dorchester indeed taken literally at the present day in regard to the southerly boundary of Canada, the due west line of the description, not intersecting the Mississippi, would go on as far as British territory, not otherwise organized, would carry it, which would be to the Pacific; or if limited at all it would be by the first waters of the Mississippi which it did intersect, which would be the White Earth River, and this would in fact correspond with the extent of Canada previously known to the French, taking in all the old forts already mentioned and leaving out the "countries

and nations hitherto undiscovered," that is at the time of the conquest, though at the period when that description was made, the North-West Company were carrying on an active trade much farther to the west: nor is it clear that this would be adverse to the intention of the description, for some of the maps of that period represent the Mississippi as west of the Red River.

The southerly boundary of the British dominions west of Lake Superior being therefore demonstrated as identical with the southerly boundary of Canada to *some point due west* of the Lake of the Woods, the only question is as to where that point is to be found; is it the White Earth River, the first waters of the Mississippi, with which the due west line intersects? or is it the summit of the Rocky Mountains, on the same principle that the *co-terminous* boundary of Louisiana was ultimately so construed?

The next point to be determined is the northerly extension of Canada from its southerly boundary. The official description, corresponding with the Act of 1774, carries it to the boundary of the Hudson's Bay Company's Territories, but the same official description ignores the boundaries they claim (*thus proving so far the construction then put upon the Act of* 1774), for it carries the southerly boundary of Canada down the water-shed of Hudson's Bay from two to three hundred miles to the Lake of the Woods, and *thence due west;* thus making the starting point far within what the Hudson's Bay Company claim, and thus *from a point within what they claim* as their territory, it is to extend northerly to their territories. If then the "rights" of the Hudson's Bay Company were even far less equivocal than they are, their southerly boundary, as pretended by themselves, is entirely demolished, and the question arises *where is the boundary of their territories so described as the northerly limit of Canada?* The question of territorial rights has already been so fully discussed that it is unnecessary to repeat the arguments. The only possible conclusion is, that Canada is either bounded in that direction by a few isolated posts on the shore of Hudson's Bay, or else that the Company's territory is—like the intersection of the due west line with the Mississippi—a myth, and consequently Canada has no particular limit in that direction.

The accompanying map illustrates the northerly boundary of Canada, according to British authorities, as ceded by the French in 1763, there being no westerly boundary then known or since provided. This is perhaps all that could in the first instance be absolutely claimed as under the Government of Canada, were it not that, since the final determination of the southerly boundary, the Imperial Government merely described the authority of this Government as extending over *all the countries theretofore known as Canada*, which might fairly be taken to cover the territory acquired by the Treaty of Utrecht, as well as that acquired by the Treaty of Paris.

Boundaries of the Indian Territories.

The boundaries of the Indian Territories need little consideration or explanation, as they simply include all that belongs to Great Britain in North America to the north and west of Canada, excepting the Territory (if any) which the Hudson's Bay Company may of right claim. It must not be lost sight of, however, that the great bulk of this territory has been acquired by the Crown of Great Britain, through discoveries of its Canadian subjects, beyond whatever may be determined to be the westerly boundary of Canada, across the Rocky Mountains to the shores of the Pacific, and by the McKenzie River to the Frozen Ocean. The importance of these discoveries in the negotiations pending the Treaty of Oregon, cannot be forgotten, for it is in virtue of *Canadian Discovery* and *Canadian Settlement* that the British negotiator was enabled to maintain his position in the controversy, and secure a footing for his country on the Pacific. And when, it may be asked, did ever the Hudson's Bay Company afford such an important advantage to British interests?

Sir Alexander McKenzie's journey in 1793 across the Rocky Mountains (the first ever performed north of Mexico) is thus referred to by the British Plenipotentiary, in negotiating the Treaty of Oregon:

"While Vancouver was prosecuting discovery and exploration by sea, Sir Alexander McKenzie, *a partner in the North-West Company*, crossed the Rocky Mountains, discovered the head waters of the river, since called Frazer's River, and following for some time the course of that river, effected a passage to the sea, being the first civilized man who traversed the continent of America from sea to sea in these latitudes. On the return of McKenzie to Canada *the North-West Company* established trading posts in the country to the westward of the Rocky Mountains."

MEMORANDUM FROM HON. JOSEPH CAUCHON, 1857.

This was the British title to that part of the country, and but for this journey and the establishing of these trading posts, by which were acquired what the same diplomatist says "may be called beneficial interests in those regions by commercial intercourse," the probability is that Great Britain would now hold no continuous possessions across this continent, if she even held any isolated localities on the Pacific, in virtue of her discoveries by sea.

Lewis and Clark, Americans, descended the southerly branch of the Columbia River, 1805, and in 1811, Mr. Thompson, of the North-West Company, came down the main branch from the north, whose discovery is thus referred to by the British Plenipotentiary :—

"In the year 1811, Thompson, the Astronomer of the *North-West Company* discovered the northern head waters of the Columbia, and following its course till joined by the rivers previously discovered by Lewis and Clark, he continued his journey to the Pacific."

And again :—

"Thompson, of the *North-West Company*, was the first civilized person who navigated the northern, in reality the main branch of the Columbia, or traversed any part of the country drained by it."

This is the title by which Great Britain has been enabled to retain the main branch of the Columbia to its intersection with the 49th parallel of north latitude, and the free navigation for her subjects of the whole river from that point to its discharge in the Pacific Ocean, as secured by the Treaty of Oregon, 1846.

With respect to McKenzie's discoveries to the north, no diplomatic reference thereto can be quoted, inasmuch as there has been no disputed title on the part of any foreign Power to give rise to any controversy on the subject.

It may fairly be urged therefore, that these "Indian Territories," originally the fruits of Canadian enterprise, perseverance and industry, should no longer be shut out from the Canadian people, but should in fact be united to Canada as a part of the British Dominions which Canadian subjects have had the merit of acquiring and retaining for the British Crown.

JURISDICTION.

The question of jurisdiction next comes under consideration, and in this, as regards the Hudson's Bay Company, it is apprehended that the actual exercise of it is widely different from what existing laws would sanction.

The mystery with which this Company have managed to shroud their operations in the interior renders it difficult to say what they do or what they do not do, but it is generally understood that they actually exercise unlimited jurisdiction in every respect, civil, criminal and governmental, and that not only in what has been considered their own territories, but also in the Indian Territories and those parts of Canada not immediately contiguous to settlement; all of which existing law positively forbids them to do, it need not be said, in Canada, but either in their own territories or in the Indian Territories.

By the Imperial Statute 43 George 3, chapter 138, the jurisdiction over the Indian Territories and all "*parts of America not within the limits of the provinces of Lower or Upper Canada*, or either of them, or within any civil government of the United States of America," is vested in the said provinces. It is a curious circumstance that the very words of this Act, which seem to have been intended to deny all claim to any jurisdiction on the part of the Hudson's Bay Company, should have been taken hold of as the means of questioning its reference to them. The preamble of the Act, in giving the reason for the enactment, states that offences not committed within the limits of the Canadas or the United States, as above, "are therefore not cognisable by any jurisdiction whatever." This the Company argued could not mean their territories, *because* jurisdiction *did* exist there. The Act, they said, could not mean *all* British America not within the limits of the Canadas, for the assertion that no jurisdiction existed was not true of Nova Scotia or New Brunswick, and therefore might not be true of Hudson's Bay. Thus, in fact, it appears that the framers of the Act having their minds directed to the north-west, where the offences referred to had occurred, forgot to exclude the provinces lying on the opposite side of Canada, on the Atlantic coast, from its operations; and this omission, when the war was carried on between the two Companies in the interior, Lord Selkirk turned to account to throw doubt on the applicability of the Act to the Company's Territories. But the assumption that this Act does not affect their pretensions is doubly futile; for, when more closely considered, it either

brings their territories within Canadian jurisdiction or it ignores them altogether, and in either case it contracts the limits they claim. If they make good their assertion that it does not affect their territories, then it destroys their claim to have their limits extended to the boundaries of Canada. The territories referred to in the preamble of the Act are those not within the limits of *either* Lower or Upper Canada, the two Provinces being treated *distinctly* as regards the territories not within their limits. Now, taking Lower Canada in the first instance, it is bounded by the Ottawa, and a line due north from the head of Lake Temiscamingue; and the places outside its limits on which the Act would have effect, if not the Company's territories, must certainly be something between those limits and their territories. But the question is more important as regards the places outside of Upper Canada. If the maps accompanying the "Statement of Rights," submitted by Sir J. H. Pelly, be correct, then the territory affected by the Act is about 1,500 miles distant in its nearest part from the most remote point in Canada. In other words, Canada ends at the source of Pigeon River, and the Indian Territories begin at the top of the Rocky Mountains, and we are required therefore to assume that the Imperial Legislature meant to commit the absurdity of giving jurisdiction to the Courts of Canada over a territory beginning at a distance of some fifteen hundred miles from her frontier, while a different British jurisdiction (that of the Company) prevailed in the intervening space. But assuming for fact the Company's view of the case, that it did not affect their territories, we find the very purpose for which the Act was passed as expressed in the title to be, to provide a jurisdiction for certain parts of North America *adjoining* to the said Provinces of Lower and Upper Canada. Consequently, if the territory affected by the Act only commences at the summit of the Rocky Mountains, as represented by the map submitted by Sir J. H. Pelly, then as it *adjoins* this Province, Canada must extend *to* the summit of the Rocky Mountains, so that on their own showing the jurisdiction they exercise in the intervening space, at Red River for instance, is out of their own territories, and therefore not only without the sanction of law, but in violation of a positive enactment. They must thus either ignore their own pretensions to the territory between what they call the westerly boundary of Canada and easterly boundary of the "Indian Territories," or they must admit that the Act under consideration (which is still unrepealed) applies to their territories, in which case their jurisdiction in every part would be in violation of the statute.

But if there was any doubt on the subject before, it was fully removed by the Act 1 and 2 Geo. 4, Cap. 66, which was passed after all the strife and bloodshed in the north-west, and which, after reciting the doubt raised respecting the former Act being applicable to the Hudson's Bay Company's territories, declares at section 5, in the strongest and most comprehensive manner, that the said Act and all its clauses shall be construed to apply to their territories, any thing in "*any grant or Charter to the Company to the contrary notwithstanding.*"

This Act, 1 and 2 Geo. 4, cap. 66, gives jurisdiction, as full and complete as language can make it, over all the Indian and Hudson's Bay Company's territories, to the Courts of Canada, and it provides for the appointment of Justices of Peace by the Crown (both for the Indian Territories and Hudson's Bay Company's Territories) to whom the *Canadian Courts are empowered* to issue commissions "to take evidence in any Cause or Suit and return the same, or try such issue, and for that purpose to hold courts, &c. These courts are most distinctly made subordinate to the Courts of Canada, &c., and can, in fact, be created by and exist through them only.

By the 11th and 12th clauses, however, the Crown is empowered to Create Courts of Record, without the intervention of the Canadian Courts (but without limiting the power to be exercised through them), for the trial of small causes and petty offences, the former being limited to civil cases not affecting a larger amount than £200, and the latter to cases in which the offence does not subject the person committing the same to capital punishment or transportation.

By this Act it is repeatedly declared and enacted in the most emphatic manner that its enactments shall have effect "notwithstanding anything contained in any Charter granted to the Governor and Company of Adventurers of England trading to Hudson's Bay.

It is true the last clause of the Act reserves to the Company in the most ample manner

all rights and privileges they "are *by law entitled* to claim and exercise under their Charter." This it will be observed is what the "Statement of Rights" refers to when claiming a "*concurrent jurisdiction*" with the Canadian Courts. Now, when it is observed that the Legislature has refrained from expressing any opinion as to what the rights or privileges of the Company really are, and cautiously abstained from recognising any but what they already had "*by law*," it is difficult to suppose that it was the intention of the Act to recognise in them those very powers which it was making the most ample provisions for the exercise of by a totally different authority in strong and repeatedly expressed abnegation of their pretentions.

It is also to be observed that the previous Act, 43 Geo. 3, which denies their jurisdiction, is still in force, unrestricted in every particular, and not deriving its force from the subsequent statute, which is merely *declaratory* in that particular of its proper construction.

The question of whether the Company can exercise any legal jurisdiction within their own territories—limited to their just extent—loses its importance, however, in face of the more serious question of its actual exercise both in Canada and the Indian Territories, and that even to the extent of life and death, while the intention of the Imperial Legislature in creating a jurisdiction for these territories, reserved all important cases, either civil or criminal, for trial by the regularly constituted legal tribunals of an organized community, where the *Charter* of British rights would be held as sacred as the interests of a commercial Company who assume to be themselves the Judges, where (without any reflection upon them collectively or individually) cases must, in the very nature of things, arise in which they ought to be the judged.

It therefore becomes of very great moment to ascertain the truth of certain statements that have been made to the effect that their principal officers at Red River hold their commissions from the Crown, and if so, under what form, for what extent of territory, and how described. Such commissions might, no doubt, have been issued under the statute 1 and 2 Geo. 4, for the Hudson Bay Company's Territories, and for the Indian Territories, for the trial of small causes and offences of a minor nature as already described, without in the least infringing upon or limiting the right of Canada to intervene; but if the British Government has expressly included the Red River country in any such commissions, it can only have been through a misapprehension of boundaries, which is not to be wondered at from the policy pursued since the union of the Companies, and the erroneous view of the case they have so constantly disseminated; and no doubt any such powers, if they had been granted, would be withdrawn as soon as the case has been brought fully under the consideration of the Imperial authorities.

In concluding the question of jurisdiction, it is necessary to observe that the Imperial Statutes herein quoted, which vest the jurisdiction in Canada to the shores of the Pacific, have been repealed in so far as they relate to Vancouver's Island by the Act 12-13 Vic., cap. 48, which re-invests the jurisdiction of Vancouver's Island in the Imperial Government until the establishment of a Local Legislature, which the Act contemplates.

At the same time, a Charter was granted to the Hudson's Bay Company for the colonization of the island, conveying a grant of the soil.

Neither the Act, nor the Charter, however, confers any jurisdiction upon the Company.

The Company were required by the terms of the grant to colonise the Island within five years, failing which the grant was to become void. It was also stipulated that the grant might be recalled at the time of the expiration of their lease for the Indian Territories upon payment to the Company of the expenses they might have incurred, the value of their establishments, &c.

General Remarks.

Before concluding this Report, it is desirable to offer a few general remarks upon the subject, which the policy of the Company has kept out of view, and which consequently is not generally well understood.

The Hudson's Bay Company claim under three separate titles, the first of which is the Charter of Charles II., granted in 1670, *for ever*. The second is the lease originally granted in 1821 to them, in conjunction with the North-west Company of Canada, for the Indian Territories. The third is their title to Vancouver's Island, as explained. Under the first they base their claim to government, jurisdiction, and right of soil over the whole country

watered by rivers falling into Hudson's Bay ; at least, such is the theory, although they have abandoned it south of the present southerly boundary of Canada at Rainy Lake, the Lake of the Woods, and along the 49th parallel, to the south of which those rivers take their rise. Under the second, they claim exclusive trade from the Rocky Mountains west to the Pacific, and from the sources of the McKenzie River to the Frozen Ocean. There is no dispute about their title on this head, but their lease expires in two years, and it is a renewal of this lease for a further period of twenty-one years which they now seek to obtain.

It will be seen by the question of boundary already treated, that the country about Red River and Lake Winnipeg, &c., which they claim under their Charter, absolutely belongs to Canada ; and it will be observed that the abstract right, not the value of the territory, has been dwelt upon, but unfortunately the latter had been as little generally understood as the former, the result of the means the Company have taken to conceal it, for seldom if ever has the wisdom and foresight of man devised a policy better calculated to the end for which it was intended than that adopted since the union of the Companies in 1821.

Before that union the Canadian Fur Trade gave employment to some thousands of men as mere carriers, or "*Voyageurs*" as they were termed.

In endeavouring to depreciate the national services rendered by the North-West Company during the war of 1812, at the capture of Michilimacinac, &c., Lord Selkirk alludes to this body of men as forming the "*Voyageurs Corps*," but denies credit to the Company for their important services, which he admits "in a great measure secured Canada," because they were not constantly employed by the Company, and effected this service at a season of the year when the Company did not require them. Assuming this to be the fact, however, had there been then, as now, no such Company and no such trade, there would have been no such body of men ready for action in the hour of danger.

Had the circumstances of the trade continued the same to the present day, settlement must have followed the route of such a line of traffic, and the continual intercourse between this country and the fertile plains of the "far West" would have placed us as far in advance of our American neighbours in the colonisation of those countries, as we are now behind them.

But the policy of the united Companies has been so admirably carried out in all its details, that an erroneous impression respecting the country and everything connected with it had gradually got possession of the public mind, and it is wonderful with what tact such impressions may sometimes be conveyed without any statement being made contrary to truth. The very appellation of "*Hudson's Bay Territory*" as applied, for instance, to the RedRiver country, carries a false impression with it, for the waters of the Mississippi and the Red River, the Assiniboine and the Missouri, interlace with each other there, and therefore the designation of "*Gulf of Mexico Territory*" would just be as correct. But what a different impression it would convey as regards climate. Again, almost every mention of the available parts of the Western Territories, which are well known to possess a soil and climate adapted in the highest degree for successful settlement, is interwoven with some reference to *ice* in some shape or other, which no doubt the Company truly encounter in carrying the trade some eight hundred miles due north through Hudson's Bay.

An admirable specimen of this kind of policy, by which erroneous impressions may be conveyed, is to be found in Sir J. H. Polly's letter to Lord Glenelg, of 10th February, 1837 :

"For many years prior to the conquest of Canada, French subjects *had penetrated by the St. Lawrence to the frontiers of Rupert's Land ; but no competition had occurred* between the traders of the two countries *within the territories of the Hudson's Bay Company* previous to the cession of Canada to Great Britain.

"Subsequent to that period, the greater capital and activity of British subjects led to a competition, *first on the frontier parts, then in the interior*, and at last to the formation of a Company, combining all the individuals at that time engaged in the trade to countries bordering on the west of Lake Superior, under the firm of the North-West Company of Montreal."

This, when dissected, is a significant paragraph. *Where are "the frontiers of Rupert's Land?"* if the French, whose forts were all around Lake Winnipeg, had not reached them before the cession of Canada to Great Britain ? This is an important corroboration of the views of the boundary question explained in the present report.

That "no competition had occurred within the Territories of the Hudson's Bay Company" up to that time may be very true, because the Company had never come up from

the shores of the Bay, and the French had not gone down—from their places on Lake Winnipeg—to the Bay. The second paragraph above quoted may also be substantially true, but yet it is so framed as to convey to the general reader that the competition arose from the inhabitants of Canada advancing beyond where they had been before; whereas it was the Hudson's Bay Company who then came up, for the first time, from the shores of the Bay, which led to the competition "first on the frontier parts" of Rupert's Land, "then in the interior," on Lake Winnipeg, the Sascatchewan, &c., where the Canadians had long enjoyed the trade without competition.

Such is the system and policy pursued by the Company to exclude from view and create erroneous impressions respecting the Western portion of this Province, than which there is perhaps no finer country in North America. The same course marks their proceedings at the present moment, for no intimation has been given to this country of their intention to apply for a renewal of the lease of the Indian Territories, though exercising the privileges they do in countries subject to the Canadian Government, it would not have been unreasonable to expect a different course. Neither does it appear that they have taken any means to inform the inhabitants of those countries whose rights and interests are most deeply affected by the action to be taken, that they were to make this early application for renewal of their lease. Had it been effected in the quiet manner they seem to have desired—a consummation which the thanks of the country are due to the Imperial Government for having refused to sanction—*they only* would have been heard in their own case, and the result would have been, alike to the people here and in the more remote territories, a surprise.

Canada has no quarrel with the Hudson's Bay Company, and desires no harsh measures towards them. It would be alike ruinous to them, and injurious to the countries over which they hold either legal or illegal sway, to put a sudden stop to their operations; but it is an error to suppose that the governing of those countries is a task of uncommon difficulty. The state of anarchy which prevailed in those countries during the warfare of the Companies was the result of the strife between them, where there was no sort of authority, except what they seemed equally to wield, and not arising from any turbulent or ungovernable spirit on the part of the native population. On the contrary, the moment a recognized authority stepped in to control both Companies, implicit obedience was at once yielded to it throughout those vast territories, and either party would have found itself powerless to command followers for any purpose of further aggression. This was upon the occasion of the withdrawal of all commissions of the peace, previously granted to the leading people of the two Companies, the appointment of two special Commissioners (one of them a member of the Executive Council of Lower Canada,) and the issuing of a proclamation in the name of the Prince Regent, by authority of a despatch from Earl Bathurst, of 6th February, 1817, requiring the mutual restitution of all the places and property captured during the strife, to the party who had originally possessed the same, and the entire freedom of the trade to each party, until further ajudicated upon. Galling as this restitution must have been in numerous instances, where party feeling embittered by the loss of many lives, had reached the highest pitch of excitement, it was immediately complied with.

The proper course to pursue, therefore, would be to lay before the Imperial Government the expediency of annexing the Indian Territories to Canada, showing that by this means only can those countries be retained long in the possession of Great Britain. For colonised they *must and will be*; it is only a question of who shall do it. If we do not, the Americans will, and that in spite of anything the Company can do to prevent it. That these Territories are fit fields for settlement it is useless to dispute, for one physical fact upsets all theories to the contrary. Where a country is found to sustain *animal life* to such an extent that hundreds of thousands of wild cattle find subsistence there both in summer and winter, there man also can find a home and plenty. Nor is the country possessing this characteristic confined to a narrow strip along the frontier, but continuing to widen to the westward it is found that the climate, even on the east side of the Rocky Mountains and at a depth of seven degrees North of the American Boundary, is milder than the average of the settled parts of Upper Canada.

On the west side of the Rocky Mountains the climate is mild to a still higher latitude, but Vancouver's Island together with the contiguous main land is perhaps one of the finest

countries in the world for colonisation. The only drawback is the difficulty of access—a difficulty which the present system will never remove, for it looms larger now than it did forty or fifty years ago, when the North-West Company of Canada poured a continuous stream of traffic across the continent. This Island cannot now of course be annexed to Canada on the same terms as the other Indian Territories, as the existing Charter under which the Island is held (a different and distinct thing, be it remembered, from either the old Charter or the expiring Lease) entitles the Hudson's Bay Company to payment of the value of their establishments if the grant be rescinded, which Canada would naturally be expected to pay if the Island were conceded to her, and it might be well to see now upon what terms this could be done, because it seems that if it be not done at the expiration of the Lease of the "Indian Territories," it could not be done afterwards, unless indeed the Company have failed to fulfil the conditions required within the first five years.

Twelve years ago the United States had no communication with their territories on the Pacific except by sea, and during the Oregon negotiations, when proposing strenuous measures upon the subject, the President in his message to Congress, 2nd December, 1845, says :—

"An overland mail is believed to be entirely practicable : and the importance of establishing such a mail at least once a month is submitted to the favorable consideration of Congress."

How different the circumstances now, and how "entirely practicable" it has proved, need not be dwelt upon, but it must be remarked that at no other point, north of the Gulf of Mexico, are the facilities for communication across the continent anything like equal to what they are through Canada, there being good navigation three-fourths, if not more, of the whole distance ; first to the head of Lake Superior, from whence the navigation is broken to Lake Winnipeg (though about 150 miles of this distance is navigable), then through that Lake to the Saskatchewan, on which there are obstructions, in the lower part near the Lake, from whence the navigation is unimpeded to the very base of the Rocky Mountains.

It would be very desirable, therefore, and quite practicable, if the British Government will consent, to annex the Indian Territories, extending to the Pacific and Vancouver's Island, to Canada, to establish during summer a monthly communication across the continent. It is of incalculable importance that these measures should be most forcibly pressed upon the Imperial Government at the present juncture, for on their solution depends the question of whether this country shall ultimately become a Petty State, or one of the Great Powers of the earth ; and not only that, but whether or not there shall be a counterpoise favourable to British interests and modelled upon British institutions to counteract the preponderating influence—if not the absolute dominion—to which our great neighbour, the United States, must otherwise attain upon this continent.

No reference has been here made to the controversy between the Company and those who accuse them of exercising a pernicious influence over the Indian population, nor is it necessary to enter into the subject further than to point out the erroneous impression the Company strive to inculcate, to the effect that they are necessary to the Indians. It may well be that the state of things is better under them than it was when the two powerful Companies were in hostile array against each other ; and it may be that their affairs are as well conducted, with reference to their effect upon the native population, as could well be expected of a Commercial Company, having the primary question of profit and loss as the object of their association. But the question really comes to be, whether those countries shall be kept in *statu quo* till the tide of population bursts in upon them, over an imaginary line, from a country where it has been the rule that the Indian must be driven from the lands the white man covets ; or be opened up under the influence of the Canadian Government, which has always evinced the greatest sympathy towards the Indian race, and has protected them in the enjoyment of their rights and properties, not only in their remote hunting grounds but in the midst of thickly-peopled districts of the country.

JOSEPH CAUCHON,
Commissioner of Crown Lands.

CROWN LAND DEPARTMENT,
Toronto, 1857.

W. McD. DAWSON'S EVIDENCE AS TO HUDSON'S BAY COMPANY'S CLAIMS IN THE NORTH-WEST,* 1857.

[The following is the evidence of Mr. William McD. Dawson, given on the 8th June, 1857, before a Committee appointed by the Legislative Assembly of Canada, to receive and collect evidence as to the rights of the Hudson's Bay Company under their Charter, &c.]

MONDAY, 8th June, 1857.

Mr. WILLIAM McD. DAWSON called in and examined.

I am the head of the Woods and Forests Branch of the Crown Land Department, and reside in Toronto. * * *

Q.—Have you particularly studied the titles under which the Hudson's Bay Company claim certain rights of soil, jurisdiction, and trade on this continent?

A.—I have made this subject a particular object of study for many years, and have omitted no opportunity of acquiring information upon it, and although with more time than I could devote to it, and a more extended research, much additional information could be obtained, I believe that it would only tend to fill up details, and strengthen and confirm the results of the investigation I have already made.

Q.—Will you state to the Committee the result of your investigation?

A.—The result of the investigation has been to demonstrate that in the Red River and Saskatchewan countries, the Hudson's Bay Company have no right or title whatever, except what they have in common with other British subjects. Wherever they have any possession or occupancy there they are simply squatters, the same as they are at Fort William, La Cloche, Lake Nipissing, or any of their other posts in Canada.

The Governmental attributes they claim in that country are a fiction, and their exercise a palpable infraction of law.

I am no enemy to the Hudson's Bay Company, nor to any individual connected with it, and I think that there are, at the present day, extenuating circumstances to justify a great degree of forbearance towards them, when their position comes to be dealt with either judicially or legislatively.

Illegal as it undoubtedly is, their present position is a sort of moral necessity with them. The first attempt of the Company under Lord Selkirk's régime, to assume that position was no doubt a monstrous usurpation, but it was defeated, though not till it had caused much bloodshed.

The Hudson's Bay Company and the Canadian traders (North-West Company) afterwards amalgamated, and then, in pursuance of a policy most dexterously planned and executed, carried the trade away back into the interior, from the very shores of the lakes and rivers adjoining the settlements of Canada, and took it round by Hudson's Bay to keep it out of view, to lessen the chances of a new opposition springing up.

They also gave out that it was their country—a fiction which the licence of exclusive trade for the Indian territories helped to maintain—and they industriously published and circulated maps of it, as such, which, being copied into other maps and geographical works, strengthened the delusion, till it became very general indeed.

When, therefore, by this means they had been left alone in these remote territories, without any intercourse with the organized tribunals or legitimate government of the country—an intercourse which their monetary interests forbade them to seek—it became a sort of necessity for them to establish a jurisdiction of their own.

It is true that they have gone to an extreme in this matter which it would be difficult to excuse; but in such a case it is hard to take the first step and be able to stop afterwards, more particularly when it consists in a total antagonism to existing law, or rather in assuming to themselves the functions of constituted authorities where they legally possess only the rights of subjects and traders, in common with the rest of the community.

But having once assumed and exercised such powers, and thereby made themselves

* Appendix No. 17, Vol. XV. of the Journal of the Leg. Ass., 1857.

amenable to the laws of the country, it is not to be wondered at that they have sought to justify it on the pretence that they possess those powers of Government which (doubtful at best, even in those localities where they have some show of title) are without the least foundation on the banks of the Saskatchewan or Red Rivers.

In thus palliating the tenacity with which the Hudson's Bay Company cling to their fictitious title, I may be accused of being their apologist, but I am so only to the extent that at the present day, their position has become a necessity; for, in so far as they have affected the rights of others, they have rendered themselves liable to the most serious consequences, should any party aggrieved see fit to appeal to the legal tribunals of the country, and it is but natural to suppose that they will endeavour to maintain the fiction long enough to enable them to effect a compromise.

Any number of individuals might associate themselves together for mining, hunting or agriculture, say at Lake Nipissing or on Anticosti, and finding no legal tribunals there, or within their reach, they might establish a jurisdiction of their own and execute their judgments. Circumstances may be imagined in which such a course, if resulting from the necessity of their position, might be morally right though legally wrong, but nothing short of an act of indemnity could save them from the consequences if pursued at law, by those whose rights they had affected.

Such is exactly the position of the Hudson's Bay Company at the Red River, and for the judgments they have rendered there they are undoubtedly amenable to be judged by the legally constituted tribunals of this country; and those whom they have condemned or punished, or whose rights or interests they have adjudicated upon can certainly obtain redress. And to this extent I would be their advocate, that in so far as their assumption of jurisdiction has been, in a manner, a necessity resulting from the Acts of former years, the Legislature should pass an Act of indemnity to shield them from the consequences—the circumstances to be first investigated, however, by a commission appointed by the Government for that purpose.

It may seem presumptuous in me to put the case so strongly in opposition to the general view of their territorial rights; but it is not a matter of opinion—it is a matter of fact. I could have no hesitation to state as a fact, that the County of York and the District of Montreal are not portions of the Company's Teritory; but the fact that the Red River and Saskatchewan are not in their Territory is just as strong and absolute, and the circumstance that the one happens to be better known than the others does not alter the fact in the one case more than the other.

But the generally received view of the subject is but of recent date, and simply the result of the circumstance that no one in particular has taken any interest in denying it. It is only since the union of the Companies in 1821 that there has been no obstacle to the continuous imposition of the Company's views upon the public till they ultimately became rather unopposed than accepted; and in denying their title now (on the Saskatchewan and Red River), I am simply in accord with the highest authorities whose province it has been to treat the question judicially.

It must be remembered that the Company did not attempt to even enter upon these countries until 104 years after the date of their charter, viz.: in 1774, and that they then did so not as taking possession under their charter, but only to participate in a traffic then in the hands of British subjects trading from Canada in virtue of the conquest or cession of the country, through which and not in virtue of their charter, the Company also had, of course a right to trade as British subjects.

A rivalry having been kept up for many years in the trade, and the absurd construction of the charter now contended for having been *invented*, the attempt to exercise the powers claimed was made by the Company through Lord Selkirk, first, theoretically, about the years 1811-12, and practically, about 1814, by warning off the North-West Company and obstructing the channels of their trade; and the result was a great deal of strife and bloodshed. In the course of this strife various appeals were made to the Provincial and Imperial Governments and to the legal tribunals, and in every instance the decisions were directly or constructively adverse to the pretensions of the Hudson's Bay Company.

In a dispatch to the Governor-General from Earl Bathurst, by order of His Royal

Highness the Prince Regent, under date 6th February, 1817, I find the following instructions in relation to these events:

"You will also require under similar penalties the restitution of all forts, buildings, or trading stations, with the property which they contain, which may have been seized or taken possessisn of by either party, to the party who originally established or constructed the same, and who were possessed of them previous to the recent disputes between the two Companies.

"*You will also require the removal of any blockade or impediment by which any party may have attempted to prevent or interrupt the free passage of traders or others of His Majesty's subjects or the natives of the country with their merchandize, furs, provisions, and other effects, throughout the lakes, rivers, roads and every other usual route or communication heretofore used for the purposes of the fur trade in the interior of North America, and the full and free permission for all persons to pursue their usual and accustomed trade without hindrance or molestation.*"

And in conclusion, this object is again peremptorily insisted on, viz: "the mutual restoration of all property captured during these disputes, and the freedom of trade and intercourse with the Indians, until the trials now pending can be brought to a judicial decision, and the great question at issue with respects to the rights of the two Companies shall be definitively settled."

The trials then pending, to which the above allusion has reference, were those instituted by Lord Selkirk against the partners and employees of the North-West Company who had resisted the pretensions of the Hudson's Bay Company, and in consequence of which a battle was fought on the Frog Plains, at the Red River, in which some 20 of the Hudson's Bay people were killed, including the "Governor," as they styled their chief officer. These trials were for murder (some of the parties as principals, and some as accessories), for arson, robbery (stealing cannon), and other high misdemeanours, and were held in this City [Toronto], then the Town of York, in October, 1818, and resulted in the acquittal of all the parties on all the charges, though it was not denied that some of them had been in the battle, in which, however, they contended that they were in defence of their just rights.

These trials were held under the Canada Jurisdiction Act (43 Geo. III, cap. 138),by authority of a commission from Lower Canada; but the jurisdiction under that Act being questioned on the ground that the Frog Plains were in Upper Canada, and therefore not in the territories affected by the Act, the Court was so doubtful on the question of boundary that the charge to the jury directed that in case of finding the prisoners guilty, they should return a special verdict, setting forth that "they could not see from any evidence before them, what were the limits of Upper Canada." The Attorney-General was unable to define these limits, but appealed to the Court to decide, as they were "deducible from Treaties, Acts of Parliament, and Proclamations, &c." And the judgment of the Court was as above stated, the following passage occuring in the charge of the Chief Justice:—

"Mr. Attorney-General has put in evidence the latitude and longitude of the Frog Plains, but he does not put in evidence whether this latitude and longitude be without or within the boundaries of Upper Canada, and *I do not know whether from* 90° *to* 100° *or* 150° *from the western limit of Upper Canada.*"

In other words, the Court could not affirm that Upper Canada had any western limit on this side of the Pacific; and the Court was right; its westerly limit never had been assigned, and absolute evidence of the very nature which the Attorney-General (now Chief Justice, Sir J. B. Robinson) admitted would be proof upon the subject, existed, so far as to prove that the Province extended beyond the Lake of the Woods, without determining how far beyond; but it was not his duty to quote it as he was prosecuting for a conviction as directed by a special commission from Lower Canada under a particular Act. An acquittal, however, rendered any special verdict unnecessary, and the question was not, therefore, further tried on these cases.

I must remark, however, that the question raised was solely whether the scene of the outrage at Red River was in Canada or the Indian Territory, not whether it was in Canada or the Hudson's Bay Company's territory; the latter alternative was not even entertained, having been almost entirely ignored on the trials as too manifestly absurd to make any legal

fight upon at all. In short, the case for the defence was based on a justification of resistance to the assumed authority of the Company whose preposterous pretensions on the Red River with "Governors, Sheriffs, &c.," were treated with ridicule; without, however, detracting from the individuals, "Governor" Semple, who was killed, or his predecessor, McDonell, who were worthy of the highest respect, though like many others, imposed upon in the first instance by the specious pretences of the Company and Lord Selkirk.

Other actions and trials took place in Upper Canada, all of which so far as I have been able to trace them, were adverse to the Hudson's Bay Company. In February, 1819, in this city, William Smith, Under-Sheriff of the then Western District, obtained £500 damages against Lord Selkirk, then at the head of a large armed force, for resisting him in the execution of a writ of restitution founded upon a verdict obtained at Sandwich in 1816, and resistance also to a warrant for his Lordship's arrest.

At the same time Daniel McKenzie obtained £1,500 damages for forcible detention, &c., by Lord Selkirk.

Criminal proceedings were also instituted and a bill of indictment found against Lord Selkirk himself and the leaders of his party, for their illegal transactions in the Western Territories; but I have not yet been able to trace up the result of this case, and no doubt much valuable information could be obtained by some one having more time than I have had to hunt up the records of these proceedings.

The latter trials, I believe, were in the ordinary course of procedure of Upper Canada, and not under the Special Act for the Indian Territories, &c., and the proceedings taken extended to transactions which occurred far within the territories drained by waters discharging into Lake Winnipeg.

Having shown the views of the judicial authorities of Upper Canada, I would advert for a moment to those of Lower Canada.

In May, 1818, Charles De Reinhard was tried at Quebec for murder committed in 1816 on the River Winnipeg, under the Canada Jurisdiction Act. Exception was taken to the Jurisdiction of the Court, on the ground that the locality was not on the Indian Territory, but within the limits of Upper Canada. The Court overruled the objection, and decided that the westerly boundary of Upper Canada was a line on the meridian of 88° 50' west, longitude from London. I hardly think that any surveyor, geographer or delineator of boundaries of any experience, or scientific attainments would concur in that decision.

The question would be too long, however, to discuss now, and I shall only say that it was based on the assumption that, of the territory previously belonging to, and acquired from France, in 1763, only a part was organized as the Province of Quebec, and that the two Provinces of Canada, after the division, were confined to the same limits provided for the former by the Act of 1774. The Court, the Attorney-General and the Counsel for the prisoner, alike concurred in the fact that the River Winnipeg was a part of the country previously belonging to France and ceded by the treaty of Paris in 1763, and at no stage of the proceedings was the question of its being a part of the Hudson's Bay Company's Territories for one moment entertained.

De Reinhard was found guilty and sentenced to death, but although the Court refused to reconsider its decision, yet the reasoning of Messrs. Stuart and Valliere was so clear that the Judges deemed it expedient that the execution should be delayed till the decision of the Imperial Government could be had upon the question of Jurisdiction.

The actual reasons given by the Imperial Government I have not been able to get at, but I know that when the decision was given, the prisoner was released, and that the question submitted was that of Jurisdiction, as above stated.

I must here remark, however, that notwithstanding the able and convincing arguments of Messrs. Stuart and Vallière, they omitted one point which the Court would have been obliged, by its own admissions, to have accepted as conclusive evidence against the judgment it gave. The decision given was based upon the technical construction put by the Court upon the actual wording of an Act of Parliament, but it was admitted (by the Court) that the country to the West only "came into the possession of the British Crown at the treaty of Paris in 1763," and it was also admitted that the king could, by "*an Act of Sovereign Authority*," have placed that country under the Government of Canada. It was

merely denied that he did so, not asserted that he could not. The counsel for the prisoner did not chance to come upon the Commissions of the Governors, or they would have found that there had been such an "*Act of Sovereign Authority*," distinctly describing that country to the West of the Lake of the Woods as attached to the Government of Canada, and the Court, by its own admission, must have been bound by it.

I may also remark that the decision of the Court at Quebec would have made the westerly limit of Upper Canada, a long way east of the United States boundary at Lake Superior, leaving out the shores of the Lake (where we are now selling mining lands) and its westerly tributaries, and has, therefore, nothing in common with the boundary designated for us by the Hudson's Bay Company—viz., the water-shed of the St. Lawrence, and for which *there is no earthly authority except themselves.*

On this head I must advert to one other authority, which is of the highest importance at this moment, when troops are about to be sent to the Red River, and who, if they carry with them the erroneous views which of late years have been with some success imposed upon the public by the assiduous promulgation of the Company, may unfortunately be placed in a position of antagonism to the civil power. There were, indeed, some troops there not many years ago, and no such evils as might be apprehended now resulted; but the circumstances are changed; the scenes of an early period may come back if the attempt be made, wholly unsustained by law, to repress a legal right. If such should be the case, it would be unfortunate if Her Majesty's soldiers were found on the wrong side, acting against law, for the subject is now being so well discussed that the people will know their rights, and will appeal to the legal tribunals and the civil powers of the State to sustain them. Better that military rule prevailed entirely, for then the officers would know their duties and their responsibilities. If they go under the impression that they are to be subject to the supposed civil officers of a self-constituted Government which has no legal existence, they may find themselves called upon to enforce behests which are not law, which are infractions of law; they may be called upon to subdue resistance to illegal acts to which resistance is a duty and a right; and if, for acting on these behests, they are ultimately brought before the Courts of Justice, they will find that they have acted under those whose powers will be treated as a nullity, whose civil offices will be held a mockery. This has been so before; it may be so again, if due precaution be not observed; and I state it thus strongly now, because the more it is known the less will be the chance of its recurrence.

If proper civil officers, magistates, &c., were appointed by His Excellency the Governor-General, for the Red River country, to whom alone the troops could look in case of emergency, as vested with authority, the difficulty and danger would be obviated; for without this there is no authority in that country by, through, or in any person connected with the Hudson's Bay Company, as such, to which any officer or soldier in Her Majesty's service would be justified in yielding obedience.

To revert to the authority upon this subject, I was about to quote; it will be remembered that during the troubles which formerly took place, upon special representations made by Lord Selkirk that he was not safe in proceeding to the Red River settlement, some troops were sent with him, and the instructions given to them by order of His Excellency, Sir Gordon Drummond, are so clear and decisive that no one can mistake their import. They were as follows:

ADJUTANT-GENERAL'S OFFICE,
Quebec, 17th April, 1816.

SIR:—THE EARL OF SELKIRK having represented to the ADMINISTRATOR IN CHIEF and Commanding General of the Forces that he has reason to apprehend that attempts may be made upon his life, in the course of the journey through the Indian country which he is about to undertake, His Excellency has, in consequence, been pleased to grant his Lordship a military Guard for his personal protection against assassination. This party, which is to consist of two serjeants and twelve Rank and File of the Regiment De Meuron, is placed under your command, and I am commanded to convey to you the positive prohibition of His Excellency the Lieutenant-General commanding the Forces, against the employment of this force for any other purpose than the personal protection of the EARL

OF SELKIRK. You are particularly ordered not to engage yourself, or the party under your command, in any disputes which may occur betwixt the EARL OF SELKIRK and his engagés and employés and those of the NORTH-WEST COMPANY, or to take any part or share in any affray which may arise out of such disputes.

By such an interference on your part, you would not only be disobeying your instructions, but acting in *direct opposition to the wishes and intentions of the Government*, to the COUNTENANCE, SUPPORT and PROTECTION of which EACH PARTY has an equal claim.

The EARL OF SELKIRK has engaged to furnish the party under your command with provisions during the time of your absence; you are on no occasion to separate from your party, but to return with his Lordship, and on no account to suffer yourself or any of your detachment to be left at any settlement or post in the Indian country.

These instructions are to be clearly explained to the non-commissioned officers and men in your party.

I have the honour to be, Sir,
Your most obedient, humble servant,

J. HARVEY,
Lt.-Col. D. A. G.

Lieutenant Graffenried,
De Meuron's Regiment.

[The italics and capitals are the same as in the original.]

This is another emphatic declaration that the Government held the Hudson's Bay Company and the Canadian traders as possessed of equal rights, and that His Majesty's troops at least were not to be used against the one to sustain the ridiculous pretensions of the other.

Notwithstanding the stringency of these instructions, however, Lord Selkirk having a number of the disbanded DeMeuron soldiers in his pay, it was difficult for the regulars to resist being led along with them, to enter upon the North-West Company's property, &c., and which involved them in legal difficulties, after their return, from which it was not easy to extricate them.

I have confined myself in the foregoing remarks to the Red River and Saskatchewan countries, which were the principal scenes of the disputes which have heretofore called for action, and it will be seen that the Imperial authorities, the military authorities, and the courts of justice have all ignored the pretensions of the Hudson's Bay Company as regards those countries.

The great danger in renewing the Company's lease of the Indian territories, however, would be that they might drop the pretence that the Red River, &c., is covered by their charter, and claim it as part of the Indian territories, a plea which, though erroneous, might be more easily sustained by technicalities, inasmuch as some of the remote parts of Canada perfectly understood to be such, have, nevertheless, sometimes been designated as the "Indian countries," in official documents.

I have not referred to the validity of the Company's Charter, either to deny or admit it; I merely deny that it has effect on the countries I have spoken of.

In support of this I have quoted more recent authorities, but for a more particular investigation of their title, its extent and origin, I beg to refer to a Report which I wrote for the Commissioner of Crown Lands, some months ago, the substance of which appears in the shape of a Memorandum in the Return to an Address of the Honourable Legislative Assembly, dated 15th March, 1857, for certain papers connected with the Hudson Bay question. It embodies the views I have entertained for many years, and is the result of much careful study.

Q.—Have you made the early and present boundaries of Canada a particular subject of study; if so state the result?

A.—The early boundaries of Canada or New France included, I think, the whole of Hudson's Bay, for I find all that part of the country granted to a trading Company by the King of France, in a Charter somewhat similar, but forty-three years earlier than the Charter of the Hudson's Bay Company. I find the country also confirmed by Treaty to France, at St. Germain's-en-Lay, thirty eight years before the last named charter; but the investigation of this part of the said subject is fully stated in the Memorandum referred to.

S. J. DAWSON, ESQ., ON EARLY MAPS OF THE DISPUTED TERRITORY.

I find that from the Treaty of Utrecht, in 1713, to the Treaty of Paris, in 1763, the boundaries between the French possessions in Canada and the British possessions in Hudson's Bay were not defined. The lines claimed by both parties are distinctly laid down on the map lately prepared by Mr. Devine, in the Crown Land Department. Both, it will be seen, give the Red River and Saskatchewan to France, and the line laid down from British authorities is from those least favourable to French pretensions of that period. All the country south of that line is of course what was ceded by France, as Canada, in 1763, and was in her undisputed possession up to that time. There was never any westerly limit assigned to Canada either before or since the Treaty of Paris. The French claimed to the Pacific, though they never explored the whole way across, which, however, the Canadians (British and French) were the first to effect after the Treaty.

Some British authorities of a more recent date claimed, under the Treaty of Utrecht, from Hudson's Bay to latitude 49° as having been so determined by commissioners; but no such decision was ever given. I have searched every book I could find upon the subject, and have communicated with those who have searched the best libraries of France and England with the same object, but no authority can be found for such a boundary.

MEMORANDUM BY S. J. DAWSON, ESQ., M.P.P. FOR ALGOMA, ON EARLY MAPS OF THE DISPUTED TERRITORY.

THE WESTERN LIMIT OF CANADA, ON A LINE DUE WEST FROM THE LAKE OF THE WOODS, ACCORDING TO THE TREATY OF 1783, CONSIDERED IN CONNECTION WITH THE MAPS AFFIXED TO THE OFFICIAL REPORTS ON THE "BOUNDARIES OF ONTARIO."

The Treaty of 1763, commonly known as the Treaty of Paris, by which Canada was finally ceded to Great Britain, left the territory known at that time as Louisiana in the possession of France.

This extensive country had the Mississippi, from its source downwards, for its eastern and north-eastern boundary, dividing it from Canada, up to the date of the Treaty of 1783 and from Canada and the United States, for a period of twenty years subsequent to that time.

The vast regions now forming, in whole or in part, the States or Territories of Nebraska, the western portions of Minnesota and Dakota, Iowa, Montana, Wyoming and Colorado to the summit of the "Stony Mountains," with several other states to the south, and a portion of the Dominion of Canada near the Rocky Mountains to the north, are within the territory which, at the date of the Treaty of 1783, was known as Louisiana. By the second article of the Treaty of 1783, the Boundary established between the British possessions and the United States, in as far as regards the part of the continent under consideration, was a line "from the most north-western point of the Lake of the Woods, on a due *western* course to the Mississippi;" and in a Royal Commission issued to Governor Lord Dorchester, in 1786, the part of Canada forming the then Province of Quebec is described as being bounded by a line "from the most north-western point thereof (*i.e.* the Lake of the Woods) in a due *west* course to the River Mississippi, and northward to the Southern Boundary of the Territories granted to the Merchants Adventurers of England trading to Hudson's Bay."

It will thus be seen that the western limit of Canada, on the line running due west from the Lake of the Woods, was at that time a matter of interest to three nations. The United States could not go west of the Mississippi, or the boundary recognised as representing that river, nor the nation possessing Louisiana come east of it; while as regards Canada, the Province of Quebec was to have both her western limit on the due west line, and her entire western boundary, running north to the territories granted to the Merchants Adventurers, determined by the point at which the boundary between the United States and Louisiana should meet the due west line from the Lake of the Woods.

It is well known that the tributary of the Mississippi system, now called the "Mississippi," is but a small stream in its upper reaches, having its source a little to the north of the parrallel of 47°, in numerous brooks and countless lakelets far to the south and east of a due west line from the Lake of the Woods.

It does not, therefore, meet the description, and the question arises as to whether it really

is the Mississippi meant by the diplomatists who framed the treaty of 1783, or whether it is not more reasonable to believe that both they and their predecessors who negotiated the Treaty of 1763 had in view the main artery of the vast River System to which the comprehensive name of the Mississippi was applied in those days.

The maps which it is now proposed to consider throw a great deal of light on this important question, and in reviewing the evidence to be gathered from them, it may safely be assumed that, taken collectively, they exhibit all that was known of the geography of the north-western parts of Canada and the adjoining territory of Louisiana, at the time at which the treaties to which reference has been made were entered into.

These explanations seem necessary to a full understanding of the matter at issue, for the fact that Louisiana was of such extent and bore at one time such important relation to Canada and the United States (and the then boundaries of which are of importance even now) has been lost sight of in later years.

To avoid ambiguity, the parallel of 49° north lat., which is now the international boundary, from the Lake of the Woods westward, will be referred to, in what follows, as one and the same thing with the "due west line," although the latter is somewhat farther north. The Mississippi must necessarily be mentioned often, but only in reference to its north-western tributaries.

Mr. Mills has annexed to his report seven maps issued between the dates of 1710 and 1794, namely:

1. "*A Map of North America, corrected from the observations communicated to the Royal Society at London, and the Royal Academy at Paris. By John Senex, F.R.S.*, 1710."

This map places the sources of the Mississippi at about 100° west longitude, and 48° north latitude, and to the north-west of this point is marked "a river whose beginning or ending is unknown." A height of land, not far from being in a correct position, is indicated as existing to the north-east of the Mississippi, but the map is of too early a date to afford much information regarding a region in the interior which was but little explored in 1710, the date at which it was issued.

2. "*Delisle's Map of North America, &c., Chief Geographer of His Majesty, and the Royal Academy of Sciences, Amsterdam*, 1739."

This small map is by a very distinguished French author, and it is valuable as showing that the Missouri of the present day was the boundary between Louisiana and the Canada of the French.

The evident meaning of the Treaty of 1783 was, that the due west line from the Lake of the Woods should meet the boundary of Louisiana, and on this map that boundary is unmistakeably indicated by the first French geographer of his day.

The east branch of the Mississippi is set down as issuing from "Lac Missisacaigan," while a very much larger river, with the words "Mississippi Riv." over it, is indicated as coming in from the north-west.

It therefore follows that the east or Missisacaigan branch, although called the Mississippi now, was not the Mississippi of Delisle's time. The large river referred to corresponds apparently, in its lower sections, with what is now called the Minnesota River. The St. Croix River is represented with wonderful accuracy for such an early map. It is to be regretted that this map—being by so distinguished a geographer—is on so small a scale.

3. "*A map of Canada and the north part of Louisiana, with adjacent countries. By Thos. Jefferys, Geographer to His Majesty*, 1762. *Published by Thos. Jeffreys, Charing Cross, London.*"

This map is by an English author of some eminence, who, in 1760, had published a geographical and historical work on North America. It is but reasonable to believe that the representatives of Great Britain and the United States, in framing the Treaty of 1783, would have had the map of so distinguished a geographer before them. If they had, and were in any way guided by it, they would not have supposed that a due west line from the Lake of the Woods would intersect the waters of the stream now called the Mississippi, for the map shows *a height of land and the waters of the Red River intervening be-*

tween its sources and the parallel of 49°, *or the due west line*—and in this it is correct, although, as might be expected from its early date, in error in detail.

On the map is a note from which it may be inferred that at the date at which it was issued (1762) the "Missouri" or "Mississippi" indicated one and the same river, or what the Missouri was known by the name either of "Missouri" or "Mississippi." The east branch—evidently the stream now known as the Mississippi—is represented as issuing from Lake Missisacaigan, while the main river is marked as coming from the west, with the words "Mississippi R." written over it. From this it is evident that the easterly branch was not known as the Mississippi in 1762.

4. "*A Map of the British Dominions in North America, according to the Treaty in* 1763. *By Peter Bell, Geographer*, 1772."

On this map what evidently is the tributary now known as the Mississippi, is called Lake River, and it is represented as issuing from Lake Missisacaigan, which, from its position in reference to the waters near it, appears to be the Leech Lake of modern maps; from this lake it has a course of some two hundred miles to its confluence with the Mississippi.

The main river, marked as the boundary of Louisiana, extends north-westward to the parallel of 47° and meridian of 102°. To continue it still further, in the same direction, on the course of its general bearing, it would intersect the parallel of 49° west of the meridian of 106° or nearly 500 miles west of the Lake of the Woods. This map was issued *subsequent* to the Treaty of Paris (1763), and it is remarkable, in so far as that it extends the supposed Mississippi, marking it as the boundary between Louisiana and Canada, further to the west, although much in the same direction as that indicated on previous maps: and this position for the boundary line and supposed Mississippi is kept up in the maps issued subsequently to Bell's—as will be seen on reference to Pownall's, D'Anville's, and Kitchin's maps. In this it is reasonable to assume that he had been guided by the information which had then, no doubt, become general among geographers, as to the line of demarcation agreed upon *as the Boundary of Louisiana*, at the Treaty of Paris.

It is worthy of remark that the course of this supposed Mississippi of the Treaties, following it to the north-westward, would make it coincide with the actual position of the Missouri for a considerable distance, at the great bend between the parallels of 47° and 48°, and the meridional lines of 101° and 104°.

5. "*North America, from the French of M. D'Anville, improved with the English Surveys made since the Peace.*"

This map, in so far as it shows the upper waters of the Mississippi, and the boundary of Louisiana, is very like Bell's. The eastern branch or Lake River, now called the Mississippi, issues from Lake Missisacaigan, with tributaries from the north flowing into that lake.

The Mississippi of the Treaty of Peace is represented as stretching off, at an an angle of about 15° or 20° to the north of west, which would carry it to the parallel of 49°, about the meridian of 105°, or over four hundred and fifty miles to the west of the Lake of the Woods. As if to mark emphatically which branch was to be known as the Mississippi, the words "Mississippi R." are set down over the west branch—above its confluence with the east branch.

These two maps—Bell's and D'Anville's—published after the Peace of Paris, afford conclusive evidence as to the line *intended* for the boundary between Louisiana and Canada. It certainly was not the tributary to which the term Mississippi is applied at the present time.

6. "*Pownall's Map of the British Possessions in North America, A. D.* 1775."

This map show the eastern branch of the Mississippi issuing from "Red Lake," evidently the Missisacaigan of Jeffery's, Bell's, and D'Anville's maps. It is, like the two last, quite conclusive as to the boundary of Louisiana running off to the west, and it is equally clear as to the sources of the eastern branch (or Mississippi of the present time) falling short of the latitude of the Lake of the Woods. Governor Pownall would likely have had access to official documents bearing on the matter, and with his map of 1775 before them,

it will hardly be supposed that the framers of the Treaty of 1783 could have been led away with the idea that a due west line from the Lake of the Woods could intersect the river now called the Mississippi.

7. "*North America, wherein are particularly distinguished the British Dominions, the United States, and the adjacent Spanish Territories. By Thomas Kitchin, Hydrographer to His Majesty. London: Published by Laurie & White, No.* 53 *Fleet Street, as the Act directs,* 12*th May,* 1794."

This is an elaborate map, carefully compiled no doubt from all the sources of information available at the time at which it was issued.

It derives additional interest from having been published *subsequent to the Treaty of* 1783 between Great Britain and the United States, for all the others were published before that date. It is consequently the only one of the series on which the due west line from the Lake of the Woods, forming the boundary line between Canada and the United States, in that section, could have been exhibited.

The eastern branch of the Mississippi or Lake River is shown as having its source a little to the north of the parallel of 47° in Lake Missisacaigan, and this lake corresponds very nearly with the actual position of Leech Lake, so that there can be no doubt of this Lake River being the tributary now known as the Mississipi.

As regards the upper waters generally, this map differs but little from Bell's map, and the Mississippi—marked on it as the boundary of Louisiana—would, if produced north-westward, on the general bearing on which the upper part is projected, as in the case of Bell's projection, reach the parallel of 49° west of the meridian of 105°.

It will be seen that on this map a line, marked as the boundary of the United States, is drawn due west from the Lake of the Woods, and that this line—applying the scale set down on the map—would be over two hundred miles north of the Mississippi, about the meridian of Fort Garry.

Regarding the position of the Mississippi, this map agrees with Bell's map of 1772, and with D'Anville and Pownall's maps, while Jeffery's map of 1762, is perfectly clear as to a height of land and another river system intervening between the sources of the stream now known as the Mississippi and the due west line from the Lake of the Woods. [How, then, could those who framed the Treaty believe in the existence of a Mississsippi east of the Red River, which would be cut by a due west line from the Lake of the Woods?]

8. "*Delisle's Map of Canada, or New France,* 1703." (Mr. Lindsay's Report.)

This map shows that at even as early a date as 1703, the Mississippi had been to some extent explored, as far at least as the latitude of Lake Superior.

What appears to be its principal easterly branch, is marked as issuing from "Missisacaigan ou Lac Buade," and flowing south-easterly to the main Mississippi. Its name on this map is Mendeouacanton, and it is clearly distinguished from the Mississippi, which latter is set down as coming, for a great distance, from the north-west.

This map is referred to chiefly to show that the tributary now called the Mississippi was not the Mississippi of the early explorers. In 1703, exploration had not extended so far to the north-west as to show much of the northern water-shed; but this early map of Delisle's contains a great deal that is valuable, although it does not further bear on the immediate question under consideration.

9. "*Carte des Nouvelles découvertes dans l'ouest du Canada, dressée sur les Mémories de M. de la Vérandrie et donnée au Dépot de la Marine par M. de la Galissonière,* 1750." (Mr. Lindsey's Report.)

This chart shows clearly that, in 1750 it was known that the country, for a considerable distance to the south of the latitude of the Lake of the Woods, was occupied by the water system of the Winnipeg; so that, with this map, or the information it conveys, before them, as it is reasonable to suppose it was, the representatives of Great Britain and the United States, in framing the Treaty of 1783, could not have adopted a Mississidpi as existing between the Lake of the Woods and Red River. Otherwise, it must be supposed that they believed in the strange phenomenon of a large river flowing for hundreds

of miles to the south, between the two neighbouring rivers—one on either side of it—running to the north.

The description in the Treaty is however, perfectly intelligible, and would never have been misconstrued had these maps, now submitted to the Legislature, been generally accessible.

In reference to these maps, generally, they point to the Missouri, west of the great bend, as having been the Upper Mississippi of the Geographers of the last century, and this is accounted for by the fact that it was first explored from the direction of the Assiniboine, the tributaries of which interlace with those of the Missouri.

As early as 1742, the Chevalier de la Verandrie had crossed over from the Assiniboine and explored the Upper Mississippi, as he named it, to the Rocky Mountains. On the 12th March, 1743, he took formal possession of the country, and interred a plate, bearing the arms of the King of France, on an eminence near his encampment.

At the date of the Treaty of 1763, the French traders, whose head-quarters were on the Red River of the North, had establishments on the Upper Mississippi (or Missouri of the present time), as well as on the neighbouring tributaries of the Assiniboine; but there seems then, and even to a much later period, to have been a considerable interval of unexplored country between the great bend of the Missouri, near the meridian of 100°, and the Mississippi, near its point of junction with the Minnesota River; and hence the error, continued on all the maps of the time, of making the Missouri or Upper Mississippi join the easterly branch, or what is now called the Mississippi, near its confluence with the Minnesota River.

In view of all the facts, there can be no doubt that the Missouri of the present time was the Upper Mississippi of the Geographers of the last century.

THE NORTH-WEST BOUNDARY OF CANADA, ON THE PARALLEL OF 49° NORTH LATITUDE ACCORDING TO THE TREATY OF 1783 BETWEEN GREAT BRITAIN AND THE UNITED STATES.

It will doubtless be admitted that the maps to which reference has been made, extending, as to date, over a considerable period of time, and by different authors, some of whom were highly distinguished as geographers in their day, represent fairly the geographical knowledge existing at the date of the Treaty of 1783. Admitting this, it follows:

1st. That the diplomatists who framed the Treaty, knew perfectly well that the branch of the Mississippi River system, now called "the Mississippi" would not and could not have been intersected by a line running due west from the Lake of the Woods, because the maps of the time, *which were their sole sources of information*, agree in representing its most northerly waters as being far to the south of such a line.

2nd. That from the evidence of the maps, it is seen that they (the framers of the Treaty) had in view a supposed river, forming the boundary of Louisiana which would be intersected by the due west line in question, somewhere about the meridian of 105° or 106°, or at a point over four hundred and fifty miles west of the Lake of the Woods.

3rd. That a branch or tributary of the Mississippi (or Missouri, rather, which is itself a branch of the Mississippi) called the White Earth River, is actually intersected by the due west line in question, within a comparatively short distance of the point at which the supposed river, represented on the maps as the boundary of Louisiana, and which it is evident thay had in view, would have been intersected by that line.

Judging from these maps it is impossible to avoid the conclusion that the true intent, meaning and spirit of the Treaty of 1783 was, that the western boundary of Canada and the United States, and the eastern limit of Louisiana, on the due west line, should be at a point upwards of four hundred and fifty miles west of the Lake of the Woods.

The assumption that the framers of the Treaty had in view any Mississippi to the east of the Red River, is quite untenable, for some of the best maps of the time, issued by the most distinguished geographers, represent the country east of the Red River, and far to the south of the due west line, as being occupied by another river system, as it really is; and all of them agree in marking the boundary of Louisiana, which was the *real line to be reached*, as leading far to the west of the Red River.

In view of these maps, it cannot for a moment be conceived that the geographers of those days had any idea, or ever represented, that a due west line from the north-west point of the Lake of the Woods, would intersect the Mississippi, east of the Red River; nor can it be imagined that diplomatists, in framing an international Treaty, would adopt a conclusion relative to a matter of geography, different from that presented by the most eminent geographers of the nations interested.

It has been suggested that the difficulty would be best met by drawing a line due north from the source of what is now called the Mississippi to the parallel of 49°, but such a line would intersect that parallel, *to the east of the west coast of the Lake of the Woods*, so that a due west line from that lake would meet neither this north line nor the Mississippi.

But what need to make or adopt imaginary lines, or quibble about the word "Mississippi," which is in fact the general name of an immense river system, when the true spirit and even letter of the treaty can be met by adopting the line already run on a due west course as expressed in the Treaty "to the Mississippi," or at least to its first waters at the White Earth River, which this "due west line" *does intersect*, only a little way to the west of the supposed Mississippi which the representatives of the nations interested, as shown by the maps of the time, *intended* as the western boundary of Canada and the United States, and the eastern limit of Louisiana, on a "due west line from the Lake of the Woods."

They would not surely have come four hundred miles to the eastward of the boundary recognized on the maps to adopt a Mississippi where they *knew* that no such river existed, and give a vast extent of territory to Louisiana, which was then in the possession of a foreign European Power, and the enlargment of which might have been affected both British and United States interests.

S. J. D.

9th November, 1876.

XIV.

Documents and Arguments Opposing Ontario's Claims.

DISCOVERIES AND NATIONAL RIVALRIES IN AND AROUND HUDSON'S BAY.*

The English Account from the Hudson's Bay Company's point of view.†

In the year 1576, Cap. Martin Frobisher made his first voyage for the discovery of a passage to China and Cathay by the north-west; and on the 12th of June he discovered Tierra de Labrador in 63 degrees 8 minutes, and entered a Streight which he called by his name. On the 1st of October he return'd to England. In the following year, he went a second time on the same discovery, came to the same Streight, and us'd all possible means to bring the natives to trade, or give him some account of themselves, but they were so wild, that they only study'd to destroy the English. Cap. Frobisher stay'd here till winter drew on, and then he return'd to England. He made the same voyage the following year, and with the like success.

Six years afterwards, A.D. 1585, John David sail'd from Dartmouth on the same adventure, came into the latitude of 64 degrees 15 minutes, and proceeded to 66 degrees 40 minutes. In the year ensuing, he ran to 66 degrees 20 minutes, and coasted southward again to 56 degrees. Sailing thence in 54 degrees, he found an open sea, tending westward, which he hoped might be the passage so long sought for; but the weather proving tempestuous,

* This account, abridged from Oldmixon's *British Empire in America*, is taken from "An investigation of the Unsettled Boundaries of Ontario," by Charles Lindsey, p. 146. The foot notes (with the present exception) are Mr. Lindsey's.

† This account may be regarded as semi-official, much of the materials being derived from the Hudson's Bay Company.

he return'd to England. In October, the next year, he did the same. After which there were no more adventures this way, till the year 1607, when Cap. Henry Hudson discover'd as far as 80 degrees 23 minutes. In 1608, he set out again; and, having added little to his former discoveries, return'd. Two years after he again undertook a voyage to find out the north-west passage, proceeded 100 leagues further than any man had done before him, till he could not go forward for ice and shoal water; and finding himself imbay'd, he resolv'd to winter there. In the spring of 1611, pursuing a further discovery, he and seven more of his company were seiz'd, the rest of his men put into an open boat, and committed to the mercy of the waves and savages.

We know 'tis pretended, that a Dane made the discovery of this Streight, and that he call'd it Christiana, from the King of Denmark, Christian the IVth, then reigning. But Cap. Hudson was the man who discovered it to the English, and who indeed first sail'd so near the bottom of the Bay, as he did within a degree or two.

The same year that he dy'd, Sir Thomas Button, at the instigation of Prince Henry,* pursu'd the same discovery. He pass'd Hudson's Streights, and leaving Hudson's Bay to the south, settled above 200 leagues to the south-west, and discover'd a great continent, by him called New Wales. He winter'd at the place afterwards call'd Port Nelson, carefully search'd all the Bay, from him call'd Button's Bay, and return'd to Digg's Island.

In 1516, Mr. Baffin enter'd Sir Thomas Smith's Bay, in 78 degrees, and return'd despairing to find any passage that way. All the adventures made to the north-west, were in hopes of passing to China. In 1631, Capt. James sail'd to the north-west, and arrived at Charlton Island, where he winter'd in 52 degrees. Cap. Fox went out this year on the same account, but proceeded no further than Port Nelson.

The civil wars in England put discoveries out of men's heads; and we hear of no more such adventures till the year 1667, when Zachariah Gillam, in the *Nonsuch*, ketch, pass'd thro' Hudson's Streights, and then into Baffin's Bay to 75 degrees; and thence southward into 51 degrees; where in a river, afterwards call'd Prince Rupert's River, he had a friendly correspondence with the natives, built a fort, nam'd it Charles Fort, and return'd with success.

The occasion of Gillam's going was this: Monsieur Radison and Monsieur Gooselier [de Groisselier], two Frenchmen, meeting with some savages in the Lake of Assimponals, in Canada, they learnt of them that they might go by land to the bottom of the Bay, where the English had not yet been† Upon which they desir'd them to conduct them thither, and the savages accordingly did it. The two Frenchmen return'd to the upper lake the same way they came, and thence to Quebec, the capital of Canada; where they offer'd the principle merchants to carry ships to Hudson's Bay, but their project was rejected. Thence they went to France, in hopes of a more favourable hearing at court; but after presenting several memorials, and spending a great deal of time and money, they were answer'd as they had been at Quebec, and their project look'd upon as chimerical. The King of England's ambassador at Paris, hearing what proposals they had made, imagin'd he should do his country a good service in engaging them to serve the English, who had already pretences to the Bay, persuaded them to go to London, where they met with a favourable reception from some men of quality, merchants and others, who employ'd Gillam, before-mention'd, a New England captain, in the voyage; and Radison and Gooselier accompanying, they arrived at the bottom of the Bay, and succeeded as we have hinted already.

When Gillam return'd, the adventurers concern'd in fitting him out apply'd themselves to King Charles II. for a patent; who granted one to them and their successors, for the bay call'd Hudson's Bay, and the streights called Hudson's Streights. The patent bears date the 2nd of May, in the 22nd year of that King's reign, A.D. 1670.

On the west side of the Bay, the English made a settlement, and built a fort at Port Nelson. The Bay here is call'd Button's; and Hudson's Bay is broadest in this place.

* The expense of the expedition was certainly borne by merchant adventurers of London.

† This is an admission that Frenchmen had been overland to Hudson's Bay before the Hudson's Bay Company was formed; and that their knowledge was utilized in the adventure that led to the formation of that Company.

The two opposite shores are call'd the East Main and West Main. The former is Labrador, and the latter New South Wales. The continent at the bottom of the Bay is by the French pretended to be part of New France ; and indeed to cross the country from St. Margaret's River, which runs into the River of Canada, to Rupert's River, at the bottom of Hudson's Bay, is not above 150 miles.* At Rupert's River, the English built their first fort, which they call Charles Fort.

In the year 1670 the Company sent off Charles Baily, Esq., Governour, with whom went Mr. Radison and 10 or 20 men, who were to stay on the place ; his residence being at Rupert River, where a mean fort has been built. Mr. Baily appointed Mr. Thomas Gorst to be his secretary, and order'd him to keep a journal of their proceedings there, which is now in my custody.†

The English had now worse hutts, than afterwards, and no covering for them but moose skins. There was at this time a factory at Port Nelson, where Captain Gooselier arrived in August, 1673. He search'd the river for Indians, but met with none. He saw several wigwams, where they had lately been, and suppos'd them to be gone up the country. This captain was order'd to search for Severn River, but could not find it, tho' 'twas in the old draughts of this Bay.

Now Mr. Baily and his little colony fell to patching up their cabbins, and prepare for the enemy. The 23rd of October several Indians came to the Fort to trade, and among others one from Quebec.

Several Indians came in March, and built their wigwams at the east end of the Fort, intending to stay there all winter, that they might be ready for trade in the spring. About the 20th of March it began to thaw ; and the Nodwayes still threatening the English with war, the Governour prepar'd everything necessary in the Fort for his defence. On the 25th of March, six men as Ambassadors, came from King Cu cudidah, to notify his approach, and that he would be at the Fort next day, which he made good, and was troubled that the Governor was absent. He brought a retinue with him, but little beaver, the Indians having sent their best to Canada.‡

The English at the Fort stood on their guard, and Mr. Cole commanded them in the Governor's absence ; for whom the King sent two Indians. And the 31st of March, the Governor returned, with a small supply of moose flesh.

All this while the Indian King stayed at the wigwams, near the Fort ; and the reason of it was, they were apprehensive of being attack'd by some Indians, whom the French Jesuits had animated against the English,§ and all that dealt with them. The French us'd many artifices to hinder the natives trading with the English ; they gave them great rates for their goods, and oblig'd Mr. Baily to lower the prices of his, to oblige the Indians who dwelt about Moose River, with whom they drove the greatest trade.

The French, to ruin their commerce with the natives, came and made a settlement not above eight days' journey up that river, from the place where the English traded. 'Twas therefore debated, whether the Company's agents should not remove from Rupert's to Moose River, to prevent their traffic being intercepted by the French.

On the 3rd of April, 1674, a council of the principal persons in the Fort was held, where Mr. Baily, the Governour, Capt. Gooselier, and Capt. Cole were present, and gave their several opinions. The Governour inclin'd to remove.‖ Capt. Cole was against it, as dangerous ; and Capt. Gooselier for going thither in their bark to trade, when the Indians belonging to King Cuscudidah were gone a hunting, and there was no fear of the Fort's being surpriz'd.

The Indians went to building their wigwams near the Fort, and rais'd their Wauscholeigeiu, or fort so near the English, that the palisadoes join'd. On the 20th of May,

* Their claim was surely as good as that of the English ; one nation having pushed its discoveries in one direction, and the other in another, to the same point.

† This proves that the author relied on the Company for much of his information.

‡ This proves that when the Hudson's Bay Company first established itself on the shores of the Bay, the Indians there had already a trading connection with Canada.

§ There must then, if this representation be true, have been French missionaries there already.

‖ This affords proof that in 1664 the trade of the south-western side of James's Bay was in the hands of the French.

12 Indians, subjects to King Cuscudidah, came in seven canoes, and the King meeting them, conducted them to the Fort, where they told him there would be few or no Upland Indians come to trade that season, the Freench having perswaded them to come to Canada. However, Mr. Baily ordered the sloop to be got ready, and resolved to go up the river.

Upon the arrival of this new company, among whom was the King's brother, a feast was made.

The next day (May 23), the Governour, and some English and Indians arm'd, went down to the bottom of the Bay, to Frenchmen's River, to seek for the Nodways, but could meet with none. On the 27th of May, about 50 men, women and children, came in 22 canoes, to trade, but brought little or no beaver with them. They were of the nation called Pishhapocanoes, near a-kin to the Eskeimoes, and both alike a poor beggarly people: by which we may perceive the Frenah ran away with the best of the trade.

The Governour having got everything ready for a voyage to Moose River, sent Capt. Gooselier, Capt. Cole, Mr. Gorst, my author, and other English Indians, to trade there. They got about 250 skins. The Captain of the Tabittee Indians informed them the French Jesusts had not brib'd the Indians, not to deal with the English, but to live in friendship with the Indian nations in league with the French. He blam'd the English for trading with such pitiful nations as the Cuscudidahs and Pishhapocanoes, advising them to settle at Moose Sebee, and the Upland Indians would come down and trade with them. The reason they got no more peltry now, was, because the Indians thought Gooselier was too hard for them, and few would come down to deal with him.*

Mr. Baily sail'd himself for Moose Sebee, and brought home 1,500 skins; the Shechittawams, 50 leagues from that river, having come to trade with him. By the 24th of June all the Indians had left their wigwams near the fort, and were gone abroad to hunt and trade, some with the English and some by themselves.

The Governour undertook a voyage to discover Shechittawam River; and thence intended to coast along to Port Nelson, where as yet was no Fort. In the meantime Mr. Gorst, who was left deputy at the fort, sent a yaul, and four men well arm'd, up to Nodways River, which as high as they could go for the Falls, was 5 miles broad. After about 2 months' voyage, Mr. Baily return'd and gave this account of his voyage in the sloop. On the 16th July he sail'd from Moose River, and arriv'd at Schettawam† River on the 18th, where no Englishman had been before. He stayed there till the 21st; but could meet with little or no beaver.

'Tis a fine river, and a good channel to the N. W. in 52 degrees, N. L. He treated with the King, and his son made them a promise to come with a ship and trade with them the next year. In return they assured him they would provide a store of beaver, and bridg the Upland Indians down.‡

On the 27th of July, the sloop ran upon ice, and had like to have founder'd.

After he he had returned to the fort, on the 30th of August, a canoe arriv'd at Ruper't's River, with a missionary Jesuit, a Frenchman, born of English parents, attended by one of Cuscudidah's family, a young Indian. The Frier brought a letter to Mr. Baily from the Governour of Quebec, dated the 8th of October, 1673. For the priest should have been at Rupert's River several months before, but that he was stop'd by the Indians. The Governor of Quebec desired Mr. Baily to treat the Jesuit civilly, on account of the great amity between the two crowns; and Mr. Baily resolved to keep the Jesuit till ships came from England.

The Tahittee Indians being within the Hudson's Bay Company's Pattent, 'twas an encroachment for the French to trade with him, the Jesuit confessed they did it.§ Mr. Baily cloathed him, the Indians having rob'd him; and entertained him with great kindness. The Priest resolving to return to Europe in an English ship, did not like another journey of

* That is, they found a better market with the French.

† The same as Quichichouanne.

‡ The whole idea of the English seemed to be to bring the Indians to their quarters, not to go after them; which, indeed, for want of expert canoe-men [as to this, see letter, Middleton to Dobbs, p. 121, *ante*], they were unable to do.

§ It is quite certain the French did not admit they were guilty of encroaching on territory belonging to the English. Nothing was settled.

400 miles length, thro' many barbarous nations, overland, and a country almost impassible.

The English were frequently allarm'd with reports of incursions from the Nodways and Moose River Indians, whose quarrel with them was their selling too dear.

In the evening, September 24, the sloop appeared in the river, but having no ensign out, they concluded they were all lost men; and in this extremity of sorrow they were soon revived by the sight of five Englishmen, whom they had not seen before, and from whom they understood the *Prince Rupert*, Capt. Gillan, commander, was arriv'd, with the new Governour, William Lyddal, Esq.

The next day, the old Governour, and Mr. Gorst, sailed for Point Comfort, where the *Shaftsbury*, Capt. Shepherd, commander, arriv'd also from England. And the new Governour's commission and instructions being read, all hands set to work, to refit and load the ships home as soon as possible.

On the 18th September, Mr. Lyddal landed, and took possession of the fort. Mr. Bailly delivered him the pattent. Mr. Lyddal, finding the season was so far spent, before the ships could be unloaden and loaden again, that it would be impracticable to return; after several councils, 'twas resolv'd they should winter at Rupert's River; and Capt. Gillam, and Capt. Shepherd's ships' crews were employed to cut timber, to build houses for them, as also a brew-house and bake-house in the fort.

Mr. Baily, who had very well discharged his trust, returning to England, inform'd the Company fully of their affairs; and now as they advanced in reputation, so they were industrious to increase their trade and settlements. They appointed a trader to act under the Governour, and chiefs of the factories at other rivers, according as they were settled.

Port Nelson was the next settlement which they made, and thither they sent John Bridger, Esq., with the charter of Governour for the Hudson's Bay Company, of the West Main, from Cape Henrietta Maria, which was included in the Governour of the East Main's patent.

Mr. Lyddal was succeeded by John Nixon, Esq., in whose time the Company thought of removing their chief factory from Rupert's River to Chickwan River, as the place most resorted to by the Indians. Charlton Island was now frequented by the ships bound to Hudson's Bay, and made the place of rendezvous for all the factories to bring their merchandize to, and load it there aboard the Company's ships.

In the year 1682, Mr. Bridger embark'd for Port Nelson, where a factory was to be establish'd and a fort built, but before he arriv'd, Capt. Benjamin Gillam, master of a New England ship, and son of Capt. Gillam, commander of the *Prince Rupert*, then in the Company's service, settled at that factory, but had not been there above 14 days before Mr. Raddison and Capt. Gooselier, who deserted the English, arriv'd from Canada.

The Company having dismiss'd them their service, these two Frenchmen in revenge procured some merchants of Canada to undertake a settlement there. Gillam was not strong enough to repel them, but he remained at Port Nelson; where 10 days after Raddison and Gooselier's arrival, came Mr. Bridger. The French no sooner perceiv'd he was come, but they sent aboard his ship immediately, and commanded him to be gone, for that Mr. Raddison and Capt. Gooselier had taken possession of the place for the French King, their master.

Mr. Bridger, being warranted to do so by the Company's commission, unloaded some of his goods, and with all hands went to work in order to make a settlement. Raddison continu'd at Port Nelson, and Mr. Bridger and he became very intimate, which intimacy lasted from October, 1682, to the February following, when Raddison seized Bridger and Gillam, with all their people and effects.

Having kept them some months in a sort of imprisonment, about August the French put several of the Company's and Gillam's people aboard a rotten bark, and they were taken up by an English ship near Cape Henrietta Maria. Bridger and Gillam they carry'd with them to Canada, where Raddison and Gooselier ran some of their cargo ashoar, intending to defraud their employers. After which they made their escape, and got into France. The Company having notice of it, writ to him, and he to the Company, promising, if they would forgive the injury he had done them, and employ him again as such a

sallary, he would undertake to deliver the French, whom he had left there till he came again, to them, and seize all the furrs they had traded for, which would make them satisfaction for the wrongs he had done them. Accordingly they forgave him and employ'd him again, and he took Port Nelson from his countrymen. But before his arrival Cap. John Abraham had been there with supplies of stores, and finding Mr. Bridger was gone, he stay'd himself and was continu'd Governour by the Company, in 1684.

In the preceding year, Mr. Nixon, Governour of Rupert's River, was recall'd, and Henry Sergeant, Esq., made Governour, by whose instructions we find the chief factory was remov'd from Rupert's to Moose-sebee, or Chickewan River which has ever since been call'd Albany River; where a fort was built, a factory settled, and the Governour made it the place of his residence. 'Tis the bottom of the Bay, below Rupert's River.*

He was ordered to come every spring, as soon as the trade was over, to Charlton Island and bring what goods he had with him, to wait for the arrival of the Company's ships. From thence he was to visit the other factories, and see that their merchandize was sent in due time to Charlton Island, to attend the ship's arrival.

The Governour of Canada, having given the Hudson's Bay Company to understand the French were very much offended at their discoveries† in these parts, Mr. Sergeant was ordered to be careful that he was not surprised by them.

There is an island at the bottom of the Bay called Hayes Island, where a factory had been settled. This isle and Rupert's River were near the French, Albany being more to the southward; and of these factories the Company were most apprehensive that their enemies would endeavour to dispossess them.

The Company intended to plant a colony at Charlton Island, and order'd Mr. Sergeant to build a fort there, and always keep some men upon it. Warehouses were also built to receive the furs that were brought thither from the factories, and conveniences were made for the reception of such as were obliged to winter there.

Orders were also given to dismiss Cap. Gillam from their service for his son's offences; and Cap. Sandford had the same usage, on account of his relation to the Gillams. Cap. William Bond, who had been under Mr. Baily, was sent for home; and other regulations made in the management of affairs, but all could not hinder the ruin of them all by the enemy.

The Company, by their Governours and agents, made such compacts with the captains or kings of the rivers and territories where they had settlements, for the freedom of trade there, exclusive of all others, that the Indians could not pretend they had encroach'd upon them. These compacts were rendered as firm as the Indians could make them, by such ceremonies as were most sacred and obligatory among them.

Now were the Company in possession of five settlements, viz., Albany River, Hayes Island, Rupert River, Port Nelson, and New Severn. Their trade at each of these was considerable. From Albany River they had generally 3,500 beavers a year; and by Mr. Sergeant's great care and fidelity, their commerce increased so much that the French began to be afraid all the Upland Indians might he drawn down to the Bay.‡ They knew they could do anything with King James II., who then reigned in England, and that no affront would make that prince break with Lewis the XIV. Wherefore they resolved to drive the English out of all their places in the bottom of the Bay. First they took Hayes Island, and then the fort on Rupert's River. The French Company at Canada procured a detatchment of soldiers to be sent under the Chevalier de Troyes, who came overland from Quebec, and in a time of profound peace committed these acts of hostility.

The 8th of July, 1686, the Chevalier de Troyes came before the fort at Albany River, where the Governour, Mr. Sergeant, then resided. Two Indians had informed him of their having surpris'd the forts at Hayes Island and Rupert River, and having brought with them the great guns from those places.

Two hours after the English heard them discharging their guns, and saw some of them at a distance. Upon which part of the Company's servants declar'd they would not venture their lives unless they might be assur'd of pay, and sent John Parsons and John

* This is evidently the first time the English got a footing on the South-west side of James's Bay.
† Encroachments the French considered them.
‡ Which is proof that the French still held that trade.

Garret, two of their number, in all their names, to the Governour to tell him their resolutions. Mr. Sergeant, by promises and giving them cloathes and other necessaries, prevail'd with them to return to their charge. But in a day or two they mutiny'd again, and Elias Turner, the gunner, possess'd the people with an apprehension that it was impossible to hold out the place, declaring that for his part he would throw himself on the French. Accordingly he went to the Governour, and desir'd leave so to do; but being threat'ned to be shot to death in case he attempted it, he was at last perswaded to return to his post.

The English shot at the French as long as they appeared in the brushes, and forc'd them to retire under the bank, where the guns from the fort could not hit them.

The French had found a way to bring their great guns through the woods, and had planted them on their battery before the English saw them. The enemy's shot had made a breach in the flankers, and damaged the houses in the fort; upon which, and the repeated desires of the men, the Governour consented to a parley; Mr. Bridger assuring him the enemy were mining them, and they should certainly be blown up. Capt. Outlaw also agreed to capitulate, and the whitle flag was hung out; after which a treaty was concluded.*

At this time Thomas Phips, Esq., was Governor of Port Nelson, which was not then taken by the French; and the Company expected Fort Albany would have been restor'd to them in King James' time; but all their solicitations were in vain, and all the settlements they had, Port Nelson excepted, were abandoned to the French.

The war breaking out, as has been said, between the two nations, the Hudson's Bay Company solicited for soldiers to be sent thither to recover their settlements;† and in the year 1693 they retook all the forts and factories which the French had taken from them in time of peace.

In which expedition they met with no more difficulties than the Chevalier de Troyes had met with. Capt. Grimington was the person employ'd for this service; and John Knight, Esq., was appointed Governor of Fort Albany; but his government was of no long continuance, for in a little time the French sent such a power against the English, that they again drove them from all their settlements in the bottom of the Bay.

The French Company made Monsieur de la Fores Governour of Fort Albany, and garrison'd all forts they had taken, which made it necessary for the Government to send a stronger power than the Company could raise to recover them.

The King of England, to protect their trade, assign'd two men-of-war for their service, in the year 1696, as the *Bonaventure*, Capt. Allen, Commander, and the *Seaford*. Capt. Allen, coming into the River Hayes, sent to summon all the forts to surrender, and the French Governour finding he could not defend them against the English, capitulated, and on the 2nd of August, 1696, surrender'd Albany Fort.

Capt. Allen took the Governour and some of his men aboard his own ship; some he put aboard the *Seaford*, and the rest aboard a merchantman call'd the *Dering*. In his return he fought the *Mary Rose*, frigate, then a French privateer of 50 guns, and was kill'd in the engagement, which gave the Frenchman an opportunity to bear away.

As to the other two forts, they followed the fate of Albany, and Mr. Knight was restored to his government; at which time John Geyer, Esq., was Governour of Port Nelson. Mr. Knight had serv'd Mr. Sergeant while he was Governour of Fort Albany, and was well acquainted with the trade.

In the year 1697, the *Hampshire*, frigate, and *Owner's Love*, fire-ship, two of the King's ships, were lost in this Bay, and all the men drown'd. Indeed, the ice renders it so dangerous that the commerce seems to be not worth the risk that is run for it. Whether these two ships ran against those frozen mountains that float in that sea, or founder'd, is not known; but 'tis certain they were lost, and all the men perish'd.

In the present war they lost Port Nelson to the French, and have either given up or deserted all their settlements, except Fort Albany, where Mr. Knight manag'd their affairs till the year 1706, when he was succeeded by John Fullerton, Esq., the present Governour at Albany River.

* This is given on page 110, *ante*.

† In spite of the Treaty of Neutrality.

HUDSON'S BAY COMPANY'S STATEMENT OF THEIR TITLE AFTER TREATY OF RYSWICK.*

A Deduction of the Right and Title of the Crown of Great Britain and therein of Our Most Gracious Sovereign Lady Queen Anne, to all the Streights, Bays, Seas, Rivers, Lakes, Creeks, Islands, Shores, Lands, Territories and Places whatsoever within Hudson's Streights and Hudson's Bay, and of the Right and Property of the Hudson's Bay Company, derived from the Imperial Crown of Great Britain by Letters Patent of Incorporation, and a free Grant of all the Premises from King Charles ye Second, Ao. 1670.

That Hudson's Bay (with all that belongs thereto, within Hudson's Streights, in North America), was first discovered by Sr. Sebastian Cabbat, Grand Pilot to King Henry the Seventh, who gave English names to several places of the said Bay.

Sr. Martin Furbisher, in Queen Elizabeth's time, made three voyages to the said Bay in 1576, 1577 and 1578, and gave English names to several places there.

Captain Davis made three voyages thither in the years 1585, 1587 and 1588, and gave English names to several parts of the said Bay.

Henry Hudson, an Englishman, sailed to the Streights and Bay, from him called Hudson's Streights and Hudson's Bay, and keeps that denomination to this day in all the authentic maps in ye world, and even in the maps of the best geographery of France. The said Hudson stayed a whole winter there, took possession thereof in the name of the King of England, traded with the salvages, and gave names to several other parts of the Streights and Bay.

Sir Thomas Button pursued the discovery and possessions of the aforesaid Hudson, sailed into the Streights and Bay with two ships, and particularly into Fort Nelson where he wintered, and buried the commander of his ship there, in memory of whom he gave it the name of Port Nelson, and called that particular bay Button's Bay (as it is still called in the maps), took possession thereof in the name of his master, King James the First, and gave several other English names to other places in the bay, and erected a cross there, declaring thereon the right of the Crown of England.

Captain Luke Fox, by command of King Charles the First, made a voyage to Hudson's Bay, and amongst other places entered Port Nelson, and finding there the cross erected by Sir William Button, with the inscription defaced, and almost worn out, he erected it again with a new inscription, declaring the right and possession of his then Majesty King Charles the First, named the adjacent country New North Wales, and published a journal of his voyage.

Note.—That the troubles and civil wars which soon after broke out in England, might be one principal cause why those voyages were not prosecuted, trade in general then failing, and navigation and discoveries wanting the encouragement of the Government—till after the restoration of King Charles the Second. Yet it is observable that all that while (for so many years) that those places and countries lay neglected and unfrequented of the navigation or commerce of any European nation, the French do not in the least pretend to have then visited those parts, or to have formed a possession, or attempted any commerce with any people upon those coasts, nor do they pretend that ever any French vessel sailed Hudson's Streights or Hudson's Bay till of late years.

It was then, after the happy Restoration of King Charles the Second, that trade and commerce began to revive, and in particular that from noblemen and other public-spirited Englishmen, not unmindful of the discovery and right of the Crown of England to those parts in America, designed at their own charge to adventure the establishing of a regular and constant trade to Hudson's Bay, and to settle forts and factories, whereby to invite the Indian nations (who lived like savages, many hundred leagues up in the country), down to their factories, for a constant and yearly intercourse of trade, which was never attempted by such settlements, and to reside in that inhospitable country, before the aforesaid English Adventurers undertook the same.

* Pownall's Manuscripts, "Trade," Vol. I., p. 61.

H. B. CO.'S STATEMENT OF THEIR TITLE AFTER TREATY OF RYSWICK.

Wherefore, after a long time of consultation, and the necessary preparations for so great a charge, in the year 1667, one Zachary Gilham was provided of a ship and goods in London, sailed through Hudson's Bay to the bottom of the Bay, settled a trade, and built a fort there, which he called Charles Fort, on a river which he named Rupert's River, in honour to Prince Rupert, who was pleased to be concerned with, and was one of those Adventurers; in which place the Hudson's Bay Company continued a trade, and had there a factory, until the same was unjustly taken from them by the French in time of peace.

Another voyage was undertaken by the same Adventurers, and one Captain Newland was sent, who entered Port Nelson, settled there, and anew declared right and title of His Majesty to that river and the countrys adjacent, and there fixed up His Majesty's Arms, as a mark of his sovereignty over the said places.

After the charge of those voyages, and the experience by these settlements, that a great trade might be brought to England by beavers, furs and other commodities, for the just encouragement of so good and public a benefit, and the persons that had laboured in it, his then Majesty King Charles the Second was graciously pleased, in the year 1670, according to the undoubted and inherent right of His Imperial Crown of England by his Royal Letters Patent to incorporate the said Adventurers, and to grant unto His Highness Prince Rupert, the Duke of Albermarle, Earl of Craven, Lord Arlington, Lord Ashley, and divers others and their successors for ever, all the lands and territories aforesaid, to be reckoned and reputed as one of His Majesty's plantations and colonies in America, by the name of Rupert's Land, and further, to create and constitute them and their successors the true and absolute lords and proprietors of the same, and of all the territories, limits, and places thereto belonging, to have, hold, possess and enjoy the same for ever, as of His Majesty's manor of East Greenwich, in free and common soccage, &c.

In the same year the Company so incorporated sent out one Charles Baily as Governor of their factories and settlements in the Bay, with whom the Monsieur Frontenac, then Governor of Canada, by letters and otherwise, entertained a good correspondence, not in the least complaining in several years of any pretended injury done to the French, by the said Companies settling a trade and building of Forts at the bottom of the Bay.

The said Charles Baily (as the Company's Governor) sent a ship from the bottom of the Bay, called the *Imploy*, to Port Nelson, to settle a trade there with the natives.

As did also Captain Draper, with the ship *Albemarle*.

But after about fifteen years' labour and charge, continual voyages, Factorys and Settlements, and the trade with the natives established, the French began to annoy this new and growing trade, and thought it worth their while to study some pretences to invade and rob the English, and to deprive them of some part of the said country.

When the English Company were building a Fort and settling a Trade at Port Nelson, the French, having formed a private expedition at Quebec, in Canada, by confederacy of one La Chaney, and other private persons, came suddenly with two ships into the said river of Port Nelson, and with a stronger force surprised the said Company's men, and dispossessed them of their place and settlement, carried them prisoners to Canada, and pretended to settle a trade there themselves; but this was the first time that ever the French did sail a vessel into the Hudson's Bay since the beginning of the world. This was a piratical expedition, and the authors of it were prosecuted as such, by frequent memorials from hence at the Court of France, where the same was disowned by His Most Christian Majesty, and satisfaction promised by him accordingly.

But as the French seldom want assurance for their pretensions or claim to anything for their advantage, so they never fail of artifice or force (when they can) to back such their pretences; and when by violence, rapine, and murder, they got themselves into an unjust possession, as aforesaid, then they pretended to expostulate all by a treaty (as if they were upon an even foot with the right possessor), and they seconded this injurious invasion and assault, a year or two after, and by taking a ship of the Company's, one Edward Humes, Commander, with the goods, and carried the men away prisoners, and for above a year fed them on bread and water.

They formed a greater design, and went with a considerable force overland, from Canada to the bottom of the Bay, and by force or treachery, surprised and took all the

Company's factorys there, with all the ammunition, goods, stores and merchandize therein, to a very great value, murdered and destroyed many of His Majesty's subjects; and all these invasions, seizures and depredations were in a time of peace, and the best correspondence between the two Crowns; which is an action scarce to be paralleled by any civilized nation, when the way is open for complaints to the Prince on either side.

Upon these repeated injuries, the said Company complained several times to His then Majesty King James the Second. Several memorials were presented at the French Court by the public Ministers then there, My Lord Preston, Sir Wm. Trumbal and Mr. Skelton: at last His Most Christian Majesty did appoint Commissioners to meet at London, to treat of those matters, and Monsieur Bonrepos was sent over thither, to be joined with Monsieur Barillon, the French Ambassador, in that affair, whereas many papers were exchanged on both sides (but were in that reign so advantageous to the French interest), they did not obtain one inch from the right of the Imperial Crown of Great Britain, nor from the property of the Hudson Bay Company. But on the contrary, His then Majesty did declare that his honour and the Company's interest were concerned therein, and would have reparation for both.

At His late Majesty, King William the Third, his happy accession to the throne, the said Company put in a fresh petition and memorial to His Majesty, of their grievous suffering from the French, which His Majesty was greatly pleased to resent so far that he made it one of the articles and grounds of a declaration of war against France.

And then by the late Treaty of Ryswick, Commissioners were appointed on both sides to examine and determine the rights and pretensions which either king had to the place, situated in Hudson's Bay; before which Commissioners the right and title of the Crown of England to the whole Streights and Bay of Hudson was then clearly made out, which the French could never disprove; yet they still most unjustly keep possession of the greatest part thereof, which if they be permitted to enjoy, they will become sole masters of all Her Majesty's dominions and territorys in those parts, which are of great extent, and the undoubted right of the Crown of Great Britain, and of very great concern to all Her Majesty's subjects, especially to those that inhabit or trade to the northern parts of Her Majesty's plantations in America.

HUDSON'S BAY COMPANY'S STATEMENT OF RIGHTS, 1850.

STATEMENT OF THE RIGHTS, AS TO TERRITORY, TRADE, TAXATION, AND GOVERNMENT, CLAIMED AND EXERCISED BY THE HUDSON'S BAY COMPANY ON THE CONTINENT OF NORTH AMERICA, 1850. *

By the Charter of His Majesty King Charles the Second, dated 2nd May, 1670 by which the Hudson's Bay Company was constituted, His Majesty granted to the Company, as follows:—

"We have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all these seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by, or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid, and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called 'Rupert's Land.' And further we do, by these presents, for us, our heirs and successors, make, create, and constitute the said Governor

* Appendix No. 17, Sess. Papers, Canada, Vol. XV., 1857.

and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other premises, saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same; to have, hold, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdiction, prerogatives, royalties and appurtences whatsoever, to them the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, as of our manor of East Greenwich, in our County of Kent, in free and common soccage, and not in capite or by Knight's service, yielding and paying yearly to us, our heirs and successors, for the same, two elks and two black beavers, whensoever, and as often as we our heirs and successors, shall happen to enter into the said countries, territories and regions hereby granted."

Under this grant the Company have always claimed and exercised dominion as absolute proprietors of the soil in the territories understood to be embraced by the terms of the grant, and which are more particularly defined in the accompanying map; and they have also claimed and enjoyed the exclusive right of trading in those territories.

It may be right here to mention that although the original title to the territory and trade in question was derived under the Charter above referred to the rights of the Company have, in various instances, received the recognition of the Legislature.

The Act 14 Geo. 3, chap. 83, which is intituled "An Act for making more effectual provision for the government of the Province of Quebec, in North America," in describing the boundaries of Canada, expressly refers to their lying "northward to the southern boundary of the territories granted to the Merchants Adventurers of England trading into Hudson's Bay; thereby distinctly recognizing the existence of such a grant, and referring to the known boundary on the south of the territories so granted.

Again, an Act was passed in the 43rd year of the reign of Geo. 3, c. 138, intituled "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces;" and this Act, having stated in the preamble that crimes committed in the Indian territories were not then cognizable by any jurisdiction whatsoever, declares that such crimes should be considered as if committed within the jurisdiction of the Canadian courts.

A doubt having arisen whether this provision extended to the territories possessed by the Hudson's Bay Company, because, although they formed part of the Indian territories, crimes therein committed could not be said not to be cognizable by any jurisdiction whatever, inasmuch as the Hudson's Bay Company had a distinct jurisdiction conferred upon it by its Charter. An Act was passed in the 1st and 2nd Geo. 4, c. 66, intituled "An Act for regulating the Fur Trade, and establishing a Commercial and Civil jurisdiction within certain parts of North America," by which, after reciting that doubts had been entertained whether the provisions of the Act of Geo. 3 extended to the territories granted by charter to the Governor and Company of Adventurers of England trading into Hudson's Bay, and that it was expedient that such doubts should be removed, and the said Act should be further extended, it was declared and enacted, that the provisions of the Act of 43 Geo. 3 should be deemed and construed, "to extend to and over, and to be in full force in and through all the territories theretofore granted to the Hudson's Bay Company," thus again distinctly recognizing the existence of the grant of the soil, as well as the jurisdiction; for the Act contains an express reservation that nothing therein contained should affect the rights, privileges, authority or jurisdiction of the Hudson's Bay Company; and, in consequence, from that period, the Company and the Canadian Courts have exercised a concurrent jurisdiction as to offences committed within the territories of the Company. By this Act also, power was given to the Crown to make, grant, or give licenses for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such grants or licenses not being part of the land and territories granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of the Crown provinces in North America, or of any lands or territories belonging to the United States of America.

HUDSON'S BAY COMPANY'S STATEMENT OF RIGHTS, 1850.

By virtue of licenses granted under the powers of this Act, the Company are entitled to certain exclusive rights of trading beyond the limits of their own territories; but this Act is referred to here as distinctly recognizing the rights of the Company to exclusive trade within their own territories.

With regard to taxation and government, the Company under their charter, are invested with power "to make, ordain and constitute such and so many reasonable laws, constitutions, orders and ordinances as to them, or the greater part of them, being then and there present, shall seem necessary and convenient for the good government of the said Company, and of all governors of colonies, forts and plantations, factors, masters, mariners and other officers employed or to be employed in any of the territories and lands aforesaid, and in any of their voyages; and for the better advancement and continuance of the said trade or traffic and plantations, and the same laws, constitutions, orders and ordinances so made, to put in, use and execute accordingly, and at their pleasure to revoke and alter the same or any of them, as the occasion shall require. And it is provided that the said Governor and Company, so often as they shall make, ordain or establish any such laws, constitutions, orders and ordinances, in such form as aforesaid, shall and may lawfully impose, ordain, limit and provide such pains, penalties and punishment upon all offenders, contrary to such laws, constitutions, orders and ordinances, or any of them, as to the said Governor and Company for the time being, or the greater part of them, then and there being present (the said Governor or his Deputy being always one), shall seem necessary, requisite or convenient for the observation of the same laws, constitutions, orders and ordinances; and the same fines and amerciments shall and may, by their officers and servants from time to time to be appointed for that purpose, levy, take and have, to the use of the said Governor and Company, and their successors, without the impediment of us, our heirs or successors, or any of the officers or ministers of us, our heirs or successors, and without any account therefore to us, our heirs or successors to be made, so always as the said laws, constitutions, orders and ordinances, fines and amerciaments, be reasonable, and not contrary or repugnant, but as near as may be agreeable to the laws, statutes or customs of this our realm." And it is further provided, "that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any ports or places afore limited, shall be immediately and from henceforth under the power and command of the said Governor and Company, their successors and assigns; and the said Governor and Company are empowered to appoint and establish Governors and all other officers to govern them." And it is provided, "that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, fortifications, colonies or places of trade within any of the countries, lands or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of this Kingdom, and to execute justice accordingly; and in case any crime or misdemeanor shall be committed in any of the said Company's plantations, forts, factories, or places of trade within the limits of the aforesaid, where judicature cannot be executed for want of a Governor and Council there, then in such case it shall and may be lawful for the chief Factor of that place and his Counsel to transmit the party, together with the offence, to such other plantation, factory or fort where there shall be a Governor and Council, where justice may be executed, or into this kingdom of England, as shall be thought most convenient, there to receive such punishment as the nature of his offences shall deserve."

In pursuance of the authority thus given, the Company have invariably exercised all the power of government necessary for the administration of justice in their territory, and for that purpose have appointed proper officers, who have acted judicially in all matters arising therein.

As already observed, the Canadian Courts have now a concurrent jurisdiction with the Company.

It may be right here to refer to several Acts of the Legislature which have recognized the general rights and privileges claimed and exercised by the Company:—

An Act passed in the sixth year of the reign of Queen Anne, c. 37, intituled, "An

Act for the Encouragement of the Trade to America," and this Act contains an express proviso, that "nothing therein contained shall extend or be construed to take away or prejudice any of the estates, rights or priviliges of or belonging to the Governor and Company of Adventurers trading into Hudson's Bay."

In like manner, in 1745, when an Act was passed (18 Geo. 2, c. 17), for granting a reward for the discovery of a north-west passage through Hudson's Straits, it was expressly provided that "nothing therein contained should extend or be construed to take away or prejudice any of the estates, rights or privileges of or belonging to the Hudson's Bay Company."

No exact system of taxation has been claimed or exercised by the Company, and until a colony of resident settlers was established other than the Company's own servants, the Company defrayed the whole expenses of the government of their territories without the aid of any contribution whatever; but since a colony was formed, it has been made a stipulation with the community, upon their becoming settlers, and receiving parcels of land, that they should contribute towards the expenses of the Government of the colony; but the main charge has continued to be borne by the Company.

XV.

Miscellaneous Documents.

RIGHTS OF POSTLIMINY.

THE DUKE OF YORK'S PATENT OF THE LANDS AND RIVERS FROM THE WEST SIDE OF THE CONNECTICUT RIVER TO THE EAST SIDE OF DELAWARE BAY, &c., 12TH MARCH, 1664.

By the Treaty of Westminster the United Provinces relinquished their conquest of New Netherland to the King of England. The Sovereign Dutch States-General had treated directly with Charles as Sovereign. A question at once arose at Whitehall about the subordinate interest of the Duke of York. It was claimed by some that James's former American proprietorship was revived. Yet while the Treaty of Westminster re-established the articles of capitulation agreed to by Nicolls and Stuyvesant, who represented their sovereigns in 1664, it did not cure the imperfections, subject to which the Duke had for nine years governed his American Province. James's patent had been sealed while the Dutch were in quiet possession of New Netherland, and no new grant was made to him after the Treaty of Breda, which confirmed to the English king his conquest of the Dutch province. Eminent lawyers "very justly questioned" the Duke's pretension to the territory which England had recently recovered, because its cession to her sovereign by the Dutch Government "had given no strength to original defects." James was now obliged to give up the claim of English right which he and his brother had formerly maintained. Moreover, the Duke wished to regain New Jersey which he had foolishly squandered on Berkeley and Carteret. Besides, the boundary agreement with Connecticut, which had been ratified by the Crown or by himself, was a sore point. The opinion of Counsel having been taken, they advised that the Duke's proprietorship had been extinguished by the Dutch conquest, and that the King was alone seized of New Netherland, by virtue of the Treaty of Westminster. The "*Jus Postliminii*" did not obtain in New York.

A new patent to the Duke of York was therefore sealed [on the 29th June, 1674]. By it the King again conveyed to his brother the territories he had held before, and granted him anew the absolute powers of government he had formerly enjoyed over British subjects, with the like additional authority over "any other person or persons" inhabiting his province. Under the same description of boundaries, New Jersey, and all the territory west of the Connecticut River, together with Long Island and the adjacent islands, and the region of Pemaquid, were again included in the grant. The new patent did not, as has been commonly, but erroneously stated, "recite and confirm the former." It did not in any way allude to that instrument. It read as if no previous English patent had ever existed. It was a second grant, in almost the same terms with the first, and it conveyed

to the Duke, ostensibly for the first time, a territory which the Dutch Government, after conquering and holding had by treaty "restored to His Majesty." * * *

One of the motives to the Duke of York's second patent was the peculiar condition of New Jersey. James considered that his former release of that region to Berkeley and Carteret was annulled by the Dutch conquest—just as his own grant from the King had been. But both his grantees were old courtiers, and more than his match where their own interests were at stake. They played their own separate games, and eventually they beat the Duke.*

[The Duke of York, on the 29th July, 1674, made a new patent† to Sir Geo. Carteret, of the land westward of Long Island, and Manhattas Island, and bounded on the east, part by the main sea and part by the Hudson's River, and extending southward as far as a certain creek called Barnegat, and bounded on the west in a straight line from Barnegat Creek to a creek called Rankokus Kill, in Delaware River, and from thence up the said Delaware River to the northermost branch thereof, which is in latitude 41° 40′, and thence in a straight line to Hudson's River in 41° of latitude. The second grant of the Duke to Sir Geo. Carteret did not give any powers of government, but Sir Geo. Carteret stood in much the same position towards the Dutch conquerors that the Duke did himself, and his title, like the Duke's, was subject to extinguishment by the conquest. There was another ground for granting a second patent: the country not being in possession of the King, but in the possession of Holland at the time the first patent was granted, nothing was conveyed by it, and upon this ground a second patent became necessary.]

King Charles II. having granted what is now the States of New York, New Jersey, and Delaware, to the Duke of York, he sent an armament in 1664 to wrest it from the Dutch. After reducing New York the squadron proceeded to the settlements on the Delaware, which immediately submitted. In the same year the Duke conveyed that portion of his grant lying between the Hudson and Delaware Rivers to Lord Berkeley and Sir Geo. Carteret. The tract was called New Jersey. . . . . The two proprietors formed a constitution for the colony, securing equal privileges and liberty of conscience to all. . . . A few years afterwards the repose of the colony began to be disturbed by domestic disputes; some of the inhabitants, having purchased their lands of the Indians previous to the conveyance from the Duke, refused to pay rent to the proprietors. . . . In 1672 an insurrection took place; the people assumed the government and chose a Governor. The former Governor returned to England and obtained from the proprietors such favourable concessions and promises as quieted the people and induced them again to submit to his authority.

Lord Berkeley disposed of his property, rights and privileges in the territory to Edward Billinge; and he being enveloped in debt, consented that they should be sold for the benefit of his creditors. William Penn, Gawen Lawrie, and Nicholas Lucas, were appointed trustees for that purpose. In 1676, the trustees and Sir Geo. Carteret made partition of the territory, they taking the western and he the eastern portion.

West Jersey was then divided into one hundred shares, which were separately sold. Some of the purchasers emigrated to the country, and all made great exertions to promote its population. Possessing the powers of government as well as the right of soil, they formed a constitution, in which for the encouragement of emigrants, they secured for them ample privileges.

But previous to the transfer from Berkeley to Billinge, the Dutch being at war with England, reconquered the country and retained it, until 1674, when it was restored by treaty. A new patent was then granted to the Duke, including the same territory as the former. In 1678, Sir Edmund Andros, who had been appointed the sole Governor in America, claimed jurisdiction over the Jerseys, insisting that the conquest by the Dutch divested the proprietors of all their rights.

He forcibly seized, transported to New York, and there imprisoned those magistrates who refused to acknowledge his authority. He imposed a duty upon all goods imported, and upon the property of all who came to settle in the country. Of this injustice the inhabitants loudly complained to the Duke; and at length their repeated remonstrances constrained him to refer the matter to Commissioners.

* Brodhead's History of New York, vol. II., pp. 260-1, 265-6.
† See Ibid., pp. 267-8.

Before them the proprietors appeared. In strong language they asserted, and by strong arguments supported their claims to the privileges of freemen. They represented that the King had granted to the Duke the right of government as well as the right of soil. That the Duke had transferred the same rights to Berkeley and Carteret, and they to the present proprietors. [That is, under the first grant. Under the second grant the Duke withheld the rights of Government, and granted only property in the soil.]

"That only," they added, "could have induced us to purchase lands and emigrate. And the reason is plain, to all prudent men, the Government of any place is more inviting than the soil; for what is good land without good laws? What but an assurance that we should enjoy civil law, religious privileges, could have tempted us to leave a cultivated country and resort to a gloomy wilderness? What have we gained, if after adventuring in the wilderness many thousands of pounds, we are yet free to be taxed at the mere will and pleasure of another? What is it but to say, that people free by law under any prince at home, are at his mercy in plantations abroad?

"We humbly say, that we have lost none of our liberty by leaving our country; that the duty imposed on us is without precedent or parallel; that, had we foreseen it, we should have preferred any other plantation in America. Besides, there is no limit to this power; since we are, by this precedent, taxed without any law, and thereby excluded from our English right of assenting to taxes. What security have we of anything we possess? We can call nothing our own, but are tenants at will, not only for the soil, but for our personal estates. Such conduct has destroyed governments, but never raised one to any true greatness."

The Commissioners adjudged the duties illegal and oppressive, and they were not afterwards demanded.*

In following the course of the law of nations, this Court has declared that even in cases of conquest, the conqueror does no more than displace the sovereign and assume dominion over the country. (1 Pet. Rep. 86.)

A cession of territory is never understood to be cession of the property of the inhabitants. The King cedes only that which belongs to him; lands he had previously granted were not his to cede. Neither party could so understand the treaty. Neither party could consider itself as attempting a wrong to individuals condemned by the whole civilized world. The cession of a territory would be necessarily understood to pass the sovereignty only, and not to interfere with private property. (Ib. 87.)

No construction of a treaty which would impair that security to private property which the laws and usages of nations would without express stipulation have conferred, would seem to be admissible, further than its positive words require. Without it the title of individuals would remain as valid under the new Government as they were under the old; and these titles, at least as far as they were consummate, might be asserted in the Courts of the United States, independently of this article. (Ib. 88.)†

Such is the difference of the rule as between the Rights of the Great Corporations and ordinary private holders.

SHOULD THE OBJECT OF VOYAGES BE TAKEN INTO ACCOUNT?

The French View.

Memoir of the French Commissioners, October 4, 1751, in reply to the Memoirs of the Commissioners of His Britannic Majesty of the 21st September, 1750, and the 11th January, 1751 :—

A distinction ought to be made between the voyages that have been directed towards the continent of North America, with the design of making plantations and establishing colonies, and those which have not been undertaken with this view; and among the latter, those which were confined to simple attempts which proved unproductive, with those which have been followed by the formation of solid establishments, actually existing, or which would have subsisted if some European power had not destroyed them.

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* Hales' History of the United States, pp. 84-86.

† Also, passient, Pet. S. C. Rep. 6, 741-2; 9, 133; 10, 720, 729-30; 12, 438, Strother *v.* Lucas.

CORRUPTION AMONG CANADIAN OFFICIALS, 1759.

THE ENGLISH VIEW.

Memorial presented by His Majesty's Commissaires to the Commissaires of His Most Christian Majesty, in reply to their Memorial of the 4th October, 1751, concerning Nova Scotia or Acadia :—

The French Commissaires, in the two first articles of their Memorial, have given an historical summary account of the first voyages made by the English and French, for the discovery and settlement of North America, to which, and to the arguments drawn from it, it would be sufficient to answer in general, that the question now in discussion is not which nation has the right to Acadia or Nova Scotia, but what were the ancient limits of that country ; that several treaties between the two Crowns have long since interposed to determine upon, and indeed annul, any claim from the earliest discovery or settlement, and that very little information can be reasonably expected for deciding what were the ancient boundaries of this country from the proceedings of those who first discovered it, or the relations of their voyages, it being well known how indistinctly first discoveries of all countries have been made (every pilot or admiral taking possession of a vast tract of a country he never saw, upon the pretence of having landed in a part of it), and in how very imperfect and suspicious a manner the relations of those voyages have come down to us. [To correct the mistakes and show that they do not acquiesce in the claim of precedency set up by the French Commissaires, the English Commissioners consent to enter into this matter, and for this purpose only.] To enter more minutely than this into the examination of the history contained in these articles, would be to depart from the proper subject before us, to assist in a certain degree towards changing the real object of the present inquiry, and in part to rest the decision of it upon insufficient evidence and improper inquiry.

As to the distinction, in such national discussions, of rights founded upon earliest discovery, was there ever any further enquiry made than which was the earliest discovery? and such discovery once proved, was it ever afterwards examined whether it was made accidentally in the course of another undertaking, or whether the ships were orignally destined for that particular design, or if the single object of the voyage was the settling a plantation on that particular coast? Surely this way of reasoning is entirely new, nor has any nation ever yet suffered a title founded upon earliest discovery to be arraigned upon such a subtle but groundless distinction. As to the particulars brought in support of it, such of them as would be of any weight if they were true, are mistakes, and such as are true signify nothing. It would be some argument to show this voyage was the adventure of Cabot, not made on the part of Henry VII., if all the ships which sailed under Cabot's command had been defrayed at his expense, and been his property ; but it appears from the best authority, that, besides the ships he bought by the King's permission, several others accompanied him, fitted out by private merchants, subjects of Great Britain, who became parties to the undertaking. It would also be a circumstance very favourable to the interpretation the French Commissaires put upon this voyage, if Henry VII. had not in his Letters Patent inserted a word by which he reserves to himself and to his crown, dominion and royalty in all the lands which shall be discovered or settled by Cabot; but it is expressly there said, that Cabot and his heirs shall hold all such lands as he shall discover and settle, as vassals of the Crown, though the immediate profit of the voyage, and various exemptions in holding what lands shall be discovered, are granted to Cabot and his heirs as rewards for their industry, and a recompense for their expense. These two objections, therefore, which if they were well grounded would have some weight, are founded upon circumstances which are not true.

CORRUPTION AMONG CANADIAN OFFICIALS, 1759.*

M. DE MONTCALM TO MARSHAL DE BELLEISLE—EXTRACTS.

MONTREAL, 12th April, 1759.

Canada will be taken this campaign, and assuredly during the next, if there be not some unforseen good luck, a powerful diversion by sea against the English Colonies, or some gross blunders on the part of the enemy.

* N. Y. Hist. Col., Vol. X, p. 960.

CORRUPTION AMONG CANADIAN OFFICIALS, 1759.

The English have 60,000 men, we, at most, from 10 to 11,000. Our government is good for nothing; money and provisions will fail. Through want of provisions, the English will begin first; the farms scarcely tilled, cattle lack; the Canadians are dispirited; no confidence in M. de Vaudreuil or in M. Bigot. M. de Vaudreuil is incapable of preparing a plan of operations; he has no activity; he lends his confidence to empiries rather than to the General sent by the King. M. Bigot appears occupied only in making a large fortune for himself, his adherents and sycophants; cupidity has seized officers, store-keepers; the commissaries also, who are about the River St. John or the Ohio, or with the Indians in the upper country, are amassing astonishing fortunes. It is nothing but forged certificates legally admitted. If the Indians had a fourth of what is supposed to be expended for them, the King would have all those in America; the English, none.

This interest has an influence on the war. M. de Vaudreuil, with whom men are equal, led by a knavish Secretary and interested associates, would confide a vast operation to his brother, or any other colonial officer, the same as to Chevalier de Levis. The choice concerns those who divide the cake; therefore has there never been any desire to send M. de Bourlamaque, or M. de Senezergues, commandant of the battalion of La Sarre, to Fort Duquesne. I did propose it; the King had gained by it; but what Superintendents in a country whose humblest cadet, a sergeant, a gunner, return with twenty, thirty thousand livres in certificates, for goods issued for the Indians on account of His Majesty. * * *

Everybody appears to be in a hurry to make his fortune before the Colony is lost, which event, many perhaps desire as an impenetrable veil over their conduct. The craving after wealth has an influence on the war, and M. de Vaudreuil does not doubt it. Instead of reducing the expenses of Canada, people wish to retain all; how abandon positions which serve as a pretext to make private fortunes. Transportation is distributed to favourites. The agreement with the contractor is as unknown to me as it is to the public. It is reported that those who have invaded commerce participate in it. Has the King need of purchasing goods for the Indians? Instead of buying them directly, a favourite is notified, who purchases at any price whatever. Then, M. Bigot has been removed to the King's stores allowing a profit of one hundred and even one hundred and fifty per cent. to those whom it is desired to favour. Is artillery to be transported, gun-carriages, carts, implements to be made? M. Mercier, Commandant of the Artillery, is the contractor under other people's names. Everything is done badly and at a high price. This officer, who came out twenty years ago a simple soldier, will be soon worth six or seven hundred thousand livres, perhaps a million, if these things continue. I have often respectfully spoken to M. de Vaudreuil and M. Bigot of these expenses; each throws the blame on his colleague. The people, alarmed at these expenses, fear a depreciation in the paper money of the country; the evil effect is, the Canadians who do not participate in those illicit profits, hate the Government. * *

It is foreign to my character to blame M. de Vaudreuil and M. Bigot, depositaries of His Majesty's authority in Canada. I am even attached to M. Bigot, who is an amiable man and a near relative of M. de Pussieux and Marshal D'Estrees, who honour me with their friendship. * * * *

If there be peace, the Colony is lost if the entire government be not changed. The maxims of the book entitled *L'ami de l'homme* must be followed: to disgrace those who will return from Colonies with wealth, and to reward those who will return from them with the staff and scrip with which they had gone forth.

The general census of Canada has been at last completed. Though it has not been communicated to me, I think I'm correct, that there are not more than 82,000 souls in the Colony; of these, twelve thousand at most, are men capable of bearing arms; deducting from this number those employed in works, transports, bateaux, in the upper countries, no more than seven thousand Canadians will ever be collected together, and then it must not be either seed time or harvest, otherwise by calling all out, the ground would remain uncultivated, famine would follow. Our eight battalions will make three thousand two hundred men; the Colonials at most fifteen hundred men in the field. What is that against at least fifty thousand men which the English have.

EXTRACTS FROM BENJAMIN FRANKLIN'S LETTERS TO HIS SON,* 1766-68.

May 10, 1766.—I like the project of a colony in the Illinois country, and will forward it to my utmost here.

Aug. 25.—I can now only add that I shall endeavour to accomplish all that you and your friends desire relating to the settlement westward.

Sept. 12.—I have just received Sir William's open letter to Secretary Conway, recommending your plan for a colony in the Illinois, which I am glad of. I have closed and sent it to him. He is not now in that Department; but it will of course go to Lord Shelburne, whose good opinion of it I have reason to hope for—and I think Mr. Conway was rather against distant Posts and settlements in America. We have, however, suffered a loss in Lord Dartmouth, who I knew was inclined to grants there in favour of the soldiery, and Lord Hillsborough is said to be terribly afraid of dispeopling Ireland. Gen. Lyman has been long here soliciting such a grant, and will readily join the interest he has made with ours; and I should wish for a body of Connecticut settlers, rather than all from our frontiers. I purpose waiting on Lord Shelburne on Tuesday, and hope to be able to send you his sentiments by Falconer, who is to sail about the 20th. A good deal, I imagine, will depend on the account when it arrives of Mr. Crogan's negotiation in that country. This is an affair I shall seriously set about; but there are such continual changes here that it is very discouraging to all applications to be made to the Ministry. I thought the last set to be well established; but they are broken and gone. The present set are hardly thought to stand very firm, and God only knows whom we are to have next. The plan is, I think, well drawn, and, I imagine, Sir William's approbation will go a great way in recommending it, as he is much relied on in all affairs that may have any relation to the Indians. Lord Adam Gordon is not in town, but I shall take the first opportunity of conferring with him. I thank the Company for their willingness to take me in, and one or two others that I may nominate. I have not yet concluded whom to propose to it; but I suppose our friend Sergeant should be one. I wish you had allowed me to name more, as there will be in the proposed country, by reckoning, near sixty-three millions of acres, and therefore enough to content a great number of reasonable people; and by numbers we might increase the weight of interest here. But perhaps we shall do without.

Sept. 27.—I have mentioned the Illinois affair to Lord Shelburne. His Lordship has read your plan for establishing a colony there, recommended by Sir William Johnson, and said it appeared to him a reasonable scheme; but he found it did not quite rate with the sentiments of people here; that their objections to it were, the distance, which would make it of little use to this country, as the expense on the carriage of goods would oblige the people to manufacture for themselves; that it would for the same reason be difficult both to defend it and to govern it; that it might lay the foundation of a Power in the heart of America, which in time might be troublesome to the other colonies, and prejudicial to our government over them; and the people were wanted both here and in the already settled colonies, so that none could be spared for a new colony. These arguments, he said, did not appear of much weight, and I endeavoured by others to invalidate them entirely. But his Lordship did not declare whether he would or would not promote the undertaking, and we are to talk further upon it.

I communicated to him two letters of Mr. Crogan's with his journal, and one or two of yours on the subject, which he said he would read and consider; and I left with him one of Evan's maps of the middle colonies, in the small scale part of which I had marked with a wash of red ink the whole country included in your boundaries. His Lordship remarked that this would coincide with General Lyman's project, and that they might be united.

Sept. 30.—I have just had a visit from Gen. Lyman, and a good deal of conversation on the Illinois scheme. He tells me that Mr. Morgan, who is Under-Secretary of the Southern Department, is much pleased with it, and we are to go together to talk to him concerning it.

* Spark's "Franklin," vol. IV, pp. 233—41.

EXTRACTS FROM BENJAMIN FRANKLIN'S LETTERS TO HIS SON, 1766–68.

Oct. 11.—I was again with Lord Shelburne a few days since, and said a good deal to him on the affair of the Illinois settlement. He was pleased to say that he really approved of it; but intimated that every new proposed expense for America would meet with great difficulty here, the Treasury being alarmed and astonished at the growing charges there, and the heavy accounts and drafts continually brought in from thence; that Major Farmer, for instance, had lately drawn for no less than 30,000 pounds, extraordinary charges, on his going to take possession of the Illinois, and that the Superintendents, particularly the Southern one, began also to draw very largely. He spoke, however, handsomely of Sir William on many accounts.

Nov. 8.—Mr. Jackson has now come to town. The ministry have asked his opinion and advice on your plan of a colony in the Illinois, and he has just sent me to peruse his answer in writing, in which he warmly recommends it, and enforces it by strong reasons, which give me great pleasure, as it corroborates what I have been saying on the same topic, and from him appears less to be suspected of some American bias.

June 13, 1767.—The Illinois affair goes forward but slowly. Lord Shelburne told me again last week that he highly approved of it, but others were not of his sentiments, particularly the Board of Trade. Lyman is almost out of patience, and now talks of carrying out his settlers without leave.

Aug. 28.—Last week I dined at Lord Shelburne's, and had a long conversation with him and Mr. Conway (there being no other company) on the subject of reducing the American expenses. They have it in contemplation to return the management of Indian affairs into the hands of the several provinces, on which the nations border, that the colonies may bear the charge of treaties and the like, which they think will be then managed more frugally, the Treasury being tired with the immense drafts of the Superintendents.

I took the opportunity of urging it as one mode of saving expense in supporting the outposts that a settlement should be made in the Illinois country, expatiated on the various advantages, namely, furnishing provisions cheaper to the garrisons securing the country, retaining the trade, raising a strength there, which on occasion of a future war, might easily be poured down the Mississippi upon the lower country, and into the Bay of Mexico, to be used against Cuba, the French Islands, or Mexico itself. I mentioned your plan, its being approved of by Sir William Johnson, and the readiness and ability of the gentlemen concerned to carry the settlement into execution with very little expense to Government. The Secretaries appeared finally to be fully convinced, and there remained no obstacle but the Board of Trade, which was to be brought over privately before the matter was referred to them officially. In case of laying aside the Superintendents, a provision was thought of for Sir William Johnson. He will be made Governor of the new colony.

Oct. 9.—I returned last night from Paris, and just now hear that the Illinois settlement is approved of in the Cabinet Council so far as to be referred to the Board of Trade for their opinion, who are to consider it next week.

Nov. 13.—Since my return, the affair of the Illinois settlement has been renewed. The King in Council referred the proposal to the Board of Trade, who called for the opinion of the merchants on two points, namely whether the settlement of colonies in the Illinois country and at Detroit might not contribute to promote and extend the commerce of Great Britain; and whether the regulation of the Indian trade might not be best left to the several colonies that carry on such trade—both which questions they considered at a meeting, where Mr. Jackson and I were present, and answered in the affirmative unanimously, delivering their report accordingly to the Board.

Nov. 25.—As soon as I received Mr. Galloway's, Mr. S. Wharton's, and Mr. Crogan's letters on the subject of the (Indian) *Boundary*, I communicated them to Lord Shelburne. He invited me next day to dine with him. Lord Clare was to have been there, but he did not come. There was nobody but Mr. Maclean. My lord knew nothing of the boundaries having been agreed on by Sir William; had sent the letters to the Board of Trade, directing search to be made there for Sir William's letters; and ordered Mr. Maclean to search the Secretary's office, who found nothing. We had much discourse about it, and I pressed the importance of despatching orders immediately to Sir William to complete the affair. His lordship asked who was to make the purchase, that is, who should be at the expense. I said

that if the line included any lands within the grants of the charter colonies, they should pay the purchase-money of such proportion. If any within the proprietary grants, they should pay their proportion. But what was within Royal Governments, where the King granted the lands, the Crown should pay for that proportion. His lordship was pleased to say he thought this reasonable. He finally desired me to go to Lord Clare as from him, and urge the business there, which I undertook to do. . . . .

I waited next morning on Lord Clare, and pressed the matter of the *boundary* closely upon him. . . . . He agreed upon settling it, but thought there would be some difficulty about who should pay the purchase-money; for that this country was already so loaded it would bear no more. We then talked of the *new colonies*. I found he was inclined to think one near the mouth of the Ohio might be of use in securing the country, but did not much approve that at Detroit. And, as to the trade, he imagined it would be of little consequence, if we had it all, but supposed our traders would sell the peltry chiefly to the French and Spaniards at New Orleans, as he had heard they had hitherto done.

March 13, 1768.—The purpose of settling the *new colonies* seems at present to be dropped, the change of American administraiion not appearing favourable to it. There seems rather to be an inclination to abandon the posts in the back country, as more expensive than useful. But counsels are so continually fluctuating here that nothing can be depended on. The new Secretary Lord H., is, I find, of opinion that the troops should be placed, the chief part of them, in Canada and Florida.

ON THE COLONIZATION OF THE ILLINOIS COUNTRY.*

Sir William Johnson to the Lords of Trade and Plantations.

Johnson's Hall, Jan. 31, 1776.

My Lords,— . . . I have received the agreeable news of our being in actual possession of the Illinois, the Indians, in consequence of their engagements to Mr. Crogan, having given no obstruction to Captain Stirling or his party, who arrived at Fort Chartres in October last, and were well received.

As the possession of this fine country has been earnestly desired and often in vain attempted since the reduction of Canada, and now proceeds from the late negotiations of my Deputy with the Indians in that quarter, it may not be amiss to offer my thoughts on the best manner for possessing so valuable an acquisition, and render it of real use to the Crown. It will be needless to enlarge upon the natural advantages of soil and situation which this country peculiarly enjoys, these being matters pretty well known; but to avail ourselves of these advantages, it is highly necessary that we should do all in our power to keep the Indians contented, easy, and reconciled to our manners and government, without which we can neither keep up the communication or retain it for any time, and the difficulties and obstructions which have hitherto prevented our possessing it, by way of the Mississippi, are convincing proof of this. Neither is it in our power, with any force to be spared for that service, to ascend the river or cross the country by land to that settlement, if the Indians are at all disposed to obstruct their progress.

The settlements at the Illinois extend for many miles above the Kaskaski River along the Mississippi; the land is extremely fine, and capable of raising anything. Some of the present inhabitants may possibly incline to go home, and our traders will, I dare say, choose to purchase their rights; this may be a foundation for a valuable colony in that country, which, once established, would prove very beneficial to Great Britain, as well as a great check to the large cessions obtained of the natives. But to effect this, and every other purpose, their jealousies and dislikes must be conquered, and they must be convinced by a series of good management and occasional generosity that their suspicions are groundless.

*N. Y. Hist. Doc., Vol. VIII.

DEBATE ON THE QUEBEC BILL, 1774.

EXTRACTS FROM THE DEBATE IN THE HOUSE OF COMMONS ON THE BILL, SO FAR AS RELATES TO THE BOUNDARIES.*

Mr. T. Townshend, Jun.—Although I bow very low to all great authorities, I must venture to mention one thing, that when I was calling for regulations for Canada, little did I think that I was calling for regulations for a country much larger than Canada, a country "extending," in the words of the Bill, "southward to the banks of the River Ohio, westward to the banks of the Mississipi, and northward to the southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay." I say, Sir, that when I was calling for regulations for Canada, little did I think that I was calling for an arrangement which, I will venture to say, is oppressive to the English subject, and disagreeable and hateful to the Canadian. . . . I know there prevails an opinion that the best thing that you can do with this country is to make it a French colony, to keep the English out of it as much as possible, that they may not mix with the Canadians. . . . Now, for what purpose are they (the English settlers) to be placed under French laws, unless it is meant to be laid as a foundation that, for the future, French laws are to be the laws of America? If this is to be the case, Sir, that may be a good reason for extending French law to the whole of Illinois, and to all that is intermediate between Illinois and Canada. You have given up to Canada almost all that country which was the subject of dispute, and for which we went to war. We went to war calling it the Province of Virginia. You tell the French it was only a pretext for going to war; that you knew then, you know now, that it was a part of the Province of Canada. . . . I should wish to know why Canada may not be reduced to some less limits; why not the same limits England and France have ever given it; and why not within some bounds, a little less than that which is given to it here?

Lord North.—The first thing objected to by the honourable gentleman is the very great extent of territory given to the Province. Why, he asks, is it so extensive? There are added undoubtedly to it two countries which were not in the original limits of Canada, as settled in the proclamation of 1763; one, the Labrador coast, the other, the country westward of the Ohio and Mississipi, and a few scattered posts to the west. Sir, the addition of the Labrador coast has been made in consequence of information received from those best acquainted with Canada and the fishery upon that coast, who deem it absolutely necessary, for the preservation of that fishery, that the Labrador coast should no longer be considered as a part of the government of Newfoundland, but be annexed to that country. With respect to the other additions, these questions very fairly occur. It is well known that settlers are in the habit of going to the interior parts from time to time. Now, however undesirable, it is open to Parliament to consider whether it is fit there should be no government in the country, or, on the contrary, separate and distinct governments; or whether the scattered posts should be annexed to Canada. The House of Lords have thought proper to annex them to Canada; but when we consider that there must be some government, and that it is the desire of all those who trade from Canada to those countries, that there should be some government, my opinion is that if gentlemen will weigh the inconveniences of separate governments, they will think the least inconvenient method is to annex those posts, though few in population, great in extent of territory, rather than to leave them without government at all, or make them separate ones. Sir, the annexation likewise is the result of the desire of the Canadians and of those who trade to those settlements, who think they cannot trade with safety as long as they remain separate.

Mr. T. Towshend, Jun.—Near the Illinois and Fort Du Cane, I am informed, there are at this time upwards of five-and-twenty thousand British settlers.

Mr. Dunning.—The first object of this Bill is to make out that to be Canada, which it was the struggle of this country to say was not Canada. Now, Sir, if this Province should ever be given back to its old masters—and I am not without an inclination to think

* From Cavendish's Debates; compared with History of the Debates, &c., from 1743 to 1774, Vol. VII.

that the best way would be to give it back to its old masters—if it should ever become right to give back Canada; with what consistency can its future negotiator say to France, we will give you back Canada; not that Canada which you asserted to be Canada but that stated in the proclamation, having discovered that we were mistaken in the extent of it, which error has been corrected by the highest authority in this country? Then, suppose Canada thus extended should be given back to France, the English settled there will then have a line of frontier to an extent undefined by this Bill; for this country is bounded by the Ohio upon the west—God knows where! I wish God alone may not know where. I wish any gentleman would tell us where. I observe in this description of the frontier a studied ambiguity of phrase. I cannot tell what it means; but I conjecture that it means something bad. The Ohio is stated as a boundary confirmed by the Crown; but what act, what confirmation by the Crown has passed upon this subject? I know of no such act, of no such confirmation. I know, by the terms of the Charter, the colonists suppose, and I think they are well grounded in the supposition, that they are entitled to settle back as far as they please to the east [? west] to the sea, their natural boundary. They did not like a different barrier. I know some assert this right, and others content themselves with a less extensive claim. Whether so extensive a claim has been allowed, I know not; but I do understand, in point of fact, that there has been long subsisting a dispute about the western frontier, which was never discussed, still less decided; and when this Bill shall become a law, those colonists will then learn that this Parliament, at this hour, have decided this dispute without knowing what the dispute was, and without hearing the parties. Looking, Sir, at the map, I see the River Ohio takes its rise in a part of Pennsylvania, and runs through the Province of Virginia; that, supposing myself walking down the river, all the country to the right, which is at this moment a part of the Province of Virginia, has been lopped off from this part, and has become instead a part of Canada; for, we tell them, the instant they pass that river, which by the terms of the Charter they may pass, that matter is now forever at rest: the moment, say we, you get beyond that river, you are in the condition in which this Bill professes to put Canada—the Indian finds himself out of the protection of that law under which he was bred. Sir, do we treat the proprietors of the next province, Indiana, well? Some of them are resident in this country. I apprehend, at this very hour they are unapprised of this Bill to stop them. To decide questions without exactly knowing whether such questions are existing, is an obvious injustice. . . . I should be glad to learn what is the good intended to be effected by this extent of territory? The noble lord says it is to comprise a few straggling posts under some form of government. If I should admit the necessity of so comprising a few straggling posts, does it follow that this is a form of government fit to be established? Does it follow from any local reasons why Canada should be so extensive, or that the English settlers should be likewise involved? What objections are there to making more settlements? Whatever they are, they will be found trivial compared to the consequence of involving this whole region in this form of government. . . .

Attorney-General Thurlow.—The honourable gentlemen complain that the bounds of Canada extend a great way beyond what they were acknowledged to do formerly, and that it was peculiarly bad policy, as far as it regarded the French, to give the limits so great an extension. Now, the House will remember that the whole of Canada, as we allowed it to extend, was not included in the proclamation; that the bounds were not co-equal with it as it stood then, and that it is not included in the present Act of Parliament, if that were material. But I will not, Sir, consider it as the Province that formerly belonged to France, nor as called by the same name; it is a new scheme of a constitution adapted for a part of the country, not that part only which was under French government, but embracing many other parts of great extent which were formerly not under French government, but were certainly occupied in different parts by French settlers, and French settlers only. The honourable gentlemen are mistaken if they suppose that the bounds described embrace in point of fact any English settlement. I know of no English settlement embraced by it. I have heard a great deal of the commencement of English settlements; but as far as I have read, they all lie upon the other side of the Ohio. I know at the same time, that there have been for nearly a century past, settlements in different parts of

all this tract, especially in the southern parts of it and in the eastern (? western) bounded by the Ohio and Mississippi; but with regard to that part, there have been different tracts of French settlements established. As far as they are inhabited by any but Indians, I take those settlements to have been altogether French; so that the objection certainly wants foundation. . . It is undoubtedly true, if you read the French history, that the bounds prescribed neither are nor were the bounds of the Province of Canada, as stated by the French; and therefore the argument is not itself a proper one to proceed upon. . . With regard to the more southern part of the country, I do not take it that Virginia has ever made a single claim within more than a hundred miles of the bounds prescribed for the present Province. The most extensive claim I ever heard of went to what is called The Endless Mountains, just in a nook of the Province of Virginia. I know of none that ever pretended to exceed that, nor ever heard that some new settlements, which were applied for between these mountains and the Ohio, have ever been looked upon as an invasion of the rights of those who have claims upon the Province of Virginia. . . I have always understood, also, that it was under that authority, and in conformity with the rule and measure of law, that in every instance, through every period of English history, the King has given to newly-conquered countries their constitution; subject to be corrected by the joint interposition of the King, Lords, and Commons of the country; and that such a constitution might be reformed, by correcting the ill advice, if any ill advice had been given, under which the King had acted in giving them a constitution upon the event and at the moment of the conquest.

Col. Barré.—The honourable and learned gentleman was not precise in stating the limits of our colonies. He seemed unwilling for the House to think that any one of the colonies, especially Pennsylvania and Virginia, had a right to settle beyond the Endless Mountains [Alleghanies]; as if the honourable and learned gentleman could be ignorant of the fact that many thousands of English subjects are established some hundred miles beyond the Endless Mountains, upon the very spot which you are now going to make a part of this country of Canada. . . . It was, says the noble lord, necessary to take in and to annex the scattered Posts in the neighbourhood of Detroit and Lake Michigan. If the noble lord will be so good as to look at the map, he will find he could have taken in every one of those Posts, and never thrown out any doubt about the shape of Canada, at the same time that all that part between the lake and the Ohio would have been kept out by this Bill—and all the purposes of the Bill, except the reference to settling upon the Ohio, would have been answered by his taking that boundary. If there had been any doubt, what would have removed that doubt, would have been looking at the course pursued between the English and French negotiators, when the French offered to withdraw from that part of the country which they had taken possession of on the south of the Ohio, and retire to the north side, making that river the boundary of that colony. The English Minister said, "No; we will not submit to those terms. They are not the boundaries; the River St. Lawrence and the lakes are our boundary—we will agree to no other." Their language now is, "the River St. Lawrence is the centre, not the frontier; we will not be deprived of our property in the country."

Mr. Sergeant Glynn.—You are incompetent to decide upon the limits of the country, or whether the description of it in the Bill is most conformable to the claim of the French, or to our claim before the war; but I shall take it as I find it stated on both sides of the House, namely, that there is to be a newly-erected Province comprehending a great part of North America, partly inhabited, partly uninhabited; that such parts are to be erected into a Province, in hopes that the population will increase, and that all those parts by degrees will become peopled. . . . In times past, a Minister of the crown was censured for proposing an arbitrary form of government for the colonies. However objectionable that proposed form of government may have been, we do not find that the powers given to the governor, on that occasion were so extensive as those vested in him by this measure. The principles which prevailed in the days of Charles the Second will not, I trust, receive the sanction of the legislature of the present day.

Solicitor-General Wedderburn.—It is one object of this measure that these persons (the English) should not settle in Canada. The subjects of this country, in Holland, in the Baltic, and in different parts of the world, where they may go to push their commercial views, look upon England as their home; and it should be our care to keep alive in their

breasts this attachment to their native soil. With regard to the other portion of the inhabitants of North America, I think the consideration alters; if the geographical limits are rightly stated, I think one great advantage of this extension of territory is this, that they will have little temptation to stretch themselves northward. I would not say, "Cross the Ohio; you will find the Utopia of some great and mighty empire." I would say, "This is the border beyond which, for the advantage of the whole empire, you shall not extend yourselves." It is a regular government; and that government will have authority to make inquiry into the views of native adventurers. As to British subjects within the limits, I believe that there are not five in the whole country. I think that this limitation of the boundary will be a better mode than any restriction laid upon Government. In the grant of lands, we ought to confine the inhabitants to keep them, according to the ancient policy of the country, along the line of the sea and river.

Mr. Charles Fox.- It is not right for this country to originate and establish a constitution in which there is not a spark of semblance of liberty. A learned gentleman has said that by this means we should deter our own countrymen from settling there. Now, Sir, as it is my notion that it is the policy of this country to induce Englishmen to mix as much as possible with the Canadians, I certainly must come to a different conclusion.

Monday, June 6.

The House resolved itself into a Committee upon the Bill, Sir Charles Whitworth in the Chair. The first clause was read, viz.: "And whereas, by the arrangements made by the said Royal Proclamation, a very large part of the territory of Canada, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left without any provision being made for the administration of civil government therein, and other parts of the said country, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, &c., be it enacted that all the said territories, islands, and countries heretofore a part of the territory of Canada, in North America, extending southward to the banks of the River Ohio, 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, and which said territories, islands, and countries are not within the limits of some other British colony, as allowed and confirmed by the Crown, or which have, since the 10th of February, 1763, been made part of the government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec, as created and established by the said Royal Proclamation of the 7th of October, 1763."

Lord North.—There are great difficulties as to the best mode of proceeding. I apprehend the alteration I am about to propose will save every right where there is a right. I will explain the amendment I intend to make; if that should not give satisfaction, gentlemen will state what it is they propose to substitute in its stead. We shall then ascertain how far we shall be able to make anything more precise. The question is an extremely difficult one. It is usual to have different boundaries laid down in different manners. Where the King is master of the country, then they are drawn by His Majesty's officers only; where there has been any grant or charter, and it has been necessary to draw any boundary line, then not only his Majesty's officers, but commissioners have been appointed, and together they draw a line, subject, afterwards, to an appeal to the Privy Council—therefore that distinction is made here. It is intended, immediately after the passing of this Act, to go on with the project of running the boundary line between Quebec and New York and Pennsylvania, &c., belonging to the Crown. This is made to prevent the Province of Quebec from encroaching on the limits of any of those grants where no boundary has been settled. I find many gentlemen are desirous of having something more precise, if possible. To this I have no objection; but we are so much in the dark as to the situation of this country, that it is not possible to do anything more safe than saving the rights of the other colonies, leaving them to be settled on the spot by commissioners. Persons possessing local knowledge can act better than we can. For

that reason I propose to leave out the words "*heretofore part of the territory of Canada*," and insert "*extent of country*," and also leave out the words "*said country*," and insert "*territory of Canada.*"

Governor Johnstone.—My objection to it is, you are going to extend a despotic government over too large a surface; and that you are going to establish a boundary line, with a pretence of bringing it within the line of justice, where God and nature, are against you. The pretence that is held out, to induce this House to accede to the measure is, first, that with the former government of Quebec, Canada did extend so far, and that as we are about to give the Canadians back their old laws, we ought at the same time to give them back what has been asserted in this House to have been their ancient territory. . . . . Now, Sir, as I had the honour of being appointed Governor of West Florida, it became my duty to make myself acquainted with the boundaries of Louisiana, and I accordingly endeavoured to obtain the best information upon that subject. I was surprised, therefore, to hear it given in evidence, not directly, but insinuated, that the former Government of Canada extended as far as you propose to make it. One of the reasons given by General Carleton for this extension of country, was that the inhabitants of these remote parts might be under the direction of the Government of Canada.

Mr. Edmund Burke.—If we had originated this measure above stairs, where maps might have been laid upon the table, no doubt the whole dispute of this day would have been avoided. I shall ask the attention of the Committee, partly that they may understand me; partly that I may understand myself. In the first place, when I heard that this Bill was to be brought in on the principle that Parliament were to draw a line of circumvallation about our colonies, and to establish a siege of arbitrary power, by bringing round about Canada the control of other people, different in manners, language, and laws from those of the inhabitants of this colony, I thought it of the highest importance that we should endeavour to make this boundary as clear as possible. I conceived it necessary for those who are to be besieged in this manner; and also necessary for the British subject, who should be restricted, and not be allowed unknowingly to venture into the colony to disturb its possessors. I wish these limits to be ascertained, and fixed with precision, for the sake of both parties. Having this object in my view, I shall first consider the line drawn in the proclamation of 1763. It was drawn from a point taken in the lake called Nipissim; that lake stands to the north of this point. I entreat the attention of the Committee; for the escape of a word is the escape of a whole argument. Sir, this boundary was fixed by a line drawn obliquely from Lake Nipissim, which line crossing the St. Lawrence and the Lake Champlain, formed an angle in the latitude of forty-five degrees. This constituted the south-west boundary of Canada; beyond that the Province was to extend no further—and confined within this limit it remained from the year 1763 to this time. That was then the boundary of Canada; and when that boundary was formed, that was the boundary of the Government—and that boundary was fixed there because it was the boundary of the possession. There was then no considerable settlement to the south-west of that line. This line the people of Canada acquiesced in. They have since come before His Majesty's government, and have laid before it a complaint in which they state that this was a line drawn especially for the purpose of territorial jurisdiction, and the security of property; but they represent that it is a line ill-suited for a growing country. They do not complain that they have not the legal limits, but they complain of the climate to which they are restricted. "The Province," they say, "as it is now bounded, by a line passing through the forty-fifth degree of north latitude, is confined within too narrow limits; this line is only fifteen leagues distant from Montreal, and yet it is only on this side that lands of the Province are fertile, and that agriculture can be cultivated to much advantage." Sir, if no injustice will thereby be done to any one, I don't know a more reasonable request than that their complaints should be attended to. . . . . The noble lord showed me the amendment, which by no means relieved my apprehensions. The reason why I feel so anxious is, that the line proposed is not a line of geographical distinction merely; it is not a line between New York and some other English settlement; it is not a question whether you shall receive English law and English government upon the side of New York, or whether you shall receive a more advantageous government upon the side of Connecticut;

or whether you are restrained upon the side of New Jersey. In all these you will find English laws, English customs, English juries, and English assemblies wherever you go. But this is a line which is to separate a man from the right of an Englishman. First, the clause provides nothing at all for the territorial jurisdiction of the Province. The Crown has the power of carrying the greatest portion of the actually settled portion of the Province of New York into Canada. . . . The Bill turns freedom itself into slavery. These are the reasons that compel me not to acquiesce by any means, either in the proposition originally in the Bill, or in the amendment. Nay, the proposition in the amendment is a great deal worse, because you therein make a saving of the right of interference with, and may fix your boundary line at the very gates of New York, perhaps in the very town itself, and subject that colony to the liability of becoming a Province of France. It was this state of things, Sir, that made me wish to establish a boundary of certainty. The noble lord has spoken upon this subject with a great deal of fairness. He says that if any gentleman will find a boundary of certainty, he will accept it. Whether if we shall be able to find such a boundary, the Colony of New York will be satisfied with it I know not; but speaking here as a Member of Parliament, I do think the colony had better have a boundary much less in extent, yet reduced to such a certainty that they may exactly know when and where they cease to be English subjects. The boundary originally settled between Canada and New York was entitled to contest with the Crown under the first proclamation. That was given up. I am glad the noble lord has got a map before him. They gave up a vast extent of country. I recommended them to give up for peace all that part which lies between that country and the River St. Lawrence, and to take their departure from a line drawn through Lake Champlain in forty-five degrees of latitude, as far as the River St. Lawrence, then following the course of that river through Lake Ontario and Lake Erie, to make it the western bound of the colony of Pennsylvania. These limits and bounds would give New York a territory sufficient to enable it to meet every exigency of government. It would give the Crown a boundary of certainty; it would give the people of Canada a certainty of knowing upon what side of the water their territory began; and it would give the subjects of Great Britain the power of knowing where they can be free. . . . He does not know enough of the state of that country to be able to adopt the line which he has drawn; whereas nothing can be more geographically distinguished than water and land. This boundary is physically distinguished; it is astronomically distinguished. It has been fixed by actual observation, and agreed upon by the surveyors. We have everything that geography, astronomy, and general convenience, stronger sometimes than either, can give to make this boundary definite. I shall therefore now move the boundary which I have proposed, viz., by a line drawn from a point on the east side of Lake Champlain in 45 degrees north latitude, and by a line drawn in that parallel west to the River St. Lawrence, and up that river to Lake Ontario, and across that lake to the River Niagara, and from Niagara across Lake Erie to the north-west point of the boundary of Pennsylvania, and down the west boundary of that Province, by a line drawn from thence till it strikes the Ohio. If the noble lord admits this proposition, the Committee will no doubt be able to express it in proper words; if not, I must beg that we may receive information from a gentleman who can abundantly inform the House, and who is as ready to communicate it as any man I ever knew.*

Lord North.—We agree in principle, and I hope we shall succeed in drawing a clear boundary line; but I am doubtful whether a clear boundary line can be drawn by Parliament. It strikes me that the only method is to leave it to be drawn after the passing of the Act, leaving it in such a manner that the line where drawn shall actually form a clear line between the Province of Canada and New York. The line as far as it appears by the map is very distinct. The objection I have is precisely what the honourable gentleman has mentioned. I am not clear whether there are not on the south-east part of the River St. Lawrence, Canadian settlements. I have been informed there are. I am sure there are no New York settlements in that part of the world. I think it more prudent to have the boundary line settled upon the spot, reserving in the Act all those lands that

* Mr. Pownall, the Under-Secretary for the American colonies.

have been granted under any authority to the old settlers. . . . It is my opinion that all this uninhabited country added to Canada or added to New York should not be immediately considered as country which the Government are to grant away. . . . I rise up at present to confirm the declaration I have made, that if a clear line can be made to the satisfaction of gentlemen, so that they are not likely to involve themselves by drawing a line in Westminster which would be better drawn in America, I shall not *opiniâtre* it, but shall be very thankful to the gentlemen who can draw that line.

Mr. Burke.—If Canada is in future to have boundaries determined by the choice of the Crown, the Crown is to have the power of putting a great part of the subjects of England under laws which are not the laws of England. The government of France is good—all government is good—but compared with the English government, that of France is slavery. . . . The parties here are English liberty and French law; and the whole Province of New York, further than it is defined by actual bound, is in the power of the Crown, not to adjudicate, but to grant, and hand over to the French. I do not suppose that if the Crown were under the necessity of adjudging that it would adjudge amiss; but it is in the power of the Crown to grant even its power of adjudging. Where put on the English side, they are put in the power of the laws; where put on the French side, they are put out of the power of the laws. Let us consider, then, whether it is not worth while to give a clear boundary, and let the man know whether he is or is not an Englishman. I shall take the sense of the Committee upon it. I am as much in earnest as ever I was in my life. I have produced a practical idea; I can produce practical words.

After a long and desultory conversation, the words proposed by Mr. Burke were inserted. The words—"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 of the Merchants Adventurers of England trading to Hudson's Bay; and also all such territories, islands and countries, which have, since the 10th of February, 1763, been made part of the government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec"—were next read.

On June 10th, Sir Charles Whitworth reported to the House the amendments which the Committee had made to the Bill. The first clause being read there was much puzzling about settling the boundary line. Mr. Edmund Burke, Mr. Jackson, Mr. Barker, and Sir Charles Whitworth went up stairs, in order to settle it, while the House was supposed to be proceeding upon it. The House continued for at least half an hour, doing nothing in the meantime. The difference was, whether the tract of country not inhabited should belong to New York or Canada? At five o'clock, Mr. Burke returned with the amendments some of which were agreed to, others not. The following is the clause, as finally agreed to by the House:

"That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the sea, to a point in forty-five degrees of northern latitude on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River St. Lawrence; from thence up the eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario and the river commonly called Niagara; 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 said 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 north-western angle of the said Province of Pennsylvania, and thence by a right line to the said north-western angle of the said Province; and thence along the western boundary of the said Province until it strike the River 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; and also all such territories, islands and countries which have, since the 10th of February, 1763, been made part of the govern-

ment of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec, as created and established by the said Royal Proclamation of the 7th of October, 1763.

"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."*

CORRESPONDENCE RELATING TO AFFAIRS IN CANADA, 1783–1795.

I.—EXTRACTS FROM THE UPPER CANADA MSS.†

From General Haldimand's Winter Despatch, 1783.

Feb. 14th.

If the Rebels are not restrained from taking possession of that valuable tract of country which by Treaty is the undoubted property of the Indians, they will, in a very few years, establish themselves so firmly, that upon a future occasion they will find but little difficulty in dispersing the Indians and making themselves masters of Upper Canada.

Brigadier-General McLean's Account of a Conference with the Indians.

Niagara, 18th May, 1783.

They [the Oneida Indians] told me they could not believe our King could pretend to cede to America what was not his own to give; or that the Americans would accept what he had no right to grant; nor upon a representation of the Six Nations in the year 1768, when the King appointed Sir William Johnson as Commissioner to settle the boundaries between the Indians and the Colonies, that a line had been drawn from the head of Canada Creek, near Fort Stanwix, to the Ohio, then the boundary thus settled, would be agreeable to the Indians and the Colonists; and which had never been doubtful or disputed since.

Henry Sidney to General Haldimand, on his Refusal to Deliver up the Upper Posts to General Washington, 1783.

[In 1784, the Ministry at home through Henry Sidney, according with Haldimand's refusal, wrote]:

With regard to your refusal to Baron Steuben, you were justified doing it.

The 7th Article of Definitive Treaty stipulates they should be evacuated with all convenient speed, but no time is fixed; and as it is not confined to the 1st Article, until we can secure the Traders in the interior of the country, and withdraw their property, &c.

12th May, 1784.

Evacuation of Forts delayed as the means of obliging Congress to prolong the time of one year granted by the Treaty, for the Loyalists to obtain, if possible, the recovery of

* This section excluded the English colonists from the St. Lawrence, the Great Lakes, and the Mississippi.

† MS. in Library of Parliament at Ottawa, pp. 7-11, 17, 34, 42-3, 95, 97, 99, 107, 109, 110, 130-7, 142, 157-9, 182-4.

their estates. But from the want of government and good order in the different States it is impossible for Loyalists to go among them.

W. Grant, F. Dunn, had license to trade at the Upper Posts for fourteen years—1781.—(p. 109.)

August 29th, 1785.

Death of Lieutenant-Governor Hay, of Detroit, after 20 years' service. Alexander McKay recommended to succeed him, and got the appointment. Had a liberal education, and acquainted with the South.

FROM HENRY HOPE, GOVERNOR (PRO TEM.), TO EVAN NEPEAN, ESQ., UNDER-SECRETARY OF STATE, WHITEHALL.

QUEBEC, Sept. 1st, 1785.

The death of poor Lieutenant-Governor Hay is another event that occasions my deviating from my proposed silence, for, Lieutenant-Governor Hamilton having done me the honour to ask my opinion on the subject of nominating a successor to him in the Civil Government of Detroit, and communicating his own ideas with respect to the person he thought for that situation, it becomes in some degree necessary that I should thus explain the predicament I am still in, when it might so naturally be imagined at home that I was actually in the command, which you have seen is not the case: and since the Lieutenant-Governor has further done me the honour to concur in my opinion so far (which was, to take no resolution in the matter, at least till the arrival of Sir John Johnson), that I should also explain the grounds upon which I gave him that opinion.

Exclusive, then, of the considerations that make it eligible, at all events, to defer any partial arrangements for which the necessity was not pressing, till it should be seen if any, or what, general one for the Province at large, and particularly for the upper country, was made at home, and the orders that were accordingly given; there were some others that induced me more immediately to urge that opinion, such as:—

First.—The objections that exist as to there being any such appointment at all as Lieutenant-Governor to any of the upper posts, it having been hitherto (constituted as it is), rather a source of dissention than of any extraordinary benefit, that might not be equally expected from its being entirely military, and consequently vested in the officer sent by the General with the command of the troops in that garrison.

Secondly.—The absolute necessity, in my opinion, if there must be a Lieutenant-Governor, that he should be a person of military education, experience, and character, whom you put into such a situation at such a post. Thereby his commission (as it runs at present), gives him the command, in his own Government, of every officer, under the rank of Brigadier-General, whom the service should require to be stationed at Detroit (though General Haldimand thought it only for the absolute advantage and security of the upper country to give the same powers to the field officer charged with the immediate defence and care of the whole upper posts, as to a Brigadier-General when there was one there), and

Lastly.—Finding that Governor Hamilton's choice (however plausible in some points of view) was inclined to fall upon a very improper person, according to my conception, in many other most essential ones, viz.: upon a Mr. McGee, the Indian Agent of that post, employed under Sir John Johnson; who, though a man of much merit by all accounts, for his loyalty, immediate knowledge of the Indians and their language, as a brave and active partizan in their excursions, yet at the same time who is not of that consideration, (nor ever had any rank in the army at all,) whilst the troops who actually compose the garrison at Detroit are commanded by an officer of long standing and reputation, Major

Ancram, of the 34th Regiment, who has likewise served in the Indian country when that regiment garrisoned the Mississippi, and consequently cannot be deficient in the manner of acting with those people; to whom, or to any other officer of similar services and pretensions, I leave you to conceive whether it must not be most mortifying to come under the immediate orders of a person taken from Mr. McGee's present capacity, to be made a Lieutenant-Governor, even should such an appointment, against which there are so many other objections, be thought at present necessary.

Besides, as Mr. McGee is now the only Indian Agent at that post, which employment he could not continue to exercise when Lieut.-Governor, by the well-judged regulations made by General Haldimand two years ago, in order to strike at the root of the upper country abuses; so, till Sir John Johnson's arrival and being consulted with for a proper person in that event, to supply Mr. McKee's place as Agent, between whom and the Lieut.-Governor of Detroit, there is the source of discord laid by these necessary regulations, unless both are honest, liberal men, with no other views but to promote the service. It was another reason why I could not but think that such a nomination would only increase confusion, that upon the whole, therefore, I hope, that since Lieut.-Governor Hamilton has so far acquiesced in my opinion as to postpone his intentions till we have accounts by Sir John from England, that he will come into it altogether under present circumstances, and be satisfied that Detroit shall remain under the total direction of Major Ancram, the actual commanding officer, until the pleasure of the government shall be known from home on the subject.

LORD GRENVILLE TO LORD DORCHESTER.

WHITEHALL, April 5, 1787.

The affairs of the Indians, from Colonel Brant's letter to Col. Butler, appear to be in a very critical situation, and such as will certainly reduce them to the necessity of taking a decided part one way or the other in a very short time. It is natural for those people to look up to us for those supplies which they have been accustomed to receive, and that they will think themselves neglected and forsaken, whenever such supplies are discontinued, and perhaps may be induced from disappointment to give much perplexity, though they may refrain from committing acts of hostility. Your Lordship has judged very wisely in executing every means to confine the war between them and the Americans to as narrow a scale as possible, but if it should extend itself to the northward, which will most likely be the case, and the Americans should carry their threats into execution of attempting to gain the forcible possession of the posts in the upper country, we cannot but look upon the assistance to be derived from the Indians as extremely desirable, and perhaps the most effectual impediment to such an undertaking. Were we to be governed only by the expectation of further advantage from the friendly disposition of the people, it might, even in such case, be prudent to attend to their reasonable wants; but considering their former services, and the sacrifices many of them have made, there cannot remain a doubt of the conduct we ought to observe towards them. * * *

Whilst the post of Michilimackinac remains in the possession of His Majesty's troops, and Mr. Sinclair continues in the exercise of duty, it is His Majesty's intention that he shall receive his salary; but if it should hereafter happen that His Majesty should withdraw his forces from that post, and Mr. Sinclair's services are unnecessary, it will be proper that his office should be abolished, and in such case His Majesty will have his pretensions to further favour under his Royal consideration.

COL. SIMCOE TO THE LORDS OF TRADE AND PLANTATIONS.—1792.

The fur trade has hitherto been the staple of Canada, and the protection of it, until the established Government of Upper Canada, seems to have been the primary object of all the military arrangements and consequent settlements in the Upper Province.

The actual state and general importance of this trade must be perfectly known to their lordships, by the very advantageous circumstance, in all respects, of the port of Quebec being the sole place from whence its produce can be exported to Great Britain. My observations on this head will, therefore, be confined to what may tend to the present protection or future increase of some of its branches. The trade to the north-west, which is carried on by a powerful and enterprising company, is at the most valuable branch of this commerce. Although the route of this traffic be through the Province of Upper Canada, it is so far without the inhabited part of it that I cannot offer any report on the general state of this branch of the trade, but what your lordships can better collect from that of Lower Canada.

The trade carried on from Michillimackinac, which is at present the general place of deposit upon Lake Huron, to those rivers which flow into the Mississippi, appears of the utmost importance, as offering the greatest probability of future advantages.

I beg leave to submit to your lordships that, under the singular regulations which now subsist between Great Britain, Spain, and the United States, it might be of great public advantage if, without exciting the jealousy of Spain, a British factory could be established on the western banks of the Mississippi, perhaps opposite to the mouth of the Ousconsing, in some spot of land well adapted to the following purposes: general protection, the building of houses, storehouses, and shipping. The factory might be established on nearly the same plan offered to consideration for the Miami.

The lands of the Indians might be purchased by the Crown with all due solemnity, and an annual quantity of goods to the amount possibly of £500 might be punctually delivered at Michillimackinac by the King's superintendent, to the agent of the factory.

The factors should have no monopoly of the trade; their advantages should result from the occupation of such parts of the territory to be purchased, as might not at present, or at any future period, be wanted for the purpose of the Crown, and from the influence which they must naturally acquire as the distributors of the annual presents, which should be given to the savages for the free passage of the British traders by the Fox and Ousiaing [? Ousconsing] Rivers. The presents may be deducted from the general allotment made to the Indians, and need not be additional to the annual quantity; means may be easily devised to secure the annual delivery of these presents by the factors to the Indians.

The advantages would be many; a considerable trade might be opened with the Spanish as well as with the Indians; such presents as are suitable to the Indian trade which the Spanish Government annually permit to be sent from Great Britain to New Orleans, would probably, by this channel of communication, operate to a wider extent, and become of greater benefit to the British nation. It is generally asserted, though perhaps without solid foundation, that the subjects of the United States on the Ohio and on the other rivers which flow into the Mississippi, will find it advantageous to build ships, and loading them with the produce of these countries, send them down the Mississippi, and sell both the ships and cargo at a foreign market. The establishment provided would effect a similar advantage and with fewer difficulties, for if, as concurrent circumstances seem to be necessary, the Spanish Government should wish for an open or understood guarantee of her American dominions by Great Britain, it is obvious she would rather encourage than oppose an establishment on the Mississippi, whose object should by no means whatsoever be the extension of territory or of force, but simply of commerce. She would also particularly encourage that commerce if, as is probable, it would alienate the inhabitants of Kentucky and Cumberland Rivers from the United States, and render them totally independent of the Atlantic for their manufactures. This purpose would be effected by the British factory being able to furnish such manufactures in exchange for the cotton, tobacco, and other articles of commerce of those increasing countries, and by such means divert them from their attention to the forcing of the passage of the Mississipi, in opposition to the Spanish interests, but which their present dependency on the United States imposes upon them. The intercourse which this factory would have with Kentucky, &c., might probably contribute to turn the course of trade in taking articles from the circuitous channel the European commodities must take to pass by the Gulph of Florida into the Mississippi, to the communication of those rivers which intersect with Lake Michigan, the Illinoise, or Ousconsing, it being by no means incredible that this will eventually be found

the cheapest route to the London Market, to the inevitable benefit of Great Britain and her Colonies. The Atlantic Governments of the United States seem totally to have forgotten that their colonies (such may be considered all settlements since the peace of 1783, beyond the Alleganys), in the room of continuing the mediums by which they are to possess themselves of the fur trade, and other imaginary sources of wealth, will most undoubtedly make every due advantage of their own situation, and, in the business of commerce at least, not sacrifice their interests to those of the great Confederacy. If the Atlantic [Governments] cannot subsist, as seems to be admitted, without credit, the principle is applicable in a greater degree to their colonists. If it be the interest of the British merchant to give that credit, he may do it as safely upon the returns of the Cumberland River by the way of the Mississippi and the Ousconsing, as risk it by those of James River in Virginia, or the Delaware. It is true the British merchant is in the habit of giving such to one set of planters but not to the other.

The proposed factory appears to be an advanced station from whence a commerce, its advantages and disadvantages, may be contemplated, duly compared, and properly balanced. To the observations on this important subject, which I respectfully submit to your Lordship's consideration, I beg to make the following deduction,—that as Kentucky establishes her credit or her capital, she will, in setting up for herself, not only make use of all the commercial advantages she can obtain from the United States, but she will extend her views to the fur trade on the western side of the Mississippi, unless some such permanent factory, on a greater or less plan, shall bar the avenues to the ports of the river, by preoccupying the good will of the nations, and by underselling all rivals, or possibly by diverting the attention and jealousy of those who may be disposed to become rivals, by displaying the advantages that a more general and less precarious traffic shall offer between the colonists on the eastern side of the Mississippi, and the British Empire. It may be also a serious consideration that, if the credit and capital of the British merchants invigorate the merchants of Philadelphia, Baltimore, &c., it is evident that the merchants of Kentucky, deriving their means of traffic from the credit which those of Philadelphia, &c., give to them, have no intermediate intercourse with the original fountain of supply, and are totally uninfluenced by any connections with them from whom they draw their primary support. The basis of this traffic arises from the product of the original loan or credit of the British merchants. It seems, therefore, in a national view, that this intermediate agent, the Atlantic American merchant, should, as far as possible, not be the medium through which British credit supports the inhabitant of Kentucky in his mercantile or agricultural pursuits, but that such a medium should be sought for in a British subject, the inhabitant of Upper Canada. By these means the inhabitants of Kentucky, having a nearer interest and more intimate transaction with Great Britain, through her subjects, would naturally be disposed to support a mutual alliance and friendship with that nation, beneficial to both countries, so opposite to the views of the popular party, who have given their present supposed leaders. It is generally understood that above half of the inhabitants of Kentucky and western waters are already inclined to a connection with Great Britain.

In the course of these observations, the trade of Detroit next comes under consideration. The war that has so long continued on the frontier of this district, has materially affected its commerce with the Indians; in particular, those on the Wabash some time since retired below a post that the United States held at Vincennes, and of course the produce of their hunts centred among those people. It is understood that these nations have now returned to their former place of residence, and that the commerce will revert to its former channel, unless the armies of the United States take post on the Miami River, the channel by which the most considerable part of the peltries are conveyed to Detroit.

It is said that in consequence of the Indian warriors, who are the best hunters, being so often called off to defend their country, the increase of deer, &c., has been prodigious. Some boats are sent from Detroit to the St. Joseph's on Lake Michigan, as well as to Sandusky [and] Cayahaga [Cleveland], but their returns are of no great value. This settlement supplies the north-west trade annually with eighty thousand barrels of flour, and the quantity is increasing.

The consequence of Detroit depending on the trade it has hitherto drawn to itself by being as it were the factory in this part of the country, must necessarily be gradually opening as their settlements are forming by the British or United States in its vicinity in the Niagara district, which may be included from Long Point, on Lake Erie, to York, on Lake Ontario. The peltries are considerable, but in general they are smuggled into the United States, where the high price they bear, added to the facility that a woody and unsettled country gives for contraband traffic, are inducements which there is reason to believe few or none of the traders or factors resist. * *

The inhabitants of Lower Canada, are almost entirely settled on the banks of the St. Lawrence, and at no great distance from its waters in the Upper Colonies. Factories in the Upper Country were formed on the same system when Upper Canada was erected into a Province. It was apprehended by some merchants that its settlements must be continued in the same manner, and no doubt they would have been so, were such persons to limit the views of mankind by what they fancy to be their own immediate interest. * * *

The regulation of the Indian Traders when it should be seasonable, so far as to restrain those distant people by the dread of some legitimate authority, will be a work of difficulty, but of the most absolute necessity. The outrages and misconduct of many persons in that country, loudly call for intervention: a closer knowledge and communication with those countries within the jurisdiction of Upper Canada, but without its habitable parts, will be acquired by the alteration I have proposed. * * *

It would be worthy of mature consideration, whether a systematic extension of factories on the principles which I have submitted as proper on the Mississippi, might not be the means at once of securing the Indians in that quarter, by public benefit, and personal influence, and of opening a vast mart among the inhabitants of Spanish America and those of the United States; and if any savings can be made from the average of public money hitherto allowed to the Indian Department, whether the application of such to the system proposed, would not be an object of national policy, add to the strength and power of Upper Canada, and by no means invalidate the system which I must ever contend to be the best policy, that of not permitting any agricultural settlements beyond the peninsula included between the Lakes Ontario, Erie, and Huron.

FROM COL. SIMCOE TO THE RIGHT HON. HENRY DUNDAS, ONE OF HIS MAJESTY'S PRINCIPAL SECRETARIES OF STATE.

QUEBEC, April 28, 1792.

I beg to observe that, understanding that the agent of the United States holds out the language that all our trade with the American Indians in that territory which had been ceded by the treaty of peace to the United States, would become illegal and contraband in case the forts should be given up, I thought it my duty to state to Mr. Hammond such a dangerous assumption unwarranted by the definitive construction placed by the Treaty of Utrecht upon the intercourse which Great Britain and France had with the Indians, and which, considering them as free nations, gave to the subjects of both countries the right of treating with them, and carefully secured to the Indians the liberty attached to independent nations, of carrying their commercial articles to such places in the dominions of either nation as they should prefer. And this Article of the Treaty of Utrecht was never contravened till in the year 1756, when the violation of it on the part of the French, as is generally known (but particularly as stated by an author of the United States, Gordon, professedly writing under the directions of Mr. Washington and congress), was the occasion of the war that broke out between Great Britain and France; nor can the claims of the American Indians, to the natural privileges of independent nations, guaranteed to them by their European neighbours in the compact of Utrecht, be more amply expressed and implied than in the general representation of the state of the Indian Department, by Sir William Johnson, in 1763, to the Lords of Trade, that although fair speeches, promises,

and the convenience of trade induced them to afford both us and the French a settlement in the country, yet they never understood such settlements as a dominion. And the Indian sense of their own dependency is brought down to so late a period previous to the late war, as the 2nd of February, 1769, when a Seneca chief in his complaints against the officer commanding at Niagara, said, as appears by Sir William Johnson's report, "We are free people and accustomed to sell whatever we have to whom and where we like best." I think it may not be improper to communicate this statement to you, Sir, as elucidating the ground the merchants of Montreal, in their memoir No. 2, have taken up. At the same time, I am well aware that His Majesty's Ministers, being masters of all the documents which establish or conterbalance the value of the fur trade to Great Britain, in that point of view already possess more precise information than can be collected in this country; but it is possible that a particular view of this commerce considered in the light of an open trade, common to the British colonies, as the representatives of France, and the United States, as those of Great Britain, prior to the year 1763, and subject to no other difficulty than those of amicable competition, appearing to be a matter of great magnitude, may be illustrated by some observations on the actual state of this country. . . . . I consider the fur trade in its present foundation to be of no use whatever to the colony of Upper Canada; an open trade may result from the happy form of Government that is to be established in that country, but it appears doubtful whether even that would add to its prosperity; it certainly would detract from its population, and, ultimately debasing the morals of the country, by the ill habits of the *coureurs des bois*, would injure its industry, the source of its future revenue. But, Sir, it would appear to me to be productive of great advantages, if, leaving the fur trade to the north-west parts in the hands of the companies who possess or contend for the monopoly of that trade, the Indians themselves, who live near the settled parts of Upper Canada, will be induced to bring the produce of their hunts to those towns and settlements which are about to arise in their vicinity.

GOVERNOR SIMCOE TO MAJOR-GENERAL CLARK, COMMANDER-IN-CHIEF, QUEBEC.

NAVY HALL, NIAGARA, NOV. 25th, 1792.

SIR,—I must beg leave to call your Excellency's attention to a circumstance that may happen, should it be the determination of Washington, as I believe it is, to carry on the Indian war, and in consequence to refuse the British intervention.

In this event, as he seems already to have quitted the original and untenable grounds of the war,—that this Indian territory was ceded by Great Britain,—he will probably, from our influence with the savages, deduce the necessity of perseverance in his operations. * * *

The main body of General Wayne's army . . . I conceive may be employed to cut off all communication between the Six Nations and Western Indians by proceeding up the Alleghany to Fort Franklin, and ultimately to Presqu' Isle. By this position General Wayne . . . will be on the most direct and practicable route by land to Niagara. . . . Their establishment at Presqu' Isle would include the building of batteries and proper gun-boats, and ultimately the forming an establishment at Miamis Bay. It is in the possible event of the United States equipping a naval armament at this or any part of the Lakes that I wish for your Excellency's instructions whether I shall not consider it hostility. That it would be so in the event, cannot be denied; that the possession of the Forts has always hitherto been supposed to secure that of the navigation of the lakes is a known fact; and that popular conversation has led the minds of the inhabitants of this country to expect an immediate opposition on our part, of any armament appearing upon the lakes, is a matter of general notoriety. I find no general order to direct my conduct, but that force must be repelled by force; and this interpretation I should certainly place upon any attempt of the United States to pass through those communications, both shores of which are in His Majesty's possession.

CORRESPONDENCE RELATING TO AFFAIRS IN CANADA, 1783–1795.

COLONEL SIMCOE TO MAJOR-GENERAL CLARK.

NAVY HALL, NIAGARA,
June 14th, 1793.

The Commissioners for making peace with the United States have remained in this house since the 17th May. They are in expectation of hearing from Colonel McKee when the Indian nations shall be assembled. All the public conversations that I have had with those gentlemen is detailed in the enclosed papers, to which I am to add that, upon my reading to them Lord Dorchester's speech of the 15th August, 1791, to the deputies of the several nations, and the boundary line then given to your Excellency, they have desired copies thereof, particularly as it stated those documents to be those on which I founded my answers to the speeches that have hitherto passed between me and the Indian Americans.

II.—EXTRACTS FROM THE SIMCOE PAPERS.*

ROBERT HAMILTON TO GOVERNOR SIMCOE.

NIAGARA, January 4th, 1792.

SIR,—The trouble this letter gives you does not arise from vanity, in wishing to correspond with a person high in office, as you are. My only motives are the good of my native country, and my attachment to the interests of this part of her dominions, in which I have resided for many years. We have just heard of your arrival in America, invested with power to terminate all differences, and to form new treaties between Great Britain and these States. The line of division between their western frontiers and our possessions, and between them and our friends the Indians, must necessarily be an object of considerable consequence in your arrangements with them. Any information on these subjects I trust will be acceptable; the obscurity of the source from whence it comes, is not the question.

When Mr. Oswald made a peace with the Americans in 1783, he evinced his total ignorance of this country and its true interests, in the line he fixed as the boundary between us and them, from the place it joins the St. Lawrence, above Montreal, to its termination in the unknown regions of the North-West.

Navigable rivers and lakes surely form the worst possible boundaries betwixt commercial nations settled on the same continent, as on a high-way their carriages must certainly meet. They will often jostle, and endless contention and strife must ensue. By this line we should have given up every post and possession we then held in this country, the small picketted posts of Fort Erie only excepted. Oswegatchie, Carleton Island, Oswego, Niagara, Detroit and Michillimackinac, all must have been yielded up to the Americans: nor was this all. By this line, a free opening was afforded our rivals to reach our most distant and most valuable trading posts. In many of the most essential articles for the fur trade, they have considerable advantages over the adventurers in the Province. I shall only mention Spirits, the produce of one of their most considerable manufactures, and East India goods, now a material article in their commerce. Soon, in consequence of this ill-judged line, must our fur trade have been annihilated, had not our rulers, possessed of better information, declined, for this and other reasons, to fulfil that part of the Treaty, which respected the surrender of the posts. Thus has the business remained undecided to this day.

On this last point, I would gladly hope my present address may be found to have some merit. Between the Americans and the Indians, some line along the Ohio from

* MSS. in the Library of Parliament at Ottawa, vol. I., pp. 430-3, 463, 472, 487-8, 517-18, 559, 580-7 vol. III., pp. 12, 71-3, 96-8, 127, 143-4, 390-1, 399, 400.

some determined latitude to its most northerly source, will probably constitute the bounds, between us and them. This line, continued across the High Grounds, from the northern head of the Ohio to the western head of the Genessee River, and down that stream until it falls into Lake Ontario, about sixty miles east of the Fort of Niagara, would in all probability constitute a boundary which would not encroach on either party's present possessions, and would secure both from that intervention of mercantile interests which will otherwise involve us in constant disputes, and in eternal quarrels. Neither the higher part of the Ohio, nor any part of the Genessee River, being calculated for the purposes of extension [of] navigation promise a more peaceful boundary than that fixed by Mr. Oswald. * * *

Let me here observe, that long before the English held a foot of land in the Province, the French, on this very ground, had formed a plan of an empire, perhaps as grand as was ever devised by man. They projected the site of this on two of the finest rivers in the world—on the banks of the St. Lawrence and of the Mississippi, whose streams in some places almost unite. Such a plan was, however, only calculated for the first commercial country in Europe, and who might command at sea. Possessed of the two ports of Quebec and New Orleans, without any further effort than regulating to the best advantage the internal police of this extensive country, without further expense than might be necessary to render the inhabitants prosperous, happy and free, she would in time enjoy a market for her manufactures, extensive almost beyond calculation. In return, she would exclusively receive the furs of the north, with all the most desirable products of perhaps the finest soil of the world, in all the different latitudes from Michillimackinac to New Orleans. Whether Britain may ever have had this in her power, or whether the day may not yet return with an offer of those manifold advantages, it is not for me to decide. It might be worthy of the exalted character at present at the helm of her affairs, to have so glorious a prospect in his eyes. Already have I sufficiently trespassed on your patience.

That every success may attend your important negotiation, is the sincere prayer of,

Sir,

Your most obedient, very humble servant,

R. Hamilton.

Henry Dundas to Lord Dorchester.

Whitehall, 15th March, 1792.

My Lord,—Your Lordship being already apprised of the intention of His Majesty's servants to endeavour to secure whatever may operate as an effectual and lasting barrier between the frontiers or territories of the American States and His Majesty's dominions in that quarter, I shall now only refer your Lordship to my letter of the 16th September last, and to the late unhappy contest between those Indians and the States, to prove the expediency of such a measure.

To obtain so beneficial an end, and at the same time to heal the difficulties which at present exist, a plan was suggested in some late communications between your Lordship and His Majesty's servants, which your Lordship appeared to think extremely advisable, if it could be carried into execution.

The idea suggested was, that His Majesty and the American States should join in securing exclusively to the Indians a certain portion of territory lying between and extending the whole length of the lines of their respective frontiers, within which both parties should stipulate not to suffer their subjects to *retain* or acquire any lands whatever.

And although, in consequence of such a cession, the frontier posts now in His Majesty's hands would be given up, your Lordship appeared to coincide with them in opinion, that the objection to this measure would be much lessened by the circumstance of their not being

to come into the possession of the American States, but for to be ceded for the express purpose of becoming part of such territory as is to be reserved for the undisturbed and independent possession of the Indians. By placing the Indians in such a position, they will become a natural barrier against mutual encroachments, and at the same time hold a situation in which their attachment and friendly disposition to His Majesty's subjects may be capable of the most serviceable operation. These and various other considerations, from which the most beneficial consequences must accrue to this country, have induced His Majesty's servants to adopt such measures as appear best calculated to carry the plan into execution. Lord Grenville has in consequence received the King's directions to authorize Mr. Hammond to propose His Majesty's good offices between the American States and the Indians, for the establishment of a permanent peace between them, founded on the principles of securing to the latter such a tract of country as has been already mentioned, and in furtherance of which the King is most graciously pleased to grant his aid and assistance, and to relinquish, if need be, the posts actually in his possession, the more effectually to secure and establish so important an object.

For this purpose, I must desire your Lordship to lose no time in transmitting to me your ideas in respect to such precise limits, (whether the same are in a greater or less degree favourable to the interests of this country) as, being secured to the Indians, would in your judgment be sufficient to answer the end proposed.

In doing this, I wish particularly to call your attention to that part of the country in question which lies to the south and south-east of Lake Ontario, and the upper part of the St. Lawrence, as a proposal made to your Lordship on this subject by some of the Indians, previous to your leaving Quebec, does not appear to be quite distinct, and as the near approach of the American frontier, in that quarter, to the settled part of His Majesty's Provinces, appears to render this an object deserving of particular consideration.

Your Lordship's intimate acquaintance with His Majesty's interest in that quarter of the world, and with the relative situations of his subjects, and of those who are to form the barrier between them and the American States, makes it unnecessary for me to enter into any detail.

I shall only add that, in ascertaining the territory to be granted to the Indians, three points I can see are principally to be attended to: one, to secure as much as possible our intercourse and trade with the Indians; the second is, that the interposed country, to serve as a barrier, should extend along the whole line of the frontier of His Majesty's dominions, and that of the United States of America. And lastly, to take care that their intervention, and the space to be allotted them, shall be most considerable in such parts of His Majesty's frontier, as from their situation are most obvious to attack or interruption from any quarter belonging to the American States.

I am, &c., &c.,

HENRY DUNDAS.

To Lord Dorchester.

GEORGE HAMMOND, ESQ., TO LIEUT.-GOVERNOR SIMCOE.

PHILADELPHIA, April 21st, 1792.

I was fully sensible of all the advantages which Great Britain would have derived from her mediation being admitted; but I saw from the first that the jealousy of her acquiring either an additional influence over the Indian tribes, or the right of intervening in any future disputes, would be an insuperable impediment to the request or acceptance of that expedient on the part of this country.

GOVERNOR SIMCOE TO HENRY DUNDAS.

QUEBEC, April 28th, 1792.

I am happy to find that these communications have appeared of importance to Mr.

Hammond, as, in a letter of the 3rd March, he says: "Capt. Stevenson was so obliging as to leave with me a copy of a representation addressed to you by the merchants of Montreal; and also a map of the country to the northward of the Lakes Huron and Superior. When my negotiations with this Government are more advanced than they are at present, these documents will be of essential service to me, as they convey to my mind a much more correct idea of the nature and importance of that country than I had ever before entertained. I could, however, have wished that the position of the Grand Portage, on Lake Superior, had been laid down on the map with somewhat greater precision."

MEMORANDUM BY GOVERNOR SIMCOE, ENCLOSED IN THE FOREGOING LETTER (APRIL 28TH, 1792), TAKEN FROM "GORDON'S HISTORY OF THE REVOLUTION."

"The year after the Peace, a grant of 600,000 acres of land, in the neighbourhood of the Ohio, of the finest American land, was made out to certain noblemen, merchants and others, of Westminster, London, and Virginia, who associated under the title of the Ohio Company. The Governor of Canada obtained early intelligence of it, and was alarmed with the apprehension that a scheme was in agitation which would for ever deprive the French of the advantages arising from the trade with the Twightwees, and cut off the communication so beneficial to the Colonies of Louisiana and Canada. He wrote, therefore, to the Governors of New York and Pennsylvania, acquainting them that the English traders had encroached on the French territories by trading with their Indians, and that if they did not desist, he should be obliged to seize them wherever they were found. This was the first time that either French or British had pretended to any exclusive trade with the Indians, or even the declared friends and allies of either, for it was expressly stipulated at the Treaty of Utrecht that on both sides the two nations should enjoy full liberty of going and coming among the Indians of either side, on account of trade, and that the natives of the Indian countries should, with the same liberty, resort as they pleased to the British or French Colonies for the purposes of trade, without any molestation from either the British or French subjects."

P. CAMPBELL TO ROBERT HAMILTON, ESQ., 1792.

I fell in with several gentlemen of the United States . . . and officers of all ranks . . . and found that attacking the British outposts would be a very popular measure. . . . The only stop to it is the war with the Indians, and that they are after to attempt it by a *coup de main*, or surprise them by open force.

They say if the first should fail the last would not. I cannot, therefore, help thinking, that Colonel Simcoe ought to support the Indians openly, even at the risk of being recalled; and if the British Government allow them to be crushed, that they will repent it when too late, and beyond their power to retrieve. It haunts me most to think that these designing political rascals will wrench the outposts out of your hands, probably when least expected, and brave you to the face when it is done.

LIEUT.-GOV. SIMCOE AND COLONEL A. MCKEE TO GEORGE HAMMOND, ESQ., 1792.

Suppose a boundary should be settled on the following terms:—

1. The Indian territory to form a line separating the British territory and that of the States.

2. The posts of Niagara, Oswego, Detroit, to be demolished and not held by either, and included in the Indian territory.

3. Michillimackinac to be evacuated.

4. The Genessee territory, but no posts, to be continued to the United States, and as a proper balance to Great Britain.

5. From the Rapids of the Miami River, or from the Rivière au Raisin, on the east to the River St. Clair on the west, and two leagues deep to the south: this seems to have been the original allotment of Congress, therefore, more reasonable to presume that they would admit it. By these proposals being adopted, the settlement of Detroit would be amenable to the British jurisdiction, otherwise they would become lawless vagabonds, and, it is obvious, injurious to the system of peace so necessary to the United States, Indians, and the British.

The settlements extend to the Miami Rapids. This arrangement, it is probable, would perpetuate peace between the different nations.

J. G. SIMCOE,
A. McKEE.

To His Excellency, G. Hammond.

LORD DORCHESTER TO COL. SIMCOE.

QUEBEC, 17th March, 1794.

SIR,—The account received by Lieut-Col. England of Mr. Wayne's intention to close us up at Detroit, I think the more probable from the conduct which I find has been pursued for the two last summers on the side of Lake Champlain, where the King's sovereignty has been completely overturned within the posts; and they now impudently tell the Commandant that his jurisdiction extends no further than his guns; even this, I expect, in a short time they will not allow.

Self-defence, therefore, requires we should prevent similiar evils from extending further, and that, for our own security at the Detroit, we should occupy nearly the same posts on the Miami River which we demolished after the peace. This, I think, would cover Detroit and our communication with that settlement from Lake Erie; but if given up, the post, I apprehend, cannot be maintained. At the same time that all necessary measures for our defence are taken on the land side, the lakes must not be neglected; it may for this purpose be necessary to arm the ships and vessels completely, in order to preserve our command on the water also; and if you find this expedient, you will order it accordingly. Your own experience and local knowledge will point out to you the force to occupy the Miamis, as well as the most advantageous positions, without confining yourself to the spots we occupied in 1783. You will therefore order such force from Detroit to the Miamis River as you may judge sufficient for that service, as soon as the season and other circumstances will permit, observing only the general directions to preserve Detroit from being streightened either by land or water. At the same time that you order a portion of troops from Detroit, with the artillery requisite for that purpose, it may not be amiss to consider what reinforcement you may draw from other parts within your command without exposing any to insult, and what assistance you may have from the militia; also whether, by collecting all the force in your power to assemble, you would be in a condition to resist Wayne's attack, should he attempt by force to take possession of the country. I enclose a copy of my answer to the message from the Indians of the upper nations, which will sufficiently explain itself.

I am, with regard, Sir,
Your most obedient, humble servant,
DORCHESTER.

Colonel Simcoe,
Commanding the Forces in Upper Canada.

LORD DORCHESTER TO GOVERNOR SIMCOE.

QUEBEC, 16th April, 1794.

SIR,—The frequent frauds and embezzlements of the King's stores belonging to the Indian department, at Michilimakinac (notwithstanding the vigilance of the Commandant)

have induced me to consign the supplies for this year to Colonel McKee, and I have appointed him superintendent of Indian affairs for the districts of Michilmakinac and Detroit, that he may the better check all abuses, and introduce due order into the department. * *

DORCHESTER.

Governor Simcoe.

GOVERNOR SIMCOE TO LORD DORCHESTER.

NAVY HALL, April 29th, 1794.

MY LORD,—I take the earliest opportunity of forwarding to your Lordship a letter which I received from the Spanish Governor of Louisiana, together with my answer.

The Lieut.-Governor of that Province, Captain Trudeau, who has been remarkably civil to our traders, forwarded the message by a white man, a Shawanese, well-known to Colonel McKie. In a very polite letter which he writes to me this gentleman observes: "Le Governeur en a donné connoisance du contenu, ce qui me fait presumer qu'il n'avoit pas des notions bien parfaites du local, lorsequ'il a porte ses voues sur votre continen." The Shawanese was twenty days from St. Louis, and expected to be only fourteen on his return.

It has been intimated to him that it would be easy for the Spanish if requisite to co-operate with us by their gun-boats which they have on the Ohio, and by occupying the mouth of the Wabash, to give a similiar support to the intermediate Indians, as our possessions at the mouth of the Miamis of the Lake affords.

I must observe to your lordship, that a few days previous to my arrival at the Miamis, a speech had been sent by the Spanish Lieut.-Governor to the neighbouring nations, and which had been transmitted to Detroit, calling upon them for their assistance, and promising the most active support. The speech, it is believed, has produced the most important effects, scarcely leaving a single Indian nation without the determined resolution of atacking the United States; in particular the Chicasaws, before the departure of the Shawanese, had cut off ten of the Kaskaskias, suspected of being well affected to the United States. It was also intimated to the Shawanese, that by the route of Chicago, it was extremely practicable for British troops to pass.

I have always been of opinion that a post at Chicago would be more eminently necessary to His Majesty's interests, in case of war, than that of Michilimacinac. I am confirmed in this belief by existing circumstances as represented by Colonel McKie.

At this place there are some people, refugees from Detroit, and a black chief, who have constantly been in the pay of the United States, and who, by some possible means, have endeavoured to alienate the Indians from the British interests. Colonel McKie thinks it very necessary that an agent should reside in that quarter, as till of late has been usual.

In my answer to Mr. Trudeau, I enclosed to him your Lordship's late proclamation against the Jacobin emissaries; observed to him that the French inhabitants of the Illinois and at Vincennes were eminently of this description. By the account of the Shawaneses, the Spanish Government acts with great vigour in that part of the country, and he expressed his surprise at the very different language which was held by the British Canadians, in respect to the subject of the United States, to what was permitted at St. Louis. * * *

J. G. SIMCOE.

Lord Dorchester.

LIEUT.-GOVERNOR SIMCOE TO THE RIGHT HON. HENRY DUNDAS.

NAVY HALL, July 3rd, 1794.

It may not be improper to observe that the original and material aggression of the United States appears to have been their Government immediately changing the relative situation in which the peace of 1783 had left the contending parties, namely, themselves

and Great Britain, by endeavouring to possess themselves of the whole of the Indian territories by fradulent or by forcible means; and in consequence, by the annihilation of this intermediate power between them and the British possessions, occasioning the destruction of the whole of the commerce, and endangering the safety of His Majesty's provinces. To prove this intended alteration, the Act of Congress for the formation of the New States, and the names given them by the committee of which Mr. Jefferson was President, are sufficient evidences. That it was some fradulent means used, appears upon the face of the purchases made from the Indians, and His Majesty's honoured name is brought into attaint by the Governors of the country, to give a sanction to their purposes. The fraud consists in the affirmation that the Indian territory had been given away as "the price of peace." This is the term which Governor St. Clair made use of, and which the Corn Planter, in February 8th, 1791, intimates in his speech to the President, Washington, to be the language of the people who purchased the lands from the Indians, and demands from him an explanation. * * *

J. G. Simcoe.

Rt. Hon. Henry Dundas.

Governor Simcoe to Lord Dorchester.

Navy Hall, Aug. 18, 1794.

My Lord,—I do myself the honour of enclosing to your lordship the communication which I received late last night from Lieut.-Col. England and Col. McKie.

I shall lose no time in proceeding to Detroit with all the force I can muster, leaving the garrison of Niagara with its usual complement of infantry, and ordering the artillery then at Kingston to supply in part those whom I shall think necessary to carry with me to Detroit.

The whole detail of this arrangement will be transmitted to your lordship so soon as it shall be decided upon. I cannot flatter myself with much hopes of repelling Mr. Wayne, and feel that my own character as a military officer must suffer in the extreme; but an honourable devotion to the public service bears me up above all personal consideration, and it is possible that my character as Civil Lieut.-Governor may enable me to promote His Majesty's interests. The people of the States, as predicted, have heavy artillery at Le Boeuf. The Six Nations, I believe, remain stedfast in their opposition to the establishment at Presque Isle.

Should your lordship be reinforced, and at this crisis augment the force in this Province so as to enable me to meet Mr. Wayne on equal terms, and His Majesty's troops in such an event be successful, I cannot but forsee the perfect safety of the Canadas as the result of such a measure, as in all probability, if he be permitted to establish himself at the Detroit, it may eventually occasion their loss.

I have the honour to be, &c.,

J. G. Simcoe.

From Governor Simcoe.

Navy Hall, August 30, 1794.

Sir,—Since the close of my despatch of the 10th instant, information of the most serious aspect has been received from the Indian country.

General Chapin, the Agent for the United States to the Six Nations, has sent to meet those people immediately at Buffalo Creek; and his messenger intimates that Mr. Washington has complied with their demand so far as to give directions that Presque Isle shall not be occupied, and the forts at Le Bœuf shall be abandoned. Lieutenant-Colonel England informs me that Wayne is rapidly advancing (by report) with near four thousand troops. But what is alarming, the Hurons have peremptorily returned the hatchet which they had formerly received from Governor Hamilton, demanding him to sharpen it and instantly to join them, or they must cease to defend their country. The next step, in all pro-

bability, would be to defend ours. The report in Wayne's army is, that he has positive orders to reduce our post at the Miamis, and in the ensuing spring to attack Detroit. I have despatched Captain Bunburg, of the 8th Regiment, to occupy Turtle Island, at the entrance of the Miamis Bay, hoping by a continuation of our gun-boats and vessels at that place to prevent any access to the Miamis River or express from it. If Mr. Wayne pushes on to Detroit, you, sir, must, of course, be prepared to hear that it is in his possession. I have characterized it truly to Lord Dorchester, on his arrival, as "a nominal fortress with a nominal garrison."

I have the honour to be, with all respect,
&c., &c.,
J. G. SIMCOE.

INSTRUCTIONS OF CAPT. GEO. VANCOUVER, 1791.

[Captain Vancouver undertook a voyage of discovery to the North Pacific Ocean, in 1791, principally with a view to acertain the existence of any navigable communication between the North Pacific and Atlantic Oceans, having command of the *Discovery* sloop of war, and the armed tender *Chatham*. His instructions were prepared.]

BY THE COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH ADMIRAL OF GREAT BRITAIN AND IRELAND, &C.

The King having judged it expedient that an expedition should be immediately undertaken for acquiring a more complete knowledge, than has yet been obtained, of the north-west coast of America; and, the sloop you command, together with the *Chatham* armed tender (the Lieutenant commanding which has been directed to follow your orders) having been equipped for that service, you are, in pursuance of His Majesty's pleasure, signified to us by Lord Grenville, one of his principal Secretaries of State, hereby required and directed to proceed, without loss of time, with the said sloop and tender, to the Sandwich Islands, in the North Pacific Ocean, where you are to remain during the next winter; employing yourself very diligently in the examination and survey of the said islands; and, as soon as the weather shall be favourable (which may be expected to be in February, or at latest in March, 1792), you are to repair to the north-west coast of America, for the purpose of acquiring a more complete knowledge of it, as above mentioned.

It having been agreed, by the late convention between His Majesty and the Catholic King (a printed copy of which you will receive herewith), that the buildings and tracts of land situated on the north-west coast above mentioned, or on islands adjacent thereto, of which the subjects of his Britannic Majesty were dispossessed about the month of April, 1789, by a Spanish officer, shall be restored to the said British subjects, the Court of Spain has agreed to send orders for that purpose to its officers in that part of the world; but as the particular specification of the parts to be restored may still require some further time, it is intended that the King's orders, for this purpose, shall be sent out to the Sandwich Islands, by a vessel to be employed to carry thither a further store of provisions for the sloop and armed tender above mentioned, which it is meant shall sail from this country in time to reach those islands in the course of next winter.

If, therefore, in consequence of the arrangement to be made with the Court of Spain, it should hereafter be determined that you should proceed, in the first instance, to Nootka, or elsewhere, in order to receive from the Spanish officers, such lands or buildings as are to be restored to the British subjects, orders to that effect will be sent out by the vessel above mentioned. But if no such orders should be received by you previous to the end of January, 1792, you are not to wait for them at the Sandwich Islands, but to proceed in such course as you may judge most expedient for the examination of the coast above mentioned, comprised between latitude 60 deg. north, and 30 deg. north.

INSTRUCTIONS TO CAPT. GEO. VANCOUVER, 1791.

In which examination the principal objects which you are to keep in view, are,

1st, The acquiring accurate information with respect to the nature and extent of any water communication which may tend, in any considerable degree, to facilitate an intercourse for the purpose of commerce, between the north-west coast and the countries upon the opposite side of the continent, which are inhabited or occupied by His Majesty's subjects.

2dly, The ascertaining, with as much precision as possible, the number, extent and situation of any settlements which have been made within the limits above mentioned by any European nation, and the time when such settlement was first made.

With respect to the first object, it would be of great importance if it should be found that, by means of any considerable inlets of the sea, or even of large rivers communicating with the lakes in the interior of the continent, such an intercourse, as hath been already mentioned, could be established; it will, therefore, be necessary, for the purpose of ascertaining this point that the survey should be so conducted as not only to ascertain the general line of the sea coast, but also the direction and extent of all such considerable inlets, whether made by arms of the sea, or by mouths of large rivers, as may be likely to lead to, or facilitate, such communication as is above described.

This being the principal object of the examination, so far as relates to that part of the subject, it necessarily follows that a considerable degree of discretion must be left, and is therefore left to you, as to the means of executing the service which His Majesty has in view; but as far as any general instructions can here be given on the subject, it seems desirable that, in order to avoid any unnecessary loss of time, you should not, and are therefore hereby required and directed not to pursue any inlet or river further than it shall appear to be navigable by vessels of such burden as might safely navigate the Pacific Ocean: but, as the navigation of such inlets and rivers, to the extent here stated, may possibly require that you should proceed up them further than it might be safe for the sloop you command to go, you are, in such case, to take the command of the armed tender in person, at all such times, and in such situations as you shall judge it necessary and expedient.

The particular course of the survey must depend on the different circumstances which may arise in the execution of a service of this nature; it is, however, proper that you should, and you are, therefore, hereby required and directed to pay a particular attention to the examination of the supposed straits of Juan de Fuca, said to be situated between 48 deg. and 49 deg. north latitude, and to lead to an opening through which the sloop *Washington* is reported to have passed in 1789, and to have come out again to the northward of Nootka. The discovery of a near communication between any such sea or strait, and any river running into or from the Lake of the Woods, would be particularly useful.

If you should fail of discovering any such inlet as is above mentioned, to the southward of Cook's River, there is the greatest probability that it will be found that the said river rises in some of the lakes already known to the Canadian traders, and to the servants of the Hudson's Bay Company; which point it would, in that case, be material to ascertain; and you are, therefore, to endeavour to ascertain accordingly, with as much precision as the circumstances existing at the time may allow: but the discovery of any similar communication more to the southward (should any such exist), would be much more advantageous for the purposes of commerce, and should, therefore, be preferably attended to, and you are, therefore, to give it a preferable attention accordingly. . . . Given under our hands the 8th of March, 1791.

CHATHAM,
RD. HOPKINS,
HOOD,
J. T. TOWNSEND.

To George Vancouver, Esq.,
Commander of His Majesty's
Sloop the Discovery, at Falmouth.

By command of their Lordships,
PH. STEPHENS.

LANDS PATENTED BY PROVINCE OF CANADA WEST OF 88° 50'.

STATEMENT OF LANDS PATENTED BY THE PROVINCE OF CANADA BEFORE CONFEDERATION, ON NORTH SHORE OF LAKE SUPERIOR, WEST OF LONGTITUDE 88° 50'.

Locality.	Date of Patent.		Area. (Acres.)
British North American Co., Spar Island and Tract on Main Shore	6th April,	1853	6,400
Montreal Mining Co., opposite Victoria Island	8th September,	1856	6,400
Montreal Mining Co., North-East Shore Thunder Bay	10th "	1856	6,400
Montreal Mining Co., Pigeon River	13th "	1856	6,400
Location North of Neebing	4th January,	1864	400
" " "	26th "	1864	200
" " "	28th "	1864	200
Lot No. 15, on Thunder Bay	3rd November,	1864	400
Lot No. 1, on Thunder Bay	11th "	1864	400
Block A, on Current River, Thunder Bay	29th March,	1865	400
Lot No. 2, North of Neebing	29th November,	1865	400
Location North of Neebing	27th February,	1866	200
Locations Nos. 1, 2, 3, 4, 5, 6, 8, Thunder Bay (Herrick's Survey)	11th March,	1867	1,930
Location No. 7, Thunder Bay (Herrick's Survey)	25th April,	1867	171
Locations Nos. 1, 2, 3, 4, Thunder Bay (Savigny's Survey)	19th June,	1867	1,600
Locations Nos. 8, 9, 10, 11, 12, 13, Thunder Bay (Savigny's Survey)	28th June,	1867	1,680
Lots in Township of Neebing	8th July,	1863	400
" " "	4th January,	1864	100
" " "	22nd June,	1866	100
" " "	20th August,	1866	100
" " "	30th August,	1866	312
" " "	3rd September,	1866	60
" " Paipoonge	14th November,	1864	173
" " "	20th December,	1866	126
" " "	29th April,	1867	106
" Town Plot of Fort William	29th December,	1865	1¼
" " "	12th September,	1866	½
Total No. of Acres			35,059¾

Certified to be correct,

THOS. H. JOHNSON,
Assistant Commissioner.

THOMAS DEVINE,
Deputy Surveyor General.

DEPARTMENT OF CROWN LANDS,
TORONTO, November 15th, 1876.

XVI.

Official Correspondence and Documents.—1869–1874.

CORRESPONDENCE BETWEEN DOMINION MINISTERS AND THE COLONIAL OFFICE, RESPECTING THE SURRENDER OF THE HUDSON'S BAY COMPANY'S TERRITORIAL CLAIMS, 1869.

SIR GEORGE E. CARTIER AND HON. WM. MCDOUGALL TO SIR F. ROGERS.

WESTMINSTER PALACE HOTEL,
LONDON, January 16, 1869.

SIR,—We have the honour to acknowledge the receipt of your letter of the 30th ult. (with its enclosures), stating that you were directed by Earl Granville to transmit to us a copy of a letter which his Lordship had received from the Deputy-Chairman of the Hudson's Bay Company, relating to some steps which have been taken under the authority of the Canadian Government, and from which the Company apprehend some invasion of their territorial rights.

You inform us that his Lordship will be glad to receive from us any explanation which we may be able to furnish him, of the steps taken by the Canadian Government.

We have read the letter of the Deputy-Chairman, and extracts from the letters of Governor McTavish, and have much pleasure in being able to furnish his Lordship with what we hope will prove satisfactory information on the subject of the Hudson's Bay Company's complaint.

1. In the month of September last, very precise information reached the Canadian Government that, in consequence of the complete destruction of their crops by locusts, the people of the Red River settlement, numbering probably from 12,000 to 15,000 souls, were in imminent danger of starvation during the winter about to set in.

2. Numerous and earnest appeals for aid had already been made to the Canadian public by writers in the newspapers, and by clergymen and others acquainted with the country. The Right Reverend Robert Machray, Lord Bishop of Rupert's Land, a member of the Council of Assiniboia, and so far a representative of the Company, visited Ottawa, and urged upon the members of the Canadian Government the duty of prompt assistance to avert the threatened calamity.

3. No steps had been taken (so far as the Government could learn) by the Hudson's Bay Company, to provide supplies, and, aware that a few days' delay at that season might render it impossible to get provisions to Red River in time to afford relief, the Canadian Government appropriated the sum of twenty thousand dollars ($20,000) towards the construction of a road from Lake of the Woods to Fort Garry. The Minister of Public Works (one of the undersigned) was directed to expend the principal part of this sum in the purchase of provisions, which were to be forwarded with all possible despatch to the Red River settlement, and offered to the settlers, not as alms, but in exchange for their labour on a public work in their own vicinity, and of the highest utility to their settlement.

4. A confidential and experienced agent proceeded at once to St. Paul's, Minnesota, and succeeded in forwarding a considerable supply of provisions before the close of navigation. A further quantity had reached Fort Abercrombie, an American post in Dakota territory, from which point it can be sent to the settlement early in the spring.

5. Information has reached the undersigned since their arrival in England, that the Government Agent had, in accordance with his instructions, conferred with the local authorities on his arrival at Fort Garry; that he had received their approval and promise of assistance; that his timely aid was a cause of much joy and thankfulness in the

settlement; and that he had proceeded with a large force of labourers to the limit of the prairie country, some thirty miles from Fort Garry, towards Lake of the Woods, and had there commenced the construction of the road.

6. The immediate object of the Canadian Government in taking the steps complained of, was to supply food to a starving community about to be imprisoned for six months in the heart of a great wilderness, without roads or means of communication with their fellow-subjects, and to supply it in a way most acceptable to a high-spirited people, viz,, in exchange for their labour. It was thought that even the Hudson's Bay Company might look with favour upon a public work which, when completed, will prove a valuable protection to those under their government, against similar dangers in the future. On behalf of the Canadian Government we deny that a "trespass" has been committed, or that our action in this matter was intended to forestall or embarrass negotiations, which the Imperial Parliament has directed to be undertaken for the transfer of the North-Western territories and Rupert's Land to the Dominion of Canada.

The foregoing explanation may perhaps be deemed sufficient to enable the Earl Granville to answer the complaint of the Hudson's Bay Company against the Canadian Government; but the undersigned beg leave to add one or two observations which, in their opinion, this extraordinary demand for the "intervention of Her Majesty's Government," both invites and justifies. If the Hudson's Bay Company, who claim the right to hold and govern the territory in which the alleged "trespass" has taken place, had performed the first duty of a government towards its people, by providing them with easy means of communication with the outer world, or if they had shown themselves either able or willing to meet the threatened calamity by a prompt effort to forward sufficient supplies to the settlement before the close of navigation, the Canadian Government would have rested happy in the belief that neither humanity nor public policy required or justified their interference.

The assertion of the Deputy-Governor of the Hudson's Bay Company that the country between Lake of the Woods and Red River is "the freehold territory of the Company," and that the so-called "trespass" of the Canadian Government in sending provisions to the starving settlers, and assisting them to make a road for their own convenience and safety hereafter, is "an actual encroachment on the soil of the Company," might, if unnoticed by us, be claimed as another proof or admission of the rights of the Company in that part of the continent. We, therefore, beg to remind his Lordship that the boundaries of Upper Canada on the North and West were declared, under the authority of the Constitutional Act of 1791, to include "all the territory to the westward and southward" of the "boundary line of Hudson's Bay, to the utmost extent of the country commonly called or known by the name of Canada." Whatever doubt may exist as to the "utmost extent" of old, or French Canada, no impartial investigator of the evidence in the case can doubt that it extended to, and included, the country between Lake of the Woods and Red River.

The Government of Canada, therefore, does not admit, but, on the contrary, denies, and has always denied, the pretensions of the Hudson's Bay Company to any right of soil beyond that of squatters, in the territory through which the road complained of is being constructed.

We have, &c.,

G. E. Cartier,
Wm. McDougall,

Sir Frederick Rogers, Bart., &c.,
Colonial Office.

Sir Stafford Northcote to Sir Frederick Rogers, Bart.

Hudson's Bay House, London,
February 2nd, 1869.

Sir,—I have the honour to acknowledge your letter of the 28th January, addressed to the Deputy-Governor of this Company, enclosing a communication from Sir G. Cartier and Mr. McDougall, on the subject of the recent proceedings of the Canadian Government in the matter of the construction of a road through the Company's territory between Fort Garry and the Lake of the Woods.

After the distinct statement contained in Sir Curtis Lampson's letter of the 22nd December, that the Company, while protesting against a trespass on their land, were prepared favourably to entertain any application for permission to make such a road, either on the part of the Imperial or Canadian Government, the Committee think it unnecessary to discuss the greater portion of the letter of the Canadian Ministers. Their objection is not to the road being made, but to its being undertaken by the Canadian Government as a matter of right, as though the territory through which it is to pass were Canadian. Such a step, taken at a moment when negotiations are in progress for the transfer of the Company's possessions to Canada, and taken by a Government which openly disputes their title to this portion of them, could not have been allowed to pass unchallenged without derogating from the Company's rights. The Canadian Government themselves seem to have been alive to this. Mr. McTavish states that the agent of that Government (Mr, Snow), on arriving at the Red River, communicated to him all his instructions from the Commissioner of Public Works in Canada, containing the expression of "a hope on the part of the Commissioner, that the Company's agent here would offer no opposition to Mr. Snow's operations, but would leave the matter entirely in the hands of the Imperial Government." Governor McTavish, upon this, very properly allowed Mr. Snow to commence his operations; and so far as this Company is concerned, no impediment has been, or will be, offered to the prosecution of the work.

If it were worth while to discuss that part of the letter of the Canadian Ministers which refers to the circumstances under which the construction of the road was ordered, the Committee would be able to show that the Company had in no way failed in their duty to the Colony; but that they had promptly taken measures for the relief of its inhabitants, and had supplied large sums, both by direct grants and by subscriptions raised under their auspices for that purpose, at a period anterior to the appropriation of the Canadian road grant. They would also be able to point out how the delay which has occurred in opening up communications, and otherwise developing the resources of the Red River Settlement, is due to the restraint which has been imposed upon them by Her Majesty's Government at the request of Canada, and not to any negligence or indifference of their own.

But the Committee desire to avoid the raising of a false issue, and they accordingly instruct me to re-state to Earl Granville the precise complaint which they have to make. It is this: that while negotiations are going on for the acquisition of their territory by Canada, the Canadian Government are endeavouring to exercise rights of ownership over a portion of that territory, to the exclusion of the Company, and to the prejudice of their title. This they are doing by virtue of an old claim which they have repeatedly advanced, which the Company have invariably disputed, and have declared themselves ready to contest before a court of law, and which Her Majesty's Government, acting under the advice of various Law Officers of the Crown, have declined to endorse.

The Canadian Government have hitherto shown no inclination to bring their claims to the test of a judicial decision, and in the absence of any such decision, the Committee consider it not unreasonable to ask that due respect should be paid to the Company's uninterrupted possession of the territory for two centuries, and to the numerous and weighty legal opinions which have from time to time been given in their favour.

In appealing to Earl Granville for support in this matter, instead of entering into a controversy with Canada, or taking legal steps to enforce the Company's rights, the Committee have been actuated by a desire to proceed as far as possible in accordance with the views and wishes of Her Majesty's Government, as they have endeavoured to do throughout the pending negotiations for the establishment of a settled form of Government at the Red River. They desire now respectfully, but confidently, to claim the support and protection of the Colonial Minister against any invasion of the Company's rights which may have been prompted or facilitated by the policy which they have adopted in order to meet the wishes of the Colonial Office.

I have, &c.,

STAFFORD H. NORTHCOTE.

Sir Frederick Rogers, Bart.

CORRESPONDENCE BETWEEN DOMINION MINISTERS AND COLONIAL OFFICE.

SIR S. NORTHCOTE TO SIR F. ROGERS.

HUDSON'S BAY HOUSE, LONDON,
January 13th, 1869.

SIR,—I have the honour to acquaint you, for the information of Earl Granville, that I was elected by the shareholders of this Company, on Tuesday, the 5th instant, to the office of Governor, vacant by the resignation of the Earl of Kimberley.

It now becomes my duty to address you in reply to Mr. Adderley's letter, dated the 1st December, 1868, which was received by my predecessor on the eve of his resignation, and to which, in consequence of that event, the Committee have not been able to send an earlier answer.

Before making any observations upon the particular topics discussed in Mr. Adderley's letter, I am desired by the Committee to assure Lord Granville that they continue sincerely anxious to promote the object with a view to which this Company was reconstructed five-and-a-half years ago, viz., the gradual settlement of such portions of their territory as admit of colonisation; that they adhere to the opinion expressed in their resolution of the 28th August, 1863, viz., that the time has come when it is expedient that the authority, executive and judicial, over the Red River Settlement, and the south-western portion of Rupert's Land, should be vested in officers deriving such authority directly from the Crown; and that they cheerfully accept the decision of Her Majesty's Government, communicated to them in Mr. Adderley's letter of the 23rd April, 1868, viz., that the whole of the Company's territory, should, under proper conditions, be united with the Dominion of Canada, and placed under the authority of the Canadian Parliament.

Acting in accordance with the wish of Her Majesty's Government as conveyed to them in Mr. Elliott's letter of the 23rd January, 1867, the Committee have declined to encourage overtures which have been made to them by private persons for the purchase of portions of the Company's territory with a view to their colonisation, and have kept the whole question in abeyance during the time that the negotiations which have led to the confederation of the British Provinces constituting the Dominon of Canada, were proceeding. In the whole of that time they have taken no step which could give rise to fresh complications, or could place any new difficulty in the way of the admission of their territory into the confederation when the proper moment should arrive; and when they were informed by Mr. Adderley's letter of the 23rd of April, that the Parliament of Canada had addressed Her Majesty upon this subject, and were requested to state the terms which the Company would be prepared to accept, proceeding on the principle adopted in the interrupted negotiation of 1864, they unhesitatingly complied with the desire of the Government.

It is therefore with surprise, as well as with regret, that they have learnt from the letter now under reply that the terms proposed by them, even when most strictly in conformity with the principles adopted in 1864, are considered by Her Majesty's Government to be inadmissible, and not to afford much prospect of an arrangement being come to. They find, for instance, that the stipulation that the Company should receive one shilling per acre on lands hereafter sold, which was originally suggested to the Committee by His Grace the late Duke of Newcastle, in Mr. Fortescue's letter of March 11th, 1864, and which has never hitherto been called in question, is the first point to which exception is now taken. Objections are also raised against several other proposals which have been long before the Government, while no notice at all is taken of some which have been made for the first time with a view to the protection of the Company's trade, and with regard to which the Committee are left in ignorance whether they are considered admissible or not.

The Committee, although somewhat embarrassed by this apparent change in the spirit of the correspondence, desire me, however, to make the following observations upon some of the remarks contained in Mr. Adderley's letter, in order that there may be no misapprehension as to the bearing of their proposals:

The Committee are aware that, as stated in Mr. Adderley's letter, in order to prepare the country for settlement, very considerable annual outlay will have to be incurred, and

that for this charge, the produce of the early sales of lands is the natural resource; but they are at a loss to understand upon what ground it is alleged that their proposals would deprive the future government of the ceded territory of "any prospect" for a long time at least "of receiving any income."

The only part of the territory in which it is probable that an early or extensive settlement will take place, is the part known as the Fertile Belt. It has been confidently asserted by independent persons who have travelled through the country, that a great part of the land is not inferior in quality, or in advantages of climate, to the adjoining United States territory, now forming the State of Minnesota, and it has been justly pointed out that, being prairie land, it does not require much labour to render it fit for cultivation. But the price of land in Minnesota ranges, as the Committee are informed, from five shillings to one pound per acre. The Committee think, therefore, that the fixed payment of one shilling per acre, proposed by the Duke of Newcastle, and accepted by them as a basis of compensation, cannot be deemed to be unreasonable in so far as related to land sold within the limits set forth in Sir Edmund Head's letter of the 11th of November, 1863.

As regards any portions of land lying outside those limits, which may possibly be sold, the Committee think it very improbable that such sale will take place except for mining purposes, in which case the payment of a shilling per acre could hardly be deemed excessive. In order to save trouble and obviate disputes, therefore, the Committee proposed the fixed payment of one shilling per acre in respect of all sales wherever they may take place, and they believe that the arrangement would have been, on the whole, more favourable to Canada than that suggested by Mr. Adderley.

Mr. Adderley proceeds to remark with reference to Lord Kimberley's proposal, that the Company should retain certain reserves around their posts; that the reservations would amount to upwards of 500,000 acres. It was, however, stated by Lord Kimberley and the Deputy-Governor, at an interview with the Duke of Buckingham upon this subject, that the Committee were willing to confine their claim for reserves to the limits defined by Sir Edmund Head's letter of the 11th November, 1863; that they were prepared to agree that such reservations should be measured by the importance of the posts to which they were to be attached, and should in no case exceed 3,000 acres. The total quantity of land to be retained by the Company under this arrangement would not exceed 50,000 acres. The Committee cannot agree to the absolute exclusion of these reserves from all frontage to "rivers or tracks, roads or portages," which would render them entirely valuless, although they would have been ready to consider any reasonable limitation of these special advantages.

As regards the right of selecting lands for the Company in proportion to the quantities sold from time to time by the Government, the Committee desire to call Lord Granville's attention to the reasons given in Sir E. Head's letter of the 13th April, 1864, for adopting this mode of reservation in preference to that of "setting apart beforehand a number of isolated tracts of wild land dotted over the surface of the colony, and calculated to impede the free flow of settlement in the territory." Their proposal was framed with reference to sales in the fertile belt only, and it never entered into their minds to contemplate such contingencies as those suggested by Mr. Adderley's letter. In order, however, to obviate all cavil upon this point, they would have been quite willing to limit the Company's right of selection to the case of lands sold or alienated within Sir E. Head's limits, provided that it were agreed that no alienations should take place beyond those limits, except either for distinctly public purposes, or for the *bona fide* carrying on of agricultural or mining operations. As regards Mr. Adderley's proposal that the right of selection should be confined to five lots of 200 acres each, in each township as it is set out, the Committee can only remark that the character of this proposal must depend upon the size of the township, of which no indication has been given.

The Committee still adhere to the opinion that, under the peculiar circumstances of the proposed transfer of their territory, it would be reasonable that their wild lands should, for a limited time, be exempt from taxation, in order to allow them a fair opportunity of bringing them into profitable cultivation.

They observe that Mr. Adderley makes no reference to the tenth stipulation contained in Lord Kimberley's letter of the 13th May, viz.: that until the stipulated sum of £1,000,000

sterling has been paid to the Company, no export duties shall be levied by Canada upon furs exported by the Company, nor any import duties on articles imported by them, into the North-Western territory, and into that part of Rupert's Land which is not included within the geographical limits laid down in Sir Edmund Head's letter of November 11th, 1863. This is a point to which the Committee attached very great importance. If it had been proposed by the Canadian Government to make a direct purchase of the Company's territory, and to pay the price for it at once, the Company would of course have accepted their fair share of the burdens which annexation might be expected to involve. But if the purchase money is to be withheld until the Canadian Government have sold off 20,000,000 acres of the land, or have realized a considerable sum by the produce of mining operations, it is reasonable that the pressure of the fiscal burdens, which would fall almost exclusively upon the Company's trade, should be suspended also. Otherwise it might happen that, in consequence of the neglect or inability of the Canadian Government to proceed with the settlement of the territory, the Company would be subjected to very heavy contributions to the colonial treasury without receiving the smallest benefit in return. As an illustration of the extent to which they might thus be injured, were no limitation placed upon the colonial power of taxation, I may observe that, according to the present Canadian tariff, the duty upon the value of the Company's imports alone would amount to about £20,000 a year, while any export duty that might be laid upon their furs would operate still further to their disadvantage. The Committee feel confident that Lord Granville will acknowledge the reasonableness of their taking precautions against such a contingency.

The Committee have desired me to offer Lord to Granville these explanations of their proposals, in order to show that they have done their best to comply with the desire of Her Majesty's Government, that they should submit a scheme founded on the principles of the negotiations of 1864. They have not, however, failed to perceive from an early period of the lengthened correspondence which has taken place between them and the Government, that those principles necessarily gave rise to many difficulties; and they have felt this the more strongly since the negotiations originally commenced between the Company and Her Majesty's Government have virtually become negotiations between the Company and the Government of Canada. They cannot disguise from themselves the danger which exists that arrangements so complicated, and involving so many topics for future discussion, are likely to lead to the Company's being placed in a position of antagonism to the Government of Canada, and to the creation of a state of things injurious not only to their own interests but to the welfare of the country itself. They are sincerely anxious to co-operate with the Canadian Government in the settlement, development and improvement of the territories with which they have been so long connected, and they believe that, if the arrangement between them can be placed on a satisfactory footing, it will be in their power to render material assistance to the Colonial authorities in this respect. They believe that, if a simpler arrangement than that which has recently been under discussion could be adopted, and if the Canadian Government prepared to complete the purchase of the territory at once, by the payment of a sum of money or by the delivery of bonds, it would conduce to a more satisfactory result than the prolongation of a controversy as to the minute points of such a scheme as has been under consideration.

Should Lord Granville be of this opinion, and should his Lordship think it desirable to recommend any proposal of the kind to the Canadian Delegates, this Committee will gladly place themselves in fuller communication with him on this subject.

I have, etc.,

STAFFORD H. NORTHCOTE,
Governor.

Sir Frederic Rogers, Bart.

SIR F. ROGERS TO SIR G. CARTIER AND HON. WM. McDOUGALL.

DOWNING STREET, 18th January, 1869.

GENTLEMEN,—I am directed by Earl Granville to transmit to you, for any observations which you may wish to offer upon it, the enclosed copy of a letter from the Hudson's

Bay Company in answer to the proposals made to them by the Duke of Buckingham and Chandos in the letter from this Department of the 1st of December last, with respect to the proposed cession to the Crown of the Company's territorial rights in British North America.

I am, Gentlemen,
Your obedient servant,
FREDERIC ROGERS.

Sir G. E. Cartier, Bart.,
W. McDougall, Esq., C.B.

SIR GEO. E. CARTIER AND HON. WM. McDOUGALL TO SIR F. ROGERS.

WESTMINSTER PALACE HOTEL,
LONDON, February 8th, 1869.

SIR,—We have the honour to acknowledge the receipt of your letter of the 18th ultimo, enclosing a copy of Sir Stafford Northcote's letter of the 13th ultimo, in reply to proposals made to the Hudson's Bay Company for the cession to the Crown of their territorial rights in British America, by His Grace the Duke of Buckingham and Chandos, in the letter of Mr. Adderly of 1st December last.

You state that Earl Granville directed you to transmit this document to us for any observations which we may wish to offer upon it. His Lordship's courtesy and consideration in sending us a copy of Sir Stafford Northcote's letter and inviting us to express our views upon it are gratefully acknowledged, but upon reflection we thought it would be expedient to refrain from any formal expression of our opinion on new and indefinite propositions until we had received some intimation of the view which his Lordship was likely himself to take of them, or of the policy in respect to the general question which Her Majesty's present advisers intend to adopt.

At an interview with which we were favoured by Earl Granville, on the 26th ultimo, he expressed his preference for a less complicated mode of dealing with the Hudson's Bay question than that proposed by the Duke of Buckingham and Chandos; and requested us to communicate to him our observations on the reply of Sir Stafford Nothcote, and especially on the proposition with which his letter concludes, viz., that the Canadian Government should "complete the purchase of the territory at once, by a payment of a sum of money or by the delivery of bonds."

As we have had but few opportunities to confer with his Lordship since his accession to office, it may be proper, before considering Sir Stafford Northcote's letter, to state the position of the Canadian Government, as we apprehend it, in this negotiation.

The British North America Act of 1867, affirmed the policy of uniting under one government all the provinces, colonies, and territories of British North America. Three provinces were united at once, and provision was made by the 146th section, for the admission into the Union of the remaining colonies, on address to Her Majesty by their respective Legislatures and the Parliament of Canada.

The North-West territories and Rupert's Land, or either of them, are to be admitted on the address of the Parliament of Canada alone, and on such terms and conditions as the Canadian Parliament may, in its address, express, and Her Majesty approve.

In pursuance of the policy of the Imperial Parliament thus distinctly affirmed, the Canadian Parliament at its first session under the new constitution, adopted an address to Her Majesty for the incorporation of the North-West territory and Rupert's Land with the Dominion of Canada. The terms and conditions expressed in the address were—

1st. That Canada should undertake the duties and obligations of Government and legislation in respect of those territories.

2nd. That the legal rights of any corporation, company, or individual within the territory should be respected, and that provision should be made for that purpose by placing those rights under the protection of courts of competent jurisdiction.

3rd. That the claims of the Indian tribes to compensation for lands required for purposes of settlement should be considered and settled, in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

The above were the only terms and conditions which, in the opinion of the Canadian Parliament, it was expedient to insert in the Order in Council authorized by the 146th section.

His Grace the Duke of Buckingham and Chandos, on receiving the address of the Canadian Parliament, consulted the Law Officers of the Crown, who advised, among other things, "that there would be much difficulty created by the existence of the Charter" of the Hudson's Bay Company, to "putting into execution the powers of the 140th (146th) section of the British America Act, 1867, assuming that the Hudson's Bay Company were adverse to the Union."

A bill was thereupon carried through the Imperial Parliament, apparently to remove the "difficulties" which the law officers had discovered. It reverses the order of procedure contemplated by the Act of 1867, and observed by the Canadian Parliament in its address, and makes the assent of the Company a condition precedent to the transfer.

The Canadian Government were not consulted as to the terms of this Act; they could not understand why it was necessary, and greatly doubted the expediency of passing it.

The Duke of Buckingham and Chandos, having opened negotiations with the Hudson's Bay Company under the authority of the Act last mentioned, invited a delegation from the Canadian Government to confer with him in this country. The undersigned, duly commissioned for that purpose, repaired to London in October last, and had frequent interviews with his Grace before his retirement from office.

The proposals submitted to the Company by the late Government in the letter of Mr. Adderley of the 1st December last, were not made at our suggestion, although we were disposed to think (and so informed his Grace) that if the Company accepted them, the Canadian Parliament might be persuaded to undertake the duties of legislation and Government in the territories on the conditions specified.

The Company, through Sir Stafford Northcote, have declined to accept either the principle or the mode of settlement proposed by the late Government, but suggest a new and summary method of closing the negotiations, by demanding that the Canadian Government should, by a payment in cash or bonds, "complete the purchase of the territory at once." No sum is mentioned, and no data given from which it can be inferred. Under these circumstances, we are asked, as representatives of the Canadian Government, to communicate to Earl Granville any observations we may wish to offer on this reply and proposition of the Company.

His Lordship will readily perceive from the foregoing recital, that as representatives of the Canadian Government, we are in the position of spectators of a negotiation, begun and carried on upon principles and under conditions to which we are strangers, rather than that of assenting principals, responsible for its initiation and bound by its results.

Without undertaking, therefore, that our views on every point will be approved by the Canadian Government, we proceed most respectfully to offer a few observations on Sir Stafford Northcote's reply to the recent proposals of the Imperial Government.

It will be observed that two things are assumed in these proposals to the Company, which the Canadian Government have always disputed.

1st. That the Charter of Charles II. is still valid, and grants the right of soil, or freehold, of Rupert's Land to the Company.

2nd. That Rupert's Land includes the so-called "Fertile Belt," extending from the Lake of the Woods to the Rocky Mountains.

The law officers of the Crown in England have, on two or three occasions, given their opinion in favour of the first assumption, but never, so far as we are aware, in favour of the second. The report of the law officers in 1857 admits that the geographical extent of the territory granted must be determined by excluding the country that "could have been rightfully claimed by the French as falling within the boundaries of Canada," (which the Charter itself excludes by express words), and states that "the assertion of ownership on important public occasions, as at the treaties of Ryswick and Utrecht," should be considered; and also "the effect of the Acts of 1774 and 1791." The most recent opinion of the law officers of the Crown which we have seen (January 6th, 1868), as to the rights of the Hudson's Bay Company, does not even by implication support their present claim to the fee-simple of nearly one-third of the American continent. On the contrary Sir John

Karslake and his colleagues conclude their report with the emphatic statement that it is "very necessary, before any union of Rupert's Land with Canada is effected, that the true limits of the territory and possessions held under the charter should be accurately defined." An assumption, therefore, which covers so much ground, and is unsupported by any competent legal authority; which ignores the repeated protests and claims of Canada, and seeks to supply a basis upon which a surrender for valuable consideration may be made, is, to say the least, a most favourable assumption for the Company. We notice these points in Mr. Adderley's letter before remarking on Sir Stafford Northcote's reply, to prevent the possible inference that we have acquiesced in them.

Sir Stafford Northcote assures Lord Granville that the Company "continues sincerely anxious to promote the object with a view to which the Company was re-constructed five and a-half years ago, viz., the gradual settlement of such portions of their territory as admit of colonization." It would be tedious to quote the numerous and positive averments by members and governors of the Hudson's Bay Company, in the course of official inquiries, during the last fifty years, that their territories (in which they included the Red River and the Saskatchewan districts) are totally unfit for colonization. The evidence of Sir George Simpson before the House of Commons Committee of 1857, is a fair sample of the views heretofore entertained and avowed by the representatives of the Company. (*Vide* Commons Report, 1857; Questions 716, 717, 718, 719, &c.) Mr. Elice, for many years the ruling spirit of the Company, declared before the same committee that the Red River settlement was an "unwise speculation," and "had failed;" that "the climate is not favourable;" that the Saskatchewan is a country capable of settlement only when "the population of America becomes so dense that they are forced into situations less fit for settlement than those they occupy now;" that the winters are "rigorous," and the country "badly off for fuel," &c. (Questions 5,840 and 5,847.)

With such views of the unfitness of the country for settlement, and avowing their belief that colonization and the fur trade could not exist together, it is not surprising that the Company have always cherished the latter, which was profitable, and discouraged, and, as far as possible, prevented the former, which had proved an "unwise speculation." It is true that the Company was "re-constructed" in 1863, with loud promises of a new policy. A great road across the continent was to be made, a telegraph line was to be put up, and emigration and colonization developed on a large scale. The Duke of Newcastle, then Secretary of State for the Colonies, was so much impressed by the zeal and public spirit of the gentlemen who effected the re-construction, that he wrote despatches to the Canadian Government on their behalf, and evidently believed that a new era was about to open in the North-West, and the wild animals and fur traders retreat before the march of "European" settlers. The stock of the old Company, worth in the market about £1,000,000, was bought up, and by some process which we are unable to describe, became £2,000,000. A show of anxiety to open postal and telegraphic communication was made, and "heads of proposals" were submitted to the Governments of Canada and British Columbia, which on examination were found to embrace a line of telegraph only, with the modest suggestion that the two Governments should guarantee the Company a profit of not less than 4 per cent. on their expenditure! A proposal so absurd could only have been made to be rejected, and it was rejected accordingly. The surplus capital of the re-constructed Company, which was called up for the avowed purpose of opening their territories to "European colonization, under a liberal and systematic scheme of land settlement," has never been applied to that purpose. Five and a-half years have passed since the grand scheme was announced to the world, but no European emigrants have been sent out, no attempts to colonize have been made. Sir Stafford Northcote was not probably aware, when he vouched for the *bona fides* of the Hudson's Bay Company as promoters of colonization, that a solemn vote of the shareholders was taken in the month of November, 1866, which condemned and rejected the policy of colonization, absolutely and definitely.

While unable for the reasons stated, to concur in Sir Stafford Northcote's assurance that the Hudson's Bay Company are anxious to promote colonization, we are gratified to learn that they "adhere" to the resolution of 28th August, 1863, that the time has come when it is expedient that "the authority, executive and judicial over the Red River Settle-

ment and the South-Western portion of Prince Rupert's Land, should be vested in officers deriving such authority directly from the Crown."

The first remark we have to make upon this reference to the resolution of 1863 is, that it admits the continued incapacity of the Company as a *governing* power; the second that if this was true in 1863,—if at that time it became expedient to substitute the authority of the Crown for that of the Company,—it is much more expedient, if not absolutely necessary, now; and third, that if the Company are to be relieved of the duty and cost of government which their charter imposes, and which they admit they do not and cannot properly discharge, compensation should be made, not *to* the Company, as is claimed, but *by* the Company to those who take the burden off their shoulders.

We confess we have failed to discover any evidence, and therefore cannot believe that the Company have "cheerfully" accepted the decision of Her Majesty's Government, "that the whole of the Company's territory should, under proper conditions be united with Canada." A brief notice of the *acts* in contrast with the *professions* of the Company will, we think, account for the ill success of our researches, and justify our incredulity.

The representatives of the Company, while declaring before the House of Commons Committee in 1857 (as we have already shown), that their territories were "unfit for settlement," professed their readiness to surrender any portion of them that might be desired by the Imperial or Canadian Government for that purpose.

Mr. Elice declared in the most unqualified terms not only that the Company was willing to surrender, but it was the duty of the Government to see that no mere trading corporation obstructed "for one moment," nor to the extent of "one acre of land fit for settlement," the "dominion of the actual settlers." (Commons Report, 1857; questions 5,859, 5,860 and 5,933.)

The Governor of the Company informed the Colonial Secretary, (18th July, 1857,) that any inquiry into the "geographical extent of the territory granted by their Charter," which the law officers had recommended, was of little importance, because, if the object of the inquiry was "to obtain for Canada land fit for cultivation and the establishment of agricultural settlers, the Directors are already prepared to recommend to the shareholders of the Company to cede any lands which may be required for that purpose. The terms of such cession," he assured Mr. Labouchere, "would be a matter of no difficulty between Her Majesty's Government and the Company."

Mr. Elice had previously told the House of Commons Committee, that the question of boundary was "of no importance at all," because "if the Province of Canada requires any part of the territory, or the whole of it, for purposes of settlement, it ought not to be permitted for one moment to remain in the hands of the Hudson's Bay Company." He added that "less money than would be spent on a litigation upon the subject would be sufficient to indemnify the Hudson's Bay Company for any claim which they could have on giving up any disputed part of their territory."

These assurances induced the Committee to negative propositions for ascertaining by a judicial inquiry the validity of the Charter, or the position of boundaries, and to report in favour of annexing to Canada "such portion of the land in her neighbourhood as may be available to her for the purposes of settlement, with which she is willing to open and maintain communication, and for which she will provide the means of local administration." The Committee "trusted that there would be no difficulty in effecting arrangements as between Her Majesty's Government and the Hudson's Bay Company for ceding the territory on equitable principles."

It may be proper to remind Earl Granville, that leading members of the Committee of 1857, taking the offers of the Company on the subject of colonization to mean what the language of the representatives imported, strongly opposed the recommendation to leave the question open for "amicable adjustment" upon "equitable principles," with the certainty of protracted negotiations and a chance of ultimate disagreement. Mr. Gladstone accordingly submitted resolutions for a prompt and definite settlement of the whole question. He proposed—

1st. "That the country capable of colonization should be withdrawn from the jurisdiction of the Hudson's Bay Company."

2nd. "That the country incapable of colonization should remain within their jurisdiction."

He proposed that in the country remaining within their jurisdiction power should be reserved to Her Majesty's government to make grants "for the purposes of mines and fisheries, but with due regard to the immunities and trade of the Company. No "immunities" were even suggested with respect to the country which was to be withdrawn for colonization. He proposed to ignore the Charter, by declaring that the jurisdiction of the Company "should rest henceforth upon the basis of statute." He quoted the Governor's letter above referred to, "as an expression of the willingness of the Company to accept in principle the arrangement" he proposed, and, ended with the suggestion that, "as the Company had tendered concessions which may prove sufficient to meet the case," no decision seemed necessary as to the question of raising a "judicial" issue with the view of ascertaining the legal rights of the Company." The propositions of Mr. Gladstone were only lost in the Committee by the casting vote of the chairman.

Twelve years have passed since these offers were made by the Company and accepted by a Committee of Parliament. Every Colonial Secretary, from 1858 to the present moment, has attempted to carry out the recommendation of the Committee, with the assent of the Company, but without success. Two Acts of the Imperial Parliament have been passed, with provisions to facilitate the arrangement, but are yet without fruit. Sir Edward Bulwer (Lord Lytton) characterised the offers of the Company during his administration as "illusory," and declared that they "by no means met the exigencies of the case.' He expressed his regret at a determination on their part which retains the very difficulty in the way of speedy and amicable settlement, which he had sought to remove, and stated that if Canada declined to resort to "legal proceedings (which he had recommended) it would be his duty to consider whether negotiations with the Company can be resumed, or whether in the last resort Her Majesty's Government must take the matter into their own hands and proceed on their own account." (Mr. Merivale's letter to H. H. Berens, 9th March, 1859.) Sir Edward remained in office long enough to put an end to the Company's license of exclusive trade in British Columbia and the Indian territories, but not long enough to carry out his policy of "connecting the two sides of British North America without the obstacle interposed by a proprietory jurisdiction between them."

The Duke of Newcastle opened negotiations with the company in 1863-4 with much vigour. But after various proposals and counter-proposals, including the "reconstruction" of the Company, he was obliged to treat their propositions as "inadmissible."

Mr. Cardwell, during his administration, could not accept their proposals "without considerable modifications."

The Duke of Buckingham, after many discussions with the representatives of the Company, regretted to perceive that their proposals "did not afford much prospect of an arrangement being come to;" and in the communication to which the letter of Sir Stafford Northcote is a reply, declared himself "unable to recommend the adoption" of the terms demanded by the Company.

Our notice of what, in Sir Stafford Northcote's opinion, constitutes a "cheerful" acceptance of the decision of Her Majesty's Government, would be incomplete, if we did not remind Earl Granville that the Company's "proper conditions" for the surrender of that portion of the North-Western territories, for which they can show no title but such as may be derived from the possession of a few trading-posts, established there within the last fifty years, rose from a question of "no importance at all," in 1857, or at most of "less money than would be spent in a litigation on the subject," (House of Commons Report, Question 5,834,) to the retention, in 1863, in fee-simple, of *half* the land proposed to be surrendered, with various other conditions, including a guarantee by the Governments of Canada and British Columbia, of an annual profit on the Company's expenditures for improvements on their own property! In 1864, these conditions took the form of a demand, first, to be paid £1,000,000 sterling, from sales of lands and mines, with large reservations "to be selected by them," &c.; and, secondly, to be paid £1,000,000 sterling in cash, with other terms and reservations favourable to the Company.

In 1868, these conditions for the surrender of territorial and governing rights over

the *whole* territory, remained at £1,000,000, as in the first proposition of 1864, with large reservations of lands at "selected" points, specially exempted from taxation, and with full liberty to carry on their trade free from the export and import duties, to which all other subjects of Her Majesty in that country would be exposed.

In 1869, these various proposals, which no Secretary of State could possibly entertain, have all been apparently merged in one grand proposition to sell out "the territory at once for a sum of money," in cash or bonds, the amount of which is not stated.

We content ourselves under this head with the observation, that whatever others may be able to see in all these transactions, we are utterly unable to discover either a cheerful acceptance of the decision of any Government, or an honest disposition to fulfil the solemn pledges made to Parliament in 1857, on the faith of which the Company was unquestionably saved from judicial or legislative extinction.

Sir Stafford Northcote claims credit for the Company because they have "declined to encourage overtures which have been made to them by private persons for the purchase of portions of the Company's territory with a view to their colonization." Our information is (and we can give Earl Granville names and dates, if the point is deemed of any importance) that the only "overtures" of the kind mentioned which the Company have received, were not merely "encouraged" but suggested and concocted by prominent members of the Company, for the purpose of producing an impression on the Government, and with a view, not to colonization, but to *negotiation* and the Stock Market.

We are not sure that we understand the statement of Sir Stafford Northcote that the Company "have taken no steps which would give rise to fresh complications or place any new difficulty in the way of the admission of their territory into the Confederation." The sale of land to private parties for colonization (assuming that *bona fide* offers have been received from such parties) could not give rise to much complication, except in the affairs of the Company. If Sir Stafford hints at the negotiations which were lately reported to be going on with certain American speculators in London for denationalizing and Americanizing the Company with a view to the "admission of their territory" into the United States, instead of the Confederation, we respectfully submit that while such a difficulty might indeed be "new" the proper person to solve it would be Her Majesty's Attorney-General, with the aid of a court and jury of competent jurisdiction.

We do not understand that Earl Granville expects us to defend in detail the Duke of Buckingham's proposals, or to answer all the objections made to them by Sir Stafford Northcote. The Government of Canada, as we have already reminded his lordship, neither suggested the Act of Parliament nor the terms of the negotiation, which the late Secretary of State for the Colonies attempted to carry out under its authority. The Canadian plan of dealing with the question of the North-Western Territory and Rupert's Land, is set forth in the address of the Canadian Parliament to Her Most Gracious Majesty, and we do not feel at liberty, as representatives, to suggest any other mode, until we are informed by Her Majesty's Government that the one proposed is deemed impracticable.

Sir Stafford Northcote's suggestion that "the payment of a sum of money" for the purchase of the territory, would conduce to a more satisfactory result, is we believe, the point upon which Earl Granville specially desires to have our views. Assuming that by "territory," he means the *whole* territory to which the Company lay claim, and that they are to continue as a trading corporation, retaining their posts, and allotments of land in their neighbourhood, as he states was agreed upon by the Duke of Buckingham and Lord Kimberley, we have to observe :

1. This proposition involves an abandonment of the *principle* which two Secretaries of State (and it must be presumed, two successive administrations) declared, after much consideration, and in view of the transactions of 1857, was properly and justly applicable to this case, viz.: That the compensation should be derived from the future revenue of the territory itself, and payable only as it came into the hands of the Government. This *principle* was also accepted by the Company in their communication of 13th April, 1864.

2. On the other hand, the principle of ascertaining and fixing a money value upon the territorial rights of the Company "in the British territory east of the Rocky Mountains, and north of the American and Canadian lines," and of extinguishing those rights by a payment

"at once," was suggested in 1865, by a delegation from the Canadian Government of that day, and assented to by Mr. Cardwell, then Secretary of State for the Colonies, and his colleagues.

If the latter principle and mode of settlement is now to be adopted, it is obvious that the first question is, What is the nature of these "rights," and what territories do they affect? and the second, What are the rights, separated from the duties and burdens attached to them by the Charter, fairly worth?

We shall not attempt to answer these questions fully in the present communication, but we venture to submit for Earl Granville's consideration a few facts and inferences which cannot, we believe, be disputed; and which are essential elements in any calculation which may be attempted on the basis of a money purchase.

1. The Charter of Charles II. (and for the present we raise no question as to its validity), could not and did not grant to the Hudson's Bay Company, any territory in America which was not then (1670), subject to the Crown of England.

2. The Charter expressly excluded all lands, etc., then "possessed by the subjects of any other Christian Prince or State."

3. By the Treaty of St. Germain-en-Laye (1632), the King of England resigned to the King of France, the Sovereignty of Acadia, New France, and Canada generally, and without limits.

4. "La Nouvelle France" was then understood to include the whole region of Hudson's Bay, as the maps and histories of the time, English and French, abundantly prove.

5. At the Treaty of Ryswick, (1697), twenty-seven years after the date of the Charter, the right of the French to "places situated in the Hudson's Bay," was distinctly admitted; and although commissioners were appointed (but never came to an agreement), to "examine and determine the pretensions which either of the said Kings hath to the places situate in the Hudson's Bay," and with "authority for settling the limits and confines of the lands to be restored on either side;" the places taken from the English (*i.e.*, from the Hudson's Bay Company), by the French previous to the war, and "retaken by the English during this war, shall be left to the French by virtue of the forgoing (the 7th) article." In other words, the forts and factories of the Hudson's Bay Company, established in Hudson's Bay under pretence of their Charter, and taken possession of by the French in time of peace, on the ground that they were an invasion of French territory, were restored, by the Treaty of Ryswick, to the French, and not to the Company.

6. By the Treaty of Utrecht, 1714, "the Bay and Straits of Hudson, together with all lands, seas, sea coasts, rivers, and places situate in the *Bay and Straits*, and which belong thereto," were finally ceded to Great Britain.

7. As no definite boundary was ever established between the possessions of the French in the interior and the English at Hudson's Bay, down to the Treaty of Paris, 1763, when the whole of Canada was ceded to Great Britain, the extent of the actual possession by the two nations for some period, say from the Treaty of Utrecht to the Treaty of Paris, affords the only rational and true basis for ascertaining that boundary.

8. The evidence is abundant and conclusive to prove that the French traded over and possessed the whole of the country known as the Winnipeg Basin and "Fertile Belt," from its discovery by Europeans down to the Treaty of Paris, and that the Hudson's Bay Company neither traded nor established posts to the south or west of Lake Winnipeg, until many years after the cession of Canada to England.

9. No other or subsequent grant to the Company was ever made which could possibly extend their territorial rights under their Charter. The license to trade in the Indian territories, which they obtained in 1821, was revoked in 1858, and has not been renewed.

10. The country which, in view of these facts, must be excluded from the operation of the Charter, includes all the lands fit for cultivation and settlement in that part of British America.

It will be for Earl Granville to consider whether this Company is entitled to demand any payment whatever for surrendering to the Crown that which already belongs to it. We confess our utter inability, upon any principle of law, or justice, or public policy, with

which we are acquainted, to estimate the amount which ought to be paid under such circumstances. The only basis of computation we can discover, applicable to such a case, is the *cost* of the legal proceedings, if any be necessary, to recover possession. A person has taken possession of a part of your domain under the pretence that it is included in a deed which you gave him for some adjoining property before you purchased the domain. You want to get rid of him but will be compelled to bring an action. He is artful, stubborn, wealthy and influential. He will be able to worry you with a tedious litigation. How many acres will you allow him to "reserve," and how much will you pay to save yourself the cost and trouble of a lawsuit? Compromises of this kind are not unknown in private life, and the motives and calculations which govern them may be applicable to the present case. We recommend this mode of computing the amount of the payment to be made for the surrender of the North-West territory, as distinguished from Rupert's Land, with all the more confidence because it has already been suggested by one of the ablest and most trusted of the representatives of the Company (Vide evidence of Right Honourable E. Ellice, House of Commons Report, 1857, question 5,834).

With respect to Rupert's Land, or the "lands and territories," "upon the coasts and confines of the seas, bays, &c., that lie "within the entrance of the straits commonly called Hudson's Straits," "not possessed by the subjects of any other Christian prince or state," a different rule, we admit, may be held to apply. Giving to the words of the grant the widest construction, territorially, that could possibly be admitted by any judicial body with the facts of the case in evidence before it, or giving to these words the construction which the Company themselves applied for a hundred years from the date of their Charter, the "rights" they propose to sell are of little commercial value. No revenue, we feel assured, will ever be derived from them. The fur trade is the only industry the country offers as a source of profit, and this, if we rightly understand Sir Stafford Northcote's suggestion, the Company wish to retain.

It has never been alleged, even by the most sanguine advocates of the new theory of the Company respecting land-sales, that any revenue can be derived from that source within the limits which we have assigned to Rupert's Land. The cost of Government there, inconsiderable though it may be, will always exceed any possible revenue. We are thus led to the same conclusion as in the case of the territory claimed, but not owned by the Company, viz., that what they propose to sell has no pecuniary or commercial value. They are there, however, by at least a show of right. Being there, they obstruct the progress of Imperial and Colonial policy, and put in jeopardy the sovereign rights of the Crown over one-third (and as some think, even a larger portion) of the North American continent. "What is it worth to have this obstruction *quietly* removed?" This is perhaps the true question; but the answer, we submit, belongs rather to Her Majesty's Government—which has the power, in the event of resistance, to remove the evil by a summary process—than to those who are little more than spectators of the negotiation.

Earl Granville is aware that several attempts have been made since 1857 to arrive at a definite agreement on the subject of compensation. The suggestions and proposals on each side, together with the actual market value of the Company's stock at different periods, supply data which his Lordship may deem of importance; and we, therefore, respectfully submit our views as to the conclusions which may be deduced from them.

The first attempt of the Imperial Government to estimate, and express in pounds sterling, the compensation which it would be reasonable to offer to the Company was made by the Duke of Newcastle in 1864. The greatest sum which, after "very grave consideration," his Grace felt himself able to propose for the surrender of the country west of Lake Winnipeg was £250,000. But the payment was subject to the following conditions:—

1. £150,000 was to be derived from the sale of lands by Government within the territory. The payment was to be made at the rate of 1s. per acre sold, but to be entirely dependent on the Government's receipts.

2. Payments were to cease whenever they reached £150,000; and absolutely at the end of fifty years.

3. The Company was to be paid one-fourth of the sum received by Government for ex-

port duty on gold or for mining licenses or leases for gold mining in the territory, for fifty years, or until the aggregate amounted to £100,000.

4. The payment of any part of the £250,000 was contingent on the ability of the Company to place Her Majesty's Government in possession of an "indisputable title" to the territory ceded by them as against the claims of Canada.

The last condition was objected to by the Company, on the ground that they could only give such title as they had, which they contended "must be taken for better or for worse." The Duke of Newcastle renewed his offer, modifying the last condition into a stipulation that, in case it should be found advisable, the territory eastward of a line passing through Lake Winnipeg and Lake of the Woods might be ceded or annexed to Canada, in which case nothing would be payable to the Company in respect of *that* territory.

The present value in cash of such an offer, subject to the conditions and contingencies specified, would be very difficult to ascertain. The revenue from export duty on gold and for licenses would probably be *nil*. The revenue from land sales, if the costs, surveys, management and necessary roads were deducted, would be *nil* also. It is very doubtful whether, if these deductions be made, the revenue from land sales in the Province of Canada, from the session of 1763, to the present time, would show a surplus.

Sir Stafford Northcote quotes the price of land in Minnesota, and thence infers the value of lands in the Red River and Saskatchewan districts, which lie from five to ten degrees further north, and are still in possession of the wild Indians of the plain. But we think it will be found that the lands in Minnesota, which sell for "one pound per acre," are either private lands in the neighbourhood of towns, or the property of railway companies, on or near which millions of dollars have been expended to make them saleable. They are certainly not *public* lands unimproved by public expenditure. Sir Stafford ought to have mentioned at the same time a fact, which we believe is known to every emigrant who leaves the British Isles for America, that in the Western States of the Union, and in the Provinces of Canada, wild lands are now given to settlers as "free grants," and we may add, this policy is more likely to be extended than reversed. To talk of the *value* of public lands as a source of revenue, distant from one to two thousand miles from available markets, and without roads or navigable waters by which to approach them, is to contradict all experience, or to assume that the cost of surveys and management, and of canals, roads, or other improvements for their development and settlement, will be supplied by those who do not own them, for the benefit of those who do.

But in order to arrive at some result that can be expressed in figures, we will assume that the sum ascertained by the Duke of Newcastle to be a sufficient "compensation" would, under his proposition, have been paid within fifty years, and at an average rate per annum. We thus give the Company the benefit of all the doubts in the case, and reduce the question to a simple problem in arithmetic: What is the present value of an annuity of £5,000 per annum for fifty years?

That value, we submit, is the highest amount in cash which can be claimed as an equivalent for the offer made to the Company in 1864 by his Grace the Duke of Newcastle.

The next offer of the Imperial Government which mentions a specific sum, is that made by his Grace the Duke of Buckingham and Chandos, on the first December last. It differs from the previous offer in several important particulars.

1. It embraces the *whole* of the territory claimed by the Company.

2 It proposes to allow the Company to retain their "posts" and certain allotments of lands in their vicinity, with a small reservation in each township as it is surveyed.

3. It purposes to allow the Company one-quarter of the receipts from land (free grants being treated as sales at 1s per acre), and one quarter of the sum received by Government as an export duty for gold and silver.

4. It limits the amount to be received under these heads conjointly, at £1,000,000 sterling.

The other stipulations are unimportant for the purpose of ascertaining the cash equivalent of the proposition.

It is evident that the "unknown quantities" in this question are as difficult to find as in the first. We know the *total* sum to be paid, and the *proportion* of the receipts from

lands and mines applicable for its payment ; but we do not know the average annual sum likely to be realized from their sale. The minimum price is fixed at 1s. per acre, and it is doubtful if, under the proposed arrangement, the price would ever be found to exceed that sum. There is one term still to be ascertained—the average *number* of acres per annum likely to be sold and granted. A crude guess is all that the case admits of. If we take Upper Canada, possessing many advantages for early and rapid settlement, of which, unfortunately, the remote territories of the North-West are deprived, we find that from its erection into a separate Province, down to 1868, about 22 millions of acres had been disposed of by sale and grant, or an average of about 286,000 acres per annum.

Assuming that the said rate of sale, &c., is maintained in the North-West Territories (which all the old Hudson Bay authorities who know the country would pronounce a bold assumption), we have reduced the question to a simple reference to the annuity tables as before, viz., What is the present value of an annuity of £3,575 per annum for 280 years ?

We have omitted from the last term the one-fourth of the Government receipts from gold and silver, for two reasons. 1st, It has not been shown that there are gold or silver mines in the territory, that will pay for working. 2nd, All the attempts heretofore made to obtain a revenue from such sources in Canada have failed, and public opinion has forced the local governments to adopt the policy of what may be called "free mining," or cheap lands for the miners, and abolition of royalties and imposts, except to meet the cost of preserving the peace, and of surveys and necessary supervision.

There is another proposition on the Government side, which bears on the question of "compensation." It results from the agreement between the representatives of the Government of Canada, and Her Majesty's Government in 1865, and, containing fewer elements of uncertainty than propositions which involve questions of Government policy, emigration, land sales, &c., it can be reduced to a cash value with greater exactitude.

Mr. Cardwell describes the agreement as follows :—"On the fourth point, the subject of the North-Western Territory, the Canadian Ministers desired that that territory should be made over to Canada, and undertook to negotiate with the Hudson's Bay Company for the termination of their rights on condition that the indemnity, if any, should be paid by a loan to be raised by Canada under the Imperial guarantee. With the sanction of the Cabinet, we assented to this proposal—undertaking, that if the negotiations should be successful, we on the part of the Crown, being satisfied that the amount of the indemnity was reasonable, and the security sufficient, would apply to the Imperial Parliament to sanction the agreement, and to guarantee the amount."

The Canadian delegates reported on the subject with a little more detail :—"We accordingly proposed to the Imperial Ministers that the whole British territory east of the Rocky Mountains, and north of the American or Canadian lines, should be made over to Canada, subject to such rights as the Hudson's Bay Company might be able to establish, and that the compensation to that Company (if any were found to be due) should be met by a loan guaranteed by Great Britain. The Imperial Government consented to this, and a careful investigation satisfies us that the compensation to the Hudson's Bay Company cannot, under any circumstances, be onerous. It is but two years since the present Hudson's Bay Company purchased the entire property of the old Company ; they paid £1,500,000 for the entire property and assets, in which were included a large sum of cash on hand, large landed properties in British Columbia and elsewhere, not included in our arrangement, a very large claim against the United States Government, under the Oregon Treaty ; and ships, goods, pelts and business premises in England and Canada, valued at £1,023,569. The value of the territorial rights of the Company, therefore, in the estimation of the Company itself, will be easily arrived at."

The principle which this agreement between the two Governments recognises as applicable to the case, appears to be—compensation in money for the ascertained rights of the Company, after deducting the value of the property detained by them. The words "if any," and "if any were found to be due," import that, in the opinion of both parties, it was possible, if not probable, that after making the deductions, no compensation would be "due."

The basis of the calculation which seems to have been made, or agreed upon, is very

simple. The old Hudson Bay Company had recently sold all the rights and property of the Company, of every description, for the sum of £1,500,000. An inventory, agreed to by both sellers and purchasers, set down the assets, exclusive of "Territorial Rights," as follows:—

"1. The assets (exclusive of Nos. 2 and 3) of the Hudson's Bay Company, recently and specially valued by competent valuers..	£1,023,569
"2. The landed territory (not valued)	
"3. A cash balance of.....	£370,000
	"£1,393,569"

On the face of their own statement, £1,500,000 *less* the above sum, or £106,431, was the amount which the new purchasers actually paid for the "Landed Territory." Under the agreement of 1865, this seems to be the highest sum which Mr. Cardwell and the representatives of the Canadian Government thought could in any event be demanded by the Company as indemnity or compensation for the surrender of the rights they "would be able to establish."

We have thus attempted to convert into their equivalents in cash, the two offers made to the Company since 1857 by the Imperial Government, and to ascertain the amount of the indemnity contemplated by Mr Cardwell and the Canadian delegates in the arrangements of 1865. To arrive at any result, we have had to assume figures which, according to our experience, the facts of a new country will be more likely to reduce than to increase. We have also omitted conditions either implied or expressed in the proposals of 1864 and 1868, which we believe would have imposed considerable expense upon the Company.

There is another mode of estimating the amount to be paid, on the principle of compensating for actual loss only, which remains to be considered.

The stock of the Company has for some time been quoted at an average of 13½. The capital is, nominally, £2,000,000, and the shares £20—the value of the stock, therefore, in cash, assuming that the whole of it could be sold at the market rate, is £1,350,000, or £43,569 *less* than the value, according to their own estimate, in 1863, of the Company's assets, *exclusive* of the "landed territory." The money obtained from the public for shares, beyond the £1,500,000 paid to the old shareholders, will no doubt be amply sufficient to make good any deficiency in the valuation of 1863.

From a consideration of these data, we submit that, if the validity of the Charter is not now to be questioned; if the territorial extent of the country affected by it is not to be defined; if the claim of Canada to include within her boundaries a large portion, if not the whole, of the country occupied by the French at the time of the cession in 1763, is not to be investigated, and finally determined; if the admitted incapacity and the notorious neglect of the Company to perform the duties of government (which were part of the consideration for the *rights* ceded by the Charter), are not to be taken as sufficient on public grounds to justify cancellation, and re-entry by the Crown—then the very highest indemnity which ought to be paid, in cash, for a surrender of the territorial claims of the Company, with the reservations and other privileges offered by His Grace the Duke of Buckingham and Chandos, is the sum indicated by the forgoing computations.

We must, in conclusion, express to Earl Granville our strong conviction that no *money* offer, which either the Imperial or the Canadian Government would deem reasonable, will be accepted by the Company, and that to delay the organization of constitutional government in the North-West Territory until the Hudson's Bay Company consent to reasonable terms of surrender, is to hinder the success of Confederation in British America, and to imperil the interests and authority of the British Crown in the territories now occupied by the Company.

We therefore respectfully submit for Earl Granville's consideration, whether it is not expedient that the address of the Canadian Parliament be at once acted upon, under the authority of the Imperial Act of 1867.

But, if his Lordship should see any sufficient legal or other objection to that course, then we ask, on behalf of the Dominion Government, for the immediate transfer to that Government of the "North-West Territory," or all that part of British North America, from Canada on the east, to British Columbia, Alaska, and the Arctic Ocean, on the west and north, not heretofore validly granted to and now held by "The Governor and Company of Adventurers of England trading into Hudson's Bay," by virtue of a Charter of King Charles the Second, issued about the year 1670.

We have the honour to be,

Sir,

Your obedient servants,

GEO. ET. CARTIER,
WM. MCDOUGALL.

Sir Frederic Rogers, Bart., &c.,
Colonial Office.

NEGOTIATIONS BETWEEN THE DOMINION AND ONTARIO GOVERNMENTS RESPECTING THE NORTHERN AND WESTERN BOUNDARIES OF ONTARIO, 1871–2.

[A Commissioner was appointed by each Government in July, 1871, for the settlement of the northerly and westerly Boundaries of the Province. The following documents show the subsequent proceedings]:—

OTTAWA, 14th March, 1872.

SIR,—With reference to your despatch No. 138, of the 6th of January last, I have the honour, in compliance with the request therein contained, to transmit to you herewith a copy of the instructions to be given to the Commissioner appointed to act on behalf of the Dominion of Canada, in the survey and location of the Boundary Line between the North-West Territories and the Province of Ontario.

I have the honour to be,

Sir,

Your obedient servant,

JOSEPH HOWE,

Secretary of State for the Provinces.

The Honourable W. P. Howland, C.B.,
Lieutenant-Governor, Toronto, Ontario.

DRAFT OF INSTRUCTIONS TO BE GIVEN TO THE COMMISSIONER APPOINTED TO ACT ON BEHALF OF THE DOMINION OF CANADA, IN THE SURVEY AND LOCATION OF THE BOUNDARY LINE BETWEEN THE NORTH-WESTERN TERRITORIES AND THE PROVINCE OF ONTARIO, IN CONJUNCTION WITH A COMMISSIONER TO BE APPOINTED BY THE GOVERNMENT OF ONTARIO.

1. The Boundary in question is clearly identical with the limits of the Province of Quebec, according to the 14th Geo. III., ch. 83, known as the "Quebec Act," and is de-

scribed in the said Act as follows, that is to say: Having set forth the westerly position of the southern boundary of the Province as extending along the River Ohio "*westward to the banks of the Mississippi,*" the description continues from thence (i.e., the junction of the two rivers) "*and northward to the southern boundary of the territory granted to the Merchant Adventurers of England trading to the Hudson's Bay.*"

Having determined the precise longitude, west of Greenwich, of the extreme point of land making the junction of the north and east banks respectively of the said river, you will proceed to ascertain and define the corresponding point of longitude or intersection of the meridian passing through the said junction with the international boundary between Canada and the United States.

Looking however, to the tracing enclosed, marked A, intending to illustrate these intersections, it is evident that such meridian would intersect the international boundary in Lake Superior.

Presuming this to be the case, you will determine and locate the said meridian, the same being the westerly portion of the boundary in question, at such a point on the northerly shore of the said lake as may be nearest to the said international boundary, and from thence survey a line due south to deep water, making the same upon and across any and all points or islands which may intervene, and from the point on the main shore formed as aforesaid, draw and mark a line due north to the southern boundary of the Hudson's Bay Territory before mentioned. This will complete the survey of the westerly boundary line sought to be established.

You will then proceed to trace out, survey, and mark, eastwardly the aforementioned *southern boundary of the territory granted to the Merchant Adventurers of England trading to Hudson's Bay.*

This is well understood to be the height of land dividing the waters which flow into Hudson's Bay from those emptying into the valleys of the great lakes, and forming the northern boundary of Ontario; and the same is to be traced and surveyed, following its various windings till you arrive at the angle therein between the Provinces of Ontario and Quebec, as the latter is at present bounded, having accomplished which, the same will have been completed.

Your requisition for such assistance, scientific and otherwise, as may be necessary to enable you to determine the necessary longitudes with precision, and to effect the practical surveying operations in the field, and for such instruments as may be required, will receive due consideration.

Further instructions relating to the character of the Boundary marks to be erected, and conveying other information which you will probably require, will be duly sent you.

ORDER IN COUNCIL APPROVED BY THE LIEUTENANT-GOVERNOR, THE 26TH DAY OF MARCH, A.D. 1872.

The Committee of Council have had under consideration the despatch, dated 14th March instant, from the Secretary of State for the Provinces to your Excellency, together with the instructions transmitted therewith, and the Report of the President of the Council, dated 22nd March instant, in reference thereto.

The Committee advise that the Government of Canada be informed that the Province of Ontario claims that the boundary line is very different from the one defined by the said instructions, and cannot consent to the prosecution of the Commission for the purpose of marking on the ground the line so defined, and that the Commissioner appointed by the Government of Ontario should be instructed to abstain from taking any further action under his commission.

Certified.

J. G. SCOTT,
Clerk, Executive Council, Ontario.

13th January, 1873.

NEGOTIATIONS BETWEEN DOMINION AND ONTARIO GOVERNMENTS, 1871–2.

REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL, IN COUNCIL, 9TH APRIL, 1872.

On the despatch of the Lieutenant-Governor of Ontario, dated 26th March last, on the subject of the location of the Boundary Line between the Province of Ontario and the North-West Territories, the Committee of the Privy Council beg leave to report:

That in a despatch from the Secretary of State for the Provinces to the Lieutenant-Governor of Ontario, dated 30th November last, based upon a Minute of Council of the 28th November, it was suggested to the Government of Ontario that it was of great consequence that the ascertaining and fixing, on the ground, of the Boundary Line in question, should be as far as possible expedited. That the Lieutenant-Governor in his despatch of the 6th January last, expressed his concurrence in the necessity for immediate action, and to prevent unnecessary delay, suggested that a draft of the instructions proposed to be given to the Commissioner appointed on behalf of the Dominion, to locate the line, should be transmitted for the consideration of the Government of Ontario at the earliest moment.

That with the view of meeting the desire so expressed, a draft of the proposed instructions was transmitted to the Lieutenant-Governor by despatch dated the 14th March last; and

That the Lieutenant-Governor in reply transmitted, with the despatch of the 26th March, now under consideration, an Order of his Executive Council to the following effect:

"The Committee advise that the Government of Canada be informed that the Province of Ontario claims that the Boundary line is very different from the one defined by the said instructions, and cannot consent to the prosecution of the Commission for the purpose of marking on the ground the line so defined, and that the Commissioner appointed by the Government of Ontario should be instructed to abstain from taking any further action under his commission."

The Committee of the Privy Council regret that the Government of Ontario, while expressing their difference of opinion from that of the Dominion, omitted to give their own views on the subject, and they did not state what their claim as to the location of the boundary line was. As it is of the greatest consequence to the peace and well-being of the country in the vicinity of the dividing line, that no questions as to jurisdiction or the means of prevention or punishment of crime should arise or be allowed to continue, the Committee recommend that the Government of Ontario be invited to communicate their opinion on the subject to your Excellency, together with a description of the Boundary Line which they would suggest as the correct one.

Should it be found after an interchange of opinions that the two Governments cannot agree as to the location of the line, the Committee do not doubt that both Governments will feel it their duty to settle, without delay, upon some proper mode of determining, in an authorative manner, the true position of such Boundary.

Certified.

WM. H. LEE,
Clerk, P. C.

ORDER IN COUNCIL APPROVED BY THE LIEUTENANT-GOVERNOR, THE 19TH DAY OF APRIL, A.D. 1872.

The Committee of Council have had under consideration the despatch from the Secretary of State for the Provinces, of the 10th instant, on the subject of the Boundary Line of Ontario and the copy of an approved Minute of the Privy Council of Canada enclosed. In this Minute the Privy Council regrets "That the Government of Ontario, while expressing their difference of opinion from that of the Dominion, omitted to give their own views on the subject, and did not state what their claim as to the location of the Boundary was."

The Committee would observe that the despatch on which their Minute was founded did not contain any invitation to the Government of Ontario to express its views or state

its claims. The Government of Ontario is now invited to do so, and the Committee advise that the Government of Canada should be informed that this Government proposes the boundary contained in the annexed description.

The Committee further advise that the Government of Canada should be informed that, as to the western limit, in the opinion of this Government there are grounds for maintaining the contention of former Governments of Canada that the limit of Ontario is further west than the one proposed in the description, and that while this Government is prepared, in view of all the circumstances, to agree to the western limit so proposed, in case the same is accepted by the Government of Canada, this Government does not consider itself bound by the proposal in any other event.

As to the northern limit, it will be observed from the description, that this Government maintains the position, which is supported by 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 line of which watershed is the Northern Boundary laid down by the Government of Canada, and the Committee advise that the Government of Canada should be informed that, in view of all the circumstances, this Government will be prepared in case its position as to the northern boundary is agreed to by the Government of Canada, to consider any proposal which may be made by that Government for the establishment of a conventional limit to the north of that watershed.

Certified.

J. G. SCOTT,
Clerk, Executive Council, Ontario.

PROPOSED DESCRIPTION REFERRED TO IN THE FOREGOING ORDER IN COUNCIL.

The Boundary line of Ontario is the international boundary from the mouth of the Pigeon River, on Lake Superior, to a point west of the Lake of the Woods, where the international boundary line would be intersected by a line drawn north from the source of the Mississippi River; thence the boundary line of Ontario runs north to the point of intersection of the southern boundaries of the Hudson's Bay Territories; thence the Boundary line of Ontario is the southern boundary of those Territories to the point where that boundary would be intersected by a line drawn north from the head of Lake Temiscaming.

DEPARTMENT OF JUSTICE,
OTTAWA, May 1st, 1872.

With reference to a despatch of the Lieutenant-Governor of Ontario, of the 19th April, transmitting an Order in Council of that Province of the same date, on the subject of the Northern and Western Boundaries of the Province of Ontario, and in which the Government of that Province transmits a description of what it holds those boundaries to be.

The undersigned has the honour to report that a considerable difference exists between the Government of Canada and that of Ontario, in respect to the said Northern and Western Boundaries of Ontario, and until such boundaries are properly ascertained and defined, no criminal jurisdiction can be effectively established or exercised in the disputed territory. Having reference to the prospect of a large influx of people into the North-West Territories, it is very material that crime should not go unpunished or unprevented, and in this view the undersigned has the honour to suggest that the Government of Ontario be invited to concur in a statement of the case for immediate reference to the Judicial Committee of the Privy Council of England, with the view to the settlement by a judgment or decision of that tribunal of the Western and Northern boundaries of Ontario.

This is the more necessary, as no conventional arrangements between the two Governments

as to boundary can confer criminal jurisdiction on the Courts of Ontario, unless the place where any crime may be committed is by law within the Province.

The undersigned has the honour also to call attention to the fact that the mineral wealth of the north-west country is likely to attract a large immigration into those parts, and with a view to its development, as well as to prevent the confusion and strife that is certain to arise and continue among the miners and other settlers, so long as the uncertainty as to boundary exists, the undersigned begs leave to recommend that the Government of Ontario be urged to arrange with that of the Dominion for some joint course of action as to the granting of land and of mining licenses, reservation of royalties, &c., and for this purpose he would suggest that the Government of Ontario be moved to appoint a Commissioner to meet the Honourable J. C. Aikens and arrange some joint system; and that any such arrangement, when ratified by the two Governments, shall be held to bind both, and shall be subject to the decision of the Judicial Committee of the Privy Council upon the question of boundary; and that after such decision, titles to land or mining rights shall be confirmed by the Government, whether of Canada or of Ontario, as shall under the decision of the Judicial Committee, be the proper party to legalize the same.

All of which is respectfully submitted.

JOHN A. MACDONALD.

REPORT OF A COMMITTEE OF THE HONOURABLL THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL ON THE 16TH MAY, 1872.

The Committee of Council have had under consideration the annexed Memorandum dated May 1st, 1872, from the Honourable the Minister of Justice, having reference to the settlement of the question of the Northern and Western Boundaries of the Province of Ontario, and they respectfully report their concurrence in the recommendations submitted in the said Memorandum, and advise that the same be approved and adopted.

Certified.

WM. H. LEE,
Clerk P. C.

To the Honourable
The Secretary of State, &c., &c., for the Provinces.

ORDER IN COUNCIL, APPROVED BY THE LIEUTENANT-GOVERNOR, THE 31ST DAY OF MAY, A.D. 1872.

The Committee of Council have had under consideration the despatch from the Secretary of State for the Provinces, of the 16th May, with the Minutes of Council and Memorandum of the Minister of Justice enclosed in that despatch, all relating to the settlement of the question of the Northern and Western Boundaries of the Province of Ontario.

The Committee of Council regrets that the Government of Canada does not propose, in any respect, to modify its views with reference to these boundaries, opposed as those views are to the general tenour of the expressions and conduct of the Governments of the late Province of Canada and of the Dominion in the past.

The Committee of Council also regrets that the Government of Canada is not prepared to negotiate, for the purpose of arriving at a conventional arrangement as regards the boundaries. The Committee infers that the Government of Canada disapproves of that course, in consequence of the difficulty stated in the following extract from the Memorandum of the Minister of Justice:—"This is the more necessary, as no conventional arrangement between the two Governments as to boundary can confer criminal jurisdiction on the Courts of Ontario, unless the place where any crime may be committed is by law within the Province."

NEGOTIATIONS BETWEEN DOMINION AND ONTARIO GOVERNMENTS, 1871-2.

The Committee desires to call attention to the 3rd clause of the Act of the Imperial Parliament, passed 29th June, 1871, chap. 28, which is in these words:—"The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby."

It appears to the Committee that under the operation of this clause, it is quite possible to arrive at a conventional settlement of the question by the joint action of the Executive and Legislative authorities of the Dominion and of the Province.

With reference to the emergency arising out of the expected immigration during this spring and summer, it appears to the Committee that a short Act of the Parliament of Canada, providing that the boundaries of the Province of Ontario should, for the purposes of criminal jurisdiction and so far as the Parliament of Canada can provide, be decreed, pending the settlement of the question, to extend as far as the limits which are specified in the memorandum transmitted to the Government of Canada by this Government, would, though open to some objection, afford the best practicable solution of that difficulty.

With reference to the proposed submission to the Judicial Committee of the Privy Council, this Committee begs to observe that the solution of the boundary question depends upon numerous facts, the evidence as to many of which is procurable only in America, and the collection of which would involve the expenditure of much time; and upon the whole, the Committee is of opinion that the more satisfactory way of settling the question, should the Government of Canada still decline to negotiate for a conventional boundary, would be by a reference to a Commission sitting on this side of the Atlantic, and the Committee recommends that without for the present dealing definitely with the proposal of the Government of Canada for a reference to the Judicial Committee, this counter-suggestion should be made to that Government.

The Committee of Council entertains a strong conviction that it is the duty of the Government of Ontario to retain in the meantime the control of the lands within the boundaries claimed by it, but as it is anxious that the policy of the Government with reference to the disposition of these lands should, so far as practicable, conform to the views of the Government of Canada, the Committee agrees that an effort should be made to avoid the possible difficulties arising from the claims put forward by that Government, and with this view the committee recommends that the Honourable R. W. Scott should be requested to confer with the Honourable J. C. Aikens, as proposed by the despatch of the 16th May.

Certified.

J. G. SCOTT,
Clerk Executive Council, Ontario.

DEPARTMENT OF PUBLIC WORKS,
OTTAWA, 24th April, 1872.

Sir,—I am directed to transmit herewith an account against the Province of Ontario, for maintenance of police force at Thunder Bay, and cash advances, &c., for Court House at Prince Arthur's Landing, amounting to $4,035.74, and to request that application may be made to the Government of that Province for an early settlement of the same.

I have the honour to be, Sir,

Your most obedient servant,

F. BRAUN,
Secretary.

Honourable the Secretary of State for the Provinces,
Ottawa.

NEGOTIATIONS BETWEEN DOMINION AND ONTARIO GOVERNMENTS, 1871–2.

GOVERNMENT HOUSE,
TORONTO, 25th June, 1872.

SIR,—Adverting to your despatch under date 26th April last, enclosing a copy of a letter from the Secretary of the Department of Public Works of Canada, together with certain accounts therein refered to, amounting to the sum of $4,035.74, for the maintenance of a police force at Thunder Bay, and for cash advances for the Court House at Prince Arthur's Landing, I have the honour to transmit herewith cheques of the Treasury Department, Ontario, Nos. 782 and 783, drawn in favour of the Dominion Government for the sums of $215.02 and $793.31, respectively, being in discharge of items in connection with the Court House at Prince Arthur's Landing.

With reference to the other items in connection with the maintenance of a police force at Thunder Bay, I have at the same time to intimate that my Government has been unable to ascertain the authority from the Province of Ontario upon which the Province is now asked to pay these amounts, and I have therefore, to request you to be good enough to state for their information the authority upon which the expenditure in question has been made.

While my Government fully concurs in the view of the Government of the Dominion of Canada, that Thunder Bay and that part of the Red River Road, the construction of which has given rise to the claim now made, is within the limits of the Province of Ontario, I cannot but observe that the Government of the Dominion of Canada is at this moment preferring a claim to that territory on the ground of its being beyond the limits of this Province.

I have the honour to be, Sir,

Your most obedient servant,

W. P. HOWLAND.

To the Honourable
The Secretary of State for the Provinces, Ottawa.

SECRETARY OF STATE FOR THE PROVINCES.
OTTAWA, July 2nd, 1872.

SIR,—I have the honour to acknowledge the receipt of your despatch of the 25th ultimo, in reply to one from the Secretary of State for the Provinces, under date the 26th April last, enclosing a copy of a letter from the Secretary of the Department of Public Works of Canada, together with certain accounts therein refered to, amounting to $4,035.74, for the maintenance of a police force at Thunder Bay, and for cash advances for the Court House at Prince Arthur's Landing.

I have also to acknowledge the receipt of two cheques (enclosed in your despatch) on the Treasury Department, Ontario, in favour of the Dominion Government, for the sums of $215.02 and $793.31, respectively, being in discharge of items in connection with the Court House at Prince Arthur's Landing. A copy of your despatch has been communicated to the Minister of Public Works, and his attention has been called to the request made by you on behalf of your Government, to be informed of the authority upon which the Province of Ontario is called upon to pay the expenses specified in the accounts in connection with the maintenance of the police force at Thunder Bay.

I have the honour to be, Sir,

Your obedient servant,

E. A. MEREDITH,
Under Secretary of State.

The Honourable
Wm. P. Howland, C.B.,
Lieutenant-Governor, Toronto.

PROVISIONAL CONVENTIONAL BOUNDARIES OF ONTARIO, 1874.

[The following provisional arrangement between the Dominion of Canada and Province of Ontario was confirmed by Orders in Council of both Governments]:—

The Government of the Dominion of Canada, having by an Order in Council, dated the 3rd day of June, 1874, suggested that the Ontario Government should be moved to appoint a Commissioner to meet "the Minister of the Interior, and arrange some joint system for the sale of lands and adjusting disputed rights in the territory claimed by both Governments, by the adoption of a Conventional Boundary on the West and North, and that after the final adjustment of the two Boundaries, titles to land should be confirmed by the Government, whether of Ontario or the Dominion, whichever should be the proper party to legalize the same."

And the Ontario Government having acted on the suggestion of the Privy Council, by appointing the Commissioner of Crown Lands of that Province, to meet the Minister of the Interior and discuss the proposed arrangements, and the said parties having met this day, have agreed to the following propositions as the basis of a memorandum to be submitted to their respective Governments:

1. That the Conventional boundary of the Province of Ontario for the purposes set forth in the said Order in Council of the 3rd of June, instant, shall be on the West:—the meridian line passing through the most easterly point of Hunter's Island, run south until it meets the Boundary Line between the United States and Canada, and north until it intersects the fifty-first parallel of latitude; and the said fifty-first parallel of latitude shall be the Conventional Boundary of the Province of Ontario on the North.

2. That all patents for lands in the disputed territory to the east and south of the said Conventional Boundaries, until the true boundaries can be adjusted, shall be issued by the Government of Ontario; and all patents for land on the west or north of these Conventional Boundaries, shall be issued by the Dominion Government.

3. That when the true West and North boundaries of Ontario have been definitely adjusted, each of the respective Governments shall confirm and ratify such patents as may have been issued by the other for lands then ascertained not to be within the territory of the Government which granted them; and each of the respective Governments shall also account for the proceeds of such lands as the true boundaries, when determined, may show to belong of right to the other.

4. That the Government of the Dominion shall transfer to the Government of the Province of Ontario, all applications for lands lying to the east and south of the Conventional Boundaries, and also all deposits paid on the same; and the Ontario Government shall transfer to the Dominion Government all applications for lands lying to the west or north of the said boundaries, and likewise all deposits paid thereon. And such of the said applications as are *bona-fide*, and in proper form, shall be dealt with finally, according to the priority of the original filing; and where applications for the same lands have been filed in the Departments of both Governments, the priority shall be reckoned as if all had been filed in one and the same office.

Signed in duplicate this 26th day of June, 1874.

DAVID LAIRD,
Minister of the Interior.

T. B. PARDEE,
Com. Crown Lands.

XVII.

Supplementary Miscellaneous Documents.

The documents in this section, together with the Notes on Maps, pp. 135-140 *ante*, were procured and prepared for the press after the rest of the work had been printed off, and on the point of being completed for distribution.

DOCUMENTS RELATING TO THE BOUNDARIES AND TO THE INDIAN NATIONS AND FRENCH POSTS OF CANADA, ETC., 1671–1878.

OGILBY ON THE BOUNDARIES OF CANADA, LABRADOR, &c., 1671.*

ESTOTILAND—NOVA BRITANNIA—TERRA LABORATORIS—CORTEREALIS.

The farthest part of land northward, between Hudson's Gulf and Hudson's Straight, betwixt fifty-seven and sixty degrees of northern latitude, goes generally by the name of Estotiland. . . . and, according as Nova Britannia is placed in some charts, might very well be taken for the same, though it hath not been so termed by any author, but rather Terra Laboratoris, Corterealis, and Nova Britannia † are generally received to be all one. Terra Laboratoris...comprehended, according to Peter du Val, under Nova Britannia, as the more general Province,—or, according to Cluverius, under Canada,—lies from about fifty-four to fifty-seven degrees of northern latitude.

CANADA, OR NEW FRANCE.

Canada, as it is taken for one and the same Province with New France, contains New France properly so called, Nova Scotia, Norumbega, and some adjoining Islands; as the Canada of Cluverius, lying more north-westerly, comprehends (as we have already intimated) Estotiland, Laboratoris and Coterealis; and, according to the most modern divisions, hath on the north Terra Corterealis, on the south New England, and on the east the Ocean, and hath between forty-five and fifty-two or fifty-three degrees of northern latitude. The River Canada [St. Lawrence] rises in the western parts of this Province, which remain yet undiscovered, and in some places spreads itself into huge lakes.

Canada is by some accounted a general Province containing New France, L'Accadie, Norumbega and other places.

THE TAKING POSSESSION OF HUDSON'S BAY AND OF THE NORTHERN LANDS AND SEAS, BY ALBANEL AND ST. SIMON, 1672.‡

Father Charles Albanel, Jesuit, missionary employed in the instruction of the Indian Nations and Montagnois, and Paul Denis de St. Simon, Commissary and deputed by M. Talon, Intendent of Canada, to take possession in the King's name, of the countries, lands, lakes, and rivers, which lie between the banks of the River St. Lawrence as far as the shores of the Straits of the Fretum Davis, including Hudson's Bay, and adjacent lands and seas, being at Miskaouto, Nagasit, places where the Indians meet to trade, and at the River Némiskau, which rises in Lake Némi-kau, the residence of Captain Kiaskou, Chief of all the Indians

* Extracts from "America, being an accurate description of the New World—with Maps and Sculptures by John Ogilby, Esquire, London, 1671." pp. 127-9, 139.

† The names—Nouvelle Bretaigne, Nova Britannia, New Brittany, New Britain—given to a certain part of Labrador, would seem to have originated with the Breton navigators or fishermen, who, at a very early period, frequented that coast.

‡ N.Y. Hist. Col., Vol. ix., p. 791.

inhabiting the North Sea and Hudson's Bay, and on the Ninth of July, 1672, planted the cross, with the captain's consent, and in His Majesty's name set up the arms of France, on the said Lake Némiskau, at the mouth of the river of the same name.*

On the 19th of the same month, being at the River Minahigouskaé, Sossibahourat, Captain of the Mistasirenois, having consented, they did set up in like manner the said arms, after having turned up a sod of earth, pulled up some grass, planted some shrubs, and performed other necessary ceremonies. They made known to the Indian Nations, in their language, that they subjected them to the French nation, and that they should acknowledge in future King Louis XIV. for their Monarch and Sovereign Lord.

In witness whereof, the said minute was signed by Father Albanel, Sieur de St. Simon, and by Sebastian Provero; and the chiefs of each Indian nation, to the number of eleven, made their hieroglyphical marks.

TRAITE DE TADOUSSAC, 1672.

DESPATCH FROM COMTE DE FRONTENAC, 2D 9BRE., 1672.†

The Company's Commissary demanding this year a passport to winter four men at Lake St. John, on the pretext of the Tadoussac trade, urged me strongly to insert in it a prohibition to all those who would trade on Lake St. John.

He pretended that the Limits of *(Traite de)* Tadoussac‡ extended as far as that, and even to Hudson's Bay, which would be giving him an extent of five or six hundred leagues, and preventing the inhabitants of that colony going to the places the Company have never meant to reserve. In the meantime, in order not to make a noise M. Talon thought proper that I should grant it to him, with a clause that it would be only for this year, on condition that it would not serve as a precedent for the future so as to confer any title to the places.

[This passport, granted by M. de Frontenac at Quebec, bears date the twenty-second of September, 1672, for Father Crespin, Jesuit, and for Sieurs Montagne, Maquard, Dautray, and Pelletier, sent by the West India Company to trade with the Indians, and to winter at Lake St. John, called Peakoüagamy, about 70 leagues above Tadoussac.]

ANSWER OF THE HUDSON'S BAY COMPANY,§ 1699, TO THE FRENCH PAPER INTITULED, "A MEMORIAL FOR JUSTIFYING THE PRETENTIONS TO FORT BOURBON."

(Copy obtained by the Ontario Government from the Public Records Office, London.)

Since the French desire a more express answer to their First Paper, wherein they demand to be maintained in the possession of Fort Bourbon (which they acknowledge the English called Port Nelson), upon this ground of their having made the first discovery and the first settlements, and being dispossessed thereof by the English in a time of peace, saving the right which the Hudson's Bay Company claims under the Imperial Crown of England, both to this particular place of Port Nelson, and all the rest of the Bay within Hudson Straits by the Law of Nations,—we deny the French to be the first discoverers of that place, or to have made the first settlements there, and are ready to prove the contrary on the English side. And the French, in this paper bringing their pretended right of discovery and settlements no higher than the year 1682, and their being dispossessed in 1684, we shall briefly show what sort of possession that was, and how those two actions were conducted.

Mr. Radisson, mentioned in the French paper to have made this settlement for the French at Port Nelson in 1682, was many years before in England, settled and married

* Némiskau—Rupert R.

† N. Y. Hist. Col., Vol. ix., p. 791.

‡ See pp. 203 *et seq. ante.*

§ Endorsed—"Answer left with Mr. Secr. Vernon [Secretary of State], 17th April, 1699." The memorial to which this is a reply we have not been able to find. See also a further paper on this subject, p. 120 *ante.*

an English wife, Sir John Kerk's daughter, was in the interest and service of the English, upon private adventures, before as well as after the incorporation of the Hudson Bay Company. In 1667, when Prince Rupert and other nobles sett out two shipps, Radisson went in the *Eagle*, Captain Stanard, commander, and in that voyage the name of Rupert's River was given. Againe [in] 1668, and againe in 1669: in this voyage Radisson directed his course to Port Nelson and cast anchore before it, went on shoar with one Baley (dessigned Governour for the English*), fixed the King of England's arms there, and left some goods there for trading.† In 1671, three shipps were sett out from London by the Hudson Bay Company, then incorporated, and Mr. Radisson in one of them, in the Company's service, settled Moose River, went to Port Nelson, left some goods† there and wintered at Rupert's River. In 1673, upon some difference with the Hudson Bay Company, Mr. Radisson returned into France, and is there persuaded to go to Canada againe; there he formed several dessigns of going on some French private expeditions into Hudson Bay, which the Governor, Monsr Frontenac, would by no means permit,‡ as declaring it would break the union between the two Kings. But at last, the said Radisson was secretly sett out with two ships by one LaChaney, and other private persons, without the Governour's knowledge, without any orders from any powers; and in August 1682, arrived at a river to them unknowne, but being in the latitude of Port Nelson, resolved to go in, found an English ship, whose company were building an house; saw another ship coming in, belonging to the Hudson Bay Company of London, which had brought a governour to settle a factorie in that Port.§ Radisson, and the French with him, tooke the English ship, the Company's governour and men, and carried them to Canada, where he found Monsr La Barre governour in the roome of Monsr Frontenac, who ordered the said Radisson forthwith to release the said English ship,‖ and ordered La Chaney [Chesney], the merchant who had sett out the said Radisson upon the said expedition, to give satisfaction to the English for some goods disposed of by Radisson,¶ but was never performed.

This was the expedition in 1682, and the first time** that ever French men or

* Baily was governor of, and resided at, Fort Rupert. See pp. 280-2 *ante*.

† Where—in whose charge—how secured and protected, when there was as yet no fort there?

‡ No evidence of such action of Frontenac can be found. See pp. 104-6 *ante*.

§ Where then was the previous English factory? We have been able to discover none. The author of this memorial seems also to forget the fact that Radisson and Desgrossilliers having received pardon from the French King, and returned to Canada, went to Hudson's Bay in the same year, 1676, and erected a post at Port Nelson, in the French interest. See p. 109 *ante*.

‖ The French Government severely reproved La Barre for his conduct herein. (See Seignelay's letter to him, p. 107 *ante*.)

¶ No proof hereof.

** As to this, there was, firstly, no actual necessity for the French to send ships to Hudson's Bay, as, in the absence of the English, during the period 1631-67, they had complete command of that trade by the overland channels; and, secondly, as a matter of fact, they had sent ships to the Bay as early as 1656, on which occasion Bourdon took formal possession of the Bay, and particularly of Port Nelson and the surrounding coast. This possession was renewed and a fort built there by the French in 1676, as above mentioned. It must be acknowledged, after a careful perusal of the authentic documents, that the French had full possession of that Bay and of the country between it and the Height of Land, as far as was necessary to constitute for them a priority of title; that is, nobody was there to dispute their claim to it; they had always claimed it as part of Canada, or New France; and their real possession was none the weaker because the posts and forts erected by them were at the Height of Land; for thither, and oftentimes even as far as Montreal, Quebec, or Tadoussac, did the Northern Indians come to dispose of their valuable furs, and realize in trade the price for which they were bartered. It was only when trespassers interfered with their trade or their landed possessions, that the French found it necessary to defend them. Thus, when the English erected posts or traded with the natives at the foot of the Bay, they were immediately looked upon and treated as trespasssers by the French, who moved the Indians to attack them, and to divert to Canada any trade which might be influenced in the direction of the strangers. Meantime the French, not being as yet strong enough to drive the intruders from the shores of the Bay, pushed their own posts nearer to those of the enemy, so as not only thus to aid their allies, the Indians, but also to divert the trade from the English posts. It would appear also, that whilst both the English and French made several visits to Port Nelson prior to 1682—the visits af the French appearing to have been with the view to establishing colonization and trade, as above mentioned, whilst the early visits of the English were directed to the finding a north-west passage—yet the French had not attempted to build a post or fort at Port Nelson till 1676, as aforesaid nor the English till 1682, in which year the French also re-established their first post, and destroyed the English one, as elsewhere mentioned. The French claim for themselves priority, and that they were entitled accordingly to the sole possession, and to drive out—as they actually did—the English. (See memoir relating to Hudson's Bay, p. 106 *ante*.) From this time forward, with short intermissions, this post was in possession of the French, till they delivered it up, in 1714, under the Treaty of Utrecht. (See also note to map No. 1, Sec. VIII.)

FRENCH ANSWER TO A MEMORIAL OF THE HUDSON'S BAY CO., 1699.

French vessell sailed into Hudson Bay, conducted thus by Radisson in a piraticall manner, without any publick authority, by the experience he had learnt in the voyages for the Hudson Bay Company, and this was y^e^ man who then designed to have given the name of Fort Bourbon to the place now in question, which had been denominated by the English (and so found in all mapps) by the name of Port Nelson, above 70 years before, and upon such rights of discovery and possession, and of this date, is the title of the French founded to this place of Port Nelson.

The manner how they were dispossessed of this unjust acquisition two years after, in 1684, as they complain in their paper, was as followeth, and right was done to the English by the same hand of Radisson who did us the wrong.

Complaint being immediately made by the Hudson Bay Company, Radisson, as soon as he returned into France, in 1683, found the effects of it by the many memorials given in against him at the French Court by the several public ministers of the King of England from time to time. The action was disowned by his most Christian Majesty, and satisfaction promissed, which was directed by a great minister in France in this manner, viz.: That Radisson should goe for London, where he should ship himself on board the Company's ships to goe to Port Nelson and withdraw the French whom he had left there, restore the effects to the English, and the Court of France nor Canada should ever pretend any right to the Bay of Hudson.* Accordingly, Radisson came to London, presented himself to King Charles and the Duke of York, then Governor of the Hudson Bay Company; by their recommendation is reconciled to the Company and goes with only two ships in the Company's service, whereof Captain Bond and Captain Outlaw were Commanders, arrived at Port Nelson, where the Sieur Chavert,† whom Mr. Radisson had left, and the rest of the men came over to him and complied with the justice to be done to the English (who afterwards took service in the Hudson Bay Company), and brought into England and restored to the Company about 12,000 beaver skins and other furs (short of sixty thousand beavers as the French suggest in their paper), the greatest part of which were traded with English goods taken from them in the expedition before.

And this, we conceive is a full answer to the French paper, whereby they pretend a right to this place of Port Nelson, as it is a true account of the matter-of-fact which we are ready to justifie and prove, and we demand to be restored to the ancient and undoubted right of the Imperial Crowne of England and our own, derivative from thence; and whereas they talk of injuries and dispossessing in a time of peace, who were the first aggressors and begun a private and piraticall war is plaine by this narrative, and was the continual subject of our complaints which his Majesty was pleased to take notice of when he declared the warr against France.‡

FRENCH ANSWER TO THE MEMORIAL PRESENTED BY THE COMMISSARIES OF THE KING OF ENGLAND THE $\frac{17}{27}$ OF MARCH $169\frac{8}{9}$.§

(Copy obtained by the Ontario Government from the Public Records Office, London.)

It will appear by the contents of this Memorial that the French made the first discovery of the Bay to the North of Canada, that they made the first settlements to maintain their trade there, and that the trouble hath happened only from the English.

We shall not insist to dispute about the voyages mentioned in the Memorial, from

* Of the statement that the French sanctioned or gave countenance to any such action no confirmation can be found. The English and French archives (which have been searched) reveal no proof of it; all the known facts, and all the evidence we have, are against it. Oldmixon, who wrote in the Company's interest, and from information derived from them, gives a very different version of it, (p. 283 *ante*, line 25 *et seq.*) and the French documents, dated 1683-4, given at pp. 106-8 *ante*, clearly prove that France was opposed to any such concession. The whole affair was, evidently, concocted by Radisson—who had been again obliged to fly Canada—to serve the Hudson's Bay Company.

† Chouart, nephew of Radisson.

‡ And yet the French were confirmed by the Treaty of Ryswick, in possession of the places they had taken from the English during that peace, thus justifying the action of the French in treating the English proceedings in Hudson's Bay as encroachments on French rights.

§ ENDORSED:—"Translation of the French answer to the Company's Ded^n^ of R^t^, rec'd from Mr. Secr. Vernon ye 3rd May, 1699."

1497 to the year 1631, but shall only say in general, that it is not seen in any relation abovt the foreign colonies that the English knew the Northern countries from the year 1497. On the contrary, it is observed that the Normans and Basques went, at that time, on fishing voyages to Newfoundland, to the Gulph of St. Lawrence, the Coast of Labrador and to the North of the Island of Newfoundland and of this an infinite number of voyages might be quotted. It is certaine that if any English or Danish navigators, or those of other nations did make any voyages theither, it was only to seek a passage into the South Sea, and it cannot be proved that any of the said navigators did ever make any settlements nor trade in the Bay of the north of Canada nor ever knew the places mentioned in the old Charts or Mapps of which they now pretend to make use, for that those Charts were not made till within these 30 or 40 years, that is to say, since the English were introduced into the said Bay.

It cannot be denyed but that for establishing the right upon the possession of a country is not sufficient to have discovered the same, and to have lived there some time, but there must be an ancient possession and a continued habitation, or at least a Trade maintained, to enable the parties to claime or contest the property, which the English cannot maintaine as to the Bay to the North of Canada. There was an interruption even of their possession from the yeare 1631 to 1667.* The troubles and cevill warrs which they alleage as a pretence of this interruption, did not begin till towards the year 1640, and during those troubles they maintained their other colonies and did also augment the trade and extent thereof.

If the French, according to the example of the English, would insist on or make use of the several voyages which they have made at several times, and of the possessions by them taken of countries where they have been, [they] might rightfully at this day claime Carolina, for that they have had Forts there even since the time of Francis the First, Henry the Second, and Charles the Ninth; and also of all New England and the New Netherlands; it being evident that they have had Commanders and Settlements there from 1604 to 1610, and that the English, who at that time possessed Virginia, only began to settle on those coasts about the year 1626.

The several authors who write of Canada or New France, give it no bounds to the northward; and by the Letters of Corporation or grants at severall times granted by the King of France, to the Companies established in New France, and particularly in the yeare 1628, all the Northern Bay [Baie du Nord] was comprehended in the limitts therein sett downe and described.† If the English had had any knowledge of the said Bay, or any pretensions thereunto, they would not have failed to make a reservation thereof, and cause particular mention to be made of the same in the Treaty in 1632 for restoreing to the French the New France which they had possessed dureing the warr.

It is true that at that time and a long time afterwards, the French had no Forts on the coast of the said Bay. For that they being masters of the countrey within-land the Savages, with whome they kept a continual trade, br^{t} their skins, by Lakes and Rivers. The communication from Tadouza to the Bottom of the Bay, hath allways been easey by the River of Saguenay; they goe thither also by the other Rivers and Lakes‡ on the other side of Montreal; and those places are not above 120 leagues distance on that side. There are also Rivers that lead into the Lakes of the Hurrones and into the Upper Lake [Superior], on the upper part whereof § the French have allways had settlements for carring on the trade of skins with the natives who are to the westward of the Northern Bay. Several acts about taking possession might be produced, to prove that all the savages acknowledged the Sovereignty of the King before the English ever thought of going thither, and there needs no more to be convinced of the truth of these facts than only to examine the scituation of the countrie, as also, of the reasons which the French had not to have any Forts along the coast.

* In 1632, by the Treaty of St. Germain-en-Laye England restored to France the whole of Canada or New France, including of course, "La Baie du Nord du Canada." Oldmixon admits that nothing was done by the English during the period 1631-67. (See pp. 279-80).

†See note to map No. 1 in Sec. VIII. *ante*.

‡By the Rivers Ottawa and Monsippi, and Lakes Temiscamingue, Abitibis, &c.

§That is at Nepigon, Michipicoten, Kamanistiquia, and the posts subject to these, beyond the height of and

FRENCH ANSWER TO A MEMORIAL OF THE HUDSON'S BAY CO., 1699.

The English pretend in their Memorial, that in 1663 they formed the designe of going to settle in the Northern Bay, and that in 1667, one Zachary Gilham, went first to the Bottom of ye said Bay, where he built ye Fort Charles on Rupert River, but they take no notice that the designs of those settlements were suggested to them, in 1662, by one Radisson and Desgroziliers, subjects of the King, and inhabitants of Canada, who conducted them to the Bottome of the Bay, of which the English had no knowledge.

The Letters of Corporation or Charter granted in 1670, by Charles the Second, to the Hudson Bay Company cannot give them any right, by reason that Prince could not dispose of any lands or country whereof France was in legall possession and which France had always occupied without any opposition.

The warrs which France had afterwards to maintaine against allmost all Europe, hindred the French from opposing the new enterprizes of the English, and the engagements to which we were entered into, with King Charles the Second, did not permitt the going about to revive matters of dispute. However, in the yeare 1675, the inhabitants of Canada sent a ship into the Northern Bay to putt a stopp to the undertakings of the English. The French who were sent thither entered into Bourbon River and wintered there.* This is the River which the English call Port Nelson, in which, at that time, there [was] no signe of settlement or habitation.

The inhabitants of Canada, in 1682, sent two ships more thither with the said Radisson and Desgroziliers, who were return'd to New France, the King having pardoned them for their desertion. They arrived in the month of August, and made a settlement in the River of St. Thereza [Hayes River], a league and a half distant from the River Bourbon, calling it Bourbon Fort. The English had not yet at that time any knowledge of this River St. Thereza. In the same year, at the same time, when the French were buisied in making their establishments, an English ship, coming from England, arrived there, and afterwards a barke from Boston, which were left in the ice. The French gave leave to the men to winter in Bourbon River on their promise they should not fortify themselves; but the men of the ship that came from England breaking their word, they were made prisoners. When the ice was open the French gave them one of their ships, in 1683, to returne to England. As to the men belonnging to the barke from Boston, they were taken up out of charity, carried to Quebec, and from thence sent to Boston.

It was sett forth, in the memorial already delivered, how Radisson went over againe into England and engaged himself to the Hudson Bay Company to goe and surprize and plunder, in 1684, Bourbon Fort. The said Radisson is still in London, and the said Company actually payes him part of the pention which they promised him at the time of his becoming ingaged.

The English make no mention in their memorial of what passed in 1684, although in the years 1686 and 1687, Messrs. De Barrillion and Bonrepos made strong instances for ye restitution of Bourbon Fort and the effects carried thence.

The enterprize of the English in 1684, in the time of peace, engaged those of Canada to goe, in 1686, to attack the posts at the bottom of the Bay, from whence the English were driven.

The losses sustained by the French by the taking of Fort Bourbon, and of the effects which were there, doe farr exceed the losses suffered by the English by their being driven from ye Forts at the bottome of the Bay, and they must impute the fault to themselves, they being the first agressors, and for that they would contrary to all manner of justice, disturb the trade of the French and settle themselves on the lands of which the French had peaceable possession.

Wherfore, it being certaine that the old voyages made at several times, were not undertaken but onley to seek a passage into the South Sea,—that the like voyages doe not give a right without a possession, habitation or trade continued; that the Northern Bay has allways been comprehended within the limitts of New France; that the restitution made by the English by so solemne an Act as the Treaty of 1632, without reserving any pretentions to themselves, is a certaine proofe that they had none to make. That, on the

*They not only wintered, but formed a settlement, of which that of 1682 was only a renewal. See pp. 106, 109, *ante*.

other side, the French have traded continually with all the savages who live on the Coast of the said Bay, in which Trade they have not been troubled but only since the English were introduced by two deserters. subjects of the King.

The said French do demand, not only to be maintained in the possession of Fort Bourbon, but also [that] all the bottome of the Bay of the North of Canada may be restored to them.

REPLY OF THE HUDSON BAY COMPANY TO Y^E^ ANSWER OF THE FRENCH COMMISSARIES TO THE MEMORIAL OR DEDUCTION OF THE RIGHT AND TITLE OF THE CROWN OF ENGLAND TO HUDSON BAY, &c., JUNE, 1699. *

(Copy reeceived by the Government of Ontario from the Public Records Office, London.)

Altho' the said French papers have given noe substantiall answar to the Memorial or Deduction of the Right and Title of the Crowne of England to Hudson Bay, and that we are ready to maintaine in fact and in right all that is asserted in the said Memorial, yett we think it convenient to give a full reply to some things untruely grounded, and others improperly inferred, by the French in their said pretended answar.

It is like a willfull shutting their eyes against the light to alleadge that the English knew not the Northern countries from the yeare 1497. We appeale to all faithfull Relations of forreigne colonies, to all authantick mapps, ancient and moderne, and to all histories and books of cosmography, and we are ready to make out the severall discoveries and rightfull possessions made for the Crowne of England, as they are exhibited, in our Memorial or Deduction of our Title, and we could goe higher, if it were material, and shew that the Brittains, many hundred years before the Union of England and Wales, made voyages to those Northern countries, which is sufficient to confute the assertation of the French that those countries were unknown to the English. But it will suffice that we maintaine our discoveries, our severall voyages, our taking possession in the right of the Crowne of England, our English denominations of the places, which they justly retaine to this day, our trading with the savage nations, and our actual settlements in trade, habitations, forts and factories, before ever the French pretend'd to an emulation or knowledge of the place as we have laid it down in our said Title.

It is not denyed but that some of those ancient voyages we have mentioned might be made in search of a passage into the South Sea, but that doth not hinder but that a discovery might be made of a countrey, seas or bayes, whilest they are in that pursuite is a proper discovery; and the possession taken of such places, in the name of the king or prince of such navigators, is a rightfull possession of the whole tract and territory belonging to such place against any other prince or person whatsoever. But we will maintaine all the marks of our rightfull possession in behalf of the Crowne of England, none of which the French can pretend to but with the same confidence as they may lay claim to all England, which would be dangerous to them since all the world knows with what juster right we might invert that claim upon France.

It may be observed with what caution the French, in this paper, doe industeriously avoid the nameing or owning of the name of Hudson Bay but all along call it the Bay to the North of Canada which signifies nothing but to show how ill founded their pretences is to it and that the very name (which yett they cannot deny) betrays the emptiness of their Title; and yet in all former Memorials, in 1687 and in divers since, they have owned the name of Hudson Bay and we are not beholden to them whether they will call it so or noe, nor doth it avail them any more than their late giving the name of Fort Bourbon in their St. Thereza River to our York Fort in Port Nelson, and to shew how little knowledge they have had of the place, and the man whose name the said Bay bears to this day, they have affirmed in a late memorial that the said Hudson, passing in 1665 towards

* ENDORSED:—"The Company's Reply to ye French answar left with the English Commissioners, the 5th June 1699. To which the French Commissioners never made any Replycation."

HUDSON'S BAY CO.'S REPLY TO THE PRECEDING FRENCH ANSWER, 1699.

the North, to search for a passage into the South Sea, discovered the same without entering into it and called it by his name, which contains two notorious errors or fallsities in it, first because Hudson's voyage was 55 years before the time alleadged, and secondly, because he entered into the Bay, gave it his name and many other English names to other places, wintered there, but perished himself in the voyage.* With equal ignorance they alleadge in their said Memorial, that in their said expedition, in 1682, they meeting an English barke from Boston, in New England, in the place, there happened to be one Nelson in the said barke, who upon his arrival called the mouth of that River Port Nelson, which was called so 70 years before by Sir Thomas Button from one Nelson his pilott, whom he buried there as we have sett forth, in our Title, but these are sufficient to show the skill and reading of the French in those places as well as their right.

The interruption we mention of prosecuting those voyages and a formal settling of a trade, by all prudent and rationall men may well be imputed to the troubles arising and continuing in England, not well quietted till the restoration of King Charles the Second, and then resumed and found most convenient to be managed by a joynt stock as they were afterwards incorporated. But we ask the French whether during those troubles here or afterwards, untill the year 1682, they ever took the least notice of Hudson Bay, or visited any part of it, by sea or land, but then it was that their envy began to rise against a trade which we had brought to yield 50,000 beavers a yeare, which never produced one skin before, nor ever had navigation in the Bay but by the English.† And we are ready to prove that some private Frenchmen designing secret expeditions to envade our places they were forbid by the Governor of Canada, and charged by such an invasion not to disturb the good correspondence between the two Crownes for that the place belonged to the English,‡ and, though they did afterwards do it in a secrett and piraticale way, expressly against orders in the yeare 1682, under the conduct of Radisson, yet that and twenty invasions more, and wrongs suffered since, cannot impeach our rights and possessions which we had for so many yeares before.§

How far the French could avail themselves upon pretences to Carrolina we know not, nor is it our present dispute, but we believe it has no better foundation than their pretences to Hudson Bay, and they might with as good presumption lay claim to New England and Virginia and what they pleased. But we doubt not but the one and the other will be equally defended and maintained by His Majesty as the absolute rights of the Imperial Crowne of England. If the authors they mean, who write of Canada or New France, do give it no bounds to the northward as they say, [they] must be taken for partial French authors or ignorant of that part of the world, the grants of the French Kings signifying nothing to another prince his right, and they may name what they will in their grants, places known or unknown, but nobody is so weak to think that anything passeth by those grants but what the king is rightfully and truely possessed of or entitled to;§ for *Nil dat quod non habet* is a maxim understood of all; but whereas the French would have no bounds to Canada to the northward, nor indeed to any parts of their Dominions in the world if they could, it is plain by all mapps that Terra Corterialis and Estotiland are on the north of Canada, both lying northward between Canada and Hudson Bay, and we do not hear that they have yet laid claim to those two countries between us.‖ As for the wrong inferrance which they made, that if, the English had had any knowledge of the Bay or any pretentions to it, they would not have failed to have made a reservation thereof in the Treaty of 1632, for restoring of Canada to the French, what need was there of reserving that which was so remote, not in the least contigeous to or dependant on Canada,

* It is well known that Hudson made four voyages in search of a North-West Passage, that in the course of the first three he did not enter the Bay at all, and that, in the last voyage, when he entered it, he did so in search of a N. W. Passage, and took no formal or legitimate possession of the Bay. That the French made this statement as to 1665 we find no proof whatsoever of.

† The French made a voyage too, and took renewed possession of the Bay in 1656, and subsequently made several other voyages thither, of which one, in 1676, when they erected at Port Nelson a fort, which they afterwards renewed in 1682. It is notorious that they possessed the whole trade of Hudson's Bay carried on by the overland channels before the arrival of the English; and that after that period they still retained the great bulk of it up to the Treaty of Utrecht, and after that treaty they pushed their trading posts and forts as well over the whole Winnipeg Basin as down the Rivers leading to the Bay, thus still retaining the greater part of the Indian Trade.

‡ See foot notes to a former paper of the Company, pp. 350-1, *ante*.

§ Apply this conversely.

‖ As to these two somewhat fabled countries, see p. 348 *ante*.

HUDSON'S BAY CO.'S REPLY TO THE PRECEDING FRENCH ANSWER, 1699.

the known rights of the Crowne of England, and not so much as known to the French, but navigated in the time of the then King Charles the First, and Canada itself for several years possessed by his subjects. And here we take the occasion they justly give us to affarme, that if treaties availe anything with them, they are in no just possession of Canada itself, for that there was a great sum of money to be paid to ye Kirks family upon the surrender of it, which never was paid to this day, and of which there will be just complaint.* The French in the said answer do confess that they had no forts on the coast of the said Bay, and as they have confessed in another paper they date their discovery and first settlement but from 1682, but their excuse for it is very weake, because they had a trade by lakes and rivers, since those lakes and rivers were as free a communication to the benefit of the English † in Hudson Bay as to the French in Quebec, in Canada, which are 700 leagues distance by sea, and they may as well say because the channel passeth between England and France and is communicable to both, that the French claim the English shore by that contiguity. We believe no authantick acts about takeing possession can be produced that the saviages acknowledge the sovereignty of the French King, that can any way affect the English to the prejudice of their right in Hudson Bay. We know the French have used many indirect ways and force to oblige the poor Indians not to come to trade at the Company's Factories. But we conceive they ought to be free and are so, to trade where they please and like best as all other nations doe.

We have said allready that severall expeditions were sett out, for tryall to find a trade and whither it would be worth the ingageing in a Joint Stock before the Company was incorporated; and if Mr. Radisson and Desgroziliers were entertained as servants to the adventurers in those first endeavours and beginnings, what is to be inferred from that? Had they been Spaniards, Portuguese or Venetians, it was free for any nation to entertaine and employ them in their service. But we deny‡ what is pretended that we had no knowledge of the Bay, before we imployed them; for Radisson and Dezgroziliers were no navigators or skilled in sailing to make a discovery, but only useful when we should arrive there, having the language of the savages, and so capable to invite them downe to trade. But the voyages were conducted by English seamen and English pilotts. We will agree that the Letters of Incorporation or Charter in 1670 by King Charles the Second to the Hudson Bay Company cannot give them any right, or dispose of any lands or countries whereof France was in legall possession, but we have denyed any legall possession of France or that France had ever occupied those places without opposition (as this paper pretends), or at all till their unjust encroachments and invasions in 1682 aforesaid, to which they have given no answer; which was a private piratical expedition, complained of by us in 1686, and disowned by his most Christian Majesty§ as we have repeated allmost in all our papers. And therefore by their own arguments here laid down, we doe insist upon the validity of the said Charter and Grant, and that King Charles had full power to dispose of those places and countries in the right of his crowne, which France never had, nor can claime or dispose of, and by parity of reason overthrows all pretended Grants of France to places she never was legally possessed of.

The answer saith that in 1675 the inhabitants of Canada sent a ship into the Northern Bay, entered into Bourbon River and wintered there, which the English call Port Nelson. We know nothing of this action but chaling them to name the ship and commander,¶ and

* This money was payable by de Caën to Kirke, and the Governments had nothing to do with the matter.

† Who did not at all use them, whilst the French actually did and carried on by them a large commerce with the Indians of the Bay.

‡ Yet it is shown that they had not visited the Bay during the period of 1631-67. This is a suggestive comment on the restoration of the Bay and of all the northern countries to France by the Treaty of 1632. (See page 352 *ante* and note* there; also the second par. of p. 355 *ante*.)

§ On the contrary De la Barre was severely censured by the French Government for that part he had taken in releasing Guillam and his vessel. (See M. de Seignelay's despatch to M. de la Barre, p. 197 *ante*). Compare this with the Company's previous memorial (p. 350-1 *ante*), where they state these matters to have taken place in 1683.

See Callière's memoire, p. 109 *ante*.

¶ Without going further it is only necessary to point to the despatch of Gaultier de Comporté (p. 108 *ante*), to see that the place was known as Fort Bourbon at least ten years before this period. The memoire of De Callières rather confirms it (pp. 108-9).

HUDSON'S BAY CO'S. REPLY TO THE PRECEDING FRENCH ANSWER, 1699.

we desire to know when they first called it Bourbon River or Fort Bourbon; we maintain that it was never actually called soe until the year 1694,¶ when they tooke it in the late war, and we retooke it in 1696. And if the confident imposeing of French names upon places but as yesterday will create them a title they may soon lay claime not only to Hudson Bay but to half the world beside.

In the next paragraph they recite again the action of 1682, and they speak truely that the habitants of Canada sent two ships with the said Radisson and Dezgrozilier, but had they any authority or order from France or from ye Governor of Canada? On the contrary were forbid and afterwards prosecuted in France as pirates.* We have often insisted upon this, and we dessire it may be observed that Mr. Radisson will acknowledge that he could not have undertaken that expedition but by the experience he had gott by ye voyages he went in the service of the English many years before from England. Mr. Radisson (as the paper saith) is in London. Lett him give a full narrative of that expedition *viva voce* or in writeing when the Lords Commissioners shall command it, though we have given a particular account of it in one of our papers lately delivered in. And the French pretensions are very ill grounded, when they are forced to build upon the private undertakeing of a merchant of Canada who went even against command and order, for lucres' sake, to robb and plunder those that were in good amity with his prince and he was accordingly soe treated when he returned back. Mr. Radisson did not goe over in 1684, in the service of the Hudson Bay Company to surprize and plunder Bourbon Fort as this paper saith; but he went by concert of the Ministers of France and by the derections of his Majesty of England, to restore those places he unjustly took from the English and those goods he robbed them of in 1682, under the celebrated expedition of the merchants of Canada which the French make the date of their possession and of their right, and though the French say we make no mention† of what passed in 1684 we think they doe not observe that our complaints begun from the injury of that piraticall expedition in 1682, and tho' in some measure we righted ourselves in 1684, yet we had just grounds of continu'd complaints which we prosecuted in the Court of France; and what passed in the yeares 1686 and 1687 when Messrs. De Barillon and Bonrepos were here on behalf of the French is to be found on record, as also what the sence of the then Lords Commissioners was upon the whole matter, and the final resolution of the King.

The French reflect upon our surprize in 1684—to recover our right upon their unjust invasions in 1682—as done in a time of peace, and as if their further injury in 1686, when they dispossessed us of the bottom of the Bay, were the consequences of that. We know the French too well not to be aware that they which invaded us so unjustly in 1682, would prosecute their advantage and pursue us with injuries upon injuries. But we admit at their urging that it was a time of peace in 1684. Was it not a time of peace in 1682? Were not they the first agressors? We will put the whole matter upon that issue—who were the first agressors?‡ If 1682 be before the years 1684 and 1686, we think it will need noe further examination. Did not they begin a piratical warr in a time of peace between the two Crownes? Is it not lawful in time of peace as well as warr to repell force with force? This seems to be urged only as it were to prevent our agrivating our

* Be this statement of the Company correct or not—and we have found no evidence of its correctness—it must be remembered that the policy of the Canadian Government was to attract the trade of the interior to their inland posts, and to make the St. Lawrence the great highway of commerce; and that the Companies which from time to time received concessions of this trade carried out the same policy, as already shewn, and did not establish posts on the shores of the Bay, till the necessity arose for defending their rights there, after the arrival of the English. (See note to Map No. 1, sec. VIII. *ante*.) And further, that if (as in the case of the Campagnie des Cents Associes), the limits of those Companies which from time to time carried on the Indian trade, extended to Hudson's Bay, inclusively, any persons—even their own fellow-subjects—interfering clandestinely with their privileges or trespassing on their limits would be punished by the Government, and proper protection afforded the Company. It must not therefore be supposed that punishments and reprimands (if any) inflicted by the French in such cases, were at all so inflicted in the interests of the English: indeed no instance, it is believed, can be found in which the French in any way admitted the title of the English to Hudson's Bay, or any part of it, except in after times, and as the result of wars which forced France to make sacrifice of her ancient possessions.

† See *ante*, p. 352, note * and the text to which it has reference; see also Oldmixon, pp. 279-80.

‡ See note to former memorial of the Company, p. 350 *ante*.

complaints by such injuries rec'd in a time of peace which nevertheless hath and will be tooke notice of.

It may be admired at last to see the French pretend their losses at the retaking of Port Nelson, (which they will still call Fort Bourbon, without any reason) do exceed the losses suffered by the English in their invasion at the bottom of the Bay, not to insist further that their invasion was in a time of peace in 1686 as before noted, and our recovery of Port Nelson was in a time of warr in 1696, besides our damages made out in those years from 1682 to 1687, when the same complaints were under debate. We have now lately exhibited an account of our losses and damages whereby the truth of this allegation will appear, and we insist upon full satisfaction for the same accordingly; and for the better illustration of all that we have said in point of fact we have hereto annexed an affidavit of Mr. Radisson,* the person so often mentioned and insisted upon in the French papers for the author of their possession under his conduct in 1682, sworne in 1697, which cannot but be a finale and satisfactory closing of the whole di-pute.

Wherefore it being obvious that the Hudson Bay Company have clearly made out the right of the Imperial Crowne of England that the said Company have an indefeazable right from the said Crowne which cannot be alienated, that the French have made out no title but in this their pretended answer brought only wronge sugestions and undue inferrances which are here fully replyed to, that there can be no damages given nor restitution of places but what is founded in right, that all the matters in controversie (except what hath fallen out since the late warr) were heard and examined by Commissaries on both sides, whereupon his then Majesty's Commissaries, viz.: the Right Honourable the Earl of Sunderland, the Earl of Midleton, and my Lord Godolphin did, in the year 1687, Report to His Majesty in these words following, viz.:—That your Majesty and your subjects have a right to the whole Bay and Straits of Hudson and to the sole trade thereof soe it may be fitt for your Majesty to support the Company of Hudson Bay in the recovery and maintenance of their rights, since otherwise that trade will be totally lost and fall into the hands of the French, if they be permitted to continue in the possession of those forts or any fort or place of trade within the said Bay or Streights; upon which his then Majesty declared, viz.:—That he conceived the said Company well founded in their demands and did therefore order the said Commissioner to insist upon his own right and the right of his subjects to the whole Bay and Streights of Hudson, to the sole trade thereof as allso upon y^{e} demand of full satisfaction for the damages they have received and restitution of the 3 forts surprized by the French in the bottom of the Bay.

That the warr falling out since cannot alter the merritts of the case, the injuries done the Company being declared one of the causes of the warr. The said Hudson Bay Company doe therefore demand in their own proper right not only to be maintained in the possession of all their places in the bottom of the Bay but also to be restored to their factory of York Fort in Port Nelson, with satisfaction for all our damages and a full recognition of all the said places and territories to the Crowne of England for the future, and the sole trade and saileing to the whole Bay and Streights of Hudson as rightful proprietors of the same.†

MEMORIAL OF THE HUDSON'S BAY COMPANY, 1719.‡

To the Right Honourable The Lords Commissioners for Trade and Plantations.

The Memorial of the Governor and Company of Adventurers of England, trading into Hudson's Bay,

SHEWETH:

That at the Treaty concluded at Utrecht, it was agreed between the Crowns of

* We have not been able to find this affidavit; Radisson, when he made it, was living in England, a fugitive from the French dominions and a pensioner of the Company.

† But when the Treaty came to be made, the Company's views of their own rights were not adopted, and they subsequently pathetically complained of their being left "the only mourners by the Peace."

‡ From a Copy furnished by the Company to the Dominion Government for the purposes of the present arbitration; from the endorsement it appears that the original was delivered to the Commissioners of Trade, the 13th of August, 1719.

Great Britain and France that the Streights and Bay of Hudson should be delivered up to the British subjects, and that the limits should be settled between the said Bay of Hudson and the places appertaining to the French, and also that satisfaction should be given to the Company for all depredations committed against them by the French in a time of peace, according to an estimate thereof to be made at the requisition of the several parties.

Now, may it please your Lordships,

The First of these Articles, the surrender of the Straights and Bay aforesaid, has been made according to the tenour of the Treaty, at least in such manner that the Company acquiesce therein, and have nothing to object or desire further on that head.

The other two, viz., the running of a line between the English and French Territories, and the making reparations to the Company for their losses and damages, yet remains to be done.

Whereupon the Governor and Company most humbly present to your Lordships that they conceive it absolutely necessary that the limits between the two nations be settled without delay, for that the French have, since the conclusion of peace, viz., in 1715, made a settlement at the head of Albany River, upon which very river our principal factory is settled, whereby they intercept the Indian trade from coming to the Company's factories, and will, in time, utterly ruin the trade if not prevented. It is, therefore, proposed and desired that a boundary or dividend may be drawn, so as to exclude the French from coming anywhere to the northward of the latitude of 49, except on the coast of Labradore; unless this be done the Company's factories at the bottom of Hudson's Bay cannot be secure nor their trade preserved.

As to the article of the Company's losses, it wil appear by a true and exact estimate to this memorial annexed that the French took from the Company in full peace, viz., between the years '82 and '88, seven ships with their cargoes, and six forts and factories, in which they had carried away great stores of goods, laid up for trading with the Indians, the whole amount to £38,332 15s. principal money, and £62,210 18s. 9d. interest, computed to the year 1713, which two sums being added together make the total amount £100,543 13s. 9d.

The Company, humbly referring your Lordships to the estimate itself for particulars, crave leave to make two remarks upon it.

1st. That the loss of the forts is not charged therein, nor are the damages valued which the Company suffered by the depredations of the French, which must be very great considering how long they held possession of our forts, and enjoyed the trade depending thereon; particularly they held Albany Fort and all the places of trade in the bottom of the Bay for six years. The bare interest only is charged, which is always supposed necessarily to grow out of the principal and to be inseparable from it.

2nd. That the proofs and vouchers which support the account are such as the reason and nature of the thing will admit of, especially considering the distance of time and place where the injuries complained of were committed. The seizure of the several forts, and capture of the respective ships, being acts of a notorious and public nature, it is presumed they will not be denied; besides that there are living witnesses here to some of them. The cost of the ships and goods are extracted out of the Company's books, where every article was fairly entered when there could be no foresight of their misfortunes which afterwards happened; the tradesmen's several bills, are likewise ready to be produced to confirm the account.

Wherefore, the Governor and Company most humbly pray that your Lordships will de pleased to espouse their just cause, and so recommend it to His Majesty that they may have full reparation made, as 'twas agreed and promised by the late King of France, at the Treaty of Utrecht.

PAPERS RELATING TO PROCEEDINGS OF THE COMMISSARIES, 1719–20.

EXTRACTS FROM PAPERS RELATING TO THE PROCEEDINGS OF THE ENGLISH AND FRENCH COMMISSARIES, UNDER THE TREATY OF PEACE OF UTRECHT, 1719–20.

(Copies obtained by the Government of Ontario from the Public Records Office, London.)

THE COMMISSARIES.

[The English Commissaries were Daniel Pulteney and Martin Bladen, Esquires. They appear to have been of the Lords of Trade. The Commission of Queen Anne appointing them, is dated 3rd September, 1719, and is signed by Lords Justices—

PARKER, C.
ARGYLE AND GREENWICH.
ROXBURGHE.
BERKELEY; and by
J. CRAGGS.

The French Commissaries were the Marechal Comte d'Etrées, and the S[r] Abbe Dubois, Minister and Secretary of State. The Commission is dated the 24th October, 1719, and is signed

LOUIS.

Par le Roy, le DUC D'ORLEANS, REGENT, present:

LE BLANC.

(The English Commissaries, under the Treaty of Commerce of 1713, were Charles Whitworth, James Murray, Joseph Martin and Frederick Herne: their commission being dated 13th December, 1713.—The French Commissaries, under the same treaty, were the S[rs] Anisson and Fenelon: they were commissioned 10th February, 1714.)]

MR. BLADEN TO MR. DELAFAYE, SECRETARY OF THE LORDS JUSTICES.

LONDON, July the 3rd, 1719.

SIR,—Since you was pleased to do me the honour to propose, in behalf of theyr Excellencys, the Lords Justices of Great Britain, that I should go to France in order to Treat there with such persons as shall be appointed by His Most Christian Majesty, concerning the several matters left undecided by the late Treaty of Peace, concluded at Utrecht, and referred to Commissarys to be hereafter named for that purpose,

I take the liberty to acquaint you, that I have perused the said Treaty and do find that ...the twelfth article provides for the surrender of the Island of St. Christopher and of Nova Scotia, in its fullest extent, to the Crown of Great Britain. But, as there have lately happened some disputes between the subjects of the two Crowns upon the interpretation of the thirteenth Article of the said Treaty, relating to the boundarys of Nova Scotia (the French Article upon this Head being worded very different from the Latin one), I presume their Excellencies, the Lords Justices, will be of opinion it may be for His Majesty's Service that the said boundaries should be settled, as soon as may be, by Commissarys in behalfe of Great Britain and France, but previous thereunto, it will certainly be necessary that the true sence and meaning of the Treaty of Utrecht upon this subject should be so fully explained that the said Commissarys may have a certain rule to walk by.....

It will be proper that the person, who shall have the honour to be charged with their Excellency's Commands concerning them, should be fully apprized of the demands which the

PAPERS RELATING TO PROCEEDINGS OF THE COMMISSARIES, 1719–20.

Hudson's Bay Company and His Majesty's subjects of the Island of Montserat, have to make upon t! ose of France, and this will be best done by their Excellency's Orders to the Board of Trade to examine the same, who may likewise, if their Excellencys please, be directed to make a collection of all such papers and memorials now remaining in the Plantation Office, as may serve to fix the Boundarys of Nova Scotia and of Hudson Bay . . . . . .

If it should be my lot to go upon this Commission, [I shall only ask,] that one of my instructions may be to communicate and consult upon all occasions with the Earle of Stairs, His Majesty's Embassador at Paris, that the said Earle may be empowered, if he pleases, to be present and assist at all the conferences, that shall be held upon the subject matter of my Commission.

REPRESENTATION OF THE LORDS OF TRADE RESPECTING THE POWERS AND INSTRUCTIONS OF THE ENGLISH COMMISSARIES, 26 AUG., 1719.

To their Excellencies, the Lords Justices :

May it please your Excellencies

In obedience to Your Excellencies Commands signify'd to us by Mr. Delafaye, in his letter of the 16th July, 1719, we have prepar'd the inclos'd commission and instructions for Mr. Bladen, to treat as His Majesty's Commissary or Deputy with the Commissary or Commissaries to be appointed on the part of France, concerning several matters left undetermin'd by the 10th, 11th, 12th, 13th, 14th and 15th articles of the Treaty of Peace concluded at Utrecht, the $\frac{31}{11}$ day of $\frac{\text{March}}{\text{April}}$, 1713, between her late Majesty and the late French King, Louis the 14th.

It was not in our power to give more dispatch to this matter, by reason of the multiplicity of books and papers which were necessary to be read and well consider'd upon this subject, besides that we were oblig'd to consult with several persons and to wait for such lights as the company of British merchants trading to Hudson's Bay, the African Company, and several other parties concern'd in the success of this negotiation cou'd give us, touching their respective interests and demands, for which we have made the most effectual provision we cou'd think of, in Mr. Bladen's instructions.

We have perus'd and consider'd the several Charters granted by his Majesty's royal predecessors to the respective British Colonies on the Continent of America, from Hudson's Bay and Nova Scotia, as far as the Bay of Mexico, of which many are very extensive, stretching from sea to sea; but as the French wou'd not perhaps be determin'd by these authorities only, and since we have not hitherto been able to get such maps of the said plantations as may be depended on, or to obtain such further information as might be requir'd to support the right and title of his Majesty or any of his subjects have, to places which the French possess or pretend to, either on the back of the British plantations or westward from New England down to the Gulf of Mexico; we thought it proper to leave out of Mr. Bladen's full powers that part of the Tenth Article which relates to a general settlement of the boundaries between the colonies of the two nations in America, and to restrain his commission to the boundaries of Hudson's Bay and Nova Scotia only, where we have proofs and authorities against which we think no exception can reasonably be made.

In all other matters, Mr. Bladen's commission and instructions are made agreeable to the several articles of the Treaty of Utrecht above mention'd, comprehending the mutual pretentions of both nations then left undetermin'd; and we hope, may prove to Your Excellencies' satisfaction.

Upon this occasion, we beg leave to represent to Your Excellencies that, considering the several accounts we have receiv'd from the Governors of His Majesty's plantations as well as from persons with whom we have discours'd concerning the progress of the French settlements from the mouth of the River St. Lawrence northward, to that of the Mississippi southward, in the Bay of Mexico, and the daily increase of their power in those parts, we cannot but be something alarm'd at a scheme that seems one day to threaten the destruction of all the British Colonies in America, for which reason, we have prepared an instruction for Mr. Bladen, directing him to get the best information he can, of the state of the French colonies

in those parts, and of the constitution of the Mississippi Company.* In the meantime, we cannot help observing to Your Excellencies, that among the other grants that we have perus'd upon this occasion, we have seen one from King Charles the First to Sir Robert Heath, which, by several mean conveyances, is become the property of Doctor Cox, and contains not only the greatest part of Florida, but likewise extends itself westward beyond the River Mississippi.

It were heartily to be wish'd that, in imitation of our industrious neighbours of France, some means could be found to extend our settlements likewise towards the Bay of Mexico, more especially while we are at war with Spain, and might possibly preserve by a future Treaty whatever might be now acquir'd.

Your Excellencies will find by the maps of those countries that the Fort of St. Augustine, which lyes on the coast of Florida to the southward of Carolina, would be a great security to our plantations on that side, and by the best information we have had thereupon, might be reduc'd at a very small expense.

All which is most humbly submitted,

CHARLES COOKE,
P. DOCMINIQUE,
D. PULTENEY,
MARTIN BLADEN.

Whitehall, Aug'st ye 26th, 1719.

INSTRUCTIONS TO COMMISSARY BLADEN, 1719.

Instructions for Martin Bladen, Esq., appointed His Majesty's Commissary to treat with the Commissary or Commissaries to be appointed by the most Christian King,—GIVEN.

Together with those instructions, you will receive his Majesty's Commission under the Great Seal of Great Britain, appointing you, the said Martin Bladen, to be His Majesty's Commissary for treating of, and concluding with the Commissary or Commissaries on the part of the French King all such matters and things as are referred to your cognizances and determination by the said Commission, in pursuance of the 10th, 11th, 12th, 13th, 14th and 15th Articles of the Treaty of Peace, concluded at Utrecht the $\frac{31}{11}$ day of $\frac{\text{March}}{\text{April}}$ in the year of our Lord 1713, between Her late Majesty Queen Anne and Lewis the 14th late most Christian King. * * *

It being provided by the 10th Article of the Treaty of Utrecht, that the limits and boundaries between Hudson's Bay and the places appertaining to the French, be settled by Commissaries on each part, *which limits both the British and French subjects shall be wholly forbid to pass over, or thereby to go to each other by sea or by land*, you are to endeavour to get the said limits settled in the following manner, that is to say :

That the same begin from the Island called Grimington's Island, or Cape Perdrix, in the latitude of 58½ north, which the Company desire may be the boundary between the British and French subjects, on the Coast of Laboradore towards Rupert's Land, on the East Main, and Nova Britannia on the French side ; and that no French ships, barque, boat or vessel whatsoever shall pass to the north-westward of Cape Perdrix or Grimington's Island towards or into the Streights or Bay of Hudson, on any pretence whatsoever. And further, that a line be drawn from the south-westward of the Island of Grimington or Cape Perdrix (so as to include the same within the limits of the Bay) to the great Lake Miscosinke alias Mistoveny, dividing the said lake into parts (as in the map to be delivered to you). And that where the said line shall cut the 49th degree of northern latitude, another line shall begin and be extended westward from the said lake, upon the 49th degree of northern latitude, over which said line, so to be described as above mentioned, the French and all persons by them employed, shall be prohibited to pass to the northward of the said 49th degree of latitude, and to the north or north-westward of the said lake or supposed line, by land or water, on or through any rivers, lakes or countries to trade, or erect any forts or settlements. And the British subjects shall likewise be forbid to pass the said supposed line, either to the southward or eastward.

* By this is meant Law's Company—La Compagnie des Indes, ci-devant La Compagnie d'Occident.

But you are to take especial care, in wording such articles as shall be agreed on with the Commissary of His most Christian Majesty, upon this head, that the said boundaries be understood to regard the trade of the Hudson's Bay Company only; that His Majesty does not thereby recede from the right to any lands in America, not comprized within the said boundaries; and that no pretension be thereby given to the French to claim any tracts of land in America, southward or south-west of the said boundaries.

And whereas it hath been represented by the said Company that the French have, since the peace of Utrecht, viz.: in 1715, made a settlement at the head of Albany River, upon which river the Company's principal factory is settled, whereby the French may intercept the Indian trade from coming to the said factory, and may in time utterly ruin the trade of the Company if not prevented; you are to insist that the said fort be given up, or demolished by the French, and their subjects be withdrawn from that settlement.

And it being further provided by the 11th Article of the said Treaty, that satisfaction be made according to justice and equity to the Hudson's Bay Company for the *damages and spoil done to their colonies, ships, persons and goods, by the hostile incursions and depredations of the French in time of peace*;* and the said Company having delivered to his Majesty's Commissioners for Trade and Plantations, an account under their common seal, of the losses sustained by them from the French in times of peace, which will be delivered to you, with proper vouchers for the same; you are in like manner to insist that satisfaction be made to the said company pursuant to the said Article. * * *

If the French Commissary or Commissaries should pretend to ground a more extensive claim upon the French Treaty than does appertain to them by the Latin one, you are to insist upon it, that the Latin Treaty is to be your guide in all cases, though even by the French Treaty they can have no title to any islands lying in the Bay or Gut of Can ceau.†.....

Whereas it has not been thought proper to empower you by your Commission to treat of any boundaries besides those of Hudson's Bay and Nova Scotia; nevertheless, lest the French should take this as a tacit acknowledgment of their pretended right to several settlements they have made on the back and westward of the British Plantations on the continent of America; you are to declare to the French Commissary or Commissaries, that His Majesty has reason to believe the French have made several encroachments upon the British settlements in those parts, which may be discussed when His Majesty shall have received from the respective Governors of his colonies in those parts, a full and particular account of all such encroachments as they have already complained of. And in the meanwhile, you are to take particular care in the wording of such articles as shall be agreed to between you and the French Commissaries in relation to the boundaries of Hudson's Bay and Nova Scotia, that His Majesty be not thereby concluded, with respect to the boundaries of any other lands or territories His Majesty or his subjects may have a right to on the continent of America.

You are hereby directed, during the time of your residence in France, to get the best information you can concerning the situation, trade, strength, laws and government of the French colonies in America, but more particularly, concerning the establishment and constitution of the Mississippi Company, which you are to transmit to one of His Majesty's principal Secretarys of State, and to His Majesty's Commissioners for Trade and Plantations.

You are hereby required to communicate from time to time all your proceedings during the course of your negotiations, unto the Earl of Stair, His Majesty's Ambassador Extraordinary, now residing at the French Court, and to confer and consult with the said Earl on all matters relating thereto.‡

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* This refers to acts committed before the Treaty of Ryswick.

† Mr. Bladen, in his letter of July 3, 1719, (p. 360 *ante*), first brought to notice the differences which exist between the Latin and French originals of the Treaty; and this reference to it was afterwards inserted as an amendment to the draft instructions of the English Commissioners. It would appear, according to the doctrine laid down by writers on International Law, that France, as the power having to make concessions, could insist on the most favourable reading in her own interest of the Treaty, and, therefore, on the using of the French or Latin original as she might be advised. These differences seem, however, to relate chiefly to the case of Nova Scotia.

‡ This clause was suggested by Mr. Bladen in his letter (*ante* p. 361), and was afterwards inserted as an amendment to the draft instructions of the Commissaries.

PAPERS RELATING TO PROCEEDINGS OF THE COMMISSARIES, 1719-20.

And whereas divers matters and difficulttes may arise during the course of your negotiations, which could not be sufficiently forseen and provided for by these instructions, you are hereby directed to keep a constant correspondence with one of His Majesty's principal Secretarys of State to whom you shall by all occasions transmit an exact account of your proceedings, and you are to govern yourself by such further instructions, as you shall from time to time receive from him thereupon.

At your return from the French Court, you are to lay before His Majesty a full and particular account of your proceedings in the several matters contained in His Majesty's said Commission and in these instructions; as likewise in all such other matters as shall from time to time be referred to your negotiation by one of His Majesty's principal Secretaries of State; and your are to deliver to His Majesty's Commissioners for Trade and Plantations a duplicate of the said account so far as the same may relate to their cognizance.

[The above were the instructions prepared by the Commissioners of Trade for Mr. Bladen. On the same 3rd day of September, 1719, the like instructions were prepared for Messrs. Pulteney and Bladen, by order of, and signed by, the Lords Justices. The two Commissaries were by their Commission empowered to act jointly and severally.]

MR. BLADEN TO MR. DELAFAYE.

PARIS, November y^e^ 1st, N.S., 1719.

* * * The meeting first intended for Saturday took not place till yesterday, My Lord Stairs was present at the opening of the Commissions, and judging their powers to be sufficient, we proceeded to fix the method of treating.

It was agreed to take the several matters separately and distinctly in the order the treaty of Utrecht has ranged them, and at our next meeting, which will be on Saturday, we are to enter on the pretensions of the Company trading to the Hudson's Bay.

As you know the particular regard I have for the Earl of Stair, and the great opinion I have of his abilitys, you will easily imagine how great a consolation it must be to me to have his assistance in an affair of this consequence.

I am glad to understand by your favour of the 15th past, O.S., which I received last night, that my Brothey Pulteney thinks of leaving London. His presence will likewise be of great use to His Majesty's affairs. * * *

MR. BLADEN TO MR. DELAFAYE.

PARIS, November, ye 7th, 1719, N.S.

I was not a little surprized to see the copy of a deposition from Barbadoes this morning in my Lord Stair's hands, relating to the actual seisure of *Santa Lucia*, by ye French, especially after the answer I had receiv'd from the Abbé Dubois upon that subject, but it seems he was very little informed of the state of this matter, for the Regent, with whom my Lord Stair had a conversation about it this morning, avows the fact, and says the Marechal d'Etrées assured him the French had a constant possession and an undoubted right to ye said island by treaty.

On Saturday last my Lord Stair and I met Marechal d'Etrées and Abbé Dubois. Our time was spent in preparatory discourses concerning the intent of the 10th article of the Treaty of Utrecht, relating to the boundaries of Hudson's Bay; and at our next meeting which will be to-morrow at my Lord Stair's house, we design to give in the claim of the Hudson's Bay Company in writing, with some few additions pretty material for their service, in case the Abbe Dubois his health will allow him to be there, which I fear it will not for he is confined at present to his bed. * * *

But I confess, I cannot help thinking it will be to very little purpose to puzzle ourselves about settling boundaries by Treaty in the north of America, if the French have so

concise a way of fixing theirs in the South, without asking our concurrence it is to be hoped they will have the modesty to recede from this new acquisition, but in the mean time I cannot help saying this gives me no very good relish either of their friendship or discretion. * * *

I cannot leave this subject without observing how much it imports us to be upon our guard in our American Colonys. It were to be wished that the several Governments of His Majesty's plantations would pay the respect they owe to their instructions, and if those of Barbadoes for some time past had observed theirs, relating to *Santa Lucia*, the settlement of a hundred French families there could never have been put upon us at this day as a proof of their right to that island.

Boundaries claimed by the English Commissaries, 1719.

Memoir on the subject of the limits of Hudson's Bay, sent by the English Commissaries through Lord Stairs, to the Marechal D'Estrees, one of the French Commissaries, 1719.

His Majesty the late most Christian King having stipulated by article 10 of the Treaty of Peace concluded at Utrecht, that Hudson's Bay and Streight, with all the lands, seas, coasts, rivers, and places which appertain to them, shall be restored to the Kingdom of Great Britain; and that Commissaries shall be named on each side to determine the limits of each nation; which limits, the subjects of each nation shall not be permitted to pass by sea or by land.

The Commissaries named by His Britannic Majesty demand that the said limits may be defined in the manner following, viz.: That the limits shall commence from the North Cape of Davis' Bay in lat. 56° 30′, which shall serve as limits between the English and the French, on the coast of Laboradore, toward Rupert's Land, on the east main, and of New Britain on the French side; and that no French vessel, boat, or ship whatsoever shall be allowed to pass to the north of the west side of the north cape of Davis' Bay, towards or into the Streight or Bay of Hudson, under any pretext whatsoever; and furthermore that a line shall be drawn from the said north cape of Davis' Bay towards the great lake Miscosinke or Mistovery, dividing the said lake in two parts, and that at the place where the said line shall intersect the 49th parallel of north latitude, another line shall commence and shall be extended on the west side from the said lake along the 49th parallel of north latitude; beyond which lines thus described, neither the French nor any other person employed by them shall pass towards the north of the said 49th parallel of north latitude, or towards the north [or] the north-west of the said lake, or supposed line, neither by land nor by water, nor traverse any river, lake or country, for the purpose of trading, nor build any fort, nor found any settlement.

And forasmuch as the subjects of His Most Christian Majesty have made, since the peace of Utrecht, a settlement at the source of the River Albany, the Commissaries of His Britannic Majesty insist that the French shall quit the said settlement, and that the Fort, if there be any such building, shall be given up to the Company of English merchants trading in Hudson's Bay aforesaid.

The said Commissaries further demand that the subjects of his most Christian Majesty shall not build forts, or found settlements upon any of the rivers which empty into Hudson's Bay, under any pretext whatsoever, and that the stream, and the entire navition of all the said rivers,* shall be left to the Company of English merchants trading into Hudson's Bay, and to such Indians as shall wish to traffic with them.

* It is reasonable to suppose that in making this proposition the English Commissaries had in view the navigable parts of such rivers only as found their way direct to Hudson's Bay, and not those whose waters pass through Lake Winnipeg: the limit at the Nelson, Hayes and Churchill Rivers being at the points—Split Lake, &c.,—where a division of the waters was then supposed to exist, as shewn in a great many maps of the last century. (See Notes to Map No. 154, p. 136 *ante*.)

PAPERS RELATING TO PROCEEDINGS OF THE COMMISSARIES, 1719–20.

MR. BLADEN TO MR. DELAFAYE.

PARIS, November 11th, 1719, N.S.

On Wednesday last, my Lord Stair and I delivered to the Marechal d'Etrees the demand of the Hudson's Bay Company, with respect to their limits, and by comparing the inclosed, which is a copy of that demand, with the instruction upon this head, you will perceive the same has been fully comply'd with.*

So soon as I shall have the French Commissarys' answer to our demand, I shall likewise take care to transmit you a copy of it, to be laid before their Excellencys the Lord Justices.

MR. PULTENEY TO SECRETARY CRAGGS.

PARIS, 12th March, 1720, N.S.

His Excellency continues to sollicite the renewing the conferences with the French Commissaries; it is always promised they shall, but I do not see any likelyhood of it.

MR. CRAGGS, SECRETARY TO THE LORDS JUSTICES, TO MR PULTENEY.

WHITEHALL, 14th April, 1720.

As my Lord Stair is on the point of leaving Paris, His Majesty 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, His Majesty 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 TO SECRETARY CRAGGS.

PARIS, April the 29th, N.S., 1720.

I received this morning the honour of your letter of the 14th instant, O.S. I have acquainted my Lord Stair with the order it has brought me to demand some premptory answer on the subject of my Commission, and His Excellency intends we shall take the first opportunity of doing it together; we expect to be told, as His Excellency has been every time he has made any application on that subject, that they certainly intend to proceed in the Commission and to renew the conferences; but it has appeared very plainly that they have no such intention, and I am persuaded that tho' they might for form and decency sake appoint a conference it would not turn to any account for us, and that they are determined not to give us satisfaction in any of the points we are to insist upon; they have made and still make no scruple of declaring this in all their private discourse; in the meantime they are making all the haste they can to strengthen their colonys in America, particularly in those parts where they may apprehend harm from us, or design to do us any.

MR. PULTENEY TO MR. SECRETARY CRAGGS.

PARIS, May the 4th, N.S., 1720.

My Lord Stair has spoken to the Regent who said immediately that the Conferences shall be renewed whenever we please; His Excellency then desired His Royal Highness would

* See the preceding paper.

appoint a day, which he promised to do. This is what the Regent has promised my Lord Stair once every week, for four or five months past, without any effect, and His Excellency does not expect any more from the promise now, tho' possibly a Conference may be appointed for form sake. I have been here near six months and have seen only one Conference, which was appointed at my Lord Stanhope's desire; I think there had been two Conferences before I came; at the first of them the Commissions were read, and at the second my Lord Stair and Mr. Bladen gave in a memorial about the limits of the Hudson's Bay Company, to which no answer has been made. . . . *I must own that I never could expect much success from this Commission, since the French interests and ours are so directly opposite, and our respective pretensions interfere so much with each other on the several points we were to treat about; but that the French have not been willing to entertain us now and then with a Conference, and try how far we might be disposed to comply with any of the views they had in desiring the Commission, cannot, I should think, be accounted for*, BUT BY SUPPOSING THEY KNEW WE CAME PREPARED TO REJECT ALL THEIR DEMANDS, AND TO MAKE VERY CONSIDERABLE ONES FOR OURSELVES.* . . . I shall expect your further directions as to my stay or return; I cannot help owning I heartily wish for the latter, but I shall always submit to what His Majesty likes best, and shall only desire in this case that I may have a supply from the Treasury, since I have not had the good fortune to be concerned in either of the Misiseppis.

MR. PULTENAY TO MR. DELAFAYE.

PARIS, August 22nd, N.S. 1720.

In pursuance of the orders of their Excellencies the Lord Justices, which I received by your letter of the 3rd Instant, O.S., I waited this morning on Sir Robert Sutton to the Archbishop of Cambray, to lay before the Archbishop Colonel Philips' complaint against the French of Cape Breton for continuing to fish at Canco. . . The Archbishop . . . said the Marechal d'Etrees' negligence was the occasion that this and other matters of the Commission have not been settled; but as he [the Marechal], is now going to Brittany, he is to leave behind him several papers relating to these matters, that the business of the Commission may be pursued in some other hands. . . .

You will receive from Sir Robert Sutton an account of the discourse he had with the Marechal d'Etrees on the same subject.

MR. DELAFAYE TO MR. PULTENAY.

WHITEHALL, Sept. 1st, 1720.

Upon my reading to the Lords Justices one of your letters to Mr. Secretary Craggs, wherein among other matters you mention a difficulty you were under upon the Archbishop of Cambray's saying that ye Marechal d'Etrees was to leave his papers with his Commis who should confer with you; whereas according to your Commission you are to transact only with Commissaries having the like powers with your own from the most Christian King, their Excellencies have commanded me to signify to you their directions that you pursue the intent of your Commission, and that you decline entering into any negotiation with such Commis.

MEMORANDUM AS TO THE PROCEEDINGS OF THE COMMISSARIES, 1719-20.

[It is curious to note after a thorough search of the available papers, made on behalf of the Government of Ontario, that the Commissioners on both sides accuse each other of endeavouring to avoid a meeting for the settlement of the boundary question. In a *precis* of the negotiations under the treaty (Foreign Office, Paris) written in 1723, the French

* The italics and capitals are ours.

complain bitterly of the conduct of the English Commissaries, stating that they used every pretext to avoid a meeting, and that when a meeting was finally arranged, it was found on the assemblage of the French Commissaries that one of the English Commissaries had the day previously left for England, without communicating his intentions, and the proposed meeting could not be held in consequence.]

EXTRACTS FROM TWO MEMOIRS OF M. D'AUTEUIL,* RESPECTING THE LIMITS OF HUDSON'S BAY, 1719–20.

(Copies obtained by the Government of Ontario, from the Archives of the Department of Marine and the Colonies, Paris.)

First Memoir.

* * * All these facts being laid down, of which my Lords the Commissaries will make such use as they may judge proper, I come to that which concerns the limits. On the supposition that it may be necessary, in virtue of the 10th Article of the Treaty of Utrecht to cede to England Fort Bourbon, and all the other establishments which are on the shores of the Bay, I say :—

1st. That it is well to remark that the English, in all the places of the said Bay and Streights which they have occupied, have always stopped at the border of the sea, carrying on trade with the savages who went there to find them; whilst the French, from the foundation of the colony of Canada, have not ceased to traverse all the lands and rivers bordering on the said Bay, taking possession of all the places, and founding everywhere posts and missions.

2nd. They cannot say that any land, or river, or lake belongs to Hudson's Bay; because if all the rivers which empty into this Bay, or which communicate with it belongs to it, it might be said that all New France belonged to them, the Saguenay and St. Lawrence communicating with the Bay by the Lakes.

3rd. That this being incontestable, it is for France to regulate the limits in this particular quarter *(à régler les limites de ce côté là)*; and that of the little which she may cede, she will always cede that which is her own, as the English cannot pretend to anything except a very small extent of the country adjoining the forts which they have possessed at the bottom of the Bay. Nevertheless their pretensions amount to nothing less than to overrun nearly all the north and west of New France, as they would also do on the south coast by extending the boundaries of Acadia as far as the Fort at Quebec, these being the propositions which the Commissaries named by the King of England have made, but which they have never signed.

[He then quotes the English claims as submitted by Lord Stairs, *ante* p. 365.]

The simple reading of these propositions renders it apparent that there can be no other response to make to them than to reject them absolutely, as not having any foundation which can support them. By what right indeed, and in virtue of what Treaty do these gentlemen break the Treaty of Breda, which placed our limits at the 60th parallel, in order to place them at the 49th, not only from the shores of the Bay which has been ceded to them, but stretching towards the west in every longitude. The Treaty of Utrecht speaks only of restitution—let the English show that which the French have taken from them and they will restore it to them; but all that they demand beyond this, they demand without any appearance of right. Article 10 of the Treaty of Utrecht restores Hudson's Strait; why then wish that the boundary on this side should commence at the north cape of Davis' Bay in the 56½ degree of latitude, since this cape is more than 120 leagues from

* M. d'Auteuil was, at the date of the negotiations respecting the boundaries, 1719-20, Procureur-General of Canada, and had gone to Paris at the instance of the French Commissaries, to whom he had been strongly recommended by the Archbishop of Trêves and others, as a competent authority on and one thoroughly master of the question of the boundaries. He was in frequent consultation with the Commissaries; and the Abbé Dubois is known to have had constant reference to him in matters of difficulty. These two memoirs bear internal evidence of their having been prepared by him in answer to the English demands; though whether they were so prepared simply for the information of the French Commissaries (as is most likely), or as the official answer to the English, is not quite clear. If as the latter, it is clear it was never delivered. See note to De l'Isle's map of 1703, sec. VIII., *ante*. (This information has been procured by the Ontario Government from the Department de la Marine, and in the Bibliothèque Nationale.)

the Cape of Button's Island, at the 61st degree or thereabouts, which is the commencement of Hudson's Straits? This excessive claim would carry away a large portion of the land of Labrador, which France has not ceded.

The line of separation should then commence at Cape Bouton, pass through the middle of the territory which is between Port Rupert and Lake Nemiskau, of which Père Albanel, Jesuit, and Mr. de St. Simon, took possession in the name of the King in 1672;* follow at the same distance from the Bay along the eastern side, in such manner as to divide in the middle the territory between the Lake of the Abitibis and Fort Monsipi or St. Louis; continuing at a similar distance from the shores of the Bay at the western side until beyond the Rivers of Ste. Thérèse and Bourbon.

That if on the territory which by these lines belongs to England, there should be found French settlements, they shall be destroyed; but those that may have been founded on our own lands shall be continued, each one being master of his own.

SECOND MEMOIR.

The 10th Article of the Treaty of Peace of Utrecht says, precisely, that the Strait and the Bay of Hudson shall be restored to England. Therefore, there does not appear any reason for the demand that the limits of the territory in question should commence at the north cape of Davis' Bay, in 56° 30′, north latitude, since this cape is more than 120 leagues from the Cape of Isle Bouton; close to the 61st degree or thereabouts, which is the commencement of Hudson's Straits, and this excessive claim which they demand, would carry away a great part of the lands of Labrador, which appertain to the Government of Canada, and which France has neither ceded nor intended to cede. Thus the commencement of the dividing line should be at Cape Bouton, which is the first cape that forms the entrance into Hudson's Straits, as is explained by the preceding memoir: this line should run to the middle of the territory between Fort Rupert and that of Nemisco, an old French post.

Further, their demand to draw a line from the North Cape of Davis' Bay as far as the Great Lake of the Mistassins, separating the said lake in two parts, has no more foundation seeing that the King of France has never said that he would give any part of the lands appertaining to the Government of Canada, but that he would restore those which appertain to Hudson Bay; if the English pretend that the territory which they demand should come back to them, it will be for them to prove it.

To conclude, the English Commissaries, not content with wishing to have half of the Lake of the Mistassins, demand that the line shall continue as far as the 49th parallel of north latitude, and that, from thence, there shall be drawn a line to the west along the said 49th parallel.

One cannot see upon what ground these gentlemen can authorize this pretention and demand that France lose all the territory which is to be found between the 60th degree, which belongs to it by the Treaty of Breda, to the 49th degree in every longitude discovered and to be discovered; this pretention also is a novelty of which no mention is made in the Articles of the Treaty of Peace of Utrecht.

LAMOTHE-CADILLAC ON THE LIMITS, 1720.

(Copy obtained by the Government of Ontario from the Department de la Marine, Paris.)

EXTRACT FROM A MEMOIR CONCERNING THE LIMITS OF ACADIA AND OF HUDSON'S BAY, GIVEN IN 1720, TO THE DUKE OF ORLEANS, REGENT, BY THE SR. DE LAMOTHE DE CADILLAC, FORMERLY CAPTAIN IN CANADA, AND GOVERNOR OF MISSISSIPI.

Lamothe has examined the 10th Article of the Treaty of Utrecht, and has remarked that there can be contestation upon the word *Restituera (shall restore)*, because it is certain that where there has been no unjust possession there is no place for restitution.

* See pp. 348-9 *ante*.

AN ENGLISH VIEW OF THE BOUNDARIES, INDIAN NATIONS OF CANADA, ETC.

The English have never possessed the lands that the French have at Hudson's Bay, therefore it is impossible for the King of France to restore them to them, for one cannot restore more than that which has been taken by usurpation.

The fact is, that at the time of the said Treaty of Utrecht, the French possessed one part of the Strait and Bay of Hudson, and the English possessed the other. It is very true that the King of France had, some time before, conquered the English part, and it [is] of this that it has been understood that restitution is to be made, that is to say to trouble them no more in their enjoyment; but with regard to the said lands possessed by the French in the said Bay, if they have previously belonged to the English, the King will bind himself in the same manner to make restitution of them. But there must be a real and incontestible proof of proprietorship; and this the Crown of England cannot produce.

AN ENGLISH VIEW OF THE BOUNDARIES OF CANADA AND OF OTHER MATTERS OF INTEREST; TOGETHER WITH SOME ACCOUNT OF THE NATIVE INHABITANTS, 1747.

(Extracts from "A complete system of Geography .... in two volumes. The whole illustrated with seventy maps, by Emanuel Bowen, Geographer to His Majesty .... This work is extracted from several hundred books of travel, and history, is brought down to the present time, preserving all that is useful in the fourth and last edition of the Complete Geographer, published under the name of Herman Moll, &c. ..... London, ... 1747." Pp. 621, 624, 629.)

[Canada or New France].—The limits of this large country are variously fixed by our Geographers, some of them extending them quite from Florida to the northern boundaries of America, or from 33 to 63 degrees of north latitude..... Others bound it on the north by the land called Labrador, or New Britany; on the east by the Northern Sea and New England, &c.; on the south by Florida; and on the west by New Mexico, and the unknown tracts north of it.* According to which, it will extend itself from the 25th to the 53rd degree of latitude, and from 76 to 93 of west longitude, But its greatest extent is commonly taken from south-west to north-east, that is, from the Province of Padoua in New Spain, to Cape Charles, near the Bay of St. Lawrence, which is reckoned near 900 leagues. [*The preceding includes, whilst the following excludes Louisiana.*] Baron Hontan, ...makes it to reach only from 39 to 65 degrees of latitude; that is, from the south side of the Erie Lake, to the north side of Hudson's Bay, and in longitude from the River Missisippi to Cape Race in Newfoundland. * * *

Canada, in its largest sense, is commonly divided into Eastern and Western, the former of which is commonly known by the name of Canada, or New France, and the latter, which is of much later discovery, Louisiana, in honour of the late Lewis XIV. . . . The former of these, including all to the north and west of the great river and lakes, contains twenty-eight tribes [the following amongst others:]—Illinois, Miamis, Maskoutens, Outovagamis, Hurons, Outaouatz, Nipissirinians, Algonkins, Nadouessoueronous, Kiristinoas. . . . . Saguenay contains the four following nations or tribes, viz.:—1, the Esquimaux; 2, Bersiamites or Oupapinachois; 3, Oumionquois; and 4, Cacouchaquois. . . . .

It may not be improper to give a farther list of the wild nations of these parts. . . . . Round the Huron's Lake, the Hurons...the Outatouas, Nokes, Mis-

* As a matter of fact the real westerly boundary of Canada, at this period was the Pacific Ocean, or at least the Rocky Mountains. Louisiana's northern boundary, which was the southern boundary of Canada in that quarter, ran from the River Colorado, and easterly along the northern watershed of the Missouri, to about the parallel of 40°; and thence easterly, on about that parallel to the English Colonies. The boundary of Louisiana followed the Colorado River, southerly, till it met the northerly boundary of New Mexico, which it then followed easterly to the junction of the northerly and easterly boundaries of that country; and thence it followed the easterly boundary of New Mexico to the Gulf. From the point of junction of the westerly and northerly boundaries of Louisiana, a line due west to the Ocean was the southerly boundary of Canada; to the south of this last mentioned line was New Mexico according to some, and New Albion according to other Geographers.

sisaques, Atticumekes, and the Outchipones, sirnamed Leapers. . . . . About the Lake of the Illinois, some Illinois, the Oumamis, Maskoutens, Kikapous, Outagamis, Malomismis, Pouteuotamis, Ojatinous, and the Sakis. All these speak the Algonkin. . . . . Along the River of the Outauas are seated the Tabitibi, Monzoni, Machacandibi, Neopemen of Achirim, Nepisirim, and Temiskamink—all speak Algonkin. About the Upper or Superior Lake, in north of the Mississippi, live the Assimpoals, Soukaskitons, Ovadbatons, Atiutons, Clistinos, and the Esquimaux.

CANADA PROPER hath on the north the Terra de Labrador, Hudson's Bay, and New Wales. On the east the great River Saguenay divides it from the Province of that name; on the south the great Province of Louisiana, and the Iroquois and Etechemins. As to the northern boundaries, they are not known, and must be left to time to discover.

THE PROVINCE OF LOUISIANA.—This vast tract is bounded on the south by the Gulph of Mexico, on the north by the Illinois...and by the Territories of the Panissus, Paoducas, Osages, Tionontetecagas, Chavanons, and other wild nations; on the east by the part of Florida, Georgia, and Carolina; and on the west by New Mexico and New Spain. . . . . The maps of the accurate Mr. de Lisle give those boundaries a much greater extent, especially on the north side, where they make it contiguous to Canada.

FIRST VISIT OF RADISSON AND DESGROISSILIERS TO HUDSON'S BAY, 1666.—Two French gentlemen, meeting with some savages in the Lake of Assimponals [Winnipeg], in Canada, they learnt of them, that they might go by land to the bottom of the Bay, where the English had not yet been: upon which, the Frenchmen desired the Indians to conduct them thither, which the savages accordingly did. The Frenchmen returned to the Upper Lake [Superior] the same way they came, and from thence to Quebeck, the Capital of Canada; where they offered the principal merchants to carry ships to Hudson's Bay, but their project was rejected. Hence they went to France in hopes of a more favourable hearing at Court...but they were answered as they had been at Quebeck...The King of England's Ambassador at Paris persuaded them to go to London, where they met with a favourable reception from some men of quality, merchants and others, who employed Mr. Gillam, a person long used to the New England trade, to perfect this discovery.

OPERATIONS OF THE HUDSON'S BAY COMPANY IN THE BAY, 1670–86.—In the year 1670, the Hudson's Bay Company sent over Charles Baily, Esq., as their Governor, who, with Mr. Raddison, settled at Rupert's River ; and another factory was established at Fort Nelson.* In the year 1683, Henry Serjeant, Esq., was made Governor at Rupert's River, with orders to be very careful of the French, who now began to show themselves very jealous of the trade carried on by the English Company with the natives..... In the year 1686, we find the Company in possession of five settlements, namely: Albany River, Hayes Island, Rupert's River, Fort Nelson (or York), and New Severn.

NO FORT OF THE HUDSON'S BAY COMPANY BUILT INLAND ON NELSON OR HAYES' RIVERS, 1747.—If a fort were built at the Great Fork, sixty leagues above York Fort, towards the south-west, and a factory, with European goods fix'd there, and a reasonable price put upon them, the trade would be wonderfully increas'd. The Great Fork is that part where the Rivers Nelson and Hayes join, and having run a little way together, separate again forming an island, which is called Hayes' Island.†

FRENCH POSTS AND TRADE NORTH OF THE HEIGHT OF LAND, SOUTH AND EAST OF THE BAY, 1747.—The bottom of the Bay is by the French pretended to be part of New

* It would appear quite clear from a perusal of this and the several relations on the subject in this book (confirmed by such others as we have been able to procure access to), that the first attempt to build a Factory here by the English was in 1682. (See Extracts from Parliamentary Report of 1749, viz: despatch from the Company to John Bridgar, dated May 15th, 1682, p. 399 *post*.) The French contemporaneously with them re-built their own Fort Bourbon (which they had originally built in 1676), and during the same season destroyed the English establishment.

† There is another Hayes Island at the mouth of the Moose, on which Moose Fort was built.

France ; and indeed, to cross the country, from St. Margaret's River,* which runs into the River of Canada, or St. Lawrence to Rupert's river, at the bottom of Hudson's Bay, is not above 150 miles.

The French have a house or settlement for trade near the southern branch of Moose River, about one hundred miles above the factory, where they sell their goods cheaper than the Company do; altho' it be very difficult and expensive to carry them so far from Canada. . . . The French get all the choice skins, and leave only the refuse for the Company. The French have also got another house† pretty high up, upon Rupert's River, by which they have gain'd all the trade upon the East-Main, except a little the Company get at Slude River, the mouth of which is about thirty leagues to the north of Rupert's River.

TRADE OF THE REMOTE INDIANS WITH MONTREAL, 1747.—Montreal drives a vast trade with the natives, whose chiefs go first to pay their duty to the governor and make him some presents. . . . This concourse begins about June, and some of them come hither from places distant above five hundred leagues. The fair is kept along the bank of the river, and those natives are suffered to go and exchange their wares with the French. . . . This concourse lasts off and on near three months. The natives bring thither all sorts of furs, which they exchange for guns, powder, ball, great-coats, and other French garments, iron and brass works, and trinkets of all sorts.

HUDSON'S BAY COMPANY'S TRADE WITH THE INTERIOR, 1747.—The English who . . . trade here [New South Wales], have no plantations or settlements within land, but live near the coast within their forts, in little houses or huts.

BOUNDARIES OF HUDSON'S BAY, 1750—1755—1761.

EXTRACTS FROM M. DE LA GALISSONNIERE'S MEMOIR ON THE FRENCH COLONIES IN NORTH AMERICA, DATED DECEMBER, 1750.‡

Having treated of Canada in general, we consider ourselves bound to enter into some details respecting its different parts, and we shall commence with those of the north.

Hudson's Bay, which was one of its most lucrative establishments, has been *ceded* to the English by the Treaty of Utrecht, under the denomination or title of *restitution*. They carry on a profitable trade there, but the excessive cold and the difficulty of subsistence, will never permit them to form establishments there, capable of affording any uneasiness to Canada ; and if the strength of the latter country be augmented, as proposed, it will possibly be in a condition, in the first war, to wrest Hudson's Bay from the English.

The Treaty of Utrecht had provided for the appointment of Commissioners to regulate the boundaries of Hudson's Bay ; but nothing has been done in that matter. The term restitution, which has been used in the Treaty, conveys the idea clearly, that the English can claim only what they have possessed, and as they never had but a few establishments on the sea coast, it is evident that the interior of the country is considered as belonging to France.

* By this is meant the St. Maurice or the Saguenay River—most probably the latter, whose head branches interlace with those that fall into Lake Mistassin.

† Fort Nemiscau, on the lake of that name, is probably here alluded to. It was established before the close of the 17th century.

‡ N. Y. Hist. Col., Vol. X., pp. 224-5.

THE KING'S PRIVATE INSTRUCTIONS TO M. DE VAUDREUIL, 1755.

EXTRACTS FROM THE PRIVATE INSTRUCTIONS TO M. DE VAUDREUIL, DATED VERSAILLES, 1ST APRIL, 1755.*

By article 10, of the Treaty of Utrecht it had been agreed that Commissioners should be named on both sides, to settle the boundaries between the French and British American colonies.

On occasion of an expedition that the English fitted out, in 1718, against the fishing posts, which the French had in the Islands of Canso, the two Courts did, in fact nominate Commissioners to decide the property of these islands. The Commissioners met at Paris. At the very first conference, those of the King of England, who claimed that the Islands of Canso were dependent on Acadia, which was ceded to the English by the Treaty of Utrecht, were convinced, on inspecting the map which they presented themselves, that those islands were on the contrary, included in the reserves expressed in the article of the Treaty of Utrecht, containing the cession of Acadia, and that, consequently, France had retained the property thereof. They withdrew, saying they required new instructions from their Court, and did not again make their appearance. Although there had been question on different occasions that since presented themselves, of naming other Commissioners in execution of the treaty, the English had always eluded it, until the last war; and Sieur de Vaudreuil is better informed than any person how they abused the moderation which had always governed his Majesty's proceedings and views, since he has been a witness of their unceasing usurpations, on the territory of Canada, during the long peace which followed the Treaty of Utrecht.

His Majesty did flatter himself that he should eventually succeed in placing bounds to their enterprises, and securing tranquility to his colonies, by a definite fixation of the respective limits.

In consequence of the last Treaty of Aix-la-Chapelle, whereby that of Utrecht has been renewed, Commissioners have been named on both sides, and did meet at Paris, to regulate all the disputes concerning the French and British possessions.

But whatever earnestness and facilities His Majesty had lent to this settlement, the success of the labour of these Commissaries is far from corresponding, up to the present time, to the hopes he had entertained thereof, from the dispositions his Britannic Majesty caused to be evinced in that regard.

As yet the Commissioners have not entered upon the limits of Canada, further than what regards Acadia. * * *

They [the English] have not yet explained themselves respecting the extent they propose giving their Hudson Bay boundaries. But it is to be expected that they will wish to stretch them to the centre of the Colony of Canada, in order to enclose it on all sides.

However that be, His Majesty is firmly resolved to maintain his rights and his possessions against pretensions so excessive and so unjust; and whatever be his love for peace, will not make for its preservation any sacrifices, but those which will accord with the dignity of his Crown, and the protection he owes to his subjects.

Such is the principle on which his Ambassador at the Court of England has orders to labour in a negotiation that has been entered into with that Court, for the termination of all those differences, by a provisional or definitive treaty; and it is also on that principle that His Majesty wills that Sieur de Vaudreuil do regulate his conduct, in relation to these objects, until the issue of that negotiation whereof His Majesty will have him informed.

He is, in consequence, to be on his guard against all attempts the English might make against his Majesty's possessions; carefully to avoid affording them any just cause of complaint; to act on occasions, wherein there will possibly be acts of violence, in such a manner that he might not appear the aggressor; and to confine himself to the adoption of all possible measures to enable him to repel force by force.

His Majesty's intention is, in fact, that he confine himself to a strict defensive, so long as the English will not make any attack, which is to be regarded as a rupture on their part.

If, to ensure this defensive, he considers it necessary to make the Indians act offensively against the English, he will be at liberty to have recourse to that expedient.

* N. Y. Hist. Col., Vol. 10, pp. 290-3.

THE KING'S PRIVATE INSTRUCTIONS TO M. DE VAUDREUIL, 1755.

But His Majesty desires that he do not determine on that course, except so far as the conduct of the English will render it indispensable for the safety and tranquility of his government.

Supposing, in the meantime, that, notwithstanding what ought to be naturally expected from the equitable and pacific dispositions whereof the King of Great Britain does not cease to give assurances, hostilities on the part of the English should reach the point that they must be regarded as a rupture, he should not, in that case, confine himself to a simple defensive, and his Majesty wills that, in such contingency he makes use of all the powers that have been confided in him, for the operations which will be best adapted to the good of his service and the glory of his arms.

As these operations must depend on circumstances, His Majesty relies on Sieur de Vaudreuil's zeal, prudence, and experience for undertaking those that will appear to him the most advantageous and the most honourable. He recommends only to him to observe, in the selection of those that he will think he can undertake, to give the preference to such as will have for object the English posts that can be wholly destroyed—such as that of Chouegnen, and even Fort Beaubassin; or will deserve to be preserved, after he shall have become master of them, either for the purpose of increasing the colony of Canada, as would be the case with Acadia, or of being used for exchange, according to the circumstances which will possibly occur or happen, whenever there will be question of a peace, and such would be the capture of Hudson's Bay.

But before coming thus to operations of an open war, His Majesty desires that Sieur de Vaudreuil do asssure himself that the English will have in fact committed absolute hostilities, either against the French settlements or forts of Canada, or against some other colonies, or at sea.

In this category may be regarded the usurpations they will possibly attempt *on the unsettled lands of Canada*, and on which they have undertaken to set up unfounded pretensions. His Majesty's intention meanwhile is, that so long as they will confine themselves to operations of that sort, Sieur de Vaudreuil do content himself with opposing them, and even employ force for that purpose, only after he has protested and made the summons, which time and circumstances will have possibly permitted. And in this regard, His Majesty is very glad to enter into a fuller explanation of the pretensions of the English, in order to enable Sieur de Vaudreuil to act more understandingly, on occasions relative thereto.

Independent of the Hudson Bay boundary, of which there has, as yet, been no question with the English, their pretensions, as has been already observed, have for object, to extend the limits of Acadia, on one side as far as the south shore of the river St. Lawrence, and, on the other, as far as the frontiers of New England; to include in those of Virginia the lands that reach to Lake Erie, and those of the Beautiful River [Ohio], and to penetrate into the lakes of Canada: so that in this system they would wrest from the French all the posts the latter possess south of the River St. Lawrence; and the colony of Canada would find itself reduced to those they have on the north of that river, and wherein it would be soon crippled, in consequence of the extension the English will not fail to desire to give the Hudson's Bay boundary.

[THE DUC DE CHOISEUL, in 1761, referring to the same boundaries of Hudson's Bay, says, "Nothing was done."

GRANT OF THE POST A LA CARPE, NORTH OF LAKE NEPIGON, AND EXTENDING TO THE SHORES OF HUDSON'S BAY.

GOVERNOR LA JONQUIERE TO SIEUR SIMBLIN, 1751.

(Copy obtained by the Government of Ontario from the archives of the Department of the Marine and Colonies, Paris.)

DECREE OF M. DE LA JONQUIERE, WHICH PERMITS SR. SIMBLIN, ENSIGN OF THE TROOPS IN CANADA, TO CONSTRUCT AT HIS OWN EXPENSE AT LAC A LA CARPE, A FORT, A HOUSE AND A STOREHOUSE, WITH THE POWER TO COMMAND THEM, AND THERE TO CARRY ON EXCLUSIVE COMMERCE DURING THE TERM OF SIX YEARS.

27th February, 1751.

SEEING THE PETITION which has been presented to us by the Sr. de Simblin, second ensign in the troops of this colony, with the petition [? plan] appended to it, after having given attention to the reasons contained in the said petition, and having seen with evidence, by the said plan, that the savage nations which are in the interior of the northern part of the said lands, and of whom certain are yet to be known, the French are obliged to supply their needs at Hudson's Bay, and there to carry on their commerce with the English in passing by way of the three arms of the river marked on the said plan, not being in a position to carry on their traffic elsewhere. We, having been assured that they have never carried it on at Nepigon, nor in any other French post, that it would be very possible to cut all commerce and connection of the savages with the English in establishing a fort at the lake called Lac à la Carpe, which has not been up to the present occupied by the French, nor comprised in the limits of any of our posts, and we not being able ourselves to refuse the invitation which a chief of the said savages has given to us by the Sr. de Simblin, in the name of the said nations, to found the said establishment.

Persuaded in other respects that the said establishment could not but be, in every way, very advantageous to the benefit of the King's service, to the interests and to the service of the colony;

Taking into account the excellent evidence which has been given to us of the zeal, the fidelity, the experience, the credit which the said Sr. de Simblin has acquired amongst these savage nations, and that he is very capable of forming the said establishment, and the closest alliance between the said nations and the French,

We, in virtue of the power which has been given to us by the King, have received and receive the offer which has been made to us by the Sr. de Simblin, to found the said establishment at his own expense; and in consequence have appointed, and appoint him, under the good pleasure of His Majesty, to proceed next spring to the said Lac à la Carpe, there to establish a fort, a house, and a storehouse, the whole to be built of logs; of which we have given to him, and give by these presents, the command and the exclusive trade from the said Lac à la Carpe, extending from the shore of Hudson's Bay in the Eastern section, and from the west to 30 leagues of distance, for the time and term of six consecutive years, which shall commence in the spring-time of the next year, 1752, and will finish in the spring-time of the year 1758.

ON CONDITION:

First, that he will bear the expenses of the said establishment at his risk and with his fortune, without His Majesty being liable on anything, directly or indirectly; that he will not lay claim to any annual indemnification during the said six years, nor to any compensation when the said six years are finished; that he will not carry on any trade except with the nations which shall go to the said post.

Second, that he shall have caused the said fort, house, and storehouse, to be constructed in the spring-time of the next year, 1752; that he shall have there during the said year, and until the end of his command, the merchandise necessary to carry on trade with the savages; and that he shall not found any establishment, nor winter on the River du Cassetête, having only the liberty to pass by the Lake of the Nepigon and the said River du

Cassetête in order to proceed to his post; and neglecting one of these conditions these presents will remain void.

And on this condition we shall send forward to him gratis each year, our permission for the departure of the canoes which shall make the transport of the said merchandise, and it will be free to him to buy the bark canoes and his provisions at Missilimakinac for these purposes. In testimony whereof, etc.

Done at Quebec, etc.

LA JONQUIERE.

CLAIMS OF HUDSON'S BAY COMPANY, 1752, 1755, 1759,

WHEREBY IT IS ALSO ADMITTED THAT THE LIMITS BETWEEN THE COMPANY AND THE FRENCH ON THE NORTH HAD NOT BEEN SETTLED UP TO THE CLOSE OF 1759.

(Copies of these papers were obtained by the Government of Ontario, from the Public Record's Office, London.)

LETTER FROM THE COMPANY TO THE LORDS OF TRADE.

SIR,—I am directed by the Governor and Committee of the Hudson Bay Company to inform His Majesty's Ministers that in the year 1752, by the orders of the Lords of Trade, they laid before their lordships a statement of their claims, which hath subsisted ever since; and in consequence of the Treaty of Utrecht, and as they are desirous of having your assistance and support, they order me to inform you that they will be ready to give such further information as to their rights as may be wanted to prove the justice of their said claim.

I am with the greatest respect, Sir,

Your most obedient, humble servant,

Hudson's Bay House, 19th Feb., 1755. CHAS. HAY.

Right Hon. Sir Thos. Robinson.

MEMORANDUM ANNEXED TO THE PRECEDING LETTER.

The Hudson's Bay Company claim,

The lands to the northward of a line drawn from 59½ degrees of north latitude in the Atlantic Ocean, south-westward to the Lake Miscosink, otherwise Mistoseney, and through the same Lake, down to the 49th degree of north latitude (as described in a map delivered to the Lords of Trade), and thence continued by a meridian line of the said latitude of 49 degrees westward.

These boundaries, together with a demand of £108,514 19s. 8d. sterling, was claimed by the Company in the year 1709, and afterwards by the Commissaries appointed by virtue of the Treaty of Utrecht.

To the Right Hon. Sir Thos. Robinson, Knt.,

One of His Majesty's Principal Secretarys of State,

&c. &c. &c.

THE LORDS OF TRADE TO MR. PITT.

WHITEHALL, December 19th, 1759.

SIR,—The Governor and Company of Merchants trading to Hudson's Bay having presented a Memorial to Us, stating their claims with respect to limits and other matters provided for by the Treaty of Utrecht, and praying that in case of a peace with France, His Majesty would be graciously pleased to cause satisfaction to be made to them, with respect to such claims, pursuant to the stipulations of the tenth and eleventh articles of the said

Treaty; We beg leave to transmit to you the inclosed copy of the said memorial for His Majesty's directions thereupon.

We are, Sir,
Your most obedient and most humble servants,

DUNK. HALIFAX,
SOAME JENYNS,
W. G. HAMILTON,
W. SLOPER.

Right Honorable Wm. Pitt,
One of His Majesty's Principal Secretarys of State.

MEMORIAL OF THE COMPANY REFERRED TO IN THE PRECEDING LETTER, 1759.

To the Right Honourable the Lords Commissioners of Trade and Plantations:

The humble Memorial of the Governor and Company of Adventurers of England trading into Hudson's Bay.

May it please Your Lordships:

In prospect of an approaching Treaty of Peace between this nation and France, and in hope that the great success His Majesty's arms have been blessed with, and the many acquisitions that have been thereby gained from the enemy, will enable His Majesty to secure to your memorialists satisfaction [for] the injuries and depredations they have long since suffered from the French, which stands acknowledged by Treaty, and are stipulated to be made satisfaction for, but through the perfidy of the enemy, and in disregard of the Treaty, have hitherto remained unsatisfy'd; in which the honour of the nation, as well as justice to the individuals, loudly call for redress. To that end your memorialists beg leave to represent to your Lordships:

That the French, before the Treaty of Utrecht, in the time of peace, under some pretended claim of right, disturbed the Hudson's Bay Company in the quiet possession of Hudson's Bay and the territories thereto belonging, and in a hostile manner with ships of war and an armed land force, attacked and took several of the Hudson's Bay Company's ships in harbour in the bay, and also took, plundered and dispossessed them of several factories and settlements on the coast thereof, which matters, having been under consideration at the Treaty of Utrecht, were admitted, and agreed to be settled and satisfy'd by the following articles thereof:

[Here follow the 10th and 11th articles of the Treaty of Utrecht, for which see p. 16, *ante*].

That in pursuance of the said Treaty, and an Especial Commission of her said late Majesty, Queen Anne, dated the 20th of July, 1713, the said Bay and lands then in possession of the French, were delivered up to Governor Knight and Kelsey, who took possession thereof for the English Hudson's Bay Company, and Commissarys were appointed to settle the said limits, and adjust the damages the Company had sustained, which for the ships and goods of the Company taken by the French appears by an account stated in the year 1713, and delivered to the then Lords Commissioners of Trade and Plantations, amounted to upwards of one hundred thousand pounds, besides the damages the Company sustained by the enemies burning three of their forts and factorys at Charlton Island, Moose River, and New Severn. And proceedings were had by the said Commissarys towards settling the same; but they were never able to bring the settlement of the said limits to a final conclusion, nor did the said Hudson's Bay Company ever receive any satisfaction for their said damages.

That the papers which were laid before the said Commissarys and the minutes of their proceedings, as also a memorial relative to this matter, which, in the year 1750, after the conclusion of the last war, was presented to your Lordships, remaining, as your memorialists believe, in your Lordship's office, it is conceived from thence will appear, the best state of the rights of both Crowns and of the territorys and claims of the said Company that can be laid before your Lordships, whereto your memorialists beg leave to refer.

Your Memorialists therefore humbly hope, in case any Treaty of Peace shall be set on foot between this nation and France, that your Lordships will intercede with His

Majesty to take the premises into His Royal consideration; and that he will be graciously pleased to cause your memorialists to have full satisfaction made them pursuant to the said Treaty of Utrecht for the aforesaid depredations they are thereby acknowledged to have sustained from the French in time of peace; and for which satisfaction is by the said Treaty agreed to be made to the Company; and that the limits of the said Company's territory may be settled, as by the said Treaty is also agreed.

All of which is humbly submitted to your Lordships' consideration.

By order of the Governor and Committee of the said Company.

CHAS. HAYS,
Secretary.

Hudson's Bay House,
6th December, 1759.

MEMOIR ON THE LIMITS IN 1755.

EXTRACT FROM A MEMOIR, DATED APRIL, 1755, ON THE LIMITS BETWEEN FRANCE AND ENGLAND, AS WELL IN SOUTHERN AS IN NORTHERN AMERICA.

(Copy obtained by the Government of Ontario from the Archives of the Marine, Paris.)

The 10th Article of the Treaty of Utrecht has stipulated in favour of England, the restitution of the Bay and Strait of Hudson, with the lands, seas, coasts, rivers and places which appertain to them.

As the English have never occupied more than the lower part and mouth of the rivers, it is to that portion that the restitution which has been made to them has been limited. There are no indications that the English Commissaries who have been named to receive this restitution, have demanded or required that the French should abandon the upper part of the rivers and the lakes which they have occupied of old, or of those more recently occupied, and whose waters, nevertheless, flow into Hudson's Bay.

The French have therefore preserved the settlements which they had there, and which have always been regarded as forming part of Canada. It seems that, among others, they have some actually on the Lake of the Abbitibis, and on that of the Mistassins, the waters of which are shewn on some maps as falling into Hudson's Bay.

VAISETTE ON THE BOUNDARIES OF CANADA, 1755.*

LA NOUVELLE FRANCE.—We comprise, under this general name, that part of North America, situate between the 27th and 55th degrees of latitude, and from the 270th to the 325th of longitude.... We divide it into two principal parts, which are Canada and Louisiana.

LE CANADA.—Under the name of Canada, we comprehend, in our best and latest maps, that part of North America situate between the 40th and 55th degrees of north latitude, and the 270th and 325th of longitude. This country is bounded, on the north, by Terre de Labrador and the countries of the Eskimaux and of the Christinaux; on the east, by the ocean, or North Sea, and New England; and on the south by Louisiana. Its limits on the west extend into countries unknown.

LA LOUISIANE.—We comprise, under this name, that part of America which extends from the southerly point of the peninsula of Florida, in the 26th degree of latitude, to

* Geographie, historique, etc., par Dom Joseph Vaisette. Paris, 1755. Vol. iv. pp. 296, 302.

nearly the 45th, in its western part, and the 39th in the eastern ... It is bounded on the north by Canada.... To-day Louisiana is subject to the General Government of Canada.

[A map, "L'Amerique Septentrionale par le Sr Robert, ... 1748,"—bound with Vaisette's work, and hereinbefore (in sec. viii.) referred to—explains these boundaries of Canada and Louisiana, and the apparent contradiction. The source of the Missouri is in the meridian of 270°, and the most easterly point of Labrador in 325°. The northerly watershed of the Missouri is marked by an engraved line, as the boundary between the two countries: it runs easterly—to the west above, and to the east below, the parallel of 45°, which it crosses—to the junction of that river with the Mississippi, and thence easterly, partly on, partly above, and partly below, the 40th parallel, to the English colonies, where it descends to 39°.]

EXTRACTS FROM GOVERNOR POWNALL'S ACCOUNT OF THE FRENCH POSTS AND THE FRENCH DOMINION IN NORTH AMERICA, 1756.*

The French, in their first attempts to settle themselves in these parts, endeavoured to penetrate by force of arms, to fix their possessions by military expeditions. . . But . . they fell afterwards into that only path, in which the real spirit and nature of the service led.

The native inhabitants (the Indians) of this country are all hunters; all the laws of nations they know or acknowledge are the laws of sporting, and the chief idea which they have of landed possessions is that of a hunt. The French settlers of Canada universally commenced hunters, and so insinuated themselves into a connection with these natives.

While the French kept themselves thus allied with the Indians as hunters, and communicated with them in, and strictly maintained all the laws and rights of sporting, the Indians did easily and readily admit them to a local landed possession; a grant which, rightly acquired and applied, they are always ready to make, as none of the rights or interests of their nation are hurt by it. While, on the contrary, they experience and receive great use, benefit and profit from the commerce which the Europeans therein establish with them. * *

The French possessions interfere not with the Indians' rights, but aid and assist their interest, and become a means of their support. This will more clearly and better appear, by a more minute and particular attention to the French measures in these matters.

1st. No Canadian is suffered to trade with the Indians, but by license from the Government, and under such regulations as that license ordains. The main police of which is this: The Government divides the Indian countries into so many hunts, according as they are divided by the Indians themselves. To these several hunts there are licenses respectively adapted, with regulations respecting the spirit of that nation whose hunt it is; respecting the commerce and interest of that nation: respecting the nature of that hunt.

The Canadian having such license ought not to trade and hunt within the limits of such hunt, but according to the above regulations; and he is hereby absolutely excluded under severe penalties to trade or hunt beyond these limits, on any account whatever.

It were needless to point out the many good and beneficial effects arising from this police, which gave thus a right attention to the interests of the Indians which observe the true spirit of the alliance in putting the trade upon a fair foundation, and which maintained all the rights and laws of the hunt, that the Indians most indispensably exact.

But the consequence of the most important service which arises out of this police, is a regular, definite, precise, assured knowledge of the country.

A man whose interest and commerce are circumscribed within a certain department, will pry into, and scrutinize every hole and corner of that district. When such a hunt is by these means as full of these coureurs des boix, as the commerce of it will bear, whoever applies for a license must betake himself to some new tract or hunt, by which again begins an opening to new discoveries and fresh acquisitions.

When the French have by these means established a hunt, a commerce, alliance and in-

*A Memorial stating the nature of the service in North America, and proposing a general plan of operations as founded thereon. Drawn up by order of, and presented to His Royal Highness the Duke of Cumberland, 1756. 3rd ed., London, 1766.

fluence amongst the Indians of that tract, and have by these means acquired a knowledge of all the waters, passes, portages, and posts, that may hold the command of that country—in short a military knowledge of the ground—then, and not before, they ask and obtain leave of the Indians to strengthen their trading house, to make it a fort, to put a garrison in it.

In this manner by becoming hunters and creating alliances with the Indians as brother sportsmen, by founding that alliance upon, and maintaining it (according to the true spirit of the Indian law of nations) in a right communication and exercise of the true interest of the hunt, they have insinuated themselves into an influence over the Indians, have been admitted into a landed possession, and by locating and fixing those possessions in alliance with and by the friendly guidance of the waters [of the St. Lawrence and Mississippi, and of the Winnipeg system] whose influence extend throughout the whole, they are become possessed of a real interest in, and real command over the country.

They have thus throughout the country sixty or seventy forts, and almost as many settlements, which take the lead in the command of the country, not even one of which forts, without the above true spirit of policy could they support, with all the expense and force of Canada; not all the power of France could; 'tis the Indian interest alone, that does maintain these posts.

Having thus got possession in any certain tract, and having one principal fort, they get leave to build other trading houses and entrepôts, at length to strengthen such, and in fine to take possession of more advanced posts, and to fortify and garrison them, as little subordinate forts under the command of the principal one.

Though these principal forts have subordinate forts dependent on them, they are yet independent of each other, and only under the command of the Governor-General; there is a routine of duty settled for these, and the officers and commanders are removed to better and better commands. What the particulars of this are, and of the distribution of the troops, I have not yet learned as to Canada; but in general the present establishment for this service is three thousand men, of which there are generally two thousand three or four hundred effective.

I have not been able yet to get an exact list of the forts in Canada, but the following is sufficient to sketch out the manner in which they conduct this service.

It will be necessary first to describe the line which now divides Canada and Louisiana in the Illinois country. It begins from the Oubasch at the mouth of Vermillion River, thence to the post called Le Rocher on the River Paeorias, and from thence to the peninsula formed at the confluence of Rocky River and Mississippi.

FORTS IN CANADA [amongst others.]

MISSILIMAKINAK AND ITS DEPENDENCIES.*

DU QUESNE.....	{	Presqu' Isle. Rivière au Bœuf. One other [? Machault].
LE DETROIT ....Two.....	{	'Twas proposed to the Court in the year 1752, to erect this into a Lieutenancy du Roy.

THE POST MIAMIS, AND

SIOUX.

* These dependencies occasionally varied. They at times included those west of Lake Superior, and those to the south-west as far as, and including the Upper Mississippi; also La Baye, Ste. Marie, Kamanistiquia, and some posts north of the height of land.

GOV. POWNALL'S ACCOUNT OF THE FRENCH IN NORTH AMERICA, 1756.

NIPIGON*..... { Two or three. / One on the River Michipicoton. / One other on the Long River. / And one other.

ST. JOSEPH.

LE PETIT PARIS.

ALIBI.†

SAGUENAY.‡

* * * Most of these forts have fine settlements round them, and they do entirely support themselves; it being usual for both officers and men to defer receiving their pay till the garrison is relieved, which is generally in six years; and scarce anything is sent to these garrisons, but dry goods and amunition.

There is a fine settlement at Detroit, of near two hundred families; a better still at St. Joseph,§ of about two hundred; a fine one at St. Antoine:‖ many fine ones about Petit Paris.

THE ESTABLISHMENTS, POSTS AND SETTLEMENTS OF LOUISIANA, ARE [AMONGST OTHERS] AS FOLLOWS:— . . .

THE ILLINOIS.....six Companies 300

The posts were in 1752 { Caskasias. / Fort de Chartres. / Village of St. Philip. / Prairie de Rocher. / Cohokias. / Village de Ste. Jeune Feuve.

THE ARKANSAS, a less principal post, one company..... 50
THE NATCHES, ...one company..... 50
THE NACHITCOHES .....one company..... 50
THE POINT COUPE.....one company..... 50
THE GERMAN SETTLEMENT .....one company..... 50

* * * As to the posts in the Illinois country, I am not able to describe them particularly; but what appears to be of more consequence, I collect from Mr. Vaudreuil's letters (from 1743 to 1752) the general idea upon which the fortifying and securing that country is founded.

The first fort of their plan in fortifying the Illinois country, was on the peninsula, in latitude 41° 30'. This was a check upon, and a barrier against the several nations of Sioux (not then in confederacy with them). The next post in this plan was on the River Dorias (so-called after the junction of the Illinois River and Theakiki), which would be of more especial use, if situated on the north of the lake of that river, whence the roads divide, that lead to Massilimackinac and St. Joseph. This he describes as the key to the Illinois country from Canada.

The next is the garrisoning and fortifying the country, from the mouth of Missouris to Kaskasias, where there are five posts. Mr. Vaudreuil thinks that Kaskasias is the principal, as it is the pass and inlet of the convoys of Louisiana, as also of those of Canada, and of the traders and hunters of the post Detroit, and that of the greatest part of the

* The Forts of Du L'Hut, &c., on the Upper Albany, &c., were within the jurisdiction of the Post of Nipigon.

† Abbitibi probably, which was on the Lake of the same name, and north of the height of land. It was within the Post of Temiscamingue, which the French claimed to extend to Hudson's Bay.

‡ The post of the Saguenay included those at the Height of Land, and it is supposed, those also which the French had on lakes Mistassin and Nemiscau; and they were all comprised in La Traite de Tadoussac, whose limits extended to Hudson's Bay.

§ On the St. Joseph River, near the S. E. shore of Lake Michigan.

‖ On the Upper Mississippi, originally established before 1688.

GOV. POWNALL'S ACCOUNT OF THE FRENCH IN NORTH AMERICA, 1756.

nations.....But Mr. McCarty, who was on the spot, thinks the environs of Chartres* a far better situation to place this post in.

Mr. Jonquière proposes another fort at the mouth of Rocky River,† (this is in the Government of Canada) which, he says, would secure the tranquility of the fourth of Canada. This, says Mr. Vaudreuil, together with the post of the Illinois, would restrain and become a barrier against the English, and cover all our Indian allies to the west from our enemies, the English, the Cherokees, Catawabas and others.

By these posts above and the posts of the Miamis, the whole country is secured and fortified. * * *

Thus the French do not only *settle* the country *but also take possession of it;* and by the form, site and police of such possessions (led on and established by the guidance of, and in alliance with the waters), a natural foundation of a one command, have they acquired and become possessed of *the command of this country.*

By these means, I repeat it, have they created an alliance, an interest with all the Indians on the continent; by these means have they acquired an influence, a command throughout the country.

They know too well the spirit of Indian politics to affect a superiority, a government over the Indians, yet they have in reality and truth of more solid effect an influence, *an ascendancy* in all the councils of all the Indians on the continent, and lead and direct their measures, not even our own allies, the Five Nations, excepted; unless in that remains of our interest, which partly the good effects of our trading house at Oswego, and partly General Johnson, has preserved to the English, by the great esteem and high opinion the Indians have of his spirit, truth, and honour.

[INDIANS OF THE AMERICAN CONTINENT.]

East.		*West.*	
		French.	
Esquimaux, St. Johns, Micmacks, Penobscots, Noridgwulks, Abenakais, St. Francis Indians, Cuchnewage, Scautecoke, Oswegatchie.	In the French interest.	Sioux, Nadoussseries, Illinois, Tawigtwaes, Miamis, Piankeshunaes, Wawyactaes, Picques, Kaskuskies,	
Senekees, Onondagas, Cayuges, Oneides, Tuskaroras.	Supposed to be in the British interests, but greatly debauched by the French.	Cawetas, Abekas, Telaponches, Alibamous.	The four nations of the Creeks as above.
		North.	
		Wholly French.	
Mokawks, Mehikanders.	Wholly in the British interest.	Assinipoeles, Adirondacks, Algonkins,	
Delewares, Shawnese.	Lost to the English, except a few on the Susquehanah.	Outawawaes, Choninderdes or Hurons, Messisagues, Outagamies, Miscontires,	Skaniadereroennes.

* Chartres afterwards actually became the chief fort in that country.

† This was an affluent of the Mississippi, into which it fell on the north side, a short distance above the Illinois.

Indians of the *East* (Continued).		Indians of the *North* (Continued).
Catawbas, Cherokees, Chickasaws,	Supposed in the English interest, but much debauched by the French.	Sakis, Christanaux, Almipogins, Nipisenis.

South.

Osagaes, Akansaes, Chactaws, Panimaes, Adiges.	Wholly French.

JEFFERYS ON THE LIMITS OF LOUISIANA, 1761.*

The province of Louisiana, or the southern part of New France, extends, according to the French Geographers, from the Gulf of Mexico, in about 29 degrees, to near 45 degrees of north latitude, on the western side, and to near 39 degrees on the eastern; and from 86 to near 100 degrees W. longitude, from London. It is bounded on the north by Canada; on the east by the British Colonies of New York, Pennsylvania, Maryland, Virginia, North and South Carolina, Georgia, and by the peninsula of Florida; on the south by the Gulf of Mexico, and, lastly, on the west by New Mexico. It contains, properly, the French settlements on both sides of the Mississippi, and is, by some, said to be the noblest and richest province of all North America.†

JEFFERYS' ACCOUNT OF THE FRENCH POSTS OF THE WEST, 1761.‡

A number of rivers, some of which are very considerable, discharge themselves into this Lake [Superior]. One of these, which falls into it, near the middle of its northern shore, rises about 25 or 30 leagues north of Lake Superior, from a lake called Alimipegon [Nepigon] near which are the sources of a river that falls into Hudson's Bay. Another river that falls into Lake Superior, near the last mentioned, is called, in the French maps, Natouagan [Pigeon River], and communicates, if we may believe the inhabitants, by a chain of rivers and smaller lakes, with a considerable lake called Lake Bourbon, which is made to communicate, in like manner, by Port Nelson River, called by the French Bourbon River, with Hudson's Bay, to the north-east. The French likewise suppose that it communicates westward with the great sea, commonly called the South Sea or Pacific Ocean.

At the mouth of *Les Trois Rivières*, or the Three Rivers, is a little French fort, called Camanistigouia; and twenty-five leagues to the west of the said fort, the land begins to slope, and the river to run towards the west.

At ninety-five leagues from this greatest height lies the second establishment of the French that way, called Fort St. Pierre, in the Lake des Pluies. The third is Fort St. Charles, eighty leagues farther on the Lake des Bois. The fourth is Fort Maurepas, a hundred leagues distant from the last, near the head of the Lake of Ouinipigon. Fort la Reine, which is the fifth, lies a hundred leagues farther, on the river of the Assiniboels [Assiniboine]. Another fort had been built on the river Rouge [Red River of the North], but was deserted on account of its vicinity to the two last. The sixth, Fort Dauphin, stands on

* History of the French Dominions in North and South America, London, 1761, (p. 143).

† For the English version of the boundaries of Canada, as given by Jefferys, see p. 55 *ante*. A further quotation from his work may be here given: "The country subject to the Crown of France on the Continent of America, which is larger than the Roman Empire ever was, in its most flourishing times, is divided into two parts, the Northern, named Canada, and the Southern, Louisiana.... Under the name of Canada, the French would comprehend all that part of North America situated between 40 and 55 degrees of north latitude," &c. (p. 1).

‡ History of the French Dominions in North and South America, London, 1761, (p. 19). Jefferys was Geographer to His Majesty."

the west side of Lac des Prairie, or of the Meadows [Lake Manitoba]. And the seventh, which is called Fort Bourbon, stands on the shore of the great Lake Bourbon [the northern part of Winnipeg]. The chain ends* with Fort Poskoyac, at the bottom of a river of that name, which falls into Lake Bourbon. The river Poskoyac is made by Delisle and Buache to rise within twenty-five leagues of their West Sea [Gulf of Georgia], which, they say, communicates with the Pacific Ocean. All these forts are under the Governor of Canada.

On the southern coast of Lake Superior, which extends almost due east and west are the Isles de St. Michel, and the Bay of Chagouamigon, at the bottom of which was formerly a small Indian town, where a missionary and some other French came to settle in 1661, by means of which this place, at first scarce worth notice, soon became very remarkable. The Outagami, Saki, Outawai, Huron and Illinois Indians resorted thither so early as 1668, for the sake of trade, and many of them settled there; and the traffic is still pretty considerable. This settlement was called La Mission du St. Esprit.†

LETTER OF THE RIGHT HONOURABLE EDMUND BURKE ON THE QUEBEC BILL, 1774.‡

GENTLEMEN,—I was prevented by pressing business, and by not the best health, from sending you a letter by the July pacquet. When I had last the honour of writing to you on your affairs, I entertained no strong apprehensions that the clause in the Quebec Bill concerning the boundary of that new Province could materially affect the rights of your colony. It was couched in general and saving terms: it reserved all rights, and confirmed all adjudications: it was in all appearance sufficiently equitable. But upon a close consideration and subsequent enquiry, I found that you might be very much affected by it. I take the liberty of stating to you the light in which it appeared to me, and the conduct which I held, in consequence of that view of your interests.

I must first observe to you, that the proceedings with regard to the Town of Boston and the Province of Massachusetts-Bay, had been from the beginning defended on their absolute necessity, not only for the purpose of bringing that refractory town and province into proper order, but for holding out an example of terror to the other colonies, in some of which (as it was said) a disposition to the same or similar excesses had been marked very strongly. This unhappy disposition in the colonies was, by the friends of the coersive measures, attributed to the pride and presumption arising from the rapid population of these colonies, and from their lax form, and more lax exercise, of government. I found it in general discourses and indeed in public debate the predominant and declared opinion, that the cause of this resistance to legal power ought to be weakened, since it was impossible to be removed: that any growth of the colonies, which might make them grow out of the reach of the authority of this Kingdom, ought to be accounted rather a morbid fulness than a sound and proper habit. All increase of the colonies which tended to decrease their advantage to this country, they considered as useless and even mischievous.

From this predominant way of thinking, the enormous extent of the colonies was censured. It was not thought wise to make new grants of land but upon the weightiest consideration, if at all. Prerogative was to be strengthened as much as possible, and it was thought expedient to find in the tractable disposition of some provinces, a check upon the turbulent manners, and a balance to the less manageable plan of government in the others. These principles (whatever their merit may be) became very fashionable during the agitation of the Massachusetts Bill in the House of Commons. A peer, who I think does not

* In this Jefferys is in error, for the French had also, before this date, at least three other forts higher up on the Saskatchewan, viz., Forts des Prairies, La Corne, near the forks, and La Jonquière, at the base of the Rocky Mountains.

† At this place, which was also known as Chagouamigon, or La Pointe, the French, by order of the Governor of Canada, built a fort, before the end of the 17th century.

‡ N. Y. Hist. Soc. Col., 2nd series, vol. ii, pt. i, p. 219. This letter was written by Mr. Burke as Agent of the Province of New York, which position he then held. It is addressed to the General Assembly of that Province.

always vote in the majority, made a sort of proposition for an address to the King that no more lands should be located in America.

This was the substance of the proposition, although it proceeded no further for reasons of decorum. The ministerial side in that House fell in very directly with these sentiments and, as I am told, plainly showed a resolution to act in conformity with them, so far as the power of the Crown in that particular extended. It is true that a few lords, and Lord Rockingham in particular, objected to the idea of restraining the colonies from spreading into the back country, even if such restraint were practicable; for by stopping the extending of agriculture they necessitated manufactures, contrary to the standing policy of colonization. The general sentiments were, however, as I have stated them.

I mention this disposition of the House of Peers particularly (though it prevailed almost equally elsewhere), because the Quebec Bill originated in that House.

Very many thought on a careful perusal, that the lines of the plan of policy I have just mentioned were very distinguishable in that Bill as it came down to us. It was for that reason I became more uneasy than at first about the lax and undeterminate form in which the boundary clause of this new colony was worded in the original Bill. The idea of which (whether seriously adopted by ministry or not) was very prevalent, that the British Colonies ought to be restrained, made it necessary that this restraint should not be arbitrary. It was the main ground of the amendments which I proposed and carried with regard to the boundary clause. However, as a mere unconnected arrangement, it is right to define with clearness, although such a plan of policy never had existed or should pass away, as I hope and think in some degree it has, with the first heats. The bill passed through the House of Lords with some opposition but no amendment, but when it came into the House of Commons, the Ministers confessed that it was hastily drawn, and they professed great candour in admitting alterations. The part by which your province would be directly affected was only the boundary clause.

As the boundary was, in the most material parts in the original Bill, only constructive and in general words of reference "to the boundary lines of the other provinces, as adjudged or allowed by the Crown," I thought it necessary to know, with regard to you, what lines had been actually drawn, and next, what principles were to guide in adjudging your real boundaries in future.

With regard to the first point, I found that a line of division between your colony and that of Quebec, had been allowed by the King in Council to be run from a point on Lake Champlain in forty-five degrees of north latitude. So far had been agreed between the Governors of the two provinces, and allowed. But no line had been actually run in consequence of this agreement except from the River Connecticut to the Lake. Even this line had not been formally allowed; and none at all had been run to the westward of Lake Champlain. So that your boundary on the north had never been perfectly delineated, though the principle upon which it should be drawn had been laid down. For a great part of the northern frontier, and for the whole of the western, until you meet the line of New Jersey, you had no defined boundary at all. Your claims were indeed extensive, and, I am persuaded, just, but they have never been regularly allowed.

My next object of enquiry, therefore, was upon what principles the Board of Trade would, in the future discussions which must inevitably and speedily arise, determine what belonged to you and what to Canada.

I was told that the settled uniform practice of the Board of Trade was this: that in questions of boundary, where the jurisdiction and soil in both the litigating provinces belonged to the Crown, there was no rule but the King's will, and that he might allot as he pleased, to the one or the other. They said also that under these circumstances, even where the King had actually adjudged a territory to one province, he might afterwards change the boundary; or, if he thought fit, erect the parts into separate and new governments at his discretion.

They alleged the example of Carolina; first one province; then divided into two separate governments, and which afterwards had a third, that of Georgia, taken from the southern division of it.

They urged, besides, the example of the neutral and conquered islands.

These, after the Peace of Paris, were placed under one government. Since then they were totally separated, and had distinct governments and assemblies.

Although I had the greatest reason to question the soundness of some of these principles, at least in the extent in which they were laid down, and whether the precedents alleged did fully justify them in that latitude, I certainly had no cause to doubt but that the matter would always be determined upon these maxims at the Board by which they were adopted. The more clearly their strict legality was proved, the more uneasy I became at their consequences. By this Bill a new province under an old name was in fact created. The limits settled by the proclamation of 1763 were cancelled. On your side a mere constructive boundary was established, and the construction when examined amounted to nothing more than the King's pleasure. No part of your province (not even the settled quarters of the country, quite to the River Hudson) was secured from the possible operation of such a principle. Besides, there was a possibility (at least) that in the settlement of the boundary Ministers would naturally lean to extend those limits the most where the Royal prerogative was most extensive, and consequently their power the highest. I do not mean to charge them with that intention. But no laws stood in the way of such an inclination if it ever did exist or should happen to exist hereafter. This was not (as it might be between two ancient British colonies) a mere question of geographical distinction, or of economical distribution, where the inhabitants on the one side of the line and the other lived under the same law and enjoyed the same privileges of Englishmen. But this was a boundary discriminating different principles of jurisdiction and legislation; where in one part the subject lived under law, and in the other under prerogative.

From these impressions I proposed my objections on the second reading, reserving a more regular opposition to the Committee. In the interval I conferred with Lord Dartmouth and Mr. Pownall, and afterwards with Lord North, upon the subject. But first I formed my plan for an amendment to the clause as it stood in the Bill, before it was committed. I could have wished for a more perfect and authorized information, but I was obliged to act at the instant. The Bill came in late in the session, and if I had let it pass for want of being instructed, the occasion could, in all human probability, never be recovered.

I saw you had claims founded on these grounds,—the old Dutch settlement; the placing of the Five Nations within your government; the boundary line of Governors Moore and Carleton; and the maintenance of the Fort of Oswego during the late war, which carried you to Lake Ontario.

These claims had no fault but the want of definition. To define is to abridge. Something, then, must be given up. I was persuaded that when one negotiates with power, it is policy to give up handsomely what cannot be retained, and to gain that strength which will always more or less attend the reasonableness of a proposition, even when it is opposed by power. I thought that well secured and tolerably extensive boundaries were better than the amplest claims which are neither defined nor allowed. My idea was to get the limits of Quebec, which appeared to many, as well as myself, intended to straiten the British colonies removed from construction to certainty; and that certainty grounded on natural, indisputable and immoveable barriers—rivers and lakes where I could have them; lines where lines could be drawn; and where reference and description became necessary, to have them towards an old British colony and not towards this new and, as was thought, favourite establishment.

I assured Ministry, that if they refused this reasonable offer, I must be heard by counsel. As they found some opposition growing within and without doors, and they were in haste to carry through their Bill, brought in so late in the session, after some discussion and debate they gave way to the amended clause as you see it.

The work was far more troublesome than those who were not present can well believe. It cost us near two whole days in the Committee. The grand difficulty arose from the very unsettled state of the boundary of Pennsylvania. We could not determine whether it advanced northward beyond Lake Erie, or ran within that Lake, or fell to the south of it; and this uncertainty made the whole matter beyond expression perplexing. Objections on the part of Quebec were raised to the last moment, and particularly to the post of

LETTER OF THE RIGHT HON. EDMUND BURKE ON THE QUEBEC BILL, 1774.

Niagara, which Mr. Carlton, I am told, was very earnest to have within his government, but by the Act it is excluded and is on your side. I believe some imagined that these difficulties would make me give up the point; but it is carried, and if not a perfect arrangement it prevents a very bad one, and may form a basis for a much better in times more favourable to the old colonies.

After the affair was over it was suggested to me that I ought to have expressly defined this line to be the limits of New York as well as of Canada. To this I answer, that I was aware of the inconveniences which might arise from the want of this clear specification supposing the Board of Trade to act insidiously, unfairly and captiously, which I have no reason to imagine they will do from anything I have observed in them or in other parts of Ministry.

But I confess when I consider that Canada is put on the other side of the waters its bounds being expressly so marked out, it appears to me absolutely impossible to say to whom the land on this side belongs, except to you, unless his Majesty should choose to erect a new government, a thing no way likely or convenient for any good purpose. The Quebec line was constantly stated and argued in the House as the boundary between the Provinces of Quebec and New York, in that public discourse (rather than debate) which latterly we had on the subject. I think the line, to all intents and purposes, as much your boundary as if it were ever so expressly set down. Canada, at least, cannot say "this belongs to me."

I did not press to have the line called the boundary between New York and Canada; because we would again fall into discussion about the bounds of other Colonies as we had about those of Pennsylvania, which discussion alone had very near defeated me. It would be asked why the line along Nova Scotia, New Hampshire and the Northern Massachusetts Claim was not called the boundary of these Provinces as well as of New York.

It would be said that this Act was to settle a constiution for Quebec and not for adjusting the limits of the colonies, and in the midst of this wrangle the whole object would have infallibly escaped the House as it grew quite tired of it. All business stood still whilst we were wording the clause, and on our difficulties Lord North proposed to revert to the old words, which he said to him were the best, and that he only gave way to the sentiments of other people who on his concession found a difficulty in effectuating their own purpose.

I must therefore accept what I could get, and the true method of estimating the matter is to take together—the time, what we escaped, and what we obtained, and then to judge whether we had not had a tolerable bargain. Those who were present congratulated me as on a great advantage. I am sure I acted for the best, with great rectitude of intention and a good deal of assiduity. I send you the Bill with the amendments marked. As to the other parts of the Bill they are matters of more general policy. As I have already given you a great deal of trouble I do not mean to detain you any longer upon foreign matter.

I received your obliging letter of the 31st of May, and am extremely happy in the honour of your approbation.

You undoubtedly may dispose of my letters as you judge proper. I must in this respect confide entirely in your prudence, being fully satisfied that the matter will always direct you sufficiently in what you ought to conceal and what to divulge.

I have sent off long ago the Wawayanda and Cheesecock Acts. I have had the honour of seeing Mr. Cruger at my house on his return to Bristol. I endeavoured to attend to him in the manner to which his merit and connections entitle him.

I have the honour to be,
With the highest esteem and regard,
Gentlemen,
Your most obedient and humble Servant,
EDMUND BURKE.

Beaconsfield, August 2, 1774.
To the Committee of Correspondence
for the General Assembly at New York.

IMPERIAL ORDER IN COUNCIL OF 24TH AUGUST, 1791.

THE OBJECTS OF THE QUEBEC BILL, 1774.

In "The History of America...By William Russell, Esquire,* of Gray's Inn, London; 1778," the author referring to this Bill, says: "The particular objects of the Bill were to augment the importance of the Province of Quebec, by extending its limits southward to the banks of the Ohio, westward to the banks of the Mississippi, and northward to the boundary of the Hudson's Bay Company; to form a Legislative Council, [&c.]...." (Vol. 2, p. 469).

ORDER IN COUNCIL, 24TH AUGUST, 1791, FOR THE DIVISION OF THE PROVINCE OF QUEBEC INTO THE PROVINCES OF UPPER AND LOWER CANADA.

(Copy obtained by the Government of Ontario from the Public Records Office, London.)

AT THE COURT AT ST. JAMES'S, THE 24TH OF AUG., 1791.

PRESENT:

The King's most Excellent Majesty in Council.

Whereas there was this day read at the Board a Report from the Right Honble. the Lords of the Committee of Council, dated the 19th of this instant, in the words following, viz.:—

"Your Majesty having been pleased by your Order in Council, bearing date the "17th of this instant, to refer unto this Committee, a letter from the Right Honble. "Henry Dundas, one of your Majesty's Principal Secretaries of State, to the Lord Pre- "sident of the Council, transmitting a printed copy of an Act passed in the last Session "of Parliament, entitled An Act to repeal certain parts of an Act passed in the four- "teenth year of His Majesty's Reign, entitled An Act for making more effectual pro- "vision for the Government of the Province of Quebec, in North America, and to make "further provision for the Government of the said Province; And also copy of a paper† "presented to Parliament previous to the passing of the said Act, describing the line "proposed to be drawn for dividing the Province of Quebec into two separate Provinces, "agreeable to Your Majesty's Royal intention, signified by message to both Houses of "Parliament, to be called the Province of Upper Canada and the Province of Lower "Canada; and stating that by Sect. 48 of the said Act, it is provided that by reason of "the distance of the said Provinces from this Country, and of the change to be made "by the said act in the Government thereof, it may be necessary that there should be "some interval of time between the notification of the said Act to the said Provinces re- "pectively, and the day of its commencement within the said Provinces respectively, "and that it should be lawful for Your Majesty, with the advice of your Privy Council, "to fix and declare, or to authorize the Governor or Lieutenant-Governor of the Pro- "vince of Quebec, or the Person administering the Government there, to fix and declare "the day of the commencement of the said Act within the said Provinces respectfully, "provided that such day shall not be later than the thirty-first day of December, one "thousand seven hundred and ninety-one; the Lords of the Committee, in obedience to "Your Majesty's said Order of Reference, this day took the said letter into their con- "sideration, together with the Act of Parliament therein referred to, and likewise copy "of the said paper, describing the line proposed to be drawn for separating the Province "of Upper Canada and the Province of Lower Canada: And their Lordships do there- "upon agree humbly to report, as their opinion, to Your Majesty, that it may be advis- "able for Your Majesty, by Your Order in Council, to divide the Province of Quebec "into two distinct Provinces, by separating the Province of Upper Canada and Province

*Afterwards Dr. Russell. He was author of many books—amongst others his well-known "History of Modern Europe."

† For a copy of this paper, see *post*, p. 411.

"of Lower Canada, according to the said line of division described in the said Paper;
"And the Lords of the Committee are further of opinion that it may be adviseable for
"Your Majesty, by warrant under Your Royal Sign Manual, to authorize the Governor
"or Lieutenant of the province of Quebec, or the person administering the Government
"there, to fix and declare such day for the commencement of the said before-mentioned
"Act, within the said two Provinces of Upper and Lower Canada respectively, as the
"said Governor or Lieutenant-Governor of the Province of Quebec, or the person admin-
"istrating the Government there, shall judge most adviseable; provided that such day
"shall not be later than the thirty-first day of December in the present year one thou-
"sand seven hundred and ninety-one."

His Majesty this day took the said Report into His Royal consideration, and approving of what is therein proposed, was pleased, by and with the advice of His Privy Council, to order that the Province of Quebec be divided into two distinct Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said two Provinces, according to the line of division inserted in said Order: And His Majesty is hereby further pleased to order, that the Right Honble. Henry Dundas, one of His Majesty's principal Secretaries of State, do prepare a Warrant to be passed under His Majeety's Royal Sign Mannual, to authorize the Governor or Lieuteuant-Governor of the Province of Quebec, or the person administering the Government there, to fix and declare such day as they shall judge most adviseable, for the commencement, within the province of Upper Canada and the Province of Lower Canada respectively, of the said Act passed in the last Session of Parliament, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Ma-"jesty's Reign, intituled an Act for making more effectual provision for the Government "of the Province of Quebec, in North America, and to make further provision for the Gov-"ernment of the said Province;" provided that such day, so to be fixed and declared for the commencement of the said Act, within the said two Provinces respectively, shall not be later than the thirty-first day of December, one thousand seven hundred and ninety-one.

STEPH. COTTRELL,

Endorsed,
Order in Council,
24th August, 1791,

Ordering the division of the Province of Quebec into two Provinces, to be called the Province of Upper Canada and the Province of Lower Canada.

FURTHER BOUNDARY DESCRIPTIONS IN ENGLISH COMMISSIONS, 1794, 1838–9.

7TH JUNE, 1794.

HENRY CALDWELL, ESQUIRE.—*Receiver-General of the Province of Lower Canada.**

WHEREAS We thought fit, by an Order made in our Privy Council on the nineteenth day of August, One thousand seven hundred and ninety-one, to divide Our Province of Quebec into two separate Provinces, to be called the Province of Upper Canada, and Province of Lower Canada, by a line to commence at a stone boundary on the north bank of the Lake St. Francis, at the cove west of Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north, thirty-four degrees west, to the westermost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running north twenty-five degrees east, until it strikes the Ottawa River, to ascend the said river into the Lake Tomiscaming, and from the head of the said lake, by a line drawn

* Book marked "Commissions from 27th Dec. 1775, to 4th Nov., 1797," in Privy Council Office, Ottawa.

due north until it strikes the boundary line of Hudson's Bay; the Province of Upper Canada to comprehend all such lands, territories, and islands lying to the westward of the said line of division, as were part of our said Province of Quebec; and the Province of Lower Canada to comprehend all such lands, territories, and islands lying to the eastward of the said line of division as were part of our said Province of Quebec.

13TH DECEMBER, 1838.

SIR JOHN COLBORNE.—*Captain-General and Governor-in-Chief of the Province of Upper Canada.**

Our Captain General and Governor-in-Chief in and over our said Province of Upper Canada, the said Province being bounded on the east by the line dividing that Province from Lower Canada, beginning at a stone boundary on the north bank of the Lake St. Francis, at the cove west of the Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north 34 degrees west to the westernmost angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil running north 25 degrees east, until it strikes the Ottawa River, to ascend the said River into the Lake Temiscanning; the said Province of Upper Canada being also bounded by a line drawn due north from the head of the said lake until it reaches the shore of Hudson's Bay; the said Province of Upper Canada being bounded on the south, beginning at the said stone boundary between Lancaster and New Longueuil, by the Lake St. Francis, the River St. Lawrence, the Lake of the Thousand Islands, Lake Ontario, the River Niagara, which falls into Lake Erie, and along the middle of that Lake. On the west by the Channel of Detroit, Lake St. Clair, up the River St. Clair, Lake Huron, the west shore of Drummond Island, that of Saint Joseph and Sugar Island, thence into Lake Superior.

6TH SEPTEMBER, 1839.

THE RIGHT HONOURABLE CHARLES POULETT THOMSON.—*Captain-General and Governor-in-Chief in and over our said Province of Upper Canada.*†

[This Commission contains boundary descriptions exactly the same as those in the foregoing Commission to Sir John Colborne.]

BOUCHETTE ON THE BOUNDARIES OF UPPER CANADA, 1815.‡

The Province of Lower Canada lies between 45° and 52° N. Latitude and 63° and 81° W. Longitude, nearly, from Greenwich. It is bounded on the north by the territory of the Hudson's Bay Company on the East Main; ... and on the west by a line line which separates it from Upper Canada as fixed by... Act of Parliament, and promulgated by proclamation in the Province on the 18th day of November, 1791, as follows:—[Then follows the description from the proclamation, including the words] "From the head of the said lake [Temiscaming] by a line drawn due north until it strikes the boundary line of Hudson's Bay, including 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."

* State Book, Upper Canada, L, p. 383, (in Privy Council Office, Ottawa.)
† Ib. M, p. 250.
‡ Extracts from "A Topographical Description of the Province of Lower Canada with remarks upon Upper Canada, By Joseph Bouchette, Surveyor General, London, 1815." (pp. 1-3, 589, 590.)

UPPER CANADA.—Since the year 1791, the Province of Upper Canada has been bounded in the following manner, viz.: on the east by Lower Canada, on the north-east by the Grand or Ottawa River, which in that direction separates it from the Lower Province; on the north by the territory of the Hudson's Bay Company. * * * On the west and north-west no limits have been assigned to it, therefore it may be supposed to extend over the vast regions that spread towards the Pacific and the Northern Oceans.

CHIEF-JUSTICE DRAPER ON THE MERIDIAN OF THE SOURCE OF THE MISSISSIPPI AS A WESTERN BOUNDARY.

(Extract from a letter [now in the Department of Secretary of State, Ottawa], dated London, 12th June, 1857, and addressed to the then Provincial Secretary.)

Although it certainly appears to me, as a matter of legal inference, that the language of the Statute of 1774 (not varied by the Proclamotion of 1791*), leaves no ground for contending that the limits of the Province of Canada, extend west of the westernmost head of the Mississippi river—yet it is desirable to have the decision of the Judicial Committee [of the Privy Council] on that point, as well as on the northern boundary; and if, as I confidently hope, the decision gives to Canada a clear right west to the line of the Mississippi, and some considerable distance north of what the Hudson's Bay Company claim, there would be no obstacle in ascertaining the practicability of communication and laying out lands for settlement on Rainy River and Rainy Lake.

MISCELLANEOUS PAPERS.

COMMISSION OF SIEUR TALON TO BE INTENDANT OF CANADA, 1665.†

Louis, by the Grace of God, King of France and Navarre, to Our trusty and beloved councillor in Our Councils, Sieur Talon, Greeting:

Considering it expedient for the good of Our people, and the regulation of Justice, Police and Finances, in Our Country of Canada, to establish in the office of Intendant on the spot, a person capable of worthily serving Us, We have to this end laid eyes on you, by reason of the special confidence we repose in your experience, good conduct and integrity, qualities of which you have given proofs on all occasions in which you were called to manifest your affection for Our service. For these and other reasons Us moving, We have commissioned, ordered and deputed, and by these presents, signed by Our hand, commission, order and depute you Intendant of Justice, Police and Finance in Our Country of Canada, Acadie, and the Island of Newfoundland and other Countries of Northern France [de la France Septentrionale], to assist in that quality at the Councils of War which shall be holden by our Lt.-General in America, and by the Governor and Our Lt.-General in said Country of Canada;* to hear the complaints which shall be made to you by Our people of said Country, by the military and all others, of excesses, wrongs, and violences; render them good and quick justice; take information touching all enterprises, practices and intrigues committed against Our Service; proceed against those guilty of any crime, of what quality or condition soever they may be: prosecute and perfect the trial unto definitive judgment and execution thereon, inclusive; to call to you the number of Judges and Graduates fixed by the Ordinances; and take cognizance generally of all crimes and delicts, abuses and malversations that may be committed by whomsoever he may be, in Our said Countries; to preside in the Sovereign Council in the absence of Sieur de Tracy,

* This Proclamation, as well as the Order in Council on which it is founded, have these words not contained in the Statute: "including 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."

† N. Y. Hist. Col., Vol. ix., p. 22.

Our Lieutenant-General in America, and of Courcelles, Governor and Our Lieutenant-General in Our said Countries of Canada; to judge sovereignly alone in civil matters, and to order everything as you shall see just and fit, confirming from this present time, as well as then, the judgments which shall be rendered thus by you, in the same manner as if they had issued from our Sovereign Courts, all exceptions, citations, (*prisis à partie*), edicts, ordinances and other things to the contrary notwithstanding. We will, likewise, that you superintend the direction, management and distribution of Our funds destined, and hereafter intended, for the support of the military; also of the provisions, ammunition, repairs, fortifications, contingencies, loans and contributions which may have been, or may be for the expenses therein, and other disbursements which shall be made there for Our service; to verify and adjust (*arrêter*) the statements and ordinances thereof, which shall be expedited by Our Lieutenant-General-in-Chief, and, in his absence, by Our other Lieutenant-Generals, to the payers whom it shall concern; to cause to be reported to you the rolls and musters, to check and register them; and in all the above circumstances and appurtenances, to do and order what you shall deem necessary and expedient for the good and advantage of Our service, and what will relate to the duty and exercise of the office of Intendant of Justice, Police and Finances in Our said Country.

The honours, powers, authorities, prerogatives, pre-eminences appertaining thereto, We intend that you enjoy, with the appointments which shall be ordered you by Us; to do which We give you power, authority, commission and special order; We command the said Sieur de Tracy and de Courcelles to place you in the enjoyment of the effect and contents of these presents; We order the officers of the Sovereign Council and all others our officers, justices, subjects, to acknowledge, hear and obey you in said quality, to assist you and lend you efficient aid, and prisons if necessary, for the execution of these presents; for such is Our pleasure.

Given at Paris, the 23rd day of March, in the year of Grace, 1665, and of Our Reign the 22nd.

LOUIS.

By the King,
D'LIONNE.

[And sealed with the Great Seal in yellow wax.]

CIRCUMSTANCES ATTENDING THE RENEWAL OF THE HUDSON'S BAY COMPANY'S CHARTER, FOR SEVEN YEARS, 1690.*

It being alleged in the Committee, that the Company's charter was confirmed by Act of Parliament, the Lords and Commons Journals were inspected; in which it appeared, that in 1690, the Company, sensible that they had no legal title to their monopoly, petitioned the Commons for a bill to confirm their Charter, upon account of the great losses they had sustained from the French, and their having no right to restrain English interlopers. Accordingly a bill for the perpetual confirmation was brought into the House; but upon a petition against the bill from the furriers, and afterwards from the Northern Colonies of America, some of which came too late to be heard, at the third reading a rider was proposed, to make it temporary; and upon a division, whether for seven or ten years, it was carried for the latter; but the Lords returning it amended, by inserting seven years instead of ten, the Commons agreed to the amendment, and passed the bill. The Commons, however, to prevent their being surprised into such an act for the future, came to a resolution, which was made a standing order of the House, that no petition should be received for confirming any charter, unless the charter itself was annexed to the petition.

* From Sessional Papers, English House of Commons, ordered to be printed 23 April, 1849. No. 227.

OPINION OF SIR D. RYDER AND SIR W. MURRAY ON H. B. CO.'S CHARTER, 1748.

JOINT OPINION OF THE ATTORNEY AND SOLICITOR-GENERAL, SIR DUDLEY RYDER AND SIR WILLIAM MURRAY, ON THE HUDSON'S BAY COMPANY'S CHARTER, 1748.*

To the Right Honorable the Lords of a Committee of His Majesty's Most Honourable Privy Council.

May it please your Lordships:—

In humble obedience to Your Lordships' Order in Council of the 4th of February last, representing that by an Order in Council, bearing date the 26th day of January last, there was referred to Your Lordships the humble petition of Arthur Dobbs, Esq., and the rest of the Committee appointed by the subscribers for finding out a passage to the Western and Southern Ocean of America for themselves and the other adventurers, and that Your Lordships having taken the said petition into consideration, were pleased to refer the same to us to consider thereof, and to report our opinion thereupon to Your Lordships.

Which petition sets forth that the petitioners in the year 1746 did at their own costs and charges fit out two ships upon an expedition in search of the north-west passage to the western and southern ocean of America, in order to extend the trade and increase the wealth and power of Great Britain by finding out new countries and nations to trade with, as well in the great north-western continent of America, beyond Hudson's Bay, as in countries still further distant and hitherto unknown to the Europeans, and also to many large and populous islands in that great western ocean.

That the petitioners, by means of the said expedition, have made several discoveries of bays, inlets, and coasts, before unknown, and have a reasonable prospect of finding a passage to the Southern Ocean by sea, although the discovery may not be perfected without repeated trials, upon account of the difficulties and dangers of searching different unknown inlets and streights, and sailing through new seas, and of procuring men of resolution, capacity, and integrity to pursue it effectually.

That the petitioners find that the reward of £20,000 given by Parliament is not adequate to the expense the adventurers must be at to perfect the discovery, they having already expended above half that sum in their late expedition.

That the petitioners find that upon a former attempt His Majesty's predecessor, King Charles the Second, as a suitable encouragement granted a Royal Charter to the Governor and Company of Adventurers of England trading to Hudson's Bay, making them a body corporate forever, upon their petition setting forth that they had, at their own proper costs and charges, made an expedition to discover a new passage into the South Sea, and for finding some trade of furs, mines, and other commodities, and gave them the sole property of all the lands they should discover, together with an exclusive trade to all the countries within Hudson's Streights not in possession of any of his subjects, or of any other Christian power, with the royalties of mines, minerals, gems, and royal fish, to enable them to find out the passage, extend the trade, and to plant the countries they should discover, paying two elks and two black beavers whenever and as often as His Majesty and his successors should enter their territories, granting to them the greatest privileges as lords proprietors, saving only their faith and allegiance to the Crown of Great Britain.

The petitioners beg leave to observe that the said Company have not since effectually or in earnest searched for the said passage, but have rather endeavored to conceal the same and to obstruct the discovery thereof by others; nor have they made any new discovery either upon the coast or in the inland countries adjoining to Hudson's Bay since the grant of their charter, nor have they taken possession of or occupied any of the lands granted to them, or extended their trade into the inland parts of the adjoining continent, nor made any plantations or settlements except four factories and one small trading house,

* That portion only, of this opinion, which appears in Forsyth's "Constitutional Law," having been printed in the proper section, p. 193, ante, and the full text having since been found, it has been thought well to give it here in *extenso*. It is from the Report of the Parliamentary Committee, 1749, Appendix [E.]

in all which they have maintained in time of peace about one hundred and twenty persons, servants to the Company, nor have they allowed any other of His Majesty's subjects to plant, settle or trade in any of the countries adjoining to the Bay, granted to them by their charter, yet have connived at or allowed the French to encroach, settle, and trade within their limits on the south side of the Bay, to the great detriment and loss of Great Britain.

That the petitioners being desirous to pursue the discovery of the passage to the Southern Ocean of America by land or by water, will engage not only to prosecute the same until it be thoroughly discovered as far as practicable, but also to settle and improve the land in all the countries on that northern continent, by making alliances with and civilizing the natives, and incorporating with them, and by that means lay a foundation for their becoming Christians and industrious subjects of his Majesty, and also extend the British trade into the heart of that northern continent around the Bay, and into such countries as they may discover beyond it in the Western Ocean, and to use their utmost endeavors to prevent the French encroachments upon the British rights and trade in that continent.

In order, therefore, to enable the petitioners to prosecute and bring to perfection so valuable a discovery, and to civilize the natives and settle the lands without loss of time, and that the trade and settlement of such extensive countries may not be longer delayed or perhaps for ever lost to his Majesty and his successors by the encroachments of the French.

The petitioners most humbly pray that his Majesty would be graciously pleased to incorporate the petitioners and the other subscribers for finding out the said passage, or such of them and such other persons as they shall engage in the said undertaking, and their successors for ever, and grant to them the property of all the lands they shall discover, settle, and plant in a limited time in the northern continent of America, adjoining to Hudson's Bay and Streights, not already occupied and settled by the present Company of Adventurers trading to Hudson's Bay, with the like privileges and royalties as were granted to the said Company, and that his Majesty would be pleased to grant unto the petitioners, (during the infancy of their settlements,) an exclusive trade, for such a term of years as may be granted to discoverers of new arts and trade, to all such countries into which they shall extend their trade by land or by water, not already granted by Act of Parliament to other companies, reserving to the present Company of Adventurers trading to Hudson's Bay all the forts, factories and settlements, they at present occupy and possess, with a reasonable district round each of their possessions and factories; or that his Majesty would be pleased to grant the petitioners such other relief and encouragement as to his Majesty in his great wisdom should seem meet.

We have taken the same into consideration, and have been attended by counsel both in behalf of the petitioners and the Hudson's Bay Company, who oppose the petition as it interferes with their Charter.

The petitioners insisted on two general things: that the Company's charter was either void in its original creation, or became forfeited by the Company's conduct under it.

That the petitioners have by their late attempts to discover the North-West Passage and Navigation in those parts merited the favour petitioned for.

As to the first, the petitioners endeavoured to show, that the grant of the country and territories included in the Company's Charter was void for the uncertainty of its extent, being bounded by no limits of mountains, rivers, seas, latitude or longitude, and that the grant of the exclusive trade within such limits as there were, was a monopoly, and void on that account.

With respect to both these, considering how long the Company have enjoyed and acted under this charter without interruption or encroachment, we cannot think it advisable for his Majesty to make any express or implied declaration against the validity of it, till there has been some judgment of a Court of Justice to warrant it; and the rather because if the charter is void in either respect, there is nothing to hinder the petitioners from exercising the same trade which the Company now carries on; and the petitioner's own grant, if obtained, will itself be liable in a great degree to the same objection.

REPORT OF THE PARLIAMENTARY COMMITTEE ON H. B. CO., 1749.

As to the supposed forfeiture of the Company's Charter by non-user or abuser, the charge upon that head is of several sorts; viz.: That they have not discovered nor sufficiently attempted to discover the North-West Passage into the South Seas or Western Ocean.

That they have not extended their settlements through the limits of their Charter.

That they have designedly confined their trade to a very narrow compass, and have for that purpose abused the Indians, neglected their own Forts, ill-treated their own servants, and encouraged the French.

But on consideration of all the evidence laid before us, by many affidavits on both sides (herewith enclosed), we think these charges are either not sufficiently supported in point of fact, or in a great measure accounted for from the nature or circumstances of the case.

As to the petitioners' merit, it consists in the late attempts made to discover the same passage, which, however, as yet unsuccessful in the main point, may probably be of use hereafter in that discovery, if it should ever be made, or in opening some trade or other, if any should hereafter be found practicable; and have certainly lost the petitioners considerable sums of money.

But as the grant proposed is not necessary in order to prosecute any future attempt of the like kind, and the charter of the Hudson's Bay Company does not prohibit the petitioners from the use of any of the ports, rivers, or seas included in their charter or deprive them of the protection of the present settlements there, we humbly submit to your Lordships' consideration whether it will be proper at present to grant a charter to the petitioners, which must necessarily break in upon that of the Hudson's Bay Company, and may occasion great confusion by the interfering interest of two companies setting up the same trade against each other in the same parts and under like exclusive charters. All which is humbly submitted to your Lordships' consideration.

D. RYDER,
W. MURRAY.

August 10th, 1748.

REPORT OF THE COMMITTEE APPOINTED TO ENQUIRE INTO THE AFFAIRS OF THE HUDSON'S BAY COMPANY. 1749.*

EXTRACTS FROM THE EVIDENCE OF WITNESSES.

JOSEPH ROBSON:—Thinks "that the beavers which are brought down to the Company are refused by the French from their being a heavy commodity; for the natives who come to trade with the Company dispose of their small valuable furs to the French, and bring down their heavy goods to the Company in summer, when the rivers are open, which they sell, and supply the French with European goods purchased from the Company.

RICHARD WHITE:—"The French intercept the Indians coming down with their trade as the witness believes, he having seen them with guns and cloth of French manufacture; and that an Indian told him there was a French settlement up Moose River, something to the southward of the West, at the distance, as the witness apprehends, of about 50 miles.....The French deal in light furs, and take all of that sort they can get, and the Indians bring the heavy to us. Sometimes the Indians bring down marten's skins, but that is when they don't meet with the French; but he never knew any Indians who had met the French bring down any light furs...The French settlement on Moose River is on Abbitibis Lake...The trade might be further extended by sending up Europeans to winter among the natives, which, though the Company have not lately attempted, the French actually do."

ROBERT GRIFFIN:—"The French intercept the trade; to prevent which the Com-

*Report from the Committee appointed to enquire into the state and condition of the countries adjoining to Hudson's Bay, and of the trade carried on there, together with an appendix. Reported by Lord Strange, April 24, 1749. (pp. 216, 218, 226-7, 234.)

pany some time ago built Henly House, which did in some measure answer the purpose; but if they would build further in the country it would have a better effect. The French went there first and are better beloved, but if we would go up into the country the French Indians would trade with us."

ALEXANDER BROWN:—"The French intercepting the southern Indians, and by that means obtaining the valuable furs...Has been informed by the Indians, that the French Canadese Indians come within six score miles of the English factories...The French Indians come to Albany to trade for our heavy goods...Has heard Mr. Norton [the Governor] say that the French ran away with our trade...If the trade was opened the French would not intercept the Indians, since in that case the separate traders must have out-factories in the same manner the French have, which the Company have not;" and being asked "In case those out-settlements were erected, whether the same trade could be carried on at the present settlements?" he said "That was impossible, but the trade would be extended, and by that means they would take it from the French. That if these settlements were near the French they must have garrisons to secure them against the French, and the Indians who trade with and are in friendship with them, (whom he distinguished by the name of French Indians)...He heard the Indians tell Governor Norton, in the year 1739, that the French had a settlement at about a distance of 100 or six score miles from Churchill, which had then been built about a year, and contained 60 men with small arms.....That the witness was informed by an Indian and his whole family that this settlement was upon Seel River, which was navigable up to it for canoes."

WILLIAM WANSEY:—"Has been told the French draw the Indians from Hudson's Bay .....The creating settlements up in the country would be the most proper method to increase the trade."

EXTRACTS FROM THE APPENDIX TO THE SAME REPORT.

No. IX.

AN ACCOUNT OF THE NAMES OF THE HUDSON'S BAY COMPANY'S FORTS AND SETTLEMENTS IN THE BAY SITUATED IN OR NEAR THE FOLLOWING LATITUDES:

	DEG.	MIN.
Moose Fort	51	28
Henly House or Fort	52	
The East Main House	52	10
Albany Fort	52	18
York Fort	57	10
Prince of Wales Fort	59	

No. XV.

AN ACCOUNT OF THE NUMBER OF SHIPS AND THE BURDEN OF EACH EMPLOYED IN THE HUDSON'S BAY COMPANY IN THEIR TRADE TO THE SAID BAY FOR TEN YEARS LAST PAST, DISTINGUISHING EACH YEAR.

		BURDEN OF EACH.	
Anno, 1739	Three ships	170, 130, 120,	Tons
1740	Three ships	170, 130, 120,	"
1741	Two ships	170, 120,	"
1742	Two ships	170, 120,	"
1743	Two ships	170, 120,	"
1744	Four ships	190, 170, 130, 120,	"
1745	Four ships	190, 170, 130, 120,	"
1746	Four ships	190, 170, 130, 120,	"
1747	Four ships	190, 170, 130, 120,	"
1748	Four ships	190, 170, 130, 120,	"

N.B.—The above mentioned ships' only employ has been in carrying on the trade between the port of London and Hudson's Bay.

REPORT OF THE PARLIAMENTARY COMMITTEE ON H. B. CO., 1749.

No. XVIII.

AN ACCOUNT OF THE ORIGINAL STOCK OF THE HUDSON'S BAY COMPANY WITH THE INCREASE OF THE SAME.

In obedience to the Order of the Committee of the Honourable the House of Commons, dated 10th March, 1748, requiring an account of the original subscribed stock, and whether it hath been increased, &c.

1676. October 16.	It appears by the Company's books that their stock then was		£10,500
1690. September.	The same being trebled, is		21,000
	Which makes the stock to be		31,500
1720. August 29.	This stock being again trebled is		63,000
	Which makes the stock to be		94,500
	And a subscription was taken in of 10 per cent. amounting to	£3,150	
December 23,	Which being trebled is	6,300	
	Additional stock		9,450
	Which makes the present amount of their stock to be		£103,950

No. XXV.

EXTRACTS FROM THE ORDERS GIVEN BY THE HUDSON'S BAY COMPANY TO THEIR CHIEF FACTORS IN THE BAY, IN ANTICIPATION OF AN ATTACK OVERLAND FROM CANADA.

Mr. Joseph Isbister and Council, at Albany Fort.

LONDON, 10th May, 1744.

GENTLEMEN:

5th. The English and French having declared war against each other, and the war with Spain still continuing, we do hereby strictly direct you to be always on your guard, and to keep a good watch, and that you keep all your men as near home as possible.

8th. We do also direct that you fix your cannon in the most proper places to defend yourselves and annoy an enemy, after which you are to fire each cannon once with powder to see how they prove, and instruct your men to the use of them without firing. And that you keep them constantly loaded with powder and ball, ready for service. You are also to keep your small arms loaded and in good order and at hand, to be easily come at; and that those loaded arms be drawn or discharged once a month, and be well cleaned; and you are to exercise your men once a week till they are well disciplined, and afterwards once a month. And you are also to keep a sufficient number of your trading guns loaded and at hand in case of an attack; and if there be any Indians you can confide in, and will be of service in your defence, we recommend it to you to employ them in such manner as you think proper.

15th. We have wrote to the factory at Moose River, that in case they have any intelligence of the French coming down their river to attack them, they are immediately to send you notice thereof, that you may make the necessary preparations for your defence, and that there be a constant correspondence and intelligence between each factory for the safety of both.

16th. As we rely on the courage and conduct of Mr. Isbister, our chief, in case of an attack from the enemy, which, if done at all on your factory, we apprehend it will be by

land, in the winter, from Canada; in which case the enemy not being able to bring down any cannon with them, we doubt not of your frustrating their designs and repulsing them.

18th. In case you are attacked at Henly House, and notwithstanding a vigorous resistance, you should have the misfortune to be overpowered, then you are to nail up the cannon, blow up the House, and destroy everything that can be of service to the enemy, and make the best retreat you can to the factory.

19th. We direct that you to get the best information yon can from the trading Indians whether the French are making any preparations to come down to the factory, or have lodged any provisions, stores, or ammunition at certain distances for their supply. We also direct you, for your better security, at all times to keep two Indians in the factory, with civil and kind usage, and send them out every morning for intelligence to a proper distance, so as that they may return in the evening, and provided they do not return that it be an alarm to you, and that you thereupon prepare yourselves for a vigorous defence. But you must not upon any consideration let those Indians have the least knowledge of the use you intend to making of their not returning.

Mr. Joseph Isbister and Council, at Albany Fort.

LONDON, 3rd May, 1745.

GENTLEMEN:

4th. As the war continues with France and Spain we cannot be too strict in ordering and directing you to be always on your guard, and to keep a good watch, and all your men as near home as possible.

11th. We have augmented the complement of men (as you desired) at your factory and Moose Fort, that in case of need you may assist each other, and thereby we hope you will be enabled to baffle the designs of the enemy.

13th. We do direct that not only a continual correspondence be kept between you and Moose Fort, but that you correspond with the factory at Slude River, York Fort, and Prince of Wales' Fort, as often as you can, and if under any apprehensions of an attack to give immediate notice to Moose Fort.

15th. We still recommend your diligence in getting intelligence and information of the designs of the French.

Mr. Robert Pilgrim and Council, at Prince of Wales' Fort.

LONDON, 6th May, 1747.

GENTLEMEN:

3rd. War still continuing with France and Spain, we renew our former order of being always on your guard, and to keep a good watch and your men near home, except those that are guarding the battery at Cape Merry, but not to hinder a proper number to be employed in providing a sufficient quantity of the country provisions to prevent the complaint of those persons that murmur for want of victuals; and we recommend sobriety that you may be capable of making a vigorous defence if attacked.

4th. We again recommend your keeping the land, round the Fort and the Battery at Cape Merry, free from everything that may possibly conceal or shelter an enemy, that you may thereby prevent being surprised.

10th. We again direct that you keep up a general correspondence with all the Factories, and get what intelligence you can of the designs of the French.

Mr. Spence and Council, at Albany Fort.

LONDON, 5th May, 1748.

GENTLEMEN:

4th. War still continuing with France and Spain we again hereby strictly order you to be always on your guard, and to keep a good watch and your men near home,

but not to hinder a proper number to be employed in providing a sufficient quantity of the country provisions, particularly geese, which we find you constantly employ the Indians only to kill for you, and which we are dissatisfied with; that being such a material article, you ought always to blend some of your people with the natives in the goose seasons, that they may understand how to kill them, and thereby lessen your dependence on the native hunters.

Mr. Joseph Isbister and Council, at Prince of Wales' Fort.

LONDON, 5th May, 1748.

GENTLEMEN:

7th. We do also direct that you constantly keep your great guns loaded with powder and ball, ready for service during the time the rivers are open; you are also to keep your small arms loaded and in good order, and at hand, to be easily come at, which loaded arms and cannon are to be drawn once a month and well cleaned, and to exercise your men as often as requisite whom we expect by this time are artists, not only in the use of small arms but also of cannon, that the great expense we have been at in this particular may answer the end proposed thereby in case of an attack. You are also to keep a sufficient number of your trading guns loaded and at hand, which charges are also to be drawn every month, and if there be any Indians you can confide in, and will be of service to you in your defence, we recommend it to you to employ them in such manner as you think proper.

No. XXVII.

CORRESPONDENCE BETWEEN THE COMPANY AND THEIR AGENTS ON THE BAY.

SETTLEMENT OF PORT NELSON.

To John Bridgar, Governor of Port Nelson.

MAY 15th, 1682.

We having thought fit to make a Settlement in the River of Port Nelson, in Hudson's Bay, have chosen you out from amongst those who have formerly served our Company, as a person whom we judge qualified for such a charge, wherein we hope you will never give us reason to think ourselves mistaken; but that you will behave yourself with that prudence, integrity and industry that becomes you in so great a trust, both for your own reputation and the interest and advantage of the Company.

In the first place, upon your arrival there, you are, with the advice of Captain Guilham, to choose out the most convenient place for building a house and fort for your safety and accommodation.

TRADE WITH THE INTERIOR.

To Henry Sargeant, Esq.

ARRIL 27th, 1683.

You are to choose out from amongst our servants, such as are best qualified with strength of body and the country language, to travel and to penetrate into the country, to draw down the Indians by fair and gentle means to trade with us.

REPORT OF THE PARLIAMENTARY COMMITTEE ON H. B. CO., 1749.

From Henry Sargeant.

CHARLTON ISLAND, 13th September, 1683.

I shall not be neglectful as soon as I find any man capable and willing for to send up into the country with the Indians, to endeavour to penetrate into what the country will and may produce, and to use their utmost in bringing down the Indians to our Factory; but your honours should give good encouragement to those who undertake such extraordinary service, or else I fear there will be but few that will embrace such employment.

To Henry Sargeant, Esq.

22ND MAY, 1685.

We perceive our servants are unwilling to travel up into the country by reason of danger and want of encouragement. The danger we judge is not more now than formerly, and for their encouragement we shall plentifully reward them when we find they deserve it by bringing down Indians to our Factories, of which you may assure them. We judge Robert Sandford a fit person to travel, having the linguæ and understanding the trade of the country; and upon a promise of Mr. Young (one of our adventurers), that he should travel, for which reasons we have advanced his wages to thirty pounds per annum, and William Arrington, called, in the Bay, Red-cap, whom we have again entertained in our service, as also John Vincent; both which we do also judge fit persons for you to send up into the country to bring down trade.

From Governor Sargeant.

CHARLTON ISLAND, August 24th, 1685.

Mr. Sandford does not accept the terms your honours propose, but rather chooses to go home. Neither he nor any of your servants will travel up the country, although your honours have earnestly desired it, and I pressed it upon those proposals you have hinted.

[B.]

VALUE OF EXPORTS AND IMPORTS FROM HUDSON'S BAY IN THE UNDERWRITTEN YEARS, AS THEY STAND IN THE INSPECTOR-GENERAL'S BOOKS AT THE CUSTOM HOUSE.

		Exports.			Imports.		
From Christmas, 1735, to Christmas	1736	£1519	16	10	£9924	8	7
	1737	4124	18	2	10813	5	8
	1738	3869	17	7	10821	11	7
	1739	3984	4	4	13659	10	5
	1740	3837	2	8	11869	3	7
	1741	4203	17	1	9656	3	6
	1742	3028	17	0	12647	9	10
	1743	3644	2	9	12466	3	11
	1744	4871	10	1	11036	3	9
	1745	3795	4	9	11380	16	4
	1746	3320	9	10	8560	9	0
		£40241	1	1	£122835	6	3

JOHN OXENFORD,
Inspector-General.

N.B.—These values are cast up by fixed and standing estimates, and not at the real cost they were bought and sold at.

Custom House, London, 13th March, 1748.

STATIONS OF THE HUDSON'S BAY COMPANY, AND THE NORTH-WEST COMPANY, RESPECTIVELY, AT THE PERIOD OF THEIR COALITION, 1820-21.*

Hudson's Bay Company's Stations:

Northern Department.

1. York.
2. Severn.
3. Churchill.
4. De Island.
5. Deers Lake.
6. Rock Depot.
7. Island Lake.
8. Norway House.
9. Beren River.
10. Lake La Pluie.
11. Red River.
12. Upper Red River.
13. Manitouba.
14. Swan River.
15. Cumberland.
16. Carlton.
17. Edmonton.
18. Lesser Slave Lake.
19. Isle à la Crosse.
20. Athabusca.
21. Peace River.
22. Great Slave Lake.

Southern Department.

1. Moose.
2. New Brunswick.
3. Kunogumesee.
4. Michipicoton.
5. Albany.
6. Henley.
7. Martin's Falls.
8. Osnaburgh.
9. Red Lake.
10. East Main.
11. Neisquiscar.
12. Waswonappy.
13. Rupert's Store.
14. Whale River.

North-West Company's Stations.†

1. Fort William Depot.
2. Mils Lacs.
3. Fort George (Columbia).
4. Williamette River.
5. Ney Percés.
6. Thomson's River.
7. Okenagan.
8. Spokan.
9. Flat Heads.
10. Koutonnais.
11. Rocky Mountain House.
12. Fort Chipewyan (Athabasca).
13. Forks, Fraser River.
14. Fraser's Lake.
15. Stewart's Lake.
16. McLeod's Lake.
17. St. Johns.
18. Dunvegan.
19. Isle aux Sources.
20. Fort Vermilion.
21. Fond du Lac.
22. Moose Deer Island.
23. Fort Providence.
24. Rivière au Liard.
25. Fort Alexandria.
26. Fort Good Hope.
27. Lesser Slave Lake.
28. Lac la Biche.
29. Isle à la Crosse (English River).
30. Green Lake.
31. Lac la Loche.
32. Lac la Rouge.
33. Lac Carribaux.
34. Fort Augustus (Fort des Prairies).
35. Rocky Mountain House.
36. Pembina River.
37. Moose Lake.
38. Montee or Crossing Place.

* Statement furnished by the Hudson's Bay Company to the Dominion Government for the purposes of the present arbitration.

† Many of these N. W. Co.'s stations—as Matagamie, New Brunswick, Abitibi, Waswanipi, Long Lake, etc., are north of the northerly watershed of the St. Lawrence. As this Company was also lessee of the "King's Posts," no doubt many of them would be found on the same side of the watershed.

H. B. CO.'S STATEMENT AS TO THEIR TRADE WITH THE INTERIOR, BEFORE 1763.

39. Cumberland House.
40. Moose Lake House.
41. Swan River.
42. Fort Dauphin.
43. Alexandria.
44. Rivière la Biche.
45. Fala Perdrix.
46. Beaver Creek (Red River).
47. Rivière la Souris.
48. Grand Pointe.
49. Rivière au Pembina.
50. Forks.
51. Fort Alexander (Lake Winipeg).
52. Rivière au Morts.
53. Tête au Brochet.
54. Lac du Bonnet.
55. Grand Etière.
56. Lac la Pluie.
57. Vermilion Lake.
58. War Road.
59. White Fish Lake.
60. Lac des Isles.
61. Lake Nipigon.
62. Sturgeon Lake.
63. Lake Lat.
64. Scabitechewan.
65. Red Lake.
66. Lesser Sturgeon Lake.
67. Abimonde Lake.
68. Pic.
69. Long Lake.
70. Black River.
71. Michipicoton.
72. Matagame.
73. New Brunswick.
74. Batchewanan Bay.
75. Petoubeau.
76. Sault Ste. Marie.
77. Mitsisague (Lake Huron).
78. La Cloche.
79. Island Post.
80. S. E. Lake.
81. Lake Temiscamingue.
82. Abitibi.
83. Waswanipi.
84. Grand Lac.
85. Matawacamingue.
86. Flying Post.
87. Fort Coulogne (Ottawa River).
88. Sandey Lake.
89. Round Lake.
90. Tadousac (King's Posts).
91. Chicoutimi.
92. Lake St. John.
93. Isle de Jérêmie (Mingan).
94. Seven Islands.
95. Mingan.
96. Lake of the Two Mountains.
97. Chats.

THE HUDSON'S BAY COMPANY'S STATEMENT AS TO THEIR TRADE WITH THE INTERIOR, PRIOR TO 1763.*

As long as Canada was held by the French the opposition of wandering traders (coureurs des bois) was insufficient to induce the Company to give up their usual method of trading. Their servants waited at the forts built on the coast of the bay, and there bought by barter the furs which the Indians brought from the interior.†

But after the cession of Canada to Great Britian in 1763, British traders following in the track of the French, penetrated into the countries lying to the north-west of the Company's territories, and by their building factories brought the market for furs nearer to the Indian seller.†

The Company finding their trade seriously affected, extended the field of their operations, and sent parties to establish themselves in the interior. In process of time all smaller opposing interests were absorbed either by purchase or coalition in the North-West Company of Montreal, which thus became the sole rival and competitor to the Hudson's Bay Company. During many successive years a most disastrous contest was carried on between these two companies. Wherever one Company established a trading post, there at once the other Company also commenced operations. This system of close competition

* From the "Statement of the Hudson's Bay Company, 1857," pp. 4, 5. This printed statement was furnished by the Company to the Dominion Government for the purposes of the present arbitration.

† And the French had their forts and posts on the rivers and lakes of the northern watershed, and carried away the best of the trade, even pushing their operations to the very shores of the Bay, as at La Carpe, Temiscamingue, and on the east coast, to the north of Slude River. In the west the French had forts on nearly all the lakes and rivers—five of which on the Saskatchewan—one at its very source in the Rocky Mountains. See also evidence, pp. 395-6 *ante*.

rapidly produced a general state of disorganization, resulting in scenes of violence and bloodshed between the Indians, the trappers and the traders, in the interests of the rival Companies.

THE BRITISH COLUMBIA ACT, 1866.

AN ACT FOR THE UNION OF VANCOUVER ISLAND WITH THE COLONY OF BRITISH COLUMBIA.*

[6th August, 1866.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled and by the authority of the same, as follows :

1. This Act may be cited as "The British Columbia Act, 1866."

2. In this Act the term "Governor," means any officer for the time being lawfully administering the Government.

3. From and immediately after the proclamation of this Act by the Governor of British Columbia the Colony of Vancouver Island shall be, and the same is hereby united with the colony of British Columbia, and thenceforth those two colonies shall form and be one colony, with the name of British Columbia, (which union is in this Act referred to as the union).

4. On the union taking effect, the form of Government existing in Vancouver Island as a separate colony shall cease, and the power and authority of the Executive Government and of the legislature, existing in British Columbia, shall extend to and over Vancouver Island; but in order that provision may be made for the representation of Vancouver Island in the Legislature of British Columbia after the union, the maximum number of Councillors in the Legislative Council of British Columbia, after the union, shall, until it is otherwise provided by lawful authority, be twenty-three instead of fifteen.

5. After and notwithstanding the union, the laws in force in the separate colonies of British Columbia and Vancouver Island respectively, at the time of the union taking effect shall, until it is otherwise provided by lawful authority, remain in force as if this Act had not been passed or proclaimed: save only that the laws relative to the Revenue of Customs in force in British Columbia at the time of the union taking effect shall, until it is otherwise provided by lawful authority, extend and apply to Vancouver Island; and until it is otherwise provided by lawful authority, the Governor of British Columbia shall have, in relation to the territory for the time being under his Government, all the powers and authorities for the time being vested, in relation to the United Kingdom, in the Commissioners of Her Majesty's Treasury, or in the Commissioners of Customs with respect to the appointment of Warehousing Ports, and the approval and appointment of warehouses or places of security in such ports, and everything consequent thereon or relative thereto.

6. Nothing in this Act shall take away or restrict the authority of the Governor of British Columbia, with the advice and consent of the Legislative Council thereof, to make laws for the peace, order and good government of British Columbia either before or after the union: nor shall anything in this Act interfere with the exercise of any power that would have been exerciseable by Her Majesty in Council if this Act had not been passed.

7. Until the union, British Columbia shall comprise all such territories, within the dominions of Her Majesty, as are bounded to the south by the territories of the United States of America; to the west by the Pacific Ocean and the frontier of the Russian territories in North America; to the north by the sixtieth parallel of north latitude; and to the east from the boundary of the United States northwards by the Rocky Mountains and the one hundred and twentieth meridian of west longitude; and shall include Queen Charlotte's Island, and all other islands adjacent to the said territories, except Vancouver Island and the islands adjacent thereto.

* Imperial Act, 29 & 30 Vict. c. 67, (1866).

8. After the union, British Columbia shall comprise all the territories and islands aforesaid, and Vancouver Island and the Islands adjacent thereto.

9. The Acts described in the Schedule to this Act are hereby repealed; but this repeal shall not invalidate any Order in Council or other Instrument issued under the authority of those Acts or either of them, or any act done, or right or title acquired by virtue of those Acts, or of either of them, or of any such order or instrument.

THE BRITISH NORTH AMERICA ACT, 1867.

(Further Extract.)

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union, on such terms and conditions, in each case, as are in the Addresses expressed, and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

THE RUPERT'S LAND ACT, 1868.

AN ACT FOR ENABLING HER MAJESTY TO ACCEPT A SURRENDER, UPON TERMS, OF THE LANDS, PRIVILEGES AND RIGHTS OF "THE GOVERNOR AND COMPANY OF ADVENTURERS OF ENGLAND TRADING INTO HUDSON'S BAY," AND FOR ADMITTING THE SAME INTO THE DOMINION OF CANADA.*

[31st July, 1868.]

WHEREAS by certain Letters Patent, granted by His late Majesty King Charles the Second, in the twenty-second year of His Reign, certain persons therein named were incorporated by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and certain lands and territories, rights of government and other rights, privileges, liberties, franchises, powers and authorities, were thereby granted, or purported to be granted, to the said Governor and Company in His Majesty's Dominions in North America.

And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the advice and consent of Her Majesty's Most Honourable Privy Council, on address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such terms and conditions as are in the address expressed and as Her Majesty thinks fit to approve, subject to the provisions of the said Act:

And whereas, for the purpose of carrying into effect the provisions of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid, upon such terms as Her Majesty thinks fit to approve, it is expedient that the said lands, territories, rights, privileges, liberties, franchises, powers and authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, her heirs and successors, upon such terms and conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the

* Imperial Act, 31-2 Vict., c. 105.

advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as "Rupert's Land Act, 1868."

2. For the purposes of this Act, the term "Rupert's Land" shall include the whole of the lands and territories held, or claimed to be held, by the said Governor and Company.

3. It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty, by any instrument under sign manual and signet, to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company, within Rupert's Land, upon such terms and conditions as shall be agreed upon, by and between Her Majesty and the said Governor and Company : Provided, however, that such surrender shall not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada, in pursuance of the one hundred and forty-sixth section of the British North America Act, 1867 ; and that the said surrender and acceptance thereof shall be null and void, unless within a month from the date of such acceptance Her Majesty does, by Order in Council, under the provisions of the said last recited Act, admit Rupert's Land into the said Dominion : Provided further that no charge shall be imposed by such terms upon the Consolidated Fund of the United Kingdom.

4. Upon the acceptance by Her Majesty of such surrender, all rights of government and proprietary rights, and all other privileges, liberties, franchises, powers and authorities whatsoever granted, or purported to be granted, by the said Letters Patent to the said Governor and Company, within Rupert's Land, and which shall have been so surrendered shall be absolutely extinguished : Provided that nothing herein contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere trade and commerce.

5. It shall be competent to Her Majesty, by any such Order or Orders in Council as aforesaid, on Address from the Houses of the Parliament of Canada, to declare that Rupert's Land shall, from a date to be therein mentioned, be admitted into and become part of the Dominion of Canada ; and thereupon it shall be lawful for the Parliament of Canada, from the date aforesaid, to make, ordain and establish within the land and territory so admitted as aforesaid, all such laws, institutions and ordinances, and to constitute such courts and officers, as may be necessary for the peace, order, and good government of Her Majesty's subjects and others therein : Provided that until otherwise enacted by the said Parliament of Canada, all the powers, authorities, and jurisdiction of the several courts of justice now established in Rupert's Land, and of the several officers thereof, and of all magistrates and justices now acting within the said limits, shall continue in full force and effect therein.

IMPERIAL ORDER IN COUNCIL RESPECTING RUPERT'S LAND AND THE NORTH-WESTERN TERRITORY, 1870.*

At the Court at Windsor, the 23rd day of June, 1870.

PRESENT :

The Queen's Most Excellent Majesty,
Lord President,
Lord Privy Seal,
Lord Chamberlain,
Mr. Gladstone.

* Bound with Statutes of Canada, 35 Vict., 1872, p. lxiii. The Schedules referred to are to be found in same place.

ORDER IN COUNCIL RESPECTING RUPERT'S LAND AND N. W. TERRITORY, 1870.

Whereas by the "British America Act of 1867," it was (amongst other things) enacted, that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union, on such terms and conditions, in each case, as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act:

And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland;

And whereas by an Address from the Houses of the Parliament of Canada, of which Address a copy is contained in the Schedule to this Order annexed, marked A, Her Majesty was prayed by and with the advice of Her Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with the Dominion of Canada, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, upon the terms and conditions therein stated:

And whereas by the "Rupert's Land Act, 1868," it was (amongst other things) enacted that it should be competent for the Governor and Company of Adventurers of England trading into Hudson's Bay (hereinafter called the Company), to surrender to Her Majesty, and for Her Majesty, by any instrument under her sign manual, and signet, to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever, granted, or purported to be granted, by certain Letters Patent, therein recited, to the said Company, within Rupert's Land, upon such terms and conditions as should be agreed upon by and between Her Majesty and the said Company: provided, however, that such surrender should not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land should be admitted into the said Dominion of Canada should have been approved of by Her Majesty and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada in pursuance of the 146th section of the "British North America Act, 1867":

And it was, by the same Act, further enacted, that it should be competent to Her Majesty, by Order or Orders in Council, on Addresses from the Houses of the Parliament of Canada to declare that Rupert's Land should, from a date to be therein mentioned, be admitted into, and become part of the Dominion of Canada.

And whereas a second Address from both the Houses of Parliament of Canada has been received by Her Majesty, praying that Her Majesty will be pleased under the provisions of the hereinbefore recited Acts, to unite Rupert's Land, on the terms and conditions expressed in certain resolutions therein referred to, and approved of by Her Majesty, of which said resolutions and addresses copies are contained in the schedule to this Order annexed, marked B, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the hereinbefore first recited address, and also approved of by Her Majesty:

And whereas a draft surrender has been submitted to the Governor-General of Canada, containing stipulations to the following effect, viz.:—

1. The sum of £300,000 (being the sum hereinafter mentioned), shall be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months after acceptance of the surrender aforesaid, with interest on the said sum at the rate of 5 per cent. per annum, computed from the date of such acceptance until the time of such payment.

2. The size of the blocks which the Company are to select adjoining each of their forts in the Red River limits, shall be as follows:—

	Acres.
Upper Fort Garry and Town of Winnipeg, including the enclosed park around shop and ground at the entrance of the town	500
Lower Fort Garry (including the farm the Company now have under cultivation)	500
White Horse Plain	500

3. The deduction to be made as hereinafter mentioned from the price of the materials of the electric telegraph in respect of deterioration thereof, is to be certified within three calendar months from such acceptance as aforesaid by the Agents of the Company in charge of the depots where the materials are stored, and the said price is to be paid by the Canadian Government into the Bank of England, to the credit of the Company, within six calendar months of such acceptance, with interest at the rate of 5 per cent. per annum on the amount of such price, computed from the date of such acceptance until the time of payment.

And whereas the said draft was on the fifth day of July, one thousand eight hundred and sixty-nine, approved by the said Governor-General, in accordance with a report from the Committee of the Queen's Privy Council for Canada; but it was not expedient that the said stipulations, not being contained in the aforesaid second address, should be included in the surrender by the said Company to Her Majesty of their rights aforesaid, or in this Order in Council;

And whereas the said Company did by deed, under the seal of the said Company, and bearing date the nineteenth day of November, one thousand eight hundred and sixty-nine, of which deed a copy is contained in the schedule to this Order, annexed marked C, surrender to Her Majesty all the rights of government, and other rights, privileges, liberties, franchises, powers, and authorities granted, or purported to be granted to the said Company by the said Letters Patent herein and hereinbefore referred to, and also all similar rights which may have been exercised or assumed by the said Company in any part of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia, and all the lands and territories (except and subject as in the terms and conditions therein mentioned) granted or purported to be granted to the said Company by the said Letters Patent;

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under her sign manual and signet, bearing date at Windsor the twenty-second day of June, one thousand eight hundred and seventy;

It is hereby ordered and declared by Her Majesty, by and with the advice of the Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Acts of Parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy, the said North-Western Territory shall be admitted into and become part of the Dominion of Canada upon the terms and conditions set forth in the first hereinbefore recited address, and that the Parliament of Canada shall from the day aforesaid have full power and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that without prejudice to any obligations arising from the aforesaid approved report, Rupert's Land shall, from and after the said date, be admitted into and become part of the Dominion of Canada, upon the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second address of the Parliament of Canada, and approved of by Her Majesty as aforesaid:—

1. Canada is to pay to the Company £300,000 when Rupert's Land is transferred to the Dominion of Canada.

2. The Company are to retain the posts they actually occupy in the North-Western Territory, and may within twelve months of the surrender select a block of land adjoining each of its posts within any part of British North America, not comprised in Canada and British Columbia, in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the schedule of the aforesaid deed of surrender. The actual survey is to be proceeded with with all convenient speed.

3. The size of each block is not to exceed [10] acres round upper Fort Garry, [300] acres round lower Fort Garry; in the rest of the Red River Territory a number of acres to be settled at once between the Governor in Council and the Company, but so that the aggregate extent of the blocks is not to exceed 50,000 acres.

4. So far as the configuration of the country admits the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, of which the frontage shall not be more than half the depth.

5. The company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one-twentieth part of the land so set out. The blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding eight cents, Canadian, an acre. The Company may defer the exercise of their right of claiming the proportion of each township for not more than ten years after it is set out, but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last Article the Fertile Belt is to be bounded as follows :— On the south by the United States boundary ; on the west by Rocky Mountains ; on the north by the northern branch of the Saskatchewan ; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which for the purpose of this article shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

8. In laying out any public roads, canals, &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one-twenty-fifth of the total acreage of the block, but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated, within the meaning of the last preceding clause, shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company, are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity, and no exceptional tax is to be placed on the Company's land, trade, or servants, nor any import duties on goods introduced by them previous to the surrender.

12. Canada is to take over the materials of the electric telegraph at cost price, such price including transport but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land, under agreements of Messrs. Vankoughnet and Hopkins, is to be withdrawn.

14. Any claims of Indians to compensation, for lands required for purposes of settlement, shall be disposed of by the Canadian Government, in communication with the Imperial Government, and the Company shall be relieved of all responsibility in respect of them.

15. The Governor in Council is authorized and empowered to arrange any details that may be necessary to carry out the above terms and conditions.

And the Right Honourable Earl Granville, one of Her Majesty's principal Secretaries of State, is to give the necessary directions herein accordingly.

ACT CREATING THE DISTRICT OF KEEWATIN, 1876.

AN ACT RESPECTING THE NORTH-WEST TERRITORIES AND TO CREATE A SEPARATE TERRITORY OUT OF PART THEREOF.*

Whereas it is expedient, pending the settlement of the western boundary of Ontario, to create a separate Territory of the Eastern part of the North-West Territories: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

* 39 Vic. chap. 21 (1876, Dom.)

LICENSES GRANTED BY CANADA TO MINE, ETC., WEST OF 88° 50', 1854-60.

1. All that portion of the North-West Territories, bounded as follows, that is to say:—Beginning at the westerly boundary of the Province of Ontario, on the international boundary line dividing Canada from the United States of America; then westerly, following upon the said international boundary line, to the easterly boundary of the Province of Manitoba; thence due north, along the said easterly boundary of Manitoba, to the north-east angle of the said Province; thence due west, on the north boundary of said Province, to the intersection by the said boundary of the westerly shore of Lake Manitoba; thence northerly, following the said westerly shore of the said lake, to the easterly terminus thereon of the Portage connecting the southerly end of Lake Winnepegosis with the said Lake Manitoba, known as "The Meadow Portage;" thence westerly, following upon the trail of the said Portage, to the westerly terminus of the same, being on the easterly shore of the said Lake Winnepegosis; thence northerly, following the line of the said easterly shore of the said lake to the southerly end of the portage leading from the head of the said lake into "Cedar Lake," known as the "Cedar" or Mossy Portage:" thence northerly, following the trail of the said portage, to the north end of the same on the shore of Cedar Lake; thence due north, to the northerly limits of Canada; thence easterly, following upon the said northerly limits of Canada, to the northerly extremity of Hudson's Bay; thence southerly, following upon the westerly shore of the said Hudson's Bay, to the point where it would be intersected by a line drawn due north from the place of beginning, and thence due south, on the said line last mentioned, to the said place of beginning; shall be, and is hereby set apart as a separate district of the said North-West Territories by the name of the District of Keewatin.

LICENSES TO MINE, &c., ON PIGEON RIVER, WEST OF LAKE SUPERIOR, GRANTED BY THE PROVINCE OF CANADA.

LICENSES GRANTED BY THE PROVINCE OF CANADA, PRIOR TO CONFEDERATION, TO EXPLORE AND TO MINE, OR QUARRY, FOR METALS, MINERALS, ETC., ON THE NORTHERLY SHORE OF LAKE SUPERIOR—THE WESTERN BOUNDARY OF THE TERRITORY COVERED BY THE LICENSES, RESPECTIVELY, BEING PIGEON RIVER.

LICENSEE.	DATE.
Wharton Metcalfe	22nd March, 1854
James Adam	22nd March, 1854
Peter Mitchell	13th June, 1854
Asa Fowls	13th June, 1854
Thomas Daly	2nd August, 1855
R. R. Nelson	2nd August, 1855
Charles Kemball	2nd August, 1855
Edward H. Hawk	2nd August, 1855
J. Van Etten	3rd August, 1855
Louis M. Oliver	3rd August, 1855
John McMurrich	23rd July, 1858
John McIntyre	5th July, 1860
Colin Rankin	3rd August, 1860

DEPARTMENT OF CROWN LANDS,
TORONTO, 23rd Nov., 1877.

Examined,
T. DEVINE,
D. S. G.

THOS. H. JOHNSON,
Assist. Commissioner.

LICENSES GRANTED BY CANADA TO MINE, ETC., WEST OF 88° 50', 1854-60.

FORM OF LICENSE.*

PROVINCE OF CANADA.

LICENCE TO EXPLORE FOR METALS, MINERALS, &C., ON THE NORTHERLY SHORE OF LAKE SUPERIOR.

R. R. Nelson, of having paid into this office the sum of twenty five pounds, by the hands of *Mr. W. H. Jones* (being the authorized charge for this Licence) is hereby permitted to explore and examine, in accordance with the General Order in Council, dated 21st September, 1853, within the section of country situated between *Sault Sainte Marie* and *Pigeon River*, on the Shore of Lake *Superior* and extending *Ten* miles in a *northerly* direction, during a period of six months from the date hereof, and to mine or quarry for copper ore, lead, iron, tin, marble, gypsum, earths or minerals, upon any unlocated and unoccupied lands within that section of country, and not falling within any Indian or Public Reserve, and to select and take possession of a Tract not exceeding in extent Four Hundred Acres, and of the form of forty chains in front by one hundred chains in depth. And subject to the said *R. R. Nelson* reporting accurately his discovery, and the selection he has made, to the Commissioner of Crown Lands, within the said period of six months; and furnishing at the same time a Map and Report thereof, together with an affidavit by the Licence holder and some other credible person proving that no counter occupation or workings exist.

This License to remain in force for the term of two years, and to entitle the party named therein to purchase the Tract he may select; paying the consideration money in one sum, at the rate of seven shillings and sixpence per acre, within that period. Or failing to do so he shall be regarded as having abandoned such right to purchase.

Until a purchase be completed, the Licence holder shall not convey from the Location, which he selects, any copper ore, lead, iron, tin, marble, gypsum, earths or minerals, excepting such specimens as may be necessary for testing the quality and value thereof; nor shall he, until a purchase be completed, fell or remove any timber from the location.

Upon a selection being made, the subjoined Certificate of Location will be filled up.

JOSEPH CAUCHON,
Com. Cr. Lands.

Crown Lands Department,
Quebec, *2nd August*, 1855.
No. 9.

I CERTIFY that *R. R. Nelson* mentioned in the preceding Licence, to explore for metals, minerals, &c., having declared his selection under its provisions, and filed the required affiidavits, has been entered on the map of this office for a Mining Tract of 400 acres, situated at *Thunder Bay, and on the north shore thereof*, the outlines of which pending an actual survey are calculated by the Office Maps, as follows, that is to say: *The south-east angle of the Tract being about seven miles north-easterly from the mouth of the Rivière au Courant in north latitude* 48° 29' 30" *and west longitude* 49° 16' 40" *on Bayfield's Chart of Lake Superior. The Tract being forty chains in perpendicular breadth by one hundred chains in mean depth. The lateral lines running due north and the rear lines at right angles thereto.*

JOSEPH CAUCHON,
Com. Cr. Lands.

Crown Lands Department,
Toronto, 30th, January, 1856.

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*Book "Mining Licenses," Crown Lands Department, Toronto, p. 9. The written part of the License is here given in italics: the rest composes the printed form of the Department.

DESCRIPTION OF THE INTER-PROVINCIAL BOUNDARY, 24TH AUG., 1791.

ORDER IN COUNCIL REFERRED TO IN THE FOREGOING LICENSE.

In Council, September 21, 1853.

On the Communication from the Crown Land Department, dated 15th September, instant, representing that the existing system, relative to the allotment of mining tracts, not having realized the anticipations formed by the Government of the period of their promulgation, nor on the other hand, enabled individuals desirous of engaging in mining pursuits to effect their objects without compelling them to purchase locations of so extensive an area as to occasion a needlessly large expenditure of capital on acquiring a right to explore and mine where the indications were favourable, it is repectfully submitted by the Department whether it may not be desirable in substitution of the system laid down in the Orders in Council of 18th April, 1846, 9th May, 1846, and 7th October, 1846, to devise regulations, combining with a right to explore, during a limited period, on favourable terms, the privilege of purchasing tracts of very moderate extent, provided the exploration proves satisfactory:

The Committee recommend that on payment into the hands of the Commissioner of Crown Lands of the sum of twenty-five pounds, that officer be permitted to issue a license to any individual authorizing him to explore upon any unconceded lands within the limits of any such country, or section of country, as he may desire to be inserted, situate within the boundaries of Upper Canada, for copper, lead, iron, tin, marble, gypsum, earth or minerals. Such license to remain in force for a period of two years, and to authorize the individual in whose favour it issued to take possession of a tract not exceeding four hundred acres, and not already occupied by any other person—such tract to be in the proportion of forty chains front by one hundred chains in depth. The license holder to report his discovery and selection accurately by letter and map within six months from the issue of his license, accompanied by an affidavit made by himself and some other credible person, proving that no counter occupation or workings exists.

And at the expiration of the said term of two years, during which the license shall have force, he shall complete a purchase, paying the consideration money in one sum, at the rate of seven shillings and six pence per acre, or failing to do so he shall be regarded as having abandoned such right to purchase.

Certified

WM. H. LEE.

DESCRIPTION OF THE LINE OF DIVISION BETWEEN THE PROVINCES OF UPPER AND LOWER CANADA, REFERRED TO IN THE ORDER IN COUNCIL OF 24TH AUGUST, 1791.*

To commence at a stone boundary on the north bank of the Lake St. Francis, at the Cove, west of Pointe au Bodet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil; running along the said limit in the direction of north thence along the north-western boundary of the Seigneurie of Vaudreuil running north twenty-five degrees east, until it strikes the Ottawas River, to ascend the said River into the Lake Tomiscanning, and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including 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.

* This paper was procured by the Government of Ontario from the Public Records Office, London. The Order in which it is referred to, and which, for our purpose, is incomplete without it, is to be found at p. 388 *ante*.

RESEARCHES MADE ON BEHALF OF DOMINION AND ONTARIO, 1876-8.

STATEMENTS OF THE CHAIRMAN OF THE HUDSON'S BAY COMPANY, AND OF THE AGENTS OF THE DOMINION AND ONTARIO GOVERNMENTS, RESPECTIVELY, AS TO THE RESULT OF RESEARCHES MADE IN ENGLAND AND FRANCE, WITH THE VIEW OF PROCURING EVIDENCE FOR THE PURPOSES OF THE PRESENT ENQUIRY.

From the Right Honourable George G. Goschen, Chairman of the Hudson's Bay Company.

Hudson's Bay House,

London, 12th, December, 1876.

Sir,

I have the honour to acknowledge your letters requesting information relating to the boundary between the Province of Upper Canada and the Territory held by the Hudson's Bay Company.

I enclose a map No. 1, showing the Territories claimed by the Company in virtue of the Charter granted to them by King Charles the Second. The map in question was prepared by Mr. John Arrowsmith, and was ordered by the House of Commons to be printed 31st July, and 11th August, 1857.*

I also enclose a statement No. 2, prepared for the Company in 1857, with reference to the Parliamentary enquiry which took place in that year.† The boundaries were then asserted to be, on the side of the United States, by the 49th parallel of Latitude; on the side of Canada, by the height of land whose waters flow into Hudson's Bay; and on the north by the Arctic Ocean.‡

At the time of the passing of the Quebec Act, 1774, the Company had not extended their posts and operations far from the shores of Hudson's Bay.§ Journals of the following trading stations have been preserved bearing that date, namely: Albany, Henley, Moose, Eastmain, York, Severn and Churchill.‖

These Journals give no information upon the subject of the boundaries between Canada and the Territory of the Company, nor was the question raised in 1748, when the House of Lords held an enquiry with reference to the Company's affairs as at that time conducted.¶

A map No. 3, no doubt prepared for that occasion, and sent herewith, shows the extent of country to which these operations were then confined.**

At a subsequent period, namely in 1777, a map was published in London by John Andrews, giving the height of land, near Lake Abitibi and other quarters, and showing certain boundaries for the Province of Upper Canada.††

I am to request that the maps and documents accompanying this letter may be returned to the Company when the enquiry to which you refer has been completed.

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*This is map No. 186, p. 139 *ante*.

† See extract from this Statement, p. 402 *ante*.

‡ See map No. 186, p. 139 *ante*.

§ This admission of the Chairman of the Company agrees with the Company's Statement of 1857 hereinbefore referred to and with what the French and their Canadian successors always claimed,—the territory they occupied being coextensive with their claims. Thus it is admitted that the Company, up to 1774, had not proceeded far from the shores of the Bay, whilst on the other hand, it is clear that the French, up to 1763, had maintained themselves in, and carried off the trade of the interior almost up to these very shores, —of portions of which they were in actual possession. It follows therefore that the "southern boundary of the territory" granted to the Hudson's Bay Company, and contemplated in the Quebec Act, could not have been far from the shores of the Bay.

‖ Not yet come to the hands of the Government of Ontario.

¶ This Report of the Lords, dated 1749, is largely quoted from, pp. 395-400, *ante*.

** This is map No. 80, p. 136 *o*, *ante*.

†† This is map No. 155, p. 166 *ff*, *ante*. The Province of Upper Canada had not then been created. The boundary line given is an imaginary one, without any authority.

I shall be glad if you find them useful for the purpose of defining the boundary line between the Dominion and Ontario.

I have, &c.,
GEORGE G. GOSCHEN.

The Honourable R. W. Scott,
Secretary of State for Canada,
Ottawa.

FROM MESSRS. BISCHOFF, BOMPAS AND BISCHOFF, AGENTS OF THE DOMINION.

4 GREAT WINCHESTER STREET,
LONDON, E.C., 22nd March, 1877.

SIR,—We beg to report that we have been engaged almost continuously since the date of your last letter in searching the records of the Hudson's Bay Company, and regret that our efforts have not been crowned with more satisfactory results.

The only important documents which we have found are two maps, which we did not get in time to despatch by this mail, but which shall be forwarded to you by the next.

The first and smaller of these maps defines the boundary of the Province of Quebec as settled after the Treaty of Utrecht,—a red line being drawn, and the words "The French and English respectively not to pass this line" being written thereon.*

The second is a large map of North America, published in 1755,† by one Mitchell pursuant to Act of Parliament and under authority of the Board of Trade. This map draws the boundary line between the Hudson's Bay Territory and New France as extending along "the height of land" as far as the "Lake of the Woods," and there stops, owing as we imagine to there not being at that period any accurate knowledge of the country lying westward of that point.‡ You will observe that at the point where the boundary line stops, it is running in a south-westerly direction, and here consequently, if continued, would completely cut off from New France the whole of the Red River Territory.§

Both these maps are important, as shewing that after the Treaty of Utrecht a boundary was fixed between the English and French Territories, as far as knowledge of the country would enable it to be done,‖ and that the claims of the French westward so far as

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* This is map No. 36, p. 136 *g*, *ante*. It was really made in 1709.

† The map here referred to is the *second edition* of Mitchell's Map, as to which see full notes to map No. 86, pp. 136 *t*, *u*. The boundary line, it will be noticed, is, in some places north of the height of land. Many subsequent maps which extend further west, show the same line as this one, stopping at the like terminal point,—the western boundary running thence due north, or northerly along the eastern shores of Lake Winnipeg. As to the country westward of the point mentioned, it is matter of history that the Verendryes traversed and traded through the whole Winnipeg basin before 1750: that they built forts on Rainy Lake and Lake of the Woods in 1731-2, and very shortly afterwards on the Winnipeg, Red and Assiniboine Rivers, taking possession also of the Upper Missouri and its tributaries to their sources. They subsequently extended their forts on the lakes and rivers northwards to the Saskatchewan, on which they and their successors had, up to 1755, built no less than five forts—one at the base of the Rocky Mountains. They thus commanded the whole trade of that vast region, which they called the Post of the Western Sea. (See the articles *ante*, Les Varennes de la Verendrye, and Bougainville on the French Posts.) There is ground for believing that they even penetrated before 1763 to the Athabaska country, and made it and the upper reaches of the Churchill, tributary to their forts on the Saskatchewan. Up to this period, their trade had never been disturbed, nor had any others claimed a right to it; and for 11 years more, no servant of the Hudson's Bay Company had set his foot there. The cession of Canada caused some of the old French commandants to retire from those western posts; but a good many remained, retaining the old forts and the trade, and the old *voyageurs*. These, soon after the cession, received, from Canada, reinforcements in men (both French and English) and merchandise for barter; and they and their successors quickly spread themselves over the whole western territories—to the Pacific and to Alaska, and even to the Frozen Ocean. The earliest post of the Hudson's Bay Company, in these inland parts, was Cumberland House, on Sturgeon Lake, built by Hearne in 1774; and their next post was built in 1790, when their first establishment on the Red River, or rather Red Lake, was founded. (See the present Letter, p. 415, as to their posts.)

‡ The French knew it well—see preceding note.

§ See note †, above.

‖ No such boundary was ever run, of which ample proofs, including admissions of the Hudson's Bay Company, are to be found in this book. See pp. 372-4, 176-8, *ante*; also note to map, No. 83, p. 136, *ante*.

the Rocky Mountains, and northward to the Saskatchewan, must be without foundation, as that at the date of the map (1755) the country was only known to geographers to points far short of the pretended limits.*

We also found another map of the Province of Quebec, according to Royal proclamation, of the 7th October, 1763, from the French surveys. We have not sent this map as the north-westerly boundary is the same as in the first above-mentioned map, ending at the corner of Lake Nipissing, lat. 46, long. 78.

From a perusal of the Company's journals, we find that it was not the practice of the Company's servants to go up country to purchase peltry from the Indians; but the Indians came down to York and other forts on the bay and there exchanged their furs, etc., for the Company's merchandize.† It appears that the "pedlers" [French traders—*Coureurs des Bois*], as they were called, from Quebec had for some time prior to the year 1773‡ gone up into the Red River district, and by so doing had cut off the Indians and bought their furs, and so prevented their taking them to York Fort and the other settlements and forts on the Bay.

It was to prevent this that in the year 1774, one Mr. Hearne was sent down to establish a station up country, which he accordingly did at Cumberland House.§ In the same year Matthew Cocking started on a journey to the Red River District, but no settlement was made there until some 15 years later. In his journal of this journey he mentions "that pedlers swarmed there every year." "An old pedler called 'Young Deer' residing there;" that "the natives were corrupted by the pedlers having so long resided there," and speaks of Franceways settlement on the Saskatchewan River.

These pedlers were both English and French, but seem to have come from Quebec, though there does not seem to be any authority for alleging that they were the discoverers of this Territory.‖

One Joseph La France, a French Canadian [Canadese] Indian, passed through the Red River territory and Saskatchewan, on his way to York Fort, in the years 1739-42, and in his account of the journey makes no mention of having met any pedlers, or other foreigners but only natives.¶

This story is out in the Appendix No. 2, to the report of the Committee of the House of Commons, in 1849, a copy of which has been sent by the Secretary of the Hudson's Bay Company. A map of the country was also prepared by a Mr. Dobbs, who published the story, under the instructions of Joseph La France. It is fairly accurate, but of course shows no boundaries.** The whole country westward of Lake Winnipeg is

* See note †, p. 413, *ante*.

† Writers who have touched on the subject agree that the Indians first sold their finest and best furs to the French, and then proceeded to the Bay to sell to the English the heavy and inferior furs the French had refused. (See, amongst others, Robson, pp. 62-3, 79, *etc.*)

‡ This is a mistake, as shown in note †, p. 413, *ante*. It may be added here that there is good reason to believe that the French traded and explored in the north-west before the middle of the 17th century. We find some of them in the Sioux countries about 1640; Radison and des Grosselliers were at Lake Winnipeg and on the Assiniboine in 1666, trading with the natives; and no doubt many others, of whom we have no record, did the same; a fort was built at Kamanistiquia in 1679, in which year Du l'Hut took possession of the country of the Sioux. St. Lusson had, eight years before, taken possession of all the countries of the North and North-West by consent of all the nations that inhabited them; and it will be seen from the note †, p. 413, already referred to, what the progress of the French was, in this direction, subsequent to 1731. (See as to these statements the account of Sieur Nicolet's explorations, about 1640, in Mr. Mills' last Report, and Journal de l'Instruction Publique; as to Radisson and des Grossilliers, various papers in this work; as to Du l'Hut, see Mr. Mills' Report and some papers in this book; as to St. Lusson, see Perrot's Account, *ante*.

§ See note †, p. 413.

‖ The "discoverers" were their French forefathers; and subsequently, as to the more remote districts, themselves or their immediate descendants or successors,—French and English Canadians.

¶ Were he travelling in ordinary course, and not, as was really the case, attempting to escape justice and to keep away from the French traders, who would have been sure to deliver him up, he could have met them without trouble; for he shews such considerable knowledge of the country that he could not but know where to find their forts theretofore established, and then still subsisting. But he was, in fact, trading without a license,—an offence for which swift punishment would have been meted out to him if caught. He had been poaching within the licensed limits of some farmer of the revenue, had secured cargo for his canoes and was proceeding on his route to the lower countries—perhaps to Orange—when he was met by a detachment of troops going to the upper posts. Well knowing his fate, should the commander of the troops question or suspect him, he left his furs and took to the woods, and ultimately found his way to the English at Hudson's Bay. (See Report of 1749.)

** This is map No. 74, p. 136*n*, *ante*.

left blank. The principal importance attaching to this story, we think, is that it precludes the Quebec pedlers from claiming that District by right of discovery. In one part he says the French never pass into the countries adjoining Lac la Pluie.*

The following are the dates of the establishment of the earlier posts of the Hudson's Bay Company in this District:

Cumberland Ho.†	1774	Brandon Ho.	1794
Red Lake	1790	Edmonton "	1795
S. Branch do.	1791	Carlton "	1797
Lac la Pluie	1790	Lake Winnipeg	1795
Swan River	1790	Assiniboils River	1796
La Crosse, Athabasca ‡	1791	Red River	1799

We apprehend the maps as coming direct from the custody of the Hudson's Bay Company, prove themselves. We have not taken extracts from the post diaries, inasmuch as we can trace no direct evidence calculated to support counsels theory of prior discovery by the Hudson's Bay Company,§ and the foregoing repulses [reflects] the general impression produced upon our minds by perusal of the Post Diaries, as also of sundry published histories of the district in the Company's Library, such as "Robson's Hudson's Bay," published in 1752, "Remarks upon Capt. Middleton's Defence, by Arthur Dobbs," 1744, and "Carver's Travels in North America," 1766.

As we have given the Company an undertaking that the two maps shall be returned to them when done with, we should deem it a favour if you would give directions for their receipt to be acknowledged on arrival, and for their return to us when done with.

We have the honour to be
Sir,
Your most obedient servants,
BISCHOFF, BOMPAS & BISCHOFF.

Hon. R. W. Scott,
Ottawa.

FROM THE HON. SIR JOHN ROSE TO THE HON. ALEX. MACKENZIE.

BARTHOLOMEW LANE, E.C.,
Sept. 26th, 1877.

The Minute of Council requesting that Mr. Crooks be accredited in reference to the boundary between Ontario and the Dominion, has reached me by last mail.

You have already heard by my previous letter that Mr. Crooks had sailed. I may mention, however, that even if he had remained, I do not think any research would have thrown more light on the matter than his Government is already in possession of. I employed a gentleman for several weeks to search at the Colonial Office and Foreign Office, as well as the Rolls Office, and the Hudson Bay archives, and every scrap of information bearing on it was, I think, sent out either to Mr. Campbell, whilst he was Minister of the Interior, or to Mr. Scott, some months ago. I mention this to satisfy the Ontario Government; as I believe that any further search would be attended with no result.*

Believe me to be,
Yours ever faithfully,
JOHN ROSE.

The Hon. Alex. Mackenzie,
Ottawa.

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* We have already shewn that they had a fort there in 1717.

† See as to this, note †, p. 413, *ante*. It may be further added here, that before the Company established any other fort, the Canadian fur traders—and especially their great companies, culminating in the North-West Company, of Montreal—had penetrated to the Northern and Western Oceans, building forts and settling agents in all parts of the territories; and that the Hudson's Bay Company, instead of striving to lead their rivals, contented themselves by following them at some interval, and securing such portions of the trade as the others had allowed to pass by. (See section "Canadian enterprise in the North-West."

‡ This post was on the waters of the Churchill. Canadian establishments had been formed on or near Lake Athabasca over 20 years before. *Ib.*

§ In face of the known facts appearing in this book, no legitimate prior discovery on the part of the Hudson's Bay Company, can possibly be made out.

RESEARCHES MADE ON BEHALF OF DOMINION AND ONTARIO, 1876–8

FROM MR. MCDERMOTT, AN AGENT OF SIR JOHN ROSE.

SIR JOHN ROSE:—

In accordance with your instructions I have been engaged for some time past in searching among public documents for papers or maps defining the western and northern boundaries of the Province of Ontario.

Having been informed that you had yourself investigated the collection of maps in the Foreign Office Library, the greater portion of which had been removed to the National Record Office in Rolls' Court, I commenced my search in the library of the latter department, receiving for several days the sole attention of Mr. Kingston the librarian, whose assistance, I need hardly say, saved much time and labour. I may at once state that my search has been unsuccessful. The facts and quotations supplied by you have all been easily verified, but the closest search has given no clue to the discrepancies, and no additional information in regard to disputed points.

In the first place, with regard to the western boundary line of the Province of Ontario as laid down by 14 George III., Cap. 83, no minute of the Privy Council nor any public documents of that time give any definition of the vague term "Northwards,"† nor do any of the maps of Canada indicate any boundary whatever in this region.‡ The *Second Edition* of Mitchell's Map of 1775, in this respect does not differ in any particular from the First Edition. One of Mitchell's Maps in the collection, I may add, is the identical one used by the Commissioners in settling the boundary line after the revolutionary war, and on it the western boundary line of the United States follows the course of the Mississippi northwards from its conflux with the Ohio.

With reference to the district in Michigan governed by Mr. Kay, I found among the papers of Governor Haldimand a Petition from the inhabitants of Detroit, forwarded in 1783 by a Lieutenant-Governor Hay; but amidst this very voluminous correspondence I could find no further mention of this gentleman, and no patent of his appointment exists. Such patent, I am told, would certainly be upon the Rolls had his appointment emanated from this side.

As to the line of Division between Upper Canada and Hudson's Bay Territory, I can find no explanation of the discrepancy pointed out by you between the definitions of the boundaries of Upper and Lower Canada, as given in the Proclamation of Governor Alured

* Some valuable evidence—forming part of this supplementary section (XVII.)—was afterwards procured in England by the Agent of the Ontario Government; such for instance, are the three documents, dated 1699, pp. 349 *et seq.*; Papers relating to the Commissaries, pp. 360, etc.; Claims of Hudson's Bay Company, 1752-9, pp. 376, etc.; and the Order in Council of 24 Aug., 1791, pp. 348, 411.

† This term is easily explained by comparing the boundary clause in the Quebec Bill, 1774, as it was in the draft (p. 302 *ante*), and as it was actually passed (p. 305 *ante*): it will be seen that in the draft, Canada was to extend "southward to the bank of the River Ohio; westward to the banks of the Mississippi; and northward to the southern boundary of the territory granted to the" Hudson's Bay Company. Now no one reading this description could fairly claim that the extensions southward, westward and northward were intended to be merely to the parallels of the most northern point of the Ohio, or of the most southern point of the territories of the Hudson's Bay Company, but rather that the southern boundary was to follow the sinuosities of the Ohio to its mouth, and the northern boundary to run conterminously with the southern boundary of the Hudson's Bay Company's territories. This being admitted the same rule must apply to the Mississippi, and it must be concluded that the westerly boundary of Quebec was to follow the sinuosities of that river from the Ohio to its source. The only alteration in the draft, was that suggested by Edmund Burke in the interests of New York, and related only to the southern boundary, the western boundary never having come in question: this will be seen by reference to the synopsis of the debate on this particular (pp. 299-306 *ante*). The southern boundary then was altered by running a line whose terminal point on the west was the banks of the Mississippi,—"westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the" Hudson's Bay Company. The western and northern lines were not touched; the southerly one only was altered; the mere symmetry, if not the grammatical construction of the sentence has been spoiled by the alteration.—The two first commissions issued by the Crown to the Governors of this Province of Quebec, viz.: Sir Guy Carleton in 1774, and General Haldimand in 1777, shew what meaning the Crown, the Privy Council, and Law Officers attached to the word "northwards." The words of the Commissions are: ". . . westward to the banks of the Mississippi, and northward along the eastern bank of the said River to the southern boundary of the territory granted to the" Hudson's Bay Company.

‡ There are several maps (see Notes on Maps, sec. VIII. *ante*) shewing the Mississippi to its source as the western boundary of British Canada and Quebec, respectively. The short period during which the Mississippi remained the real boundary of Provinces, viz.: 1774 to 1783, or perhaps to 1791-4,—has caused a scarcity of such maps.

Clarke in 1791, and that assigned in the Letters Patent of the Earl of Elgin in 1846. I have read carefully through the draft Instructions to the Earl of Elgin and all the correspondence relating to his appointment, but can find no mention of any reason for extending his jurisdiction to the shores of Hudson's Bay, nor indeed any allusion to boundaries other than incidentally to matters in dispute between Canada and New Brunswick. The explanation given by you that the difference may be due to a slip of the pen would seem to be correct. Subsequent research among the papers at the Colonial Office affords no other explanation.* I may mention here that the Order in Council dividing Upper and Lower Canada is dated 24th August, 1791, upon a Report from the Lords of Committee of Council, dated 17th August, 1791.†

The boundaries of the Hudson's Bay Company, as defined by the Treaty of Utrecht, are shown on both editions of Mitchell's Map as following the height of land which forms the watershed of rivers running southward to the Lakes or northward to the Bay. I do not find, however, in the Records and Correspondence of the Commissioners of Trade and Plantations (which consists of documents in French, Latin, and English), any mention of a decision arrived at by the Commissioners appointed to fix this boundary matter and other disputed questions. Neither could the Secretary of the Hudson's Bay Company afford me any information on this point. He states that the Company have no Maps illustrating the question, and that it was always understood that their territory comprised the land in which the waters flowed to the northwards, thus fixing the boundary at the height of land before mentioned. He says he will look through the documents of the Company, but he holds out no expectation of finding anything conclusive of the matter. Should he do so, he will at once communicate with you.

Under these circumstances I have thought it best to communicate at once to you the result of my enquiries. Mr. Kingston, the Librarian of the Record Office joins me in the belief that no more precise information exists on the subject, and all the older Maps show that so little was known at the time, of the regions in question, that inaccuracies and discrepancies in the description of boundaries would appear to be inevitable.

E. R. McDermott.

From Lieut.-Col. Scoble, Agent of the Government of Ontario.

Toronto, March 18th, 1878.

Sir,—It having been deemed important that a search should be made for further evidence bearing on the limits of Ontario to the west and north, I received instructions from you on the 16th October last, to proceed to Paris and London for the purpose of searching the archives relating to the history of the country, with a view to procure such further evidence.

Arriving in London on the 30th October, I presented my letter of credence to Sir John Rose, and by him was furnished with a letter to the Secretary of State for the Colonies; by whom, upon learning that my immediate intention was to proceed to Paris, I was furnished with a letter to Lord Tenterden, Under-Secretary of State for Foreign Affairs, who gave me letters to the British Ambassador in Paris. With these credentials I left London for Paris on the 3rd November, and on the 5th November, I presented my letters to Lord Lyons, and was furnished by him with letters to the Minister of Marine and Colonies, the Minister of Foreign Affairs, and the Minister of the Interior. I lost no time in presenting these, and stating the objects of my visit to the various Ministers; but owing to the unsettled state of French politics, and the changes in the *personnel* of the Ministry (there having been *five* successive changes of Ministry during the month of November), I found it very difficult to procure immediate attention. Pending the official

* If, as would seem, this difference relates to the words, in the one document "until it strikes the boundary line of the Hudson's Bay," and in the other "until it reaches the shore of Hudson Bay" (both referring to the inter-provincial boundary) it certainly cannot have been due to a "slip of the pen," for there are five other Commissions, 1838-46, containing exactly the same phrase as Lord Elgin's. (See English Commissions, *ante.*)

† See this order, pp. 388, 411 *ante.*

permission to search the public archives, I busied myself in the splendid libraries of Paris, where I found much information which was collaterally useful to me, and where I saw and made notes of, large numbers of maps published between 1713 and 1763. I was also sufficiently fortunate to establish friendly relations with M. Pierre Margry, whose historical writings upon the early history of North America are so well known. Through his advice, and aided by his extensive knowledge of all matters relating to the early history of Canada, I was enabled to commence my researches at a point very far in advance of that which I should otherwise have done.

Having at last procured the required permission to search the archives of the Marine and Colonies, a new difficulty presented itself. Monsieur Le Bon, the Sous-Directeur of the Department, was one of the Commissioners appointed to arbitrate between France and England upon the question of the Newfoundland Fisheries, and I found it difficult to disabuse his mind of the idea that my investigations had some relation to this subject. Consequently, my researches were carried on under certain restrictions. All the extracts I required were submitted to his eyes before I was allowed to use them ; and copies were made, by the clerks of the Department, of such matter only as he judged could not be used in relation to Newfoundland. I am of the opinion, however, that the copies of the documents which I forwarded to you, contain all the evidence that can be procured from that source which is material for the present purpose. I am sustained in this belief by the opinion of Mons. Margry, who was aware of the nature of my mission, and with whom I conversed frequently as to the discoveries I made, and as to the existence of farther evidence.

With respect to the reference which was made in letters* that passed between the Marquis de Torcy and Mr. Prior, and between Mr. Prior and Lord Bolingbroke in 1713, to a map or maps that had been furnished to the Commissioners of both countries, defining the extreme pretentions of each, the most diligent search on my part, both in London and Paris, failed to bring these maps to light, although I was sufficiently fortunate to discover the original letters which accompanied them. I found a map,† however, in the Depôt des Cartes de la Marine, in Paris, which bore certain autograph lines upon it, that were marked as lines "according to the pretensions of the English" and "according to the memoir of M. D'Auteuil' ‡ respectively. The first of these lines is that claimed by the memorial of the British Commissaries presented through Lord Stair in 1719,§ as being the boundary desired by the Commissaries appointed by Great Britain under the Treaty of Utrecht. The second is probably that boundary which France, as a last resort, was willing to concede. The lines are drawn upon a map published by Guillaume de L'Isle in 1703, and the lines in question doubtless furnish the data for the lines shewn in the subsequent editions of De L'Isle's maps, which, however, followed D'Auteuil's memoire more closely than the original map. M. D'Auteuil was, at the time of his "memoires," "Procureur General" in Canada, and was engaged in Paris in and after 1719 in the preparation of the French case for consideration of the Commissaries under the Treaty of Utrecht.

During my stay in Paris, I examined some hundreds of maps, many of them original, relating to French discoveries in N. America, and made full notes as to the information furnished by upwards of sixty of them. As, however, subsequent research proved many of them to have been geographically incorrect, and they bore little or no value as historical references, I did not consider it necessary to send you more than a few of the most important.

Returning from Paris to London on the 9th December, I commenced my researches by looking at the maps in the Colonial and Foreign Offices, but without finding any maps of special value in reference to boundaries.

I received much assistance in my search in the Foreign Office from E. Hertslet, Esq., C.B., whose acquaintance with the Treaties concluded by Great Britain, enabled him to give me much valuable information. My researches served to prove that no authentic map ex-

* See letter, Prior to Bolingbroke, p. 153 *ante*.
† This is Map No. 133, p. 136*f* *ante*.
‡ For this Memoir, see p. 368 *ante*.
§ For this Memoir, see p. 365 *ante*.

ists in the Colonial Office, the Foreign Office or the Public Records Office defining the extent of Country ceded by the French in 1763.*

I found a map published by Arrowsmith, in 1795, in the Foreign Office.† This map is inscribed "by permission to the Hon. Governor and Company of Adventurers trading into Hudson's Bay, in testimony of their liberal communications," and gives no boundary under the Treaty of Utrecht, but bears the letter U in Upper Canada, on the parallel of 50°, and the whole word "Upper" *north of the height of land;* whilst in an edition of the same map, dated 1795, but, as I ascertained from the publisher, *published in 1850*, the words "Upper Canada" have been erased from their original position and re-engraved close to the shore of Lake Superior, *south of the height of land.*

My researches in the Public Records Office were materially aided by Mr. Kingston, the librarian, through whose kindness I procured copies of important documents and correspondence having reference to the English Commission, under the Treaty of Utrecht.

Some of the documents forwarded from France having failed to reach you, I returned to Paris on the 11th January, completed my researches, and going back to London left for Canada on the 25th February, arriving here on the 15th inst.

In conclusion, I beg respectfully to point out the difficulties which encompass research into such a matter as that with which I have been charged. The examination of the records of nations like those of Great Britain and France, must needs be laborious, even under the most favourable circumstances; but considering that I had been preceded in my researches by many gentlemen, who gave much time and study to the subject, I feel that I have been fortunate in being able to bring to your notice documents that have never been produced before in all the course of the discussion of the Boundary question, as to the claims of the Hudson's Bay Company, and as between the Dominion and this Province. Trusting that the result of my labours has been satisfactory to you,

I am, Sir,

Your obedient Servant,

THOS. C. SCOBLE.

Hon. O. Mowat, M.P.P.
Attorney-General, &c., &c.,
Toronto.

* By the Treaty of 1763, the Mississippi, from its source to the sea, was declared to be the boundary between Louisiana and the English possessions. The previous boundaries of Louisiana were, on the north and north-east, the northern and north-eastern watershed of the Missouri from its source in the Rocky Mountains to its junction with the Mississippi—the Illinois country being at times within, and at times without the bounds and jurisdiction of Louisiana. (See the official description, pp. 41-2, *ante*. The French maps concur, as a rule, in the same boundaries.)

This northern boundary of Louisiana, was, prior to the Cession, undoubtedly the southern boundary of Canada, in that direction, up to the sources of the Missouri; and whilst Louisiana was confessedly limited to the Rocky Mountains, the French always claimed that Canada extended beyond those mountains to the Western and Pacific Seas,—having for southern boundary in those quarters New Albion or New Mexico, as the case might be. No geographer or historian has ever claimed that the countries north of Louisiana, and indefinitely westward, were other than part of Canada; sometimes they are referred to, when beyond the limit of actual discovery, as "the unknown lands of Canada."

Through these unknown lands the intrepid French commandants and their followers pushed discovery and trade—always seeking for their goal, the Western Sea. They reached the Rocky Mountains, which they probably crossed; but it was left to their Canadian successors—French and English—to establish on the Pacific slope, the establishments which secured to them its trade, and to one of them,—Sir Alexander Mackenzie,—to secure the sovereignty of the territory, to the British Crown, west of the Rocky Mountains. (See Mackenzie's Travels, and the negotiations between the United States and Great Britain respecting the Oregon Question). In the negotiations with the United States the western extension beyond the meridian of the source of the Mississippi could not be claimed by England by virtue of its having been English territory from the beginning, or of its having been French territory, not part of Canada.

It was claimed, westward to the Rocky Mountains, as a part of French Canada, and the claim was ultimately conceded. The Treaties of 1783 and 1794, made no change. By the convention of 1818, however, the par. of 49° become by mutual consent the boundary between the two countries, from the Rocky Mountains eastward to the Lake of the Woods. It will be remembered that until the recent claim of the Hudson's Bay Company, no other country than Canada had ever claimed thiswestern Territory, and that it had always been named and treated as part of Canada, whether French or English.

What France ceded then, in 1763, west of the meridian of the sources of the Mississippi, was the country bounded on the south by the parallel of the source of the Mississippi, westerly,—(1) to the South Sea or Pacific Ocean; or (2) to the northerly watershed of the Missouri, according to its situation as shown by maps and geographies of the time, and thence along such watershed to the Rocky Mountains, and thence westward to the Pacific; or (3) to the northerly watershed of the Missouri, as *now* known, and thence along such watershed to the Rocky Mountains, and thence westward to the Pacific.

ANALYSIS OF LINES,

SUGGESTED AT VARIOUS PERIODS,

FOR THE WESTERLY AND NORTHERLY BOUNDARIES OF ONTARIO;

INCLUDING

THE LINES NOW CLAIMED BY THE DOMINION AND PROVINCE RESPECTIVELY;

THE LINES CLAIMED, OR SUPPOSED TO HAVE BEEN CLAIMED, OR SUGGESTED AFTER 1713, BY THE NATIONS INTERESTED, OR THEIR REPRESENTATIVES;

The principal Lines indicated in Maps of the last Century of various value,

AND SOME COMBINATIONS OF CERTAIN OF THESE LINES.*

FOR WESTERLY BOUNDARY OF ONTARIO.

I. The Boundary of the Province of British Columbia (as established by Imperial Act), from the 49th parallel of north latitude, to the point at which such boundary strikes the boundary of the Territory of Alaska, and thence the said boundary of Alaska to the Arctic Ocean; that is, a line drawn from the said 49th parallel northward, by the Rocky Mountains, to the 120th meridian of west longitude; thence north, by that meridian, to the 60th parallel of north latitude; thence west, by that parallel, to the boundary of Alaska; and thence, along such last mentioned boundary, westerly, to the 141st meridian of west longitude, and north, by that meridian, to the Frozen or Arctic Ocean.

[By the Order in Council of August, 1791, it was ordered that the "Province of Quebec should be divided into two distinct Provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by separating the said two Provinces according to the following line of division, viz.: 'To commence at a stone boundary, on the north bank of the Lake St. Francis, &c.; and thence.....into the Lake Tomiscanning, and, from the head of the said lake, by a line drawn due north, until it strikes the boundary line of Hudson's Bay; including 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.'"—And it appears that the country then commonly called or known by the name of Canada, extended to the Western Sea and to the Frozen Ocean.]

* This analysis does not include any lines proposed on either side prior to the Treaty of Utrecht. These were, on the part of the Hudson's Bay Company: the Rivers Albany and Rupert, in 1700; the Albany and East Main Rivers, in 1702; the line from Cape Perdrix to Lake Mistassin, and thence, westward, the parallel of the south-west shore of that Lake, in 1712. And, on the part of the French, they were: the parallel of 55°, in 1700-2. In 1712, before the Treaty of Utrecht, the French King instructed his Commissaries to concede the line of 55°, or, as an alternative, half of the Bay—presumably the east half; but in 1719-20, they do not appear to have made any formal proposal to the English Commissaries.

ANALYSIS OF LINES SUGGESTED AS BOUNDARIES OF ONTARIO.

II. The boundary of the Province of British Columbia, from the 49th parallel of north latitude northwards, by the Rocky Mountains, to the point where these mountains meet the northerly watershed of the Saskatchewan River; thence easterly and north-easterly, following such northerly watershed of the Saskatchewan, until such watershed meets the northerly watershed of the Churchill River; thence, following such northerly watershed of the Churchill, to and along the height of land which divides the waters which fall into Hudson's Bay from those that fall into the Arctic Ocean, to the said Arctic Ocean.

[This variation of the first line arises from the circumstance of the French, whose territory was called Canada, not having had forts or permanent settlements beyond those on the rivers which flow into Hudson's Bay. The Canadian traders occupied the country of Saskatchewan and the upper Churchill, from the period of its discovery; while the Hudson's Bay Company had up to 1790, but one establishment there, namely, Cumberland House, built in 1774. The French Forts on the Saskatchewan dominated over and intercepted the trade of the upper reaches of the Churchill.]

III. The same line, to the point where it would meet the northerly boundary of Ontario, in case such northerly boundary does not extend to the Arctic Ocean.

IV. The boundary of the Province of British Columbia, from the 49th parallel of north latitude northward, by the Rocky Mountains, to the point where these mountains meet the northerly watershed of the Saskatchewan; and thence along such northerly watershed to the northerly boundary of Ontario.

[This line would be a further variation of No. 1. The chief forts and establishments of the French in this region were on the Saskatchewan, and appear to have been continuously occupied by them up to 1763. It appears from evidence reported by the Parliamentary Committee, in 1749, that the French had also a fort on Seal River, north and west of the Churchill].

V. A line (so far as the same is north of the international boundary), commencing at the source, in the Rocky Mountains, of the *supposed* Mississipi River of the Quebec Act, 1774, and of the Royal Commissions of 1774 and 1777, according to maps of the time; and thence either

(1) Northwards to the northerly boundary of Ontario, and so drawn as to embrace all the French posts and settlements; or

(2) Due north, or as nearly so as the case permits, to the said northerly boundary of Ontario.

[By the Quebec Act, 1774, the boundary of the Province of Quebec was carried along the bank of the Ohio, "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."

The Royal Commissions to Sir Guy Carleton, of 1774, and to Sir Frederick Haldimand, of 1777, carried the boundary of the same Province along the bank of the Ohio, "westward to the banks of the Mississippi, 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." (See, as to the *supposed* Mississippi of those times, the memorandum of S. J. Dawson, Esq., M.P.P., at p. 273, *ante*.]

VI. A line commencing at the point (in about the 108th meridian of west longitude), where a due west line from the most north-western point of the Lake of the Woods first crosses the waters of the Mississippi River; and thence either

(1) Northwards to the northerly boundary of Ontario; and so drawn as to embrace all the French Posts and settlements; or

(2) Due north, or as nearly so as the case permits, to the said northerly boundary of Ontario.

ANALYSIS OF LINES SUGGESTED AS BOUNDARIES OF ONTARIO.

[By the Treaty of 1783, the southern boundary of the British possessions was carried to the "Lake of the Woods; thence, through the said Lake, to the most north-western point thereof, and from thence on a due west course to the River Mississippi.

The Royal Commission of 1786 carried the boundary of the Province of Quebec to the same most north-western point of the Lake of the Woods, and from thence on a due west course to the River Mississippi; and, northward, to the southern boundary of the territory granted to the Merchants Adventurers of England, trading to Hudson's Bay." This due west line reaches an affluent of the Missouri—itself a branch of the Mississippi—at about the meridian named. (See Mr. Dawson's memorandum, p. 273, *ante*.]

VII. A line commencing at the point (at about the 105th meridian of west longitude) where a due west line from the most north-western point of the Lake of the Woods first strikes the supposed Mississippi of the Treaty of 1783, and of the Royal Commission of 1786, according to maps of the time; and thence either

(1) Northward to the northerly boundary of Ontario; and so drawn as to embrace all the French posts and settlements; or

(2) Due north, or as nearly so as the case permits, to the said northerly boundary of Ontario.

[A due west line from the most north-western point of the Lake of the Woods, strikes the supposed Mississippi at the meridian named. (See the memorandum of Mr. Dawson, p. 273, *ante*.]

VIII. A line commencing at the most north-western point of the Lake of the Woods; and thence either

(1) Northward to the northerly boundary of Ontario, and so drawn as to embrace all the French posts and settlements; or

(2) Due north, or as nearly so as the case permits, to the said northerly boundary of Ontario.

[The Commissions to the Captains-General and Governors-in-Chief, of Upper and Lower Canada, from 1791 to 1835 inclusive, after describing the line of division between these Provinces, declare—"The Province of Upper Canada to comprehend all such lands, territories, and islands, lying to the westward of the said line of division, as were part of our Province of Quebec." The most north-western point of the Lake of the Woods is described by the Treaty of 1842, as being in latitude 49° 23′ 55″, north, and in longitude 95° 14′ 38″, west of Greenwich.]

IX. A line (so far as it is north of the international boundary) commencing at the source (usually assumed to be Turtle Lake), of what is now known as the Mississippi; and thence either

(1) Northwards to the northerly boundary of Ontario; and so drawn as to embrace all the French posts and settlements; or,

(2) Due north, or as nearly so as the case permits, to the said northerly boundary of Ontario.

X. A line following the western watershed of the St. Lawrence system—namely, the height of land west of Lake Superior—from the international boundary, northwards, to the point where such watershed meets the height of land, or the line appearing on certain maps, between 1762 and 1794, as running north-west to or towards Split Lake, and which is identical, or nearly so, with the watershed which divides the waters which fall direct into Hudson's Bay from those that fall into it through the Bourbon or Nelson River and thence, either

(1) Along such last-mentioned watershed, to the northerly boundary of Ontario; or

(2) Due north, or as nearly so as the case permits, to such northerly boundary (provided such boundary be not sooner met with).

ANALYSIS OF LINES SUGGESTED AS BOUNDARIES OF ONTARIO.

[No claim adverse to the French title, to this portion of the St. Lawrence system, appears ever to have been preferred on the part of the Hudson's Bay Company or otherwise, except that involved in the proposal by the Dominion Government, within recent years, of the line next hereinafter mentioned.

XI. A line (so far as the same is north of the international boundary) drawn due north from the confluence of the Rivers Ohio and Mississippi, to a point where it would meet the northerly boundary of Ontario.

[This is the line referred to in the De Reinhart case, and suggested in the "Draft of instructions" (see p. 340 *ante*), "to be given to the Commissioner appointed to act on behalf of the Dominion of Canada, in the survey and location of the boundary line between the North-western Territories and the Province of Ontario, etc.," in 1871. It is founded on the word "northward," in the Quebec Act, 1774, being construed as *due north*, instead of, as in the Royal Commissions of 1774 and 1777, "northward along the eastern bank of the said river (Mississippi)." This line is in 89° 9′ 27″ 16 of west longtitude, and is upwards of six degrees east of the most north-western point of the Lake of the Woods, mentioned in the Royal Commission of 1786.]

FOR NORTHERLY BOUNDARY OF ONTARIO.

I. A line commencing at the point where the southerly shore of Hudson's Bay is intersected by a line drawn due north from the head of Lake Temiscamingue, and thence, westerly and northerly, along the said shore, and to the Arctic Ocean.

[The Commissions to the Captains-General and Governors-in-chief of Upper and Lower Canada, from 1791 to 1835, inclusive, describe the interprovincial boundary, from the head of Lake Temiscamingue, as "a line drawn due north until it strikes the boundary line of Hudson's Bay." Nine such commissions, subsequent to 1835, describe the same interprovincial line as "drawn due north from the head of the said lake until it strikes (reaches) the shore of Hudson's Bay," six such commissions use the word "strikes," and three use the word "reaches."]

II. The line appearing in certain maps of De l'Isle Buache, Longchamps, Vaugondy, Dezauche, etc., between 1713 and 1786, from the interprovincial boundary to the River Nelson; and thence, along the course of the said River, or to and along the Churchill River, or to and along Seal River,—to the shore of Hudson's Bay; and thence northward, along the said shore, and to the Arctic Ocean. It crosses the interprovincial line a little north of the 50th parallel, its course being thence westerly and north-westerly, following the windings of, and at no great distance from the shores of the Bay.

[This line appears with more or less variation, on many maps of the last century, as those of De l'Isle, Buache, Longchamps, Vaugondy and others. It first appears on an original proof of the "Carte du Canada ou de la Nouvelle France...par Guillaume De l'Isle... 1703," now deposited in the Bureau de la Marine in Paris, as an autograph addition by the author and his brother. The addition was subsequently incorporated as an engraved and coloured line, on certain of De l'Isle's maps of later date. On the original proof mentioned, the line has this inscription "Ligne selon le Mémoire de M. D'Auteuil." M. D'Auteuil was the Procureur-General of Canada, and wrote his memoirs whilst in Paris, 1719-20, in reply to the English claim respecting the limits. He was in close communion with, and advising the French commissaries. See these memoirs, sec. xvii., *ante*.]

III. A line commencing at the point where the southerly shore of Hudson's Bay is intersected by a line drawn due north from the head of Lake Temiscamingue; and thence westward.

ANALYSIS OF LINES SUGGESTED AS BOUNDARIES OF ONTARIO.

(1) To the middle line between the French and English Posts established before 1763; and thence, following such middle line.

(a) To the northerly watershed of the Churchill; and thence along such watershed (which is also identical or nearly so, with the middle line between the French and English post in that quarter) to the shore of Hudson's Bay; and thence northward, along the said shore, and to the Arctic Ocean; or [along such middle line]

(*b*) To the northern watershed of the Churchill, as before; and thence, along such watershed, to and along the height of land which divides the waters that fall into Hudson's Bay from those that fall into the Arctic Ocean, to the said Arctic Ocean; or [along such middle line]

(*c*) To the westerly boundary of Ontario; or,

[A line commencing, as before, at the point were the southerly shore of Hudson's Bay is intersected by a line drawn due north from the head of Lake Temiscamingue, and thence westward]

(2) To the height of land or line hereinbefore mentioned as running to Split Lake, and thence, along such height of land or line to the said lake; and thence

(*a*) North-westward to the northern watershed of the Churchill, and along such watershed to the shore of Hudson's Bay, and thence northward, along the said shore, and to the Arctic Ocean; or [from Split Lake]

(*b*) North-westward, to and along the height of land which divides the waters that fall into Hudson's Bay from those that fall into the Arctic Ocean, to the said Arctic Ocean; or [from Split Lake]

(*c*) To the Westerly Boundary of Ontario; or

[A line commencing, as before, at the point where the southerly shore of Hudson's Bay is intersected by a line drawn due north from the head of the Lake Temiscamingue, and thence westward]

(3) To the westerly boundary of Ontario, and so drawn as to embrace the French post and settlements:

Provided that in case such westerly boundary of Ontario is along the boundaries of British Columbia and Alaska, to the Arctic Ocean, as aforesaid, such northerly boundary line may run north-westward [from Split Lake] either

(*a*) To the northern watershed of the Churchill, and thence along such watershed to the shore of Hudson's Bay, and thence northward, along such shore and to the Arctic Ocean: or [from Split Lake]

(*b*) To the height of land which divides the waters that fall into Hudson's Bay from those that fall into the Arctic Ocean, and thence northerly, along such height of land to the said Arctic Ocean; and

Provided also, that in case such westerly boundary is along the height of land which divides the waters that fall into Hudson's Bay from those that fall into the Arctic Ocean to the said Arctic Ocean, then the said northerly line may run [from Split Lake] north-westwardly to the said northern watershed of the Churchill, and thence, along such watershed, to the shore of Hudson's Bay and thence northward, along the said shore, and to the Arctic Ocean.

[Prince of Wales Fort at the mouth of the Churchill River was the most northerly of the Hudson's Bay Company's posts. The French had a Fort on Seal River, considerably to the north and west of the Churchill, as already mentioned. The Hudson's Bay Company did not claim, under their charter, the countries whose waters flow to the Arctic Ocean. The line which on many maps is shown as running to or towards Split Lake, is identical with the height of land which divides the waters that fall direct into Hudson's Bay from those that fall into that Bay through Nelson River. The French had, from the first discovery of the country, and up to 1763, possession of the Winnipeg Basin, of which this height of land was the north-eastern limit. On some maps,—as in Dunn's 1774, and in one founded on D'Anville, published by Sayer &

ANALYSIS OF LINES SUGGESTED AS BOUNDARIES OF ONTARIO.

Bennet in 1776,—this line is shown simply as the "Land's Height"; on others—as in Jefferys' 1762, and Pownall's 1775,—it appears as a line, engraved or coloured, and with the same or a similar inscription; on Bellin's, 1755, as a line, engraved and coloured, but without inscription. On "An exact map of the five Great Lakes and the Hudson's Bay Company's Territories," (bound with Russell's History, 1778,) it is marked "Bounds of the Hudson's Bay Company;" and on Kitchin's Map, 1794, it is marked "Boundary of Hudson's Bay Company."]

IV. The fifty-first parallel of north latitude, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue, west.

(1) To the said middle line between the French and English posts, and along such middle line to the points, and with the alternatives hereinbefore mentioned in the case of No. III.; or

[The said 51st parallel, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue]

(2) To the height of land, or line hereinbefore mentioned as running to Split Lake, thence along such line, to the points and with the alternatives hereinbefore mentioned in the case of No. III.; or

[The said 51st parallel, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue]

(3) To the point where it would intersect the eastern bank of Lake Winnipeg or of the main channel of the waters which fall into that lake through the River Winnipeg, and thence north westerly and along the eastern banks of Winnipeg River and Lake, and to the westerly boundary of Ontario, but with the provisoes hereinbefore mentioned in the case of No. III. (3); or

[The said 51st parallel from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue]

(4) To the westerly boundary of Ontario.

[The 51st parallel is the Provisional Boundary of Ontario, agreed on as such provisional boundary in 1874, by the Governments of the Dominion and Province respectively.

The eastern banks of Winnipeg river and lake are indicated in many maps of the last century as the westerly boundary of the Hudson's Bay Company's possessions. In some of these—such as Bell's 1772, a map in Russell's History, 1778, Carver's, 1779, and two maps without author's or publisher's name, but referrable to a period anterior to 1763,—the southern boundary of these possessions terminates at that limit. In others, this western boundary is shown more specifically by coloured lines, as in a map sent by the Hudson's Bay Company to the Dominion Government for the purposes of the present arbitration. It is entitled "A map of North America, with Hudson's Bay and Streights, Anno 1748," and bears both the Royal Arms and those of the Company. A Parliamentary Committee had been appointed in that year (it reported in 1749), to enquire into the affairs of the Company, and into "the state and condition of the countries adjoining to Hudson's Bay," and this map was prepared by direction and in the interests of the Company in view of that enquiry. Two maps published in 1755—one of them at Amsterdam—agree with that of 1748 as to this western boundary.]

V. The said middle line between the French and English Posts, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue, north-westerly, and to the points, and with the several alternatives, mentioned in the case of No. III. (1.)

VI. A line (so far as it is west of a line drawn due north from the head of Lake Temiscamingue), commencing where a line "drawn to the south-westward of the Island of Grim-

ington, or Cape Perdrix, or the North Cape of Davis' Inlet, to Lake Mistassin, dividing the same into two equal parts," intersects the south-west shore of Lake Mistassin, and thence west on the meridian of such south-west shore.

(1) To the said middle line between the French and English Posts, and thence north-westward along such middle line, and to the points and with the alternatives mentioned in the case of No. III. (1); or

[On the meridian of the south-west shore of Lake Mistassin westward]

(2) To the said height of land or line running to Split Lake, and thence north-westerly, along such last mentioned height of land or line, and to the points and with the alternatives mentioned in the case of No. III. (2); or,

[The meridian of the south-west shore of Lake Mistassin westward]

(3) To the easterly bank of the main channel of the waters which fall into Lake Winnipeg, through the River Winnipeg, and thence on the courses, and to the points, and with the several alternatives as mentioned in the case of No. IV. (3); or,

[The meridian of the south-west shore of Lake Mistassin, westward]

(4) To the westerly boundary of Ontario.

[In 1712, pending the negotiations for the Treaty of Utrecht, the Hudson's Bay Bompany addressed to the Lords of Trade a memorandum wherein they proposed "that a line be supposed to pass to the south-westward of the said Island of Grimington, or Cape Perdrix to the great Lake Miscosinke, alias Mistoseny, dividing the same into two parts, 'and' that the French [shall not]...come to the north or north-westward of the said Lake or supposed line." The south-west shore of this lake is north of the parallel of 50°.]

VII. The fiftieth parallel of north latitude, from the point where such parallel is intersected by a line drawn due north from the head of Lake Temiscamingue, west

(1) To the height of land which divides the waters of the St. Lawrence system from those that fall into Hudson's Bay, and thence, westward along such height of land, (crossing or not crossing, as the case may be, the waters of or connected with Long Lake), to the point where such last mentioned height of land meets the said height of land or line running to Split Lake, and thence along such last mentioned line, and to the points, and with the several alternatives, provided for in the case of No. III. (2); or

[The said 50th parallel from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue]

(2) To the line on Mitchell's Map of 1755, and thence westward along that line to its terminal point, north of the Lake of the Woods, and thence either

(*a*) Due north to the shore of Hudson's Bay; and thence northward, along such shore and to the Arctic Ocean; or

(*b*) To the easterly bank of the main channel of the waters that flow through the River Winnipeg into Lake Winnipeg, and thence on the courses, to the points, and with the several alternatives, as mentioned in the case of No. IV. (3); or

[The said 50th parallel, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue]

(3) To the eastern bank of the main channel of the waters that flow through the River Winnipeg into Lake Winnipeg, and thence on the courses, to the points and with the several alternatives, as mentioned in the case of No. IV. (3); or

[The said 50th parallel, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue]

(4) To the westerly boundary of Ontario.

[The 50th parallel is laid down on maps of several, and especially of two, French authors as the southern limit of the Hudson's Bay Company's Territories, viz.: Le Rouge's editions (1756 and 1777) of Mitchell's map of 1755, in which M. le Rouge gives this parallel from a point east of Lake Abbitibis to a point north of the Lake of the Woods, as the boundary claimed by the French, in contradistinction to the line, on the original of

Mitchell, reproduced on these editions of Le Rouge as the boundary claimed by the English ; a map in the "Atlas Ameriquain," published in 1778, by the same Le Rouge also gives this parallel as a boundary, as far west as the limit of the map, north of Lake Superior. An English edition of D'Anville's Map of North America, "greatly improved by Mr. Bolton,...1752," indicates that some original copy of D'Anville gave the same parallel of 50° as a boundary ; and that it did so is stated by F. Green in his "Remarks in support of the new chart, &c..... London : 1753."* The height of land which divides the waters that fall into Hudson's Bay, from those that fall into Lake Superior, does not appear to be strictly followed as a boundary line on any map of the last century. The southerly bend at Long Lake is not followed in any instance, not even in the maps prepared by direction of the Hudson's Bay Company for the information of the British Parliament, in 1850 and 1857; and in Mitchell's and most other maps, the head waters of the Moose River are crossed by the said boundary line.]

VIII. The forty-ninth parallel of north latitude, from the point where it is intersected by a line drawn due north from the head of Lake Temiscamingue, westward, and to the points, and with the alternatives, in all respects as in the case of the parallel of 50° (No. VII.)

[Subsequent to the Treaty of Utrecht—in 1714—the Hudson's Bay Company, in a memorial to the Lords of Trade, proposed that the limits between them and the French should be the line, already mentioned, from Cape Perdrix to and as far as the south-west shore of Lake Mistassin, "and from the said lake, a line to run to the south-westward into 49 degrees of north latitude....and that that latitude be the limit." In 1719, the English Commissaries were instructed to claim the same line ; the Company, in 1750, again claimed this line exactly ; and the English Commissaries through Lord Stairs, the English Ambassador to France, in 1719, claimed a line to commence on the northern shore of Davis' Inlet, on the Labrador coast, in about 56½° of latitude,† and to run thence south-westerly through Lake Mistassin, to and westward on the line of the 49th parallel ; in the same document, they very inconsistently, put forward a claim to all the lands whose waters flow into Hudson's Bay : several maps of the last century, give this parallel as the limit,—among others Rocque's and Bowen's, on both of which the parallel is followed easterly to a point immediately west of Lake Abbitibis : on them it bears the inscription "The southern, boundary of the Hudson's Bay Company's territories settled by Commissaries after the Treaty of Utrecht." But it has been already shewn (see sec. VIII. *ante*, note to Map No. 83), that neither this, nor any other boundary line "between the Bay of Hudson and the places appertaining to the French" was ever agreed upon by the English and French Commissaries, or by the two nations.]

IX. The height of land which divides the waters of the St. Lawrence system, from those that fall into Hudson's Bay, from the interprovincial boundary north-westward (crossing, or not crossing, as the case may be, the head waters of the Moose, and the waters of or connected with Long Lake), to the point where it meets the said height of land or line which runs to Split Lake, and thence, along such last mentioned line, to Split Lake aforesaid, and thence to the points and with the alternatives as in the case of No. III. (2.)

[The earliest mention of any claim on the part of the Hudson's Bay Company, or of Great Britain, to the lands whose waters flow to Hudson's Bay appears to be in the proposition of the English Commissaries made through Lord Stairs to the

* That this parallel is laid down as a boundary line on one of D'Anville's maps, would seem clear from the testimony of these two English authors ; it does not, however, so appear on the only copy of the original of his "Amerique Septentrionale," published in 1746, to which we have had access. Others of his maps were published in 1746-8.

† In this, as in the claim to the land whose waters flow to Hudson's Bay, exceeding their instructions.

French Court, referred to under No. VIII. At this period and for a long time subsequently, the English had no knowledge of, and preferred no claim to, the country beyond Split Lake.]

X. The line on Mitchell's Map of 1755, from the point where it intersects a line, drawn due north from the head of Lake Temiscamingue westward to its terminal point north of the Lake of the Woods; and thence to the points, and with the alternatives as provided for in the case of No. VII. (2.)

[The line referred to is that which appears marked "Bounds of Hudson's Bay by the Treaty of Utrecht" on Mitchell's map, dated 13th February, 1755, this being another of the maps sent by the Hudson's Bay Company to the Dominion Government for the purposes of the present arbitration.

The line runs from the interprovincial boundary to a point north of Lake Nepigon, and partly along and partly north of the height of land (it crosses the waters of the Moose and of Long Lake, and is north of the "Northern Mountains"). From Nepigon it runs westerly to a point, on the limit of the map, a little north of Lake of the Woods. This line appears on many other maps, of later date. See note to this map in notes on Maps, sec. VIII., *ante*.

INDEX.

See, at the end of this Index, certain Analytical Tables, as follows:—

(1) The Boundaries of Canada and the Provinces.

(2) French Posts and Explorations in the West and North-West, before 1763.

(3) French Posts and Operations in the Bay and North of Height of Land, before 1763.

(4) Canadian Enterprise in the West, North-West, and North, after the Conquest.

(5) English Voyages to, and Operations of the Hudson's Bay Company in and around the Bay.

ABBITIBI, Post and Fort, 84, 117, 122, 136 (*c-f-g-n-o-u-v-w-x-y-z-aa-gg*), 138, 369, 381.
Indians, 108, 282.
Lake and River, 111, 117, 136 *c-n*.
Abbott, Edward, Commission of, 47.
Acadia. 11, 12, 16, 18, 40, 41, 120, 145, 148, 150-160, 335, 369, 373.
Achiponai, Tribe, 62.
Acts of Parliament. See Statutes.
Adayes Mission. in Louisiana, 100,
Agents of the Dominion and Ontario, Reports of, 413.
Aguilar, D', the navigator, 71.
Aillebout, M. d', Governor of Canada, 59.
Aix-la-Chapelle, Treaty of, 17, 373.
Alaska, Territory of, 340.
Albanel, Father Charles, 104-5, 348.
Albany River, 124, 128, 133, 136*d-m-z*, 183, 236-8, 241-2, 283-4, 359, 365, 371.
Fort (Hudson's Bay), 120-1, 125, 127-8, 136*f-h-o*, 236, 250-1, 284-5, 359, 412.
Allenemipigon—Alepimegon—Almepigon—Allanipegon—Nipigon.
See Nepigon or Nepigons.
Algonquins, Tribe, 57, 104, 173, 182.
Alibamons, Tribe, 100, 102.
Alibi Fort. Other name for Abbitibi.
Alleghany Mountains, 301, 310, 312.
Allemipisaki River, 136 *v*.
Allen, William, Commandant of H. B. Co., 115.
Alouez, Rev. Claude, 61, 89.
America, North, 119, 223, 227-8, 231, 232, 235, 275, 288-9, 290, 293-7, 302, 305-6, 313-5, 320, 335-7.
Early Charters and Settlement of 232.
American Fisheries frequented by Bretons, 246.
Fur Company, 88.
Indians, Gov. Pownall's account, 382.
Amherst, Gen., 159.
Amikoüets, Tribe, 61.
Amoncourt, M. Paul Barillon d'. See Barillon.
Amur, Gulf of, 70.
Analysis of Lines suggested for Westerly and Northerly Boundaries, 412.
André, Father, 61.
Andros, Sir Edmund, 292.
Anglois, Jean l', 109.
Annapolis Royal. Other name for Port Royal.
Ancram, Major, (Commandant at Detroit and on Mississippi), 308.
Anneau, Père, 74.
Anticosti, 25, 85, 268.
Apalachicola River, 19.
Appalachian—Apalachie, Mountains, 136-*o*, 161-3.
Arbre Croche, L., (near Michilimackinac), 164.
Arc, Gens de l'. See Bowmen.
Arctic Circle, 111, 248.
Ocean, 189, 231, 261, 284, 340.
Argenson Vicomte d' 40, 109.
Arkansas River, 98, 136-*b*, 381.
Tribe, 101.
District, 100.
Ashburton Treaty, 251.
Askatiche, Lake, 206.
Assiniboia, Council of, 323.
Territory of, 28, 196-8.
Assiniboine River, 70, 73, 82, 105, 136-*m-q-y*, 173-4, 181, 183, 229, 265, 277.
Assiniboines, (poëlles—boëls—polis—pouals—poulak—boils), Tribe of, 62, 69, 83, 98, 102, 108, 136-*b-c-e-f*, 169, 174-5.
Lake of the (other name for the South part of Winnipeg), which see.
River of the. See Assiniboine.
Chemin aux, 136-*b*
Astor, John Jacob, 88.
Atchapeivinioques. Other name for the Bowmen.
Athabaska District, 230-1 *et seq*.
Lake, Canadian and English Traders on, 136*t-cc*, 167-8, 170-1, 181-4, 188, 244.
River, 184.
Aubatswenanek, Other name for Temiscamingue.
Augustus, Fort (see also Fort des Prairies), 182, 187-8.
Avaugour, Sieur du Bois d', Governor of Canada, 41, 109, 111-2, 250.
Aylmer, Lord, Commission of, 50.

BAFFIN, 248.
Baffin's Bay, 280, 136*o*.
Bagouagache, Fort, 136*y*.
River, 136*y*.
Baie du Nord [de Canada] other name for Hudson's Bay.
Balboa, 75.
Balize, Fort, 101.
Banabconik Tribe, 62.
Barnegat Creek, 292.
Barre, M. de la, Governor of Canada, 106-8.

INDEX.

Barillon, M., 15, 107, 240, 287.
Barrois, M. le, 41.
Batchewanaung Bay, 23.
Bathurst, Earl, despatch from, respecting the Selkirk troubles, 265-6.
Batiscan River, 205.
Battle River, 185.
Bayagoulas, 99.
Baye, La [des Puants], other name for, and see Green Bay.
Baye, Fort La, 90, 136*o*, 380.
Bayeul, Ensign Camet, 81.
Beaver Company, 198, 231.
Bearcroft, Edward, Opinion on Hudson's Bay Company's Charter, 194.
Beaubassin, M. de, 83.
Beauharnois, M. de, Governor of Canada, 53, 65, 67, 70-4, 76-7, 116, 118.
Beauharnois de Beaumont. See Beaumont.
Beaumont, Claude de Beauharnois de, 70.
Beaver Lake, 167.
Beaux-Hommes Tribe, 75, 83
Begon, Intendant, 63-5, 117, 203-5.
Behring, Vitus, the Navigator, 70-1.
Belle Rivière, other name for, and see Ohio.
Bellestre, Lieut., 81
Bellin, M., on the Map of North America, 133-5.
Bersiamites, Pointe des, 206.
Berthet, M. Commandant of the Illinois, 67.
Bethel, Sir Richard, opinion on Hudson's Bay Company's Charter, 200.
Bienville, M. de, 71, 99, 100.
Biches, Rivière des, 74, 136*q*.
Bigot, M., Intendant, 41, 78, 84, 295.
Biloxi, 100-1.
Black Islands, Fort of, on the Ohio.
Bladen, Col., one of the British Commissioners after Treaty of Utrecht, 239, 242, 362.
Blancs-Barbus, another name for the Mandanes.
Blein, M., 63.
Blondel, M., 100.
Blood Indians, 187-8.
Blue River, 99.
Bobé, Père, 70-76.
Bodet, Pointe aux, 217-19.
Bœuf Rivière au, 81, 103, 380.
Bœuf, Fort Le, 81, 84-5, 103, 319.
Boisbriant, (Boisbrilliant), M. de, 99, 100.
Bois, Pointe du, Fort, 136*y*.
Bois, Lac des. See Lake of the Woods.
Bois Blanc, Lac du, 21, 182.
Bolingbroke, Lord, Correspondence, &c., of 130-3, 141, 148, 153.
Bonavista, Cape, 17.
Bondésir, Post of, 206.
Bonrepans, M. de, 15, 240, 287.
Bonsecours, Fort (on the Upper Mississippi), 134, 136*e*.
Borie-Guillot, M. de, Commandant on the Ouisconsin, 63.
Boston, 57, 105, 174.
Boucher de Montbrun, 69.
Bougainville, Chev. Louis Antoine de, on the French Posts, 80-5.
Bouchette, Map by, 139, 210.
on the Boundaries, 222, 390-1.
Boundaries, Negotiations between the Dominion and Ontario respecting, 340-7.
Searches as to, made in London and Paris. 412, *et seq*.
Provisional, of Ontario, 347.
Analysis of Lines suggested for, 412.
General analysis of. See Table at end of Index.
Bourbon, Charles de, Commission of, to Champlain, 40.
Bourbon, Fort (on the Saskatchewan), 74, 77, 82, 166, 180, 184, 223, 258.
Fort (on Hudson's Bay). See Nelson.
Bourbon River. See Nelson River, other name for.
Lac, other name used sometimes for the whole, and sometimes for the northern part of Lake Winnipeg, which see.
Bourbonnie, imaginary country of, 70.
Bourdon, Sieur Jean, Procureur-General of Canada, 109, 111, 250.
Bouscouttons, Tribe, 62.
Bouteroue, M. de, Intendant of Canada, 41.
Bowmen, Tribe, 75, 83.
Brant, Col., 308.
Breda, Treaty of, 12, 369.
Bretons, Early Voyages of the, 57, 246.
British Columbia Act (1866), 403.
British Columbia, 331, 338, 340.
British North America Act (1867), 10, 329-30, 404.
Brochets, Tribe, 83.
Brougham, Lord, Opinion on Hudson's Bay Company's Charter, 196.
Brown, and Boucher, Trial of, 228-30.
Brulé Fort, 185-6
Brunswick House, 122.
Buade, Lac, 136*c-d*, 277. See also Mississacaigon.
Buckingham House, 122.
Buffalo Creek, 319.
Burke, Right Hon. Edmund, On the Boundaries, 55.
Speech of, on the Quebec Bill, 303-5.
Letter of, on Quebec Bill (1774), 384 *et seq*.
Bussy, M., Correspondence of, 155-8.
Butte de Morts, La, 89.
Button, Sir Thomas, Voyages of, 109, 232, 248, 257, 279, 280-6.
Button, Cape, 368-9.
Button's Bay, 136*dd*, 279-80, 286.
Bylott, Captain, Voyage of, 248.

CABOT, 70, 246-8, 285, 294.
Cadodaquious, Post, 99, 100.
Caën, General de, 12, 239.
Cahiutas, Tribe 102.
Cahoos (Cahokias), Tribe, 81.
Cahokia, 67, 91, 94.
California, 70, 71, 82, 83.
Callières, Sieur de, Governor of Canada, 108.
Calling River. See Qu'Appelle.
Camanistiquia (guoia-guoya). See Kamanistiquia.
Canada, Province of, 3, 10, 11, 18, 23, 26-7, 39, 41, 43, 44, 51-2, 54-5, 94, 97, 98, 102, 104, 110, 111, 135, 136-*a-d-e-j-m-p-u-x-w-y-z-aa-bb-dd-ee-ff-gg-hh*, 137, 138, 182, 215-16, 218-24, 230, 236, 239, 241, 243, 245, 247-50, 252, 257-61, 263-8, 270, 275-6, 278, 280, 283, 287-8, 294-5, 298-305, 308-9, 316, 322-5, 327, 329-31, 335, 338-9, 340-1, 343-4, 346, 348, 378.
Forts in, 389.
Creek, 306.
Great River of. Other name for the St. Lawrence.
Mare di. Other name for Northern part of Atlantic.
Canadian Courts, jurisdiction of, extended, 4.
Enterprise in the North-West, after 1763, 164-93.
Enterprise in the West, North-West, and North, after the Conquest. See Table at end of Index.
Affairs, 1783-1795, Correspondence relating to 306, 320.
Canadienne, 136.
Cane, Fort du. See Quesne.
Canoe Transport, 171, 183.
Canso (Canco-Canceaux), Islands of, 373.
Cape, 160, 363.
Canuse (Canute), River, 124, 241. (Other name for East Maine River.)
Cape Breton, Island of, 12, 17, 18, 25, 102, 145, 149, 150-1, 156-7.
Captains-General, Commissions of the. See Commissions.

INDEX.

Carleton, Sir Guy, 45-8, 303. See also Lord Dorchester.
Carolina, 41, 57, 157, 220, 352.
Carpe, Lac à la, 375.
Grant of Post, 375.
Carteret, Sir G., 291-2, 324, 328, 329.
Carlier, M., 203, 205.
Cartier, Jacques, 57, 246-9.
Carpe, Lac à la, Post of, 83, 375.
Carver, Capt., Travels of in the North-West, 86, 168-9.
Carrot River, 182.
Cascasquais. See Kaskaskias.
Casko Bay, 136-*z*.
Castorum, 173.
Cassetête River, 375.
Castors, River aux, 167.
Lake aux. See Beaver Lake.
Catahouche River, 19.
Cataraquy River (other name for the St. Lawrence above Montreal), 19, 20.
Cataracqui, site of, and other name for Fort Frontenac.
Cathcart, Earl, Commission of, 51.
Cathay, 279.
Catlin, Mr., 75.
Cauchon, Hon. Joseph, Memorandum on the Boundaries, &c., 243-267.
Caumont, Sieur de, 63.
Cavendish Debates, 299.
Cavalier. See La Salle.
Cedar Lake, 177, 180.
"Cession of Hudson's Bay." See "Restoration."
Cerise Pelée, River, 83.
Chactaws, Tribe of, 158.
Chagouamigon La Pointe), 61, 64-66, 68, 83-4, 136-*b-f-g-n-o*, 165, 384.
Chaleurs, Bay of, 3, 46-7, 136-*dd*, 305.
Champlain, Sieur de, 40, 56-7, 70, 221-2, 247-8-9.
Commission of, 221-2.
Champlain Lake, 3, 57, 162, 220, 303-4, 317.
Champigny, M. de, Intendant of Canada, 115.
Chapeau, Ile, 21.
Charles, Fort (other name for Fort Rupert).
Charles II., 1, 231, 235-6, 248, 252, 286, 292, 301.
Charlevoix, Père, 69, 72-3, 76, 85, 222.
Charleston Island, 113, 136-*b*, 279-283.
Charters, 29, 41, 42, 57, 381.
Charter of Hudson's Bay Company, 29, 194, 198-9.
Act confirming for seven years, 1.
History of the passage of such Act, 392.
Chartres Fort, 81, 92-3, 100, 286.
Chastes, Commander de, 57.
Chaudière Falls (Rainy Lane), 21.
Chat, Cape, 66.
Chat, Lac du (other name for Lake Erie).
Cassaigne, M. de, Governor of Montreal, 71.
Chaugssegros. See Lery.
Charaquis. See Cherokees.
Chaounons, Tribe, 102.
Chapin, Gen., 319.
Checouan, (Chechewan—Chicitouan—Chickiwan—Quichichouen—Shechittawam) River and Fort (Other name for Albany).
Checouan, Tribe. See Shechittawams.
Chesnaye, Sieur Louis Aubert de la, 204-6.
Sieur Charles Aubert de la, 114, 115.
Chesneau, Sieur Jacques Du, Intendant, 105.
Chevaux, Gens des, Tribe, 75.
Cherokees, Tribe, 93, 96, 102, 158.
Chicagou (go-goe) River and Fort, 97, 103, 136*b-c-o*, 318.
Chichachas, Tribe, 102, 158, 318.
Chiens, Les (Du Chien), Family of, 91.
Chickahominy, River, 69.
Chine, Sieur la, Trader at Ouitanons, 67.
Chippewas, Tribe, 89, 164, 166, 169, 172-3, 176.
Chippeweyan, Fort, 170.
Tribe, 181.
Chicoutimi (Chekoutimy), 203-4, 206.
Choiseul, Duc de, Correspondence, &c., 154, 156-7, 159, 258.
Chouart, Sieur, 108.
Chouequen (Chouequen) Fort, 82, 161.
River, 161, 162.
Chomonthouane, Post of, 206.
Christian IV., of Denmark, 119, 279.
Christineaux Indians, 55, 61-2, 65, 67, 69, 74, 77, 79, 83, 98, 102, 104, 108, 136*b*, 169, 181-2, 258.
Lake of the, part of Winnipeg, 64, 134, 136*c*, *j*.
Chudleigh, Cape, 140.
Churchill, Fort, 121, 122, 167, 180, 183.
Lord, 127.
River, 136*j*, *s*, *t*, *v*, *cc*, 164, 167, 181-2, 184, 236, 251, 256, 365.
Clark, the American Explorer, 69, 73, 75-6.
Clarke, Gen. Alured, Proclamation of, 27.
Clear Water River, 176.
Clerk of the Council, Commission of, 43.
Cloche, La, Island of, 66, 267.
Cohokias, Post, 381.
Colbert, M., 104.
Colbert River (other name for the Mississippi).
Colborne, Sir John, Commission of, 50.
Colonial Policy of England. See Debate on Quebec Bill, Franklin's Letters, &c.
Columbia River, 22, 53, 69, 136*f-t-y-dd*, 184, 261.
Colorado River, 136*v*.
Comfort, Point, on south shore of Hudson's Bay, 282.
Cape, north of Hudson's Bay (see Boundary Map.)
Compagnie de la Nouvelle France (-de Canada—des Cents Associés—de Quebec) (1627-1663), 111, 239, 248.
des Indes Occidentales (1666-1674), 41.
du Nord (-de Quebec—de Canada), (1676-1714,) 16, 108-9, 113-116.
d'Occident, 42, 99, 100.
des Indes (formerly Compagnie d'Occident), 43.
Commissaries, English, Instructions to and proceedings of, after Treaty of Utrecht, 242, 360-8.
English and French, 15, 17, 54-55, 65, 119, 127, 130-3, 148, 151-3, 239-40, 242; 287, 360-8.
Commissary. See Steward-General.
Commissions of the Governors, &c., 39-52, 389-91.
Commissioner of Crown Lands, Memorandum of, 243.
Conception, Rivière de la (other name for Mississippi).
Condé, Fort, 100-101.
Congés. Licenses to Trade, which see.
Congress, United States, action of in 1784, 306.
Connecticut River, 3, 19, 305.
State of, 19, 291, 296.
Conseil de Marine, 63, 65.
Constitutional Act (1791), 4, 27.
Connolly *v.* Woolrich, Case of, 230-35.
Convention of 1818, 21.
Cook's River (Columbia), 320.
Coppermine River, 246, 255.
Coquart, Père, 78.
Coquille River, 83.
Corlar (Corlac), modern name—Schenectady, 67.
Cormorans, Pointe des, 205-6.
Corne, Fort la (St. Louis—Nepawi, on the Saskatchewan), 136*l*, 180, 182-3, 185, 384.
Corne, M. Luc La, 66, 79, 185.
Corterealis, 348, 355.
Cortez, 75.
Corruption among Canadian officials, 78, 294-5.
Coudres, Isle aux, 203-5.
Council of Quebec, ancient (ante 1663), 59.
Courcelles, M. de, Governor of Canada, 58.
Couchant, Rivière du. Great River of the West.

INDEX.

Council (Sovereign or Superior), of New France, (created before 1663), 109, 111.
(created 1663), 59, 239.
Coupée Pointe, Fort at, 100, 381.
Coureurs des Bois, 112.
Coutrol, Lieut., 82.
Couture, Sieur de la, 109, 111, 250.
Craig, Sir James Henry, commission of, 49.
Crees, Tribe, 185-188. (See also Christineaux).
Creeks, Tribe, 158.
Crèvecœur, Fort, (in the Illinois), 58-9, 101, 136c.
Cris-Christineaux, Tribe. (See Christineaux).
Croghan, Col. Geo.; 94.
his account of the French settlements, 94-6.
Crooks, Ramsay, 88.
Croix, Lac la, 21.
Crosse, Isle à la, 181.
Crozat's patent of Louisiana, 41-2, 99.
Cugnet, M., farmer, 83, 203-5.
Cumberland House, (on Sturgeon Lake), first post of H.B Co., in the N.W., built 1774, 166-7, 180, 184, 413.
Cumberland River, 309-10.
Curry, Thomas, the Fur-trader, 180.
Cuscudidahs Nation, 281.
Cypress Lake, 21.

DABLON, Father, 61, 109, 111.
Dachilings, Tribe, 108.
Daer, Fort, 29.
Dalles, the, 207, 211, 213, 218-19, 223, 226-8.
Dairymple, Sir Hugh, 171.
Dalhousie, Earl of, Commission of, 50.
Danes, Alleged discovery of Hudson's Bay by, 119.
Danish, River, other name for the Churchill.
Dauphin, Fort, (between lakes Manitoba and Winnipeg), 74, 82, 136e, l, q, 167, 182, 184, 223, 258.
Dauphin, Lake, (the northern part of Manitoba), 74.
River, 172, 182.
Davis, Captain, 285.
Davis' Strait, 136a, cc, 238, 242, 348, 368.
Dawson, S. J., M.P.P., memorandum of, on the boundaries, 273-8.
Dawson, W. McD., evidence of, 267, 273.
Debonne, Sieur, Seignior of Sault Ste. Marie, 84.
Delaware River, 292, 310.
State of, 19, 292.
Delawares, Tribe, 96.
De l'Isle's line, 136s.
Denonville, Marquis de, Governor of Canada, 56, 63, 68, 104, 109, 111-13.
On the French limits, 56-60, 109, 111-15.
Des Groselliers. See Groselliers.
Detroit, 57, 59, 60, 65-7, 80, 84-5, 95-7, 102-3 180, 182, 297-8, 301, 307-8, 310-11, 313, 316-18, 320, 380.
River, settlements on, at the Conquest, 169.
District, 94-7.
Digg's Island, 279.
Discovery and Possession, title derived from, 57, 241, 246, 248.
Dobbs, A., Esq., 121.
Dog Rump River, 187.
Dog Tent Hill, 174.
Dongan, Col. (Governor of New York), 58-9, 106.
Douglas, Fort, 229.
Dorchester, Lord (see also Carleton), 260, 308, 313-15, 317-18, 320.
Draper, Chief-Justice, on the boundaries, &c., 235, 242, 391.
Dreüiellettes, Father, 61.
Drummond, Gordon, Commission of, 49.
Dubois, Abbé, one of the French Commissioners, 1719, 242.
Duchesneau, see Chesneau, 105.
Dugué, M., 99.
Du L'Hut, Sieur, 89, 107, 113, 136f.
Du Luth, Fort, other name for Fort St. Joseph on the Ste. Claire.
Du Luth, see Du L'Hut.
Dumas, M., on the boundaries, 159-163.
Dundas, Right Hon. Henry, correspondence on affairs of Canada, 311, 314, 19.
Dupuis (Dupuy) Sieur, 57-8, 60.
Du Quesne, Fort, 81, 84-5, 295, 299, 380.
Duquet, Sieur, 109.
Durantaye, Sieur, de la, 59.
Durham, Earl of, Commission of the, 50.
Dussons de Bourepans. See Bourepans.
Dutch settlements and voyages, 57, 67.
Dutisne, M., 99.

EAGLE Hills, 181.
East Florida, 20.
East Main House, 122.
River, 124, 136, *a-o-dd*, 241, 412.
Eau Trouble, 82.
Eboulemens, Seigniory of, 205.
Elgin and Kincardine, Earl of, Commission of, 51.
Elk River, 181, 182, 188.
Ellice, Edward, 38.
Ellis, Henry, Commission of, 43.
Endless-(Appalachian)-Mountains, 301.
England, Lieut-Col., 317, 319.
English, voyages to, and posts and operations of, the H. B. Company, around Hudson's Bay, see Table at end of Index.
Colonies in America, 55, 136a, 162.
Commissions, Boundary Descriptions in, 39-54, 389, *et seq*.
View of the Boundaries of Canada, 370.
Extracts from papers relating to proceedings of English and French Commissaries, 360
Governors. See Murray, Carleton, Haldimand, Dorchester, Prescott, Craig, Prevost, Drummond, Richmond, Dalhousie, Aylmer, Gosford, Durham, Colborne, Thomson, Sydenham, Metcalfe, Cathcart, Elgin.
River, other name for Churchill.
Erie, Lake, 19, 20, 57, 59, 60, 80-1, 103, 136 *a-k-o*, 161-2, 220, 304-5, 311, 317.
Fort, 313.
Eries, Tribe of.
Escarbot. See Lescarbot.
Estrées, Marchal d', 105, 242, 295.
Eskimaux, Country of, 55, 122.
Estotilande ou Terre de Labradore et Nouvelle Bretagne, 136*a-d* 348, 355.
Etherington, George, Commandant of Michillimackinac, 93.
Exchange of places in Hudson's Bay, proposals for, (1700) 120.

FALL Indians, 174, 185.
Famine, Rivière à la, 161.
Farewell, Cape, 1360.
Farmers of the Revenue, 73.
Fertile Belt, 327, 330, 335.
Flamborough Factory, 236.
Flathead Tribe, 66.
Flint River 19.
Florida, 25, 57, 111, 112, 136*a*, 220, 298, 303.
Folles-Avoines. Other name for the Malouminés.
Fond du Lac, 103, 136*d-g*, 166, 184, 189, 190.
Fontaine, River la, 117.
Forts Lac des (Indian name Tatasqaoydou Secahigan), and Fort on. See Split Lake.
Forest, Sieur de la, 115, 285.
Fowl Lake, 21.
Foxes, Tribe, 61, 89, 91, 98, 102.
Fox River, 62, 86, 90, 136, 136*h-u*, 309.
Fox, Captain, 248-9, 279, 286.
"France Septentrionale" (Nouvelle France dans l'Amerique Septentrionale), 41, 144, 217, 231, 241.

INDEX.

François, Poste, 136*f, gg*.
Franklin, Dr. Benjamin, on the colonization beyond the Ohio, 296-8.
Franquelin, Jean Bapt. Louis, Maps of, 54, 134.
Frazer's River, 136*f*, 170, 239, 261.
Frederick, Fort, 122.
French House, Maison Française, 136*gg*.
Colonies of the West, 59, 60, 316.
Correspondence, 63-8, 104-18.
Governors. See Roche, Monts, Bourbon, Lauzon, Argenson, Avaugour, Beauharnois, Frontenac, Aillebout, Tracy, Vaudreuil, Vaudreuil de Cavagnal, Champlain, Chastes, Courcelles, Callières, Denonville, Mezy, and Montmagny.
In America, plan of Empire of the 103, 314.
Post and operations in and around Hudsons's Bay, and at and north of the Height of Land before 1763, see Table at end of Index.
Answer to the Hudson's Bay Company's Deduction of Right after Ryswick, 351.
Posts, settlements, and exploration in the west and north-west before 1763. See Table at end of Index.
River, 241, 247.
Settlements and Explorations, documents relating to, 56-118, 133-40, 164-9, 179-85, 203-6, 215-23, 231-42, 245 *et seq*. 299, 306, 370-2, 375-6, 335-6, 348-9, 351-4, 379-84, 412-19.
Territories, 103.
Frenchman's River, 281.
Fresh Sea (*Mer Douce*). Other name for Lake Huron.
Frobisher, MM., north-west traders, 166-7, 168, 180-1.
Frobisher, Sir Martin, 279, 285.
Frog Plains, 229, 269, 270.
Frontenac, Comte de, Governor of Canada, 58, 63, 70, 105, 107, 115, 287.
[Cataraqui], Fort, 58, 82, 84-5, 136-*ff*.
Lake, other name for Ontario.
Fuca, Juan de—Fuca's Straits—22, 119, 321.
Fundy, Bay of, 19, 20, 210.
Fur Trade, 80-5, 165, 167, 179, 180-3, 188, 308-9.
Acts for regulating the, 6. See also Indian Commerce.
Furs, relative value of northern and southern, 116.
Fur Companies, the great French, 135.

GAGE, Gen., Proclamation of (1764), 26.
Galette, La., 60, 220.
Galissonière, Comte de, Governor of Canada, 67, 69, 77, 78.
Gamanistigoya. See Kamanistiquia.
Ganentaa, 57-8.
Ganière, Sieur de la, 204.
Garry, Fort, 276, 323-5.
Gaultier de Varenne, Peter, See [Sieur de la] Verendrye.
Gamerays. See Jemerays.
Genessee River, 314, 316.
George, Lake, between Lakes Huron and Superior, 21, 136*o*.
Fort, 187.
Georgia, Gulf of, 136 *e-n*.
German Settlement, Law's, 301, 381.
Ghent, Treaty of, 20.
Gibault, Expedition of, to Florida, 57.
Gibbs, Sir Vicary, opinion on the H. B. Co's Charter, 195.
Gilham (Guillam), Captain, 107, 233, 282-4, 286.
Gladstone, Right Hon. W. E., 332-3.
Glenelg, Lord, 265.
Gloucester House, 122.
Godolphin, Lord, 15, 127.
Gonor, Père de, 69.
Georgendière, Sieur, Farmer of Temiscamingue, 118.
Gosford, Earl of, Commission of, 50.
Governors. See French Governors; English Governors.
Graisse, Rivière à la, 83.
Grande Fourche, 184.
Grande Ocean. See Western Sea.
Grande Rivière. Other name for the Ottawa.
Grand Portage of Lake Superior, 21, 71, 97, 164, 168, 170-72, 180, 182, 316.
Grands-Parleurs, Tribe, 83.
Grandville, Sieur de, Voyage of, to Hudson's Bay, 116.
Grand Lac. See Superior.
Great Bay, River of the, 39.
Green Bay, 59, 61-64, 67, 82, 84-92, 97, 103, 112, 136*b-n*, 164.
Greenland, 195, 136*o, dd*.
Greenville, Treaty of, 88.
Grenada, 25.
Grenville, Lord, correspondence of, on affairs of Canada, 308, 315, 320, 323-32, 334-6, 339.
Grimington, Island of, 128-9, 132, 136*g-a*, 237, 241.
Grinnington, Captain, 285.
Grosse Isle, la, 66.
Groselliers, Sieur Medard Chouart des, 104, 106-7, 109, 112, 231-2, 250, 280-1, 283, 356.
Guignas, Père, 69.
Guillet, Sieur, Farmer of Temiscamingue, 118.

HACTANNES. Other name for the Snake Indians.
Haldimand, Gen., 47, 306-8.
Hamilton, Lieut.-Gov. of Detroit, 307-8, 319.
Harpe, M. Benard de la, 99, 102.
Extract from Journal, &c., of, 99-100, 102.
Hay, Lt.-Gov., (of Detroit), 307.
Hayes [Ste. Thérèse] River, 112, 115, 230-1, 236, 283-5, 353, 354, 365, 369.
Hayes Island, at the mouth of the Moose River, 284, 371.
Head, Sir Edmund, Correspondence, 327-8.
Hern, Mr., the Arctic Traveller, 166-7, 255.
Hebert, Sieur, 63.
Height of Land, 136*a-h y-hh dd*, 350. See also, Canadian Enterprise; French Posts and Operations.
Henriette Marie, Cap. 105, 136*k*, 283.
Henley House or Fort, 122, 134, 136*o*, 236, 412.
Hennepin, Père, 103, 136*d*.
Henry's MS. Journal of Travels in the North-West, 1799-1816. 183-188.
Henry, Alexander, Travels of, in the North-West, 1761-1776, 164-8.
Hills, Lake of, the other name for Lake Athabaska.
Hochelaga, 59.
Hocquart, M., Intendant, 71, 72, 118.
Ordinance of, as to Tadoussac, 203-6.
Hope, Henry, Governor *pro tem*., Letter of, 307.
Hontan, Baron La, on the boundaries, 54.
Hospitalières de Montreal, 74.
Hubert, Commissioner of Louisiana, 76.
Hudson, Captain, 248-9, 257, 279, 285-6, 355.
Hudson Bay: documents relating to: 104-133, 136 *a, b, f*, 140-153, 279-290.
French Correspondence and Memoirs, 1668-1745, 104-18.
Miscellaneous Papers, 119-22.
Negotiations before and after the Treaty of Utrecht, 140-153.
Delivery of places in, to the English after Treaty of Utrecht, 129-33, 152-3.
Oldmixon's account of, 279-85.
Hudson's Bay and Straits, 54, 64, 82, 83, 102, 115, 117, 119, 120, 123, 129, 130-6, 136-*a, f, g, o, u, w, x*, 142 144, 148-53, 161-2, 164, 166-8, 170, 172, 175, 178-9, 181, 183, 188, 196-8, 201, 206-7, 212, 215, 219-20, 222, 225-7, 232-4, 242, 244-52, 255-6, 258, 262-3, 265, 270, 278, 280, 283, 285-90, 302, 305, 335-6, 338-41, 348, 352, 368.
Hudson's Bay Company, 1, 3, 6, 16, 22, 28-9, 37, 123-5, 131, 133, 152, 166, 169-70, 174, 178, 180, 183 185-6, 190-1, 193, 195-8, 200-2, 216, 231, 233, 241, 243-5, 250-8, 260-5, 267-9, 272-3, 279, 282-5, 287-90, 320, 323-5, 329-33, 335, 338-9, 341, 343.

INDEX.

Claims and memorials of, 123-33, 236-8, 241, 285-94, 349, 354, 358, 376-8.
Letter from the Chairman of, 412.
Origin of, 250.
First attempt to settle in the North-West, 269.
Surrender of territorial claims of—Correspondence respecting, 1869, 323-340.
License of, exclusive trade to, 1821, 37.
Act authorizing, 6.
Posts of, at divers periods, 121-2, 401-2, 415.
Reports of Committee appointed to enquire into affairs of, 395.
Extracts from Appendix of same Report, 396.
Statement as to their trade with interior, 395-6, 399, 400, 402.
Chairman of, on their trade with the interior, 422, on their boundaries, 412.
Results of searches in their archives, 412-19.
Territories of, Jurisdiction of Canadian Courts in, 136*aa-dd-ee*, 138, 261-4.
Extracts from M. D'Auteuil's Memoirs respecting, 138.
Lamothe-Cadillac on, 369.
Limits of, under Charter and Treaties, 335.
Boundaries of, See Table of Boundaries at end of Index.
Legal opinions on, 193-202, 255-6.
Test of, 29-37.
Confirmation of, for 7 years, in 1690, 255, 392,
Charter of, 29, 194, 198-9, 231, 233, 335, 392, 393,
Hudson's River, other name for East Main River.
Hudson House, 122, 185.
Hudson River (New York), 162, 292.
Huillier. See L'Huillier.
Huron nation, 57, 59, 61, 66, 67, 319.
Huron, Lake, 19, 20, 57, 59, 60, 80, 103, 112, 114, 135, 164, 244, 309, 311, 316.

IBERVILLE, M. Lemoine d', 70, 97, 99, 101, 110, 113-15.
Memorials of, on the country of the Mississippi, 97.
Iberville, River, 19
Ile Royale (other name for Cape Breton).
Ile Royale (Lake Superior), 136*b*.
Illinois, Country of the, 26, 41-3, 59, 60, 64, 67, 92-97, 100-1, 157, 159.
Franklin and Johnson, on the colonization of, 296-8.
French Settlements in, 92-4, 96-7.
Lake of the. (Other name for Lake Michigan.)
Post of the, 81, 84-5, 95.
River of the, 81, 84, 85, 97, 98, 102-3, 134, 136*b*, 164, 300, 318.
Tribe of the, 59, 60, 81, 96-7-8-9, 102, 112.
Indian Tribes, 370-1, 382.
Reservations, 1783-95, 306-20.
Forts, 83.
Commerce, 64, 71-3, 80-5, 97-9, 102, 104, 113, 164, 167, 171.
Villages, 75, 83.

Land Titles, 87.
Territories, 225, 244-5, 254, 261, 272.
Jurisdiction of Canadian Courts in 14, 261-4.
Treaty of Lake Superior (1850), 22.
Indies, Company of the. See Company.
Intendants of New France:
See Talon, Bigot, Begon, Hocquart, Bouteroue, Raudot.
Commission of Intendant, 391.
International Boundary, 19.
Law, rules of 217, 231-2, 291-4.
Negotiations for the Peace of Utrecht, 140-153.
Negotiations for the Cession of Canada 154-63.
Interpretation of Acts and Treaties, rules of, 217.
Iroquois, 17, 55, 57-60, 66, 82, 96, 102, 112, 173, 180, 306, 312, 319.
River (other name for the St. Lawrence above Montreal, 19, 20.

JAMES'S Bay, 111, 135, 136*a*, *d*, *j*, 137-8, 236, 239, 241.
James, Captain, 248-9, 279.
James II., 127, 240, 287.
Japan, 70.
Jatihilinine, on the Missourie, 83.
Jay's Treaty, (1794), 20.
Jarretière, Gens de la, 83.
Jervis, Sir John, opinion on Hudson's Bay Co.'s Charter, 255.
Jefferson, President, 75.
Jefferys, Thomas, on the boundaries, 55, 257-8.
His account of the French Posts of the West, 1761, 383.
On the limits of Louisiana, 383.
Jemerays, M. Dufrost de la, 71-4.
Jérèmie, M., 120-1, 206.
Johnson, Sir William, 94, 296-7, 306, 311-12.
Johnson, Sir John. 307-8.
Joliet, Sieur., 60, 86, 105, 136*b-c*, 205.
Jonquiére, Fort la, (in the Rocky Mountains), 78-9, 136*f-l*, 384.
M. de la, Governor of Canada, 77-9, 84.
Juchereau, M. de, Lieut.-Gen. of Montreal, 102.
Judicial Proceedings, 203, 335.
Junction of the Ohio and Mississippi, Lands Patented by Canada west of Meridian of 207, 210, 322.
Jurisdiction of Canadian Courts, Act, extending, (1803), 4, 261-4.

KAMANIONEN. See Tekamamiouen.
Kamanistiquia (Kamanistiguoyo — quoya — goya — goia), Post, Fort and River, 64, 69, 70-1, 73, 83-4, 136*b*, *l*, *n*, 137, 166, 183-4, 258, 380, 383.
Kansas River, 100.
Kansas, Tribe,, 81, 134.
Fort, 81.
Karslake, Sir John, opinion of, on H. B. Company's Charter, 331.
Karoskiou, River, 83.
Kaoquia. See Cahokia.
Kaskaski (Koskaskin) River, 93, 298.
Kaskaskias, 93, 99, 100, 318, 381.
Kas (—Kaskaskias), Tribe, 81.
Kataraqui. See Cataraqui.
Keating, Sir H. S., opinion on H. B. Co.'s Charter, 200.
Keewatin District, Act creating, 408.
Kennebec River, 120.
(See also Naurantsouak.)
Kentucky, desires British connection, (1792), 310.
Kentucky River, 309.
Kiaskou, Captain, Northern Indians, 349.
Kickapoos (—bous-pous) Tribe, 61, 95, 97.
Kichestigaux, Lake,, 206.
Kimberly, Lord, 327, 334.
Kinongewiniris, Tribe. Other name for the Brochets.
Kingston. See Cataraqui.
Kirk's Family, 356.
Knistineaux—Kilistinons—Kiristinons—(See Christineaux).
Knight, Captain James, 130-1.
Kiskipesounouinini. Other name for the Gens de la Jarretière.

LA BAYE, Fort, 90, 136*o*.
Labrador, 25, 39, 55, 85, 111, 122, 128, 132, 135, 136-*b-d-e-g-w-dd*, 237-8, 241, 244, 279, 280, 299, 348, 352, 355.
Post of, 85.

INDEX.

Labyrinthe, River, 117, 136*c*.
Lagny, M. de, 113.
Lagorgendière, Sieur, 205.
Lake River, 276.
Lamothe-Cadillac, Sieur de, 63.
Lands patented before Confederation west of 88° 55′, 322.
Langlade, M. M., 92.
La Pointe. Other name for Chagouamigon.
La Salle. See Salle.
Latourette Fort, 136*f*.
Laudonnière, Expedition to Florida, 57.
Lauzon, Sieur de, 40, 57-8, 60.
Laverdière, works of, 135.
Law, John, 101.
Leech, Lake, 136*c*, 189-90, 192, 275-6.
Legal Opinions on the Hudson's Bay Co.'s Charter, 193-202, 233-4, 239, 255, 330-1.
Legardeur, Augustin, 63.
Lemire, Sieur, 63.
Le Moyne, father of d'Iberville, &c., 113.
Lery, Chaussegross de, 71.
Lescarbot, Marc, on the boundaries, 53, 237, 247-8.
Le Sueur. Se Sueur.
Levis, Chevallier de, 295.
Lewis, the American Explorer, 69, 73, 75, 79.
L'Huillier, Fort, 136*f*, *g*, *i*, *j*, *n*, *s*, *u*, *w*, *y*, *aa*.
M., Farmer-General, 99, 102.
L'Hut. See Du l'Hut.
Lino, de 116.
Licenses to Trade (Congés): 64, 80-5, 165, 379-80.
Royal, of exclusive trade, Act (1821) authorizing, 6.
to Mine west of 88° 50′ granted by Province of Canada, 409-11.
Lièvre, Rivière du, 117, 206.
Limits of Canada at the Conquest, 157-9, 168.
Limits in 1755, 378.
Limits of Tadoussac, 349.
Lines, Analysis of, for northerly and westerly boundaries of Ontario, 420 *et seq*.
Little Vermillion Lake, 121.
Loche, Portage la, separating the waters of the Churchill and Elk Rivers, 182.
Long Lake (west of Lake Superior) part of the head waters of the Albany, 130, 419.
Long Point, 311.
Lords of Trade, Representation of (1719), 361
Louisiana, 18, 19, 41-53, 55, 97—102, 136*i*, *o-r*, *z*, *cc-hh*, 154, 156-61, 221, 229, 258-60, 273, 278, 316, 318, 370, 371, 378.
Limits of, 383.
Posts and Settlements of, 381.
(Upper), 100.
Louis de Mobile, Fort. See Mobile—Condé.
Louis, Fort, (at Biloxi). See Biloxi.
Lower Canada, Province of, 4, 10, 11, 27, 48-51, 122, 139, 207, 211, 217, 219, 225-6, 227-30, 240, 262, 269, 270-2, 279, 311.
Jurisdiction of Courts of, extended, 4.
Loyalists, 307.
Lusson, Sieur du. See St. Lusson.
Luth, du. See Du L'Hut.

MACDONELL, Gov., Proclamation of, 28.
Machault, Fort, 81, 84-5, 380.
Mackinaw. See Michillimackinac.
Maconten. See Mascoutens, 3.
Machray, Right Rev. Dr., 323.
Mackenzie, Sir Alexander, Travels, &c., of 170, 179, 183, 239, 261.
Magdeleine Islands, 25.
Mahantas, Tribe, 83.
Mahas, Tribe, 98.
Maison [Fort] Francois, 136*f*.
Malangueule. See Monongahela.
Malbaye, 203, 206.
Malplaquet, 68.
Malouminés—Malhommis—Folles-Avoine, Tribe, 61.
Manat—Manette—Manahattan—(other names for New York), 58-9, 291.
Mandanes, Tribe, 63, 74, 75, 83, 174, 186.
Manitoba Lake, 136*l*, *hh*, 229, 258.
Manito Hills, 174.
Manitoulin Island.
Manchester House, 122.
Mantanes. See Mandanes.
Manton's River, 136*y*, 136*z*
Maps referred to, 53-56, 71, 102, 103, 107, 134, 151, 153, 158-60, 170-1, 204, 206-7, 209-11, 223-33, 239, 242, 246, 249, 268, 273-8, 288, 335.
Bellin's Remarks on, 133.
Notes on, 135-40.
Marest, Father, 40, 63.
Margry, M., Pierre, 62.
on the discoveries of the Verendryes, 68-80.
Marin, M. de, 78, 84.
Marlborough, Churchill, Duke of, 127.
Marquette, Father, 60, 61, 86.
Voyages of, 136 *b-d*.
Martin's Falls, 183.
Maryland, State of, 19, 258.
Mascoutens, Tribe, 57, 61, 97, 98.
Lake of the, other name for Winnebago.
Massachussets Bay, State of, 19, 171.
Maskikoukioeks Tribe, 62.
Masseres, Francis, Commission of, 45.
Papers, 46, *note*.
Masse, Sieur, 66.
Mataüan, 117.
Matine, Rivière, 184.
Maune, Rivière a la (north of Nepigon), 108.
Fort la, 108.
Maurepas, M. de, 69, 71-3, 76, 77, 118.
Fort, (at the junction of Winnipeg River and Lake) 64, 73, 136*l-q-hh*, 258, 383.
River (other name for the River Winnipeg).
Lake, 19.
McGillivray, William and Simon, 38, 170.
McKee, Col. 317-18.
McKenzie River, 239, 252, 261-4.
McLean, Brigadier-Gen., 306.
Meadow, Carrying Place, 173.
McTavish, Governor of Hudson's Bay Company, 323.
McLelland, Archibald, Trial of, 227-8.
His case reserved for H. M. in Council, 228.
Menard, Father René.
Mellish's Map, 209.
Mendeouaoanton, River, 277.
Menneville, Marquis Duchesne de, 79.
Menomonie River, 306.
Mer Douce. Other name for Lake Huron.
Mer d'Ouest (de l'Ouest), La. (See Post of the Western Sea). 136*f*.
Mer du Nord. Other name for Hudson's Bay.
Mesnager, M., 142-153.
Messager, Père, 71.
Metabetchouanon, River, 205.
Metcalfe, Sir Charles Theophylus, Commission of, 51.
Metchi, Tribe, 81.
Mexico, Gulf of, 136*d*.
Mexico—New Mexico, 41, 99-103, 136*a-m*, 220, 250, 265-6, 297.
Mezy, Sieur de, Governor of Canada, 41.
Miamis, Fort of the (at the mouth of the River St. Joseph), 81, 85, 380.
Fort (Other name for Chicagou Fort, which see.)
Miamis, River, 65, 95, 103, 161, 310, 317-18, 320.
Bay, 312, 320.
Tribe, 59, 61, 97, 102-3, 309.
Michigan, Reports of Commissioners on Land Claims at Prairie du Chene and Green Bay, 85, 92.

INDEX.

Michigan, Lake, 59, 60, 80, 82, 85, 103, 136*a-b-n-o*, 157, 164, 301, 309-10.
Michinipi Lake, 136*z*, *cc*. Other name for Lake Athabaska.
Michilimackinac, 59, 63-4, 66-7, 69, 71, 80, 84, 89-92, 97, 103, 107, 118, 136*b-o*, 164-6, 168-9, 180, 188, 190-1, 264, 308-9, 313-14, 316-18, 381.
Michipicoten (-on), Post and River, 84, 111, 118, 136*gg*, 166, 169.
Middleton, Capt., 121.
Count, 15, 127.
Mingan, Post of, 85.
Minanghenachequeké, River, 82.
Mines, 62, 99.
Minitie, Lake. (Other name for Lake of the Woods.)
Minnesota River (other name for St. Peter's River, which see), 97, 277.
Minahigouaské River, 349.
Miscellaneous Documents, Supplementary, 348-428.
Miscosinke, Lake. See Mistasin.
Miskaouto, 349.
Mississagues, Tribe, 66.
Missinippi (-bi) River. (Other name for Churchill.)
Missagans—Missagame. See Michigan.
Mississippi River, 3, 19, 41, 54, 59, 60, 69, 70, 76, 86, 96, 103, 136*d-e-g-m-n-o-s-w-y-z-aa-bb-cc-ee-ff-hh*, 13-9, 157-8, 191, 207, 228, 240, 297-9, 301, 305, 308-10, 314, 341, 343.
See also Mississippi (Upper).
Sources of, 169-71, 176-7, 182, 189-90, 210-11, 258-60, 273-8.
Mississippi, (Upper), 61-3, 78, 85, 86, 97, 102, 134-5, 136*a*, 157, 164, 169-71, 176-7, 189-90, 209-11, 213, 228, 240, 258-60, 273-8, 299-302, 305, 308-10, 341.
See also Lac Buade.
Missisacaigan Lake, 136*r*, 275-7.
Missouris, Tribe, 99, 134.
Missouri River, 41, 69, 75-6, 81, 83, 98, 99, 136*g-n-o-t-y-z-aa-ee*, 220.
(Upper), 74, 75-6, 78, 82-3, 98, 136*f*, 174, 188, 220, 273-8.
(Upper), looked upon as the Upper Mississippi, 277-8.
Mistassins, Lake, 54-5, 129, 132, 135, 136*a-b-c-g-r-x-aa*, 138, 237, 241, 362.
Post of the, 203, 206.
(Mistasirenois) Indians, 349.
Mitchell's Line, 136*x*.
Mobile, 19, 100, 101, 102.
Mocassa, 57.
Mofras, M. de, on the boundaries, 53.
Mohawks, Tribe, 67.
Moisie, River, 203-6.
Montcalm, Marquis de, 79, 294, 295.
Monongahela, River, 81.
Monk, Hon. Justice, judgment of, as to limits of New France, 230-5.
Monsony River, 136*c*.
Monsonis, Indians, 61, 136*b*.
Montagne D'Aigle, Fort, 185.
Montmagny, M. Hualt de, Governor of Canada, 41.
Montagnois, Indians, 348.
Montbrun, Bouchere de. See Boucher.
Montreal, 57, 59, 102, 107, 122, 164-5, 182, 216, 268, 303, 312-13, 316.
Monts, Sieur de, 40.
Montserrat, Island of, 16, 130, 134, 151, 361.
Monsippi (-sipy) River, other name for the Moose, (east branch.)
Moore, Sir Henry, Governor of New York, 52.
Moose (Monsippi, Monsonis) Fort, 110, 116-17, 122, 127, 134, 136*f-k-o*, 412.
River, 111, 117, 121, 134, 174, 187-8, 237, 241, 281-3.
Muddy Lake, 21.
Murray, James, Commissions of 44, 45.
Sir W., opinion on H. B. Co.'s Charter, 193, 393.
Musquattinees, Tribe 95.

NADOUESIOUX — Nadouessans — Nadowessies. See Sioux.
Nagasit, 349.
Namecan Lake, 21.
Namcosakio, Tribe, 84.
Nantaouagan, Portage of, West of Lake Superior. 74.
Naurantsouak, (?Kennebec) River, 65.
Naskapis, Post of, 203, 206.
Natchitoches, Fort, 99, 100, 381.
Natchez, 100, 381.
Nathaway Indians, 173.
Necessity, Fort, 187.
Neebish Channel, 21.
Nekoubau, Lake, River and Post, 203, 206.
Nelson, Fort, Post and River Bourbon, 70, 75, 82, 98, 108-9, 111-15, 120-3, 125-127, 136*a-d-e-f-j-l-m-o-q-r-w-y-cc*, *hh*, 166, 168-9, 236, 240-1, 251, 278, 279-87, 349, 351, 353, 356-8, 365, 369, 371, 384, 399, 412.
See also Hayes or Ste. Thérèse River.
Lake, Fort on 236.
Nemiscau, River and Lake, 111, 136*f*, *l*, *x*, 349, 369.
Post of 111, 136*x*, 372.
Neonatsicoton (Neouissacouat), Rivière de, (Southwest of L. Superior), 135.
Nepawi, Fort. Other name for Fort La Corne.
Nepigon, Lake, River and Bay, 60, 69, 107-8, 111, 113, 134, 136*b-c-d-f-k-w-x*, 166, 169, 184, 238, 251.
Nepigons, Post of the, 67, 83, 97, 118, 381.
Net Setting River. See Setting River.
Neutral Nation, 57.
Neutrality, Treaty of, (1686), 13.
Nevis, Island of, 16, 102, 118, 149, 151.
New Britain, 54, 55, 122, 127.
New Brunswick, Province of, 10, 248, 251, 262.
Newcastle, Duke of, 326-7, 331, 333, 336-7.
New England, Commissioners of, 59.
New England, 68, 102, 248, 280, 348, 352.
New France, 11, 40-3, 68, 108, 111, 134, 145, 221-9, 237, 246, 248-9, 257, 280, 335, 348, 378.
Newfoundland, 17, 25, 39, 41, 68, 111, 115, 142-3, 145, 148-51, 153, 158-60, 220, 232, 246-7, 299, 302-5, 352.
New Hampshire, State of, 19.
New Jersey, State of, 19, 291-2, 303.
New North Wales, 136*d-dd*, 286.
New Mexico. See Mexico.
New South Wales, 136*d-dd*.
New Wales, 122, 279-286.
New Netherlands, 291, 352.
New Orleans, 19, 81, 100-1, 298, 309, 314.
New Severn (Nieu Savanne), Fort, 122, 125, 284, 371.
See also Severn.
New York and Quebec, Boundary between, (1768), 52, 127, 258, 302-5, 316..
New York, Province and State, 19, 52, 106, 108, 220, 291-2.
New York City. See also Manatte.
Niagara, Falls of, 59, 60.
Fort 58, 60, 81, 84-5, 304-6, 311, 316.
River, 3, 81, 136*k*, 161-2, 304-5.
Nimeguen, Treaty of, 12.
Niaouré Bay, 161.
Nivervile, Chevalier Boucher de, 79.
Nipigon. See Nepigon.
Nipissim (Nipissing) Lake, 25, 117, 136*n*, 220, 247, 267-8, 303.
Nipissings (Nepessings—Nepisserini) Tribe. 61. 173.
Niscaks, Tribe, 62.
Norembegue, 39, 348.
Normands, Early Voyages of the, 57.
Nipawee, Fort. See La Corne
Nodways, Tribe (Nodaways), 280-82.
River, 136*gg*.
Normandin, Sieur, 204-6.

INDEX.

Northern Ocean. See Arctic Ocean.
North Sea. Other name for Hudson's Bay.
Northern Bay. Other name for Hudson Bay.
Northern Indians, and French Trade with, 61-2, 64-5, 67, 82-4, 104-5, 112, 118, 135-6, 136*b-k*, 349, 351-7, 375, 381, 401-2, 415.
Nougets (Noquets), Tribe, 62.
Northern Cordilleras, 252.
Nootka, 320-1.
North West, 70, 164, 168, 179, 184, 313, 327, 329, 334, 336, 338-40, 356.
Population of, (1806), 183-4.
See also French Posts, Settlements, &c., in, and Canadian enterprise in the.
Passage, 30, 40, 112-113, 19, 194, 222, 248-9, 279, *et seq.*
Territories, 340, 342-3.
Company, 6, 38, 113-14, 169-73, 175-8, 182, 184, 188-192, 196, 233, 252-6 260-1, 264-5, 268-9 272.
Extent of Country occupied by, 169-178, 256.
General Pike on, 188.
Official recognition of, 178.
Stations of, 183-93.
Northcote, Sir Stafford, correspondence of, 329-37.
Notchitoches. See Natchitoches.
Noüe, Sieur de la, 64, 65, 73.
Nouvelle France. See New France, Canada.
Nova Britannia. 128, 132, 241, 348.
Nova Scotia, Province of, 10, 16, 18-20, 132-3, 149, 248, 262, 294, 348.
Noyelles, MM. de 66, 77.

O'CALLAGHAN, work of, 135.
Ochagach, the savage, 71, 134, 136*k*.
Octootatas (Ottoes), Tribe, 98, 100, 102.
Oeufs, Isle aux, 205.
Official correspondence and documents, 1869-1874—
Between Dominion and Colonial Office, 323-340.
Between Dominion and Ontario, 340-346.
Agreement as to provisional boundaries, 347.
Ogilby, John, on Boundaries of Canada, 348.
Ohio (Oyo-Oia) River, 3, 59-60, 69, 81, 96, 98, 102-3, 136 *a-d-e-bb*, 137, 157, 161-2, 207, 216, 228, 259, 295, 298, 302, 305-6, 313-14, 316-18, 341.
Ohio Company, 316.
Ojibbeway Indians, 23.
Oldmixon's Account of Proceedings in Hudson's Bay, 279.
Oneida, Indians, 306.
Ontario, Province of, 11, 340-6.
Lines suggested for Westerly boundary of, 423, *et seq.*
Lines suggested for Northerly Boundary of, 420, *et seq.*
Claims of, Documents and Arguments in support of, 235-278.
Documents and Arguments in opposition to, 279-290.
Report of Agent of, 417-19.
Lake 3, 19, 58, 60, 136*k*, *o*, 160-2 304-5, 311, 314-15.
Openens, Tribe, 108.
Orange. Other name for Albany, N. Y., which see, 58, 65.
Orange River. Other name for Hudson River, N.Y.
Order in Council of 24th August, 1791, 388, 411.
Orders in Council, other, 341-5, 405, 411.
Oregon Treaty (1846) &c., 22, 259, 261, 338.
Osages Tribe, 99, 134.
Osage River, 99.
Osnaburg House, 122.
Oswego, 313, 316.
Ospekakaerenousques, Tribe on the Missouri, 83.
Ossiniboia. See Assiniboia.
Oswegatchie, 313.
Ottawa River, 55, 57, 117, 136*a*, *c*, 165, 219, 247, 262.
Ottawas, Tribe and Country, 60-1, 66, 96, 103-5, 108, 112-13, 117, 164, 258.
Oüabache, River. See Wabash.
Oualebamenisouté, Indian name for the St. Peter's, now Minnesota River, 135.
Ouest, la Mere de l', 136*d-c*.
Ouiatanon, 64-5, 67, 81, 85, 95-6.
Ouiatechouanon River, one of the sources of the Saguenay, 205.
Ouiacatanons, Tribe, 95.
Ouinipigon [Ouinipique] Lake. Other name sometimes for southern part and sometimes for whole of Lake Winnipeg, 136*c*.
Ouisconsing, Ouiskonche. See Wisconsin.
Oumonsomi. See Monsonis.
Ouonaradeba, River on the Upper Missouri, 83.
Outagamis. See Foxes.
Outaüas, Outaoüas, Outaouis, Outarwas, Outawaes, Outoubouhys. See Ottawas.
Overland Routes to the Mississippi, 86, 102-3.
to Hudson's Bay, 104, 117, 247.
Owilinioek. Other name for Beaux-Hommes.

PAANS River, 103.
Pachot, Sieur, 65, [114-5].
Padoucahs, Tribe, 99.
Pacific Ocean, 60, 69, 112, 119, 136*e*, *hh*, 170-1, 222, 238-9, 252, 258-61, 264, 266, 270, 273, 320.
See also Western Sea.
Pangman, Mr., North-west Trader, 182.
Panis, Indian slaves, 68, 83, 99, 100.
Papinechois, Post of, 203, 206.
Paris, Treaty of (1793), 18, 220, 223, 252, 257, 259-60, 271-2, 275-6, 335.
Parkman, Francis, 54.
Pasquayah, River, Poskoyac.
Patents. See Charters.
Patitachekao, Lake, 205.
Paubian River, 103-4.
Peace River, 170, 188.
Pelly, Sir J. H., on the trade of the H. B. Co., and the limits of their territories, 262, 265.
Pemaquid, Colony of. See map.
Pembina, 29.
Pembina River, 175.
Pensacola, 101.
Pennsylvania, Province of, 3.
State of, 19, 258, 301-2, 304-5, 316.
Pentaguoet River, 161.
Peoria, Fort, on the Illinois. Other name for, and see Pimiteouis, 134.
Peorias, Tribe, 81.
Pepin Lake, on the Upper Mississippi, 134.
Perdido Bay, 101.
Perdrix, Cape, 128-9, 132, 136*g-y-gg*, 237-8, 241, 362.
Péré, (Perray), M., 108.
Perrè River, 134, 136*t*.
Perrot, Sieur, Nicolas, 61, 63, 134, 136*c-y*.
Peter the Great, 71.
Petit Portage, Fort of 84.
Petit-Reynards Tribe, 75, 83.
Petit-Nord, 149.
Petite-Cerise, Gens de la, 76.
Petite, Rivière La, 117, 204.
Petite Paris, Fort Le, 381.
Petun Nation, 57.
Phelippeaux, Islands, 19, 259
Philadelphia, 310.
Philip, Infant Don, 18.
Pic, 184.
Picart Le, 114-15.
Pie, Gens de la, 83.
Pigion River, 21-23, 136*b*, 171-2, 262, 343.
Piggott, Sir Arthur, opinion on Hudson's Bay Company's Charter, 196.
Pijitic River, 166.
Pike, General, Travels of, in the North-West, 87, 188-193.
Plat-Cote, Gens du, 83.
Pinkerton on the Boundaries, 220.
Pishapocanoes Nation, 281.

INDEX.

Pitman, Captain, Account of the Illinois Posts, 92-4.
Pitt, William. Correspondence, &c., 155-8.
Pitt, Fort, 94.
Pimiteoui, Fort, 81. See also Peoria.
Pioyas, Tribe, (? Piegans) 75.
Placentia, 145, 149.
Pleurs, Lac et Fort des, on the Upper Mississippi, 134.
Pluie, Lac la. See Rainy Lake.
Pond, Peter, 166, 170-1, 181-2.
Pontchartrain, in Straits of Belle Isle.
Other name for Fort Detroit.
Lake, 19.
Family, 70, 100.
M. de, 70, 100, 114, 116, 121, 148, 152.
Pontiac, 96, 97.
Portage, Rivière de (on the Wabash), 103.
Nantouagon, 74.
Terragon, 107.
de Traite, 180.
des Vases, 117.
Port Royal, 11, 16, 145, 159.
Poskoiac, Fort (oia-oyac-oya), on the Saskatchewan, 82, 136*c-q*, 258, 384.
(yac-oia-oya) River, (other name for the Saskatchewan), 384.
Possession, Acts of taking, 54, 58, 60-2, 75-6, 99, 104.
Postliminy, Rights of, 291-3.
Post of the Western Sea (embracing the country between the western watershed of Lake Superior and the Pacific Ocean), 53, 60, 63-4, 66-68, 80, 82-84.
Pouteoüatamis—Poutoüatami—Putawatimes, Tribe, 61, 66, 96.
Pownall, Governor, his account of the French Posts and Dominion in North America, 379-83.
Prairie du Chien—(des Chines), 85, 92.
See also St. Nicholas Fort, which was the original name; Wisconsin Post of.
du Rocher—(des Roches), 93, 100.
Portage la, 183.
Prairies, Fort des, (on the Saskatchewan), 82, 167, 184, 187-8, 384.
Lac des. See Manitoba Lake.
Prescott, Robert, Commission of, 49.
Présentation, Fort de la, 81, 85.
Presqu'isle, Fort, 81, 84-5, 103, 312, 19, 380.
Prevost, Sir George, Commission of, 49.
Prince Arthur's Landing, Administration of Justice at, 345-6.
Prince Edward Island, 25, 156.
Prince William's Land, 136*dd*.
Prince of Wales, Fort, (other name for Fort Churchill).
Prior, Mr., Correspondence, &c., 151, 153.
Privassa. Other name for the Grande-Parleurs.
Procés Verbal. See Possession.
Proclamations: 25-29.
Providence, Fort, 185.
Provisional Treaty, (1687), 15.
Provisional Boundaries of Ontario, 347.
Provost-Marshall, Commission of, 44.
Puans, Bays des, (other name for and see Green Bay.)
Puants, Lac des, (other name for Lake Michigan), 136*b*.
Pyankeshaws, Tribe, 94, 95.

QUAPAS, Tribe. Other name for the Arkansas.
Quebec (Bill of), 1774, erecting Province of 240, 388.
Debate on: 299-306.
Port of, 12, 309, 314.
Boundaries of the Province of, (1774), as proposed, amended and passed, 299, 302, 305.
Division of into the Provinces of Upper and Lower Canada, 27, 388, 411.
Queen Charlotte Sound, 189.
Qu'Appelle, Rivière, 173, 183. (Other name for Calling River, which see.)
Quichichouen, (other name for Albany Fort and River, and for Lake Ste. Anne.)

RADISSON. (See also Des Grosselliers, 104-9, 112, 232, 250, 280, 283, 356.
Rainy Lake, 21, 64, 73-4, 82, 136*j-q-w-cc*, 168, 172, 184, 238, 258, 264.
River, 172, 238.
River House, 175.
Raisin, Rivière au, 209, 317.
Raudot, Sieur Jaques, Intendant, 70.
Raudot, Sieur Antoine Denis, Intendant, 70, 203, 205.
Rankokus Hill, 292.
Rats, Portage des, 207, 209, 211, 213-15, 228.
Rat River, 184, 230, 231, 234.
Rapid Indians, 186.
Raynal, Abbé, on the boundaries, 219-20, 222, 225.
Recollets, les Pères, 70.
Red Lake, 136*c-q*, 157, 176, 190, 276.
Red Deer River, 182.
Red Cedar Lake, 189.
Red River Settlement (See also Selkirk Settlement), 323, 325-6, 331-2, 337.
Red River of the North, 136*c-l-q*, 172, 175-7, 183-4, 188-191, 214, 229, 253-6, 258, 262-4, 267-73, 277-8, 324, 346.
Red River (falling into the Mississippi), 99, 101.
Red Lake River, 176.
Reed River, 175.
Reine, Fort la, on the Assiniboine, 73, 79, 82-83, 168, 258, 383.
Reinhard, Charles de, Case of, 207-27, 270-1.
Question of boundaries of H. B. Co.'s territories not raised in, 271.
Repentigny, Sieur de, Seignior, of Sault Ste. Marie, 84.
Researches made as to Boundaries in London and Paris, 412 *et seq*.
"Restoration" of Hudson's Bay, 129-30, 150-3, 237.
Riche, Point, 17.
Richelieu, Cardinal, Company of New France formed under auspices of, (1627), 248.
Richmond, Duke of, Commission of the, 49.
Rigaud, M. M. de, Farmers of La Baye, 82, 84.
Rio Grand, (Rio Bravo del Norte), 99, 101.
Roberville, M. de, Viceroy of Canada, 247.
Robinson, Hon. W. B., treaty with Indians negotiated, by, 22-4.
Roche, Sieur, de la, Commission of, 39, 247.
Rochefoucault, Duc de la, on the boundaries of Upper Canada, 56.
Rocher, Prairie de, 381.
Rocky Mountains, 7, 73-5, 77-9, 83, 136*f*, 170, 183, 188-9, 231, 234-5, 239, 252, 259-262, 264, 266, 274, 277, 330, 335, 338.
Rogers, Sir F., 328.
Romily, Sir John, opinion on H. B. Co.'s Charter, 255.
Rosalie, Fort, (on the Natchez), 100.
Roquette, Père, 90.
Rouges, Indian Slaves, 83.
Rouge River. See Red River.
Lac la, or lac Rouge, 136*g*, 181.
Fort, 136*g*.
Royale, Ile, (Lake Superior), 19, 21, 259.
Royal Prerogative, boundaries settled by virtue of, 4, 11-12, 15-22, 25, 27, 46-8, 50, 52.
Rupert's Land, 128, 132, 136*g*, 235, 237, 265, 288, 323-34, 336, 405.
Land Act, (1868,) 404.
Rupert, Fort, 107, 116, 127, 136*u-gg*, 280-369.
Prince, 286.
River, 123, 135-136*e-f-g-k*, 237, 241, 280, 282-4, 286, 350, 371.
Russian Discoveries, 70-1.
Ryder, Sir D., opinion on Hudson Bay Co.'s Charter, 193, 393.
Ryswick, Treaty of, 15, 116, 123-5, 127, 136*h*, 145, 202, 236-7, 240-2, 250-1, 254, 257, 285, 287, 330, 335, 351.
Operations during the peace preceding the war which ended with, 116, 250-1.

INDEX.

SAGAIGAN Lake, one of the sources of the Saguenay, 205.
Saginaw—Saguinam—Sakinau, 57, 66.
Saguenay River, 111, 135-136*c-k*, 204, 206, 239, 244, 247, 371-2.
Post of the, 85, 384.
Saisaginaga Lake, 21.
Sakis, Tribe, 61.
Salmon's description of the boundaries, 54-5.
Salle, Cavelier de la, 54, 58-60, 69, 70, 77, 101, 134.
Nicolas de la, 76.
Salt Lake, Great, 136*d*.
Sandusky, 310.
Sand Lake, 178, 189-90.
River 177.
San Juan, Straits of, 136*y*.
Santa Lucia, 365.
Santa Fé, 100.
Sapinière, La, 108.
Saskatchewan River, 74, 76-9, 82-83, 122, 136 *f-q-s-t-w-cc*, 166-7, 172, 179-82, 184 187-8, 239, 252, 255, 258, 265-9, 272-3, 331, 337.
Sassassonacottons, Tribe, 62.
Saulteurs (Saulteaux—Sauteurs), Tribe, 61, 66, 83-4, 184.
Sault Ste. Marie. See Ste. Marie.
Sauteaux River (south-west of Lake Superior), 189.
Schenectady. See Corlar.
Schoolcraft, Mr., 87, 90.
Seignelay, M. de, 107-8, 111, 113.
Selkirk, Earl of, 28, 196-200, 234, 252-6, 264, 267, 269-70, 272,
Legal proceedings against, 270,
Grant to, 28, 196-200.
Proceedings of in the north-west, 269, 272.
Settlement, 28, 229, 234, 253. See also Red River Settlement.
Senecas, 58.
Sergeant Henry, 110.
Serpents, Gens des. See Snake Tribe.
Serpent, Rapide du, 168.
Setting River, 185.
Seven Islands (in the St. Lawrence), 203.
Seven Years' War, 79.
Severn House, 122.
River (Hudson's Bay), 280.
Sewell, Chief Justice, decisions of, as to boundaries, 226-8.
Shawanese—Shawanees—Shawnees, 96, 316, 318.
Shechittawams Nation. See Checouan.
Shechittawam River. See Checouan.
Shelburne, Lord, 296-7.
Sherbrooke, Sir John Coape, Commission of, 49.
Ships on the Inland waters during the French *regime*, 58-9, 109.
Sidney, Henry, 306.
Simcoe, Col., Lieut.-Gov., 308, 311, 313, 316, 318.
Simcoe Papers, MSS., Extracts from, 313-20.
Simpson, Sir George, 331.
Sinclair, Patrick, Commandant at Michillimackinac, 87, 90, 308.
See Gov. St. Clair.
Sioux, 61-5, 70, 74, 97-9, 102, 136*b-d*, 166, 174.
Post of the, 65, 69, 73, 164, 380.
Six Nations, 55, 96, 306, 312, 319. See Iroquois.
Slaves. See Panis.
Slave River, 188.
Indians, 186.
Lake 188.
Slude River. 136*o*, 139, 372.
Snake Tribe, 74, 75, 83.
Soissons, Count de, 40.
Sossibahourat, Captain of the Mistassins, 349.
South Branch House 122, 182, 185-6.
South Sea—Southern Ocean. See Pacific; Western Sea.
South-West Company, 88.
Southern Posts, 85.
Sovereign Council. See Council.
Spamoskoutiu, Lake, at source of Saguenay, 205.
Sueur, le Fort, 136*f-g-n-w-y-aa*.
Spaniards and Spanish Settlements, 76, 99, 100-1, 231, 298, 309.
Spankie, Mr., opinion on Hudson's Bay Company's Charter, 196.
Split Lake, 121, 136*t-bb*, 236, 258, 365.
Split Lake, Fort on, 236.
Stafford, Earl, British Plenipotentiary at Utrecht, 148.
Stanley, Mr. Hans, British Envoy at Paris, 1761, 155, 156, 158.
Stanwix, Fort, Treaty of, 306.
Statutes, 1, ·, 4, 6, 10, 403-5, 408.
Steward-General, Commission of, 43.
Stenben, Baron, 306.
Ste. Anne (Quichichouen) Lake, on the River Albany, 133.
Ste. Anne Lake (other name for Nepigon.)
Ste. Anne, Fort, (other name for Fort Albany).
St. Anthony, Falls of, 20
Post of. See St. Antoine.
St. Antoine, Fort, 63, 136*c*, 381.
St. Augustine, Fort, 362.
St. Bernard's Bay, Fort on, 101.
St. Charles, Fort, on Lake of the Woods, 73-5, 82, 136*l-q-w-hh*, 258, 353, 383.
River (other name for the Assiniboine).
St. Christopher, Island of, 16, 132-3, 142, 145, 149, 151, 360.
St. Clair, Governor, 319.
St. Clair. See Sinclair.
Ste. Claire, River, 57, 317.
Ste. Claire Lake, 80, 103.
St. Croix, Fort (on the St. Croix River, Upper Mississippi), 62-3, 134, 136*c-ff*.
River (Upper Mississippi, 62, 103, 134-5, 189, 275.
River on the Atlantic Coast), 19, 54.
Sieur, de la, bearer of despatches to Du l'Hut, 107.
St. Esprit, Mission du, at Chagouamigon, which see.
St. François Xavier, Mission of, 136*c*.
St. George's Island, 21.
River, 120, 145, 149.
St. Germain-en-Laye, Treaty of, 11, 135, 136*p*, 237, 239, 248, 257, 273, 335.
St. Germain, Fort on Lake Ste. Anne (Albany River), 134, 136-*f-k-n-s-v-x-z*.
58, 59, 109.
Ste. Hélène, Sieur de, brother of D'Iberville, 110.
St. Ignace, Pointe, (near Michillimakinac) mission of 136*b*, 164.
St. Jacques, Fort (other name for Fort Rupert).
St. Ignace Islands, 134.
St. Jerome, River (other name for the Wabash).
St. John, Island of (other name for Prince Edward Island).
River, (Labrador,) 25, 161, 295.
Lake, on the Saguenay, 25, 203, 205, 206, 349.
St. Joseph, Fort (on the River St. Joseph), Lake Michigan, 82, 84, 136*o*.
Fort, on the (Ste. Claire River), 59, 60, 136*o*, 381.
St. Joseph, Island of, 21.
River (Lake Michigan), 64, 82, 97, 164-5, 310.
River (affluent of the Miamis), 95.
St. Lawrence, Gulf of, 17, 18, 145, 149-50, 156-7.
River, 3, 17, 18, 40-1. 59, 60, 82-3, 136*c-d-q-k-l*, 145, 150, 156-7, 160, 171, 188, 203-5, 221-2, 247, 249, 251, 257-8. 265, 301, 303-4, 313-14, 343-3, 352.
St. Louis, Fort (on the Illinois), 59, 101, 136*c*, 369.
St. Louis (on the Mississippi), 318.
St. Louis, Fort (other name for Moose Fort and for Fort la Corne).

INDEX.

St. Louis de Carlorette, Fort, 101.
St. Louis, River (s. w. corner of Lake Superior), 178.
St. Louis River (other name for the Mississippi).
St. Louis, treaty of, 87, 91.
St. Lusson, Sieur de, 60, 61, 112, 136*b*, 239.
Ste. Marie du Sault, Post and Fort, 60, 61, 84, 112, 165, 169, 247, 253.
Ste. Marie, Mission of, 136*b-o*, 380.
St. Mary's River (on the Atlantic Coast), 19, 136*b*.
(between Lakes Huron and Superior), 21.
St. Maurice, Post of the, 83, 111, 244.
St. Margaret's River, 372.
St. Michel, Ile de, 384.
St. Nicolas, Fort (on the N. W. angle of the Mississippi and Ouisconsin), 63, 86, 90, 134, 136*c-i*.
See also Prairie du Chien, which is the later name.
St. Peter's River (west of the Upper Mississippi), 62, 63, 102, 135, 136*g*, 164.
See also Minnesota (other name for).
St. Phillippe, Settlement of, 94, 381.
St. Pierre, Jacques Legardeur de, 67, 78, 79, 134, 135, 166.
St. Pierre, Fort (on Rainy Lake), 73, 82, 136*l-q-w*, 258, 383.
St. Pierre, Sieur de. (1719). 65.
St. Pierre River. Indian name Oualebaminesouté, (Minnesota,) 135, 136*m*.
St. Pierre, River (affluent to the Assiniboine), 73, 74, Post on, 74.
St. Rémi River, 135.
St. Sacrament, Lake (Lake George), 162.
St. Simon, Mission of (Manitoulin Island), 348.
St. Simon, Sieur de, overland journey to Hudson's Bay, 104, 105.
St. Thérèse River (other name for Hayes River).
St. Vincenne. See Vincennes.
St. Vincent, Lieutenant de, 67.
St. Xavier, Mission of. See Green Bay.
Stirling, Captain, 26.
Stone Indian River House, 174.
Indians. Other name for the Assiniboines.
Indian River, other name for the Assiniboine.
Stony Mountains. See Rocky Mountains.
Stony Region, 172.
Sturgeon Lake, 166, 184. See also Cumberland House.
Sueur, Sieur le, 63, 97-9, 102, 135.
Fort le, on the Upper Mississippi, 135, 136*f-g-n-u-v-w-y-aa*.
Sud, Mere du. See Pacific.
Sugar Island, 21.
Sulpicians 70.
Sunderland, Earl of, 15, 127.
Superior, Lake, 19, 20, 60, 68, 73, 83, 103, 106-7, 111-13, 134-5, 136*h-o-r-y-ff*, 157, 162, 164-6, 168, 170-2, 177-9, 183, 188, 191-2, 220, 244, 253-4, 258-60, 265-6, 271, 277, 316, 343.
Superior, Lake, Treaty with Indians of, 22.
Surgéres, M. de, 70.
Surgeon, Fort, 185.
Swan Lake, the southern part of Manitoba, 74.
Swan River, 173, 182.
Sydenham, Lord, Commission of, 51.

TABITIBIS. See Abbitibi.
Tadoussac, Post of, 85, 104-5, 111, 136*f-k*, 203-6, 247, 349.
Ordinance defining the boundaries of, 203-6.
Takamanigen—(mamiononio-mamiouen). See Tekamamioüen.
Talon, M. Jean, Intendant, 41, 59, 61, 104, 112, 136*b* 239, 391.
Tammany Island, 21.
Tartars, 70, 83.
Tartary, 70.
Tatasquoyaou Secahigan (signifying Lac des Forts, which see).
Tears, Lake, Fort of (Upper Mississippi.) See Lac des Pleurs.
Tekamamioüen, Lake (other name for Rainy Lake, which see).
Post of, 64, 65.
Temiscamingue—(caming-canning), Lake Line due north from head of, 27, 48, 52, 111, 117, 136-*n-v*, 222, 225-7, 240, 262.
Post of, 84, 117.
Limits of, 117-18.
Terra Laboratoris. See Labrador.
Corterealis. See Corterealis.
Terragon, Portage of 107.
Terre, Gens des, 84, 166.
Têtes de Boule, Tribe 84, 166.
Texas, 99, 101.
Thomson, Charles Poulett, Commissions of, 51, 390.
Thomson, David, Astronomer of N. W. Co., Surveys of, 169, 178, 261.
Three Rivers, Lower Canada, 68, 205-6.
Thschirikoff the Russian Navigator, 71.
Thunder Bay, Administration of Justice at, 346-7.
Tintons, Lac des, source of the St. Peters's (Minnesotta) River, 135.
Tomiscanning Lake. See Temiscamingue.
Tonty, (Tonti) Sieur de, 63, 89.
Torcy, M. de, Correspondence, 140, 148, 153.
Toronto, Fort, 82, 84-5, 170.
Toussant-Portier, M., 83.
Tracy, M. de, Governor of Canada, 59.
Trade. See Fur Trade; Indian Commerce.
Trading Posts of French Canada, 84-5.
Treaty of 1842, 21.
Treaties, 11-24. See also Aix-la-Chapelle; Albany; Breda; Convention; Greenville; Jays; Logstown; Oregon; Neutrality; Ninegnen; Paris; Provisional; Ryswick; Stanwix; St. Germanen-Laye; St. Louis; Superior, Lake; Utrecht; Versailles.
Trials of De Reinhardt and others, 207-35.
Trois Rivières. See Kamanistiquia.
Troyes, Chevalier de, 104, 110, 250, 284-5.
Turner, Nicholas, Commission of, 44.
Turtle Brook, 177.
Turtle Lake, 136*ee*, 175-7, 210.
Twigtwee (Twightwee), 95, 316.

UNGAVA Bay, 136*j*.
United States, 19, 170, 172, 175, 189-91 207, 211, 213, 218, 223, 228, 230-1, 251, 259-60, 262, 266, 271, 274-8, 289, 293, 309-13, 315-19, 327, 338, 341.
Union Act, (1840), 10.
Upper Canada, Province of, 4, 10, 11, 27, 214-17, 138, 139.
Bouchette on the Boundaries of, 390-1.
Jurisdiction of Courts of, extended, 4.
Line of division between the Provinces of Upper and Lower Canada, by Order in Council, 388, 411.
by Royal Commissions. See these.
Upper Canada, 4, 21, 27-8, 48-51, 56, 170,189, 196-8, 207, 210-1, 218-6, 220, 222-3, 225-9, 230, 240, 262, 269, 270, 302, 306, 309-312, 324, 338, 390-1.
MSS., Extracts from, 306-313.
Upper Establishment, 182.
Upper Posts, 66, 307.
Uriez, Straits of, 70.
Utrecht, Negotiations for the Peace of, 140-153.
Treaty of, 16, 121-6-9, 130-1, 146-8, 151-3, 158-9, 202, 211-15, 223, 234, 237, 239-43, 251-2, 257, 260, 273, 311, 316, 330, 360.
Boundaries after, the extent of actual possession claimed to have been the, 335.
Utasibaoutchactas (other name for the Bowmen).

INDEX.

VAISETTE on the Boundaries of Canada, 1755, 378.
Vallière, Sieur de la, Overland Journey of, to Hudson's Bay, 111.
Vancouver's Island, 22, 136*c-y*, 264, 266.
Vancouver, Captain, Instructions to, 320.
Vancouver's Straits, 136*c*.
Van Estegle, Captain, 132.
Varennes de Verendrye, Les, 68-80.
Varennes. See also Verendrye.
Varenne, Marie-Rénee de, 74.
Vases, Portages des, 117.
Vaudreuil, Marquise de, 63-5, 68, 70, 100, 116, 152.
Vaudreuil de Cavagnal, M. de, 157, 159, 258, 295.
On the Limits of Canada, 157-9. See also 168.
Ventadour, Duc de, Viceroy of Canada, 221.
Verchères, Captain de, 67.
Verrazano, Jean, Voyages of, 57, 246, 248.
Verandryes. Discoveries of the, 68-80.
Verendrye, MM. de la, 53, 66-80, 83, 134, 146, 148, 166, 177, 277.
Vermillion, Fort, 186-8.
Vermillion River, 185.
Vermillion Sea, 136*c*. (Gulf of California).
Vernon, Mr., Secretary of State (1700), 120.
Verrier, M. le, 82.
Versailles, Treaty of (1783), 19.
Vert, Fort (West of the Upper Mississippi), 135 136*a-o*.
River, 135.
Vetch, Captain, on the Boundaries, 54.
Veuve, Village de Ste. Jeune, 381.
Villars, Marshall de, 68.
Vincennes (Post Vincent—St. Vincennes), on the Wabash, 47, 81, 94, 310, 316.
Virginia, 19, 41, 57, 136*a-k*, 155-6, 258, 299, 300-1, 310, 316.
Voyages, should the object of, be taken into account? 293-4.

WABASH River, 41, 47, 59, 60, 65, 81, 85, 94-5, 97, 98, 102-3, 157, 159, 161, 310, 318.
Wabick River, 83.
Wake, Sir Isaac, 11.
Washington, Gen., 306.
War of 1812; services of the N. W. Co., during, 264.
Wawcattanons. See Ouiacattanons.
Wayne, Gen., 312, 317, 319-20.
West Bay, 136*f*, 168.
West Indies, Company of the. See Compagnie des Indes Occidenteles.
West, Great River of the, 53, 69, 70.
Western Company. See Compagnie d'Occident.
Western Company's Patent of Louisiana, 42.
Western Indians, 61-3, 312.
Westphalia, Treaty of, 145.
Westminster, Treaty of, as to New Netherland, 291.
Western Sea, 53, 60, 63-5, 69-78, 83, 136*hh*, 189, 194.
Western, Post of the. See Post.
White Earth River, 260, 278.
White Bear Lake, 139.
Wias. See Ouiacatanons.
Wild Rice River, 176.
William, Fort, writs from Upper Canada executed in, 207, 214, 253-4, 256, 267.
William III., 236, 287.
Winnebago Lake, 62.
Winnebagoes, Tribe, 89.
Winnepagos Lake, 172.
Winnepeg, Lake, 64, 70-3, 82, 122, 125, 134, 136*c-e-f-l-o-ff*, 139, 166, 168, 172-3, 182, 184, 188-90, 215, 202, 229, 239, 244, 251-2, 255, 258, 264-6, 208, 335-7.
River, 73, 136*c*, *e-ee*, 172, 207, 209, 211-15, 221, 227-9, 270-1, 277, 355.
House, 172.
Winterbotham on Hudson Bay Company's Posts, 122.
Wisconsin, Post of the, 63.
See also Fort St. Nicolas; Prairie du Chien,
Wisconsin, River and Lake, 62, 86, 90, 97, 103, 134, 136*b*, 136*i*, 309-11.
Woods, Lake of the, 19, 64, 73-4, 82, 136*d-m-o-v-x-bb*, 139, 166, 168, 170-2, 177, 182, 189-90, 209-12, 214, 227-8, 238-9, 252-60, 264, 270-1, 274-8, 321, 323-4, 330, 337.
Most North-Western point of 1, 21, 47-8, 209, [213-14.]
Capt. Vancouver, instructions to search for communication from the Pacific to, 320-1.
Wyandottes, Tribe, 96.

XAINTONGE, Jean, Alphonse de, Voyage of, 248.

YAZOO, Division of Louisiana, 100.
Yellowstone, River and Valley, 74, 75, [83.]
York, Duke of, Patents of, 105, 107, 291-3.
York Factory. See Fort Nelson.
York Fort (other name for Fort Nelson).
Youville, Madame, 74.

TABLES REFERRED TO AT BEGINNING OF INDEX.

(P. 349, *ante.*)

I.—BOUNDARIES.

1. Canada or New France (before 1763),—15-16, 19, 27, 39-43, 53-60, 65, 98-9, 102-9, 111-12, 116-18, 120, 129-30, 135-6, 136 *a-z*, 136 *aa-hh*, 137-40, 142, 145, 148-63, 198, 202-6, 216-20, 222-29, 231, 233-42, 247-9, 257-60, 265, 273-8, 280, 300-1, 306-20, 324, 330, 335, 340-3, 346-8, 370, 379-81, 384-5, 388-91, 403, 409-19.
2. "Canada" of 1761-3—18, 19, 27 43-4, 136 *y-hh*, 137-8, 170-1, 217-20, 223-25, 299-306, 378, 412-19.
   Territory ceded by the French to the English, north and west of the sources of the Mississippi.—419.
3. Quebec of 1763,—25, 44-6, 52, 136 *dd*, 220, 303.
4. Quebec of 1774,—3, 19-27, 46-8, 87, 90, 136 *dd-hh*, 137, 170-1, 207, 210-11, 216-19, 223-5, 240, 259-50. 299-306, 384-9, 391, 413.
   Correspondence relating to southerly and westerly boundaries of, after 1783,—306 *et seq.*, 412-19.
5. Lower Canada,—4, 27, 48-51, 138. (*See also* Commissions of the Governors; Proclamation of General Clarke; Order in Council, 1791.)
6. Upper Canada.—4, 21, 27-8, 48-51 56, 136*ee*, 138-9, 170, 189, 196-8, 207, 210-212, 214, 216-23, 225-9. 240, 253-4, 260-2, 270-2, 306-11, 316-17, 324, 330, 345-6, 389-91, 409-19.
   Correspondence relating to southerly and westerly boundaries of, after 1791,—308 *et seq.*
7. Canada of 1840,—10, 23, 51-2, 202 259, 267, 322, 324, 330, 335, 370-1, 403, 409, 412.
8. Ontario,—11, 340-7, 413, 415.
   Lines suggested as northerly and westerly boundaries of,—420-8.
9. Louisiana,—18, 19, 41-3, 54-5, 98-9, 101-2, 136 *i. l. p. r. v. w. y. z. cc-ee*, 137-9, 154-5, 157-9, 189, 220-1, 229, 258-60, 273-8.
10. Illinois Country,—81, 136 *i.* 157, 159.
    See also Mr. Mills' Report of 1877, pp. 51-4.
11. Labrador,—25.
12. Hudson's Bay Company's Territories,—3, 15, 16, 23, 25-26, 28-37, 46, 48, 54-5, 119, 123-9, 132-3, 135, 136 *p, v, y, aa, cc, dd, ee, gg*, 137-9, 142, 145, 148-53, 190, 196-8, 202, 212, 215. 231, 233-42, 245-6, 257, 259-60, 262, 265, 267-70, 335, 349-68, 372-4, 412-19.
    Head of navigation of rivers that fall into the Bay,—234.
13. International,—19, 21-2, 46-8, 51-2, 136-7, 139, 169-71, 175, 189.

ANALYSIS OF THE FOREGOING.

A. EASTERN (Interprovincial),—27, 46-52, 218-19, 388, 391, 411.

B. SOUTHERN:
   (1) Before 1763,—41-3, 54-5, 102-3, 136, *a, b, e, f, h, i, m, o, aa*, 160-3, 220-21, 258-60, 299-306.
   (2) Between 1763 and 1783,—3, 46, 52, 137, 260, 299-306.
   (3) Between 1783 and 1794,—See UPPER CANADA MSS., and SIMCOE Papers, MSS.; also pp. 138-9, 306-20.
   (4) After Treaties of 1783 and 1794,—19, 21, 47-8, 51-2, 169-71, 189, 259.

C. WESTERN AND SOUTH WESTERN,—3, 18-20, 23, 28, 46-8, 53-6, 60, 62, 87, 90, 98-9, 102-3, 136, *a-z*, 136 *aa-hh*, 137-40, 157-9, 170-1, 189-90, 197-8, 202, 207, 209-11, 213-14, 216-20, 222-9, 231, 233-40, 242, 247, 251, 253-4, 258,62, 265, 267-78, 280, 299-320, 322, 324, 326, 330, 335, 340-7, 370, 379-81, 383, 385, 388-91, 403, 409-11, 413-14, 416.
   (1) Western Sea or Pacific Ocean,—53-6, 60, 62, 136 *e, f, i, j, l, n, p, r-t, x-z, ee, dd, hh*, 222, 237-38, 247, 259-61, 273, 370.
   (2) "Utmost extent of country commonly called or known by the name of Canada,"—27-8, 217, 240, 324, 391, 411.
   (3) Rocky Mountains,—136 *e, f, l, r-t, x, cc*, 235, 258, 261, 370, 385, 403.
   (4) Indefinite, or without limits,—55, 135, 136 *a-z, aa-hh*, 137-40, 157-59, 189, 197-98, 214, 216-20, 222, 229, 231, 233-4, 236, 239-40, 242, 251, 253-4, 258, 260, 265, 267-71, 273, 280, 324, 326, 335, 345-6, 412.
   (5) Limit of Discovery or of Map,—135-6, 136 *a-z, aa-ff*, 139.
   (6) The northerly watershed of the Missouri,—136 *b-e, g-j, l-p, r, t, u, y, z, aa, hh*, 137-8, 370, 379.

TABLES.

West of the Missouri, 136, *g, h, j, o, q.*

(7) The meridian of the point, being in about 107° or 108°, where a due west line from the most north-western point of Lake of the Woods, intersects the first waters of Mississippi,—260, 273-8.

(8) The meridian of the point, being in about 105°, where such due west line first reaches the "Supposed" Mississippi, 136 *w*, 273-8.

(9) Northerly watershed of the Mississippi and Missouri, 136 *aa.*

(10) Northern Boundary of New Albion, 370.

(11) Bounds of Louisiana, or of New Mexico,— 136, 136 *a, i, o, v*, 370.

(12) Most north-western point of Lake of the Woods, 19, 48, 137-9, 171, 209, 213-14, 259-60, 278, 413-14.

(13) Sioux Country,—136*b, c*, 380-1.

(14) Mississippi River and beyond.—3, 18-20, 46-8, 87, 90, 98-9, 102, 136*b-j, m, n, q, r, u, w, y, bb-dd, ff-hh*, 137-9, 189, 209, 211, 240, 258-9, 273-8, 299-306, 370, 380-1.

(15) The Mississippi River as the boundary of 1774,—136*dd-gg*, 137, 388-9, 416.

(16) Meridian of Turtle Lake (source of Mississippi),—136*x, dd, ee, hh*, 210-11, 226-8, 259, 278, 343, 391.

(17) Lake Winnipeg or longitude 97°,—220, 222.

(18) Provisional boundary (meridian of eastern point of Hunter's Island)—347.

(19) Westerly watershed of St. Lawrence or beyond,—23, 28, 136*b, h, i, k, n, r, w*, 234, 254, 322, 346, 370, 379, 390-1, 409-11, 414.

(20) Line due north from confluence of Ohio and Mississippi,—136*ee*, 207, 210-11, 226-8, 299-306, 340-3.

(21) River St. Louis,—136*c.*

(22) During the period 1783-1795, 306-20.

D. NORTHERN,—3, 15, 16, 23, 25, 27, 46, 48-57, 62, 104-9, 111-14, 117-21, 123-32, 135, 136 *a-z*, 136 *aa, hh*, 137-40, 142, 145, 148-53, 162-3, 190, 196-8, 202-6, 210-12, 215, 217, 219-20, 222-3, 225-7, 231, 233-42, 247-51, 257-60, 262, 265, 271, 273, 280-5, 299, 305-6, 324, 326, 330, 335, 340-8, 352-3, 359, 362, 365, 368-9, 370-1, 375-6, 378-9, 381-3, 389, 411-13, 417-19.

(1) The Pole,
The Frozen Ocean,
The Arctic Circle,
Davis' Straits,
No limits,
Parallels of 66°, 65°, 63°.
} 53-4, 62, 111, 135, 136 *a-c, l, p, z, dd*, 137-8, 222-3, 236-8, 240, 242, 248, 348, 352, 355, 370-1, 412-13.

(2) Indefinite,—56, 112, 136 *a, c-d, f-j, k-o, q-y, bb-dd, ff, gg*, 137-9, 196-8, 211-12, 231, 233-4, 237, 239, 241, 250, 257-8, 260, 265, 378.

(3) Limit of the map,—136 *a, h-j, m-n, x, y, dd, ff, gg*, 137.

(4) Parallel of Hudson's Straits, or the sixtieth parallel,—135, 136 *a-j, l-n, p-y*, 348, 353, 368-70, 375.

(5) Shores of Hudson's Bay,—104-9, 113-14, 119-21, 125, 127-32, 135-6, 136 *b, c, i-k, r, dd*, 206, 210, 236-7, 240-1, 247, 249-51, 257, 348, 370, 381-3.

(6) Fifty-seventh parallel,—348.

(7) Fifty-fifth parallel;
The line between Hudson's and James' Bays at Capes Jones and Henrietta Marie.
Mid-line (very nearly) between Forts York and Albany, 120, 123, 136 *k, m, n, gg*, 186, 241, 378.

(8) Fifty-fourth parallel,—247.

(9) Line of Albany [or 53°] and Rupert Rivers.
Line of the Albany on the west and 52½° on the east of the Bay.
Line of the Albany and East Main Rivers,
} 123-4, 136*m*, 237, 241, 348.

(10) Mid-line between Canada and Albany,
Fifty-second parallel,
Point where due north line from Lake Temiscaming strikes the shore of Hudson's Bay.
} 50-2, 57, 225, 236, 240, 378.

(11) Hudson's Bay Boundary: } 27, 48, 52, 117-18, 135, 136 *c-f, h, k, m, n, p, u, x, ff, hh*, 137-8, 217,
Hudson's Bay: } 219, 226, 324, 388, 411.

(12) Limit of the Hudson's Bay Company's Territories,—3, 15, 16, 23, 25, 46, 48, 55, 136 *hh*, 136-7, 227, 240, 259-60, 265, 299, 305-6, 343, 362, 368.

(13) River Rupert,—136 *g, h.*

(14) De l'Isle's or d'Auteuil's line (see pp. 136 *f, g*, 368-9),—136 *i, j, l, r-t, v-z, ee, gg, hh*, 137, 418.

(15) Middle line between the French and English posts at and before 1763, —136*m*, 335.

(16) Provisional Boundary, fifty-first parallel,—136, *n, s, aa, gg*, 239, 242, 347, 416-17.

(17) Parallel of the south-west shore of Lake Mistassin, 128-9, 136 *f, g*, 241.

(18) Line on the Hudson's Bay Co.'s map of 1748,—136 *o.*

(19) Fiftieth parallel,—136 *j, n, o, t-v, x, aa, gg, hh* 138, 418.

(20) Forty-ninth parallel,—54-55, 132, 136, *f, g, p, r-t, v, w, z, aa, cc-ee*, 212, 220, 237-9, 241-2, 273, 362, 365, 368-9, 376, 412-13.

(21) Beyond the Height of Land towards the shores of Hudson's Bay,—412.

(22) Northerly watershed of the St. Lawrence, to the point where it meets the north-easterly watershed of Lake Winnipeg,—23, 55, 136*v, w, y, z, aa-dd, ff, hh* 137-8, 162-3, 271, 340-46.

(23) The height of land which divides the waters that fall direct into Hudson's Bay from those that pass through Lake Winnipeg,—136 *r, y, aa, gg.* 138-9, 234.

(24) Line according to Mitchell's Map of 1755: [it is partly along, and partly north of the northerly watershed of the Lakes to Nepigon, and runs thence westerly to a point north of the Lake of the Woods], and thence, as a rule, northerly along the eastern shores of Winnipeg,—136 *w-y, aa-dd, gg-hh*, 139, 413, 417.

(25) Arrowsmith's Maps of 1795—1802—1822—1850,—130, 419.

TABLES.

(26) Starting point on the Labrador coast,—25, 28-9, 54-5, 132, 136 *f, i, g*, 237-8, 241.
Davis' Inlet, or 56° 30',—136, *f, g, s, t, p, z, cc*, 365, 368.
Grimington's Island, or Cape Perdrix,—54-5, 128-9, 132, 136, *f, g, p, u, gg, hh*, 237-8, 241.
Hudson's Straits, 59½°, Cape Button, Cape Chudleigh, } 25, 136 *g, j, o*, 139-40, 238, 369, 376.
(27) Heads of streams running into Hudson's Bay,—139-40, 190, 234, 238-9, 242, 365, 412.
(28) Boundaries settled by virtue of the Royal Prerogative,—4, 11-12, 15, 22, 25, 27-8, 39, 53, 388-90, 411.

II.—FRENCH POSTS, SETTLEMENTS AND EXPLORATIONS IN THE WEST AND NORTH-WEST BEFORE 1763.

1. Generally,—3, 47, 53-103, 107-8, 111-12, 118, 134-5, 136 *b, c, n, o*, 164-72, 179-80, 182-5, 187-8, 198, 210, 220, 222-3, 229, 231, 234-6, 239, 252, 257-8, 261, 265-77, 280, 299, 301, 306-7, 335, 380-2.
2. Lake Erie, Rivers Ohio, Wabash, Miamis, Ste. Claire and Detroit,—47, 57, 59-60, 64-7, 80-1, 84-5, 94-8, 102-3, 161, 300-1, 307, 380.
(*a*) Lake Erie,—57, 59, 80.
Fort Presqu'Ile,—81, 85, 380.
(*b*) Ohio River, 59, 60, 81, 97-8, 103, 161, 300-1.
Fort and River Le Bœuf,—81, 85, 103, 380.
Fort Machault,—81, 85, 380.
Fort du Quesne,—81, 85, 380.
(*c*) Wabash River,—59, 60, 65, 81, 85, 95, 97-8, 103.
Fort Ouiatanon,—64, 65, 67, 81, 85, 95.
Fort Vincennes,—47, 85, 94.
Posts established 1702,—102.
(*d*) Miamis River (which falls into Lake Erie)—65, 103.
Fort Miamis,—81, 85.
Twightwee Village, 95.
(*e*) Ste. Claire Lake and River,—57, 80, 103.
Fort St. Joseph or Duluth,—59, 60.
(*f*) Detroit,—57, 60, 65-6, 80, 84-5, 95-7, 102-3, 307, 380.
3. Lower Mississippi,—59, 60, 98, 102-3, 136*b, g*, 381.
4. Lake Huron (*Mere Douce*) Manitoulin, Saginaw,, 57, 59, 60, 66, 80, 103, 112, 135.
5. Ste. Marie du Sault and Michillimackinac,—59-61, 63, 66-7, 69, 71, 80, 84, 89-92, 103, 118, 136 *b, c, o*, 164-5, 169, 180.
(*a*) Ste. Marie, Fort and Mission,—60-1, 84. 136 *b, o*, 165, 169.
(*b*) Michillimackinac,—59, 63-4, 66-7, 69, 71, 80, 84, 89, 92, 103, 118, 136 *b, o*, 164, 180.
St. Ignace Mission, Arbre Croche, L. } 136 *b, c*, 164.
6. Lake Michigan, and Green Bay and vicinity,—59-64, 67, 82, 84, 94, 97, 103, 112, 136 *b-e, n, o*, 164-5.
(*a*) Lake Michigan generally,—59, 60, 67, 103, 112,
(*b*) Green Bay,—Fort La Baye and Mission du St. Xavier, 67, 82, 84, 89, 90, 136*a, o, c*.
Post Outagamis,—136c.
Fox River,—62, 86, 90, 103, 136 *n*.
(c) (See also Illinois No. 7.)
(7) Illinois country, the Lower Missouri and Rivers Chicagou and St. Joseph,—59-60, 64, 67, 81-2, 84-5, 92-100, 103, 134, 136*b-c, o*, 164-5, 300-1, 380-1.
(*a*) Illinois country generally: 60, 64, 67, 81, 84-5, 92-7, 99, 100, 134, 300-1, 381.
Doria, River, 381.
River Illinois: 103, 134, 136*b*, 164.
Fort St. Louis, 59.
Fort Crêvecœur, 59, 134, 136c.
Fort Peoria or Pimiteoui, 81, 134.
Kaskaskias, 93, 100, 381.
Fort Chartres, 81, 92-3, 99, 100, 381-2.
Cahokia, 67, 94.
St. Jeune Veuve, Fort and Post, 381.
Prairie du Rocher, 92, 381.
St. Philippe, 94, 381.
(*b*) Chicagou River and Fort: 97, 103, 136 *b, c, o*.
(*c*) St. Joseph's River: 64, 82, 164-5.
Fort St. Joseph: 82, 84, 136*o*, 165, 381.
Fort Miamis: 380.
(*d*) Lower Missouri: 81, 98-9, 134.
Fort Kansés: 81.
8. Lake Superior generally and its northern and western shores, —59, 64-5, 67, 69, 73, 83-4, 107-8 111-12, 118, 134-5, 136-*b, c, e-j, l-o, q, t-x, y, z, aa, cc, dd*, 164-6, 169, 180, 184, 239, 257, 354-9, 371-2, 375, 377, 381-4, 395-9, 401-2, 412-15.
(*a*) Michipicoten River, and Fort and vicinity,—84, 111, 118, 166, 169.

TABLES.

(*b*) Like Nepigon and vicinity,—60, 67, 83, 107-8, 111, 118, 134, 136*b*, *g*, *c*, 166, 169, 184, 239 381.
Fort Nepigon, 67, 69, 83, 118, 166, 239.
Fort Latourette, 136*e*.
Fort Duluth, 239.
Long River, Fort on, 381.
Fort Bagouagache, 136*f-y*.
(*c*) Kamanistiquia Fort,—64-5, 69, 73, 84, 136*b*, *l*, *n*, *o*, *q*, 166, 180, 184, 257, 383.
Grand Portage of Superior,—71, 164, 180.
(*d*) St. Louis, River,—136*b*.
9. Upper Mississippi and South West of Lake Superior,—60-6, 68-9, 73, 83, 85-93, 97-100, 102-3, 134-5, 136*b*, *c*, *f*, *i*, *l*, *n*, *o*, *r*, *u*, *v*, *w*, *y*, *z*, *aa*, 164-6, 381, 384.
(*a*) Upper Mississippi generally,—60, 62-3, 97-9, 102-3, 134-5, 164-5.
Fort St. Nicolas or Prairie du Chien,—63, 85-93, 134, 136*r*, *l*, *c*, *i*.
River Wisconsin,—62-3, 86, 90, 103, 134.
Fort et Lac des Pleurs,—134.
Fort Le Sueur,—102, 134, 136, *f*, *n*, *u*, *v*, *w*, *z*, *aa*.
Fort L'Huillier,—102, 135, 136*f*, *i*, *n*, *o*, *u-w*, *aa*.
Fort Vert,—135, 136*n*, *o*.
River St. Peter,—62, 63, 102, 134-5.
Fort de Bonsecours,—134, 136*c*.
Fort Perrot,—136*y*.
Pepin, Lake and Forts,—134.
Fort St. Antoine,—63, 136*c*, 381.
Post des Sioux,—63, 69, 73, 136*c*.
Fort and River St. Croix,—62, 63, 103, 134-5, 136*c*.
La Pointe or Chagouamigon and Mission du St. Esprit, 61, 64-6, 68, 83, 136*b*, *n*, 165, 384.
River St. Louis and Fond du Lac,—103, 166.
Sioux Country and Sources of the Mississippi, 62, 64-5, 98-100, 102, 164.
10. Post of the Western Sea, extending from the western watershed of Lake Superior to the Pacific, and from the Missouri River to the northern boundary of Canada—53, 60, 63, 68, 70-5, 77-80, 82-4, 99-102, 112, 134, 136*b*, *j*, *l*, *m*, *o*, *q*, *u*, *w*, *y*, 166-72, 179-80, 182-5, 187-8, 198, 216, 220, 222-3, 229, 231, 234-6, 239, 252, 258, 261, 265, 277, 280. 306-7, 335, 353-4. 371. 384-4, 402, 415.
(*a*) Upper Missouri generally,—63, 74-8, 82-3, 99, 100, 136*z*, *aa*, 168, 220, 277.
Mandans Country,—63, 74-5, 83, 136*z*, *aa*, 168.
River, and Fort,—
Yellowstone River,—74-5.
Sources of the Missouri,—74, 83, 277.
(*b*) Winnipeg Basin,—
Generally, 64-5, 70-5, 77-9, 82, 134, 136*b-j*, *l*, *m*, *o*, *q*, *u*, *w*, *y*, 166-8, 172, 179-80, 182-4, 187-8, 198, 223, 229, 231, 234-5. 239, 252, 258, 265, 277, 280. 335, 353-4, 371, 383-4, 402, 415.
(1) Rainy Lake and vicinity,—64, 73-4, 82, 136*h*, *i*, *u*, 239, 258.
Fort Tekamamiouen,—64-5.
Fort St. Pierre,—73, 82, 136*l*, *q*, *w*., 239, 258, 383.
(2) Lake of the Woods and vicinity,—64, 73-4, 82, 136*b*, *h*, *o*, 166, 182, 239, 252, 258.
Fort S. Charles—73-5, 82, 136*l*, *q*, *w*, 166, 182, 239, 258, 383.
(3) Lake and River Winnepeg,—64, 70-3, 82, 134, 136*c*, *e*, *g*, *j*, *o*, 166, 168, 182, 198, 222, 239, 252, 258, 280, 415.
Fort Maurepas,—64, 73, 134, 136*q*, 172, 239, 258, 383.
(4) Red River,—136*c*, 168, 198, 229, 258.
Fort du Bois,—136*l*, *y*.
Rouge Fort,—136*l*, *q*, 258, 383.
(5) Assiniboines, River of the,—70, 73, 82, 168, 258, 277, 415.
Country of the,—136*b*.
Fort La Reine,—73, 79, 82, 136*l*, *q*, 168, 183, 258, 383.
St. Peter's River and Fort,—73-4.
(6) Lakes Manitoba and Winnipegoosis,—74, 182, 223, 258.
Fort Dauphin,—74, 82, 136*e*, *f*, *l*, *q*, *r*. 167, 182, 184, 223, 258, 383, 402.
(7) Saskatchewan River,—74, 77-9, 82, 166, 179-80, 182, 198, 223, 239, 258.
Fort Bourbon,—74, 77, 82, 134, 136*l*, *m*, *q*, 166, 180, 184, 223, 239, 258, 353-4, 371. 383.
Fort Poskoyac,—82, 136*l*, *q*, 182, 184, 239, 258, 384.
Fort des Prairies (Fort Angustus).—82, 136*l*, 167, 182, 184, 187-8, 239.
Franceways' Settlement,—414.
Fort a la Corne—St. Louis—Nepawee,—136*l*, 180, 182-5, 258.
Sources of,—136*d*, 258.
Fort La Jonquière,—78-9.
(*c*) Athabasca country and Post,—136*z*, *cc*, 231, 234-5, 401, 415.
(*d*) Rocky, Mountains,—73-5, 78, 83, 136*l*, *dd*, 235, 277.
(*e*) Columbia River, Great River of the West, and Western Sea,—53, 60, 63, 65-7, 69-70. 72, 75-8, 82-3, 99, 100-2, 112, 136*c*, *t*, *dd*, 261, 306-7.
(1) Columbia River,—53, 261.
(2) Great River of the West, 53, 69, 70.
(3) Western Sea,—53, 60, 63, 69, 72, 75-8, 82-3, 112, 136*d*, *e*.

TABLES.

III.—FRENCH POSTS AND OPERATIONS IN AND AROUND HUDSON'S BAY, AND AT AND NORTH OF THE HEIGHT OF LAND BEFORE 1763.

1 Generally,—60-2, 64-5, 67-8, 82-5, 104-36, 136*a*, *c-h*, *j-o*, *q*, *r*, *u*, *v*, *y*, *z*, *aa*, *gg*, 164, 166, 169, 178-9, 194, 198, 203-6, 232-3, 236-42, 246-52, 256-7, 265, 280-7, 348-51, 353-9, 371-2, 375-7, 381, 395-6, 402, 412.

2 In and upon the shores of the Bay,—104, 106-25, 127-30, 133-6, 164, 166, 169, 233, 236-7, 239-40, 248, 250-1, 257, 280-1, 283-7.

(*a*) Fort Churchill,—164.

(*b*) Estuaries of the Nelson and Ste. Thérèse Rivers, Fort Bourbon at the mouth of the Ste. Thérèse Fort Nelson and York Factory. } 106-9, 111-16, 120-21, 123, 125, 127-30, 136*a-c*, *f*, *d*, *j*, *l*, *q*, 241, 280, 283, 285, 287, 349-51, 353-8, 371.

(*c*) New Severn,—196, 125, 128, 284-5, 377.

(*d*) Albany Fort,—110-11, 120, 123-4, 127, 133, 136*h*, *o*, *q*, 284-5, 359.

(*e*) Moose Fort (Hayes' Island),—117, 127, 136*f*, *k*, 166, 284-5, 372, 377.

(*f*) Fort Rupert,—118, 127, 233, 240, 284-286.

(*g*) Charlton Island,—113, 284-5.

(*h*) East Main, Fort and River,—124.

(*i*) Forts at foot of the Bay, English settlements on the Bay, } 116, 236, 250, 284-5, 287.

3 In the Interior at and north of the Height of Land,—67-8, 82-5, 105-8, 111, 113, 117-18, 121, 125-8, 133-4, 166, 178-9, 194, 203-6, 236-9, 242, 247-8, 265, 280-4.

(*a*) Seal River,—396.

(*b*) Rivers Nelson and Ste. Thérèse,—67-8, 82, 134, 136 *e*, *c*, *j*.

(*c*) Between Nepigon and Nelson River,—67-8, 107-8.

(*d*) Upper Albany and North of Nepigon,—67-8, 83, 108, 113, 134, 166, 236, 238, 242, 359.

Fort St. Germain,—108, 134, 136*f*, *k*, *n*, *r*, *x*, *z*, 238, 242.

Fort La Maune,—108.

Fort La Carpe,—83, 375-6.

Other Forts [of Du L'Hut, &c.], 238, 242.

Nepigon,—118, 134, 166, 239.

(*e*) The Three branches of the Moose, Lake Abbitibi, Post of Temiscamingue, North of Michipicoten. } 84, 111, 117-18, 134, 166, 281-3.

Fort referred to by Oldmixon, 1673,—279, *et seq*.

Fort referred to by H. B. C.—281, 283.

Fort Abbitibi,—84, 111, 117, 136 *c*, *f*, *k*, *n*, *r*, *v*, *a*, *y*, *z*, *aa*, *gg*, 282, 381, 395, 402.

Maison Francaise,—136 *c*.

Post of Temiscamingue,—84, 111, 117, 118.

(*f*) Lake Mistassin, River Rupert and north of Nekouba and other sources of the Saguenay, and northerly along the shores of the Bay to and beyond East Main,—85, 104-5, 111, 135, 136 *c*, *f*, *g*, *j-l*,—203-6, 239, 247, 283, 349, 396, 412.

Lake Mistassin and Post of Mistassinoc,—203, 206.

River Rupert,—135, 136 *a*, *f*, *g*, *k*, *l*, 239, 283, 350.

Fort Nemiscau.—111, 136, *f*, *x*, 369, 372.

Maison Francaise,—136 *gg*.

Maison des Dorvals,—136 *k*, *m*.

Nekouba Post,—135,-203, 206.

Post and Traite de Tadousac,—85, 104-5, 111, 135-6, 136 *a*, *f*, *g*, *k*, *l*, 203-6.

Posts and sources of the Saguenay,—85, 135, 203-6, 239, 372, 381.

Frenchman's River : 136 *d*.

Meskaouta Post.—348-9.

Nagasit Post,—349.

Trade of the Northern Indians with the French posts at and south of the Height of Land,—64-5, 82-4, 104-5, 107-8, 111, 113, 117, 122, 135, 136, 136*j*, 166, 179, 237, 247, 281.

Expeditions and routes overland.—104-5, 107-11, 135-6, 164, 166, 169, 232, 250, 256, 280, 282, 284, 287.

5 Acts of taking possession,—60-2, 104-6, 109, 111-12.

6 Voyages to to the Bay,—105-7. 109, 111, 113, 115-16, 135-6, 246, 250, 256.

7 French operations on and claims to portions of the Shore after 1713,—117-18, 203-6, 257, 335.

(*a*) Traite de Tadoussac,—203-6.

(*b*) Post of Temiscamingue,—117-18.

(*c*) Lac la Carpe, Post of,—375.

8 French Trade with and dominion over the countries of the Northern Indians,—108, 111-14, 118, 121-2, 125, 135-6, 178-9, 194, 237, 241-2, 247, 281-4.

TABLES.

IV.—ENGLISH VOYAGES TO, AND POSTS AND OPERATIONS OF THE HUDSON'S BAY COMPANY IN AND AROUND HUDSON'S BAY.

(1) Voyages to and operations in the Bay generally,—104, 106-7, 109, 112, 136 *f*, *h*, *k*, *l*, *o*, *q*, *w*, *dd*, *gg*, 232-3, 236, 246, 248, 279-86, 349-51, 354-8, 369, 371, 377, 396, 398-9, 401, 412, 415.
(2) The Company's operations and posts on the shores of the Bay,—104-9, 113-14, 118-19, 236-7, 249-51, 287.
(*a*) Churchill Fort or Prince of Wales,—121-2, 236, 412, 396, 398-9.
(*b*) Nelson and Hayes Rivers.
Fort Nelson or York Factory,—106-7, 109-10, 113-16, 120-2, 136*o*, 236, 280-7, 371, 349-51, 354-8, 371, 396, 399 412.
(*c*) New Severn Fort and River,—122, 280, 284, 377.
(*d*) Albany River and Fort,—120-2, 125, 127-8, 136*f*, *h*, *o*, *q*, 236, 250, 282-5, 396, 401, 412.
(*e*) Moose River and Fort, Hayes Island,—117, 121-2, 127, 136*f*, *h*, *k*, *o*, 281, 283-5, 350, 377, 396, 401, 412.
(*f*) Charleston Island,—113, 283, 377, 415.
(*g*) Rupert River and Fort,—118, 127, 136*c*, *f*, *k*, *w*, *aa*, *gg*, 280-1, 283, 369.
(*h*) Settlements at foot of the Bay,—112, 114, 116, 119, 284-5.
(*i*) East Main Fort,—122.
(3) Hudson's Bay Company's Posts in and Trade with the Interior Country before 1763,—102, 106, 113, 118, 121, 134, 136*o*, *z*, 236-7, 239, 252, 257, 265, 282, 286, 395-6, 412-15, 421.
(*a*) Trade with generally,—102, 121, 231, 236-7, 239, 252, 257, 265, 282, 286.
(*b*) Henley House,—118, 134, 136*o*, 236, 395-6, 412.
(4) Hudson's Bay Co.'s posts and trade in the interior country after 1763,—121-2, 166-7, 169-70, 180-1, 183, 185-6, 194, 239, 242, 252, 257, 265, 269, 296-8, 300, 335, 401, 413-15, 421.
(*a*) Cumberland House, 1774,—166-7, 180, 252, 413-15, 421.
Character of their first settlement of,—269.
See lists of their posts in 1820,—401.

V.—CANADIAN ENTERPRISE IN THE WEST, NORTH-WEST AND NORTH, AFTER THE CONQUEST.

A.—West and North-West generally,—122, 164-96, 239, 252-6, 259, 261, 273, 306-321, 412-13, 419.
(1) Upper Mississippi and the countries between it and Lakes Michigan and Superior, including also Michillimackinac, Sault Ste. Marie, Green Bay, Chagouamigon, and Detroit District,—164-70, 176-8, 180, 183-4, 188-91, 253-4, 306-12, 316-17.
(2) Kamanistiquia, Grand Portage, and Vicinity,—166, 168, 170, 180, 184, 188-93, 253-4, 409.
(3) Nepigon and north shore of Superior,—166, 184.
(4) Upper Missouri,—170, 174, 188-94.
(5) Winnipeg Basin,—
(*a*) Generally,—166-8, 172-3, 179-84, 188-9, 239, 252, 254, 321.
(*b*) Rainy River and Lake and Vicinity,—168, 172, 184.
(*c*) Lake of the Woods,—166, 168, 172, 182-3.
(*d*) River Assiniboine and Branches,—168, 173-5, 181, 183, 188.
(*e*) Red River of the North and branches, 168, 172, 175-6, 183-4, 188-9.
(*f*) Lake Winnipeg, Winnipegoosis and Manitoba,—166, 168, 172-3, 182, 184, 188-9.
(*g*) River Saskatchewan generally and surrounding country,—166-8, 179-82, 184-9, 252.
(6) Churchill River,—167, 180-2, 184, 188-9, 254, 256, 261.
(7) Athabasca country and Frozen Ocean,—167-8, 170, 181-4, 188-9, 252, 254, 256, 261.
(8) Rocky Mountains and Pacific Ocean,—170, 184, 188-9, 252, 254, 259, 261, 273, 321.
(9) Trade with the Indians of the West and North-West,—134, 164-5, 168-9, 180-2, 188-9, 216, 231-4, 239, 252.

B.—Occupation of territory west and south of the International Boundary, 1783-95,—306-20.
(*a*) Posts on the Mississippi,—308-10.
Illinois Country,—318.
(*b*) "Unsettled parts of Upper Canada,"—311-12.
(*c*) Upper Posts,—307-8, 311, 313.
(*d*) Michillimackinac,—308-9, 313, 318.
(*e*) Ouisconing,—309.
(*f*) "Both Shores" of the Lakes,—312-14.
(*g*) Miamis, 309, 317-18, 320.
(*h*) River St. Joseph,—310.
(*i*) Regions watered by the Kentucky and Cumberland Rivers,—309.
(*j*) Detroit,—307, 310, 311, 317-20.

C.—North of Height of Land, and in the Bay, and trade with the Northern Indians,—122, 168, 178, 180-1, 188, 195-6, 252, 256.

ADDITIONS AND CORRECTIONS.

Page 21, last line, *for* sued *read* used.
41, line 3, *read* D'Avaugour.
lines 10 and 13, *for* 1685, *read* 1645. Access could not be had to original sources when these were printed.
line 30, *read* Oüabache.
for note* substitute the following:—This expression is frequently to be met with in French official documents of this period and subsequently. It would appear to be a short rendering of the longer expression: "Canada .. et autres pays de la France eu Amerique Septentrionale."
46, note‡, Add to this note: [It has since appeared by information procured for the Government of Ontario, in London, that the true description is that above printed from the copy at Ottawa.]
58, line 10, The name, Penvecet, in this document—and so spelled in the N.Y. Hist. Col.—should doubtless be Peuvret—Jean Baptiste Louis Peuvret, Sieur de Mesnu, Greffier et Secrétaire du Conseil Superieur de Quebec. (*Edits, &c.*)
65, line 28, *read* Naurantsouak [? Kennebec.]
line 34, The Wabash of those days was that of the present day, but extending also from its junction with the Ohio to its discharge into the Mississippi—the Ohio being thus an affluent of the Wabash.
67, line 27, *after* Corlac, *read* [Corlar—Schenectady].
69, 77, 80, *read* Cavelier.
77, line 43, The like.
80, line 12, The like.
87, line 7, *after* Fort, *read* [Fort St. Nicholas.]
97, line 1, *read* Mante's.
101, line 33, *read* MOBILE.
104, lines 3, 4, 5, *for* 1668, *read* 1686.
107, line 39, *after* TERAGON, *read* [? Nantouagan, being the portage west of Lake Superior.]
108, line 4, *after* left, *read* in the month of August last.
line 32, *read* league.
line 36. See note, page 350 *post*, as to its first settlement of, at Nelson.
114, line 17, for GOBIN PACHOT, read

GOBIN.
PACHOT.

117, line 36, *read* five quarter-leagues.
124, *for* Canute, *read* Canuse.
128, line 3, *after* southward, insert period and *read* "The"
136*f*, Note † add to it [It appears that this cannot be, however, as both lines originated only in 1719-20, whereas the preliminaries were in 1711-12].
136*dd*, lines 24-5, strike out the words "of the northern watershed."
145, line 13, *after* Britain, *read*, as also the Straights of Hudson's Bay. [See original in Memorials of the Commissioners vol. i. pp. 680-1; and Tome II. p. 269.]
line 33, *after* and, *read* those.
line 34, *after* and, *for* land, *read* lands.
159, line 15, *after* head, *read as note*, See General Haldimand's letter on this subject in Mr. Mills' new Report.
179, line 12, *for* R. S., *read* K. S.
183, last line, *read as note*, An error; the French had one at the junction with the Assiniboine, and another—Du Bois—half way up the river.
205, line 28, *for* trade, *read* limits.
209, lines 41-2, *read as note*. Declared subsequently by treaty, 1842, to be a point further to the south west (see page 21 *ante*).
227, at foot of first note, *after* west, *read*, but see the decision by same C. J., in McLellan's case, p. 229, from which it may be inferred that the westerly boundary was held to be a line due north from Turtle Lake, or from the N. W. angle of Lake of the Woods. The former seems most probable.
228, line 42, *after* Canada, *read as note*, This seems to import that the line decided to be the true one, was part of the meridian of Turtle Lake, the source of the Mississippi.
236, line 27, *after* River *read as note*, Radison and Des Grosselliers had in 1667, been on the Red and Assiniboine Rivers and through that Western Country; and no doubt many other Canadians carried on the fur trade in that region.
lines 31-2, *add as note*, No other authority whatsoever has been found for the existence of these two Forts at the time referred to, and C. J. Draper himself appears to be doubtful on the point.
286, at foot of page *read as note*, For the French answer to English Deduction of Right, see pp. 351-4. *post*.
329, line 11, *for* 8th, *read* 9th.
351, at foot of page, *read as note*. For the English Deduction of Right to which this Memorial is an answer, see pp. 285-8, *ante*.

RETURN

In obedience to an Order of the House of 31st January last, for a Statement in Detail of Statistics contained on pages 18, 24, 30, and 40, (for cities,) of the Annual Report of the Honourable the Minister of Education for the year 1876.

By Command,

ARTHUR S. HARDY,
Secretary.

Provincial Secretary's Office,
Toronto, *7th February, 1879.*

ROMAN CATHOLIC SEPARATE SCHOOLS (CITIES), 1876.

TABLE A.

CITIES.	RECEIPTS.						EXPENDITURE.						
	For Teachers' Salaries. (Legislative Grant.)	For Maps, Apparatus, Prizes and Libraries. (Legislative Grant.)	Municipal School Assessment.	Trustees' School Assessment.	Clergy Reserve Fund, Balances and other sources.	Total Receipts for all Public School Purposes.	For Teacher's Salaries.	For Maps, Apparatus, Prizes, and Libraries including 100 per cent.	For Rents and Repairs of School Houses.	For Sites and Building School Houses.	For School Books, Stationery, Fuel and other Expenses.	Total Expenditure for all Public School Purposes.	Balances
	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
Hamilton	770 00	90 00	....	2980 85	1169 04	5009 89	1900 00	180 00	162 80	1616 21	412 20	4271 21	738 68
Kingston	575 50	62 28	.....	1683 73	444 54	2766 05	1530 35	127 68	80 00	35 20	701 22	2474 45	291 60
London	328 00	18 50	.....	1347 29	361 65	2055 44	1433 57	37 00	6 77	37 00	502 57	2016 91	38 53
Ottawa	1741 00	205 45	.....	7000 00	2014 98	10961 43	5400 00	410 90	2059 50	1217 30	1788 25	10875 95	85 48
St. Catharines	498 00	.....	.....	2217 50	866 50	3582 00	1491 28	.....	893 20	117 47	1045 45	3547 40	34 60
Toronto	1840 00	404 91	.....	5650 57	2226 78	10122 26	5133 00	809 82	1064 54	525 00	648 73	8181 09	1941 17

ROMAN CATHOLIC SEPARATE SCHOOLS (CITIES), 1876.

TABLE B.

PUPILS ATTENDING THE PUBLIC SCHOOLS.

CITIES	School population between 5 and 16 years of age.	Pupils between 5 and 16 years of age.	Pupils of other ages.	Total number of pupils of all ages attending school.	Boys.	Girls.	AGES OF PUPILS.				NUMBER OF PUPILS ATTENDING SCHOOL.						Number of children between 7 and 12 not attending any school.	Average attendance of pupils.
							Under 5.	5 to 10 (inclusive.)	11 to 16 (inclusive.)	17 to 21 (inclusive.)	Less than 20 days during the year.	20 to 50 days (inclusive.)	51 to 100 days (inclusive.)	101 to 150 days (inclusive.)	151 to 200 days (inclusive.)	201 days to the whole year.		
Hamilton	.....	1666	1	1667	771	896	....	1072	594	1	103	259	546	347	270	142	....	872
Kingston	.....	922	30	952	422	530	....	435	494	23	45	110	242	227	318	10	....	564
London	.....	850	7	857	397	460	....	528	322	7	113	127	226	218	162	11	....	391
Ottawa	....	2393	....	2393	1310	1083	....	1560	833	....	100	259	626	459	383	366	....	1377
St. Catharines	.....	721	7	728	419	309	....	417	304	7	55	108	229	187	121	28	....	363
Toronto	.....	3061	6	3067	1429	1638	...	1934	1123	10	157	502	890	605	558	355	....	1448

ROMAN CATHOLIC SEPARATE SCHOOLS (CITIES), 1876.

Table C.

NUMBER OF PUPILS IN THE DIFFERENT BRANCHES OF INSTRUCTION.

CITIES.	READING.					Spelling.	Writing.	Arithmetic.	Geography.	Linear Drawing.	Vocal Music.	Grammar.	Composition.	Chemistry and Botany.	Canadian History.	English History.	General History.	Natural History.	Human Physiology.	English Literature.	Christian Morals.	Civil Government.	Natural Philosophy.	Algebra.	Geometry.	Domestic Econ'y (girls only).	Mensuration.	Book-keeping.	Gymnastics or military drill.
	First Reading Book.	Second Reading Book.	Third Reading Book.	Fourth Reading Book.	Fifth Reading Book.																								
Hamilton	616	314	499	144	94	1667	1575	1513	1466	263	1667	480	350	..	90	60	40	..	..	.	1667	30	90	90	25	34	90	90	500
Kingston	212	190	318	232	..	875	497	626	347	14	230	201	300	10	125	97	76	..	..	20	..	..	..	30	26	..	20	30	..
London	330	260	128	139	..	857	845	857	717	98	346	527	..	..	73	73	78	..		..	857	..	..	18	..	..	41	..	
Ottawa	876	562	550	357	48	1873	1688	1847	689	..	238	871	..	..	..	..	1223	..	..	..	..	..	.	5	10	..	..	126	.
St. Catharines	216	96	307	109	..	728	514	514	511	36	376	408	304	35	190	154	103	..	16	..	728	.	..	35	21	..	..	47	.
Toronto	976	412	1150	457	72	3067	2022	2171	1816	48	2031	1589	1093	94	802	687	797	..	5	27	1902	..	174	64	72	..	106	246	.

ROMAN CATHOLIC SEPARATE SCHOOLS (CITIES), 1876.

TABLE F.

CITIES.	Number of Separate Schools.	RECEIPTS.					EXPENDITURE.			TIME AND PUPILS.			TEACHERS.			PUPILS IN THE DIFFERENT BRANCHES OF INSTRUCTION.										MAPS, APPARATUS.		
		Amount of Legislative grant for Teachers' Salaries.	Legislative Grant for Maps, Apparatus, Prizes and Libraries.	Amt received from School Rates on supporters.	Amount subscribed by supporters and other sources.	Total amount received.	Amount paid to Teacher.	Amount paid for Maps, Apparatus, Prizes, and Libraries, including 100 per cent.	Amount paid for other purposes.	Number of months open.	Number of pupils.	Average attendance.	Number of Teachers.	Males.	Females.	Number of Pupils Learning Reading.	Spelling.	Writing.	Arithmetic	Grammar.	Geography.	History.	Natural Philosophy.	Algebra.	Geometery.	Book-keeping.	Number of Maps.	Number of Schools using Maps.	Blackboards.
		$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.																			
Hamilton ..	6	770 00	90 00	2080 85	1169 04	5009 89	1900 00	180 00	2929 89	12	1667	872	12	1	11	1667	1667	1575	1513	480	1466	190	90	90	25	90	56	6	6
Kingston ...	3	575 50	62 28	1683 73	441 54	2766 05	1530 35	127 68	1108 02	12	952	564	15	1	14	952	875	497	626	201	347	298	..	30	26	30	42	3	3
London	3	328 00	18 50	1317 29	361 65	2055 44	1433 57	37 00	584 87	12	857	391	12	1	11	857	857	845	857	527	717	219	..	18	..	..	31	3	3
Ottawa.....	7	1741 00	205 45	7000 00	2014 98	10961 43	5400 00	40 90	5150 53	12	2393	1377	27	13	14	1873	1873	1688	1847	871	689	1223	..	5	10	126	58	7	7
St. Catharines	5	498 00	...	2217 50	866 50	3582 00	1491 28	. ..	2090 72	12	728	363	15	3	12	504	728	514	514	468	511	407	..	35	21	47	40	5	5
Toronto	8	1840 00	404 91	5650 57	2226 78	10122 26	5133 00	809 82	4179 44	12	3067	1443	38	15	23	3067	3067	2022	2171	1589	1816	2286	174	64	72	246	138	8	8

(No. 33.)

Copies of all correspondence. affidavits, or papers, filed in the office of the Attorney-General, from any person or persons, respecting the south half of lot number fourteen in the tenth concession of the Township of Tecumseh (part of the Mercer Estate), or from any person or persons claiming the right to purchase the said half lot. (*Not Printed.*)

RETURN

To an Order of the Legislative Assembly, for copies of all correspondence, Orders in Council, or other documents relating to the transfer of the Trent River Works from the Government of the Dominion, to the Government of this Province.

By Command,

ARTHUR S. HARDY,

Secretary.

PROVINCIAL SECRETARY'S OFFICE,
Toronto, 11th February, 1879.

SCHEDULE OF CORRESPONDENCE AND ORDERS IN COUNCIL RELATIVE TO THE TRANSFERENCE TO THE GOVERNMENT OF ONTARIO, OF THE PUBLIC WORKS CONNECTED WITH THE NAVIGATION OF THE TRENT RIVER, &c.

1878

October 4th.—Order of the Governor-General in Council.

" 5th.—Letter from the Lieutenant-Governor to the Secretary of State, (Canada,) transmitting copy of Order in Council, dated 4th October, 1878.

" 8th.—Order of the Governor-General in Council.

" 25th.—Letter from the Secretary of State, (Canada,) to the Lieutenant-Governor, transmitting copy of an Order of the Governor-General in Council, dated 8th October, 1878.

For all previous correspondence, &c., see Sessional Papers No. 36, 1877.

DEPARTMENT OF THE SECRETARY OF STATE, CANADA.

OTTAWA, 25th October, 1878.

SIR,—I have the honour to transmit to you herewith, for the information of His Honour the Lieutenant-Governor of Ontario, a copy of an Order of His Excellency the Governor-General in Council, authorising the transference to the Government of that Province under conditions therein set forth, the Public Works connected with the navigation and descent of timber on the River Trent, and in the Newcastle district.

I have the honour to be, Sir,
Your obedient servant,
EDWARD J. LANGEVIN,
Under Secretary of State.

THE HONOURABLE
THE PROVINCIAL SECRETARY, TORONTO.

COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL, IN COUNCIL, ON THE 8TH OCTOBER, 1878.

On a Report, 8th October, 1878, from the Honourable the Minister of Public Works, stating that on the 15th March, 1870, an Order in Council was passed, authorizing the Minister of Public Works to enter into negotiations with the Government of Ontario, with a view of effecting a transference to the latter of the Public Works connected with the navigation and the descent of timber on the River Trent, and in the Newcastle district.

That negotiations have accordingly taken place between the two Governments, which resulted in the acceptance by the Lieutenant-Governor in Council, on behalf of the Province of Ontario, on the 4th instant, of the transference of said works, with the condition "That such transfer be made free from all conditions and stipulations as to any future "maintenance of or expenditure on account of said works, on the part of the Province, "beyond what, if any, the Legislative Assembly may from time to time sanction and "approve of."

The Minister recommends that the works in question may be transferred to the Ontario Government, upon the terms of their Order in Council, of the 4th instant.

The Committee submit the foregoing recommendation for your Excellency's approval.

Certified,
W. A. HIMSWORTH,
Clerk, Privy Council.

TO THE HONOURABLE
THE SECRETARY OF STATE.

TORONTO, 5th October, 1878.

SIR,—With reference to the correspondence that has taken place respecting the transference to the Government of this Province of the Public Works connected with the navigation of the River Trent, in the Newcastle district, I am now directed to transmit a copy of an Order in Council, approved of the 4th instant, together with a copy of a Report of the Commissioner of Public Works therein referred to, having reference to such transference.

I have the honour to be, Sir,
Your obedient servant,
R. S. BRODIE,
Acting Assistant Secretary.

THE HONOURABLE
THE SECRETARY OF STATE (CANADA), OTTAWA.

COPY OF AN ORDER IN COUNCIL APPROVED BY HIS HONOUR THE LIEUTENANT-GOVERNOR, THE 4TH DAY OF OCTOBER, 1878.

The Committee of Council advise that the annexed report of the Honourable the Commissioner of Public Works having reference to the proposed transference to the Ontario Government of the Public Works connected with the navigation and descent of timber on the River Trent, in the Newcastle district, be approved of by your Honour, and acted upon.

Certified,

J. G. SCOTT,
Clerk, Executive Council.

4th October, 1878.

TORONTO, October 3rd 1878.

The undersigned, having reference to the correspondence already had between the Dominion Government and the Government of Ontario, respecting the proposed transference to the latter of the Public Works connected with the navigation and the descent of timber on the River Trent, in the Newcastle district, and having in view the fact that certain of the said works are alleged to be no longer useful for the purposes either of navigation or the descent of timber, but as at present maintained are only overflowing and damaging large quantities of valuable land, portions of which belong to this Province, begs respectfully to recommend that with a view to future action, an immediate transference of the said works from the Dominion Government to the Province of Ontario, be accepted, provided that such transfer be made free from all conditions and stipulations as to any future maintenance of, or expenditure on account of said works, on the part of this Province, beyond what (if any) the Legislative Assembly may from time to time sanction and approve of.

C. F. FRASER,
Commissioner.

THE HONOURABLE
THE LIEUTENANT-GOVERNOR IN COUNCIL.

(No. 35.)

Statement of the number of applications for loans which have been made under the Tile Drainage Act of 1878, the Municipalities by which applications have been made, the sums actually paid out of said fund, and the Municipalities to which said payments have been made. (*Not Printed.*)

o. 36.)

Return of all moneys received by the Bursar of the School of Agriculture and Model Farm from the sale of stock, crops, or other produce in each year since the organizing of the School; all payments made by the Government, or any officer of the Institution for stock, seeds, implements or other supplies for the Farm or School during that time, specifying each year; and a list of all stock, crops and implements at present on the Farm, giving the value thereof. (*Not Printed.*)

(No. 37.)

Copies of the Reports of the Inspector of Registry Offices on the Welland Registry Office for the years 1877 and 1878. (*Not Printed.*)

(No. 38.)

Copies of Orders in Council directing that the Ladies' Benevolent and Temperance House in St. Thomas, and the Refuge for Fallen Women in Toronto, be named as Charitable Institutions under the Charity Aid Act. (*Not Printed.*)

RETURN

To an Address to His Honour the Lieutenant-Governor, praying His Honour to cause to be laid before the House a statement shewing in detail the expenditure each year since 1867 on account of the settlement of the Northerly and Westerly Boundaries of the Province and the Arbitration in reference thereto, with the names of the persons to whom and what account the payments were made, and the date of such payments.

By Command,

ARTHUR S. HARDY,
Secretary.

PROVINCIAL SECRETARY'S OFFICE,
TORONTO, *14th February, 1879.*

TORONTO, *February 13th, 1879.*

STATEMENT shewing the amounts paid on account of NORTH WESTERN BOUNDARY between 1867 and 1879.

1872.	Hon. Wm. McDougall, services	$907 00
	Hon. D Mills, services	350 20
1873.	Charles Lindsay, services	600 00
	Hon. D. Mills, expenses and services	1,060 00
	Hunter, Rose & Co., printing	2,264 61
1874.	Chas. Lindsay, services	536 00
1875.	Hon. D. Mills, services	300 00
1876.	Hon. D. Mills, services	1,700 00
	Thos. Bengough, services	83 33
	C. Panet, services	10 00
	J. P. Macdonald, services	83 33
	Hunter, Rose & Co., printing	455 23
	Express Co., charges	4 60
	Hon. O. Mowat, travelling expenses	60 00
1877.	Hunter, Rose & Co., printing	419 58
	Copp, Clark & Co., engraving maps	350 00
	State Librarian, Albany, map	5 00
	Express Co., charges	3 30
	Dominion Telegraph Co., telegrams	18 00
	J. P. Macdonald, services as clerk and expenses	909 00
	T. Bengough, services as clerk and expenses	111 11
	E. S. Thaynes, services	9 00
	J. G. Smith, services	4 00
	L. J. Burpee, services	3 00
	T. C. Scoble, travelling expenses to London and Paris	600 00

1878.	Willing & Williamson, stationery	6 75
	T. C. Scoble, on acct. services	771 17
	C. E. Janrin, services	10 00
	H. A. Semple, services	3 78
	Express Co., charges	11 95
	J. P. Macdonald, services	390 00
	Hunter, Rose & Co., printing	928 25
	M. Donnelly, cab hire	1 00
	Telegraph Co., telegrams	1 10
	G. Verral, cab hire	3 50
	Sir John Rose, advance to T. C. Scoble	585 28
	A. H. Sydere, services	100 00
	J. M. Delamere, services	50 00
	Ottawa "Free Press," printing	98 55
	Hon. S. C. Wood, to pay expenses *re* preparation of Report on lands awarded Ontario	200 00
	H. McMahon, payment of Ontario share of short-hand writers account	57 13
	Hon. R. A. Harrison, services as arbitrator	1,000 00
1879.	Hon. O. Mowat, expenses of himself and clerk at Ottawa	56 90
	Thos. Hodgins, travelling expenses as counsel	31 00
		$15,152 65

Certified,

W. R HARRIS,

Assistant Treasurer.

REPORT

OF

IGNATIUS KORMANN, ESQ.

COMMISSIONER FOR THE

PROVINCE OF ONTARIO

TO THE

PARIS EXHIBITION.

Presented to the Legislative Assembly.

By Command,
ARTHUR S. HARDY,
Secretary.

Provincial Secretary's Office,
Toronto, 14th February, 1879.

Toronto, *December 16th, 1878.*

The Hon. A. S. Hardy,
Provincial Secretary,
Toronto.

Sir,—Having just returned from Paris, I have the honour to lay before you my Report as Commissioner for this Province at the Paris Universal Exhibition.

In accordance with your instructions, I at once placed myself in communication with, and visited as many of our Exhibitors as the short time at my disposal would allow.

I left for Paris on the 15th of April, and arrived there on the 28th of the same month. Finding that the Exhibition was as yet but little visited, I spent the month of

May in issuing my circulars, of which I distributed 10,000 in the French, 10,000 in the German, and 5,000 in the Flemish and Dutch languages.

In order that these circulars might be properly and carefully distributed, I visited the principal commercial centres in the different Countries, to procure the proper addresses of parties whom I wished to reach.

The object of these circulars was to call special attention to our Exhibits, and invite visitors desirous of information to call at my office, where they would find me ever ready to give them any desired references concerning our Exhibits and our Country; they were not only the means of opening a lively correspondence with business men from all commercial centres in Europe but attracted numerous visitors to our section, paying special attention to many of our Exhibits, whereby I succeeded in effecting sales for most of our Exhibits, and obtaining large orders for some of our Exhibitors in agricultural machinery and implements.

I am most happy to state that this branch of our industry, shown at the Exhibition, small as it was, has been highly spoken of by prominent farmers and mechanics, and been commented upon in the most flattering terms by the leading European journals.

The Vienna *Presse* of the 10th of Nov., in an editorial on the state of the machine industry and its depression in that country, refers to our exhibition of Agricultural Machines as follows:

"The only favourable conjuncture noticeable in the machine industry, is in agricultural machinery and implements, which is to be ascribed to the rich harvest we have had. But this branch of our industry will have to make strenuous efforts in order to hold its own against foreign competition, for as has been seen at the Paris Exhibition great progress has been made in the construction of these machines in England and America, this may be said particularly of Canada, 'relatively Ontario.'"

Heretofore Canada has in reference to its capability in the machine industry been scarcely known but by its name.

Its agricultural machines and implements shown at the Paris Exhibition, give an insight into the hitherto unknown productiveness of that country, which not only entitles it to be ranked with the highest civilized nations, but forces upon us the conviction, that Canada in this respect may be taken as a model.

Its agricultural machines and implements, surpass in simple and practical construction, as well as cheapness, all that has heretofore been shown, and Canada has in consequence thereof perhaps done more business at the Exhibition than all other Countries who had far larger Exhibits of agricultural machinery. One single French dealer having given an order for 1,000 reapers to be delivered within five years.

I may state that I succeeded in introducing and opening markets for this branch of our industry in France, Germany, Italy, Austria, Russia, Holland, Australia, and the South American Republics, and that I hold orders to the amount of about three million francs; provided manufacturers are satisfied with my arrangements and that the sample machine which are to be shipped during the months of January and February, will give satisfaction, and be equal in quality to those on Exhibition.

Although our show of agricultural machines and implements was the smallest on Exhibition, I can give you the assurance that if further steps are taken to enlarge the commercial channels now opened with the above named Countries, that a most prosperous future is in store for this branch of our industry.

I may state for your information that the customs tariff on Canadian agricultural machines into France is eighteen francs, "$3.60" per 100 kilos "224 lbs." equal to about 12 per cent. ad valorem; and implements such as hay forks, &c., frs. 96, "$19.20" per 100 kilos, and 4 per cent. and 18 per cent. on the handles. English agricultural machines pay frs. 6, "$1.20" per 100 kilos, and implements frs. 20, "$4.00" per 100 kilos, equal to about 3 per cent. ad valorem. The difference being that Canadian manufactures enter France under her general tariff, while England enjoys a commercial treaty from which her colonies are excluded.

The duties on our agricultural machines and implements into Italy are about the same as into France; in Austria and Germany they are only nominal, amounting to about 2 per cent. ad valorem. Our hemlock tanned sole leather has also received more than or-

dinary attention, and can be made an article of export into Austria, Germany, Italy and Switzerland.

It is to be regretted that there was only one Exhibitor in that article from Canada, "an Ontario firm," whose Exhibit I sold to an extensive leather dealer in Austria, "a member of the International Jury on leather." I also succeeded in obtaining a considerable order for the same firm, which was promptly filled and which no doubt is the opening of a considerable trade in that line of our exports with Austria.

Our tanners and manufacturers of leather goods would find France a most profitable market, could they enter that country under the English commercial treaty. As it is, English leather and leather goods enter France under an ad valorem duty of 10 per cent. whilst to her Colonies that market is prohibited.

Wool, raw sheepskins and hides will find a profitable market in France, and are exempt from duties if shipped direct from a Canadian or American to a French port. The same is applicable to all Canadian produce such as Rye, Maize, Barley, Buckwheat, Oats, Grain or Meal, Flax, Clover-seed, Potatoes, dry and dried vegetables, Wheat and Spelt pay frs. 0.6, "$0.12" per 100 kilos.

It is a noticeable feature in continental Grain Market reports, that Michigan Wheat is quoted while Ontario Wheat is not mentioned; which can only be attributed to the fact that American Wheat is shipped direct, whereas our Wheat that finds its way to the Continent is controlled either by English or American dealers.

Had our Barley this year been of a good sample we would have found buyers from Holland and Germany; orders were sent over, but dealers here considered the quality as too inferior for exportation. Rye has also been enquired for by dealers from these Countries.

Linseed was enquired for by French oil manufacturers. I have no doubt but our Flax men would find France a good outlet for their seed as well as their fibres. If shipped direct to a French port it is free of duties.

Our Exhibit of Wood was very much admired and attracted hundreds of dealers and consumers anxious for information regarding qualities, prices and cost of shipment. Whoever undertakes to introduce our lumber, staves, &c., into France, Belgium, South Germany and Italy, will find it a most lucrative enterprise.

Several French and Belgian paper manufacturers enquired for the "Pate de Bois," a paste made of the poplar and other trembling woods, for the manufacture of paper, stating that in their investigations of the subject of the products most suitable have learned that the trees of the aspen order which are indigenous to Canada have been pronounced to be superior to those of Northern Europe for paper making purposes. There was not a single paper manufacturer who called on me during my stay in Paris but enquired about the trembling poplars of Canada. Considering in what abundance this wood is to be found in many parts of the country and that heretofore little or no use has been made of it, there is an opportunity of opening an entirely new industry, with a ready market. Accompaning this report are samples of this wood paste from the Norwegian Section at the Exhibition, which were kindly given me by the Norwegian Commissioner. I may observe that this manufacture would be considered as raw material and would enter France and other Countries free from duties.

I have paid special attention to the Exhibits of dairy products in the French, Swiss and Holland Section, and used every effort to ascertain their mode of curing butter for preservation and exportation.

France is an extensive exporter of sweet butter to England, it is estimated that she exports 90,000,000 francs worth to that Country annually. While she is a large exporter of fresh butter, she is also a heavy importer of cured butter from Holland, Switzerland and Italy, it is assumed that she imports her entire requisites for her extensive and numerous pastry, confectionery, bakery and hotel establishments, as well as for domestic requirements. I maintain that a good market can be opened for this product in France, Belgium and Germany, provided that our makers or dealers undertake to cure it suitable for these markets, and that we endeavour to establish a Canadian name and reputation for it:—Fresh and cured butter are exempt of duty, salted butter pays frs. 2.50 "$0.50" per 100 kilos, if shipped direct to a French port.

Our cheese sold readily at the Exhibition and will find a fair opening in France, Belgium, Germany, and Austria. Canadian cheese has in fact heretofore been sold for English Chester, in these Countries:—The duties on our cheese into France are frs. 18 per 100 kilos and 4 per cent., equal to "$1.60 per 100lbs." English cheese pays frs. 4 per 100 kilos equal to "$0.36 per 100lbs." In Germany and Austria it is only nominal.

Other important products which have not realized paying prices in Canada for the last few years; and for which an opening can be made in France, Germany and Belgium, are hams, bacon and lard.

American pork is just now, and has been for the last few years, a drug in European markets, their smoked hams retail at from 50 to 60 centimes, "10 to 12 cents per lb.," bacon 30 to 40 centimes, "6 to 8 cents per lb.," and lard 50 centimes, "10 cents per lb.," while the home products realize frs. 1.50, "$0.30 per lb." for hams and bacon, and 75 centimes, "15 cents per lb." for lard.

Canadian hams are not known in Europe, for the simple reason that our dealers and exporters have neglected to establish a name for them and in consequence thereof they have been considered as American products, and if a good ham is sent over to England from Canada and finds its way into France or Germany it is sold not as a Canadian, but as a Yorkshire ham.

That we can establish a name for our pork and bring it in competition with the home product is proven by the fact, that exports in this article in different pork centres such as Lyons, Strasbourg, Navey, and Cologne, to whom I have sent samples of our product have pronounced it as good and that it could fairly compete with their home product.—The French duties are 60 centimes per 100 kilos and frs. 4 net, equal to about "$0.40 per 100 lbs." The English product has to pay the same duty.

Our taking part in the Exhibition has not only been beneficial to us in a commercial point of view, but our colonization interests were also thereby largely promoted.

Hundreds of visitors who heretofore had known little or nothing at all about Canada were astonished at the rich display of our natural resources, manufactures, and products. Many capitalists, farmers, and farmers' sons now convinced of the prosperity and productiveness of our country, called at my office, anxious for information regarding Canada, either as a farming country or the chances for the investment of funds and the accumulation of property; there is no doubt but what many a family possessed of means, will come and establish a home amongst us.

The prospects are that we shall see this coming spring several French, Alsatian and Swiss families, as well as several young men from these countries, settle down in the new colony I assisted in forming on Lake Nipissing, provided they succeed in selling their property at home.

In order to reap the full benefit derived from our taking part in the Exhibition, and to enlarge the commercial channels already opened for our manufactures and products, it is highly recommendable that a "*Canadian Ontario Reference Office*," with warehouse, be established in some prominent French seaport, say Havre, to enable our manufacturers, dairymen, produce and provision dealers to have their goods constantly brought in competition with the manufactures and products of other countries, on the French and Continental markets, and also to bring them in closer competition with the home European product, a step which cannot be too highly recommended, as it would establish its quality in the estimation of consumers, secure special quotations for it in the market reports, and would hereafter prevent our American neighbours from disposing of their inferior products as Canadian.

Such an institution would further be the means of bringing the producer and consumer in more direct relations, thereby obviating the English or American middleman, for if exports to Europe have until now not turned out to be profitable, it was principally owing to the fact that the profits belonging to the producers were pocketed by the middlemen.

Our Government should give a helping hand in the establishment of such Canadian Reference Office, for I maintain that they would not only assist in the opening of direct commercial relations and promotion of the interests of our manufacturers, &c., with Europe, but would thereby introduce the most economical system for the promotion of our Immigration interests.

The introduction of our manufactures and products into European markets, would be the best Immigration agencies we could establish.

Considering that seven-eighths of the Exhibits for which markets have or can be opened were from Ontario, that the Exhibition of agricultural machinery and implements was entirely from Ontario; and considering further that France and other Continental Countries are just now ripe for the introduction of this class of our manufactures, and would prove to be a most advantageous market.

Kindly allow me to call the attention of your Government to it, in order that they may consider in what way the agricultural and manufacturing interests can best be promoted, so that the good results so far obtained may continue to increase, and that the reputation of our Province as an agricultural and industrial one, may be spread throughout all Europe.

I have the honour to be,
Hon. and Dear Sir,
Your humble Servant,

I. KORMANN,
Ontario Commissioner at the Paris Universal Exhibition.

APPENDIX TO REPORT.

List of Exhibits and Countries to which they were sold :—

1. Gunn & Co., Kingston.
   Exhibit of Sole Leather. Sold to Austria.

2. John Watson, Ayr.
   Exhibit of 15 different Agricultural Machines. Sold France, Italy, and Holland.

3. John Elliott, London.
   Exhibit of 1 Meadow Lark Reaper and 1 Mower. Sold to France.

4. D. L. Sawyer & Co., Hamilton.
   1 Iron-clad Mower. Sold to France.

5. John Abell, Woodbridge.
   1 Matchless Reaper. Sold to France.

6. Whiting Manufacturing Co., Oshawa.
   Assortment of Agricultural Implements. Sold to Italy.

7. Gillies, George, Gananoque.
   Exhibit of Flexible Harrows and Cultivator. Sold to France.

8. Jones & Co., Gananoque.
   Assortment of Agricultural Implements. Sold to Germany.

9. Craig, Strathroy.
   Exhibit Trisoeploughs. Sold to France.

10. Frank & Kelchum, Strathroy.
    Exhibit Grain Cradles. Sold to France, Italy, and Germany.

11. English, Samuel, Omemee.
    1 Grain Cradle. Sold to Alsace.

12. Kennedy, Wm. & Son, Owen Sound.
    1 Leffel Water Wheel. Sold to Australia.

13. Alex. Begg, Orillia,
    1 Carriage. Sold to France.

14. Dew, John, & Co., St. Catharines.
    Assortment of Wheels, Spokes, etc. Sold to France and Germany.

15. James Smart, Brockville.
    Part of his exhibit. Sold to France and Italy.

16. Robinson G. W., Kingston.
    1 Cutter and 1 Sulky. Cutter sold to Germany, Sulky to France.

17. Herald, Daniel, Gores Landing.
Canoe. Sold to France

18. English, Wm., Peterborough.
Canoes sold to France and Italy.

19. Simmers, J. A., Toronto.
Assortment of Seeds, etc. Sold to Germany.

20. Harvey & Co., Hamilton.
Washing Machine and Wringer. Sold to France.

21. Shorey, E. R., & Co., Napanee.
1 Clothes Wringer. Sold to France.

22. McMurray & Fuller, Toronto.
Wash Boards, etc. Retailed at Exhibition.

23. Brazeau, F. X., Montreal.
Indian Fancy Work. Sold to France and Austria for Museums.

24. Mills & Hutchinson, Montreal.
Assortment of Canadian Tweeds, retailed at Exhibition.

25. Paton Manufacturing Company, Sherbrooke.
Tweeds and Doeskins. Retailed at Exhibition.

26. Rosamond Woollen Co., Almonte.
Tweeds and Doeskins. Retailed at Exhibition.

27. Canada Cotton Co., Cornwall.
Could not be sold for want of proper invoice.

28. Berlin Felt Boot Co., Berlin.
Assortment of Felt Boots. Retailed at Exhibition.

29. Coristine, J., Montreal.
Snowshoes, Mocassins, Buffalo Robes, etc. Retailed at Exhibition.

30. Garrett, John, Hamilton.
Boots and Shoes. Retailed at Exhibition.

31. Mullarkey & Co., Montreal.
Boots and Shoes. Retailed at Exhibition.

32. Burrell, Ellis & Co., Belleville.
Exhibit of Axes. Sold to Germany.

33. Pett, James, Hamilton.
Sheep Skins, Hearth Rugs, and Mats. Retailed at Exhibition.

34. R. Malcolm, Toronto.
Exhibit of Saddles. Sold to France and Italy.

TORONTO, *24th January, 1879.*

THE HON. A. S. HARDY,
Provincial Secretary, Toronto.

SIR,—In accordance with your request, I beg to give you list of orders I obtained for agricultural machinery, implements, etc., while in Paris as Commissioner for this Province at the Exhibition.

Mr. John Watson, Ayr, had on exhibition 1 single reaper, 1 mower, 1 horse rake, 1 grain drill, 1 plough, 1 horse-power and jack, 1 power straw-cutter, 1 hand straw-cutter, 1 double-action root cutter, 1 turnip seed drill, 1 grain grinder, 1 grain crusher, 1 hand corn sheller, and 1 power corn sheller.

The above machines were sold as follows:

The reaper, mower, grain drill, plough, and hand and power corn shellers, to Mr. Albaret, of Liancourt, near Paris, for his museum in connection with his extensive agricultural works.

The horse-power and jack, and power straw cutter, to the Prince de Sansevero, for the Model Farm in connection with the Agricultural College at Naples, Italy.

The grain crusher and grinder, and the root cutter, to Mr. Bodouin, Principal of the Agricultural College in the Hague, Holland.

The turnip seed drill, hand straw cutter, and horse rake, to the Count de Suzanne, Perigneux, France.

I received the following orders for Mr. Watson:—

1.—From M. Bennat, Bucharest, Roumania—1,000 corn shellers.

2.—M. Renier, Dordoyne, France—400 corn shellers.

3.—M. Alvaro, Reynora, Armenia—200 corn shellers.

4.—B. Poirot, Genoa, Italy—One each of every machine Mr. Watson manufactures, as samples; with condition that, if samples are equal to those on exhibition, he will take no less than 50 machines of each kind, annually, for five years. Samples are now being shipped.

5.—Paul Dietrich, Bromberg, Germany—1 two-horse horse-power, 1 four-horse horse-power, 1 reaper, 1 mower, and 6 grain drills.

The horse-powers were shipped last month. Mr. Dietrich wants to enter into engagement for 100 reapers, and 100 mowers, and 25 horse-powers, annually, for five years, if machines now to be sent will prove equal to those on exhibition.

6.—Demmer Bros., Eisenach, Germany—1 (each) hand and power straw cutter, 1 Victor mill, and 1 root cutter, as samples.

7.—Alexandro Calzone, Bologna, Italy—1 hand and 1 power corn sheller were shipped this month. Will take 100 each kind next August.

8.—M. Esnault, Ballots, France—200 horse rakes, 50 reapers, 20 mowers, for coming season. Shipment of sample machines this month.

9.—Marty fils, Ille-a-Tete, France—Reaper, mower, and horse-rake, as samples.

10. Valck-Virey, St. Die, France—Samples of reapers, mowers, and horse rake. Wants 100 each this year, if samples are satisfactory. Samples will be shipped in February.

11.—Kleeman & Son, Oberturkheim, Germany—1 machine each of Mr. Watson's manufacture as samples.

12.—E. Durr, Strasbourg, Alsace—1 corn sheller, 1 reaper, 1 mower, and 1 horse rake, as samples. Shipment in February. Will give his orders for coming season in May next.

13.—Victor Freudenberg, Vienna, Austria—Reaper and mower, as samples.

14.—M. Tolliens, Amsterdam, Holland—Reaper and mower, as samples. Shipment in February. Wants 25 each June next.

15.—M. Zimmerman, Moscow, Russia—1 power straw cutter, as sample.

I have also secured Mr. Watson very important correspondents in Venezuela and Buenos Ayres.

John Elliott, Esq., London, exhibited 1 Meadow Lark Reaper and 1 mower, sold to A. Marchandin, manufacturer of threshing machines, Longroy, France.

1.—Mr. Marchandin gave me an order in June last, for 8 Meadow Lark Reapers, which arrived at Havre on the 22nd July last. They were the first Canadian reapers ever known to have worked in a French harvest field, and gave such satisfaction that Mr. Marchandin entered into a contract with me for 1,000 reapers, and 200 horse rakes, to be delivered in five years; 200 reapers, and 40 rakes annually. 40 reapers to be shipped this month.

Mr. Marchandin has since informed me that he expects to complete his contract in two years.

2.—Louis Durr, Nancy, France—Samples of combined and single reaper, mower and horse rake. Will take 100 each during coming season.

3.—Floquet, Edin, France—Samples of combined and single reaper, mower and horse rake.

4.—Reignier, Perigneux, France—Samples of reaper and mower, wants 40 each this coming season.

5.—M. Arnandon, Gapp, France—Samples of combined reaper, and horse rake.

D. L. Sawyer, Esq., Hamilton, exhibited 1 Ironclad Mower, sold to M. Thenot, St. Amand, France.

1.—M. Burgeois, St. Amand, France—Samples of combined and single reaper and mower; will take 30 each this coming season if samples are satisfactory.

2.—M. Frepor, Longpre, France—Samples of combined reaper, mower, and horse rake; will take 25 each this coming season if samples are satisfactory.

3.—Radiveau Freres, Brinon, France—Samples of combined reaper and horse rake; will take 100 each this year if samples are equal to those on exhibition.

4.—Gustave Thiezey, Samoigneux, France—Samples of reaper and mower.

5.—A. Vaselin, Albert, France—Samples of combined and single reaper and mower.

6.—M. Rigolot, Grey, France—Samples of reaper, mower and horse rake.

Mr. John Abell, Woodbridge, exhibited 1 Matchless Reaper, sold to the Count de Gelves, St Nazarie, France.

Green Bros., Waterford Ont., exhibited Royal Royce reaper, sold to commissioner of South Australia.

The A. S. Whiting Co., Oshawa, exhibited assortment of agricultural implements. Sold to Prince de Sansevero for Agricultural Museum in connection with Model Farm, Naples, Italy.

1.—M. Vaselin, Albert, France	500	doz.	forks, assorted.
2.—M. Lefevbre, Amiens, France	500	"	"
3.—L. Durr, Nancy, France	500	"	"
4.—E. Durr, Strasbourg, Germany	500	"	"
5.—M. Rigolot, Grey, France	500	"	"
6.—M. Urs. Eggers, Soleure, Switzerland	100	"	"
7.—B. Porot, Genoa, Italy	200	"	"

The Messrs. Whiting & Co. are now sending samples to Mr. Vaselin, France, and Mr. Porot, Genoa, from whom the others will get them.

F. G. Craig, Strathroy, exhibited 1 gang plough. Sold to the Count de Suzanne.

B. W. Vary, Strathroy, exhibited 1 gang plough. Sold to the Count de Suzanne.

The kind of ploughs exhibited by Messrs. Craig & Vary will find a good demand in France and Italy.

George Gillies, Gananoque, exhibited 3 flexible harrows and 1 flexible cultivator. Sold to the Count de Suzanne.

Samuel English, Omemee, and Frank & Ketchum, exhibited grain cradles which were very much admired by farmers. There is a splendid opening for this manufacture in many parts of the continent where land is much subdivided.

Jones & Co., Gananoque, had on exhibition a collection of scoops, spades, manure forks hoes, shovels, etc., sold to Paul Deitrich, Germany.

I could have had several orders for Mr. Jones had he answered my letters.

James Smart, Brockville, exhibited a large assortment of boring machines, mortising machines, tire setters, corn shellers, and force pumps: for which there is a demand in Europe.

John Dew & Co., St. Catharines, exhibited wheels, hubs, spokes, felloes, etc. Parts of their exhibit I sold to Mr. Binder, Paris, president of the jury on carriage materials, and Mr. Paul Deitrich, Germany.

There is a good opening in France and Germany for this class of goods, but to do business manufacturers will have to make sizes, etc., to suit the trade in these countries.

Gunn & Co., Kingston, exhibited sole leather. Sold to V. E. Flesch, Brunn, Austria, a member of the jury on leather. I sent Mr. Gunn a considerable order from the same party. Our sole leather will find markets in Austria, Italy, Switzerland, and Germany.

I may here mention that all manufactures of wooden-ware, such as wash-boards, pails, brooms, shovels, forks and rakes, handles of tools (with or without ferrules), coopers' goods, furniture materials, doors, sashes, and Venetian blinds, can be profitably exported into France, Italy, and Belgium.

Should you at any time desire further information concerning the introduction of our manufactures and products into Europe, I shall be most happy to comply with your request.

I have the honour to be, Sir,

Your obedient Servant,

I. KORMANN.

RETURN

To an Order of the Legislative Assembly for a Return of all moneys collected by the Province of Ontario, since Confederation, from Sales of School Lands.

By Command,
ARTHUR S. HARDY,
Secretary.

PROVINCIAL SECRETARY'S OFFICE,
TORONTO, *17th February, 1879.*

CROWN LANDS DEPARTMENT, ACCOUNTS BRANCH,
TORONTO, *11th February, 1879.*

SIR,—In reply to a Resolution of the Legislative Assembly, transmitted per your letter of 5th inst, I have the honour to enclose "A Return of all moneys collected by "the Province of Ontario since Confederation, from Sales of School Lands."

I have the honour to be,
Sir,
Your obedient Servant,
THOMAS H. JOHNSON,
Ass't Commissioner.

The Honourable the Provincial Secretary,
etc., etc., etc.

STATEMENT of amounts paid on Common School Lands, sold between 1st July, 1867, and 31st December, 1878.

County of Bruce.

Township of	Arran	$3,706 53
"	" Alma	342 04
"	" Brant	4,714 69
"	" Bruce	7,900 18
"	" Culross	300 00
"	" Elderslie	3,973 75
"	" Kincardine	3,800 85
"	" Kinloss	764 00
"	" Huron	9,028 23
"	" Inverhuron	1,485 00
"	" Paisley	3,859 00
"	" Saugeen	4,149 38
"	" Southampton	8,802 00
	Total	$52,825 65

County of Grey.

Village of Ayton	$4,630 85
Township of Bentinck	4,374 27
" " Derby	1,444 40
" " Durham	250 00
" " Egremont	1,801 65
" " Glenelg	3,647 79
" " Holland	2,055 92
" " Normanby	5,398 95
" " Sullivan	6,644 36
" " Sydenham	847 85
Total	$31,096 04

County of Huron.

Township of Ashfield	$1,087 46
" " Cranbrook	3,026 80
" " Grey	3,284 02
" " Morris	3,860 97
" " Port Albert	20 00
" " Turnberry	6,180 34
" " Wawanosh	2,373 49
" " Wingham	11,263 62
Total	$31,096 70

County of Perth.

Township of Elma	$1,754 27
" " Trowbridge	30 75
" " Wallace	669 32
Total	$2,454 34

County of Wellington.

Township of Arthur	$718 00

RECAPITULATION.

COUNTIES:	
Grey	$31,096 04
Bruce	52,825 65
Huron	31,096 70
Perth	2,454 34
Wellington	718 00
Total	$118,190 73

THOMAS H. JOHNSON,
Ass't Commissioner.

R. H. BROWNE,
Chief Clerk, Agents Returns.

WILLIAM FORD,
Accountant.

Department of Crown Lands,
Accounts Branch.

Toronto, 11th February, 1879.



COPY OF A REPORT

Of a Committee of the Honourable the Privy Council of the Dominion of Canada and of an Order in Council of the Province of Ontario having reference to the Appointment of an Arbitrator in the room and stead of the Honourable William Buell Richards, in the matter of the Northern and Western Boundaries of the Province of Ontario.

Presented to the Legislative Assembly.

By Command,

ARTHUR S. HARDY,
Secretary.

PROVINCIAL SECRETARY'S OFFICE,
TORONTO, 12th February, 1879.

COPY OF AN ORDER IN COUNCIL, APPROVED BY HIS HONOUR THE LIEUTENANT-GOVERNOR, THE 31ST DAY OF JULY, A.D. 1878.

Upon consideration of the Report of the Honourable the Attorney-General, dated 9th day of July, 1878, recommending that the Honourable Robert A. Harrison, Chief Justice of Ontario, be appointed Arbitrator in the matter of the Northerly and Westerly Boundaries of the Province of Ontario in relation to the rest of the Dominion, in the room and stead of the Honourable William Buell Richards, who, since his appointment as such Arbitrator, was appointed Chief Justice of the Supreme Court, and subsequently resigned his appointment as Arbitrator, the Government of the Dominion having named Sir Francis Hincks one of the Arbitrators in the room and stead of the Honourable Lemuel Allan Wilmot, deceased; and the Right Honourable Sir Edward Thornton having been named on behalf of the Governments of the Dominion and Ontario, and also recommending that the determination of the award of such three Arbitrators, or a majority of them, in the matter of the said Boundaries respectively be taken as final and conclusive; and also that the Province of Ontario agree to concurrent action with the Government of the Dominion in obtaining such legislation as might be necessary for giving effect to the conclusion arrived at by the said Arbitrators, and for establishing the Northern and Western limits in the Province of Ontario in connection therewith, the Committee of Council advise that the foregoing recommendations be adopted and approved of by your Honour.

Certified,

LONSDALE CAPREOL,
Assistant Clerk Executive Council, Ontario.

16th August, 1878.

COPY OF A REPORT OF A COMMITTEE OF THE HONOURABLE THE PRIVY COUNCIL, APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 31ST JULY, 1878.

The Committee of Council have had under consideration the subject of the Northern and Western Boundaries of the Province of Ontario, which under previous Orders in Council had been referred to the Honourable W. B. Richards, then Chief Justice of Ontario, named as Referee on behalf of that Province, but who was subsequently replaced by the present Chief Justice, the Honourable R. A. Harrison, and the Honourable Sir Francis Hincks who has been named on behalf of the Dominion, and whereas subsequently to the action taken under Order of Council of 12th November, 1874, it was mutually agreed between the Governments of the Dominion and Ontario that the Right Honourable Sir Edward Thornton should be selected as third Referee, the Committee recommend that such selection be confirmed by Minute of Council, and that the determination of such three Referees be final and conclusive upon the limits to be taken as and for each boundary respectively.

Certified,

W. A. HIMSWORTH,
Clerk Privy Council, Canada.

ANSWERS OF THE JUDGES

AS TO THE

Jurisdiction and Practice of the Division Courts

AND OTHER AMENDMENTS OF THE LAW.

Presented to the Legislative Assembly by command of His Honour the Lieutenant-Governor.

ARTHUR S. HARDY,
Secretary.

OFFICE OF THE PROVINCIAL SECRETARY,
February 17th, 1879.

TORONTO, 27th March, 1878.

MY DEAR SIR,—Public sentiment, so far as it may be gathered from the opinions expressed in the Legislative Assembly at its late session, seems to favour an increase in the jurisdiction of the Division Courts. I should, therefore, be much obliged for your opinion upon the following points:—

1. As to the expediency of an increase being made.
2. To what extent you would advise the increase.
3. To what classes of cases it should apply.
4. Besides an increase to the absolute jurisdiction, would it be expedient to give to parties an option to have cases of still larger amount (and whether or no without any limit) tried in the Division Courts where both parties concur?
5. I should be glad if you would note what from your experience you regard as the probable advantages and inconveniences respectively, of the increase proposed or recommended.
6. I desire also suggestions as to other amendments, which it would be necessary or proper to make as incident to the change: for example, as to additional security by officers, writ of arrest, &c.
7. Should there be an appeal in the new cases in which jurisdiction would be given?
8. I find that some are for abolishing all jurisdiction to recover very small sums. Has your experience led you to form any opinion upon this point?

In case the subject of increasing the jurisdiction of the Division Courts is dealt with next sesion, I should be glad to consider any other amendments in the Division Court Act which it may be proper to introduce at the same time.

10. The increase of jurisdiction may materially affect the emoluments of Sheriffs and perhaps of some other officers. Is there any just arrangement which could be made by law to alleviate that objection?

11. It has also been suggested that instead of so many fees being payable to the Clerk, there would be great advantage in substituting one fee. I should like your opinion as to a change of this kind and as to what the fee should be.

I am,

My Dear Sir,

Your obedient servant,

(Signed), O. MOWAT.

TORONTO, *October 5th, 1878.*

MY DEAR SIR,—I should be much obliged by your giving me your opinion at your earliest convenience (unless you have done so already) on the points mentioned in the annexed circular, and also on the questions following which have been suggested since that circular was prepared.

12. Would it be desirable, and in the interest of Suitors, to permit a fee to be taxed to Solicitors, if employed, in the cases falling within any new jurisdiction which may be given to the Division Courts; and what fees would you suggest?

13. Would it be desirable, and in the interest of Suitors, to allow any and what fees to Solicitors in any cases already within the jurisdiction of Division Courts?

14. Some have proposed, in view of an increased Division Court jurisdiction, to abolish the County Courts. Should this be done? or, on the other hand, should the jurisdiction be increased; and if so, to what amount? and, whether under any and what conditions?

15. I should be glad to know your opinion as to the expediency of limiting appeals from the judgments of the Superior Courts of Law and Equity and in case you favour such limitation, what would you suggest as the proper limit?

I am,

My Dear Sir,

Your obedient Servant,

O. MOWAT.

OPINION OF JUDGE GOWAN.

Questions 1, 2, 3, 5, 6, 7, 9, 10 and 12.

Answers. Of the questions answering to the above numbers, several depend one on the other, and all relate to the same subject matter; all therefore may be answered under a single head.

I beg to reply as follows:—

Speaking from actual and intimate knowledge of the working of the Division Court system for over thirty-five years in the largest and one of the most populous counties in Ontario, I have no hesitation in saying, that an increase in the jurisdiction of the Division Courts would not be expedient; on the contrary, it would, I am satisfied, destroy the usefulness of the Courts as tribunals for the recovery of small debts and claims. It would be attempting to benefit the few to be served by the increased jurisdiction, at the expense of the many who resort to the Courts; the small trader and poor suitor would undoubtedly suffer by the change. The Division Courts are now doing a good work; gorge them with a class of cases requiring a great deal of additional time for investigation, and you will necessarily protract the sittings of the Court; you may cheapen law in *some* cases, but you will cease to have the elements essential to the usefulness of small debt Courts.

To give an appeal from these Courts would be holding out a premium for protracted litigation to the longest purse in matters that will not bear delay or expensive litigation.

4. It may be that a jurisdiction by consent of both parties, as in the Courts in England, would not be injurious to the Division Courts, but I am inclined to think parties would rarely avail themselves of it.

8. To abolish all jurisdiction to recover small sums, would be a most doubtful experiment and manifestly unjust. The small claim of the poor man is to him relatively as

important as the claim of the merchant for a large amount. It would certainly have the effect of increasing the cost, to cover the risk of loss by the small trader; for credit is essential in all rural districts, at least of Ontario; even the best farmer cannot command cash at all seasons, and the poor and honest man would be the sufferer. Moreover, expedients would be resorted to to surpass the limit; indeed I think any such prohibition would only aggravate the evil, in the present condition of the country.

11. The only advantage I can see of one fixed fee would be as a guard against imposition by officers. But parties can now always have a bill taxed, and officers guilty of overcharging are liable to severe penalties. One fixed fee would operate most unjustly against debtors, while the fixed amount allowed might on the average pay officers sufficiently. It would bear harshly against the debtor who was prompt to pay at the earliest moment in his power after process served, while the man who let the proceedings go on up to the fixed point would pay nothing additional. Thus, it would be giving to the latter an advantage instead of to the former. Fees, to be just, should be levied, not on an average, but for necessary work actually done in each case—no more—it is the only just principle. I would, therefore, strongly object to one fixed fee as inexpedient and unjust.

13. There are certain cases where, in the interest of suitors, a small fee might be allowed, but certainly not on claims for very small amounts. If such fees were allowed as costs in the cause, the maximum should not exceed $5, to be fixed by the Judge at the time of hearing.

14. It would be a serious matter in any aspect to abolish the County Courts—Courts coeval with the early settlement of the Province. There is in my judgment at present an undue centralization of the law business of the country at Toronto prejudicial to the interests of the great bulk of suitors. "Single seated justice," with simple and speedy means for taking a case to the Court of Appeal for *prompt* decision, will best secure the prompt and uniform administration of the law in all cases; and local administration is an important element in this particular, and is best calculated to foster an efficient Local Bar—a matter greatly to be desired. My own idea is that the County Courts should be made chambers of one Superior Court for the Province—but the subject is too large to enter on in these replies.

15. While the Superior Courts are constituted as at present, I am strongly of opinion that no appeal should be allowed from the full Court where the amount in dispute does not exceed $1,000—and the subject is merely a money one or the like—not touching matters of a public nature or permanent right, &c. A restricted appeal would be an act of mercy to litigants.

JAMES R. GOWAN.

To Hon. O. MOWAT,
Attorney-General, &c.

Barrie, 6th December, 1878.

OPINION OF JUDGE MILLER.

GALT, *December 7th, 1878.*

MY DEAR SIR,—I beg to apologize to the Attorney-General for delaying so long to reply to his Circulars of the 27th March and 5th October.

I was not present at the last meeting of the County Court Judges, but have lately read their printed suggestions on the questions submitted by the Attorney-General, and I may shortly say that I agree with the Judges in their recommendations.

Yours truly,

N. MILLER,
J. Waterloo.

J. G. SCOTT, Esq., Q.C.,
Toronto.

EXTRACT FROM SYNOPSIS OF PROCEEDINGS AT THE FIFTH ANNUAL MEETING OF COUNTY COURT JUDGES OF ONTARIO.

Held in the Convocation Hall of Osgoode Hall, Toronto, which was again kindly granted by the Treasurer of the Law Society, on Wednesday, 26th and Thursday, 27th June, 1878, for the purpose of discussing and considering new matters and points of practice coming within the jurisdiction of the County Court Judges.

Mr. Mowat's circular letter of the 27th March, 1878, to the County Court Judges, in reference to an increase in the jurisdiction of Division Courts, was discussed at some length.

In reference to the proposed increase of jurisdiction, most of the Judges present were of opinion that such increase was not desirable, although it was probable that the Government would introduce a measure to that effect.

It was thought that an influence should be exercised in limiting the increase, if practicable, to cases to be tried in the Division Court by consent.

Some of the objections stated to an increase in the jurisdiction of the Division Courts were these :—

1. That if jurisdiction were increased, an appeal should be allowed, and the suits could not, as now, be summarily and expeditiously disposed of.

2. That the amount involved being large, a Tariff of Fees should be taxed to parties for Counsel, &c., and thus they would cease to be "Cheap Courts."

3. That the business of the Courts being increased, they could not be held, as now, in one day, and they would in fact cease to be "Small Courts."

It was thought in replying to the Attorney-General's circular, these views should be urged, and that we should also recommend an enlargement of the jurisdiction of the County Courts.

That this would be a real public benefit, as it would reduce the costs from the Superior Court to the County Court Tariff, and would relieve the Superior Courts from a portion of the work with which they are now over-burdened ; besides, it would improve the status and position of the County Court Judges.

As regards the proposed amendments to the Division Court Act, as suggested by Mr. Mowat, the following were recommended :—

1. That the Judge should have power to allow substitutional service in all cases.

2. That a proper Fee should be allowed to Jurymen for their day's attendance ; and that this fee should be paid as part of the expenses of a Jury suit, by the party ordering the Jury.

3. That a lump sum should be charged for Clerk's fees, graduated according to the amount claimed, but realizing as near as may be the amount now chargeable by the Clerk for all his services up to and including judgment.

4. That the power to grant a new trial should be so expressed as to include the setting aside a nonsuit entered by the Judge, and giving the parties a rehearing.

JUDGE MILLER'S OPINION.

JUDGE'S CHAMBERS,
MILTON, *Sept. 16th, 1878.*

SIR,—In answer to your circular or letter of March 27th, 1878, desiring my opinion upon the points therein submitted I have the honour to reply as follows :

1, 2, 3. "As to the expediency of an increase being made," I am of opinion that so long as we have a County Court, there should be no increase in the jurisdiction of the Division Courts. But if an increase be demanded by the Legislature it should be limited to double the amount of the present jurisdiction in each class of cases.

4. To the fourth question : I answer that it would *not* be expedient to give parties an option to have cases of larger amount (or without limit), tried in the Division Court when

both parties concur; and my reasons for such opinion are that the trial of such cases could not be proceeded with at the ordinary sittings of the Court without causing great delay and obstruction in the trial of small causes; in this that the judge would require to keep a note book and enter therein all the evidence and his rulings with the same care that is required in the Superior and County Courts; which would make it impossible to dispose of the proper business of the Court in a reasonable time.

5. In answer to the fifth question I would say that as I understand it the only advantage that is expected to be derived from an increase of jurisdiction is "cheapness," which I suppose would result from an increase if *no appeal* were given in the "new cases;" but if an appeal were given I believe the cost to the suitor would be greater than in the County Courts at the present time. Among the inconveniences of an increase may be mentioned the obstruction and delay in the trial of small causes; for the reason stated above in answer to question No. 4, and the serious effect such increase would have on the emoluments of the Sheriffs and Clerks of the County Courts in outer Counties.

6. I am not prepared to offer any suggestions as to amendments incident to the change.

7. I am strongly of opinion that there should be no appeal from the Division Court while its practice remains as at present, and no more elaborate practice can be substituted under which the Court could dispose of the amount of business that is now brought before it in a reasonable time.

8. I am of opinion that this County is old enough to abolish all jurisdiction to recover debts under twenty dollars. I do not, however, urge this point. But I cannot too strongly recommend that Sections 177 and 182, Cap. 47, R. S. O., be so amended as to restrict the power of issuing judgment summonses to judgments over *twenty-five* dollars. The judgment summons process is very much abused by many plaintiffs, costs being heaped on unfortunate debtors until the amount is two or three times as great as the original claim.

9. I do not at present think of any amendments that I would recommend being made to the Division Court Act, except the amendment of Sections 177 and 182, as suggested in the preceeding paragraph; and also the amendment of Section 72 by striking out the word "Eight" in the second and third lines of the said section, and inserting in lieu thereof the word "Twenty." The difficulty of personal service in many of these suits is a great hardship on Bailiffs, who are only allowed one mileage no matter how many times they may have had to go before they could effect service.

10. It is clear to my mind that the increase of the Division Court jurisdiction as suggested would so affect the emoluments of the Sheriffs and County Court Clerks in outer Counties that respectable and capable men would not hold the offices. But I cannot see any arrangement which could be made to alleviate the difficulty unless salaries were substituted for fees, which I do not think the Legislature would sanction.

11. I am strongly of opinion that instead of so many fees being payable to the Clerk, there would be great advantage in substituting one fee, and I think that fee payable by the plaintiff at the time of entering the suit might probably be fixed at two dollars and fifty cents ($2.50), and the defendant should pay fifty cents (50 cents) when he enters his defence. Over 200 suits I think the Clerks should pay a percentage to the Government in somewhat the same manner as Registrars are required to do.

I have not had time to give these questions the consideration I would have desired for the reason that the first circular received by me was mislaid and since I received the second one I have been so much engaged with my Courts of different kinds that I have not been able to take the matter up till now.

I have the honour to be,
Sir,
Your obedient servant,
T. MILLER,
Judge Co. Halton.

To Hon. O. MOWAT,
Attorney-General.

JUDGE'S CHAMBERS,
MILTON, *19th Oct., 1878.*

SIR,—I beg to acknowledge the receipt of your circular letter of 5th Oct., 1878, desiring my opinion on the points mentioned in questions 12, 13, 14, 15, therein contained, and I reply as follows:

In my answer to the questions in your letter of March 27th, I gave my views on the subject of an increased jurisdiction in the Division Court; and I may now say that the more I consider the matter the more convinced am I that an increased Division Court jurisdiction with an appeal therefrom cannot be made to work satisfactorily.

12. In case of an increased Division Court jurisdiction I think there should be a fee taxed to a solicitor, if employed in the cases falling within such increased jurisdiction, and I think $5 would be a suitable fee.

13. I think it would not be desirable to fix a fee specially for solicitors in any case already within the jurisdiction of the Division Court, but it would be well to allow a fee of $2 to cover expenses, over and above the Court costs, to be taxed to the successful party at the discretion of the Judge.

14. I do not think the County Court should be abolished; but on the other hand its jurisdiction should be increased to an unlimited amount in all personal actions in which it now has jurisdiction under Chap. 43, Section 19, R. S. O. And I would suggest that instead of increasing the jurisdiction of the Division Court, the County Court should be made to do the work desired (by some persons) to be put upon the Division Court, at the same costs to the suitors that would be incurred for the same work under an increased jurisdiction in the Division Court.

15. I am of opinion that it would be expedient to limit appeals from the judgments of the Superior Courts of Law and Equity; but I have not the necessary information before me to enable me to suggest a limit.

I have the honour to be,
Sir,
Your obedient servant,
T. MILLER,
Judge C. C. Co. Halton.

To Hon. O. MOWAT,
Attorney-General,
Toronto.

OPINION OF JUDGE SCOTT.

BRAMPTON, *2nd September, 1878.*

HON. O. MOWAT,
Attorney-General, Ont.

SIR,—In reply to your circular of 27th March last, I beg leave to state:

1. I do not think any material increase in the jurisdiction of the Division Courts is advisable or expedient.

2. I would only advise such an increase as would allow interest and notarials to be added to notes for $100 or less, and actions in tort to be brought for $50.00.

3. If the jurisdiction be materially increased I do not see why it should not apply to all cases, keeping up the distinction between contracts and torts,—in a word, the present proportion, say $200 in actions of contract and $100 in tort.

4. I do not think it expedient to give increased jurisdiction to the Division Courts by consent of parties. The same end would be attained, and some serious objections avoided, by compelling the County Judge to act as sole arbitrator, without fee, in cases to any amount, where the cause of action arises in his county, and the parties agree to such reference, and authorizing the court having jurisdiction to the amount of the award to issue execution thereon, with costs to be taxed by the Judge or proper officer.

5. I think the provisions for security by officers now in force would answer as well if the jurisdiction were increased, but it would be advisable in any case to have some rule

laid down as to amount of security, either by direct legislation or giving the inspector some control in the matter, so that there may be something like uniformity throughout the Province, which cannot be expected under the present system.

I would not be in favour of giving any increased power of arrest to the Division Courts.

6. I think there should be an appeal in all cases materially beyond the present jurisdiction, and I am also decidedly in favour of appeal in the more important cases at present brought. Some of the most difficult and complicated questions of law arise in the Division Court, and sometimes the point is so doubtful that I, for one, would be much better satisfied if my decision were open to review. The right of appeal should be absolute in cases over a certain amount, and might be allowed by the Judge in cases over a certain other (less) amount. I would not recommend any appeal from the Judge's finding on questions of fact, unless upon improper admission, or rejection, of evidence. The Judge should prepare a statement of the facts found by him, and of the evidence, if any, tendered and refused, or objected to and admitted and the proceedings in appeal might be very simple.

7. I do not see why a person should not be entitled to recover any amount however small, lawfully due to him. When a suit for a trifling amount is wantonly brought, the Judge may withhold costs, in whole or in part. It might be a good idea, in any case, large or small, but more particularly in small cases, to require notice or demand before suit.

8. The present mode of selecting jurors is, where the municipal and Division Court laws are strictly carried out, a serious hardship upon certain individuals, who are, year after year compelled to serve, while the great majority are practically exempt. I would suggest, that at the last court in each year the clerks of the municipalities comprised in the division should attend, and that they and the Judge and the clerks and bailiff of the court select a list of jurors for the ensuing year, from which the required number for each court could be selected by the clerk by ballot or by the Judge at each court for the next one.

The jurors should be paid. As the law now stands, 15 jurors, at least, are summoned; five of them serve and get ten cents each, the other ten get nothing. In country places the average amount almost necessarily spent by each juror is not less than 50 cents, and there are few whose time is not worth at least $1.00 a day. It is bad enough to take their time without imposing a tax upon them as well; and I think each juror attending should be allowed at least 50 cents and mileage, at 5 cents a mile beyond three miles. To lessen the expense to suitors, there might be courts held especially for jury cases, at which all cases ready could be tried by a panel of 15 or 20, or the jury might be reduced to three instead of five.

I am very strongly of opinion that the Judge should be empowered to allow a small fee to counsel or attorneys in defended cases over a certain amount. The fact is, that, such do attend in nearly all important cases, and a successful plaintiff has to pay a considerable percentage of his just rights to obtain the remainder, or a defendant is put to a heavy expense to resist an improper demand. I would suggest an allowance of $1 to $5 in the discretion of the Judge.

It would, I think, be very desirable to pay the Clerks by a fixed salary and fund the fees. The salary to be graded in certain fixed amounts, according to the business of the court, from a certain minimum to a certain maximum amount, and beyond that a salary to an assistant in the same way, but on a less scale, and in extreme cases it might be extended to a second assistant.

I should like to see the appointment of the officers taken out of the hands of the judge, but am not at present prepared to suggest an improvement.

It would be well to fix office hours for the Clerk, at least in cities and towns.

10. An increase in the jurisdiction would effect the emoluments of the Sheriff, and the Clerks of the County Court, the former could only be compensated by an increase of fees, the latter might be recouped in the same way, or by increasing the jurisdiction of the County Court, or by increasing his salary as Deputy Clerk of the Crown.

11. I think it would be a great advantage to reduce the number of fees payable to the Clerk. I do not however, see any way of reducing them to *one* fee, as that would attach upon entry of suit, which would be unjust to the defendant and do away with one incentive, saving of cost, to settle. I would suggest one fee, varying in accordance with amount sued for and number of defendants, to include all Clerk's duties up to service of summons and proof thereof, another to include all Clerk's duties connected with entry of judgment and issue of

execution (varying in like manner) to attach an entry of judgment, and another to be paid by defendant, when notice of defence is given, to include all Clerk's duties in connection with the trial and entry of judgment and issue of execution. There would be outside services, as transcripts and certificates to County Court, Jury summons, &c., that might still have to appear in the Clerk's tariff but it might be very much simplified with great advantage.

As to what the fees should be, I think it would be better to refer the matter to the board of County Judges or a larger committee, includin gthe board, than to act on individual opinions of Judges who do not consider the matter in concert.

Should the jurisdiction of the Division Court be considerably increased, what is going to become of the County Court? This appears to be considered a serious question in connection with the increase of jurisdiction. Now while I do not favour an increase, I do not see that this is an objection to it. It has however, to be considered as part of the question. If I may be pardoned for giving an unasked opinion, I think the County Court might even under present circumstances very well be dispensed with, by giving all its business to the Superior Courts, calling its Judges Circuit Judges or something of that kind, making them in fact Judges of the Superior Courts, but of a lower order, giving them if necessary, increased powers in the Superior Courts, holding Circuit Courts with sessions, and oftener if need be, and having two scales of costs, all the machinery of a separate Court would be rendered unnecessary, and the legal business of the Country now done in the County Court, would be quite as well and conveniently done as at present. I think this subject is quite worthy of consideration, more especially as the County Court question has to be looked at in connection with any increased powers to the Division Court.

Hoping my views are not presented too late for examination,

I have the honour to be,
Sir,
Your obedient Servant,
(Signed) A. F. Scott
County Judge Co. Peel.

Brampton, *12th October, 1878.*

Hon. O. Mowat,
Attorney-General, Ont.

Dear Sir,—I have already answered your circular of 27th March, and have, to some extent, anticipated the enquiries in your circular of 16th. In reply to your questions 12 and 13, I think it would be very desirable, and in the interest of suitors, to permit a fee to be taxed to solicitors *in defended suits* in the Division Court, not only in cases of increased jurisdiction being given, but under the present jurisdiction as well. As to the amount of such fee, it would perhaps be well to authorize the board of County Judges to fix a scale of maximum fees. If fixed by statute I would suggest a maximum fee of $2.00 on claims of $25.00 or under, to be increased by $1.00 for each additional $25.00 or under, up to $100.00 and then by $1.00 for each $50.00 or under, up to the extent of the increased jurisdiction. To be taxed only on order of the Judge, who may allow, in each case, the maximum, or any less fee.

14. If the jurisdiction of the Division Courts be materially increased, the County Courts would be left nearly useless. In such case, I would almost say in any case, I think it would be better to abolish it altogether, and constitute the County Judges assistant or Circuit Judges of the Superior Courts, and throw upon them a considerable portion of the work now done in those courts. It would require a good deal of consideration to devise a proper and suitable scheme, but I think, in good hands an arrangement might be effected that would answer an excellent purpose, and simplify and facilitate the legal business of the Country. The alternative would be to increase very considerably the jurisdiction of the County Courts. I would suggest $1,000 as the limit, and do away with the present distinction between amounts ascertained by the act of the parties or signature of the defendant and those not so ascertained. Or it might be well to give the County Court original

jurisdiction to *any*, or some large amount in actions of contract, giving either party the right, *in defended suits* where the claim is over (say) $500, to transfer the proceedings by some simple process to a Superior Court.

It would doubtless be easier to extend the jurisdiction, but I think the other would ultimately prove the better way, and would respectfully suggest the appointment of a committee of Superior and County Court (Board) Judges, and leading Barristers, including members of the Government, to consider the matter, and have little doubt that a satisfactory scheme could be devised.

I do not feel competent to offer an opinion on the 15th question, further than a general one against limitation of appeals.

I remain

Your obedient Servant,

(Signed) A. F. Scott.

OPINION OF JUDGE SHERWOOD, SUBJECT, *RE* DIVISION COURTS.

Belleville, *14th July, 1878.*

My Dear Sir,—In answer to the several questions in your letter of the 27th March last, I beg to say,

1. It would in my opinion be inexpedient to increase the jurisdiction of the Division Courts.

2. If increased to double the amount.

3. To all classes.

5. The disadvantages that would attend an increase in jurisdiction would be the immense increase to the business of the courts, and the probable necessity of an increase in the number of Judges.

6. There would be no necessity of a change in the manner of taking security, and I should decidedly object to any arrest being allowed.

7. An appeal would not, in my opinion, be judicious. It would cause the time at which judgment could be had to be prolonged. It would require the erection of a special Court of Appeal. Quick and inexpensive litigation at the risk of occasional errors would be better.

8. I have been long of opinion that it would be beneficial to the business of the country, if suits for less sums than forty dollars should be prohibited. The payment of debts under that amount would then be a matter of honour, and no person would get credit unless his character was good for punctuality, and people would likely act so as to acquire that character. Goods are now frequently forced on people by reckless dealers, relying on the compulsory clauses of the Division Court Act to enforce payment.

8 and 9. I have no suggestions to make in regard to these questions.

11. There would be an advantage in substituting one fee for the clerk. The difficulty would be in fixing it. The best method I think would be to make it proportional to the amount of claim.

I beg to apologise for not sooner replying to your circular.

I am,

My dear Sir,

Your obedient Servant,

(Signed), Geo. Sherwood.

The Honourable Mr. Mowat,
Attorney-General,
Toronto.

Belleville, *15th October 1878.*

My Dear Sir,—Yours of the 5th instant, I received a day or two ago. I replied to the circular on the first page on the 4th July last.

In reply to questions 12 and 13 in your last,

It would not, I think, be in the interest of suitors to allow a fee to be taxed to Solicitors in either case.

To No. 14.—It would not, in my opinion, be advisable to abolish the County Courts. I would, however, advocate the abolition of the Division Courts, giving jurisdiction to County Courts to try without jury cases between forty dollars and the limit of the jurisdiction of the Division Court as it now is, allowing in such cases the same fees as are allowed in the Division Court. I would recommend, as stated in my reply to No. 8 of your former circular, the abolition of suits for a less sum than forty dollars. I would favour the increase in jurisdiction of the County Courts to double its present jurisdiction, giving it also jurisdiction to try questions where title to land comes in question, and providing that the judgments in such cases should not operate as estoppels in actions brought in the Superior Courts to try titles.

To No. 15.—It would be expedient to limit appeals from the Superior Courts of Law and Equity to a minimum of one thousand dollars.

Your obedient Servant,

(Signed), GEO. SHERWOOD.

The Honourable O. MOWAT,
Attorney-General,
Toronto.

OPINION OF JUDGE LEGGATT.

WINDSOR, *10th Sept., 1878.*

To the Honourable the Attorney-General,
Toronto.

SIR,—In answer to your circular to the County Judges dated the 27th March last, I would beg respectfully to state, that, in my opinion, the right to sue for, and recover, any debt less in amount than $100, or at all events $50, should be taken away.

I have come to this conclusion after twenty years' experience as a County Judge, and base it on the fact, that, during those years very few or none of the country merchants or trading people who have prospered and are well to do have had recourse to the courts to recover or collect debts. They exercise a wise discretion and sound judgment in giving credit and consequently their debtors pay, or, if they do not, there is a reason for it, which the right to sue for the claim would not remedy. On the other hand those who give credit indiscriminately, are constantly in the courts and ultimately end in bankruptcy. A measure of this kind would tend to induce, encourage, and foster the cash system in trade, without in any way depriving the poor but honest man, or dealer, of all the credit he might require. A more reliable and healthier mode of doing business would thereby be established, from which both the debtor and creditor, buyer and seller, would derive a mutual benefit.

I would not recommend the Legislature to increase the jurisdiction of the Division Courts, as they are at present constituted. I would rather suggest the propriety of adopting some plan by which the Division Court would be abolished by merging or fusing the County Court and Division Courts into one.

In order to test the advisability of such a measure I would suggest that in all actions of debt, covenant, or contract, or money demand, the Division Court should have concurrent jurisdiction with the County Court. That it should be optional for the plaintiff, in such cases, where the whole cause of action arose within the county and when it exceeded the jurisdiction, as it is at present fixed, of the Division Court, either to institute proceedings in the Division Court in the division in which the defendant resides, or carries on business, or to proceed in the County Court. That the number of divisions in each county should be limited to not less than three nor more than five. That all defences should be in writing, and in fact the forms of pleading as given in the Common Law Procedure Act, applicable to the cases mentioned, should be adopted. That the clerks of each division should be Deputy County Court Clerks and be supplied with summons and all writs by the Clerk of the County Court.

That the Sheriff of every county should be responsible for the service of all summonses and papers, and the execution of all writs, and to that end should have the appointment of the bailiffs of every division, who would hereafter be called Deputy Sheriffs.

In short I would suggest such a fusion of the County Court and Division Court Acts, that all the provisions of both, relative to practice and procedure, that are, and would be desirable and necessary to make the one court, to be known as the County Court, simple and effective, should be retained and the rest rejected.

I have the honour to be,
Sir,
your obedient servant,
(Signed) G. W. Leggatt.

OPINION OF JUDGE ELLIOTT.

London, *August 9th, 1878.*

My Dear Attorney-General.—If the answers to the accompanying queries were of any value, I should feel the necessity of offering an apology for having allowed so long a time to elapse without furnishing them. But feeling as I do how valueless my contribution is, I need say no more.

I have clipped an article from the London Daily *Telegraph* of the 23rd July last relating to the contemplated changes in the County Court system in England which I enclose.

Believe me,
Sincerely yours,
The Hon. Attorney Mowat, Toronto. (Signed) W. Elliot.

The Select Committee of the House of Commons to which was recently referred the whole question of County Court practice and jurisdiction has just concluded its labours. The Chairman, Sir Eardley Wilmot, has had considerable experience of the subject, and the Committee, as a whole, very fairly represented lay opinion on one side and that of the legal profession on the other. Mr. Forsyth, Mr. Morgan Lloyd, Mr. Gregory, and the Solicitor-General were present to watch the interests of the counsel, solicitors, and we may, perhaps, be allowed to add even Judges themselves, while Mr. Hibbert, Mr. Norwood, Mr. Rowley Hill, Mr. Whitwell and Mr. Birley championed the cause of that large section of the general public whose one desire is to get its law as cheaply and as expeditiously as possible. To the Committee thus constituted three Bills were referred, of which on a previous occasion we have given a detailed account. and which were introduced respectively by Sir Eardley Wilmot, Mr. Norwood, and Mr. Rowley Hill. Mr. Norwood's measure has been reported with amendments, the other two unamended; and we may consequently take it for granted that, when the question comes before the entire House, the Bill of the Honourable Member for Hull will be adopted, subject to any alterations which may suggest themselves either to the Government or to private members. Mr. Norwood's original proposals have, however, been considerably modified. In the first place, a clause by which he would have given the County Courts an exclusive jurisdiction up to fifty pounds, instead of as now up to twenty pounds only, has been struck out. This, perhaps is not unreasonable. A suitor for an amount exceeding the traditionary "four five pound notes" may very well wish to bring his action before a Judge of the High Court of Justice and a jury of twelve, instead of before a County Court Judge and a jury of five; nor do we exactly see why he should be debarred so simple and intelligible a right. An action in court for twenty-five or thirty pounds may, and often does, involve most difficult points of law, and it is hard upon a suitor to drive him to a small local tribunal, the process of appeal from which is difficult and not always satisfactory.

On the other hand, the Committee has agreed to a clause increasing the concurrent jurisdiction of the County Courts with the High Court of Justice, not from fifty pounds

to one hundred pounds, as suggested by Mr. Norwood, but to two hundred pounds, the amount fixed by Sir Eardley Wilmot; and they have also inserted a clause from the draft measure of Mr. Rowley Hill, raising the salaries of the County Court Judges from fifteen hundred to two thousand pounds a year, partly on account of the increased jurisdiction which the proposed changes will carry with them, and partly in consideration of the fact that recent legislation has imposed upon the County Courts duties which it was never originally intended they should discharge, giving them, *inter alia*, power to adjudicate in bankruptcy, and to hear and decide Admirality cases and cases remitted from the Superior Courts. There are also provisions for giving the Judges retiring pensions, and for checking the too prevalent practice by which local solicitors are allowed to act and discharge judicial duties as Registrars. Such are the main features of the new measure, and we may frankly admit our opinion that if they pass into law the public will gain in many ways. The proviso to which we attach most importance is that contained in the fourth section, by which it is enacted that "any action which can be brought in the High Court of Justice, excepting those actions which are assignable only to the Probate, Divorce, and Admirality Division thereof, may be commenced in a County Court; but where such action could not have been commenced in a County Court but for this section, such action shall be removed into the said High Court, as of right, upon the application of the defendant." By this the plaintiff in all ordinary actions has the right to commence his suit in the County Court of the district in which he resides. Should he not be opposed in this he will gain two great advantages. He will save in time and he will save in expense, his action will come on sooner, and he will have to spend less on that most ugly of all fruits of litigation, "costs." It is true that when the amount in dispute exceeds fifty pounds the defendant may of right remove the action from the County Court in which it is laid into the High Court of Justice; but any one at all familiar with the actual practice of law will see at once how, after a year or two, this will come to work. If the defendant "takes" the case "up" for the mere purpose of delaying a claim to which he knows he has no defence, the plaintiff will, upon an affidavit of the facts ask the Judge at Chambers to send the case back again to the County Court unless money is paid into Court or security otherwise given. The Judges of the High Court of Justice are naturally anxious to diminish their own work and to let the County Court Judges do as much of it for them as possible. They will consequently, always look with favour on an application the object of which is to reduce the lists in London and Middlesex and upon circuit by compelling a defendant to appear in the County Court unless he can show that he has a really *bona fide* defence. While welcoming this great change for the better, we confess nevertheless, that we could also have wished to see a provision that in all cases over fifty pounds or, say, a hundred pounds, the County Court Jury should consist, not as now of five only but of twelve, and that a special jury should be had if necessary. Nothing is small that adds dignity or importance to the public administration of justice.

For the rest, the very reasonable claims which their dignity has made it impossible for the County Court Judges themselves to prefer in their own behalf, but which on grounds of public policy have been more than once advocated both in the House of Commons and in the public press, are dealt with in an equitable spirit. Two thousand pounds a year is certainly not too much to pay as yearly salary to the "Judge of the small causes Court," when a "small cause" may mean anything up to fifty pounds as a matter of course, and anything up to any amount, say even five thousand pounds, if the parties consent. For a judicial post of this kind we need men of high eminence in the profession, and such men, as we have before now pointed out, are not to be tempted from the lucrative practice of Advocacy for one thousand five hundred pounds a year. With regard to the provision made for a retiring pension—which is upon the customary scale of two-thirds—it is perhaps advisable, not so much in the interest of the Judges as of the public, that the period of qualification should be reduced, as in the case of Judges of the High Court of Justice from twenty years to fifteen. A County Court Judge is seldom less than forty when he is appointed—he is often near fifty—and with every respect for the Judicial Bench whether at Westminister Hall, or elsewhere, we think it hardly enhances the regard in which justice is held, or its efficient administration, that a Judge who is—we do not say altogether unequal to his work although such cases have been known—but not as fit for it as he once was, should go on sitting, in the hope that his strength may hold out a sufficient number

of years to qualify him for a retiring pension. We may perhaps, also add that we could have wished to see legal precedence given to County Court Judges, and with them stipendiary magistrates, over all ordinary barristers. It is a little matter this, perhaps; but all ceremonial is made up of little matters. Why should a young Queen's Counsel, called to the bar ten years ago, and admitted to silk a week ago, take precedence of a gentleman who, although in his profession he is only entitled to "stuff," has yet sat as a Judge for twenty years or more? A concession of this kind would be gracious, and would impose no burden on the public purse. The Inns of Court themselves might well pave the way to it if they would make it a practice to admit County Court Judges, like "silks," to the dignities and prerogatives of "benchership."

Ans. to Query No. 1. I do not think it is desirable that the jurisdiction of the Division Courts should be further extended as regards amounts,—Because the result of such an extension would be that the Court would cease to be what I believe it was intended to be, namely a *poor man's Court.* The amounts in controversy being so much greater than they are at present, we should find professional men much more extensively employed in the Courts. These practitioners would require payment of course, and the end would be that instead of a somewhat rough-and-ready species of justice being administered, we should find this Court far more extensively guided by the refinements of law than at present. Certainly if the jurisdiction should be increased as to the amount of the claims, there ought to be some stricter regulations so as to require the defence, whether it be statutory or not, to be announced beforehand, and it could scarcely be considered reasonable that the successful litigant should have to pay his own Lawyer. The consequence would certainly be the reverse of what some persons seem to anticipate, since instead of making the Division Court more thoroughly within the reach of suitors, in an untechnical way, I apprehend the result would be to make it more than ever a Lawyer's Court. I am not prepared to say that a moderate increase would produce this result, such as raising the jurisdiction in cases of personal wrongs to $50, and in the case of contracts to $120 ; but even this increase I should regard as doubtful in point of expediency, and beyond it I think certainly without a change in the mode of proceedings an extension is undesirable. The above remarks are applicable to the amount of the claims. I think it very desirable to have it more clearly enacted than at present with respect to the jurisdiction in other respects. Thus the 62nd Sec. of the Division Court Act, Revised Statutes, authorizing a suit to be brought in the Court where *the cause of the action accrued* has led to some difficulty by the interpretation which is put upon this expression, namely : that it means the whole cause of action comprising the making of the contract for example, and also the breach. I should think it would be better instead of the *cause of action* to have the test to be in the case of contracts where the contract was made, or in the case of wrongs where the act complained of was committed.

2 and 3, Queries—Are embraced in the above.

4. Query—I rather think it will be an unusual thing for the opposing parties to agree to allow the Division Court to have jurisdiction over the subject matter. But should they agree I see no reason why it should not be allowed.

5. Query—Is answered above.

6. Query—I do not see any particular necessity for any change.

7. Query—These appeals, if allowed, will go far to render this Court no longer an inexpensive one. The suitors in many cases seem actuated by harsh feelings against each other which would certainly prompt the losing party to precipitate the case into any course of litigations regardless of expense.

8. Query—This is a difficult question to answer satisfactorily. At present I am not prepared to say that the recovery of small claims should be excluded.

9. Query—I think the 9th Sec. prohibiting actions in the Division Court when the unsettled account in the whole exceeds $400 should be altered so as to read " where the unsettled account *or the unsettled balance of the account* exceeds $400." At present suppose the whole account was originally $500, upon which $450 has confessedly been paid, and the dispute is only as to the remaining balance of $50. The objection is raised that the case is beyond the Division Court jurisdiction. But the insertion of the words I have underscored would I think render the matter clearer than at present.

I have already said that I am not prepared to approve of abolishing the recovery of

small debts. But I am of opinion that judgment summons should be abolished unless a Judge's order for the issue of such a process be first obtained. They are oppressive and vexatious. They are used to harass the small debtors to which the 8th Query applies. If the creditor upon an affidavit can satisfy the Judge that the debtor has secreted his property, or is in some way wilfully withholding payment, or for some such reason, then the process might issue; but at present it is an instrument to revive imprisonment for debt. Thus the defendant is absent from his home working, it may be, some miles off. The summons is left at his house. He is either uselessly dragged before the Court in very many cases, or else he fails to attend. This latter result, in most cases, is what the creditor desires. His wish being to procure an order for the debtor's imprisonment, and thus squeeze the money in some way out of the debtor by the help of his friends to avoid the alternative of imprisonment. I admit that to remove this system of judgment summons and the consequent imprisonment, would be to relieve the Judges from a most disagreeable species of work, and therefore the suggestion may seem to be selfish; but with the restraint I have suggested this proceeding would retain its usefulness, and be deprived of its oppressive quality.

10. Query.—Of course any material extension of the jurisdiction would interfere with the emoluments of the Sheriffs. But not being prepared to advocate the extension, I need not attempt to answer this query further.

11. Query.—I do not see how an alteration in respect of the Clerk's fees could be made so as to have one fee.

I will add that upon the whole, I believe the Division Court system works very satisfactorily. Parties can have juries if they choose. But it is remarkable in how few cases they avail themselves of this privilege. I have not had a single complaint by any suitor against a Clerk or Bailiff for at least two years past, and the power there is enabling the Judge to give judgment according to equity and good conscience, frequently enables him to mete out to litigants a better measure of justice than they could perhaps procure in a Court of Record, where the powers of the Judge are more restricted—of course the exercise of this power requires much circumspection, but so far as my experience goes, I have for the most part met with an acquiescence sometimes cheerful, and very rarely appearing to cause discontent.

W. Elliot,
Co. Judge, Middlesex.

London, 9th August, 1878.

London, *Oct. 18th, 1878.*

Sir,—I have endeavoured very briefly and I believe very imperfectly, to give something in the form of answers to the queries under the date of the 5th Oct. 1878, and I now enclose them.

I have the honour to be,
Sir,
Your obedient servant,
W. Elliot,
Co. Judge, Middlesex.

Hon. O. Mowat, Attorney-General,
Toronto, Ontario.

Having already attempted to make some response to the former inquiries I now confine myself to those beginning with No. 12.

In answer to No. 12.—Being of opinion, as I endeavoured to express in my former communication, that an extensive enlargement of the jurisdiction of the Division Court is not desirable, I feel some difficulty in answering this inquiry. One reason which I think forbids a large extension of this jurisdiction is this very fact that fees will in such case have to be allowed to Solicitors, thus making the Division Court a Lawyer's Court, complicating the proceedings, and rendering a ready and *facile* measure of justice in small matters more difficult of attainment. When I say those fees will have to be allowed, I mean that the pressure to have them will probably be such as cannot easily be resisted

in event of a great extension of jurisdiction. But under any circumstances I could not recommend the allowance of fees to Solicitors in the Division Court. If, however, they are to be allowed, I hope and trust the giving of them will be fixed by some determinate rule, and that the discretion of the Judge may not be appealed to, except it be in such cases as must unavoidably be left to his discretion.

To the 13th Inquiry.—I answer in the negative.

To the 14th Inquiry.—I do not see what good can come from the abolition of the County Court. Perhaps there may be in some portions of the County, an expression of popular feeling in behalf of the change referred to in the 14th query. But if so, I have never heard of it. And certainly in this part of Ontario I have never heard any one express an opinion that such a change was desirable.

As to the 15th Inquiry.—I have not reflected enough on the matter to venture an opinion.

W. Elliot,
Co. Judge, Middlesex.

London, October 10th, 1878.

OPINION OF JUDGE JARVIS.

Cornwall, *12th April, 1878.*

Sir,—In answer to your circular of the 27th March, I have the honour to state that with regard to queries Nos. 1, 2, 3, I do not think any increase advisable.

No. 4. The Division Court would be made a Court of Arbitration, from which decision there will always be an appeal. In fact the plaintiff would be making it a feeler to ascertain if he had any chance of succeeding in a higher court.

No. 5. Answered by No. 4.

No. 6. Of course further security would be required of the officers.

No. 7. An appeal should be permitted.

No. 8. This is the poor man's Court, and I should be opposed to such a proposition. It would prevent his obtaining credit for small amounts, and he might starve for the want of it.

No. 9. The Court should be held in the Court House, in the County Town.

No. 10. Provide that the Sheriffs should have the same fees as in the Superior Court, and that he should serve all processes therein.

No 11. One fee of from $1.00 to $2.00 according to the amount sued for, for undefended suits, would be preferable; same to be paid on the entering of the suit; and from $2.00 to $2.50 for defended suits.

The municipality should also provide books, stationery, office rent and fuel.

Should the jurisdiction be increased, two judges would hardly be equal to the duty.

I have the honour to be,
Sir,
your obedient servant,
(Signed,) Geo. S. Jarvis,
County Judge.

To the Honourable O. Mowat, Attorney-General,
Toronto.

OPINION OF JUDGE JONES.

BRANTFORD, *24th September, 1878.*

MY DEAR SIR.—I now beg to enclose my reply to your circular letter of 27th March, last.

I regret that owing to a pressure of duties, I have not been able to do so sooner, but as the matter required careful consideration, I did not like to give a hasty reply.

Very truly yours,

S. J. JONES.

The HON. O. MOWAT,
Attorney-General,
Toronto.

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1. I do *not* think that an increase of the jurisdiction of the Division Courts should be made, and the grounds for my opinion are stated below (paragraph No. 5); but from what occurred in the Legislature of Ontario last Session, it may be determined to increase the jurisdiction, and in that case I would recommend :—

2. That the jurisdiction be not increased any more than to meet the exigencies of the case.

3. If an increase must be made, I would recommend that Section 54, of the Division Court Act (Revised Statutes of Ontario, page 493), be amended as follows :—

Sub-section 1. That the words " Forty Dollars," be changed to " Fifty Dollars."

Sub-section 2. To remain as it is, and I would add a Sub-section 3, as follows:—

3. " All actions brought upon promissory notes, or bills of exchange, where the amount or balance claimed does not exceed Two Hundred Dollars."

In Section 56 of the same Act, as to Replevin suits, I would change the words "Forty Dollars," to " Fifty Dollars," and make a like alteration in the 5th section of the Replevin Act (Revised Statutes of Ontario, page 732.)

4. I do not think that a jurisdiction by consent to a larger amount, would be practically of much service, as I doubt whether suitors would avail themselves of it to any appreciable extent ; still a clause conferring such increased jurisdiction by consent, might to some extent satisfy the popular clamour for an increase of jurisdiction.

5. The reasons why I think an increase of jurisdiction in these Courts is not expedient, I will summarize as follows :—

The Courts are now *small* Courts, held *frequently*, with *summary* jurisdiction, *without appeal* and at a *small cost* to the suitor.

All these are advantages to the suitors, that would be lost or seriously impaired, if the jurisdiction should be materially increased.

(*a*). The Courts would then cease to be *small* Courts, and could not be held so frequently, nor could the business, as now, be generally got through with in one day ; an increased cost and greater delay would thus be incurred.

(*b*). The amounts at issue being then larger, suitors would more frequently require a Jury to try their cases, not being satisfied with the summary decision of the Judge. This would also increase the expenses and delay the proceedings.

(*c*). At present there is no appeal, but if the jurisdiction is materially increased, an appeal would have to be given, which would add seriously to the cost of the suit, and delay the proceedings.

(*d*). At present no costs are taxed, except the fees of the Officers of the Court, and Witness fees ; but with the jurisdiction increased as proposed, and with a right of appeal, it would be necessary to allow Solicitors and Counsel fees, as they would need to be employed, and it would be a great hardship that the successful party should be obliged to pay the necessary costs that he has incurred in prosecuting his claim.

In short, to increase the jurisdiction as proposed, would be in effect to do away with our *small* Courts, and give us another County Court.

6. With no increase of jurisdiction, or with that which I propose, no change need, I think, be made as to additional security by Officers, or providing for a writ of arrest, &c.

7. I would not recommend an appeal on account of the cost and delay, but if the jurisdiction is very materially increased, an appeal, I think, should be given.

8. I do not recommend the abolishing all jurisdiction to recover very small sums. It would, I think, be unjust to the honest trader, and would give the debtor a premium to be dishonest.

9. I have not (through pressure of other duties) had time to consider what other amendments might be introduced into the Division Courts Act. I will, if possible, do so, and write you again.

There is one matter, however, that occurs to me just now. Provision should be made for substitutional service of process on a defendant who cannot be personally served, similar to what is provided in cases in the County and Superior Courts.

10. I am not able to make any suggestions on this point. If the jurisdiction is not increased any more than I have proposed, I do not think the emoluments of these Officers will be seriously affected.

In this connection, I would mention that were the jurisdiction of the County Courts very materially increased, a great advantage to the Country in my opinion would be secured, and the fees of Officers would not be seriously affected thereby.

By such an increase of jurisdiction, the Courts of Queen's Bench and Common Pleas would be relieved of a considerable portion of the work which now overburdens them, and as there is now such an easy and satisfactory appeal when the parties desire it, from the judgements of the County Court, no risk would be incurred in giving this increased jurisdiction.

Such an increase of jurisdiction would not be open to the objections that exist in the case of the Division Courts, and it would to a considerable extent, I think, satisfy the popular desire for an increase of the jurisdiction of the Inferior Courts.

11. I think it would be an advantage to both suitors and Clerk for the Clerk to have but one fee for all his services in the suit, up to and including the entry of Judgment. This fee I would make less in suits of small amount as follows: Clerk's fees for all services on claims not exceeding $10, up to and including Judgment, $1 50; Clerk's fees for all services on claims exceeding $10, up to and including Judgment, $2 50.

For any services rendered by the Clerk after Judgment, the same fees to be paid as are at present allowed.

S. J. Jones,
County Judge, Brant.

County Judge's Office,
Brantford,
24th September, 1878.

OPINION OF JUDGE JELLETT.

Picton, 24th June, 1878.

My Dear Sir,—In reply to your letter of the 27th March last, I beg to say, that I think there should be no increase in the jurisdiction of the Division Courts, nor do I think it would be expedient to give parties an option to have cases tried in the Division Court when both parties concur. It would foster litigation. Give the people law for nothing, and they will soon acquire a taste for it. As a general thing, the County Judge would act as an arbitrator upon a proper submission. I see no necessity for or expediency in the scheme.

If the jurisdiction were increased a right of appeal should be given, and this in my view is the chief objection to this movement.

To exclude from judicial enquiry very small claims, would work a hardship upon the poor classes by denying them credit when at times it is a necessity; besides, on broader grounds, it is an invasion of the rights of the subject, and decidedly un-British.

I think a clause might well be added to the Division Court Acts, empowering the Judge to refer such matters of account as he saw fit, to arbitration.

No method suggests itself by which to alleviate the loss which would be necessarily suffered by Sheriffs and other officers by reason of an increased jurisdiction than paying these officers by salary which could not be recommended.

I do not see how one fee could be properly fixed as payable to the Clerks, because the work done is not the same in all suits.

I know of no objections to the present tariff. Upon the whole, I think the Division Court Acts, with the rules, very perfect, and as well adapted to the requirements of the country as need be, and that any effort directed towards a change, save that above suggested, would be inadvisable.

I am, dear Sir,
Your obedient servant,
ROBT. P. JELLETT.

PICTON, 31st October, 1878,

Judges' Chambers.

DEAR SIR,—I am in receipt of your communication dated 5th inst.

I have already replied to your's of the 27th March last. As to the additional queries now put, I beg to say :—

No. 12. It would be desirable to grant a fee to Solicitors, such fee to be in the discretion of the Judge.

No. 13. I think the same rule should apply.

No. 14. I am decidedly of opinion that the present County Courts should stand.

No. 15. I am not in a position to form an opinion.

Referring again to your Circular of the 27th March, I am fully satisfied that public sentiment is running riot on these questions, and I am fully confident that cheaper law means worse law, that an increase in the jurisdiction of the Division Courts will only deepen the cesspool of perjury, which in these Courts already appeals to Heaven.

The presence of a large assembly and a robed Judge does more to deter the perjurer than matters of conscience or Biblical terrors.

I am, Sir,
Yours truly,
(Signed), ROBT. P. JELLETT.

OPINION OF JUDGE CHADWICK.

GUELPH, *27th December, 1878.*

MY DEAR SIR,—I herewith submit answers to the questions in your Circular respecting proposed changes in the Division Courts :—

1. I am opposed to any increase in the jurisdiction.

2 & 3. I think that any increase should apply only to suits for collection of merchants' accounts and promissory notes.

4. I can see no advantage to be derived by giving jurisdiction by consent, and I am certain it would not work well in practice.

But where a suit has been begun, and the Court has not, in fact, jurisdiction, the Court should be enabled to proceed by consent, or if the judge is of the opinion that no party will be injuriously affected in the following cases :—

(a.) Where the plaintiff has sued in a wrong Division, or,

(b.) Mistaken the nature of the action, or,

(c.) The question of jurisdiction turns upon the value of property in dispute, or the amount of damage, or,

(d.) Where the question of jurisdiction has not been raised at the earliest moment convenient.

5. Advantages.

(a.) Expense of juries, decreased.

(b.) Expense of witness fees, decreased.

(c.) Costs to be borne by debtors, decreased.

Disadvantages.

(a.) Increased number of appeals.

(b.) The want of a thorough system of pleading and solemn argument, necessary to a perfect administration of justice.

(c.) It is notorious that perjury is committed in petty courts to a far greater extent than in others.

(d.) Law being "cheap," encourages litigation.

(e.) More frequent and prolonged absence of the Judge from the County Town, where his presence is most required.

(f.) Judgments for debt in many instances could not be obtained so speedily as at present.

(g.) The emoluments of Sheriffs, Clerks, and other officials, would be seriously affected.

(h.) Increased travelling allowances would be necessary for the Judges; at present my allowance does not nearly cover my expenses.

6. I do not think many changes would be required. The security given by officers is larger than necessary as it is. Writ of arrest could not well be adapted to the Division Court; in my opinion, some formality of pleadings would be desirable, also power to refer long accounts.

7. If jurisdiction increased, there should, I think, be an appeal in matters of $100, and upwards, but (to prevent frivolous and vexatious appeals) not without leave of the Judge, or of a Superior Court Judge.

8. I have observed that suits for very small sums are brought only to vent ill feeling, and would suggest that the Judge should have power to refuse to try cases for less than $2.00.

9. The following appear to me to be desirable amendments:—

(a.) To abolish the summoning of juries. They are very rarely called for, and if required can be obtained from the Court Room at any time. Besides, the cost of summoning is very great, and the remuneration of the jurors absurd. I once knew of several jurymen walking 10 or 12 miles to serve, having hired men for the day to take their place at home to keep their teams from being idle, and for this *those sworn* received ten cents each. Again, being all taken from one neighbourhood, their verdicts are very apt to be prejudiced, and if one of the parties is a stranger he can hardly obtain a verdict in any case.

(b.) The Division Courts should have all the powers as to juries possessed by the Superior Courts—*ex gra:* to ask for a finding upon facts instead of a general verdict to dispense with, &c., &c.

(c.) To take away jurisdiction in Mechanics' lien cases. The Division Courts machinery is not suited for carrying them out, and the proceedings before the Judge by summons and order confers an equal privilege and is more desirable.

(d.) Power to order and enforce payment of costs where the Court has not jurisdiction to entertain the suit.

(e.) To enable Clerks and Bailiffs to sue and be sued, in adjoining divisions in all cases as well as for debt.

(d.) Power on application for new trial to alter or correct the judgment moved against.

(e.) Power to give leave to move for new trial after fourteen days have elapsed.

(f.) That the Clerk should receive an appearance at any time before entering judgment by default—and to receive no fee for entering appearance.

(g.) Division Court subpœnas to have the same effect as Queen's Bench subpœnas.

(h.) To give the court control over money paid into court with power to order payment of it out to the defendant when the plaintiff refuses to accept it.

10. I can suggest no means of overcoming this difficulty.

11. I think the present system is the better one. I find the Clerk's fees including executions average $2.00 per suit.

12 & 13. I have always thought it desirable that fees for professional services should be allowed for the following reasons :—

In my County in almost all contested cases professional men are employed, and it is a hardship that the successful party should bear the expense.

The questions arising are so varied and difficult as to be beyond the ordinary suitor.

The employment of competent assistance aids the administration and prevents failure of justice. And this would apply more strongly if they knew that the extent of remuneration depended upon the value of the services rendered as viewed by the Judge. Gentlemen would be careful in the preparation and conduct of their cases, the "assistance of counsel" would be substituted for the obstruction which unfortunately takes its place to a very great extent at present, and "Agents" would be driven out of the field.

The fear of costs would be a wholesome check upon vexatious and speculative litigation.

I would suggest that the Judge should have a discretion to allow fees for drawing claims or notice of defence, and at the trial limited to $1.00 and $10.00 respectively.

14. I can see no reason for abolishing the County Courts, nor for increasing their urisdiction.

15. I find it difficult to frame an answer satisfactory to my own mind upon this question.

I am, Sir,
your obedient servant,
(Signed,) A. C. Chadwick.

To Hon. O. Mowat,
Attorney-General.

OPINION OF JUDGE LAZIER.

Belleville, *23rd September, 1878.*

Sir,—I beg to submit the following answers to your circular of the 27th March last, and have to apologize for the delay in their transmission.

I am, Sir,
Your obedient Servant,
(Signed) T. A. Lazier,
Junior Judge, County Hastings.

The Honourable The Attorney-General.

1. It would *not* be expedient, I think, to increase the jurisdiction of the Division Courts, including, as it does already, the investigation of unsettled accounts to the amount of $400.00.

2. If increased, I see no reason why it should not be increased to double the present amount.

3. To all classes subject to the present restriction of $400.00 in matters of unsettled accounts.

4. I should think not, as parties have now in the County and Superior Courts the right of having matters of account referred immediately after writs issued, and when there are very little costs incurred, and as submission to arbitration, by consent, can be made rules of Court without any writs issuing.

5. The disadvantages attending an increase of jurisdiction, would be the very large increase of business to the Division Courts, and the trial of causes for considerable amounts often necessarily in a hasty and unsatisfactory manner, through want of pleadings or a proper knowledge beforehand of the issues to be tried, more particularly with reference to defences, as with a few exceptions the defendant is not now required to disclose the nature of his defence until the trial. The advantages of the increased jurisdiction would be, I suppose, in many cases a less amount of costs and a more speedy recovery of judgment in defended suits, but at the expense, often probably of a less thorough investigation than if in a County or Superior Court, when counsel would be employed. In suits not defended

there is now, I think, very little, if any, difference in the County and Division Courts, in the time of recovering judgments or in the costs, when the amount is $100.00 or thereabouts, so that the change would not materially affect undefended suits for $100.00 or upwards.

6. There would be no necessity, I think, to make any change in the manner of taking additional security from officers, or for allowing the issue of writs of arrest.

7. An appeal would not, in my opinion, be advisable, as it would tend to prolong litigation and increase expense, besides, it would probably so increase the business of the Court of Appeal as to render necessary the appointment of additional judges of that Court, or the creation of a new Court.

8. I am inclined to think it would be advisable to do away with suits for sums under $20.00, which would not interfere, in my opinion, with the business of the country, and would make dealers more circumspect in the giving credit, and prevent their giving credit to parties, and relying, as is now often done, on the compulsory provisions of the Division Courts Act, for procuring payment.

9. In case of an increased jurisdiction or of any change in the Division Court Act, I would suggest that power be given to the Judge to refer matters of account compulsorily to an arbitrator, the same as in the County Court, as frequently long contra accounts come before the Judge which require more time than he can possibly give them on circuit, and which the clerk or any other intelligent person could as well investigate and determine as the Judge himself. I also think the clauses of the Division Court Act authorizing the examination of defendants after judgment, and the power given the Judge to imprison, should be done away with. These proceedings increase the costs very considerably, and are often made use of to harass debtors unnecessarily, and very rarely procure payment, and if done away with would relieve the Judge of a very disagreeable duty and of a very great deal of trouble; besides, the change would only in reality, materially affect claims under $40.00, as judgments over that amount, if not collectable under execution, can be removed by transcript to the County Court, where an examination could be had and imprisonment ordered if the case called for it.

10. To make up for any loss of fees to Sheriffs, the privilege might be given to them of being appointed Bailiffs of the Division Courts in their respective cities and towns.

11. I am inclined to think it would be an advantage to have one fee in place of the present graduated scale of charges, but such fee should be proportional to the amount of the claim sued for.

Belleville, *24th October, 1878.*

Sir,—Having already answered the questions submitted in your circular of the 27th March last, I beg herewith, to submit the following answers to the additional questions contained in your subsequent circular of the 5th October instant.

I am,
Your obedient Servant,
T. A. Lazier.

The Honourable The Attorney-General.

12 and 13. I think it would be advisable to permit a fee to be taxed to Solicitors on claims exceeding $40.00 in the Division Courts, and that such fee should be from $2.00 to $6.00, proportionate to the amount of the claim.

14. In the event of an increased jurisdiction being given to the Division Courts, it would in all probability so nearly approach the present jurisdiction of the County Courts, that the County Courts might be, I think, properly enough abolished, unless their jurisdiction should be very considerably increased, which, in my opinion, would hardly be advisable as in such case the costs of summoning jurors and the expense of their attendance on the Courts would have to be continued as well as other considerable public expense.

15. I am not sufficiently conversant with the matter of appeals from the judgments of the Superior Courts to give any opinion as to the expediency of limiting such appeals or not.

OPINION OF JUDGE MACDONALD.

CLIFTON, *27th Nov. 1878.*

MY DEAR SIR,—In reply to your circular asking my opinion upon certain points affecting the Division Courts, I beg to say :—

1. I do not consider it expedient at present to increase the jurisdiction of said Courts.

2. See answer to Query No. 1.

3. do. do.

4. do. do.

5. If the jurisdiction be materially increased you will have to increase the jurisdiction of the County Courts ; establish a tariff of fees to Attorneys and Counsel, and increase the fees of Sheriffs in other Courts—in short it will cease to be "the poor man's Court." Up to a very late period the jurisdiction of the corresponding Court in England was no larger than ours.

Whatever the feeling may be *in* the Legislature, I am quite safe in saying there is no desire for change *outside* of it. Many merchants and others take four notes of $100 each for a debt of $400 in order to sue in the present Division Courts.

If you raise the jurisdiction of the Division and County Courts, the Superior Courts will have little or nothing to do.

As the case now stands through the operation of C. J. C. Court the Assizes in the outer Counties seldom last over two or three days.

6. Not being in favour of *change* (which is not always *improvement*) I have no suggestions to make.

7. See reply to No. 1.

8. I am quite clear that it is absolutely necessary to provide means for recovering small debts (they are *large* to the persons owing them) as without such means the labouring classes in times of sickness and scarcity of employment, would be totally unable to obtain credit.

9. I have no amendments to suggest at present, and am not aware of any class of the community that will suffer by the law remaining as it is.

10. See replies to Nos. 5 and 9.

11. do do.

12. do. do.

13. do. do.

14. This would depend entirely upon the increase made to the jurisdiction of the Division Courts.

15. I have heard of no complaint against the law as it stands. How would it answer to allow the matter to remain over until the meeting of the County Court Judges, in June next, when the whole subject can be fully discussed by them ?

I have the honour to be,
Your very obedient Servant,
(Signed), ROLLAND MACDONALD.

To the Hon. OLIVER MOWAT,
Attorney-General.

OPINION OF JUDGE DENNISTOWN.

PETERBOROUGH, *9th Sept., 1878.*

MY DEAR SIR,—In reply to your circular of the 27th March last, I believe that the public care nothing at all about an increase in the jurisdiction of the Division Courts.

In my opinion the views expressed in the Legislative Assembly in favour of an increase are no indication that such a measure is desired by any other class than the officers

of the Division Courts. These gentlemen, no doubt, ardently desire an increase in the belief that their emoluments would be thereby much enhanced, and, being persons of influence in their respective counties, they press the representatives to support their wish in the Legislature. In my opinion it would be wrong to increase the jurisdiction in any respect. Our Division Courts should have only such matters to adjudicate upon as can with propriety be disposed of summarily, as expeditiously, and cheaply, to all parties concerned, as compatible with justice. There are no pleadings, the issues to be disposed of, whether of fact or law, are undefined until they appear at the trial by the evidence, and if a jury is empanelled the case cannot be reserved for more careful consideration.

Again, these courts ought to be regarded as the poor man's courts, and in trifling cases professional men should not be encouraged to look for retainers causing unnecessary expense to the litigants and wasting the time of the court. Even now in many divisions the business cannot be disposed of in a long day's sitting. Were the jurisdiction increased this evil would be more often felt; the services of professional men would be more in request as a consequence of the greater importance of some cases, and being in court they would be more generally than at present employed in the most trifling ones. If an appeal was given in cases where the jurisdiction was extended (and I think there ought to be one) there would be many more than from the County Courts now, and the expense would come to be as great as if tried in the County Courts.

Another inconvenience would arise in regard to promissory notes made in rural divisions, at farmers' auction sales, or otherwise, being sueable only in outside courts, they could not be negotiated in town on as favourable terms as if they could be collected in the County Courts. As to giving parties an option to have cases of larger amounts tried in the Division Courts (by the Judge) when both parties concur I think that it would not be expedient; they can do so now in the County Court under the C. L. P. Act, more conveniently than they could in the Division Courts.

Although many good reasons can be given for abolishing all jurisdiction over small sums, yet I am not prepared to advocate it, as in some cases it would prove hard and lead to roguery.

If the jurisdiction were enlarged to two hundred dollars one effect would be to wipe out the County Court (unless its jurisdiction were also much enlarged). I am told five-sixths of the present business would be transferred to the Division Court.

I am,
My dear sir,
Your obedient Servant,
ROBERT DENNISTOWN.

To the Hon. O. MOWAT, Attorney-General.

PETERBOROUGH, *13th November, 1878.*

MY DEAR SIR,—Your circular of the 27th March, I had the honour of replying to on the 9th of September. As to the circular of the 5th October, I would now say that in my opinion it would be desirable in the interest of suitors to permit a fee to be taxed to solicitors in cases falling within any extended jurisdiction of Division Courts, and I would suggest a fee of six or eight dollars. In cases within the present jurisdiction I think that it would not be desirable to allow any fee to be taxed; it would encourage litigation, and that would be a misfortune.

An increase of Division Courts' jurisdiction would practically leave the County Courts, as at present constituted, but little business to do; but to abolish them would appear to me to involve much inconvenience. It is sufficient in regard to this, to refer to His Honour Judge Gowan's pamphlet of December, 1876, on the office of County Judge in Ontario. On the other hand I see no objection to increasing the jurisdiction of County Courts, either by extending it to a thousand dollars, or, perhaps better—giving them concurrent jurisdiction with the Superior Courts, providing that suits over a thousand dollars might be removed to a Superior Court. In either case increasing the County Court tariff of fees.

I think that it would not be expedient to limit appeals from the judgments of the Superior Courts of Law and Equity, any judgment of these courts would be a precedent until overruled by the Court of Appeal.

I have the honour to be,
Sir,
Your obedient Servant,
ROBERT DENNISTOWN.

To the Honourable O. MOWAT.

OPINION OF JUDGE PRINGLE.

CORNWALL, 10th April, 1878.

MY DEAR SIR,—I have the honour to acknowledge the receipt of your Circular of the 27th ultimo, asking my opinion on several points relative to a proposed increase in the jurisdiction of the Division Courts.

To No. 1. I reply that I do not think any increase is expedient.

This reply disposes of queries Nos. 2 and 3, but I may say, that if an increase is made it should be confined to Bills of Exchange and Promissory Notes.

No. 4. Admitting that an increase should be considered unavoidable, it should be for a limited and certain amount. It would not be expedient to let it take the form indicated in this query. This would have the effect of bringing before the Division Court an unlimited amount of business, and of making them in fact Courts of Arbitration for the trial of all manner of cases in which the parties might wish to get the opinion of a Judge at the least possible expense to themselves.

No. 5. From my experience, extending over nearly twelve years of judicial work, I cannot see that an increase to the jurisdiction would be of any benefit to the class for whom the Division Courts were established. The benefit would be confined to merchants and money lenders, who wish naturally enough, I suppose, to get judgments cheaply for large debts owing by parties upon whom it might not be expedient to risk the costs of a County Court or Superior Court suit, and to put the machinery of the judgment summons clauses of the Division Court Act in force against the debtors. A very serious disadvantage is that a large increase in the business of the Division Courts would probably double the time required for holding these Courts, and cause the Judge to be absent from the County town for such a length of time as would very seriously interfere with the business of the other Courts. For instance, in these counties (Stormont, Dundas and Glengarry), there are twelve divisions. I am obliged to be away from the County town sixty-six days in the year to hold Division Courts; the Voters' List appeals take on an average fifteen or twenty days, and many take treble that time, as the lists are now final. If the time required to hold Division Courts should be doubled, I would be one hundred and thirty-two days from the County town, besides the time taken up in trying Voters' List appeals. There is scarcely a day that some application is not made in the County Court, the Insolvency Court, the Surrogate Court, the County Judge's Criminal Court, or in some Superior Court matter, all of which would have to remain in abeyance, or be attended to by the attorneys following me to the divisions in which I might be holding Court. Two Judges would be absolutely necessary in every County, no matter how small, and in the large Counties three would scarcely suffice. The increase of expense would be very great. The travelling allowance to each Judge (inadequate now) would have to be doubled or trebled.

No. 6. An increase in the jurisdiction would of course necessitate an increase in the amount of security to be given by officers.

No. 7. I think not; there would be many appeals, and it would be much better to confine the litigants as at present to the Courts of higher jurisdiction. If the plan suggested in query No. 4 should be carried out, and an appeal given in such cases, the effect, it appears to me, would be to throw almost all the business into the Division and Appeal Courts.

No. 8. I had not considered this subject until I got your circular. There is no doubt that the credit system is a bad one, but I fear that the abolition of all jurisdiction for the recovery of small sums would work very unfavourably for the industrious poor; many labourers and artisans have but little work in winter, and are obliged to contract debts which they meet in summer. To throw such an obstacle in the way of their getting supplies would, I think, cause great hardship. In my experience, the sellers of goods can safely be left to take care of themselves.

No. 9. The only point I think of at present is, that it should be provided that the Division Court for the County town should be held in the County Court house instead of, as in some places, in such hole or corner as the town municipality may feel disposed to provide.

No. 10. I do not know what arrangement could be made other than giving the Sheriff and the other officers referred to the work to do, or paying them compensation for the serious loss that would fall on them if the jurisdiction is increased.

No. 11. I am in favour of this proposal; its adoption would save much trouble, and, I think, satisfy the Clerks. It is not easy to construct a scale of fees that would be perfectly just in all cases, but I would suggest, for undefended suits from $1.20 to $1.50 each, and for defended from $2.00 to $2.50 each, according to amount, exclusive of executions and other proceedings after judgment. I would also suggest, that the Clerks should have an allowance from the Municipality for books, stationery, office rent and fuel.

I am, my dear Sir,
Your obedient Servant,
J. F. PRINGLE.

The Honourable O. MOWAT,
Attorney-General,
Toronto.

CORNWALL, 2nd November, 1878.

MY DEAR SIR,—I have to acknowledge the receipt of your circular of the 27th March and 5th October last. I replied to the former on the 12th of April last.

To the 12th, 13th and 14th queries of that of the 5th of October, I have to state, that in my opinion the Division Courts were established to give suitors of the poorer class a cheap and expeditious mode of having their suits disposed of before a competent Judge. That an increase in the jurisdiction would necessarily cause delay by lengthening the time during which such Division Courts would be held. That the general employing of counsel consequent upon allowing their fees to be taxed would inevitably add to the delay, and that many of the poorer suitors would be injured thereby, and perhaps debarred from prosecuting their suits.

I am decidedly in favour of keeping the jurisdiction of the Division Courts as it is, and of allowing no counsel or attorneys' fees to be taxed in any Division Court case, leaving those who choose to employ counsel to pay them in the same manner as suitors now pay retaining fees in the County and Superior Courts.

If it is decided to allow fees to counsel and attorneys in the Division Courts, the mode adopted in the Province of Quebec, viz., a scale graduated according to the amount sued for is the simplest way of arranging, but it would not be strictly just in all cases. Upon a careful consideration of the subject, I cannot see any advantage to be derived from increasing the jurisdiction of the Division Courts to such an extent as to render the County Courts useless, and allowing counsel and attorneys' fees to be taxed in the Division Courts. The change would alter the character of the latter Courts to the great disadvantage of the class for whom they were specially designed. One result would be, that a much larger and more widely extended collection of counsel and attorneys' fees would take place through the counties than is caused now by the business done in the County Courts. Cheap law is, in my experience, anything but an unmitigated good. The proposed plan would no doubt cheapen law to the individual, but it would multiply litigation and that, I think, would be a greater evil than any litigants labour under at present.

In reply to the 15th query, I say that I have little or no practical experience of the working of the Court of Appeal, but I have understood that it is advisable to fix a limit, below which no appeal should be allowed.

I am, my dear Sir,
Your obedient Servant,

J. F. PRINGLE.

The Honourable O. MOWAT,
Attorney-General,
Toronto.

OPINION OF JUDGE McCRAE.

SAULT STE. MARIE, *11th September, 1878.*

To the Honourable O. MOWAT,
Attorney-General, &c.,
Toronto.

DEAR SIR,—In answer to your enquiries of the 27th of March last respecting the increase in the jurisdiction of the Division Courts, I have to say :—

First.—I do not think it expedient that the jurisdiction should be increased. The 41st Vic. Cap. 8, Section 6, gives Division Court Judges unlimited jurisdiction over all ordinary transactions between parties when the balance claimed does not exceed one hundred dollars. This practically involves the power of a single judge to decide legal questions affecting thousands of dollars, and all this without any right of appeal. Surely this is placing too much power in the hands of a single individual, and I am of opinion that as the law now stands there ought to be an appeal allowed, in causes when the judgment recovered or the amount in question exceeds say $40. A simple and inexpensive mode of appeal might be provided, especially if the system of grouping the Counties were carried out. With this view of the first question, I may pass the second and third.

Fourth.—I can see no objection to allow parties to agree to the trial of any cause between them to any amount, guarded of course by the right of appeal, as I have above suggested, and the right to have the judgment transferred either to the County or Superior Courts according to the amount recovered in order to reach lands, in the same manner as the law now stands with regard to County Courts only.

Fifth.—The only advantage I can see that will be likely to attach to an increase of jurisdiction is that it will lessen the expenses of law in the cases included by the increase, but I think that would be more than counterbalanced by the encouragement to litigation, the increased power of irresponsible judges and the tendency it would have towards rendering the County Courts migatory. With the powers of the County Courts to hold extra sittings for trials without a jury, I think the facilities for collecting debts are ample. I may say, however, that it is for the advocates of the change to make out their case, and to shew that the "public sentiment" in favour of the change is really well founded. I have my doubts as to the existence in fact of that sentiment, and I am of opinion that it is confined to comparatively a few theorists. I believe the great body of the people are well enough contented with the law as it stands, except perhaps in the matter of appeal. At all events I have heard of no public agitation of the question.

Sixth.—An increase of jurisdiction necessarily implies an increase of moneys accruing in the hands of Clerks and Bailiffs, and there would also be an increase of security. I do not see how this could be done but by increasing the amount of the Bail Bonds or the number of the Bail, or indeed both. I do not see why the change should necessarily imply a change in the law of arrest.

Seventh.—My answer to the first question involves this.

Eighth.—As far as my experience goes, both as Judge and otherwise, I think the very few cases in which extremely small sums have been sued for, ought not to establish the rule that they should not be sued for at all. The power of the Judge as to apportioning costs under the 154th Section of the Act enables him to correct any abuse that may arise from this cause.

Ninth.—As to this question you will gather from what I have already said, that the only amendment of the Division Court Act which I think necessary at present is the providing of some efficient and inexpensive mode of appeal, coupled, of course, with ample security.

Tenth.—I can see no arrangement by which Sheriffs and other officers could be compensated for their losses except either paying them directly from the public funds, a matter of very difficult arrangement, or increasing their fees, which would be tantamount to taking the burthen off one class of debtors and clapping it on the shoulders of another. This ought to be a great reason against the contemplated change.

Eleventh.—I think the Clerks' fees should be uniform and not depend upon the amount claimed or recovered. It is as much trouble and requires as much care to issue a writ or to do anything in a $10 case as in a $100 one. I do not know whether this is what is involved in the question, or whether it may not be that what is intended is that the Clerk should be paid a lump sum for all that he may have to do in a suit instead of a particular fee for each thing that he may have to do in it. If the latter is what is meant I should think it absurd. Why, for instance, should a debtor who goes to the Clerk and settles as soon as he is served, pay as much for the simple issue of the summons as another would have to pay who might, by defending, say to get time, put the officer to the trouble of issuing subpœneas, swearing affidavits, taxing costs, entering judgment, issuing executions and all the et ceteras attending a disputed claim? Besides there are plaintiff's and defendant's costs. How could a fixed sum be named for both? If it were, the anomaly might exist of an execution going against a defendant, nay it might be against a plaintiff, too, to recover his own costs. If my first view of the tendency of the question be the correct one I think the amount of fees may well be left to the Board of County Judges under the 238th Section of the Division Courts Act.

All of which is most respectfully submitted.

I have the honour to be,
Dear Sir,
Yours very truly,
WALTER MCCRAE,
J. D. A.

SAULT STE. MARIE, *30th October, 1878.*

Hon. O. MOWAT,
Attorney-General, &c.,
Toronto.

DEAR SIR,—In reference to your circular of the 5th instant respecting the increase of jurisdiction in Division Courts, I have to say that I have already sent you my opinions on the questions submitted in your circular of the 27th March last, which were against the increase. My answer therefore to your supplementary questions 12, 13, and 14, will be hypothetical.

12th.—In cases where the debt recovered amounts to $100 and upwards I would allow a fee to solicitors if employed, and as the tariff for County Courts is as low as can be required I would make the fee the same as in these Courts for similar services.

13th.—In any action which sounds in damages either for tort or breach of contract, and where the sum recovered is or exceeds $20, I would allow the same fee as I suggest in number twelve.

14.—I certainly would not abolish the County Courts, but would increase their jurisdiction. The extent of that increase would depend entirely upon the extension given to the Division Courts. It ought to be such as would be likely to leave them as much business as they now have, and so relieve the Superior Courts to some extent of the great amount of business which now devolves upon them. I would indeed suggest an increase of the County Court jurisdiction in any event to, say, double what it is at present. It is already increased in this district to $800 under certain conditions, and it seems to work well.

15.—With regard to this question, if the present system leads to an abuse of the privilege it should certainly be limited. As to that abuse it should be patent.

I would not restrict the privilege of appeal for any light reason. I would even extend it to some cases in the Division Court. I think I expressed the same opinion in my answer to the 7th question in the circular of March, even with our present jurisdiction.

Respectfully submitted.

I have the honour to be,
Dear Sir,
Your obedient Servant,
WALTER McCRAE.

OPINION OF JUDGE SQUIER.

GODERICH, *7th November, 1878.*

DEAR SIR,—In reply to your circular of the 27th September last, I beg to say that I do not favour an increase in the jurisdiction of the Division Courts. If an option were given to parties to try in the Division Court cases beyond its present or increased jurisdiction, such legislation would, it appears to me, be of little service unless some provision were made for the taxation of proper costs. If power were given the Judges sitting under Sec. 15, cap. 43, R. S. O., to try any case beyond the present jurisdiction of the Division Court where both parties concur, much expense would be saved and delay avoided.

As I do not think it expedient to increase the jurisdiction of the Division Court, it is unnecessary for me to make any remarks upon paragraphs Nos. 2, 3, 5, 6 and 10.

I think secs. 10 and 11 of the Division Court Act should be so amended as to transfer the power now possessed by the justices in General Sessions to the Judge. If a few persons in a particular locality in a county desire a new Division it frequently happens that by judicious canvassing of the Justices in the immediate neighbourhood, a majority of the Justices at the Sessions is obtained, and very improper Divisions are constructed. Two instances of this kind have occurred in this County within the last ten years.

If the Clerks instead of being paid by fees of any kind (Sec. 47) were paid by salary, the public would be greatly benefited. There is no doubt that at present, most of the Clerks extort larger fees than by the Rules of Court they are entitled to receive, and under any system of fees the same result would follow. At present, too, very few of the Clerks receive any immediate deposit from the Plaintiff, and as a consequence they do not pay their Bailiffs as they should.

Some provision should also be made to enable the Judge to transfer a case to the proper Division where he finds that he has no jurisdiction by reason of the suit having been brought in the wrong Division. At present when he so finds the suit is at an end, and the Plaintiff must begin anew.

I would suggest that after "Plaintiff" in first line page 499 the following words, "And may, with or without application order a new trial with or without a jury," be inserted.

Power should be given to the Judge to order the payment of interlocutory costs such as costs of the day upon a postponement and for enforcing such payment by execution.

Under Section 107 the Judge upon application can only order a new trial. It would seem to be proper that he should have power upon such application to make such order as he should have made at the trial, whether the case were tried with or without a jury.

I have the honour to be,
Your obedient Servant,
(Signed), H. R. SQUIER.

OPINION OF JUDGE WELLS.

CHATHAM, ONT., *5th September, 1878.*

Sir,—In reference to your circular as to the advisability of raising the jurisdiction of the Division Court, I may say that the judges of these Courts, having of late had a very

large amount of other business thrown upon them, in the larger counties, *could not* possibly give that attention to the Division Court business, *were it increased*, which its importance deserves.

The Dominion Government have persistently, for the last five years, refused to carry out the intentions of the Ontario Government, in appointing junior Judges where the population of counties was over 40,000 at the last census, and as the policy of that Government is not likely to be changed, the business in the larger counties would be blocked were the Division Court jurisdiction raised.

I have the honour to be,
Sir,
Your obedient Servant,
W. B. WELLS,
J. C. C. of Kent, Ont.

To the Honourable O. MOWAT,
Attorney-General.

OPINION OF JUDGE MACKENZIE.

TORONTO, *8th February, 1879.*

MY DEAR SIR,—In regard to your circulars of the 27th March and 5th October last, in reference to the expediency of increasing the jurisdiction of the Division Courts, I may remind you that I have been practically unconnected with these Courts since I left Kingston about fourteen years ago. I never practised in them here, and all the Division Court business of the County of York is conducted by the Junior Judge, so that I am not in a position to speak from personal experience and observation as to present workings of the Courts or to give a very decided opinion that would be satisfactory to my own mind on the points mentioned in your circulars. I therefore most respectfully ask to be excused for not giving now a categorical answer to the points mentioned in the circulars.

It is however but right to add that from *recent* discussions I had with gentlemen of large experience and intelligence, in connection with impressions left on my mind since I presided in the Division Courts of the Counties of Frontenac, Lennox and Addington, that I now incline to the opinion that it would not be for the public benefit to increase the jurisdiction of the Division Courts.

Appeals from the Superior and County Courts should in my opinion be limited. One of the main points urged in favour of the Division Courts is that they are Courts of expedition, and that their judgments are final and conclusive. The indiscriminate right of appeal in small matters in my opinion should not be allowed, when no permanent right is involves.

I am,
My Dear Sir,
Your obdt. Servant,
K. MACKENZIE.

The Honourable
The Attorney-General of Ontario,
Toronto.

OPINION OF JUDGE BURNHAM.

Answers to Queries 1, 2, and 3.—These courts have now been in existence in this Province for nearly forty years, during which time the jurisdiction has been increased and otherwise enlarged and improved, as the wants of the Country from time to time seemed to require, so that now they have come to be regarded by the people as a necessity and very much in the light of domestic tribunals, in which the general legal business of the country is transacted. The time, I think, has come, when the jurisdiction of these courts might with very great usefulness to the country be very considerably enlarged. It must be borne in mind, that except in cities and large towns, the collecting business

of the country is now done in these courts, and it is a well-known fact that merchants and others, when taking notes in settlement of accounts from their customers, are every day in the habit of taking two or more notes, if the account is large, so that each note will present a cause of action in the Division Court, and although there are occasionally some complaints against the Clerks and Bailiffs of these courts for neglect of duty, still when the large number of them in the entire Province is taken into account, I do not think the complaints are more frequent nor better founded than similar complaints against Sheriffs.

I think the jurisdiction should now be extended to all matters growing out of contract when the amount claimed does not exceed $200, and that in all matters of open and unsettled accounts, enquiry should be permitted to any extent, provided the balance claimed to be due is not over $200.

In all matters of tort to the person or to personal property, and in all personal actions there should be jurisdiction to $100.

I think the jurisdiction should apply to all descriptions of claims arising out of contract, whether written or verbal, and whether the amount is ascertained by the signature of the parties or otherwise.

Answers to Queries 4 & 5.—Unlimited jurisdiction might with very great advantage be given when consent of both parties is obtained in all matters of contract. And I am strongly of the opinion that a plaintiff should have the right without consent to bring his action for breach of contract in this court, (if so minded) leaving the defendant on motion before a Judge in Chambers to remove the same to one of the Superior Courts on cause shown.

Answer to Query 7.—Why could not Division Courts be merged into County Courts (the Province being laid off in Judicial Districts, comprising several counties in each) with circuits arranged by the Judges, and the present sittings of the County Courts abolished, giving appeal either direct to the Court of Appeal or to the County Judge of the District the minimum amount being fixed for appeal? The present County Court Clerks might be *ex officio* Clerks of the County Court for the division in which the County Town is situate. What is the use of the sittings of the County Courts as at present established? The sittings of the Courts in the several Divisions might be frequent if necessary, and so no one sitting be protracted beyond two days at most, and that only in Divisions where a large business is now done.

Answer to Query 6.—The security of all officers should be submitted to the Inspector for approval, and officers should be allowed to insure in Guarantee Companies if preferred by them.

The Municipalities composing the Division should furnish the Clerk, with office, safe, and all accommodation, fuel, furniture, books, etc.

The present Writ of Capias for the arrest of the person, could be issued by the Clerk of the Court in which the County Town is situate, and given to the Sheriff for execution, or if the present County Court is retained, then issued out of that Court.

The Sheriff might be *ex officio* Bailiff of the Division in which County Town is situate.

11.—I am very strongly of opinion that a well-considered tariff for Clerk and Bailiff is preferable to the method of fixing one charge for each suit, in any one class of cases. I am persuaded a tariff can be framed by the Board of County Judges, which would provide remuneration for the Officer for every step taken in a cause, and at the same time be capable of easy application.

8. Instead of abolishing all jurisdiction for the recovery of very small sums, make the minimum sum for which suit could be entered, say $4, provided however that a person should be allowed to sue for any sum below that on procuring a Judge's order for that purpose, founded on an affidavit of the *bona fides* of the claim.

The maximum amount for which personal service of summons is dispensed with, should be increased, and also the clauses of the Common Law Procedure Act, as regards substitutional service, should be incorporated.

(Signed) Z. Burnham,
Judge C. C.

Whitby, May, 1878.

WHITBY, *16th October, 1878.*

DEAR SIR,—In reply to your circular of the 5th instant, I beg to offer the following remarks :—

First.—As to the desirability of allowing a small fee to solicitors for business transacted by them in the Division Courts. The contentious business of the Division Courts may be truly said to have fallen into the hands of lawyers. It is now an unusual thing to find a village of any note in which there are not two or three legal gentlemen, and the Courts being generally held at such centres of business, the result is lawyers are employed by parties to conduct the defended cases in such courts. It is very desirable that legal gentleman should be employed to manage such business, which would be greatly facilitated thereby, and the Judge much assisted.

These gentlemen should be encouraged, and a small fee should be taxed to them to be regulated by the amount and importance of the cases in which they may be engaged ; some discretion should be given to the Judge to adjust the same within certain limits. The minimum amount for which any fee might be allowed, should be fixed, say in matters of contract at $40, and in tort at $20.

Second.—As to the abolition of the County Courts. Upon reconsideration, and on learning more fully the views of many legal gentlemen through the country, I am induced to modify my formerly expressed opinion in reference to the abolition of the County Courts, and instead thereof give to these Courts greatly extended, or perhaps unlimited jurisdiction, in matters of contract, with every facility of appeal and *certiorari* on cause shewn, also a limited increase in tort. This would give increased facilities to the members of the legal profession in the outer counties to conduct the legal business of the country in the local courts, and would compensate for the loss feared by the extension of the Division Court Jurisdiction.

I am,
Dear Sir,
Your obedient Servant,
(Signed), Z. BURNHAM.

The Honourable O. MOWAT,
Attorney-General, Ontario.

OPINION OF JUDGE DAVIS.

LONDON, *Sept. 10th 1878.*

MY DEAR SIR,—Upon my return from Circuit, I find yours of 4th inst. before me, and extremely regret having overlooked the circular of the Honourable Attorney-General. I now forward reply.

Very truly yours,
F. DAVIS.

J. G. SCOTT, Esq.,
Toronto.

LONDON, *Sept. 10th, 1878.*

HON. O. MOWAT,
Attorney-General,
Toronto.

DEAR SIR,—In reply to your circular respecting Division Courts, I am of opinion as follows :—

1st. That under sec. 54, sub.-sec. 1 (Division Court Act), the amount claimed might be extended to $100, and under sub.-sec. 2, to $200 ; such change, however, might also require a change in the procedure as to filing defences, &c., &c., &c. Some persons think this increased jurisdiction might call for legal assistance, and thus undue litigation, expensive and unsatisfactory, particularly when no fees are allowed for legal services. These are questions entitled to consideration. Upon the whole, I should favour the change.

As to question 4, I see no objection to giving the court jurisdiction in cases where the amount is ascertained by the act or signature of defendant, provided both parties concur. In such cases I think there should be the right of appeal.

6th. As to additional security by officers, writ of arrests, &c., I am unable from experience to make any suggestion.

8th. I should strongly favour abolishing jurisdiction in all cases of debt, when the amount claimed is $5 and under.

9th. I would suggest an amendment of the 177th section, respecting judgment debtors, as follows:—*Personal service* of summons necessary in all cases except where dispensed with by Judge's order. Not more than one summons required, unless Judge directs otherwise. The process and action of the court thereon to be confined to cases when the debt or demand was founded on the *misrepresentation* or *other fraud* of the defendant. I find the process under this section is much abused, and a large amount of costs very unnecessarily incurred throughout the country.

As to the 10th question, I am unable to suggest anything of practical value.

11th. I think it would be an advantage to have one fee to cover every service required of the clerk in each cause, but am unable at present to express any opinion as to what that fee should be.

I am,
Your obedient Servant,
F. Davis.

London, *Oct. 15th, 1878.*

Hon. O. Mowat,
Toronto.

My Dear Sir,—In reply to your circular of the 5th inst., I think in certain cases a fee to the solicitor might be allowed, both in cases within present jurisdiction and any proposed increase; but I don't think such fee should depend upon the *discretion* of the Judge, nor should it in all cases be governed by the amount recovered; in short, the practical manner of dealing with this question is surrounded with difficulty. In the multitude of cases coming before a Division Court Judge, he would find it more difficult to exercise a sound discretion upon this question of costs than upon any other question coming before him; and it would subject him to endless torment, and sometimes unpleasant comparisons and insinuations.

As to the 14th question, I would not favour such a sweeping change at present.

As to increasing the jurisdiction, my views are given in my reply of 10th September.

As to 15th question, I should favour the limitation of appeals, but cannot satisfy myself at present as to what should be the *limit*.

I am, my dear Sir,
Very respectfully yours,
F. Davis.

OPINION OF JUDGE WILKISON.

Napanee, *19th November, 1878.*

The Honourable O. Mowat,
Attorney-General,
Toronto.

Sir,—I have the honour to acknowledge the receipt of your circulars of the 27th March, and 5th October, respectively, requesting my opinion upon a number of points rendered necessary to be considered, with a view to granting an increase of jurisdiction to the Division Court, and in reply I beg leave to state.

1. I am of the opinion that it is expedient to increase the jurisdiction.

2. I should think that in the class of cases in which, under the present law, $100 may be recovered, the jurisdiction might be increased to $200, and in cases where now $40 may be sued for, it should be enlarged to $100.

3. It should apply to the class of cases in which the Division Courts have jurisdiction at present.

4. I am not inclined to think that it would be expedient to give jurisdiction to an unlimited extent, by consent of the parties.

5. I think the ability to bring disputed cases to a speedy termination, would answer a good purpose. At present, the costs in a suit to recover $100 are altogether too large, and quite disproportionate to the amount involved. I cannot conceive any inconvenience or disadvantage likely to arise in consequence of an enlargement of the jurisdiction.

6. The jurisdiction having been increased, it would follow that the Officers should be required to furnish additional security. I can see no difficulty in allowing the Division Courts to issue writs of arrest for sums exceeding $100, upon grounds similar to those upon which such writs are granted in other Courts.

7. I think there should be an appeal in the new cases in which jurisdiction would be given.

8. My experience has not lead me to the conclusion that the jurisdiction to recover small sums could safely be abolished. I think such action would work harshly upon a large number of the poorer classes, with whom small credits seem to be a necessity.

9. It would seem to be desirable to provide some means for substitutional service of a summons upon a defendant who wilfully evades service of the same. Therefore, I would suggest that the Judge be empowered to grant leave to effect service in such a case, by leaving the process at the defendant's present or last place of abode, or in such other manner as the Judge may direct.

I would also suggest, in view of the expense and inconvenience attending the renewal of writs of execution every thirty days, that the execution be in force for one year; but that the Bailiff be obliged to return it within thirty days, if required by the party at whose instance it has been issued.

The law as it at present stands, appears to me to work rather harshly upon plaintiffs, in obliging them to sue claims where the whole cause of action may have arisen, or where the defendant resides. As for example, a note may be made at Kingston, by a person residing at Brockville, payable at Napanee, at which latter place it matures. The holder, a resident of Napanee, would be compelled to sue the note at Brockville, the place of residence of the maker, as the whole cause of action had not arisen at Napanee. It appears to me that it would be more in the interest of the public, to amend the law in such a way as to permit a note, given and maturing under these circumstances, to be sued either at the place where it was made, or where it matured and where the defendant resided.

10. The increase of jurisdiction will doubtless affect the emoluments of Sheriffs and Clerks of the County Court injuriously. The former might be recompensed for the loss by making him perform the duties of the Bailiff of the Division Court in which the County Town is situated, as such office becomes vacant.

If this suggestion should prove to be impracticable, the Sheriff might to some extent, be protected from loss by having the sale of lands for arrears of taxes restored to him.

As regards Clerks of the County Courts, an enlargement of the jurisdiction of these Courts would to a great extent, if not fully protect their incomes.

11. I greatly fear that it would be almost impossible to substitute one fee to the Clerk instead of the many as now charged.

The aggregate sum the Clerk receives, would give him on an average as nearly as possible $2 in each case entered during the year.

12. I think it would be desirable, and in the interest of suitors, to permit a fee to be taxed to Solicitors, if employed, in the cases falling within any new jurisdiction. I would suggest a fee of $6, with power to the Judge to increase it to $14.

13. I am also of opinion that it would be desirable, and in the interest of suitors, to allow a fee of $2, with power to the Judge to increase it to $5, to Solicitors, in cases already within the jurisdiction of the Division Courts.

14. I am inclined to the belief that it would not be desirable to abolish the County Courts: but I think on the other hand, that the jurisdiction might properly be increased in cases where it is now limited to $200, it might be extended to $500, and where the present jurisdiction is $400, it might be enlarged to $1,000. Besides this it might be de-

sirable to give parties an option to have cases, involving still larger amounts, tried in the County Courts, where the parties consent.

I think the right of appeal as it at present exists, would be the only condition necessary, should the jurisdiction be extended.

15. I think it not desirable to change the law respecting appeals from the Superior Courts of Law or Equity.

I have the honour to be, Sir,
Your Obedient Servant,
(Signed), Wm. W. Wilkison.

OPINION OF JUDGE DARTNELL.

Whitby, *July 18th, 1878.*

My Dear Sir,—Referring to your circular of 27th March last, in *re* Division Courts, I beg to submit my answers to the various questions therein contained :

1. I think an increase is expedient.
2. & 3. $200 in matters of debt or contract. $100 in Tort.
4. I don't think this proposition would be largely, if at all, made use of if enacted.
5. Among the advantages would be the great lessening of costs to litigants, notably in the matter of witness fees, and the bringing of justice as it were to each man's door.
6. The only suggestion I have to make under this head is that the writ of *capias* may be issued from the Division Court.
7. The right of appeal should be confined to as few cases as possible. On the whole the people have much confidence in the decisions of the Judges, and the finality of their order largely prevents perverse litigation.
8. I would not abolish jurisdiction for small sums, but would suggest that under a certain amount, say $4, the judge should have a discretion to grant leave to sue on proper grounds being shown.
9. I think an amendment which would allow a judge to make orders for substitutional service would be a useful amendment.
10. As to Sheriffs, I have no suggestion to offer. As to Clerks of the County Court, where emoluments will be seriously affected by any increase in Division Court jurisdiction, I am strongly of the opinion that it will be useless to extend the jurisdiction of our Division Courts without largely increasing that of our County Courts. At present the judicial machinery of these courts is vastly out of proportion to the work actually done. In Cobourg, at our last sittings for the large United Counties of Northumberland and Durham, there was but one case to be tried by a jury. An extension of the jurisdiction of the County Court would greatly tend to relieve the pressure of work in the Superior Courts, and would place our local judiciary more on a par with those of Quebec. The extension of the jurisdiction of the County Court is rendered all the easier by the fact that any appeal would be to the Court of Appeal, thus avoiding any imposition of additional duties upon the Courts of Queen's Bench or Common Pleas.
11. I am strongly in favour of one fee only being charged by the clerk. I am not prepared to state what it should be, except that it should not exceed $2.50 to $3 to the Clerk, up to and inclusive of issue of execution. Clerks should not be compelled to provide procedure books at their own expense, but these should be furnished by the Municipalities interested.

Yours faithfully,
(Signed), Geo. H. Dartnell,
Jr. Judge, Co. Ont.

Hon. O. Mowat,
Toronto.

WHITBY, *October 30th, 1878.*

MY DEAR SIR,—I have already replied to your circular of 27th March, 1878.

I am now in receipt of yours of Oct. 5th, 1878, with additional queries, to which I reply as follows:

12. I think it would be desirable to permit a fee to be taxed to a solicitor appearing, but not as a matter of course, but in the discretion of the presiding Judge.

13. I think the same discretion might fairly be given in cases now of the jurisdiction of the court.

14. I am strongly of opinion that any increase of jurisdiction in the Division Courts would be farcical if a corresponding increase were not given to the County Courts. I believe that these courts should have concurrent jurisdiction with the Superior Courts in all cases arising out of contract, to any amount with right of removal when any difficult question of law is likely to arise, and the present right of appeal to the Court of Appeals retained. I am satisfied that this would be popular with the people and with the profession (outside of Toronto). The Judges of the Superior Courts would be thus relieved of a large amount of work which may almost be termed routine, and which largely occupies their time and diverts their energies from more important matters.

Increasing the jurisdiction of the Division Courts without a corresponding increase in the County Courts would so reduce the amount of justice administered by them as to be out of all proportion to the cost of the maintenance of the officials and system connected therewith. I think one reform would be incomplete and unsatisfactory without the other.

15. I am not prepared to express any opinion on this head.

I am, my dear sir,
Your obedient servant,
(Signed), GEO. H. DARTNELL,
Jr. Judge, County of Ontario.

HON. O. MOWAT, Attorney-General,
Toronto.

OPINION OF JUDGE BOSWELL.

COBOURG, *30th July, 1878.*

DEAR MR. MOWAT,—The reply to your circular which I now forward may probably be of little use in framing a new measure for the Division Courts.

I send it however as evidence that I am not indifferent to the subject, and of my desire to give any assistance in my power.

I have condensed my suggestions as much as possible, not desiring to trouble you with the process by which I have arrived at my opinions. I simply give the results.

I am,
Most respectfully yours,
(Signed), G. M. BOSWELL.

No. 1. The desire for cheap law, simplicity of proceeding, and prompt decisions, is founded on sound principles. I think, therefore, that it is expedient to make such increase.

No. 2. I would make the jurisdiction of the Division Courts unlimited in amount.

No. 3. To all cases over which the Division Courts now have jurisdiction, as a greatly increased jurisdiction in these courts may be considered to some extent experimental, I would for the present exclude all cases now excluded by the 53rd Section of the Division Court Act, Revised Statutes page 493, and it might also be well to exclude all actions of tort when the damages claimed are over $100.

No. 4. I see no principle in the suggestion made in this question. Cases should be tried at the courts constituted for their trial, and in my opinion litigants should have no option in the matter. If a court be competent to try a case, with the consent of parties, it is competent to try it without such consent. Consent would not make the question to

be decided less difficult. If parties desire to choose their own court, they can submit their disputes to arbitration.

No. 5. If distinctions, such as I suggest in No. 6 be observed, I know of no inconvenience likely to arise from the increase of jurisdiction, but I think immense advantages must result from making legal remedies cheap, simple, and prompt as possible.

No. 6. Should the proposition of greatly increased jurisdiction be conceded, the judgments of these courts should be made final, only in matters of small amount, and a prompt and easy appeal be given in such cases, where larger sums are sought to be recovered. From my own experience, I say with confidence, that cases subject to appeal should be confined to sums above $100. In the smaller cases the Judge should not be embarrassed by the necessity of taking minute notes of evidence, listening to long arguments of counsel, and giving much time to the consideration of its judgments.

They should be disposed of in the same manner as they now are, and unprofessional agents might be permitted, as now, to conduct them, which certainly ought not to be permitted, in cases of larger amount. Though brought to trial in the same simple way and tried by the same Judge, the cases subject to appeal, and not subject to appeal, should be entered on different dockets and tried on different days, so that suitors for small sums and their witnesses should not be detained while the more important cases were being tried.

Perhaps four times a year would be sufficiently frequent to hold a circuit in the several divisions for the trial of cases subject to appeal. Circuits for the trial of the smaller cases, might still be held six times a year. It is a question which might properly be considered, whether in cases of large as well as small amount, the decision of the Judge on matters of fact, should not be final. New trials upon all the usual grounds might be granted by him, and he might be moved to change his opinion on the evidence. Appeals on questions of law, might conveniently be limited to those cases in which the Judge who tried the case, certifies that in his opinion, there is a proper case for appeal.

In defended cases over $100, it would be necessary to permit the taxation of a fee to the members of the profession, conducting the case. In cases actually appealed there should be a liberal tariff of costs to counsel and attorneys. In defended cases under $100, a small fee might with propriety be taxable to the agent.

No. 7. The remarks on No. 6 answers this question.

No. 8. I do not think it would be expedient to abolish the right to sue for small sums, but I would suggest an enactment, not only giving the Judge discretion as to costs, but directing that in judgments under $10 no costs should be allowed to the plaintiff unless the Judge certify that in his opinion the plaintiff has made proper efforts to recover the same without a suit.

No. 9. Executions should be permitted to issue against lands on judgments over $50.

No. 10. I would suggest respecting emoluments to the sheriff and clerk, that, subject to approval by the Judge, who should also have the right of dismissal, the sheriff might appoint all the bailiffs of the courts and take bonds from them, as they now do from the deputy-sheriffs for the due performance of their duties, that the bailiffs be required to make monthly returns to the Sheriff, and pay him a percentage upon the travelling fees and service of papers. That the Clerk of the County Court be made inspector for the county of the books of the several Division Courts, and that the Clerks of Division Courts be required to obey his order as to the mode of keeping them. He might also be the keeper of the bonds given by the Clerks for the proper performance of their duties, and required to report to the Judge from time to time as to the standing of the securities. Should a specified sum be paid to the Division Court clerks in each case in lieu of all other fees, a small fee on each case might also be made payable to the County Clerk. There should be a scale of fees to the County Clerk, respecting motions in Chambers for new trials, for correspondence with suitors and clerks, and other matters. I would suggest also that the Clerk of the County Court should act as clerk in all criminal cases tried before the County Judge or at the sessions. It is inconvenient for the county attorney to call jurors and witnesses, swear them, and also conduct the cases as counsel for the crown. I do not think it would be difficult to frame a tariff which would keep the clerk's emoluments up to the amount they now are. The tariff might be fixed by the board of County Court judges. There should be no fee payable to him in cases under $100, except as suggested in No. 11.

No. 11. I am decidedly of opinion that the Clerks of the Division Courts should be paid by one fee only, according to the amount sought to be recovered:

Under $25	$2 00
Above that sum and under $100	$2 50
Over $100	$3 00

Of which one-eighth might be paid to the County Clerk.

(Signed), G. M. Boswell.

Cobourg, 30th July, 1878.

OPINION OF JUDGE DANIELL.

L'Orignal, *October 17th, 1878.*

In reply to your circular of March last, I beg to say, that, about ninety per cent. of the actions and suits of every county throughout Ontario, and even more in some counties, are brought and tried in Division Courts. That these courts have given very general satisfaction is evidenced by the fact that the Legislature favour an increase of their jurisdiction. The question submitted in your circular, if I understand it, is—can the jurisdiction of the Division Courts be materially increased with advantage to the public, and without prejudice to the courts as they now stand? I am of opinion that the jurisdiction might be increased in all cases to one hundred dollars without appeal; beyond that sum the legitimate business of Division Courts would be delayed and rendered expensive. Except in cities, towns and large villages, the "town halls," wretched building at best, constitute the entire accommodation for the courts. These Halls are sometimes miles from any building except a farm house, so that if suitors were detained at a court more than one day they would be obliged either to lodge during the night in the court room, or return to their homes. The increase of jurisdiction as proposed, would, I presume, bring within the Division Courts, suits now brought in County Courts. There is no reason for believing that the trial of such suits would take less time at a Division Court than a County Court; consequently a Division Court with increased jurisdiction would occupy in many divisions, perhaps in all, at times, days, instead of hours, in the disposal of the business. If such would be the result, how is the necessary accommodation to be provided as well for the court as for the suitors and witnesses during the court sittings? If suitors and witnesses should be obliged to return each night to their homes and back to court in the mornings, until the business was concluded, the courts would be found rather expensive. I do not think it would be possible to transact business under such circumstances. This, without anything further, should I think, deter the Legislature from interfering with Division Courts. An increased jurisdiction would impose additional duties upon the clerks. I am convinced from my own experience that very few clerks would hold office if obliged to attend for any lengthened period upon the sittings of a Division Court, without remuneration, much beyond what the business would justify, neither would they assume the responsibility of keeping the papers of the court without proper offices and safes being furnished to them. Except the Legislature is prepared with a scheme, whereby ample accommodation shall be provided in each division, the courts had better remain as they are.

County Court.—I am of opinion that the County Court should not be abolished. On the contrary, I think the jurisdiction might be advantageously increased in all personal actions, and in suits relating to debt, covenant and contract, and in replevin to any amount, I see no reason why such suits could not be as well tried in a County Court as in the Superior Courts. I am not prepared to offer any opinion as to the expediency of limiting appeals from the judgments of the Superior Courts of Law and Equity.

I am not in favour of any change being made in the fees payable to Clerks and Bailiffs of Division Courts; nor do I think it desirable in the interest of suitors to allow any fees to solicitors in cases within the jurisdiction of Division Courts. I take the liberty of suggesting that County Councils should provide books for the Division Court Clerks. The County Council of Prescott and Russell, at my request, kindly did so, and I

think it should be made imperative upon Councils throughout the Province, to follow the example and furnish books as required.

I am, Sir,

Your obedient Servant,
(Signed), JAMES DANIELL.

Hon. O. MOWAT, Attorney-General,
Toronto.

OPINION OF JUDGE SENKLER.

PERTH, *12th October, 1878.*

MY DEAR SIR,—I must apologize for not having sooner answered your circular of 27th March, in *re* Division Courts. I hoped the matter would have been discussed at our annual meeting, which, however, I was unable to attend. Since receiving the reminder of the 4th ult., I have been much pressed with work.

In reply to you enquiries 1, 2, and 3, I have not heard in this neighbourhood suggestions that any increase should be made, nor do I find any decided feeling to that end. I think any increase should be limited to dispensing with the present distinction between cases on contract and those on tort. This can readily be done by striking out the word "forty," and substituting "one hundred," in sec. 54, and omitting that part of the section under the second head.

4. I see no special advantage in giving an increased jurisdiction available at the option of the parties, nor do I see any decided objection to it. I would merely suggest that suits brought under the optional jurisdiction should not interfere with those under the absolute jurisdiction, but should be a secondary consideration only to be disposed of when the time at the disposal of the Judge will permit.

5, 6 and 7. If the jurisdiction is only increased as above indicated, no increased security from officers, writ of arrest, or appeal, will be required, as would certainly be the case if any general increase of jurisdiction is made. I have seen the remarks sent by Judge Deacon, and I heartily concur in what he says on these questions.

8. I think the abolishing of all jurisdiction to recover small sums would work a great hardship on poor people in preventing their obtaining any credit, even for necessaries; any abuse of the right to sue for small sums can be controlled by the Judge who has full power over the costs, and if he thinks the plaintiff's proceedings are oppressive he can and probably would deprive him of costs.

9. On the subject of general amendments, I suggest the following:

By sec. 71 the number of days to elapse between the service and the sitting of the Court, is regulated by the residence of the defendant. In the case of corporations, the residence is where the head office is situated. There are a number of corporations doing business in Ontario who have their head office out of the Province; sometimes the objection is taken that Division Courts have no jurisdiction, and sometimes not. The matter should be made certain.

I think in the case of corporations, when they have an agent doing business for them within the division in which the cause of action arose, that the residence of the corporation should be declared to be within the division. In making any amendment it would be well to specify on whom process against a corporation can be served. The present Act is silent on that.

Sec. 72 requires personal service in all cases exceeding $8.00. I think substitutional service should be provided for. It can be done by declaring that the practice in the Superior and County Courts upon that subject shall apply to proceedings in the Division Court. Substitutional service on the P. D. in garnishee proceedings is now provided for.

Sec. 154. I think express jurisdiction should be given to the Judge to award costs in those cases in which he finds he has no jurisdiction over the subject matter of the suit. In the Queen v. Steele, L. R. 2., Q. B. Div., p. 42, Lord Coleridge, C. J., says, "The House of Lords has held that a court has power to give costs, although without jurisdiction for any other purpose.' The justice of such a course is, I think, manifest; cases are constantly

being brought in the Division Court and struck out for want of jurisdiction, for instance, as, brought in the wrong division, no costs can be awarded; a plaintiff who institutes proceedings should do so at the peril of costs. See Hamilyn v. White, 6 Prac. R. p. 121. Strong, V. C., says, "if there really is no jurisdiction the parties cannot, even by consent, make one, and it would be the duty of the Judge to take the objection himself at the trial (if the want of jurisdiction then appeared), &c. I apprehend that in a court like the Division Court which is a statutory creation, the rule as laid down by the House of Lords would not apply without express enactment.

The necessary amendment could be effected by adding after the word "fit" in this section "and the Judge shall have power to award costs, although without jurisdiction for any other purpose."

Sec. 162. In reviving judgments, I think, power should be given to the plaintiff's assignee, to revive the judgment in his own name after the plaintiff's death, without requiring a personal representative of the plaintiff to be appointed.

(These last suggestions, I think, should be extended to the County Courts).

Sec. 183. I think this section should be amended by striking out the words "unless the Judge is satisfied such non-attendance is wilful, or that the party has failed to attend after being twice so summoned." I think the defendant should be required to attend on the first summons. Requiring the defendant to be twice summoned materially increases the expense. In actual practice in the great majority of cases the defendant does not appear on the first summons, simply because he knows he must be summoned again. In rural Courts the sittings are never nearer than two months, and are often four months apart, so that the delay is very great.

10. The increase of jurisdiction which I have suggested will not materially affect the Sheriff or other officers. If any further extension is made then, these officers and professional men will be affected. As vacancies occur the Sheriff and Clerk of the County Court might be made bailiff and clerk of the Division Court in the County Town; a scale of fees might be provided to be taxed to professional men actually engaged, at the option of the Judge.

11. There are great practical difficulties in the way of fixing the clerk's remuneration by one fee. The proceedings are so varied, a sliding scale increasing with the progress of the suit would be the only way, viz. after writ, after judgment, after execution, after judgment summonses, &c. The incidental proceedings, transcrips, supœnas, searches, &c., would still have to be provided for. If the principle were established the details might be worked out by the board of County Judges.

Yours very truly,

(Signed), W. S. Senkler.

Honourable O. Mowat, Attorney-General.

Perth, *21st October, 1878.*

My Dear Sir,—I only received your circular of the 5th instant after I had written you on the 12th instant.

12. I still remain of the opinion that the jurisdiction of the Division Court should not be extended beyond $100.00. If, however, it is extended so as to cover the existing jurisdiction of the County Court, or even nearly approaching that, I think, decidedly that it is in the interest of suitors that a fee should be taxed to solicitors, if employed. As a basis of the fee I would suggest the following items from the County Court Tariff, viz. instructions, drawing claim, (equal to declaration), instructions for brief, brief, fee advising on evidence, and fee at trial, leave it discretionary with the Judge to tax between the minimum and maximum of the aggregate of those items.

13. Within the present jurisdiction of the Division Courts (including an extension to $100.00), I think it is desirable, and in the interest of suitors, that a fee should be taxed to solicitors, if employed.

I would leave it in the discretion of the Judge to allow a fee at all, such fee when allowed to be fixed by him; $2.00 being the minimum, and $10.00 the maximum.

14 The answer to this question involves a great many considerations. If the juris-

diction of the Division Courts is extended to the present limit of the County Court, I can see no object in retaining the latter court. The abolishing of the present County Court, and extending the Division Court and giving it the name of County Court, would assimilate the courts to those in England. If such a change is to be made it will be necessary to provide for writs of arrest and process against lands, and to do justice to the Sheriff and Clerk of the County Court.

There would arise the further question, whether the concurrence of the Dominion Legislature might not be required. If the existing County Courts are abolished, and what are virtually new courts created, the present County Court Judges would be deprived of their offices, and the Dominion Government might not re-appoint them. It would be great injustice to place men who hold their present position during good behaviour in such a strait.

I do not look upon cheap law as a blessing to any community, as I think it would have a tendency to promote litigation and cause an increase of its necessary attendants, animosities, and loss of time and money.

The effect such a change would have upon the profession should be considered.

Practically speaking, collections which were admitted to be the most lucrative part of the country practitioner's business, are among the things of the past. The only suits of that nature now brought, are those against non-traders, the Insolvent Act having disposed of those against traders. The inroads made by non-professional conveyancers on the conveyancing business, should also be borne in mind. In the majority of the cases now brought in the County Court, there is a contest which means a good deal of work, for which there is no adequate remuneration. I don't think any further curtailment of solicitors' fees, by extending the Division Court into the County Court and the latter into the jurisdiction of the Superior Courts, is desirable.

The present state of the offices of the different Division Court clerks against fire, is unsatisfactory, (in this county within a year one of the offices was destroyed by fire, and everything lost except the current procedure book). If more important matters are to be brought in the Division Court, security against loss by fire should be considered. That might be done to a certain extent by making the clerk in the County Town the senior, and requiring all process and papers after judgment, to be transmitted to him (as in the Superior Courts), to be filed away in proper vaults prepared in the Court House. I fear such a measure would be unpopular with the County Councils.

15. I have not had sufficient experience in this matter to express any decided opinion.

Yours very truly,

(Signed), W. S. SENKLER.

Honourable O. MOWAT, Attorney-General,
Toronto.

OPINION OF JUDGE ROBINSON.

SARNIA, *5th April, 1878.*

SIR,—In answer to your letter of the 27th ult., I beg to observe that the subject mentioned in it is one to which I have given no attention, and I, therefore, may not be qualified to give an opinion of any value. However, I shall give you my thoughts such as they are. I of course, can only speak with reference to my own county. Now as to the first question, I reply by stating the following facts :

The usual number of cases tried at a County Court sitting here is in the neighbourhood of seven or eight. This covers the whole ground of jurisdiction between the Courts of Superior Jurisdiction and the Division Courts. I ask can any great good be effected by abolishing such a limited number of County Court trials. It is quite evident that the great mass of litigation is conducted in the Division Courts. If an increase is to be made I should think it might as well extend to doing away with the County Courts ; indeed this seems to follow from my former statement. As to the class of cases, I see no reason for making an increase to one and not as to the other.

If parties choose to try cases in Division Courts I do not see why they should not have the power to do so, just as they may submit a case to arbitration. I do not think

that an extension of jurisdiction will be an advantage. As to cost the only saving will be in the difference in the fees of the Court. If cases are brought to trial in Divisions away from the County Town, Barristers will be brought from there; if cases of any importance are tried, they will be men of standing and they must be paid high fees for leaving Town, higher than they would demand if they had not to leave home. A suitor would be consequently a good deal out of pocket. If an increase is given I fear there would be dissatisfaction, if there were not an appeal. These Division Courts are, after all said in their favour, and notwithstanding all the pains a Judge may take, very unsatisfactory affairs, and very trying to a Judge. Cases are thrown at him in a most extraordinary manner. The people who attend conceive that they are entitled to more licence than in other Courts, and in short the administering justice in them is by no means easy or pleasant. I should be sorry to see the jurisdiction extended. I think the right of arresting should be retained to the same extent as now. It is very seldom used but occasionally it is, and beneficially. I do not think it is necessary to limit the amount to be sued for. A poor washerwoman would naturally think herself illused if she could not recover for a week's washing, though the amount might be small. I should think it best to leave things as they are in that respect. A Judge can always refuse costs where a person acts unreasonably. If persons choose to contract small debts they should bear the consequences, and to tell them they may do so with impunity is an encouraging of dishonesty, and Heaven knows we have enough of that now. I have not turned my attention to the subject of amending the Act. I think it works very well, I do not know how the Sheriff can be compensated for any loss he may sustain; if my views are correct he could not sustain much; still, I believe he is miserably paid, and any further diminution of his income would, I suppose, be felt. The tax sales having been taken from him his office must be worth very little. I do not see why a Clerk should be paid by a single fee; I suppose this means to diminish the income of an officer who is at present very poorly paid. I believe I have answered all the questions put to me.

I have the honour to be,
Sir,
Your obedient Servant,
CHARLES ROBINSON.

SARNIA, *14th October, 1878.*

SIR,—I have the honour to acknowledge the receipt of yours of the 5th inst. in reference to the Division and County Courts, I have on a former occasion given my views on the subject, I shall not repeat what I have stated already. I shall only observe that much depends on the manner in which a system is carried out, than the system itself. It is not easy for a Judge to be efficient if he is unable to provide himself with a good library, and if his mind is ill at ease from narrow means.

I have the honour to be,
Sir,
Your obedient Servant,
CHARLES ROBINSON.

OPINIONS OF JUDGE McDONALD.

BROCKVILLE, ONTARIO, CANADA,
Friday, 2nd August, 1878.

The Hon. O. MOWAT,
Attorney-General, &c., Toronto.

DEAR SIR,—Within written please find my answers to the printed queries as to the changes in the Division Court Law, contained upon the annexed sheet, or other half hereof.

I have the honour to be, &c. &c. &c.
(Signed), HERBERT S. McDONALD,
Junior Judge County Court, U. C. of L. & G.

1. Possibly of advantage,—not sure.

2. The only extent would be in actions of tort increased to $100.

3. To actions of tort.

4. No, there are no pleadings in the Division Court. It requires them to bring the issues fairly to trial. In actions for small amounts this may be dispensed with, (as now,) but I do not think it would be advisable to go beyond $100.

5. If the Division Court Judge can adjudicate properly in actions of contract where $100 involved I think he might safely be trusted to do so in such tort cases as are tried in Division Courts. He can always call a Jury to his aid. People are enabled to bring their suits in their own Courts near their homes instead of going to a County Town.

6. I do not think any amendments in these respects necessary. But I think it would be advisable to provide that a defendant sued upon a note or account for goods, in a Division Court not having jurisdiction, must raise the defence of want of jurisdiction in or with his notice of defence filed, or otherwise the Judge may, if he thinks proper, try the case as if brought in the proper court. I also think it should be provided that a Judge may allow costs even where there is no jurisdiction to try the case.

7. I am not prepared to answer this question either way.

8. By all means abolish jurisdiction to recover any sum less than two dollars. I am not sure that $5.00 would not be better.

9. See answer to 6. I think it would be well to require the courts only to be held once in four months instead of two months.

10. The only arrangement I can think of, (unless paid by salaries) would be to increase the amount allowed for services.

11. By all means have only one scale. Let it be on the scale at present exceeding $40, and not exceeding $60, with such modifications as may be deemed proper. The experience of the Inspector would be of valuable aid as to this. Now a man may be sued for $100, and the clerk commences charging on that scale. Perhaps the Judgment is only for $20. I suppose the Clerk should have from plaintiff the full amount, but defendant should only pay as upon a $20, suit unless under special circumstances.

Brockville, Ont., *15th October, 1878.*

Hon. O. Mowat, Attorney-General, Ontario,
Toronto.

My Dear Mr. Mowat,—I am sending you herewith answers to some enquiries as to Division Courts. Allow me to make some suggestions as to "Division Courts Act."

Section 7. Let the courts be declared Courts of Record.

Section 8. Change from two months to four months. Since special summons instituted there is not need of as many sittings as there used to be, as the clerk now signs judgment by default in many cases.

Section 10. Change two months to four months.

Section 24. Every Division Court Bailiff shall be *ex officio* a County Constable.

Section 26. A woman may be appointed clerk.

Section 35. After the word "accident" insert "or for any other cause allowed or considered reasonable by the Judge."

Section 42. After the word "shall" insert "if required" and strike out the part making it the duty of the Judge to require the statement.

Section 47. See section 109 post.

Sections 62 and 63. Enlarge so that in addition to the present provisions, a defendant may in contract be sued in any division unless he objects after being served with summons. And in case the suit goes down to trial without such objection the defendant to be then precluded from setting it up.

Section 64. Repeal this if above amendment made.

Section 66. That all proceedings may be carried on to final end and until money made, etc., in court in which case is brought. Any interpleader may be tried in such Court, etc.

Section 74. After the word "brought" insert "or the bailiff is sick or unable to act."

Section 94. If there is to be an increase of jurisdiction might it not be provided that judgment may be given for balance of set off up to any amount?

Section 109. Why not abolish juries altogether unless the judge has one empanelled in court? The present provision is unfair. The clerk summons fifteen men, perhaps of the best business men in the place, and they have to attend court. Five are selected, the other ten get nothing. The five get ten cents each and perhaps lose half a day (see sec. 47).

Section 112. There is a difficulty as to the meaning of this. Is the clerk to take the jury for one court from the Roll of the Municipality in which the court is held, and take the next one from the Roll of the Municipality which contains the greatest number of names, or is he to take such next one from the Roll of the Municipality in which the court is held, and keep on with that one until exhausted?

Section 126. Might now be repealed.

Section 147. After word "with" insert "or without." The Judge should have power to refer, if he thinks it a proper case, whether parties consent or not.

Sections 177 *et seq* to 189. I am not at all clear that these judgment summons provisions should not be repealed, or at any rate greatly modified. The judgment summons is often made a lever to force payment of a debt from a man's friends rather than see him sent to gaol. Undoubtedly some rogues are by means of it properly punished or made to pay their debts. But I am not at all sure that the benefits are commensurate with the evils.

Section 217. Change twenty dollars to fifty dollars and one month to three months.

The above are only a few suggestions, and I have no doubt there are very many other points upon which there might be improvements or amendments.

Respectfully yours,
(Signed,) HERBERT S. McDONALD.

BROCKVILLE, *15th October, 1878.*

Answer to question 12. It would be desirable. There are no pleadings and consequently the only fees to be taxed would be counsel fees. I would make a general order or provision by which the judge might allow any sum between $2.00 and $10.00 (inclusive), in cases now within the jurisdiction of Division Courts, as the fees to be allowed in case of increase of jurisdiction. I cannot speak not knowing what such increase may be, and *the amount* of fee must be regulated by that. But in such cases I think the Judge should have power to allow a fee, and let there be a maximum and a minimum amount.

Answer to Question 13. Yes.—See answer to question 12.

Answer to Question 14. I do not think the County Courts should be abolished. The sittings with juries are held only twice a year, and then at the same time as the General Sessions. I think the jurisdiction might safely be increased say to $1,000, in all actions of contracts, etc., and $500 in actions of tort. I would not make any change in the class of case excepted by section 18, cap. 43 of Revised Statutes unless to allow actions of seductions to be brought in County Court. The question of amount is not of very great consequence for appeal lies, and now in insolvency matters County Judges have jurisdiction no matter how large the sum.

Answer to question 15. I have not the knowledge requisite to enable me to answer this question.

(Signed,) HERBERT S. McDONALD.

OPINION OF JUDGE STEVENSON.

CAYUGA, *October 16th, 1878.*

Having given my consideration to the several points of inquiry submitted by the Honourable the Attorney-General relative to increase of jurisdiction of the Ontario Division Courts, I have the honour to reply.

1. That I do not think any increase of jurisdiction beyond *one hundred dollars* is desirable, for the reason: first, that while recognizing the principle of the present law, that it is necessary that suit by summary procedure, as well in contract as in tort, should be allowed within a limited amount, and subject to exceptions as expressed in the Division Courts Act, with a view to cheap and speedy justice in such cases, I think at the same time that by the present jurisdiction, as well as procedure, of the Division Courts, is represented as nearly and as practically as may be, the proper idea of small debts courts, considering them in relation to the general business of the country and the multitude of claims varying from *one dollar* to *one hundred* which are yearly disposed of in them; and that to draw into them materially from the tribunals next above them would destroy their distinctive character as expressed, at the same time that it would create so great a disproportion of the business to be done in each, that in such cases it would be reasonable to extend the jurisdiction of the Division Courts to all cases now within the cognizance of the County Courts, and abolish the latter, unless indeed the jurisdiction of these were also considerably extended—a measure which I think indeed would be an advantageous one, but which I do not understand to be contemplated.

Secondly, the point being to what extent a conclusive verdict should be dependent on the judgment of one mind only. I think the present limit large enough; and that if jurisdiction beyond one hundred dollars were given, then this should be subject to appeal as now admitted where any such large sum is in question. Right of appeal should, in my opinion, be preserved in cases, for the reason, first, that it must be assumed that a judge, deciding on his own judgment only, would desire that other judgment should be had in cases where he had doubt as to the correctness of his own; and in cases more especially where he might find himself to have been in error, and yet concluded by the finality of his decision from rectifying it; and secondly, and of course chiefly, in justice to the party whose pecuniary interests were involved. This being so, an appeal can best be had according to the present practice, by formal statement by the parties of claim on one side, and defence on the other; otherwise the duty and responsibility of stating the issue to be determined would devolve to a large extent upon the Judge, instead of the parties having, as now, the right and responsibility of stating it for themselves. I do not think this duty in case of appeal is one the Judge should be called on to perform, further than required by the present practice; nor do I think that any such informal method of procedure would be any more desirable in cases appealed from Division Courts, than it would be considered to be now in appeal of the like cases from the County Courts.

2. As cheapness and expedition are the objects desired in the contemplated extension of the jurisdiction, it is to be observed, first, that while both in County and Division Courts immediate judgment may be obtained in matters of contract in undefended cases, that in the County Courts, under section 156 *et seq.* of the Common Law Procedure Act, a party may be examined as to the fact and nature of any defence pleaded by him; and this, if fictitious or not *bona fide*, may be struck out and judgment had instanter. This is a recourse at once expeditious and effective against only obstructive defences, which is not now available in the Division Courts, though I think the Division Court Act should be so amended as to make it so; but I refer here to this enactment, that it may be seen that means are now provided for preventing any delays that might otherwise be caused in County Courts by such defences as effectually as could be if Division Court jurisdiction were extended to them.

As to the issues in defended cases these are triable by the Judge either with or without Jury, unless referred for more summary decision as they may be in County Courts under Section 198 of the Common Law Procedure Act.

If *without* a Jury sittings in the purpose one had every *three* months in the one Court, and every two months in the other, the longer period not occasioning I think any material disadvantage to suitors, and therefore no amendment of the Law needed in this respect.

In cases triable *with* a jury, the law might be so amended that a jury might be summoned as well for the special sittings held by the Judge, under 14th Sec. of the Act, as at the half yearly times, now appointed by the same Statute for Jury cases, such number of jurors to be summoned, not more than 48 or less than 24 as the Judge having regard to the jury business to be done, might direct. Such a provision would enable

Judge and jury trial to be had at intervals of three months alike, and this I think would be reasonably expeditious, in both cases, immediate execution following the verdict unless there should be express reason for witholding it.

Or as to suits for claims not exceeding *two hundred dollars* it may be suggested these might be so far brought within the Division Court Jurisdiction, as to be tried by the Judge with or without a jury according to the provisions of the Division Court Act. The trial to be had in the Court of the Division in which the county town is situate and on a record to be passed by the County Court Clerk, to be returned to the same Court with the verdict rendered for such further proceedings as the parties might wish to take by motion for new trial, appeal or otherwise according to the present practice.

As to reduction of costs in the cases last referred to, namely:—exceeding $100.00 and not exceeding $200.00, this of course may be effected by adopting a scale of fees lower than that of those now taxable in actions involving sums within these amounts, yet so framed as to insure to the Sheriff, Clerk and Solicitors, a fair remuneration for their services respectively. The last are the persons likely to be the most affected by any such modification of the present tariff and this being so I think that in all contested cases in Division Courts and where the matter *bona fide* in question exceeded *twenty-five dollars* the Judge should be empowered to allow a Counsel fee of not less than two dollars in ordinary cases and not more than *six dollars* in special and important ones. The latter sum being now the minimum Counsel fee in the County Courts. Indeed such a provision would not be found, I think to be more in the interest of the practitioner than of the parties plaintiff or defendant, recovering judgment, these being always out of pocket under the present system of any sums they may have to disburse for professional assistance. But I think it would be in the interest of both, and if a counsel fee is reasonable and just against an unsuccessful party in the Superior and County Courts, I don't see why one would not be equally so in the Division Court, the amount of it being proportioned as I propose to the difference of the respective jurisdictions and the value of the matter in question.

3. The above observations are intended as applicable for the most part as well to actions in *Tort* as *Contract*, but further as to actions in *Tort*, I would recommend that the jurisdiction of the Division Court should be the same in these as in Contract, and in case of distinct claims in Contract and Tort between the parties that both might be prosecuted and determined in one proceeding, though the judgment rendered exceeded one hundred dollars—the claim in each being distinctly limited to a sum within that amount. This addition to the jurisdiction would of course afford cheaper justice in such cases, and there does not seem to be any valid reason why jurisdiction should not extend to $100.00, when either the price to be paid for a Chattel sold was in question, or some alleged breach of the Contract of Sale—if warranty for instance—and be limited to a less amount when an otherwise wrongful act in respect to the same Chattel and the right to commit it, or in trespass to realty, where the act simply and not the right was in question. An alleged wrong is practically the subject of the action in either of these cases, and the recovery of adequate damages the object of it, and I think that the larger jurisdiction may be given as safely in the one form of action as the other, subject of course as it already is to the exceptions expressed in the Statute.

4. As to abolishing actions for small sums, I think that the 2nd section of "The Execution Act," Revised Statutes of Ontario, chapter 66, effects sufficiently what (as I suppose) would be the object of abolishing jurisdiction as to these, namely, prevention of loss to the creditor by his imprudent giving credit on one side, and on the other distress to the debtor and those dependent on him by his imprudently obtaining it. Property necessary for the immediate wants of the debtor and his family, is secured to them by this provision of the Legislature against liabilities improvidently contracted, and the creditor having knowledge of this provision of the Law beforehand has sufficient reason for caution in trusting persons from whom he could not hope to recover in event of their failure to pay. It is presumed that he now is the more careful to give credit to reliable persons only, and to ascertain that those whom he credits are such—and that in this also, the customer has the desirable motive for acquiring and preserving a character for fair dealing and punctuality in his engagements. But for the enactment now referred to, I indeed think that the one suggested would be desirable with a view to the objects mentioned, as it is I think that the present law effects as far as can be the same objects by other and

better means, better because a dishonest debtor though insolvent is still amenable to punishment under the penal clauses of the Division Courts Act.

5. As to amendments of the present law I have to recommend those above suggested, and in addition to them that Jurors in Division Courts be allowed a sum sufficient to repay their necessary and actual expenses while attending on the trials on which they are summoned. It is my experience that jurors are seldomed summoned in this court; but it must be admitted that when they are, they should not be required to do so not only without compensation for their services, but themselves to defray the expense necessarily incidental to it, excepting the merely nominal fee allowed to them now.

6. As to the question whether one fee instead of many, as now should be payable to the Clerk. I think it far more equitable in the interest of the parties that the Clerk's fee should be for and proportionate to the actual service rendered. Judging too from my own experience I have no reason to think these officers are likely to exact larger fees than the tariff allowed them, while by special provision of the Act the party chargeable can always demand a bill and submit it for revision to the Judge.

These being the observations I have to make upon the several enquiries stated in the Hon. the Attorney-General's circular, they are respectfully submitted.

J. G. Stevenson,
Judge County Court, Haldimand.

OPINION OF JUDGE DEACON.

Pembroke, *30th September, 1878.*

Dear Sir,—In reply to your circular requesting an opinion on the points stated therein, touching the project of an increase in the jurisdiction of the Division Courts, I have, after much consideration, to submit the following:—

1. As to the expediency of an increase, &c.

I think it might be expedient to increase the jurisdiction to the limited extent, presently mentioned.

2. To what extent, &c.

I would advise the striking out of the word "forty," in Sub-section 1, of Section 54, of the Division Courts' Act, and inserting the words "one hundred," in lieu: thereby making the limit $100, in all the actions in which the Division Courts now have jurisdiction.

3. To what class of cases, &c.

To those mentioned in Sub-section 1, of Section 54, only.

4. To the enquiry made under this number, I say no—decidedly not.

5. Under this, I observe that the limited increase mentioned above, would not, I think, seriously interfere with the disposal of the business at the sittings of the Division Courts, and might be advantageously made; but the allowing parties to enter and try, even by consent, cases involving larger amounts than the fixed limit of the jurisdiction, and thereby place the judge in the position of an arbitrator, would seriously interfere with the disposal of the proper business of the Courts, and tend to lengthen the sittings, to the great inconvenience of the ordinary suitors, and in many cases render it next to impossible for the Judge to overtake the business in each circuit. There is no reason or necessity for this change, and unless it be the design to make the Division Courts supersede some of the other Courts, it ought not to be made.

Beyond this limited increase, applying only to the class of cases referred to, I am strongly opposed to any further extension of the jurisdiction, as a "Court for the cheap and expeditious trial of small causes and controversies," whose procedure does not necessarily call for the assistance or intervention of attorneys or other professional men (although not excluding them, when the parties themselves choose to employ and pay them) whose judgments are not embarrassed or delayed by expensive appeals, and for which Clerks and Bailiffs can be found able to give security for the due transaction of the volume of business now to be done, and the amount of the people's money to be collected and paid over by them; it has been, in its position and relation to the other Courts of Ontario, as great a success as any of them; but it never was designed to take, and is not capable of taking, the place of either the County Court, or the Court of Chancery.

If the limit of $100 is to be exceeded, then the usefulness and efficiency of the Division Court as the "poor man's Court," with its low tariff and summary procedure, will be seriously impaired, for the very palpable reasons that in view of the increased volume of business and of funds passing through the hands of Clerks and Bailiffs, these officers will be called upon to give increased security, and will justly enough, look for increased remuneration; the intervention of Attorneys and professional men would be almost indispensible; appeals to the Superior Courts must be allowed and provided for. The law of arrest for sums of $100 and over, will have to be introduced with all its arrangements as to Bail, &c.; and if it be difficult now, in many Counties, for the Judges on Division Court Circuit to undertake and satisfactorily dispose of the list of causes for each day, any intelligent and educated man can readily imagine how the difficulty will be increased when a sitting of the County Court, and of a Division Court are practically combined, for the same day; and this, assuming that nineteen-twentieths of the cases are disposed of without the intervention of Juries. But if the idea is really to *extend* the jurisdiction *without* increasing the cost of procedure, then I am satisfied it will be found to be impracticable; the increased work, and the enlarged responsibility, will inevitably lead to an increase of cost. Clerks and Bailiffs having the necessary qualifications for the offices, will not do the increased work, and assume the more extended liabilities, without increased remuneration; and withal, in many of the rural parts it will not be easy to get sufficiently qualified men to take the offices at all.

But the question naturally arises, is there any necessity for extending the jurisdiction of the Division Courts, or will any advantage be gained by practically destroying its efficiency, and superseding the County Court, with all its matured machinery, for the trial of causes and controversies up to $100. Let any one look carefully at the Statutes relating to the County Court, and say whether it is now really anything more than an extended Division Court; but with the advantage of having already the necessary arrangements and provisions for speedy procedure, for final process against real property, for arresting the person, and for the putting in of bail with responsible officers appointed by Government. If the costs of the County Court proceedings are too high (which is not alleged), there is nothing to prevent their being reduced; and if its proceedings are too slow, they can be readily expedited; but this latter has already been done by Section 15 of Revised Statutes of Ontario, Chapter 43, giving the Judge power to hold additional sittings "as often as may be requisite for the due despatch of business." Speedy procedure being thus amply provided for, the only remaining enquiry can be: Is it cheap enough? and in order to determine this, an examination of the tariff can be readily made, and if anything be found in it which may be thought excessive, a remedy can be easily applied.

6. So far as the amendment I have suggested is concerned, no additional security will be required from officers, nor any change for writ of arrest, &c.

7. As to an Appeal in the new cases, if jurisdiction should be extended beyond $100, I think there should be an appeal in all such new cases.

8. As to abolishing jurisdiction to recover very small sums. My experience leads me to form the opinion on this point, that such an abolition would be exceedingly unrighteous and unjust, and would bear with severity upon many of the poorer classes. It would bear hardly and unfairly upon the grocers and small dealers, as well as upon their customers, as it would utterly destroy the credit system to the extent of the abolition, preventing many a poor person from obtaining small credits and deterring dealers from giving any. I know of no sound principle upon which this proposal can be justified, nor any honest advantage likely to flow from it. In these "hard times" it will be a most unpopular measure, and justly so. The recovery of one dollar is often as important to a poor man as of ten to a wealthy one, and the refusal of the law to give any remedy in these cases would inevitably lead, in many instances, to the taking of the law into their own hands and the making of reprisals. How much better it is to have even these small matters investigated and disposed of by an impartial tribunal, and the strife ended so far as the litigants are concerned. The quieting and satisfying of the people, even in small matters, is an important object in jurisprudence. I am aware the credit system has its disadvantages, but it is not an unmixed evil, many a poor but honest man has been tided over his difficulties by little advances timely obtained, but if, to a certain amount, every thing is to be placed upon the same footing as a Tavern bill, the result will be only mis-

chief, without a single corresponding advantage. Small claims are generally attended with small costs, and the parties themselves have to pay them, so that the public at large is not injured. I am also aware that it is said that no man sells goods or property with the expectation of having to sue for the price, but I know also that *now* both seller and buyer have plainly before their minds the remedies the law gives for failure on the part of either, and we all know that these remedies are *now* being constantly made available, and no honest or fair man can reasonably complain that such remedies exist.

9. Under this head, I beg to say that I have no other amendments to suggest. The Division Courts' Act and Procedure are getting to be understood by the people at large, and fulfilling their mission, and in my humble opinion it would be greatly in the people's interest if the law could be allowed to remain as it is for some time to come. Frequent changes and alterations not obviously required, and only introduced as experiments, cause a great deal of trouble and inconvenience, and ought, as far as may be, to be avoided.

10. No doubt the increase of jurisdiction in the Division Court will materially affect the emoluments of Sheriffs, &c., as the jurisdiction of the County Court will, to a similar extent, be superseded ; but as this will be only a natural result, I feel unable to suggest an arrangement which could be made by law to alleviate it.

11. The sliding scale is the fairest one of all, and I know of no difficulty on the part of Clerks in applying it ; there is no change called for in regard to this.

I am, dear Sir,
Yours very respectfully,
JOHN DEACON,
Co. Judge, Renfrew.

To the Honourable
Attorney-General of Ontario,
Toronto.

OPINION OF JUDGE LYON.

1. Not for debts.
2. To $100.
3. To tort and replevin.
4. Not in my opinion, as it would be impossible to get through, or fix courts for next Division.
5. I think Torts and Replevins to $100 could be as easily tried, as to $40 present jurisdiction.
6. That must be left to the discretion of the Judge.
7. None ; appeals would only lead to endless litigation.
8. It could scarcely be done, as doctors could not demand pay before attending a patient in country places, and workmen receiving wages once a week or fortnight, could not get credit for necessaries.
9. I think the 2nd judgment summons should be done away with, and the Defendant committed for non-attendance on first as it throws Plaintiff over for four months or six months in outside Divisions and frequently causes loss of debt.
10. The increase I propose would not materially affect the Sheriffs as those cases are few and far between.
11. I think it would be an improvement, and would suggest in all cases a fee of $5 to the Clerk, and $3 to the Bailiff besides his mileage, which ought to be fixed at 10 cents, with discretion to the Judge to tax double mileage when he has to travel more than once to effect service.

DEAR SIR,—I regret to have not answered your queries sooner ; but mislaid my questions, and being very busy of late, neglected to look them up ; but the old adage "better late than never," may apply, and I hope they may prove of some service.

I have the honour to be,
Your obedient Servant,
ROBERT LYON,
Junior Judge, C. C.

(No. 44.)

Return in the matter of the buildings, erections, drains, and other works done or contracted for in connection with the Deaf and Dumb Institute at Belleville, for the year 1877, setting forth—1. All tenders for said works. 2. All contracts entered into for the same. 3. All claims for extra work. 4. All amounts allowed on claims for extra works. 5. All claims for extras allowed. 6. All claims for extras in course of adjustment. 7. What sums are yet required for the completion of works so undertaken. (*Not Printed.*)

(No. 45.)

Statement shewing the amount of Provincial money on deposit in any of the Banks, the name of such Bank or Banks, the respective amounts so deposited; the amount drawing interest, and at what rate; also, the amount and rate of interest received on deposits by the Province in each year from the year 1867 to 1877, both inclusive. (*Not Printed.*)

(No 46.)

Copies of all communications, correspondence and negotiations connected with the hypothecation of certain Dominion Stock, to the amount of £149,000 sterling, during the year 1877, stating the amount received on such hypothecation; the rate of interest; the amount of commission for negotiating the loan; the specific time (if any) for which the loan was made; the market value of said stock at the time of hypothecation; the market value of the said stock at the first accrual of interest thereon after such loan, and the present value of said stock. (*Not Printed.*)

REPORT

OF THE

QUEEN'S PRINTER

ON TENDERS FOR

Departmental & Legislative Printing & Binding;

AND CONTRACT WITH

MESSRS. ROBINSON & WARWICK.

Printed by order of the Legislative Assembly.

Toronto:
PRINTED BY C. BLACKETT ROBINSON, 5 JORDAN STREET.
1879.

SCHEDULE OF PAPERS.

Order in Council approving of the Report of the Hon. the Treasurer on Tenders for Printing, etc. .....

Report of the Hon. the Treasurer on Tenders for Printing ....

Contract with Messrs. Robinson & Warwick, including Specifications and List of Prices .....

Bond for fulfilment of Contract, with Sureties.....

Report of the Queen's Printer .....

Summary of Tenders for Binding.....

Comparative Statement on Tenders for Binding contained in Schedule A. .....

Comparative Statement of Tenders for Printing, Binding, etc. ..

REPORT

OF THE

QUEEN'S PRINTER

ON TENDERS FOR

Departmental and Legislative Printing and Binding;

AND CONTRACT WITH

MESSRS. ROBINSON & WARWICK.

Presented to the Legislative Assembly by command of His Honour the LIEUTENANT GOVERNOR.

ARTHUR S. HARDY,
Secretary.

PROVINCIAL SECRETARY'S OFFICE,
February 21st, 1879.

ORDER IN COUNCIL APPROVED BY HIS HONOUR THE LIEUTENANT GOVERNOR, THE *21st. Day of November*, A.D. 1878.

Upon consideration of the annexed report of the Honourable the Treasurer, the Committee of Council advise that the contract for the Provincial Printing, binding, etc. for the term of five years, commencing on the first day of January next, be awarded to Messieurs Robinson and Warwick, subject to their furnishing approved security for the due fulfilment of the same.

Certified.

J. G. SCOTT,
Clerk Executive Council.
Ontario.

TORONTO, *21st November*, 1878.

The undersigned has the honour to report that tenders have been received for the Provincial printing, binding, etc. for the term of five (5) years, commencing on the first day of January next, from the following parties: Messrs. Patrick Boyle and Co., Messrs. Hunter, Rose and Co., Messrs. Belford Brothers, Messrs Barber and Ellis, and Messrs. Robinson and Warwick, and that the tenders are respectively—highest, Messrs. Belford Brothers, next Messrs Hunter, Rose and Co., third Messrs. Barber and Ellis, fourth Messrs. Patrick Boyle and Co., and fifth Messrs. Robinson and Warwick.

Mr. Robinson of the firm of Robinson and Warwick is a successful printer, and Mr. Warwick a well-to-do publisher, both of the city of Toronto, and men of good character and financial standing.

The undersigned has therefore to recommend that the contract be awarded to Messrs. Robinson and Warwick, on their furnishing approved security for the due fulfilment of the same.

S. C. WOOD, *Treasurer.*

This Agreement made on the thirty-first day of December in the year of our Lord one thousand eight hundred and seventy-eight, between Christopher Blackett Robinson and William Warwick of the city of Toronto in the County of York, Printers and Bookbinders, of the First part and Her Majesty the Queen of the Second Part.

Witnesseth that the said parties of the first part have agreed and do hereby agree with the said party of the second part and her successors that they, the parties of the first part, will do and perform in a proper and workmanlike manner all the printing and binding, and will duly furnish all the materials required to be used therefor, for the service of the several departments connected with the Government of the Province of Ontario, including all the binding, printing and materials required by the Legislative Assembly of Ontario and the publication and issue of the Ontario Gazette, respectively mentioned in the annexed specifications, at the times and within the periods and upon the terms and conditions therein specified for and during the space and term of five years to be computed from the first day of January one thousand eight hundred and seventy-nine and the said parties of the first part agree in all things to conform, to fulfil and abide by the said specifications to the full and entire satisfaction of the Queen's Printer for the Province aforesaid for the time being. And the said party of the second part and her successors hath promised and agreed and doth hereby promise and agree to cause all the work at the said respective Departments and all other, the printing and binding hereinbefore mentioned, to be given to the said parties of the first part, and to pay for the same at the prices and in the manner and at the times as near as conveniently may be and according to the terms and conditions in the said specifications mentioned.

It is hereby further agreed that in case the Lieutenant Governor in Council shall be of opinion that the work to be performed under this contract is not being done duly or with proper dispatch, and that it is expedient in the public interest that this contract should be cancelled, it shall be lawful for him by Order in Council to terminate the same, and from the day named in such Order in Council this agreement shall, so far as any provision therein contained binds Her Majesty, be determined, but such determination shall not bar Her Majesty's right to recover damages for any breach thereof theretofore committed by the parties of the first part or for the expenses attending the reletting thereof, or for any expense beyond the said contract prices, which Her Majesty may be put to in having the work covered by the said contract thereafter done and performed.

It is hereby further agreed that this contract is subject to ratification by vote of the Legislative Assembly of Ontario and that the same and everything therein contained shall be void and of no effect unless the same be approved of by resolution of the Legislative Assembly of Ontario at its next session.

It is also expressly agreed that this contract shall not be assigned without the consent of the Lieutenant-Governor of the Province of Ontario in Council and that in case the said parties of the first part shall assign the same without such consent or shall take the benefit of any act in force respecting bankrupts or insolvents it shall be lawful for the Lieutenant-Governor in Council to terminate the said Contract and to relet the work to be done thereunder or any part thereof and the parties of the first part and their sureties shall remain liable for any increased price occasioned thereby.

In witness whereof the said parties of the first part have to these presents set their hands and seals at the City of Toronto on the day and year first above written.

Signed, Sealed and Delivered in the presence of ALFRED T. COOPER. } C. BLACKETT ROBINSON. WM. WARWICK.

SPECIFICATION of the Printing, Binding, &c., to be performed for the Government and Legislature of the Province of Ontario, for five years from the first day of January, one thousand eight hundred and seventy-nine.

This Specification is meant and understood to cover the whole of the public printing, binding, &c., of the Government and Legislature of the Province of Ontario, as well as the Departments thereof.

Composition for all kinds of type, new matter, one average price; per mille ems, thirty-five cents.

Composition for changing Votes and Proceedings of the Legislative Assembly as printed for distribution, into Journal book form; per mille ems, fifteen cents.

For ten fine copies of Bills after third reading and for royal assent, printed on one side of half sheet of foolscap fastened at top with parchment and taste, including paper, printing, parchment and taste; per page, ten copies, forty cents.

Composition for making the Bills, as assented to, into Statute form; per mille ems, fifteen cents.

Composition for type kept standing, and the re-arrangement thereof, on the Official Gazette; per mille ems, seven cents.

The Ontario Official Gazette to be printed on foolscap paper, in Bourgeois type, and to measure four mille ems to each page.

The contractor will keep a register of all the advertisements, indicating the date when received, the party from whom received, the date of first insertion, the number of lines containing said advertisement, and the number of times inserted; and will carefully preserve the vouchers for each advertisement.

He will collect from the public all fees for advertisements and subscriptions according to a scale which will be furnished him, and will render a monthly account of his cash receipts to the Queen's Printer, together with a receipt from the Bank in which he will deposit such sums to the credit of the Treasurer of Ontario. All fees will be payable in advance, and the contractor will be held liable for any loss by departure from this rule. For this work; per cent. on moneys collected, six per cent.

The contractor must complete the Gazette, whatever may be its size, every Saturday, and have it delivered or posted, not later than the following Monday.

Wrapping, addressing and mailing, prepaid, the Official Gazette to all parties as may be directed; total charge per 100 copies, one dollar and forty cents.

Alterations, for incorrect copy only, for the time actually and necessarily required to effect them; proof of such to be given to the Queen's Printer when required; per hour, thirty-five cents.

Changing Sessional Papers as printed for distribution, into Appendix book form, reckoning 8 pages as a form; per form, forty cents.

All printed matter to be charged exactly what it measures, and no allowance to be made beyond the print.

Presswork per token of 250 impressions of 8 pages of royal octavo, or four pages of foolscap, on printing papers, and 250 impressions on one side of a sheet on writing papers; per token, thirty cents.

The presswork will be done with good book ink, not liable to spread or offset, with signatures of 16 pages, when possible.

Printing in inks of other colours than black; per 100 impressions, five cents.

No extra presswork to be charged for cuts, plates or diagrams.

No extra charge to be made or allowed for night work, pressure of work, or for delays in copy or proof.

Allowance in paper for waste, including proof sheets and revise, while printing; per cent, five per cent.

Every office sending copy to be printed shall be entitled to one proof and one correct revise without charge, other than the composition.

Folding of 8 pages royal octavo or 4 pages foolscap; per sheet, one-twentieth of a cent.

Stitching or pasting of 8 pages royal octavo, or 4 pages foolscap; per sheet; stitching, one-fifteenth of a cent; pasting, one twentieth of a cent.

Covering pamphlets with coloured paper, including composition, paper, presswork and putting on; per copy, one cent.

One thousand pages of matter may be kept standing at any time without any other compensation than the prices allowed for the composition thereof; this refers to books and pamphlets requiring time for completion.

The Votes and Proceedings and Order of the Day to be printed in Long Primer type, each page when full to contain $2\frac{1}{4}$ mille ems, and to be delivered to the Routine Office not later than 10 o'clock on the morning after each sitting.

Every page of royal octavo to measure, when printed, in Long Primer, $2\frac{1}{4}$ mille ems; in Bourgeois, 3 mille ems; in Minion, single, $4\frac{1}{4}$ mille ems; and in Minion Tabular matter, $8\frac{1}{2}$ mille ems.

The Bills to be printed on foolscap paper, in Small Pica type, with Minion notes, the whole measuring $2\frac{1}{2}$ mille ems to the page. Statutes to be 2 mille ems, including side notes, to the page.

Endorsements of all kinds shall be reckoned as 2 mille ems, excepting the endorsements on Bills and Votes and Proceedings, which shall be reckoned as 1 mille ems only.

Each reprint of a Bill to be considered as new composition.

All papers to be supplied by the Queen's Printer, or paid for at wholesale rates only.

The contractor, when taking a load of paper from the Store-room of the Queen's Printer, will give a receipt for it, and thereafter be responsible for it.

The Journals, Sessional Papers and Statutes to be completed within two months after the close of each Session.

All proofs, books and printed matter to be delivered at the several offices, in such manner and form as may be directed by the proper officers, and without charge for freight or delivery.

Ruling five quires of paper, any size, in blue or red; per rule or line, fifteen cents.

Ruling books, for every five quires, fifteen cents.

Ruling paper by ream; per rule or line, fifteen cents.

Perforating in one direction; per 100, one cent and one-tenth.

Embossing in any colour; per 500 impressions, ninety cents.

Binding Journals, Sessional Papers, Statutes, etc., of royal octavo size, and in quantities of 500 or more in Canadian roan or skiver, coloured leather, cloth sides, cased work, sewed with two cords and two kettle stitches, with a piece of cloth down the inside of the back, and to be labelled and lettered in gold (not Dutch leaf or other base metal), in books of 600 pages; per vol., eighteen cents.

Thicker books to be charged in same proportion.

For inserting Tables, Maps or Plates; each (folding extra), one half of a cent.

For cutting out part of a sheet and inserting another; (each), one half of a cent.

Any books imperfectly bound, or deficient in matter, to be perfected at the expense of the contractor.

All papers, before being bound, shall be thoroughly pressed betwen glazed boards, and without extra charge.

Job-binding in small numbers set forth in Schedule A hereto annexed.

Electrotyping; per square inch, two and a half cents.

One sample of every imprint shall be rendered to the Queen's Printer, with an endorsement of detailed charges on it, and he shall examine and approve of such, before he certifies the payments therefor.

Accounts to be rendered monthly to the Queen's Printer, and payments made monthly from the Provincial Treasury for all work, excepting that pertaining to the Legislative Assembly, from which 20% shall be withheld till the work pertaining to each Session has been satisfactorily completed.

The work to be classified under three heads; Plain work, Tabular work, and Catalogue work.

Plain work to be composed of all customary matter contained in books, pamphlets, forms, circulars, journals, sessional papers, &c., to be printed in Long Primer type, of $2\frac{1}{4}$ mille ems to the page, and to be charged one price.

Tabular work (for Legislature) to be composed of all matter which requires at least two lines across and three lines down the page, set up in Minion type and to be charged two prices.

Catalogue work to be composed of all matter which requires two lines across, and two lines down the page, and to be charged one price and a half. Catalogue work to be in such type as may be directed, and the nature of the work may require.

The contractors will perform the work in a workmanlike manner, and should the work fall behind the requirement, the right is reserved to have it performed elsewhere, deducting from their account the difference, if any, in cost.

Should the contractors, or any of them, fail to carry on their contracts satisfactorily to the Government, the right is reserved to cancel the said contracts, or any of them, though the period of time expressed in the contract may not have expired.

The contractors are to be subject on all points to the Queen's Printer for the Province of Ontario, as representing the Executive Departments thereof, whose decision shall be final, except through appeal entertained by the Executive Government.

Good and sufficient security will be required from the contractor for the due fulfilment of his contract, in the sum of four thousand dollars.

The contractor when tendering should mention his proposed sureties.

SCHEDULE "A," referred to in the annexed Contract.—List of Prices for Binding Blank Books, for the use of the Government Departments.

No.	BLANK BOOKS AND STYLES.	F. Cap or Post 8vo.	F. Cap 4to, or Large Post Medium and Royal 8vo.	Large Post or Medium 4to.	F. Cap Folio.	Demy Folio.	Medium Folio.	Royal Folio.	Super Royal Folio.	Imperial Folio.
		$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
1.	Full Rough Calf, Russia Bands and Corners, over 5 up to 10 quires	....	....	....	....	5 60	6 10	7 35	8 25	9 25
2.	Do do do do 5 quires and under	....	....	....	....	4 25	4 65	5 75	6 85	8 05
3.	Do do Plain, over 5 up to 10 quires	....	....	....	....	4 10	4 60	5 55	6 60	7 50
4.	Do do do 5 quires and under	....	....	....	....	3 20	3 60	4 40	5 35	6 50
5.	Half do Cloth Sides, over 5 up to 10 quires	....	....	1 80	2 35	3 00	3 25	3 75	4 35	4 90
6.	Do do do 5 quires and under	....	..	1 25	1 60	2 10	2 25	2 65	3 15	3 80
7.	Full Canadian Roan, neatly finished, over 5 up to 10 quires	0 70	1 10	1 50	2 00	2 30	2 65	3 20	3 80	4 20
8.	Do do do 5 quires and under	0 50	0 85	1 15	1 35	1 60	1 70	2 25	2 80	3 50
9.	Do Red do do over 5 up to 10 quires	0 70	1 10	1 50	2 00	2 30	2 65	3 20	3 80	4 20
10.	Do Red do do 5 quires and under	0 50	0 85	1 15	1 35	1 60	1 70	2 25	2 80	3 50
11.	Do Skiver or Roan, 3 quires and under	0 35	0 50	0 90	1 05	1 30	1 50	1 80	2 10	2 40
12.	Do Roan or Half Rough Calf Copying Books, Paged and Indexed, 20 quires	. .	.. .	1 45	1 80	2 20	2 30	....	....	....
13.	Half Canadian Roan, Cloth Sides, over 5 up to 10 quires	0 60	0 95	1 30	1 60	2 20	2 35	2 75	3 30	3 60
14.	Do do do 5 quires and under	0 50	0 65	0 90	1 10	1 40	1 45	1 80	2 30	2 80
15.	Do Skiver do under 5 quires	0 30	0 50	0 60	0 75	0 95	1 00	1 30	1 65	2 20
16.	Do do Slight, or Quarter Cloth, or Paper Sides turned in, 3 quires and under	0 10	0 14	0 25	0 30	....	....	....	....	...
17.	Stitched, Cloth Backs and Cloth Lining, Marble Paper Sides, Single	0 01½	0 02	0 03	0 03½	....	...	....	....	....
	INDEXING, Cutting, and Lettering, Cloth Lining under each letter, Single	0 10	0 12	0 14	0 15	0 16	0 16	0 18	0 20	0 25
	PAGING or Numbering, per 100 Impressions ... 10 cts.	0 04	0 04	0 05	0 06	0 07	0 08	0 09	0 10	0 11
	LOOSE RED BASIL COVERS, and Lettered	....	....	....	0 90	1 10	1 35	1 45	1 75	1 85
	EXTRA LABELS, or Re-Letterings for side or back, each ... 25 cts.	....	.. .	....	....	....	....	...	...	...
	PORTFOLIOS, Roan Basil, Back and Corners Lined inside, and Ribbon-ties	..	....	....	....	0 55	0 70	0 85	0 95	1 15	1 25
	Do do Covered full, with plain pockets	...	....	....	1 15	1 25	1 70	1 85	2 35	2 40
	CHEQUE-BOOKS, Half-Sheep Slight, as No. 16, Oblong Large Post 6to ... 20 cts.	....	...	....	....	....	...	....	....	....
	MAPS, mounting on white cloth, edge turned over, per square foot ... 10 cts.	....	....	....	....	...	....	....	...	. ..

All Books in styles from Nos. 1 to 14 containing 3 quires to have elastic backs; those under 3 quires below Demy size, to have open or closed backs, as may be ordered. All Books in styles Nos. 15 and 16 to have common open or closed backs as may be ordered. All Books in styles from Nos. 1 to 14 to have marble paper covers inside with strong cloth joint linings. All Books may have three (3) labels or titles included in the prices of styles No. 1 to 14, those in style No. 15 to have one (1) title. The Contractor is to provide all materials, of the best quality, with first-class hard board. All work to be finished, to any pattern given, in the best manner. The Contractor or some competent person for him to attend to any office of the several Departments on notice given him for that purpose, to take patterns and receive such instructions as may be required, as to work to be done. He shall also furnish Proofs of Ruling. No extra charge to be, in any case, allowed the Contractor, unless the necessity for it be pointed out and admitted before the work is done.

Know all men by these presents, that We, John Cameron, of London, Esquire, James Alexander, of the City of Toronto, Merchant, are held and firmly bound to our Sovereign Lady the Queen, her heirs and successors, in the several sums following, that is to say, the said John Cameron, in the sum of Two thousand dollars, and the said James Alexander, in another sum of Two thousand dollars, to be paid to our Sovereign Lady the Queen, her heirs and successors, for which payments to be well and truly made, we bind ourselves severally and respectively, and each of us, but not the one for the other, his heirs, executors, and administrators firmly by these presents, sealed with our seals, and dated this thirty-first day of December in the year of Our Lord one thousand eight hundred and seventy-eight.

Now the condition of this obligation is such that if Christopher Blackett Robinson and William Warwick shall faithfully and truly perform and observe all the conditions and obligations which they have bound themselves to perform and observe in and by a certain agreement made at the City of Toronto and bearing date the thirty-first day of December in the year of our Lord one thousand eight hundred and seventy-eight, between the said Christopher Blackett Robinson and William Warwick of the one part and Her Majesty the Queen of the other part, and hereunto annexed, and shall do and perform the work and furnish the materials in the said agreement and the specifications thereunto annexed mentioned and referred to, then this obligation shall be void, otherwise it shall remain in full force and effect.

Signed, Sealed and Delivered in the presence of
T. H. PURDON,
of the City of London, as to execution by
JOHN CAMERON.
J. HUBERT LEWIS,
as to execution by JAS. ALEXANDER.

JOHN CAMERON. (L.S.)
JAMES ALEXANDER. (L.S.)

TORONTO, *October 29th, 1878.*

To the Honourable MR. WOOD.

DEAR SIR,—In compliance with your instructions I have computed the Tenders for Printing, Binding, &c., and now submit the matter in tabular forms.

I have based said computation on the quantities, and to the extent most probably required, taking $25,000.00 as an average annual amount.

It appears that the Tender of Robinson and Warwick is the lowest, and so far as I know they are men of sufficient honour, knowledge and means to execute the work.

If the Government resolve to accept the lowest Tender, provided the parties are responsible, I should expect to see that of Robinson and Warwick taken.

Your obedient Servant,
JOHN NOTMAN,
Queen's Printer.

SUMMARY OF TENDERS FOR BINDING.

ITEMS TENDERED FOR.	Patrick Boyle & Co.	Robinson & Warwick.	James Clarke & Co.	Barber & Ellis.	Adam Miller & Co.	Belford Bros.	Hunter, Rose & Co.
	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
1. Full Rough Calf, Russia Bands and Corners, over 5 up to 10 quires	45 95	36 55	57 69	52 15	42 00	59 27	58 5
2. " " " " 5 quires and under	41 80	29 55	50 97	49 15	39 55	52 65	51 75
3. " " Plain, over 5 quires and up to 10 quires	24 70	28 35	27 29	37 51	22 40	28 38	27 60
4. " " " 5 quires and under	20 95	23 05	24 15	35 10	19 45	25 60	24 75
5. Half " " Cloth Sides, over 5 quires and up to 10 quires	17 55	21 60	21 70	28 66	17 10	23 39	22 50
6. " " " " 5 quires and under	14 30	15 55	18 42	26 40	14 10	20 25	19 25
7. Full Roan or Basil, over 5 quires and up to 10 quires	22 65	18 15	24 05	33 99	20 95	26 04	25 00
8. " " " 5 quires and under	20 84	13 20	22 19	31 65	18 85	23 64	23 00
9. Full Red, over 5 quires and up to 10 quires	20 40	18 15	20 12	36 10	20 15	21 48	20 65
10. " 5 quires and under	18 75	13 20	18 50	33 60	18 85	19 65	19 15
11. Full Skiver or Roan, 5 quires and under	13 55	10 15	16 17	21 52	13 45	17 34	16 75
12. Full Roan, or ½ Rough Calf, Copying Books, Paged and indexed	5 50	5 45	8 00	6 00	3 40	8 60	8 25
13. Half Roan Basil, Cloth Sides, over 5 and up to 10 quires	11 30	17 10	15 42	17 25	13 10	16 69	16 15
14. " " 5 quires and under	9 65	11 75	13 05	15 50	10 70	14 20	14 17
15. Half Skiver, Cloth Sides, 5 quires and under	3 27	3 80	4 20	4 55	3 05	5 00	4 55
16. " " slight sides turned over	4 12	not rated	6 40	6 92	3 90	7 79	6 90
17. Stitched, Cloth Back and Lining, Marble Paper Sides	1 15	"	2 27	2 25	2 05	2 94	2 25
18. Indexing, Cutting and Lettering, cloth under each letter	2 34	1 46	3 28	3 54	1 70	3 86	3 45
19. Paging or Numbering, per 100 impressions	0 37	0 64	0 64	0 79	0 31	0 78	0 71
20. Loose Red Basil Covers and Lettered	20 40	8 40	14 52	14 65	12 25	17 25	15 60
21. Extra Labels, or re-Lettering	0 15	0 25	0 33	0 25	0 31	0 45	0 35
22. Portofolios without Pocket, (never required)	11 65	3 65	3 48	5 41	4 50	4 75	3 80
23. " with Pockets	10 50	4 80	3 90	5 25	5 75	6 25	5 50
24. Cheque Books—Oblong Post, 6to. half sheep	0 25	0 20	0 23	0 25	0 15	0 30	0 25
25. Mounting Maps on Cotton, per square foot	0 10	0 10	0 12	0 20	0 16	0 16	0 15
	$342 19	$284 50	$377 09	$468 64	$308 02	$406 71	$391 08

COMPARATIVE STATEMENT on Tenders for Binding, contained in Schedule A.

ITEMS TENDERED FOR.	Patrick Boyle & Co.	Robinson & Warwick.	James Clarke & Co.	Barber & Ellis.	Adam Miller & Co.	Belford Bros.	Hunter, Rose & Co.
	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
Foolscap or Post 8vo	2 00	....	....	....	....	....	....
Foolscap 4to or Large Post medium or Royal 8vo	2 90	...	....	..	...	....	....
Large Post or Medium 4to	3 50	....	....	....	.. .	....	....
Foolscap folio	5 10	...	6 80	5 53	4 75	7 10	7 00
Demy folio	6 90	5 60	7 82	6 89	6 20	8 25	8 00
Medium folio	8 00	6 10	9 37	8 25	7 90	9 25	9 50
Royal folio	9 40	7 35	12 30	10 90	8 90	12 37	12 50
Super-Royal folio	10 40	8 25	13 40	11 85	9 00	13 90	13 50
Imperial folio	11 25	9 25	14 80	14 25	10 00	15 50	15 00
	$45 95	$36 55	$57 69	$52 15	$42 00	$59 27	$58 50
The above refers to full rough calf, Russia bands and corners, over 5 and up to 10 quires							
	1 50	....	....	....	....	..	....
	2 40	....	....	....	...	....	....
	3 00	....	....	....	..	....	...
	4 50	...	6 37	5 00	4 50	6 55	6 50
	6 20	4 25	7 10	6 50	5 50	7 37	7 25
This refers to same as above, but to books of five quires and under	7 10	4 65	8 85	7 90	7 40	9 18	9 00
	8 50	5 75	9 85	10 26	8 40	10 25	10 00
	9 50	6 85	12 37	11 00	8 75	12 60	12 50
	10 50	8 05	12 80	13 50	9 50	13 25	13 00
	$41 80	$29 55	$50 97	$49 15	$39 55	$52 65	$51 75
	1 00	....	....	....	....	....	....
	1 75	....	....	....	....	....	....
	2 25	....	....	....	....	...	....
	2 50	....	2 95	3 05	2 30	3 15	3 00
	3 40	4 10	3 65	5 00	3 20	3 90	3 75
This refers to books of same sizes as first mentioned, but full rough calf, plain, over 5 quires and up to 10 quires	4 00	4 60	4 37	6 10	3 60	4 58	4 50
	4 75	5 55	5 40	7 75	4 60	5 50	5 40
	5 80	6 60	6 37	8 53	5 00	6 50	6 30
	6 75	7 50	7 50	10 13	6 00	7 90	7 65
	$24 70	$28 35	$27 29	$37 51	$22 40	$28 38	$27 60

COMPARATIVE STATEMENT on Tenders for Binding, contained in Schedule A.—*Continued.*

ITEMS TENDERED FOR.	Patrick Boyle & Co.	Robinson & Warwick.	James Clarke & Co.	Barber & Ellis.	Adam Miller & Co.	Belford Bros.	Hunter, Rose, & Co.
	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
This refers to books of same sizes as first mentioned, but full rough calf, plain, of 5 quires and under.	0 80	....	....	....	....	....	....
	1 50	....	....	....	....	....	....
	2 00	....	....	....	....	....	....
	2 25	...	2 30	2 75	2 00	2 37	2 25
	3 00	3 20	3 15	4 70	2 80	3 40	3 25
	3 50	3 60	3 90	5 80	3 00	4 15	4 00
	4 20	4 40	5 00	7 00	3 90	5 25	5 00
	4 75	5 35	5 60	8 00	4 50	5 90	5 75
	5 50	6 50	6 50	9 60	5 25	6 90	6 75
	$20 95	$23 05	$24 15	$35 10	$19 45	$25 60	$24 75
This refers to books of same sizes as first mentioned, but half rough calf, cloth sides, over 5 and up to 10 quires	0 80	....	....	....	....	....	....
	0 95	....	1 28	....	....	....	....
	1 25	1 80	1 35	1 50	....	....	1 50
	1 60	2 35	1 90	2 23	1 40	2 12	2 00
	2 40	3 00	2 50	3 60	2 30	3 00	2 75
	2 60	3 25	3 15	4 70	2 50	3 37	3 25
	3 25	3 75	4 00	5 00	3 40	4 00	4 00
	3 60	4 35	4 65	6 20	3 50	4 90	4 75
	4 10	4 90	5 50	6 93	4 00	6 00	5 75
	$17 55	$21 60	$21 70	$28 66	$17 10	$23 39	$22 50
This refers to books of same sizes as first mentioned, but half rough calf, cloth sides, of 5 quire and under	0 60	....	....	....	....	....	....
	0 75	....	1 15	....	....	1 35	...
	1 00	1 25	1 25	1 20	....	1 50	1 25
	1 30	1 60	1 65	2 00	1 00	1 90	1 75
	2 00	2 10	2 25	3 25	2 00	2 60	2 50
	2 25	2 25	3 00	4 40	2 25	3 10	3 00
	2 75	2 65	3 37	4 80	2 90	3 75	3 50
	3 00	3 15	3 75	5 70	2 95	4 15	4 00
	3 00	3 80	4 40	6 25	3 00	4 75	4 50
	$14 30	$15 55	$18 42	$26 40	$14 10	$20 25	$19 25

This refers to Books of same sizes as first mentioned but full Canadian Red, of 5 quires and under	0 70	0 50	0 63	....	....	0 90	0 75
	0 90	0 85	0 87	1 10	....	1 00	0 95
	1 30	1 15	1 37	1 90	....	1 50	1 40
	1 70	1 35	1 50	2 75	1 50	1 68	1 65
	2 50	1 60	2 20	4 60	2 50	2 25	2 25
	2 90	1 70	2 65	5 50	3 15	2 80	2 75
	3 40	2 25	3 60	6 00	3 60	3 87	3 75
	3 75	2 80	3 90	6 75	4 00	4 15	4 00
	4 50	3 50	4 65	8 00	4 10	4 90	4 75
	$18 75	$13 20	$18 50	$33 60	$18 85	$19 65	$19 15
This refers to books of same sizes as first mentioned but full skiver or roan 3 quires and under	0 45	0 35	0 58	0 60	....	0 75	0 60
	0 60	0 50	0 72	0 80	....	0 85	0 80
	1 00	0 90	1 18	1 30	..	1 15	1 25
	1 20	1 05	1 45	1 80	1 60	1 57	1 50
	1 75	1 30	1 90	2 80	1 80	1 90	2 00
	2 10	1 50	2 37	3 40	2 00	2 50	2 50
	2 50	1 80	3 15	4 00	2 30	3 37	3 25
	2 75	2 10	3 40	4 25	2 75	3 75	3 50
	3 25	2 40	3 90	5 27	3 00	4 25	4 00
	$13 55	$10 15	$16 17	$21 52	$13 45	$17 34	$16 75
This refers to books of same sizes as first mentioned but full roan or half rough calf copying books, paged and indexed, 20 quires	1 50	1 45	2 40	1 50	0 90	2 60	2 50
	1 75	1 80	2 65	2 00	1 00	2 85	2 75
	2 25	2 20	2 95	2 50	1 50	3 15	3 00
	2 75	2 30	....	....	1 90	....	....
	3 40	...	....	...	2 00	....	....
	3 60	....	....	....	....	....	....
	4 00	....	....	....	....	....	....
	$5 50	$5 45	$8 00	$6 00	$3 40	$8 60	$8 25
This refers to books of same sizes as first mentioned, but full Canadian roan or basil, over 5 and up to 10 quires	0 85	0 70	....	....	....	....	....
	1 20	1 10	....	....	....	1 50	...
	1 70	1 50	1 90	2 50	...	1 95	2 00
	2 25	2 00	2 45	2 77	1 75	2 45	2 50
	3 80	2 30	2 90	4 60	2 50	3 10	3 00
	3 40	2 65	3 65	5 47	3 30	4 00	3 75
	3 90	3 20	4 25	6 00	4 20	4 75	4 50
	4 30	3 80	5 00	6 75	4 30	5 37	5 25
	5 00	4 20	5 80	8 40	4 90	6 37	6 00
	$22 65	$18 15	$24 05	$33 99	$20 95	$26 04	$25 00

COMPARATIVE STATEMENT on Tenders for Binding, contained in Schedule A.—*Continued.*

ITEMS TENDERED FOR.	Patrick Boyle & Co.	Robinson & Warwick.	James Clarke & Co.	Barber & Ellis.	Adam Miller & Co.	Belford Bros.	Hunter, Rose & Co.
	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
This refers to books of same sizes as first mentioned, but full Canadian roan or basil, 5 quires and under	0 70	0 50	0 65	....	....	....	0 75
	1 00	0 85	1 10	....	...	1 35	1 25
	1 50	1 15	1 65	2 35	....	1 90	1 75
	2 00	1 35	2 15	2 50	1 50	2 30	2 25
	2 96	1 60	2 60	4 25	2 60	2 90	2 75
	3 15	1 70	3 35	5 00	3 15	3 60	3 50
	3 98	2 25	4 10	5 50	3 60	4 37	4 25
	4 00	2 80	4 62	6 50	4 00	4 87	4 75
	4 75	3 50	5 37	7 90	4 00	5 60	5 50
	$20 84	$13 20	$22 19	$31 65	$18 85	$23 64	$23 00
This refers to books of same sizes as first mentioned, but full roan or half rough calf copying books paged and indexed, 20 quires	0 85	0 70	....	1 00	....	....	...
	1 10	1 10	0 90	1 50	....	1 20	1 00
	1 50	1 50	1 40	2 00	....	1 45	1 50
	2 00	2 00	1 65	3 00	1 75	1 80	1 75
	2 90	2 30	2 37	5 00	2 40	2 75	2 50
	3 15	2 65	2 90	6 00	3 00	3 15	3 00
	3 60	3 20	3 75	6 50	4 00	3 95	3 90
	4 00	3 80	4 45	7 00	4 20	4 58	4 50
	4 75	4 20	5 00	8 60	4 80	5 25	5 00
	$20 40	$18 15	$20 12	$36 10	$20 15	$21 48	$20 65
Robinson and Warwick should have filled all the items, as work of this kind is frequently required	0 15	0 10	0 18	0 20	0 10	0 22	0 20
	0 20	0 14	0 30	0 33	0 10	0 37	0 35
	0 25	0 25	0 35	0 40	0 15	0 45	0 40
	0 30	0 30	0 45	0 45	0 25	0 50	0 45
	0 35	....	0 65	0 68	0 35	0 75	0 70
This refers to books of same sizes as first mentioned; but Half Skiver slight, or quarter cloth, or paper sides turned in, 3 quires and under	0 50	....	0 85	0 90	0 45	1 00	0 90
	0 67	....	1 00	1 12	0 60	1 25	1 12
	0 80	...	1 12	1 26	0 90	1 50	1 26
	0 90	....	1 50	1 58	1 00	1 75	1 58
	$4 12	$0 79	$6 40	$6 92	$3 90	$7 79	$6 96

This refers to books of same sizes as first mentioned, but half roan basil, cloth sides, over 5 and up to 10 quires	0 50	0 60	0 50	1 50	....	0 53	0 50			
	0 60	0 95	0 65	0 70	....	0 75	0 70			
	0 75	1 30	1 10	1 00	0 65	1 25	1 15			
	0 90	1 60	1 40	1 50	0 80	1 60	1 50			
	1 10	2 20	1 95	2 00	1 50	2 10	2 00			
	1 60	2 35	2 15	2 50	1 75	2 37	2 25			
	1 90	2 75	2 70	3 00	2 50	2 87	2 75			
	2 30	3 30	2 75	3 25	2 90	3 10	3 00			
	2 75	3 60	3 37	4 00	3 00	3 40	3 50			
	$11 30	$17 10	$15 42	$17 25	$13 10	$16 69	$16 15			
This refers to books of same sizes as first mentioned, but half roan, basil, cloth sides, 5 quires and under	0 40	0 50	0 40	0 40	....	0 45	0 43			
	0 50	0 65	0 60	0 60	....	0 65	0 63			
	0 60	0 90	0 90	0 75	0 60	0 90	1 00			
	0 75	1 10	1 10	1 40	0 70	1 30	1 35			
	0 95	1 40	1 50	1 80	1 40	1 75	1 57			
	1 35	1 45	1 75	2 30	1 50	2 00	1 90			
	1 60	1 80	2 25	2 75	1 90	2 50	2 50			
	2 00	2 30	2 55	3 00	2 30	2 75	2 70			
	2 40	2 80	3 00	3 50	2 30	3 00	3 15			
	$89 65	$11 75	$13 05	$15 50	$10 90	$14 20	$14 17			
Robinson and Warwick must have misunderstood the items in this heading	0 05	0 01½	0 12	0 10	0 10	0 12	0 10			
	0 06	0 02	0 15	0 12	0 10	0 15	0 12			
	0 08	0 03	0 17	0 15	0 15	0 20	0 15			
	0 10	0 03½	0 18	0 18	0 25	0 25	0 18			
This refers to books of same sizes as first mentioned; but Stitched cloth backs and cloth lining, marble paper sides, single	0 12	...	0 20	0 22	0 25	0 30	0 22			
	0 14	....	0 25	0 27	0 25	0 37	0 27			
	0 15	.	0 35	0 36	0 30	0 45	0 36			
	0 20	....	0 40	0 40	0 30	0 50	0 40			
	0 25	.. .	0 45	0 45	0 35	0 60	0 45			
	$1 15	$0 10	$2 27	$2 25	$2 05	$2 94	$2 25			
This refers to books of same sizes as first mentioned; but Indexing, Cutting, and Lettering, Cloth under each letter, single	0 13	0 10	0 12	0 15	0 10	0 16	0 15			
	0 15	0 12	0 20	0 22	0 10	0 20	0 22			
	0 17	0 14	0 25	0 27	0 10	0 25	0 27			
	0 17	0 15	0 28	0 30	0 15	0 35	0 30			
	0 20	0 16	0 35	0 35	0 20	0 40	0 35			
	0 22	0 16	0 43	0 45	0 20	0 50	0 45			
	0 25	0 18	0 50	0 55	0 25	0 55	0 55			
	0 25	0 20	0 55	0 60	0 30	0 65	0 55			
	0 80	0 25	0 60	0 65	0 30	0 80	0 65			
	$2 34	$1 46	$3 28	$3 54	$1 70	$3 86	$3 49			

COMPARATIVE STATEMENT on Tenders for Binding, contained in Schedule A.—*Continued.*

ITEMS TENDERED FOR.	Patrick Boyle & Co.	Robinson & Warwick.	James Clarke & Co.	Basker & Ellis.	Adam Miller & Co.	Belford Bros.	Hunter, Rose & Co.
	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.	$ c.
	0 25	0 30	0 32	0 30	...	0 35	0 30
	0 30	0 50	0 40	0 45	0 40	0 50	0 45
	0 55	0 60	0 65	0 70	0 50	0 75	0 70
	0 62	0 75	0 85	0 90	0 55	1 00	0 90
	0 75	0 95	1 05	1 15	0 70	1 25	1 15
	1 05	1 00	1 25	1 35	0 90	1 50	1 35
This refers to books of same sizes as first mentioned, but half skiver, cloth sides, under 5 quires	1 25	1 30	1 50	....	1 00	1 75	....
	1 50	1 65	....	....	1 25	2 00	....
	1 80	2 20	....	....	1 50	....	....
	$3 27	$3 80	$4 20	$4 55	$3 05	$5 00	$4 55
	0 03	0 04	0 04	0 06	0 03	0 05	0 05
	0 03	0 04	0 04	0 06	0 03	0 06	0 05
	0 04	0 05	0 05	0 07	0 03	0 06	0 06
Robinson and Warwick must have misunderstood this.....	0 04	0 06	0 06	0 07	0 03	0 07	0 07
	0 04	0 07	0 07	0 09	0 03	0 08	0 09
This refers to books of same sizes as first mentioned, but paging or numbering, per 100	0 04	0 08	0 08	0 09	0 04	0 10	0 09
impressions	0 4½	0 09	0 09	0 11	0 04	0 11	0 10
	0 05	0 10	0 10	0 11	0 04	0 12	0 10
	0 5½	0 11	0 11	0 13	0 04	0 13	0 10
	$0 37	0 64	0 64	0 79	0 31	0 78	0 71
	0 70	....	....	...	...	...	....
	1 00	...	....	....	....	....	....
	1 50	....	1 00	1 45	....	1 25	1 15
Robinson and Warwick must have rated on canvas instead of basil.....	2 00	0 90	1 25	1 75	1 25	1 50	1 35
Patrick Boyle & Co. must have rated on French basil instead of Canadian.....	2 90	1 10	1 50	2 00	1 50	2 00	1 75
	3 15	1 35	2 15	2 10	1 80	2 50	2 25
This refers to books of same sizes as first mentioned, but loose red ba il covers and lettered.....	3 60	1 45	3 00	2 30	2 20	3 50	3 25
	4 00	1 75	3 25	3 50	2 75	3 75	3 50
	4 75	1 85	3 37	3 33	2 75	4 00	3 50
	$20 40	8 40	14 52	14 65	12 25	17 25	15 60

This refers to books of same sizes as first mentioned, but extra labels, or re-letterings for side or back, each	0 10	0 25	0 33	0 20	0 20	0 20	0 45	0 35
	0 10	....	....	0 20	0 20	0 25	...	....
	0 12	....	..	0 20	0 20	0 30	.. .	....
	0 12	....	....	0 20	0 25	0 30	....	....
	0 15	....	....	0 25	0 28	0 30	....	....
	0 15	....	....	0 28	0 28	0 35	....	....
	0 20	....	....	0 28	0 33	0 40	....	....
	0 20	....	....	0 33	0 33	0 40	....	....
Averaged	$0 15	0 25	0 33	0 25	0 31	0 45	0 35
This refers to Portfolios, Roan Basil, Back and Corners lined inside, and ribbon ties, same sizes as books mentioned, seldom required	0 70	....	....	0 50	.. .	.. .	....
	1 00	....	....	0 60	...	...	....
	1 50	....	....	0 75	0 60	...	....
	2 00	0 55	0 68	0 90	0 60	0 90	0 75
	2 90	0 70	0 80	1 13	1 20	1 10	0 90
	3 15	0 85	0 90	1 35	1 20	1 25	1 00
	3 60	0 95	1 10	2 03	1 50	1 50	1 15
	4 00	1 15	1 30	2 35	1 50	1 80	...
	4 75	1 25	....	2 60	1 50	....	....
	$11 65	3 05	3 48	5 41	4 50	4 75	3 80
This refers to same as last mentioned, but with pockets, seldom required	0 85	....	....	....	..	....	....
	1 20	....	....	0 90	...	....	....
	1 70	....	....	1 00	0 80	....	....
	2 25	1 15	....	1 10	1 20	1 37	...
	3 20	1 25	1 15	1 30	1 50	1 75	1 25
	3 40	1 70	1 25	1 75	2 00	2 00	1 50
	3 90	1 85	1 50	2 20	2 25	2 50	1 75
	4 30	2 35	2 10	2 65	2 25	2 75	2 25
	5 00	2 40	2 35	3 20	2 50	....	....
	$10 50	4 80	3 90	5 25	5 75	6 25	5 50
Cheque Books, half Sheep, large Post, 6-to	0 25	0 20	0 23	0 25	0 15	0 30	0 25
Maps, mounting on white cotton, edges turned over, per square foot	0 10	0 10	0 12	0 20	30c. per hour.	0 16	0 15

Comparative Statement of Tenders for Printing, Binding, &c., 24th October, 1878.

ITEM ESTIMATED ON.	Tender of Belford Bros., Toronto.	Tender of Hunter, Rose & Co., Toronto.	Tender of James Clarke & Co., Toronto.	Tender of Barber, Ellis & Co., Toronto.	Tender of Patrick Boyle & Co., Toronto.	Tender of Robinson & Warwick, Toronto.	Tenders of Woodward & Grant and Adam Miller & Co., Toronto.
	$	$	$	$	$	$	$
1. Composition for all kinds of type, new matter, one average price per Mille Ems	0 42	0 40	0 39	0 37½	0 35	0 35	0 00
2. Changing Votes and Proceedings of Leg. Assy. into Journal book form per " "	0 25	0 20	0 19	0 06¾	0 17	0 15	0 00
3. Fine copies of Bills after 3rd reading, &c., &c., per page	1 00	0 95	0 94	0 26	0 55	0 40	0 00
4. Composition for making Bills assented to into Statute form, per Mille Ems	0 25	0 20	0 19	0 06¼	0 17	0 15	0 00
5. Composition for type kept standing and re-arrangement thereof, per Mille Ems	0 12	0 10	0 12	0 06¼	0 05	0 07	0 00
6. Collecting moneys and keeping accounts for "Official Gazette," per cent	10 ₱ cent	4 ₱ cent.	5 ₱ cent.	2½ ₱ cent.	4 ₱ cent.	6 ₱ cent.	0 00
7. Wrapping, addressing, mailing and prepaying "Gazette," per 100 copies	1 50	1 39	1 40	1 25	1 25	1 40	0 00
8. Alterations for incorrect copy or amendments, per hour	0 30	0 25	0 24	0 22	.....	0 35	0 00
9. Changing sessional papers into book Appendix, per form	0 50	0 40	0 40	1 00	0 50	0 40	0 00
10. Presswork of 250 impressions of 8 pages Royal or 4 Foolscap, per token	0 35	0 30	0 28	0 27	0 20	0 30	0 00
11. Printing in Inks of other colours than black, per 100 impressions	0 12	0 10	0 09	0 17	0 02	0 05	0 00
12. Allowance in paper for waste while printing, per cent	5 ₱ cent.	5 ₱ cent.	4½ ₱ cent.	1 ₱ cent.	3 ₱ cent.	5 ₱ cent.	0 00
13. Folding 8 pages Royal or 4 pages Foolscap, per sheet	1-9	1-8	1-10	1-10	1-10	1-20	0 00
14. Folding and stitching or pasting 8 pages Royal or 4 Cap., per sheet	1-5	1-5	1-6	1-8	1-4	1-7	0 00
15. Covering Pamphlets with coloured paper, per copy	1¼	0 01	0 01	3-5	0 01	0 01	0 00
16. Ruling 5 quires, any size, in blue or red, per rule or line	0 30	0 25	0 25	0 80	0 15	0 15	0 00
17. Ruling paper by Ream, per rule or line	0 50	0 25	0 30	1 00	0 30	0 15	0 00
18. Perforating in one direction, per 100	0 25	0 25	0 23	0 25	0 03	1 1-10	0 00
19. Embossing in any colour, per 500 impressions	1 50	1 25	1 00	0 80	2 50	0 90	0 75
20. Binding Journals, Sessional Papers, Statutes, &c., per Vol	0 24	0 22	0 21	0 17½	0 20	0 18	0 00
21. Inserting Tables, Maps or Plates, each	1-4	1-5	1-6				0 00
22. Cutting out part of a sheet and inserting another	0 1¼	0 01	0 01				0 00
23. Electrotyping per square inch	0 03	0 03	0 03¼	.....	0 02	0 02½	0 00
Comparative Probable Annual Expense under above Items.							
1. Composition, 25,000 Mille Ems	10,500 00	10,000 00	9,750 00	9,375 00	8,750 00	8,750 00	...
2. Presswork, 15,000 Tokens	5,250 00	4,500 00	4,200 00	4,050 00	3,000 00	4,500 00	.....
3. Alterations, 1,000 hours	300 00	250 00	240 00	220 00	250 00	350 00	.....
4. Changing Sessional Papers into Appendix, 400 forms	200 00	160 00	160 00	400 00	200 00	160 00	.....
5. Changing Votes and Proceedings into Journal, 500 Mille Ems.	125 00	100 00	95 00	32 50	85 00	75 00	.....
6. Folding only, 150,000 sheets.	166 67	187 50	150 00	150 00	150 00	75 00	.....
7. Folding and stitching or pasting, 1,250,000 sheets	2,500 00	2,500 00	2,083 34	1,562 50	3,125 00	1,785 72	.....
8. Covering Pamphlets 28,000 copies.	350 00	280 00	280 00	168 00	280 00	280 00	.....
9. Type Standing and re-arrangement, 600 Mille Ems	72 00	60 00	72 00	39 00	30 00	42 00	.....
10. Binding Sessional volumes 11,000	2,640 00	2,420 00	2,310 00	1,925 00	2,200 00	1,980 00	.....

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(No. 48.)

Return of the names and rates of pay of each Sessional Clerk and Messenger employed during the Session of 1873; and the names and places of residence and rate of pay of all Sessional Clerks and Messengers employed at the present Session, designating such persons as are employed this Session for the first time. (*Not Printed.*)