

COASTAL ZONE MANAGEMENT SERIES

**LOUISIANA  
PARISH BOUNDARIES  
THROUGH LAKES,  
BAYS, AND SOUNDS**

MILTON B. NEWTON, JR. • ERNEST St. C. EASTERLY, III

SEA GRANT PUBLICATION NO. LSU-T77-002

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AND SOUNDS

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Milton B. Newton, Jr.  
Ernest St. C. Easterly, III

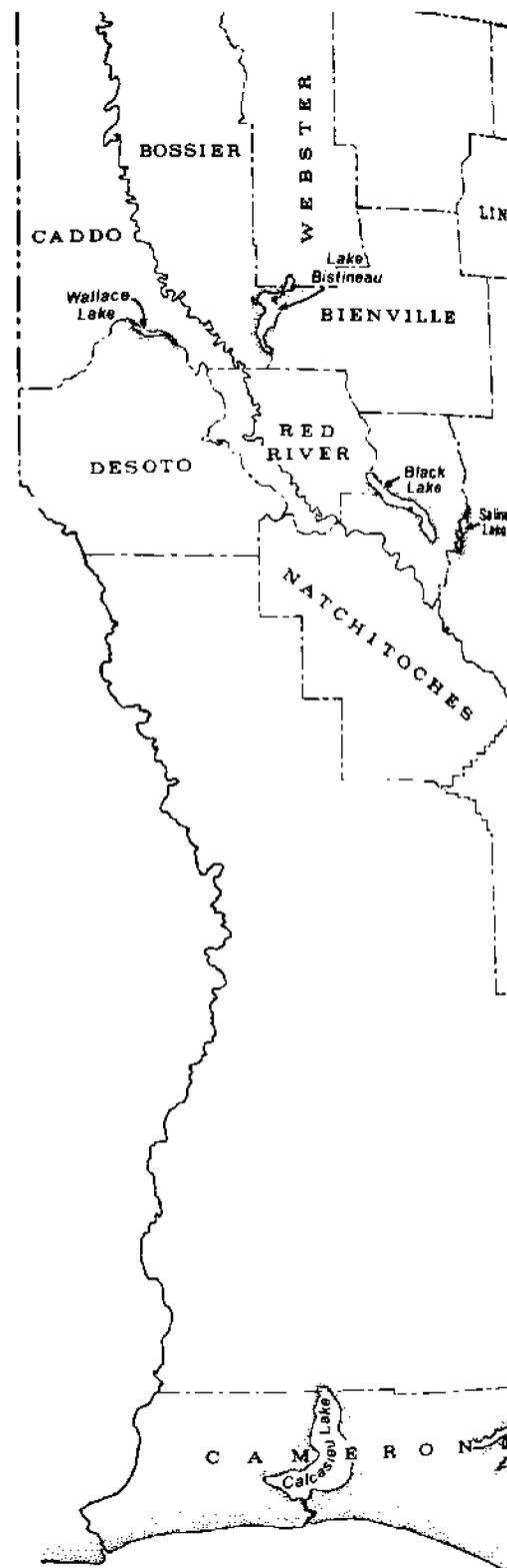
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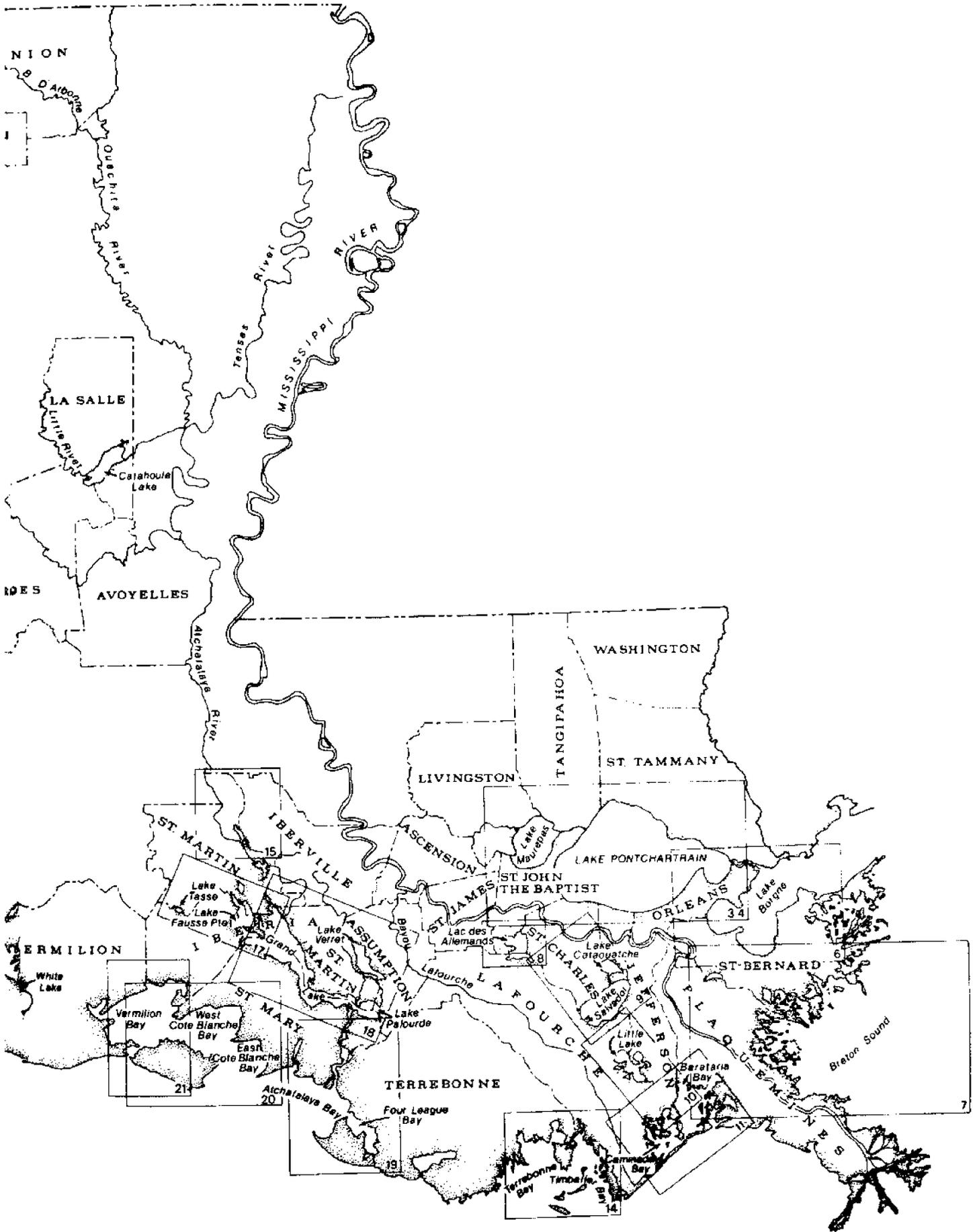


Sea Grant Publication No. LSU-T-77-002

Published by the Louisiana Sea Grant Program,  
a part of the National Sea Grant Program  
maintained by the National Oceanic and  
Atmospheric Administration of the US Department  
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June 1977





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# Foreword

Man's use of land is naturally restricted by the shores of adjoining water bodies. In areas where the utility of the bounding waters is minimal, there is little need for boundary demarcation. Many of the more traditional uses of water bodies involved transitory activity with little or no fixed investments or fixed revenue sources in the water body. However, where relatively remote and formerly low value areas are greatly increased in value through modern resource discoveries or new uses, requiring fixed location investments, imprecise boundaries no longer suffice. Precise boundaries are then essential to determine rights to resources and revenues and to determine political jurisdiction over the areas. This is as true of Arabian deserts as it is for wild wetlands.

Louisiana has had an abundance of such boundary phenomena. Her proprietary and political land units have often been defined by natural water boundaries. With oil, salt, sulphur, and abundant sedentary fisheries, circumstances have often arisen requiring the precise demarcation of geographic entities where new resource discoveries create urban growth and land reclamation pressures.

Many of Louisiana's parishes have had precise boundary demarcation as oil discoveries prompted boundary conflict resolutions. Other parishes have yet to work out their imprecise boundaries in lakes, bays, sounds, or other water bodies.

Even where such boundaries have been fully demarcated, the lawyer, scholar, or businessman who seeks to ascertain their location is still in need of guidance. The problem can be enormously complex as a consideration of Louisiana's geographic facts suggests.

Louisiana's generalized shoreline is approximately 370 miles long, as determined by following a line along the open coast and across its bays and other coastal water bodies; but her tidal shoreline is more than 7,200 miles long, as determined by measuring the open coast and the shoreline of its many coastal bays, sounds, and inlets. These coastal water bodies have a multitude of configurations and sizes. To further complicate matters, most of them lie along the modern marine perimeter of the deltaic plain of the Mississippi River. Such lands naturally change their shapes and shorelines much more rapidly than the average coastal area in the United States.

But coastal shorelines are not the only watery environs with which Louisiana is both dammed and blessed. At the tip of the funnel of the Mississippi basin and other lesser, continental river systems, there are

dozens of rivers and streams. At many places, in the basins between the higher natural levees of these systems or other ancient rivers or streams, lakes are formed. Other geologic processes have added lakes and other bodies to the waterscape, with the result that a very substantial portion of the surface of the state is water.

It is probably safe to venture that within this great array of lakes, bays, and sounds there is a geographic analogue for most of the great international marine and lacustrine boundary problems of the world. International law and practice has been the source of law for legislative, judicial, or negotiated determination of these seemingly provincial problems. For the scholar or lawyer studying a Greco-Turkish marine boundary question or a Canadian-United States issue, *Louisiana Parish Boundaries through Lakes, Bays, and Sounds* could be as important as it might also be for a lawyer examining title to an oil lease in one of Louisiana's coastal bays.

This new work by Dr. Newton and Mr. Easterly on Louisiana's parish water boundaries carries similar value for the attorney or geographer who is faced with an interstate or county conflict in other American jurisdictions. Of course, particular local law, history, or geography may differ, but in the wide range of Louisiana situations a lawyer looking for precedent may find applications of principles that offer little concrete guidance to the geographically unsophisticated mind and that are commonly applicable nationwide.

For the Louisianian, there is an abundance of reasons for interest in precise parish boundary demarcation through lakes, bays, or sounds. Taxation powers and revenue sharing are significant for oil, gas, or other mineral production. Judicial venue is governed by parish boundaries. Recordation laws require registry of instruments affecting immovables in the parish of the situs of the immovable. Mineral lease rights, for example, could be lost if not properly registered. Many other reasons render parish boundary determinations important.

For these and other purposes, it is often not so important where the boundary is located. Rather, it is often more important that the location be certain and clear to guide action and planning. The several maps and graphic illustrations make *Louisiana Parish Boundaries through Lakes, Bays, and Sounds* a very valuable contribution to the literature of Louisiana boundaries. The authors do not merely discuss boundary rules and descriptions. They apply or illustrate them, and thus add certainty to many parish boundaries in Louisiana. Their actual applications and illustrations also enable the authors to better critique geographically ill-advised boundary legislation or rules.

Dr. Newton has served as a boundary consultant or expert witness in several lacustrine and bay boundary conflicts. This, and his background as a Professor of Cultural Geography at Louisiana State University, developed an expertise and interest in boundaries which is manifest in the book. Mr. Easterly is a graduate student in geography and a senior law student who combined his legal and geographical interests in jointly

producing this study of boundary law and its application. Their multi-disciplinary approach has resulted in a work which will be of value to both lawyers and geographers.

*Frederick W. Ellis*  
Professor of Law  
Louisiana State University  
Baton Rouge



# Preface

Our main reason for undertaking this study of Louisiana parish boundaries through lakes, bays, and sounds lay in performing a public service by helping to clarify boundaries in these water bodies. Where boundaries are uncertain, laws cannot adequately be enforced; and when the parish governments finally move to settle their boundaries, costly disputes often follow. If we can contribute to the clarification of parish boundaries and, thereby, reduce the cost to the citizens of the respective parishes, we will have accomplished our first goal.

A second and related reason lay in our feeling that environmental law will soon require local governments to exercise their police powers over all of the waters under their jurisdictions. The parishes seem to be under the threat of having their prerogatives preempted by either state or federal government, unless the parish governments effectively and vigorously enforce zoning and other regulations aimed at maintaining or improving environmental quality.

We also took up this study because we believe in local government, in the desirability of having decisions made as close as possible to the place and among the people most directly concerned. Thus we also hope to see parish governments embrace their responsibilities as outlined in law and in so doing reduce the erosion of local autonomy.

There are also academic reasons, one of which is a belief that much can be gained by multidisciplinary methods. In combining the resources of law and geography to form a forensic geography, we felt that some freshness might be breathed into a subject that many feel to be uninteresting. This is far from the first joint project between law and geography, yet we hope that it stimulates additional joint enterprises.

The field of human geography can benefit, we believe, by considering, more specifically and directly than has been the practice, the role of law in guiding man's impact upon the surface of the earth. Beliefs held by people commonly become agents of landscape change only after being made law. Law must, then, be accorded a place alongside economy, religion, technics, and history as components of man's agency in changing the face of the land. The work of the forensic geographer provides practical tests for the methods and theories of the academic geographer.

The reciprocal of the previous reason is the influence of place character upon the formation of the law. When legislators, judges, and administrators take cognizance of them, the various distinctive qualities of places can play roles in the legislative act, the judgment of a court, and the policy of an administrator. Insofar as we illuminate by

way of examples the effect of land and people upon the law, we have satisfied a sixth reason for doing this research.

While this study is certainly not a textbook, we hope that it serves as an example for students of law and of geography in resolving vague boundaries in similar contexts in other states. We know from a casual sample of several states that many county boundaries through water bodies remain unsettled. Although the positive law differs from state to state, the general outlines of our approach, as well as many specific details, will be found to apply in other states.

And finally, there have been few efforts to apply the findings of international law and political geography to the just and equitable resolution of boundary disputes on the local-government level. Yet, because the international arena is the contest of true sovereigns, it is there that transpire the most serious efforts to discover and apply the principles of equity between freely acting political bodies. What effectively regulates the affairs between true sovereigns may reasonably be expected to guide relations between subordinate territorial units.

Throughout this study in forensic geography, we adhered closely to our purposes and to our limitations. We are not engineers, and we make no effort to specify with the exactness that we properly expect from engineers the locations of boundaries. Where precise engineering studies have been made, we refer the reader to them. Where such precise studies are lacking, we do not attempt to do them because we lack the competence and because our efforts would, nonetheless, be in vain. Only the parishes have the power to determine the precise limits of their respective areas. Yet under the legal system of Louisiana, scholars can expect to have the fruit of their studies examined.

We are, however, both trained in natural and social sciences and in history, and we consider the most important adjunct to the use of legal and geographical training with regard to boundaries is history. We have tried during the research at least to determine the actual sequence of events that bear on each boundary. Some boundaries can become reasonably well understood only after examining the antecedent boundaries. In another context, historical research into historic maps clarified some boundaries. And still others become more certain in our minds only after looking into the history of the landforms of the boundary region.

The historic quality of any boundary that we studied was unique. No two were exactly alike; each boundary reflects the peculiar circumstance of its location and of its date. In both cases, natural and human modifications of the land, as well as legal changes, before and after the date of the boundary must be studied. The particular resolution between general principles and specific application works toward a unique boundary.

Yet, that unique quality is underlain and overshadowed by what approaches principles of general application. Some of these principles are constitutional; others are statutory; still others have no standing but reasonableness. These general principles, operating in actual contexts, can be said to produce Louisiana parish boundaries.

John S. Kyser's 1938 dissertation, "The Evolution of Louisiana Parishes in Relation to Population Movements," outlined the overall delineation of parish boundaries and noted most of the problems then remaining in the way of complete delimitation of the parishes. Certainly, Kyser's work guided our beginnings in this research. But the lack of specific focus upon water bodies, together with developments since 1938 and our different purposes, lead us to attempt a further study.

We have followed a standard form in legal citations, and reference to these laws appears only in the notes. Reference to U.S. Geological Survey (USGS), Army Map Service (AMS), and Coast and Geodetic Survey (USCGS) quadrangles occurs only where cited. Other maps are cited as author and date, and a full listing of all historic maps used appears in the appendix. Unless otherwise indicated, our maps are based upon USGS quadrangles of 1:250,000 scale and are drawn at that scale.

*M. B. N., Jr.*  
*E. St. C. E., III*



# Acknowledgments

Our research was not supported by any agency or body, parish, state, federal, public, or private, except for the use of the facilities commonly provided to scholars by the School of Geoscience and the Geography-Anthropology Department of Louisiana State University. That support in the form of cartographic drafting, map room, secretarial help, telephone, and postage is gratefully acknowledged.

The kindness of the Louisiana Sea Grant Program, a part of the National Sea Grant Program maintained by the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, in providing for the editing, publishing, and distribution of our study certainly make possible its general use. That support, we certainly appreciate.

Mr. Jack Caldwell of Franklin and Mr. Frederick Ellis of the LSU Law School provided separate occasions for practical experience in forensic geography. The well-known competence and eloquence of these scholar-attorneys opened the way to clearer understanding of boundaries and boundary research.

Dr. James P. Morgan, LSU Professor of Geology, clarified certain geomorphic and historic aspects of the shoreline of Louisiana; his experience in the tidelands suit of the Attorney General of Louisiana proved quite helpful.

Owing to the courtesy of Mr. Robert Becnel, Secretary-Treasurer of the St. John the Baptist Parish Police Jury, we participated in the deliberations of the Lake Pontchartrain Boundary Line Committee. That Committee has the purpose of determining and promulgating mutually agreeable boundaries among the parishes sharing Lakes Maurepas and Pontchartrain. The members of that Committee are:

St. John the Baptist: Brent L. Tregre, president; Robert M. Becnel  
Livingston: Sam H. Wall, Roy Miller  
St. Tammany: Robert Innerarity, E. "Dutz" Boudot  
Tangipahoa: Jerry Wilde, Bill Tyner  
Jefferson: George Ackel, Lawrence Heaslip Jr.  
St. Charles: Bruce Rodrigue, Kevin Friloux  
Orleans: Harold Katner

The deliberations of these officials, as they carried out their difficult and important duties greatly enhanced our understanding of the boundary-drawing event.

Other parish officials and employees who helped us in our investigation were: Mrs. Inez Schillaci (St. Charles), Mrs. Dolores Gonzales (Jefferson), Mr. Roland Marquette (Assumption), Mr. Ernest Freyon (Iberia), Mr. Anthony Fernandez (St. Bernard), and Mrs. Bertha Neff (St. Tammany).

Mr. John Mahe, Curatorial Assistant of the Historic New Orleans Collection, took great care to make that fine museum's collection of maps immediately available to our project.

In addition to the Historic New Orleans Collection, we also used the following research and public archives: Notarial Archives of the Parish of Orleans, The State Land Office, School of Geoscience Map Room, LSU Archives, and LSU Main and Law Libraries.

PART I  
BOUNDARY NEGOTIATION



# Principles Pertaining to Drawing Boundaries through Lakes, Bays, and Sounds in Louisiana

In few instances have Louisiana parish boundaries been determined capriciously. There are, instead, certain principles that guide boundary making, both specifically and generally. These principles can be ranged in two groups: legal and academic. The principles of law must be followed wherever they can be shown to apply; the academic principles have only an advisory status. Hence, the principles of law should be considered first.

## The Principles of Law for Determining Parish Boundaries through Water Bodies

Because parishes are political subdivisions of the state, the allocation of parish boundaries is a legislative function,<sup>1</sup> whereas the delimitation and demarcation of boundaries between parishes can only be done by the parishes involved.<sup>2</sup> Where the legislative act allocating the parish boundary prescribes a method for ascertaining and defining this boundary line, only that method can be used in determining the boundary between the adjoining parishes involved.<sup>3</sup> Such legislative acts in establishing parishes and their respective boundaries are subject to interpretation by courts as a result of their inherent judicial functions.<sup>4</sup>

The Louisiana Constitution of 1975 ratified parishes and their boundaries (Fig. 1, frontispiece) as established on the effective date of January 1, 1975.<sup>5</sup> This new constitution, however, fails to provide any prescription for determining parish boundaries through lakes, bays, and sounds. Thus, in effect, all previous law remains in force in regard to parish boundaries through water bodies. Where such water bodies form all or part of the boundary between two parishes, the rule had already been established that no legislative purpose or motive could be perceived for exclusion of a part of a water course from the territory being bounded.<sup>6</sup> Water bodies pertaining to the state of Louisiana must be contained within the jurisdiction of adjacent parishes.<sup>7</sup>

In determining parish boundaries through bodies of water, "consideration must be given to historical data, treaties, proclamations, legislative enactments, constitutional provisions, public documents and maps."<sup>8</sup> Where the location of a statutory boundary line between parishes is at issue, the courts may resolve the issue when the concerned parishes fail to remedy the uncertainty of their boundary location as provided in LSA-R.S.50:221.<sup>9</sup> In such determinations, the intent of the allocating authority will be followed even where the legislative enactment involved is unclear and vague. "The universal and most effectual way of discovering the true meaning of a law, when its expressions are dubious, is

by considering the reason and spirit of it, or the cause which induced the Legislature to enact it."<sup>10</sup>

There are three primary approaches in the determination of parish boundaries through water courses when the legislative intent is unclear: (1) middle of watercourse, (2) along the shore, and (3) by confirming common practice of long standing ("*l'erreur commune fait le droit*"). (These approaches are not to be confused with the four types of boundaries through water bodies as distinguished by S. W. Boggs.) Where the act of allocation merely designates a water body as a boundary, the presumption is that the boundary is located through the middle of this water course.<sup>11</sup> In determining the boundary line through a water body there is a like presumption that the boundary runs through the middle.<sup>12</sup> The location of the middle is established according to the shape and size of the lake, bay, or sound as it existed at the time of statutory enactment. Similarly, if there is a shift in the water course, the boundary does not change.<sup>13</sup>

A *specific* bank or shore of a water body designated as the boundary (as opposed to the water body itself being named as a boundary), can become the location of the boundary line. This is especially true where a bank is directionally specified or where the act of allocation establishes a line through connecting water bodies, then along a specific shore.<sup>14</sup>

The third approach used in the determination of boundaries through water is expressed in the legal maxims, "*l'erreur commune fait le droit*" and "*Communis error fecit jus*."<sup>15</sup> Equitable principles are employed to establish the boundary according to the common practices of both, or all, interested parties. In determining whether this approach is applicable, testimony of the inhabitants of the area in dispute is admissible as proof of the long standing of the customary boundary.<sup>16</sup> The courts will also look to actions and pronouncements of parish officials and official agencies, including proof of the levying and collection of taxes.<sup>17</sup> This approach can only be used if the boundary has never been delimited or established (demarcated) by conjoint survey.

Because legislative allocation must be observed where possible, certain legal presumptions arise that assist in discussing the intent of the legislature at the time of enactment. There is, accordingly, a presumption of legislative intent to avoid running parish lines through property holdings or land grants so that a portion will be in each parish.<sup>18</sup> There is also a presumption against dividing a community where such division would cause some of the inhabitants undue hardship.<sup>19</sup> In deciding on the applicability of these presumptions, historical data, legislative journals, and maps are admissible as evidence.<sup>20</sup>

Where maps are used as evidence, rules of forensic geography emerge through application by the courts. Map makers who compiled and prepared maps showing the boundary line, at or near the time when the act fixing the boundary was enacted, are reasonably presumed to be better acquainted with the true legislative object and intent than recent map makers. When they fixed the boundary line on maps according to one interpretation

of an ambiguous clause, the early map makers are considered to have had good reason to believe they were adhering to the legislative will.<sup>21</sup> However, where there is no showing that the map submitted in evidence was prepared from any independent survey or that the geographical engineer had authority to establish boundaries for the parishes concerned, the lines drawn on the map cannot be accepted as proof of present parish boundaries.<sup>22</sup> A map gains further credibility if it was designated by the legislature in an act fixing the parish boundary or if it is an official state map purporting to show parish boundaries.

#### The Academic Principles for Determining Boundaries through Water Bodies

*Boundary evolution.* Academic discussion of boundary drawing commonly recognizes four stages: allocation, delimitation, demarcation, and administration. However neat the academic terms may sound, many actual boundary-drawing instances fail to conform precisely to the ideal plan. Concisely, the four stages are:

Allocation refers to the political decision on the distribution of territory; delimitation involves the selection of a specific boundary site; demarcation concerns the marking of the boundary on the ground; and administration relates to the provisions for supervising the maintenance of the boundary.<sup>23</sup>

Allocation of parish territory in Louisiana is the right of the legislature, and the acts creating parishes sometimes give rather explicit allocations. The usual procedure, however, has been to leave the parishes sharing a boundary the power to determine the final details of allocation through conjoint action under general legislative guidelines. When the parishes meet to carry out a conjoint survey, they often must give the allocating act fuller expression.

Delimitation of parish boundaries has usually been left to the parishes acting jointly. In some instances, however, the legislature gave very precise and complete allocations, leaving very little or no latitude for interpretation by the parishes. Otherwise, the delimitation of the boundary usually transpires when the parishes agree to a line drawn on a map. (In our present usage, "delineation" means merely the drawing of a line or the fact of having drawn a line; delineations have no legal status, whereas delimitations do.)

Demarcation in lakes, bays, and sounds is often impractical because the requisite monuments would disrupt use of the water body, often becoming a hazard. In any case, monuments may be offset or buried, but some sort of marking, if only of the beginning and ending points on the shores, is advisable if the parishes want to assure themselves that the boundary has been securely settled. Very important boundary points in lakes, bays, and sounds (such as where three or more parishes meet) should, nonetheless, be marked by monuments. Special permits, warning lights, and other matters of public protection may be required. And it should be noted that if the conjoint survey culminates in a survey and map that is acceptable to the concerned parishes, it becomes the final

boundary in fact--ambiguous, vague, contradictory, or incomplete documents of allocation and delimitation notwithstanding.

Administration, or supervision, of the boundaries between parishes is largely a concern of the courts. Each parish enforces its rights under the law and the boundary agreement by carrying on its legal functions (such as police powers) up to the boundary and subject to the complementary actions of the adjacent parish. Unreconciled disagreements between them must be taken to the courts. An intermediate possibility seems to be in including in the boundary agreement provisions for conjoint maintenance of the boundary (such as upkeep of monuments).

*The median line.* The concept of the median line as described by S. Whittemore Boggs, long-time geographer for the US Department of State, has been advocated nationally and internationally by the United States and adopted in the 1958 UN Convention on the Territorial Sea and the Contiguous Zone. It was used to delimit state boundaries in Lake Michigan. It was used in the Anglo-Norwegian Treaty of 1965. And this median line concept has been used as a basis of the boundary between St. Mary and Iberia parishes in Louisiana. It seems to be the concept advocated by the state of Louisiana in interstate boundary litigation. The main academic principle of interest in the median line is academic only in the sense that it has no statutory authority in Louisiana.

In proposing his median-line concept, Boggs first reviewed three common and unsuccessful definitions of lines supposed to locate a line in "the middle" of a lake, bay, or sound:

- 1) A line being at all points equally distant from each shore;
- 2) A line following the general lines of the shores and dividing the surface water area as nearly as practicable into two equal parts;
- 3) A line along the mid-channel dividing navigable portions of the lake and being at all points equally distant from the shoal water on each shore.<sup>24</sup>

The first of these three Boggs dubs "the landsman's or shoreline viewpoint" and shows that to claim "that one might start with one of the shores of the lake [and] from successive points draw lines to the nearest point on the opposite shore...is quite impossible...and that results from opposite shores would be quite dissimilar."<sup>25</sup> Yet this technique is repeatedly tried as, for example, by the Louisiana Supreme Court in the United Gas Pipe Line case<sup>26</sup> and by L. H. Johnson, Dean of the College of Engineering of Tulane University, acting as arbiter between Lafourche and Jefferson parishes.<sup>27</sup>

The second concept, dividing the water surface equally, is reasonable enough, but the wording does not specify a single line; rather, any number of lines "following the general lines of the shore" can divide the water body equally. Under Louisiana law, such an agreement is, even so, possible, provided that the act of allocation does not specify another procedure and provided that all parishes party to the boundary

consent to such a division. To be effective as a boundary agreement, however, the equal-division phrasing must be implemented through careful delimitation as an integral part of the negotiation. If the parties conclude negotiation without actually describing the boundary on a map, their successors will be unable to know at some later date the substance of the agreement because of the ambiguity of its terms. Better still, the parties should fully culminate the boundary process and include physical demarcation as part of the negotiation. Something closely approximating this fuller procedure took place in the negotiation between St. Mary and St. Martin parishes along their mutual boundary in Grand Lake.<sup>28</sup>

Boggs shows that the third concept ambiguously confuses the thalweg (deepest channel) with the median line, and, for that reason, is inadequate as an allocation concept. Yet, as in the case of the equal-division concept, if the parties proceed through precise delimitation and perhaps demarcation, the ambiguity of the words can be overcome by precision on the map.

Having disposed of other construals of "the middle" of a water body, Boggs proposed what is now recognized as the only unique, unambiguous, and recoverable line through an elongated water body: "The line every point of which is equidistant from the nearest point or points on opposite shores." Boggs characterized his as the "waterman's viewpoint," noting,

as regards any point in the lake, in order to find on which side of the median-line boundary it lies[,] it is necessary only to swing a compass from that point on the chart to opposite shores... in order to ascertain which shore is nearer and, therefore, on which side of the boundary the point is situated.<sup>29</sup>

Thus, from the point of view of the user of the water body, the waterman, the nearest shore is most appropriately the shore of jurisdiction.

By the Boggs method, islands should be ignored during the first, trial delineation, unless any of them has a special status. Islands can then be assigned to the jurisdiction on whose side their greater part falls. After this trial line to allocate islands, a second, final median line can be drawn allowing the shores of the allocated islands to serve as shores for purposes of allocation of the water surface remaining among the islands. Of course, islands specifically mentioned in acts bearing on the boundary and islands having a special historic status must be used as shores in the first, trial delineation.

The median line can be used between either opposite or adjacent jurisdictions. Opposite jurisdictions stand across a water body from each other, whereas adjacent jurisdictions stand on the same shore. The same techniques are used in either case. And in both cases, the beginning and ending points must be known before the division can begin. The beginning point for the water boundary may be specified arbitrarily, but, most often, it is the point where the mutual land boundary (over land or along a stream) meets the perimeter of the lake, bay, or sound.

Said differently, the margins of the water body must be allocated before the median line can be begun. In the case of Lake Pontchartrain, for example, we know that the boundary between the Florida Parishes on the north and the Isle of Orleans on the south (opposite jurisdictions) must run through Pass Manchac on the west and The Rigolets on the east. Because these two channels have discernible thalwegs and because of the presumption that such deepest water must be the location of the boundary, the median line would begin, say, at the mouth of Pass Manchac and extend to the head of The Rigolets. In that same lake, if the legislature had not already declared otherwise and if the parishes of Orleans and Jefferson (adjacent jurisdictions) agreed upon it, the median line between those two parishes could have been extended into the lake to the middle, along a line bearing about 17° west of the present, actual line.

*Practical use of Boggs's method.* Once the beginning point and ending point are known and marked on the map (Fig. 2), a compass is set at any point in the lake, one leg at and the other near the beginning point (A), and the compass is swung around in a full circle through the beginning point (A). If the moving leg of the compass touches one shoreline, but not the other, move the stationary leg and perhaps adjust the openness of the compass, and try again. Repeat until a point is found where the compass can be swung in a full circle through the beginning point and just touch the shoreline of each jurisdiction at least once, but not cross the shoreline on to the land. That point (B) is equidistant from each jurisdiction (Fig. 2a). Draw a straight line from A through and beyond B to any reasonable farther point (B<sub>1</sub>). Using the compass, find the point on AB<sub>1</sub> where the compass can be swung so as just to touch the shorelines (B<sub>2</sub> and C<sub>1</sub>, Fig. 2b) of the jurisdictions; mark that point (C). Then by trial and error and keeping one leg of the compass on one of the shoreline points (B<sub>2</sub>), place the compass at a new point (D) that is equally distant from the jurisdictions, and draw a line from C through D to some convenient point (D<sub>1</sub>) beyond (Fig. 2b). Continue this procedure across the water body, remembering to swing the compass in a full circle (Fig. 2c and d), until the median line has divided the water body and the law's allocation, "through the middle," has been fulfilled. Notice that only about half of the constructed points in the water body are turning points (ACEGI).

After having completed the second drawing of the median line, any islands complicating the reckoning or special problems of use or control may be considered. Among these problems is the question of how to connect the median line of a lake, bay, or sound with a thalweg boundary lying in a stream. It is almost always necessary to settle upon an arbitrary, straight line to join the two; such a line should be as short as possible because its arbitrariness can be a source of conflict and because it is a mere expedient. Another difficulty arises when, following these principles, we obtain seemingly capricious results. Such an outcome can be obtained where a thalweg, extending well into a lake, lies very near one shoreline (such as The Rigolets channel in Pontchartrain, near the shoreline of St. Tammany Parish) or where strict adherence to the median line would produce a highly irregular line sharply changing direction several times. In all such special considerations, adjustments should be made after the principles have been followed, and they should be limited to those needed to make the law operate reasonably.

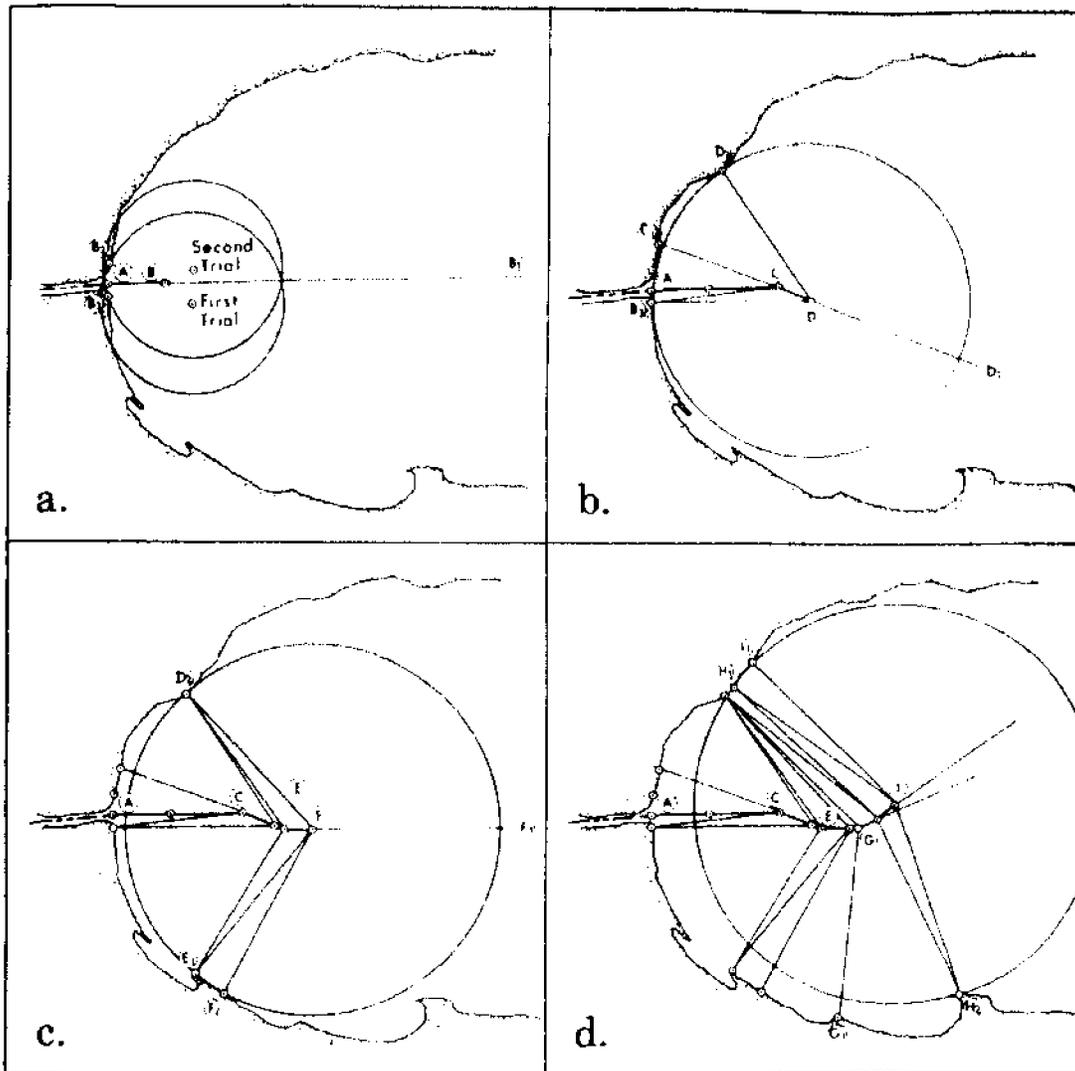


Fig. 2. Hypothetical lake showing the Boggs median-line method.

*Use of experts.* Many other academic principles may, under local circumstances, enter into consideration. Obviously, these include the principles of engineering, geography, cartography, history, and geology as technical crafts. Practitioners of these professions can help determine matters of fact as an aid to the legal process. Yet the problems surrounding use of these academics and professionals as expert witnesses are vast.

There can be little doubt that numerous abuses of professional standards have occurred. The current practices concerning the certification of expert witnesses by courts sometimes do not really encourage critical use of the full capabilities of the disciplines commonly used.

The following warnings and suggestions are offered as guidelines to the use of expert witnesses in boundary proceedings:

- 1) That some members of a discipline know how to make the determination needed, does not mean that they all do. Some geographers have made careful studies of boundaries and boundary drawing, but most have not.
- 2) That a discipline commonly deals with one or more aspects of a boundary problem does not mean that followers of that discipline know the other aspects. Engineers commonly carry out precise measurements and surveys, but they may lack knowledge to determine what should be measured or surveyed.
- 3) Because giving incomplete or biased testimony violates the status of the expert as a professional, courts should treat such witnesses, as far as possible, as agents of the court.
- 4) Some questions of fact simply cannot be definitively evidenced by expert testimony. In such cases as deciding upon the shape of Grand Lake at a certain date in the early nineteenth century, there can be no conclusively authoritative statement, while we can expect a much more nearly definitive statement on such a lake as Salvador or Catahoula, because their shapes changed little.
- 5) Experts should be required by courts to state the bases of their opinions; such statements should be required to be in plain language and rendered in a step-by-step fashion so that all concerned can follow each element in the reasoning. The court should take the initiative in questioning whenever the attorneys fail to do so.<sup>30</sup>

Where an expert's testimony is slanted to such an extent as to preclude any reasonable basis for such opinion, the court should exercise its prerogative of designating an impartial expert in order to create an effective force against the obviously misleading testimony. This is probably best done in connection with opposing counsel's objection to the testimony as evidence and request for an impartial expert.

- 6) Clear and flagrant instances of special pleading by expert witnesses should be punished by the court to the limit of its legal powers. Indeed, the courts should recognize as perjury an expert's stated testimony under oath of a particular opinion or belief which he does not really maintain. Such perjury may be evidenced when the expert gives different testimony concerning his findings and opinions with no justifiable basis for a change. While the expert may change his professional views and opinions, unless there is a valid ground for such change, there is a justifiable inference that its motivation was corrupt.

- 7) Any expert advocating one manner of interpretation should be required by the court to give a competent performance of alternate interpretations. A professional should be able to explain clearly and honestly theories and methods that he does not use.
  
- 8) It is quite common for an expert to claim a unique ability for his discipline,<sup>31</sup> but no claim to expertise should be accepted without critical examination of actual abilities in each case. Credentials, such as doctoral degrees or licenses, cannot actually serve to accredit the expert. An English-speaking historian may well know more than a speaker or professor of French about the meaning of French words on an old map; but so may a historical geographer, a folklorist, a geologist, an engineer, an amateur history buff, or even an illiterate settler. Although the expert's testimony may be essential to the court where the subject of inquiry relates to some science or art in which persons by study or experience may be supposed to have more skill and knowledge than the trier of fact (judge or jury, as the case may be) may be presumed to have, it should be remembered that a layman can testify as to facts within the realm of his personal knowledge.



## 2

# Negotiation Schedule

The first consideration of this study of Louisiana parish boundaries through lakes, bays, and sounds is to help parishes avoid protracted, costly litigation. Boundary disputes, once committed to the court for settlement, tend to be argued on the most lavish claims of each party,<sup>1</sup> and much of the expense arises from efforts to bolster one's maximum claim, while carrying on research to disprove the other's most extensive claim. Such a procedure is completely reasonable, under the adversary process, once the path of litigation has been settled upon, because of the realization that a third party, the judge, will decide between two claims, each rationally put forward. Yet officials of contending parishes can just as well admit the existence of the claims of the other and, at the same time, agree to come to a rational compromise. It has been done in several admirable instances in which parishes joined in an agreement to settle their boundaries under provisions outlined in the Revised Statutes.<sup>2</sup>

### Preliminary Agreements

If police juries and parish councils are committed to just and fair settlements of boundaries and if they keep their respective parish citizens informed as to the findings, procedures, and tentative agreements, the jurors and their representatives should be able to work toward a mutually acceptable agreement allotting each parish its legal share of the state's domain. Thus, we assume at every point in this study that the respective public officials have good will, act and speak in good faith, and firmly support the rule of law over men.

That is not to say that interests, such as that of a parish official's concern over changes in tax revenue caused by moving a boundary, have no place. Quite the contrary; it is just such interests that give the specific implementation of law in actual places so much lively significance.<sup>3</sup> Furthermore, the mutual, simultaneous, and equal pressing of interest from each respective side, in fact, makes the law take practical, tangible form. But note well that the press of claims must be mutual, simultaneous, and equal.

The present search for petroleum creates an urgency in the existence of unresolved boundaries, but litigation does not allow for urgency. For that reason, we felt that parish officials can come to acceptable agreements, delimiting boundaries not far different from what courts would eventually hold and do so more quickly by negotiating the boundary settlement. To aid in expediting these negotiations, we propose a model negotiation schedule, along with certain model clauses and some recommended solutions to recurrent difficulties.

The recommended negotiation schedule has two advantages: It incorporates devices, instruments, techniques, and procedures that have worked in previous, similar cases; and it allows the parishes to agree amicably as far as they can, before resorting to litigation.

*Declaration and notice.* As a means of lending serious determination to carry through with the delimitation, one or more of the parishes concerned and interested in the boundary must, under law, pass a resolution declaring an intention to carry out a conjoint survey and agreement.<sup>4</sup> That parish must also notify its counterpart, and the notified parish must, if the negotiation is to go forward, also resolve to carry out the conjoint survey and agreement.

Both resolutions should express the full faith of the police jury behind efforts at amicable solution, and both resolutions should provide for periodic, public, joint reports of the facts, opinions, and progress in the negotiation. Each parish's resolution, it is suggested, should contain the following clauses, among others:

- 1) The Parish of (name) shall be represented at the negotiations concerning a conjoint survey of the said boundary by (name), police juror, the parish engineer, and the parish attorney. These three representatives, under the chairmanship of the police juror, shall be empowered to conclude a preliminary agreement concerning the general principles and facts concerning the said boundary. The police juror as chairman shall also have the power to delegate relevant aspects of the negotiations, as needed, to the parish attorney or the parish engineer, subject to interim approval by the committee as a whole.
- 2) The Parish of (name) requires the chairman to obtain an agreement with the chairman of the delegation from (the counterpart) Parish concerning appointment of a president of negotiations. The president shall represent neither parish, but shall have wide and high knowledge of amicable negotiations, particularly negotiations concerning boundaries.
- 3) The Parish of (name) shall pay half of the costs of carrying out a conjoint agreement and survey.

Negotiation may proceed with or without a neutral president, yet deciding to have one and agreeing upon a person to serve as president has the advantage that such an agreement provides the first evidence of good faith on the parts of both parishes. Having once been appointed, the president provides the additional advantage of carrying out his own research as a supplement to any done by the parishes separately.

In the event that the police jurors feel that they are already near an agreement or that they have little at stake, they may prefer an alternative to clause 2, above:

The presidency of the negotiation shall alternate, meeting by meeting, between the chairmen of the respective negotiating committees, first turn being set by lot.

Some of the unresolved boundaries through lakes, bays, and sounds can be settled by this simpler technique, but several (Maurepas-Pontchartrain-Borgne, Cataouatche-Salvador, Atchafalaya Bay, and Bay des Ilettes) promise to require the larger, more costly procedure.

Agreement to pay half of any costs emphasizes a commitment to a thorough search for all material relevant to an equitable solution.

*Election of the president.* The representatives of the respective police juries can propose, discuss, and agree upon a president by correspondence. The model resolution calls for a person having "high and wide knowledge of amicable negotiations." The normal professional sources of such experts include lawyers, engineers, geographers, and professional arbitrators. Regardless of the particular profession chosen, the chairmen are well advised to seek an expert who has already helped reach an amicable boundary agreement. Such an expert may or may not be a public official; the real concern lies in finding one who knows the form of amicable negotiation, who knows the basic law concerning parish boundaries, and who knows the several techniques that bear on the drawing of such boundaries.

Police juries must also realize that merely being an engineer, lawyer, geographer, or arbitrator does not, in and of itself, meet the requirement of "high and wide knowledge." That is not to say that many practitioners of those learned professions would not want to hold the office of president or that they would not take offense at being ignored. Discussion and selection of the president requires care and discretion.

*Preliminary agreements.* At the first joint meetings of the negotiating committees of the respective parishes, certain elementary matters should be settled. These include, first, agreement to placing duplicates of all pertinent information, laws, maps, documents, and such, in the hands of the president and the two chairmen.

Next, the president should provide a detailed, exact, and complete chronological review of all constitutional clauses, acts, treaties, agreements, judgments, decisions, and ordinances bearing upon the boundary in question. Formal, written copies bearing full, authoritative citations should be provided to each member of the negotiating parties. Such a legal history of the boundary ought to include, in addition to copies of documents, maps that indicate generally the development of the boundary; such maps need be only historically authoritative. Because the purpose of these preliminary agreements lies in diminishing the area of dispute, such a historical review ought to be so exhaustive as to show both contending parishes the probable minimum, reasonable overlap of claims. Having heard and discussed the history of the boundary, the negotiators should arrive at an interim agreement among themselves as to the smallest probable area of dispute. (Note that the actual placement of the boundary has not by this time been discussed, except insofar as historical research has uncovered explicit statements.)

Then, under the initiative of the president, the general principles of drawing boundaries between parishes should be reviewed, each chairman placing before the others any additional principles believed to be

pertinent. The president should, after a brief time, summarize and arrange the principles, perhaps in order of decreasing generality of application. Such an arrangement will enable the negotiators to acquiesce in the least escapable principles, first, and thereby to escape most confusion and most mistaken causes for litigation. After ample, due discussion, the negotiators should put together an interim agreement embracing all principles to be employed.

Next, the president should suggest one or more accurate and appropriate base maps that will serve as the basis for further discussion and negotiation; the chairmen might also place maps before the negotiators.<sup>5</sup> In all cases, these suggested base maps should be devoid of any boundary determinations originating from any member of, or party to, the negotiations. (Naturally, there may be nonauthoritative estimates or opinions--originating, for example, in the USGS--printed as a published map.) After discussing the relative merits of the various maps, the negotiators should decide either to use one of the maps before them or to authorize the president to obtain from a competent engineer a map meeting the requirements of the negotiation. Several copies should be provided to the president and each of the chairmen.

And finally, preliminary agreements should include a comprehensive agreement on all place-names to be used in the map and the agreement. In preparation for this phase of negotiation, the president should have provided copies of a list of synonyms that would give under one common, modern name for each feature in the probable area of dispute all known historic and alternate names for those features.<sup>6</sup> Chairmen should submit both additional, alternate names and any additional features believed to be involved. Having the synonym list and the base maps in view, the negotiators should settle upon one name for each feature. Care should be taken to settle upon both specific and generic names. Generic names tell the kind of feature (e.g., bayou, pass, island), and specific names tell which one (e.g., Jones, Sandy, Noir, Perdue). This is a very important and delicate aspect of the negotiation because many boundaries depend upon interpretation of place-names or the locations of places named. Insofar as possible, the status of each feature should be determined in the name agreement; that is, there should be agreement as to which features, for purposes of negotiation, will be called *bay*, *lake*, *island*, *pass*, and so forth. Lacking that consensus, the name may be entered with alternatives (e.g., Pelican Reef or Island, Fifi or Petit Pass); such use of alternatives merely allows negotiation to go forward by leaving details to later. But the more completely the negotiators, under the historically informed leadership of the president, come to agreement on a complete list of synonyms, the more likely will subsequent negotiations be a matter of reasonableness and formality.

To conclude the preliminary agreements, the president (or the two chairmen, if the police juries agreed to the restricted procedure) should prepare a comprehensive text of the interim agreements, the history of the boundary, and the map with list of synonyms. Alternate proposals, terms, maps, and such, not accepted by the negotiators should be omitted from the main body of the document, although they might usefully appear in one or more appendixes. This comprehensive preliminary agreement should be rendered in plain language and in a commonly

acceptable style, with full realization that it will become a matter of public discussion. A copy should be submitted to the chairmen of respective committees for their signatures as verification of faithfulness to the interim agreements. Once thus approved, the preliminary agreement should be duplicated by the president and in sufficient number to provide each chairman with as many copies as he requires. The chairmen may then present the preliminary agreement to their respective police juries for approval and for further instructions and authorization with respect to the impending final agreement.

#### Final Agreement

*Further authorization.* Despite their appointment of delegates to carry out the boundary negotiation, the police jurors, constituting the respective police juries, retain full, legal authority and responsibility for conjoint determination of mutual boundaries. Thus, wisdom suggests that the police jurors should read and discuss the comprehensive preliminary agreement before authorizing further negotiation. Additional historical or legal information, names, or maps may be pointed out by a juror. If the police jury declares that these additional elements of information must be included in the negotiations, the subsequent ordinance authorizing the chairman to continue negotiation must so stipulate.

In any event, the purpose of this review by the police juries of the comprehensive preliminary agreement lies in affirming that all relevant historical facts, all pertinent principles and laws, all involved places and features, and a suitable base map are before the negotiators before they begin to draw up their final agreement. The purpose of this review is not to have either Police Jury stipulate what the boundary must be, but rather to assure the police jurors that full consideration will be given to all just claims.

Approving the comprehensive preliminary agreement, each Police Jury should pass an ordinance authorizing its negotiation committee, under its chairman, to continue negotiation with the aim of concluding a final agreement and survey. This ordinance should include the following clauses, among others:

- 1) The Parish of (name) shall be represented at the further negotiation concerning a tentative final agreement and conjoint survey of the said boundary by the negotiating committee comprising (name), police juror, the parish attorney, and the parish engineer. These three representatives, under the chairmanship of the police juror, shall be empowered to conclude in the name of the Parish of (name), a final agreement as to the true and just location of said boundary and to carry out a conjoint survey of said boundary. Said final agreement will take force when the Parish of (name) and the Parish of (counterpart) will have each separately enacted an ordinance accepting and decreeing the final agreement and filed copies of said ordinances with their respective District Courts and with each other.

- 2) The Parish of (name) further empowers the chairman to continue the employment of (name), president of the conjoint negotiations and survey, until the final agreement and conjoint survey shall have been completed, the ordinances passed, filed, and exchanged by both the Parish of (name) and the Parish of (counterpart).
- 3) The Parish of (name) authorizes the treasurer of the said Parish to pay the sum of (amount) to (name), president of the negotiation, for the share of one-half of the expenses incurred as of (date) in the said negotiations. The Parish of (name) further agrees to pay one-half of the costs of concluding the final agreement and of carrying out the conjoint survey of the said boundary.

*Resumption of negotiation.* The greatest danger at this point lies in heeding the temptation to try immediately to draw the boundary. Certainly, we may hope that the equitable location of the boundary will have become apparent to all after the careful and thorough work of the preliminary agreement. Yet there might still arise a serious disagreement, and because there yet remain some elementary matters that can be easily settled, the actual delineation should be postponed a bit longer. In so doing, the negotiators increase their chances of culminating the project successfully.

The historic circumstances surrounding this particular boundary, however, strongly influence the subsequent order of negotiation. But normally in Louisiana as in other places, the allocators (whether in a treaty or an act) thought mainly in terms of land areas; they commonly described the land segments of the boundary more carefully and thoroughly than the water segments. For that reason, the negotiators will, in many cases, have to begin at the point on the edge of the larger water body that is determined by tracing the boundary across land to the edge of the lake, bay, or sound. Unless that land boundary is known, it must be determined next; but our presumption here is that the land boundary has already been delimited and perhaps demarcated, because our concern is with water boundaries. Even so, most of the same principles, laws, and procedures pertain, if the land boundary has to be determined, as would have been agreed upon in the first part of these negotiations.

The next matter is the agreement on the meaning of the terms "shore" and "shoreline" and where to end the land segment and, thus, begin the water segment of the boundary. Both the United States and the Louisiana positions apparently uphold the principle, "for the purpose of measurement, the area of an indentation [bay] is that lying between the *low-water* mark around the shore of the indentation."<sup>7</sup> The federal law applicable to Louisiana states that "coastline" be defined as "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters."<sup>8</sup> However, the Louisiana Civil Code, Article 451, defines "seashore" as "that space of land, over which the waters of the sea spread in the highest water, during the winter season." There has been considerable criticism of this definition in the particular case of

the Louisiana coastline. Although the state's courts have been reluctant to deviate from the written law, they have, in effect, recognized the shore as that area between ordinary high water and ordinary low, for purposes of determining public lands.<sup>9</sup> Even so, it appears that the state's definition can be salvaged if "shore" can be distinguished from "shoreline." The latter term could then be construed as denoting the land's edge at ordinary low water, defining thus the *bed* of the water body and thus the area of state land if that bed lies under an arm of the sea or if it is navigable. Note that the *bed* of Lake Pontchartrain is all that area covered by the waters of the lake at low tide, and its *shore* is that area covered by the waters at high tide, but not at low tide.<sup>10</sup> This interpretation makes state and federal laws compatible.

If, on the other hand, the boundary approaches the lake, bay, or sound by way of a stream, the line must run to the stream-closing line, unless the thalweg of the stream extends into the larger body (Table 1). In the latter case, the boundary will most commonly and most conformably to past practices follow the thalweg.<sup>11</sup> Lacking such a well defined channel of deep water, the larger body should be closed by a line across the stream mouth. That line should be drawn from the two points where the river bank turns to become the shoreline of the larger body.<sup>12</sup>

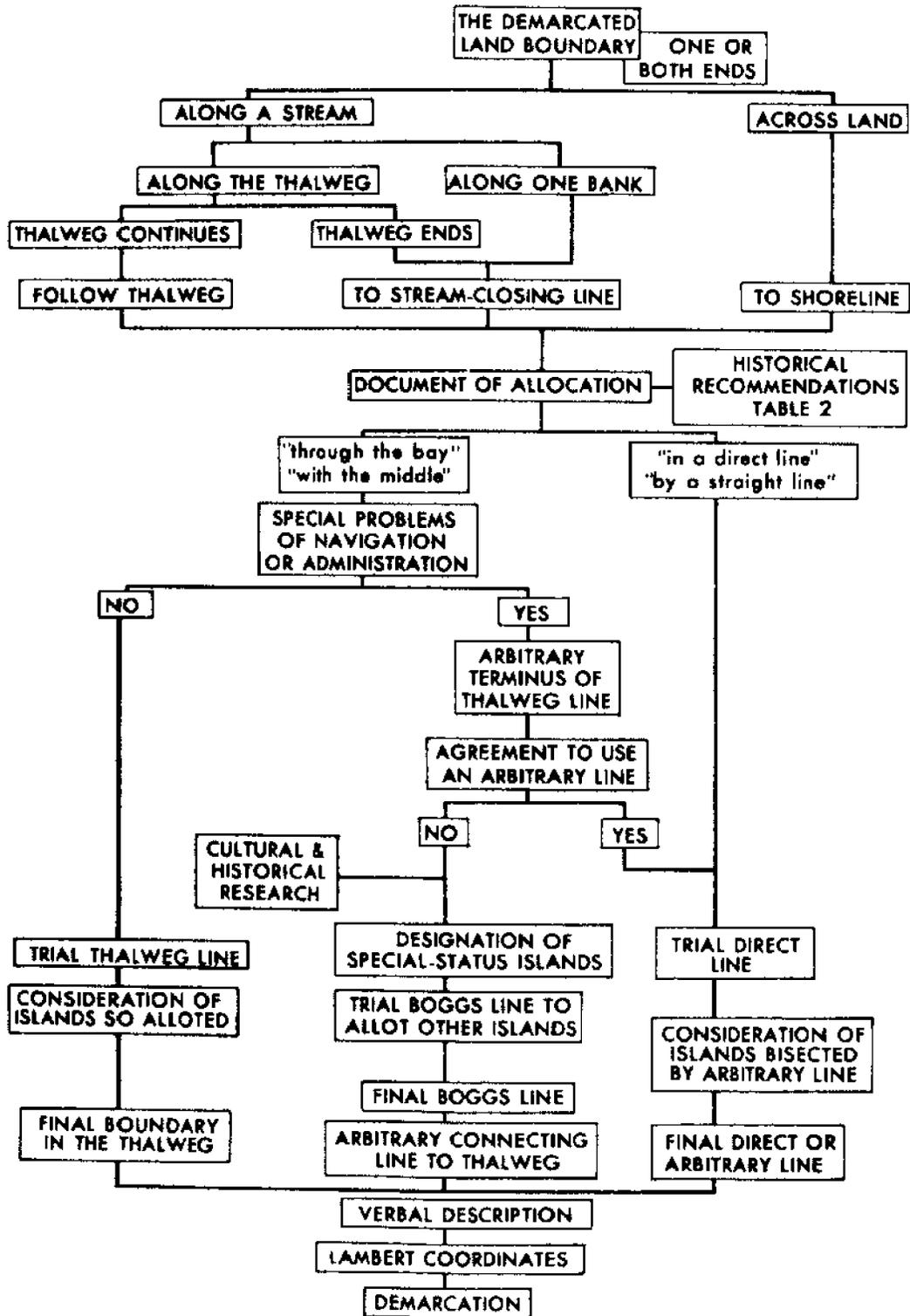
If the boundary approaches the lake, bay, or sound along one bank of the stream, the boundary should be extended to the closing line, following the trend that it had where it met the shoreline of the larger body.

Having determined the place where the boundary reaches the inland margin of the larger water body, reference must be had to the document of allocation. If that document prescribes a boundary that follows some arbitrary (usually straight) line, then the boundary must be drawn as such an arbitrary line through the lake, bay, or sound to the outer terminus. If that outer terminus falls on an opposite shore, then the procedure followed in determining the inner beginning point must again be followed in finding the outer ending point. If the document specifies some other stream or pass as the location of the existing boundary, then the thalweg of that stream must be determined and used as the point to which the straight or direct line is drawn.

If the allocation document specifies the thalweg, then the thalweg must be followed; but if the document uses such language as "through the bay," "with the middle of the lake," or "with the trend of the bay," then three possibilities appear (Table 1). The parishes may agree to use some arbitrary line. In that case, the negotiators should consider carefully and fully the possible difficulties of demarcating and recovering such an arbitrary line. These difficulties increase as the number of bends or curves in the boundary increases; such arbitrary lines should commonly be considered to be a last resort.

If neither the thalweg has been required nor an arbitrary line has been chosen, negotiators may choose to specify the thalweg, if such a single channel exists, as fulfilling the allocation "through the bay," or any conceptual equivalent. If a single, unambiguous channel crosses the larger water body in the direction indicated in the allocation

TABLE 1  
LEGAL NEGOTIATION SEQUENCE



document, such a thalweg normally must be chosen. If following the thalweg will work a severe hardship upon either those who use the water body or the parishes responsible for administering justice upon it, however, a deviation from the thalweg should be devised such as to minimize those hardships. For example, the natural thalweg may lie very close to one shore, while an artificial navigation channel provides direct access between the main stream and the larger water body; in such a situation, a navigator would seem to pass capriciously in and out of the two jurisdictions while the parish having the boundary near its shore would lack sufficient jurisdiction over the water facing its shore. In such a case, the thalweg should be simplified by placing the boundary in the middle of the artificial channel. Adjustments of this kind are not possible where the allocation document specifies the natural channel; on the other hand, they seem to be mandatory where, the boundary having never been delimited, the officials of both parishes have for many years treated the artificial channel as though it were the boundary. Careful study of the relevant law, close examination of the facts of nature and of human activities in the area, common sense, and good will should lead the negotiators to reasonable consideration of the special problems of navigation and administration.

The remaining possibility available to the negotiators is the Boggs median line. Such a median line should be used in any water body having a distinct long dimension, lacking a thalweg, and not allocated according to legislation by some other method. Before the Boggs line is applied, all islands that have some special, historic status must be assigned accordingly to the proper parish (Table 1). An example of such a special status is the documented, more-or-less continuous, unchallenged exercise of jurisdiction over the island by one of the parishes. Consideration should also be given to long-established practices of the people inhabiting the island as when, for example, they have generally and for long maintained various relations with one parish, but only very little with the other.<sup>13</sup> The boundary should not disrupt the natural community of people in the region of the boundary. Careful research should be carried out in the Journal of the House and Senate of Louisiana to find any relevant information about the motivation for the boundary and any citizens' memorials or petitions concerning the boundary.<sup>14</sup> Newspapers and other records (including those of the parishes and the courts) should be examined for similar information.<sup>15</sup> Even the opinions of present-day residents may be sought.<sup>16</sup> (It is advisable that the president of the negotiation, rather than agents of the parishes, be asked to interview the residents, or to retain experts experienced in investigations of customs.)<sup>17</sup> But to have a persuasive special status, the island ought to have fairly continuously held its special relation for at least one generation, preferably since the date of the document of allocation.

Having thus agreed upon any islands having special, historic status, the president can have an engineer prepare a trial map of the boundary by using Boggs's technique and ignoring all islands, except the special-status islands. The remaining islands can then be allotted to the parishes according to the side they mainly fall within. Then the Boggs line should be drawn again, this time taking account of the newly allotted islands.

Once the Boggs median line has been drawn throughout the water body, the terms of the allocating document have been fulfilled. But if the thalweg line is used for the inner or outer termini of the water body boundary, it will usually be necessary to connect the Boggs line to the thalweg line by a short, arbitrary line, especially where they fail to meet or where they meet in a manner troublesome to the users or the parishes involved with the water body.

The boundary now having been drawn on the base map, following either the thalweg line, the Boggs line, an arbitrary line, or a combination of these, should now be described fully in writing by the president. Reference should be given throughout to the laws, principles, evidence, and reasoning for every segment of the boundary. And the president should have the engineer calculate and provide Lambert Coordinates for every point where the boundary crosses a shoreline or changes direction; the engineer should also recommend at this time the kinds and locations of monuments to be used in the demarcation.

If the two chairmen, speaking for their respective parish negotiation committees, assent to the accuracy and faithfulness of the president's description and the engineer's calculations, the president should proceed with the conjoint survey. The designated engineer, in the presence of the respective parish engineers, should then set about marking the boundary on the landscape.

*Parallel historical considerations.* Throughout this discussion of final negotiations, we have ignored the possibility that two kinds of historical disagreement yet remain. These are disagreements over the historic meanings of some place-names and over the locations of features named in the document of allocation. While it is in principle possible and usually likely that a single, unambiguous conclusion can be drawn from historical boundary research, it is impossible without force to compel a person to accept the consequences of an argument, no matter how validly stated or how true the conclusions. Unless a negotiator is honestly committed to a true and just interpretation, he will always be able to raise an objection of some sort.

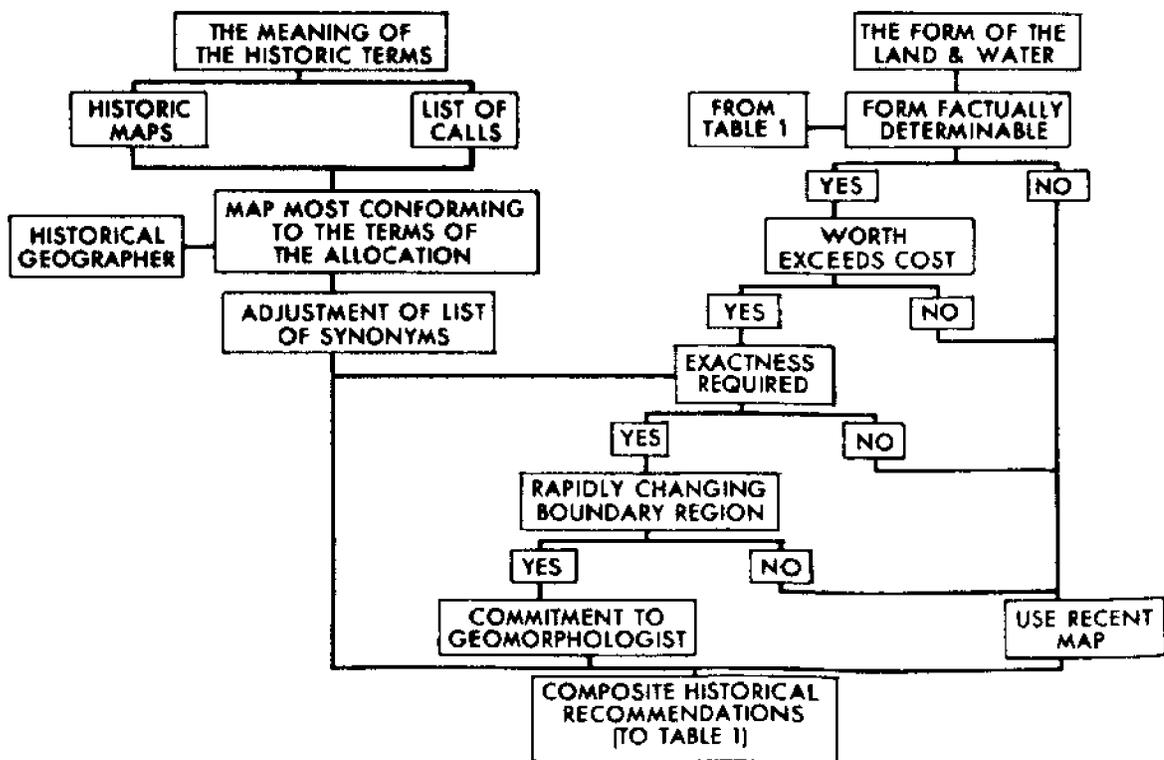
Add to this the fact that many conclusions of historical research must necessarily be merely the most probable or least unreasonable conclusion, and we greatly increase the chance of honest disagreement--not to mention objections that might arise from ill will or bad faith. How, for example, are we to know what legislators believed or discussed unless we find records of their deliberations? If we know that there were, say, twenty commonly available maps at the date of the act of allocation, how do we determine the map--if any--used by the legislators? Would the testimony of the majority of the cartographers carry greater weight than the notations of the best of the twenty map makers? Can a manuscript map be claimed to have been used by the allocators? What did the legislators believe to be the shape of a certain lake or bay? The location of a pass? The name of a particular bayou?

These and similar questions could, if discussed academically, exhaust the patience of the most saintly negotiator. Fortunately,

however, most practical historical questions involved in parish boundaries can be resolved handily if long academic debate is avoided. Most of the abstract problems vanish in the practical instance. To reach amicably practical decisions, the negotiators will have to shift repeatedly between determining the form of the land and water bodies and interpreting the language of the allocation document (Table 2).

As concerns the shapes of the land and water bodies at the date of allocation, practical instances can be divided into two groups: One, those where the factual determination is both possible and obtainable at a cost commensurate with the worth at stake; and, two, those cases where either a factual determination is impossible or the cost of such a determination exceeds the worth at stake. In either of these cases, the

TABLE 2  
HISTORICAL INVESTIGATIONS



present or some recent map of the features in question may be used as the basis for amicable negotiation; in the second case, such an expedient must be used. Thus, if the factual determination is too costly or impossible or if the parishes choose simply to accept it, a recent, accurate representation of the shapes (a map prepared by, say, USCGS in 1910 or by the Louisiana State Board of Engineers in 1920) can serve the negotiations well enough to fulfill the law. The practical expedient has the great advantage of saving time and money.

If, on the other hand, the cost is not prohibitive and the effort to determine the actual shape promises to be reasonably definitive and one or both of the parishes insists upon it, the question again divides into two practical possibilities: (1) the water body is relatively stable in shape, size, and location, or (2) it has changed notably since the allocation (Table 2). In the first case, unless great resources are at stake, negotiators should consider again the possibility of using a recent delineation of the boundary region. If they cannot do so, they should agree to abide by the finding of a competent geomorphologist. They should ask the president to suggest three or more experts, and they should, then, agree on the choice of one of these as the technical arbiter. In the president's commission to the geomorphologist should appear merely a request for an accurate determination of the shores, banks, and other planimetric outlines of the boundary region, a request for full documentation of the bases for the judgment, and the precise use of place-names from the list of synonyms; the geomorphologist should include no opinions as to the location of the boundaries under negotiation. The planimetric outlines prepared by the geomorphologist should appear on the base map thus far in use by the negotiators or, lacking that, upon a present-day map of the boundary region. On account of the great cost of such a determination of the historic shape, size, and the location of the features near the boundary, the negotiators should bind themselves to accept the outcome.

While work goes on toward an agreeable map of the shapes, sizes, and locations of the land and water bodies in the boundary region, the negotiators should also face the problem of determining the meanings of the terms, or "calls," in the allocation document. As a first step, the president should prepare a complete list of all of the calls as they appear and in order. He should also provide copies of the relevant parts of all maps presumed to have been accessible to the legislators; i.e., no maps published after the act and probably no general atlas maps. (Most, if not all, of these maps will already be included in the comprehensive preliminary agreement.)

With very good luck, one and only one of the assembled maps will have all of the calls used in the allocation. It is clearly reasonable to presume that the legislators used that map in writing the allocation if every place-name mentioned in the allocation document is matched by the same name for the same feature on only that historic map.

If the testimony of historic maps is notably ambiguous, the negotiators will have to determine the cartographer most likely to have been followed. In settling upon the historic map, negotiators will want to keep these principles and facts in mind:

- 1) Cartographers working in Louisiana are preferred.
- 2) Maps based upon direct observation are preferred.
- 3) The map should have been published (but certainly at least drawn) before the allocation.
- 4) The part of the map dealing with the boundary region is the main concern (the accuracy of a single map varies from part to part).
- 5) The entire region (rather than the water body only) traversed by the allocation must be considered.
- 6) Allocators may have used more than one map, as well as local knowledge.
- 7) Map makers make errors.
- 8) Most maps are based on other maps and can be grouped in families according to the "mother map" from which they derive, commonly recognized by copied errors.<sup>18</sup>
- 9) Both earlier and later maps may clarify the map being considered.
- 10) Materials written by the cartographer or the surveyor may help to explain his map.<sup>19</sup>
- 11) Any map mentioned without prejudice in the document of allocation or in legislation has superior standing.<sup>20</sup>
- 12) Cartographers living at the time of the allocation are presumed to be more knowledgeable than their successors in regard to the intentions of the allocators.<sup>21</sup>
- 13) The allocators had some definite idea, reasonable to them, as to the form of the land and the location of the boundary.
- 14) Every element of the allocation must be found on the maps, if at all possible.
- 15) Place-names change.
- 16) When several allocation documents of different dates pertain, the maps available at each of those dates must be consulted.<sup>22</sup>

If dealing with the question of the most appropriate historic map proves too exasperating or time-consuming for the negotiators, they should empower the president to retain a historical geographer or historical cartographer to carry out the analysis. Such an arbiter should be familiar with the land and maps of Louisiana so that his determination can be arrived at accurately, quickly, and inexpensively.<sup>23</sup> The president should instruct the historical geographer to determine the sources

of factual information used by the allocators, to state the bases of his judgment, and to provide a map showing the most probable intention of the allocators and using their calls.<sup>24</sup> Again, the historical geographer should be chosen from a list provided by the president, and the negotiators should bind themselves to the outcome.

Having settled upon a historical interpretation of the allocators' intentions, the negotiators should make any indicated adjustments in the list of synonyms. All of these historical agreements and conclusions should next be integrated into the concurrent efforts to determine the agreeable planimetric outline of the boundary region. Again, unless interests require reconstruction of the historic shoreline, a recent map should be used. In any case, the historical geographer's recommendations, together with any geomorphologist's report, must be combined with the agreements of the negotiators into a composite historical recommendation (Table 2) and inserted in the legal negotiation sequence (Table 1).

But negotiators should keep in mind that they will have to shift repeatedly between legal and historical aspects of the negotiation (Tables 1 and 2). Some facts from one topic will influence agreements concerning the other. Some concessions of a point in one area can be matched by concessions in the other.

*Possible subcommittees.* It may prove expeditious in a complicated negotiation for the negotiators to divide into subcommittees so that research can proceed simultaneously in more than one area. The president should preside over each separate meeting of each subcommittee, and he should make certain that a clear record is kept of any tentative agreements reached. These tentative agreements should be approved by the whole conference, the chairmen speaking for each parish committee.

The parish attorneys and the president might form a subcommittee to carry out the research for the legal negotiation sequence. The parish engineers and the president might form a subcommittee to carry out research on the planimetric outlines to be used. And the police juror chairmen and the president might carry out the research required to interpret the language of the allocation document. Yet the findings of each subcommittee must be convincing to the others and will be needed at various points in the work of other subcommittees. Coordination of the various activities depends upon the president; approval depends upon the whole conference.

*Interim agreements.* In keeping with the idea of going as far as possible by means of amicable agreement, the president should at every reasonable opportunity put interim agreements before the negotiators and seek to have the chairmen sign these agreements as truly and fairly recording such partial agreements. Such agreements have no force, but they permit the president, in the event that progress ceases, to write a comprehensive statement of all elements settled up to that time. Such a partially completed boundary determination could be accepted by either the respective police juries or by the court subsequently trying the case.

*Final agreement.* The president should prepare the final agreement incorporating his previously prepared description of the boundary and the report of the designated engineer of his demarcation of the boundary. Copies of this final agreement should be sent to the chairmen for their assent. Then the president should have as many copies made as the chairmen require, and the copies should then be signed by all negotiators. The chairmen can then deliver the agreement to their police juries for the final action.



PART II  
CASE HISTORIES



### 3

## The Pontchartrain Basin

The Pontchartrain Basin is a low, nearly flat tract through which flow the waters draining from the low, alluvial ridge along the left (east) bank of the Mississippi and from the southwardly draining Florida Parishes. Drainage flows from west to east through Lakes Maurepas, Pontchartrain, and Borgne. Three Florida Parishes (Livingston, Tangipahoa, and St. Tammany) share the northern slopes of the Pontchartrain Basin. Five parishes of the Isle of Orleans (St. John the Baptist, St. Charles, Jefferson, Orleans, and St. Bernard) share the southern shores of the basin. Each of these eight parishes can be expected to exert reasonable claims over parts of one or two of these three lakes; as it turns out seven of them have strong claims under the laws of Louisiana.

Although these three water bodies were once international water, they are presently wholly within the internal waters of the United States; for that reason, they are also wholly allocated to state territory. The three lakes, except for a very small part of Lake Borgne that belongs to Mississippi, lie wholly within the state of Louisiana; as such, under the principle that every part of Louisiana is assigned to some parish,<sup>1</sup> the three lakes are utterly embraced within such parishes as the legislature has designated. No part of these three lakes, except that part assigned to Mississippi, lies outside parish jurisdiction.

Owing to particular geomorphic events long before historic time, the three lakes are remarkably flat-bottomed. No clearly discernible channels mark the water passage from the Amite and Blind rivers to the Gulf of Mexico, except the channel, known as Pass Manchac, between Lakes Maurepas and Pontchartrain and the channel, known as The Rigolets, between Lakes Pontchartrain and Borgne.<sup>2</sup> There are small extensions of river channels (thalwegs) into the lakes, and where these conveniently coincide with boundary locations, they should be followed into the respective lakes. But across the main bodies of these lakes there are no natural channels and, hence, no natural guides to drawing boundaries "through" the lakes. These remarkably flat-bottomed lakes must be divided among the entitled, adjoining parishes according to another principle. A principle that applies to one applies to all three lakes equally, yet each Pontchartrain-Basin parish is unique in its historic status and its claim to the lakes.

The allocation of the basin began in 1763, and the subsequent boundary developments must all begin from that date. The lake boundaries of all parishes that share the basin emerge through a series of territorial additions and subtractions indexed to that first determination of 1763. On account of their sharing in this historic boundary, as well as their sharing a fairly coherent natural region, the three

es and eight parishes of the Ponchartrain Basin must be treated  
ether.

### Historical Background

Out of a background of vague and conflicting claims among the  
ernments of Spain, France, and Great Britain, the first allocation of  
Ponchartrain Basin emerged. On February 10, 1763, at the end of  
French and Indian (Seven Years) War, the British government exacted  
Treaty of Paris, which allocated all of North America east of the  
Mississippi and north of the Ponchartrain Basin to British domain. The  
eated French government had in 1762 ceded to Spain all of Louisiana  
t of the Mississippi and the land south of the basin (the "Isle of  
eans"). The Treaty of Paris determined that the boundary between  
tish West Florida and the Spanish Isle of Orleans would run through  
middle of the "river Iberville" (Bayou Manchac and the lower Amite  
er) and through the middle "of the Lakes Maurepas and Ponchartrain,  
the sea."<sup>3</sup> Although this boundary was never surveyed and monumented  
a mutually agreeable fashion, the governments of Spain and Great  
tain and their colonial agents and subjects exercised domain largely  
conformity to the allocation of the Treaty of 1763 (Fig. 3).

There can be no doubt that the terms of the treaty were accepted  
enforced. Both governments issued land titles, founded settlements,  
built forts up to the boundary at various points along its course.<sup>4</sup>  
h powers exercised jurisdiction in nominal accordance with the treaty  
il August 1779, when the Spanish governor attacked British West  
rida, eventually adding that region to Spanish domain. At this time,  
Isle of Orleans was held by Spain under a cession from France, but  
t Florida was held as an additional territory by right of conquest.  
the Spanish government, these were two different territories.

On October 1, 1800, in the Treaty of San Ildefonso, the Spanish  
ernment retroceded Louisiana, including the Isle of Orleans, to  
nce. Because West Florida remained under Spanish dominion, the  
toric boundary of 1763 remained in force. When, on May 2, 1803, the  
ted States purchased Louisiana and the Isle of Orleans, the Spanish  
remained in possession of West Florida, a jurisdiction that remained  
force until September 1810, when the settlers declared the indepen-  
ce of the province--and eventually, the republic--of West Florida.  
government of the Republic of West Florida apparently accepted and  
ed in terms of the boundary described in the Treaty of 1763.

On December 10, 1810, acting on a proclamation of President James  
ison, Governor W. C. C. Claiborne of the US Territory of Orleans  
upied the new republic, declaring all Spanish West Florida west of  
Pearl River to be the County of Feliciana. Part of this county was  
ided into the parishes of Feliciana, East Baton Rouge, St. Helena,  
St. Tammany, the "Florida Parishes."<sup>5</sup> In thus conforming to the  
tish and Spanish claims, the United States, in effect, recognized the  
ndary of 1763. Further recognition devolved from Spanish and British  
tests against the American occupation.

Under the US Constitution, a state's boundaries cannot be changed by the federal government without consent of the states concerned.<sup>6</sup> Occupied West Florida was offered by the United States to the government of Louisiana; the offer was first refused, then later accepted, the refusal constituting a tacit recognition by the state of the 1763 boundary. Louisiana again recognized that boundary in the Constitution of 1812,<sup>7</sup> as did the US Congress by the subsequent Act of Annexation of the State.<sup>8</sup> In these declarations, the "middle of lakes Maurepas and Pontchartrain" are no longer treated as an international boundary, but as one of the boundaries within the state of Louisiana. The Congressional Act of April 14, 1812, described this boundary as lying "along the middle of the Iberville, the river Amite, and the lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl River."<sup>9</sup> This description was subsequently adopted by a resolution of the Louisiana legislature.<sup>10</sup> Thus, the boundary of 1763 is the boundary of the parishes initially created from the territory of the former Republic of West Florida. This interpretation of the continuing force and validity of the boundary of 1763 has been upheld by the courts of Louisiana.<sup>11</sup>

#### The Parish Boundaries in Lakes Maurepas and Pontchartrain

From the beginning of parish formation in the Pontchartrain Basin, the Florida Parishes have been more clearly delineated than the parishes along the Mississippi. But because the boundary of 1763 unequivocally described the lakes boundary as running from west to east and leaving all parishes to begin (or end) with reference to that line, we can treat the north-shore parishes first and the south-shore parishes next.

*Livingston Parish.* By legislative acts,<sup>12</sup> Livingston Parish was created in 1832 entirely from the southern portion of St. Helena Parish, one of the original parishes formed in 1810 within the County of Feliciana (Fig. 3). Because the southern boundary of St. Helena Parish coincided with the southern boundary of the County of Feliciana, the southern boundary of Livingston Parish had to be the boundary of 1763; that is, it ran along that line through the middle of the Amite River, Lake Maurepas, from Pass Manchac and Lake Pontchartrain as far as the territory of St. Tammany (Fig. 4). Because Livingston Parish is the successor in the basin to St. Helena Parish, the common boundary between Livingston and St. Tammany in Lake Pontchartrain must be the same as that between St. Helena and St. Tammany prior to the Act of 1832. Because St. Helena and St. Tammany extended to the Tangipahoa River and from the mouth of that river into the lake, the boundary between Livingston and St. Tammany parishes must extend in 1832 from the mouth of the Tangipahoa into the lake. In the absence of any expression of legislative intention to place the boundary elsewhere and lacking any bilateral agreement between the parishes, the median-line method should be followed (ZE).

In 1850, that former part of Ascension Parish bordering the western shore of Lake Maurepas and known as "Maurepas Island" was annexed to Livingston Parish.<sup>13</sup> The description of Maurepas Island in the Act of 1850 declared its eastern boundary to be Lake Maurepas (Fig. 4). In the

absence of explicit legislative statement that the boundary should be the bank or shore, and because Ascension Parish can be presumed to have extended to the line of 1763, it seems reasonable to place the boundary in the middle of Lake Maurepas. Thus in 1850, the shores of Lake Maurepas and, by reasonable extension, the lake itself, were embraced entirely within Livingston Parish and its counterpart on the Isle of Orleans, St. John the Baptist Parish. A median line (AB on Fig. 4) drawn from the mouth of the thalweg of Blind River (the southern boundary of Maurepas Island) to the head of the thalweg of Pass Manchac seems to divide the jurisdictions of these two parishes equitably.

After the annexation of Maurepas Island, Livingston Parish was reduced in size by the creation of Tangipahoa Parish, in part, from the eastern portion of Livingston Parish.

*Tangipahoa Parish.* The adjacent parts of Livingston, St. Helena, St. Tammany, and Washington parishes were joined by legislative act in 1869.<sup>14</sup> Section 2 of that Act establishes the boundaries of Tangipahoa Parish:

...that the said parish of Tangipahoa shall be completed of all territory of said four parishes comprised *within the following boundaries*, to wit: ...along the upper bank of the Tickfaw River where it empties into Lake Maurepas; thence along the *upper shore* of Lake Maurepas to Pass Manchac; thence eastward along the *upper shore* of Pass Manchac to Lake Pontchartrain, thence eastward along the *upper shore* of Lake Pontchartrain, to the point where it is intersected by the meridian line dividing ranges nine and ten (east); thence north on said line. [Italics added.]

If the legislators accurately stated their intent, Tangipahoa Parish boundaries do not extend into Lake Maurepas, Pass Manchac, or Lake Pontchartrain, but lie, instead, along the respective shores.

Recalling that, before the passage of this Act of 1869, Livingston and St. Tammany parishes shared a common boundary (ZE) running from the mouth of the Tangipahoa River into the lake to the boundary of 1763, this explicit placement of the southern boundary of Tangipahoa Parish along the "upper shore" of the lake route to the gulf produces a seemingly unreasonable consequence. After we subtract the territory of Tangipahoa Parish from the areas of Livingston and St. Tammany parishes under a strict reading of the law, the two antecedent parishes remain in possession of the lake area immediately adjacent to Tangipahoa Parish. The jurisdiction of Livingston Parish extends through the northern half of Pass Manchac and thence through Lake Pontchartrain to the mouth of the Tangipahoa River (Z) where it meets the jurisdiction of St. Tammany Parish. The two still hold the portions of Lake Pontchartrain that they held before the Act of 1869 that created Tangipahoa Parish; that is, all of that lake north of the boundary of 1763.

*St. Tammany Parish.* One of the parishes originally created out of the County of Feliciana was St. Tammany.<sup>15</sup> That parish originally

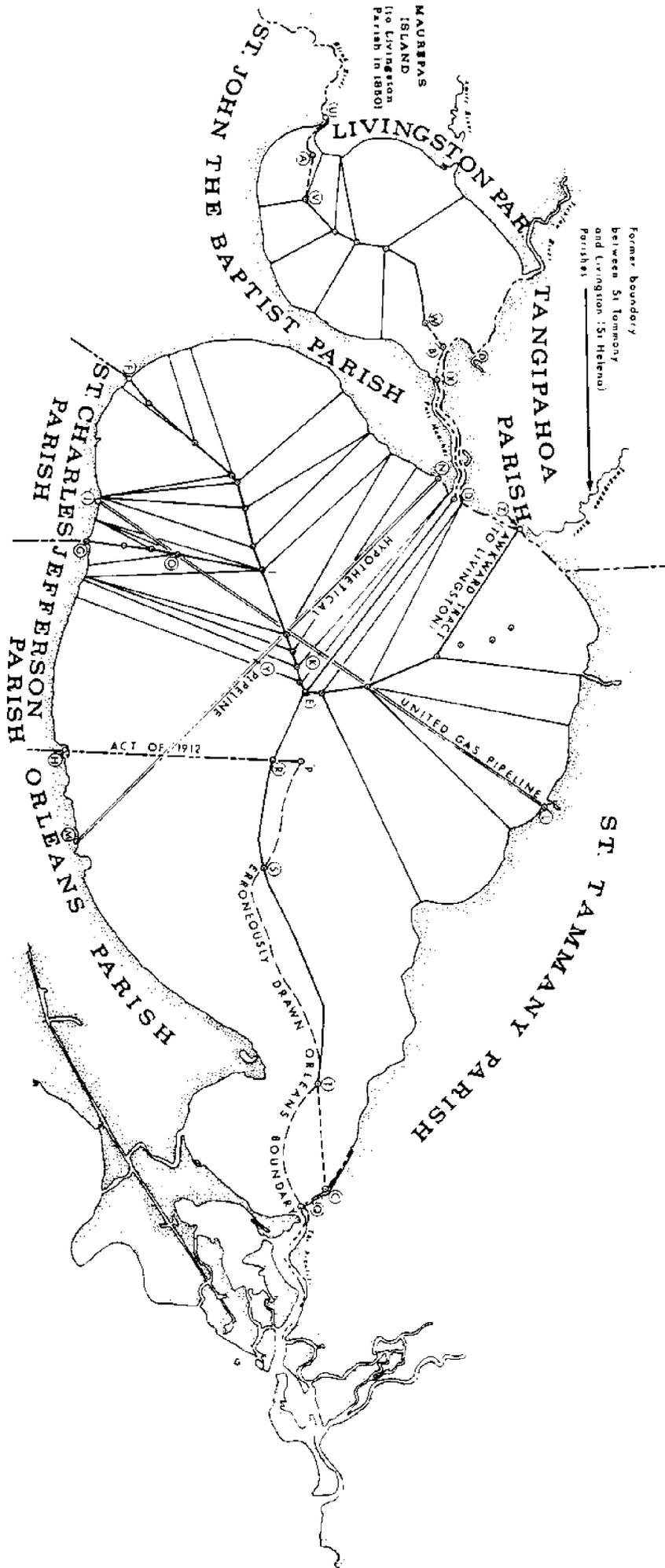


Fig. 3. The opposite boundary between West Florida and Louisiana under the terms of the Treaty of Paris of 1763, reconstructed by means of the Boggs median-line technique.

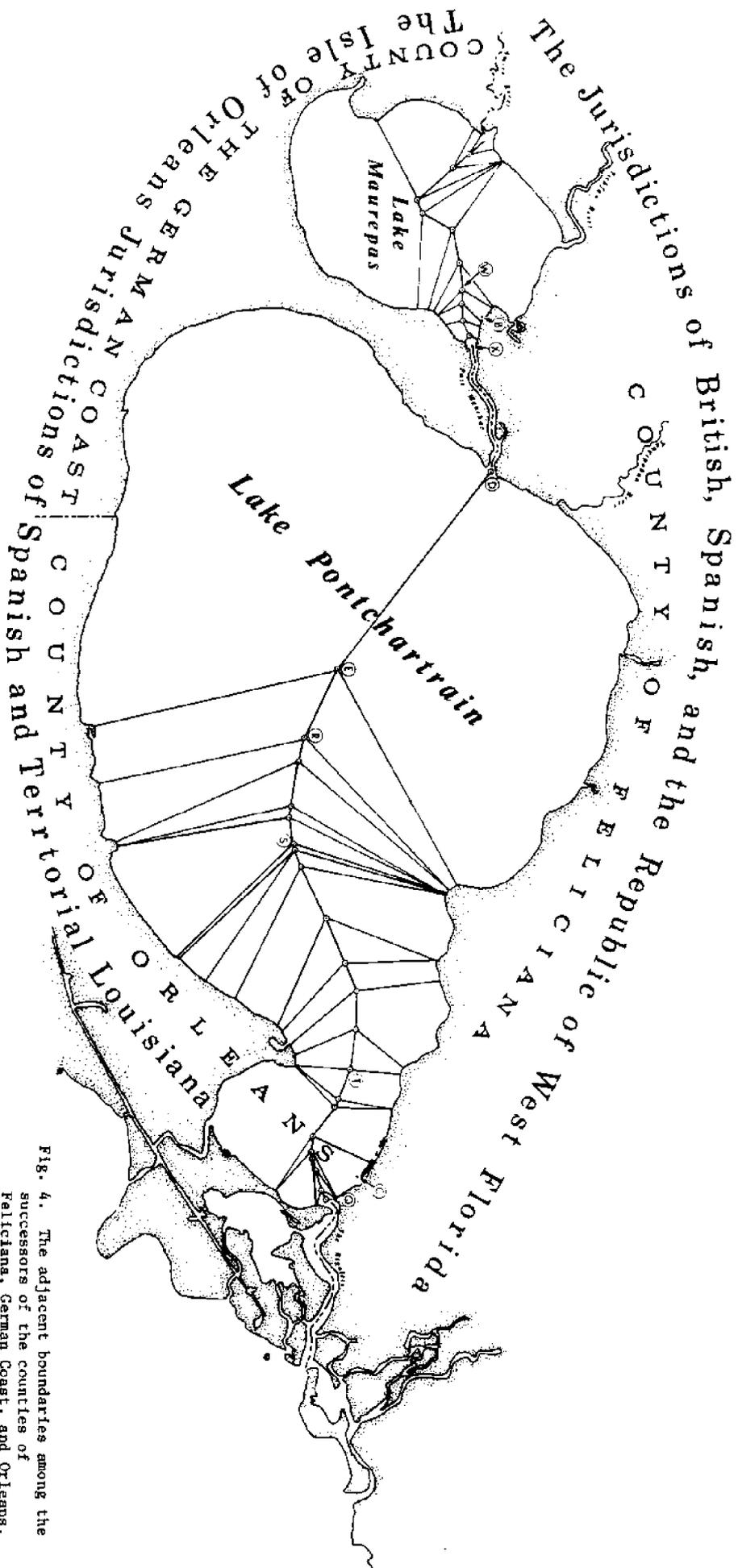


Fig. 4. The adjacent boundaries among the successors of the counties of Feliciana, German Coast, and Orleans, constructed by means of the Boggs median-line technique.

occupied the entire eastern end of the original county; that is, all of the former Republic of West Florida lying between the Tangipahoa and the Pearl rivers and lying between the present state boundary along the 31st parallel of latitude and the boundary of 1763. As an original successor of the County of Feliciana, St. Tammany Parish extends to the middle of Lake Pontchartrain, an interpretation upheld in Louisiana jurisprudence.<sup>16</sup> The jurisdiction of St. Tammany Parish, further, extends through the north half of The Rigolets, following the thalweg into Lake Borgne. Following the median line, St. Tammany Parish divides Lake Borgne with St. Bernard Parish because the boundary of 1763 extends through that lake to the sea (Mississippi Sound).

*St. John the Baptist Parish.* In 1807, the County of German Coast was divided between the parishes of St. John the Baptist and St. Charles.<sup>17</sup> At the time of creation of these parishes, the principal concern was with the boundaries separating parishes where they met along the Mississippi, where nearly all inhabitants lived. Extension of these boundaries toward the "back," into the largely uninhabited swamps and marshes of the Pontchartrain Basin, was not directly considered. But, because the Florida Parishes have an uninterrupted claim to the part of the basin lying north of the median line of 1763 and because no part of Louisiana fails to be included in some parish,<sup>18</sup> we must presume that St. John the Baptist Parish boundaries extended into the middles of the lakes.

Because Livingston Parish is the successor on Maurepas Island to Ascension Parish, St. John the Baptist Parish extends to the middle of the Petit Amite and lower Blind rivers. St. John the Baptist Parish must also extend along the land surface until it meets the median line of 1763; that takes the jurisdiction of that parish to the middle of Pass Manchac (BD).<sup>19</sup> These extensions leave St. John the Baptist Parish in possession of the southern and eastern shores of Lake Maurepas. A median line (AB) from the mouth of the thalweg of Blind River to the head of the thalweg of Pass Manchac, then, divides Lake Maurepas between the jurisdictions of Livingston and St. John the Baptist parishes. The median line is appropriate insofar as there is no distinct channel between Blind River and Pass Manchac.

The extension of St. John the Baptist Parish northward to Pass Manchac also leaves that parish in possession of the southwest shore of Lake Pontchartrain, and the parish jurisdiction extends, simultaneously with that of St. Charles Parish, to the middle of the lake. The maximum possible extension of St. John the Baptist Parish into Lake Pontchartrain is to the boundary of 1763. Because the legislative description of the lower (east) boundary of that parish does not specify how the boundary must be extended from its land terminus on the southern shore, the median line should be used in the trial delineation of its mutual boundary (FE) with St. Charles and Jefferson parishes, running into the lake as far as the median line of 1763.

*St. Charles Parish.* The other successor to the County of the German Coast, St. Charles Parish,<sup>20</sup> embraces all of the remainder of the area of that county in Lake Pontchartrain (GIEDF). The extent of the County of the German Coast into the lake is determined by the simultaneous extension of that county's jurisdiction and that of the

County of Orleans, and in the absence of an expression of legislative will as to how to extend that boundary, the median line applies (GIE). On account of the locations of the land ends of the boundaries of St. Charles Parish (F and G) and because of the particular shape of the lake, St. Charles Parish has become the successor to a rather small tract of the lake (FGI). (The lakeward extent of St. Charles Parish has been the subject of court decision,<sup>21</sup> but as will be shown below, the terms of that decision do not admit of unambiguous implementation and, hence, cannot stand.)

*Orleans Parish.* In 1805, the County of Orleans was created,<sup>22</sup> taking the remainder of the south shore of Lake Pontchartrain not embraced within the two parishes of the County of the German Coast. This shore area was more particularly placed in a subdivision of that county and designated Orleans Parish, and described as bounded on the north by Lake Pontchartrain.<sup>23</sup> Again, since all of the state is presumed to lie within parishes, Orleans Parish extended to the median line of 1763. In 1805, then, all of the lake south of the median line lay within the Orleans and German Coast counties and their successor parishes. In 1882 and after Jefferson Parish had been subtracted from the territory of Orleans Parish, a legislative act described the northern boundary of Orleans Parish as running "along the shores" of Lake Pontchartrain.<sup>24</sup> Such an allocation left a stretch of state waters either outside parish jurisdiction or falling to the jurisdiction of one of the adjacent parishes, such as Jefferson or St. Tammany. However, a legislative act of 1912,<sup>25</sup> reestablished the northern boundary of Orleans Parish in the middle of Lake Pontchartrain. The legislature further stipulated that the upper (western) land boundary be extended to the middle of the lake (HR), thus removing any need to use the median-line method of extending the Orleans-Jefferson boundary (and, it might be added, enlarging the jurisdiction of Jefferson Parish over what it would be under the median-line method).

Official Louisiana and USGS maps delineate a northern boundary for Orleans Parish (RSTQ in Fig. 4) that departs notably (and to the disadvantage of Orleans Parish) from the median line of 1763 (RSQT in Fig. 3). In the absence of any positive authorization or bilateral agreement justifying this specific line, it cannot stand, as will be seen below.

*Jefferson Parish.* As the other south-shore successor to the County and Parish of Orleans, Jefferson Parish embraces the remainder of Lake Pontchartrain between St. Charles and Orleans parishes out to the boundary of 1763. Jefferson Parish was created in 1825 out of the Third Senatorial District of Orleans Parish.<sup>26</sup> Because Orleans Parish extended in 1825 to the median line of 1763 and because there is no mention of Jefferson Parish's northern boundary lying along the shore, that parish extends, simultaneously with Orleans, St. Charles, and St. John the Baptist parishes, to the middle of the lake.

### Consequences

Following various legislative and judicial expressions of parish boundaries through Lakes Maurepas and Pontchartrain, a median line can

effectively be used for accurate delineation of the allocation of boundaries stipulated in the Treaty of Paris of 1763, still in force. However, there exists some awkwardness in the area of Lake Pontchartrain remaining under the jurisdiction of Livingston and St. Tammany parishes and lying off the shore of Tangipahoa Parish (Fig. 4). The apportionment of this area is largely contingent upon the interpretation granted to the legislative act of 1869 creating Tangipahoa Parish. If the legislature can be presumed to have intended Tangipahoa Parish to end at the shore, then the area in question would be divided between Livingston and St. Tammany parishes, following the former boundary between those parishes that extends from the mouth of the Tangipahoa River. The result appears somewhat bizarre because the territorial jurisdiction of Livingston Parish would extend through the northern half of Pass Manchac and include a portion of Lake Pontchartrain that is no longer adjacent to the land jurisdiction of Livingston Parish. Interestingly enough, an opinion of the Louisiana Attorney-General,<sup>27</sup> concerning the boundary between Tangipahoa and St. John the Baptist parishes granted Pass Manchac to neither parish but talked in language of *to* Pass Manchac (for Tangipahoa) and *from* Pass Manchac (for St. John the Baptist). If the 1869 act is to be loosely interpreted, then Tangipahoa Parish could gain jurisdiction over part or all of the "awkward tract" (DEZ). In that case and upon the same reasoning, Tangipahoa could also claim a portion of Lake Maurepas from Livingston Parish.

That such loose interpretation (if indeed the law was consulted at all) seems natural and reasonable to some can be seen on a USGS map published in 1968. On the Pontchatoula SE 7 1/2', 1968 (photo revised 1972) topographic quadrangle, Tangipahoa Parish is shown as embracing the northern half of Pass Manchac and an area bounded on the southwest by a line from the thalweg of Pass Manchac to the intersection of extensions of the two boundaries of St. Charles Parish. There is no known authorization for such a delineation. The extension of St. Charles Parish boundaries into Lake Pontchartrain has not been stipulated by any known authority, nor does any known authority grant Tangipahoa Parish the northern half of Pass Manchac. The USGS cartographers, apparently having despaired of progress in parish boundary drawing, merely guessed at the line's location and carefully marked each one "Indefinite Boundary." But the confusion is easy to come by. On a map (Fig. 5) to accompany an unsuccessful attempt to set the boundary between Jefferson and St. Charles parishes,<sup>28</sup> engineers also extended the boundaries of St. Charles Parish into the lake to their intersection. To that point, they drew a line from the mouth of Pass Manchac, and from the intersection, then extended an "axis line" east-southeast well past an extension of the Jefferson Parish boundary with Orleans Parish. They also extended Tangipahoa Parish jurisdiction into the lake, to this "axis line."

To add further to the complexity of the boundaries in Lake Pontchartrain, a Louisiana Supreme Court decision in *United Gas Pipeline Co. v. Moise*,<sup>27</sup> allocated revenues from a pipeline extending across the lake and across the awkward tract (DEZ) between the shores of St. Tammany and St. Charles parishes. The suit and judgment excluded consideration of other parishes which seem certainly to have had claims to the area, but which were apparently ignorant of their interests in the litigation.

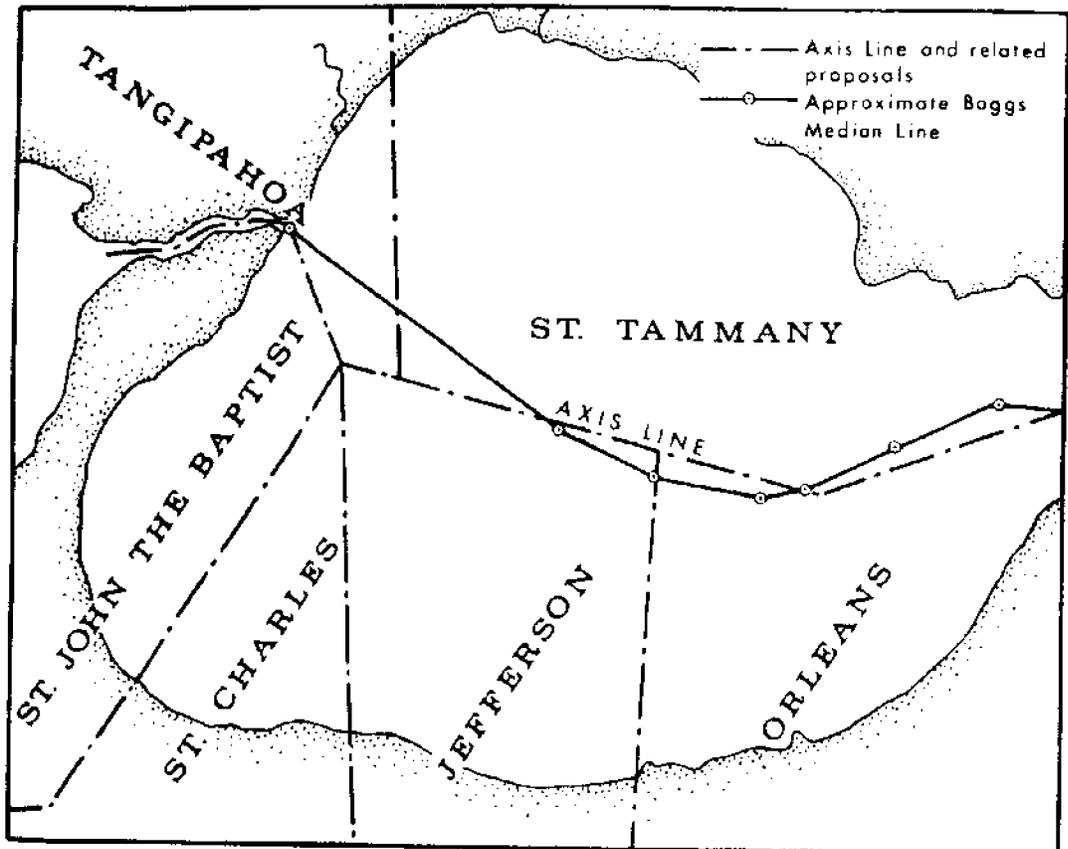


Fig. 5. An unacceptable solution to the Lake Pontchartrain boundary problem.

But this pipeline (JL), belonging to United Gas Pipe Line Co., provides an excellent test of the consequences of dividing Lake Pontchartrain in one way, as opposed to other means of dividing it. Justice Hamiter, writing for the court, held (correctly, we believe) "that the boundaries of the parishes of St. Tammany and St. Charles extend to the middle of Lake Pontchartrain." Such a holding is inescapable in the light of either the excellent review written by Justice Hamiter or the considerations included herein. Yet, in 1952 when Justice Hamiter wrote for the court, S. Whittemore Boggs had long since shown that one cannot determine the "middle" of a lake by beginning from the shore.<sup>30</sup>

It seems reasonable enough that, if both St. Tammany and St. Charles parishes extend to the middle of the lake, we could measure the pipeline and divide it in two, leaving one-half (JK) in the jurisdiction of St. Charles Parish and one-half (KL) in that of St. Tammany Parish. But suppose that another pipeline ran from the northwest shore (N) to New Orleans (M), and suppose that it were divided at the half-way mark (Y), following the same practice. Then, under this hypothetical case, St. John the Baptist Parish would have taxing authority falling east of part of the United Gas pipeline previously allotted by the court to St.

Charles Parish, an awkward situation indeed. Quite obviously, the jurisdictions of two equivalent political units cannot interpenetrate each other on the whimsical basis that they have half of the jurisdiction over any man-made features originating on their shores. As Boggs pointed out, that is a "landsman's" point of view, and under it no unambiguous solution can be reached.

Another attempt to set the lake boundaries of St. Charles Parish can be seen in the USGS Bonnet Carre 15', 1969, topographic quadrangle. Government cartographers, perhaps impatient for the delimitation of the 162-year-old parish, merely extended the land boundaries until they intersected in the lake. Then, perhaps with an eye to tidiness, they also caused the wholly imaginary St. John the Baptist-Tangipahoa boundary to originate at this intersection, whence it bears about 15 degrees west of north to the thalweg of Pass Manchac. Such a solution is intolerable because it gives Tangipahoa Parish a lake surface not allotted under the relevant act, because it allows the successors of the County of Feliciana to extend beyond the median line of 1763, because it allows a successor to the County and Parish of Orleans an improbably large section of the lake, and because it radically reduces the seemingly legitimate claims of St. John the Baptist Parish. In any case, the USGS again carefully cautioned: "Indefinite Boundary."

Boggs consistently and rather successfully urged the "seaman's" point of view: To determine the jurisdiction over any point in the waters, simply determine which is the nearest land jurisdiction. Thus, for example, from the middle (K) of the United Gas pipeline in Lake Pontchartrain, the nearest land is St. John the Baptist Parish. Even if there had been only two jurisdictions, as in fact there were between 1763 and 1779 and between 1800 and 1810, the "middle" of the pipeline would have fallen a little northeast of the half-way mark; it would have been, and in fact seems still to be, exactly where the pipeline crosses the boundary of 1763. Thus, if we take the waterman's point of view and measure to the nearest land jurisdiction as we progress from point to point along the pipeline (JL), we find a point where the pipeline is equally close to two parishes; that point (O) is the boundary between St. Charles and Jefferson parishes (GI). This boundary shortens the share of the pipeline lying within the jurisdiction of St. Charles Parish from one-half to less than one-fifth of the total lake route of the pipeline (Table 3).

The reduction of the share allotted to St. Charles Parish comes about, perhaps unexpectedly, because the claims of all adjacent shoreline parishes must be exerted simultaneously. Such was made clear by the hypothetical pipeline (NM); the half-way mark would fall well within what is clearly the jurisdiction of Jefferson Parish and east of what, under United Gas Pipe Line Co. v. Moise, was supposed to be the jurisdiction of St. Charles Parish. In other words, "middle" seen from the shoreline of St. John the Baptist Parish conflicts with the "middle" as seen from both St. Charles and Jefferson parishes.

As Boggs conclusively showed, the only way to remove the ambiguity of such phrases as "to the middle" is by use of the median line.

Table 3. Approximate reapportionment of the United Gas Pipeline in Lake Pontchartrain among the several parishes bordering the lake.

Parish	Percent of the total length (approximate)
St. Charles	18.11
St. John the Baptist	11.02
Livingston	7.88
St. Tammany	39.37
Jefferson	23.62
Total	100.00

These determinations, taken from measurements of the USGS 1:250,000 Baton Rouge map, are merely indicative. Accurate determination awaits the culmination of the entire boundary-drawing project for Lake Pontchartrain.

Another instance of landsman's ambiguity in Lake Pontchartrain boundaries can be seen in the common representations of the boundary of Orleans Parish (PSTQ, Fig. 4) running roughly east-west in the eastern part of the lake. The pertinent Act of 1912 described the boundary thus:

...and thence along the division line between the Parish of Orleans and the Parish of Jefferson to the south shore of Lake Pontchartrain, and thence to a point *in the middle* of Lake Pontchartrain on the projected said parish division line, and thence *along the center* of Lake Pontchartrain to *the center* of the Rigolets.... [Italics added.]

The legislative will is unequivocal with regard to the upper (western) boundary of Orleans Parish in the lake; it is the extension of the previously established boundary between Orleans and Jefferson parishes. The Boggs median line cannot be used here because an explicit expression of legislative intention holds otherwise in this instance. (Had the Act of 1912 not been passed, the upper line of a much larger Orleans Parish would have been HE, and five parishes would have met at E.) The ambiguity arises, however, when landsmen attempt to construe "in the middle," "along the center," and "to the center." The method used on common renderings, such as that of the USGS 1:250,000 Baton Rouge map, produces both overlapping jurisdiction (PRS) and a jurisdictional void (ST).

The circumspection of the USGS cartographers is, however, clearly shown on their Spanish Fort 15', 1967, topographic quadrangle, where

they appended the customary note, "Indefinite Boundary." On the 1953 edition, USGS had taken a remarkable further action by including reference to the act ostensibly authorizing their rendering of the boundary: "Corporate Limits of the City of New Orleans (Legislative Act 159 of Session 1912-1932)." But the Act of 1912 gives no clearer instructions for the east-west boundary than "thence along the center of Lake Pontchartrain."

The median line of 1763, the only line that is equidistant at every point from both the north and south shores, is thus the "middle" or "center" of the lake. But because the commonly portrayed northern boundary of Orleans Parish crosses the median line, there results a polygon of disputed waters (RPS); and because St. Tammany Parish jurisdiction ends at the median line, there results a polygon of extrajurisdictional waters (ST), an unpermissible consequence.

Neither of these instances of ignoring the treaty boundary of 1763 can be allowed because the consequences would be to cast a cloud on all boundaries in the Pontchartrain Basin. The resulting litigation would amount to a search for a principle for determining the "middle" or "center," and there is no other such principle than Boggs's median line, except the use of a mutually acceptable arbitrary line. But an agreement that capriciously sets aside the most equitable interpretation of "middle" along one boundary casts all other such boundaries adrift.

One remaining difficulty arises from a limited conflict between two boundary-drawing principles. The preferred location of a boundary said to lie in a "middle" is in the thalweg of a channel where such a thalweg exists; lacking such a thalweg (as well as valid "historic-waters" claims and antecedent bilateral agreements), the median line is preferred. In both Lake Maurepas and Lake Pontchartrain, arising from the Treaty of 1763 and from the allotment of Maurepas Island to Livingston Parish, the boundary enters the lakes by way of channels having thalwegs. Thus the boundary must follow those thalwegs, and where there is no channel (actually, most of each lake), the median line should be followed. Yet the median line does not coincide with the short thalwegs that exist in the lakes (UA, BX, and CQ). Therefore, some arbitrary, short, convenient lines that connect the thalwegs to the median line must be agreed upon or parts of the thalwegs must be conceded. Because both adjacent jurisdictions have interests and responsibilities in the channel of which the thalweg is a natural part, the shortest reasonable arbitrary connecting line should be used.

The thalweg of the mouth of Blind River can be connected by a short, straight line (AV) to the median line passing through Lake Maurepas. A similar line (WB) can connect the median line to the thalweg of Pass Manchac and to The Rigolets (TC). The negotiations concerning the lengths and orientations of these straight-line segments ought to be conducted by the adjacent parishes with the aim of easing the citizens' use of the water surface and the parishes' administrations of the lakes and adjacent lands.

## Report on the Lake Pontchartrain Boundary Committee

During the weeks that this report was being written and prepared for publication, the parishes sharing jurisdiction over Lakes Pontchartrain and Maurepas met to decide on a resolution of their boundaries.<sup>32</sup> Meetings were held on October 20, November 10, December 8, 1976, and March 23, 1977. By the third meeting, the basic principles pertaining to those two lakes and outlined in this study were accepted by the Lake Pontchartrain Committee. The concept of Boggs's median line was accepted as a "theory", and maps were ordered prepared on that basis. These maps will serve as the basis for further negotiation toward a precise delimitation of the parish boundaries.

The question repeatedly arose as to whether the parishes, acting jointly, have the power to set exact locations of their mutual boundaries. In all of these cases, the law is clear: the parishes are required to give tangible expression of legislative intent as it pertains to their boundaries. The parishes need not have recourse to any other authority, unless they cannot come to an agreement; in that event, they may elect to *continue* their efforts at delimitation in the courts. Legislative approval is not required, unless the parishes want to change an established boundary. (It is possible for the legislature to change or set anew the boundary, but such an act requires an election in the affected parishes.)

In the case of the Orleans-Jefferson boundary, the legislative intent is so exact as to leave almost no room for interpretation. These parishes have, furthermore, carried on public business in terms of that boundary, thus confirming it through common usage. The Livingston-Tangipahoa boundary is also explicitly and rather exactly stated by law, but usage seems to have ignored that act for well over a century. Because the Livingston-Tangipahoa boundary has not been consistently enforced and because it has never been the subject of joint agreement and survey, there seems to be a large space of negotiation available to the two parishes. They could agree to give the "awkward tract" (Fig. 4) and a narrow strip of Lake Maurepas to Tangipahoa Parish, while giving the balance of Lake Maurepas to Livingston Parish (less, of course, St. John the Baptist Parish's share of that lake). In such an agreement, the claim of acquiescence by Tangipahoa Parish would be placed beside the precise language of the legislative act that left all of its lake areas in Livingston Parish when Tangipahoa Parish was subtracted from the larger Livingston Parish. If the parishes came to such an agreement, they could claim that, there not having been a boundary agreement since the formation of Tangipahoa Parish in 1869, this agreement does not constitute a change of boundary and, therefore, does not require approval by the legislature under the Constitution of 1975. If, however, a court holds that such an agreement amounts to a change in a boundary, approval by the legislature and by the voters of the parishes will be required, or that court may order some other boundary that does not seem to the court to be a change.

Other than this serious problem, the Lake Pontchartrain Boundary Committee should also guide the formation of the other boundary agreements.

The most difficult of these promises to be the division of the southwestern sector among St. John the Baptist, St. Charles, and Jefferson parishes. Once the representatives of these parishes see that no clause of any act entitles one of these parishes to equal or proportional shares of the lake, they will be able to come to an amicable agreement. Representatives frequently feel that they are justified in urging a unilaterally conceived extension of their land boundaries; but the pertinent acts only stipulate that the line runs to the middle of the lake. If each parish extends simultaneously into the lake, a Boggs line results. Negotiated compensatory concessions should proceed from that set of median lines.

All of the work of the Lake Pontchartrain Boundary Committee hinges, of course, upon their acceptance of the treaty line of 1763, drawn by the Boggs method, and that concept has been accepted in principle. Final acceptance of that line settles the Orleans-St. Tammany, Jefferson-St. Tammany, St. John the Baptist-Tangipahoa, and St. John the Baptist-Livingston boundaries. Such an agreement also sets the stage for the other boundaries by establishing general assent to the Boggs line as the equitable basis of negotiation.

#### The Boundaries in Lake Borgne

The Louisiana portion of Lake Borgne is divided among Orleans, St. Tammany, and St. Bernard parishes. The boundary between Orleans and St. Bernard presents few difficulties, but the boundary between St. Tammany and St. Bernard presents a somewhat surprising figure when we apply the principles for drawing boundaries through water bodies lacking definite channels.

Between St. Tammany and St. Bernard parishes the boundary through Lake Borgne derives from the historic southern boundary of British, Spanish, and independent West Florida, under the Treaty of Paris of 1763. There being no recognizable thalweg after leaving the mouth of The Rigolets and subject to geomorphological and engineering studies, the boundary (BCDE in Fig. 6) is the line described in the Treaty of 1763 allocating lands to the jurisdictions of Great Britain (West Florida) and Spain (Louisiana and the Isle of Orleans). As a consequence, there is an area (BCDEFG in Lake Borgne, north of said boundary line) of potential dispute in view of the apparent current practice of treating much of it as part of St. Bernard Parish. The presumed mouth of the thalweg (B) of The Rigolets is the point of departure as established by the Treaty of 1763. The boundary should follow the median line to a point (C) equally distant from the St. Tammany and St. Bernard parish land areas and from the island (A) belonging to Orleans Parish and thence, by the same principle, to the intersection (E) of the median line between St. Tammany and St. Bernard parishes with the boundary of the state.<sup>33</sup>

Common practice shows the boundary as the southern shore of Pearl River Island (FG) as shown on USGS 1:250,000 Mobile. This delineation



seems to conform to present practice toward the "disputed" water area. However, the state map of 1952, for example, seems to cede that island, plus part of the lake, to St. Tammany Parish. This rendering more nearly follows the legal interpretation based upon strict reading of the Treaty of 1763 line. A similar depiction is portrayed by LaFourrette 1845, while USGS English Lookout 1968 shows the boundary as "indefinite," but lying in the midst of Lake Borgne.

One final remark is in order; although the Orleans Parish boundary has been legislatively determined as following the "main shore of Lake Borgne," all "islands within one marine league distance thereof" were to be included in Orleans Parish.<sup>34</sup> There is apparently only one such island (A); under the least presumptuous reading of those words, the island and the water area immediately between it and the main shore would be consigned to Orleans Parish. Except for this departure to include that island, the boundary between Orleans and St. Bernard parishes lies on the northwest shore of Lake Borgne, between The Rigollets and Bayou Mienvenu, closing intervening stream mouths by the most direct line. Thus the entire surface of Lake Borgne, except for the two areas described here, belongs to St. Bernard Parish.



## 4

# The Terre aux Boeufs Basin

Determining legislative intention with regard to the boundary between Plaquemines and St. Bernard parishes presents many difficulties, not the least of which arises from its lying in a changing landscape. Its general location in the area from Lake Lery to the gulf, through Breton Sound, lies between an old, deteriorating delta occupied by St. Bernard Parish and the present delta occupied by Plaquemines Parish. As such, the shapes and sizes of water bodies in the vicinity of the boundary have changed noticeably during historic time. The most consistent change occurs in the expansion and appearance of water bodies, causing deterioration of the land progressively toward the north and northwest. In the middle of this boundary zone, land losses have, particularly between Lake Lery and Black Bay, exceeded 200 acres per year during the past century.<sup>1</sup> Thus, the bayous, lakes, and bays along the boundary have increased in both size and number.

A further difficulty lies in the lateness of accurate mapping of the Black Bay region. Although Captain Catesby Graham (a US topographical engineer) produced a map in 1842 that showed Lake Lery separated from Black Bay by "Petit Lac," Bayou Long, and "L. Fazende," other commonly available maps showed Black Bay as extending over that whole distance. Bradford 1838 and Graham 1838, as well as LaTourrette 1845,<sup>2</sup> showed what is in essence a much larger Black Bay extending northwestward to include the area of Lake Petit.

The boundary between Plaquemines and St. Bernard parishes is rendered still more difficult to determine because of ambiguous expression of legislative will. The latest relevant enactment by the legislature, with reference to this boundary, occurred in 1842:<sup>3</sup> "...thence following the middle of Bayou Mandeville to the Lake Lery, thence to the southeast part of Lake Lery, thence running a line to the northeast part of Black Bay, and thence following the middle of Black Bay to the Chandeleur Bay." Following a very strict interpretation of the Act of 1842 results in the straight line (BC on Fig. 7) from the southeast tip of Lake Lery to some point (perhaps C) on the northeast shore of Black Bay.

In keeping with the doctrine that map makers of the pertinent time are more likely than we to know the legislature's will, historic maps must be consulted. The very strict interpretation (BC) conforms to the portrayals of the boundary on Morse and Breese 1842 and LaTourrette 1845. Such a delimitation, however, violates a persistent tendency of the legislature to place new boundaries through uninhabited marshes and swamps so as not to separate residents from their "natural" cohorts.







Because this simple, straight line (BC) twice crosses Bayou Terre aux Boeufs, it would capriciously assign residents to the two parishes.

Similarly, placing the line along the middle of Bayou Terre aux Boeufs would assign residents of opposite banks (see Powell 1847) to two different parishes. Those assigned to Plaquemines Parish would have to travel a great distance to reach the parish seat, while passing near the seat of St. Bernard Parish. Only rarely did the legislature run a parish boundary along an alluvial ridge, such as that along Bayou Terre aux Boeufs. Further, the legislature provided legislative redress for citizens inadvertently cut off from their preferred, natural areas by initial efforts to delimit parishes.<sup>4</sup>

More in keeping with legislative practice, Graham 1838 and Bradford 1838 show the boundary to lie a mile or so west of, and parallel to, Bayou Terre aux Boeufs. Graham 1838, more particularly, places the boundary, after running parallel to Bayou Terre aux Boeufs and east of Bayou Long, as entering what would today be called Lake Campo (C). In 1842, Catesby Graham corrected the shapes and distances in the relevant area, but he did not note any boundaries.

Maps of the period (such as Bradford 1838, Tanner 1840, Copley 184?, and Powell 1847) show Black Bay to head where Lake Petit is today. If Lake Petit was reckoned as the north or northwest part of Black Bay, then Lake Campo would fit in the terms "the northeast part of Black Bay." In that case, the boundary would be altered to conform more faithfully to the boundary as depicted by LaTourrette in 1845. Richardson and Powell 1848 show "Black Lake or Bay" to head between sections 24 and 32, T16S, R16E, and to be entered from the northwest by way of Dead Duck Pass.

The alternative to this approach is to follow the thread of Bayou Terre aux Boeufs from Lake Lery to Mozambique Point. Although the latter boundary is depicted on current maps--barring bilateral parish action--the former boundary more nearly adheres to the apparent will of the legislature.

If the 1842 boundary (reconstructed as BGHF) is maintained, then a line can be projected through Black Bay and Breton Sound following the median-line method and passing between Gosier Island and the Curlew Islands (F) and thence eastward to the line of the state. Exact delimitation of the median line depends, of course, upon determination by geomorphologists and engineers of precise limits of land and islands. What is today called "Breton Sound" was formerly known as "Chandeleur Bay,"<sup>5</sup> thus making reasonable the phrase, "thence following the middle of Black Bay to the Chandeleur Bay." Note that the point (F) at the juncture with the baseline, midway between Gosier Island and the Curlew Islands, divides those islands in conformity to the coloring of the lands pertaining to the respective parishes on LaTourrette 1845. And owing to the absence of any thalweg through Breton Sound, the median line provides the only equitable rendering of the crucial clause. And, pending acceptance by both parishes, the median line can be simplified (e.g., IF) in order to ease administration and use.<sup>6</sup>

One remaining water-boundary segment lies in Lake Lery. Again, the median line of Boggs (AB) provides the only equitable delimitation of the pertinent passage: "...following the middle of Bayou Mandeville to the Lake Lery, thence to the southeast part of Lake Lery...."<sup>7</sup> Yet, the present conception of the size, shape, orientation, and location of Lake Lery did not emerge until the making of Captain Graham's map of 1842; and because the act clarifying the boundary was passed in January 1842, it seems unlikely that the legislature could have intended by such words as "the southeast part of Lake Lery" what we would mean today by these same words. It is eminently probable that the legislators shared the conceptions of Lake Lery that can be seen on the maps of Tanner 1833, Graham and Tanner 1834, Graham 1838, Bradford 1838, and Tanner 1840, all popular and reputable map makers. All of these maps make it plausible to go from some vague point on the southeast shore of Lake Lery to some equally vague point on the northeast shore of a large Black Bay (as shown by Morse and Breese 1842) and to do so without crossing Bayou Terre aux Boeufs. Even Captain Graham's 1842 map leaves the appearance of being able to go from the south-central shore of Lake Lery to the north shore of Black Bay without crossing Bayou Terre aux Boeufs. Modern maps, however, show that a line between the southeast-most point in Lake Lery and some point (perhaps C or H) on the northeast shore of Black Bay must cross the bayou, contrary to the common practice in the legislature.<sup>8</sup>

Yet, we can follow the calls of the act to the southeast corner; thus, presumably, we must. For that reason and in the absence of a thalweg, the median line must, it seems, be followed.

With regard to connecting the median line (AB) through Lake Lery to the thalweg-and-median line (GHJKF) through small lakes and bayous to Black Bay, Breton Sound, and the gulf, some arbitrary device must be used. Some maps of the period (such as LaTourrette 1845) seem to have chosen Bayou Gentilly and a short segment of Bayou Terre aux Boeufs. Such a rendering would accord with the vague terms of the act; but so would an arbitrary, straight line from the narrowing of Lake Lery (B) to the upper end of Lake Petit (D). This arbitrary line (BD) has the additional advantage of conforming to the general practice of the legislature of running boundaries through uninhabited land between alluvial ridges. Powell 1850 shows that the Terre aux Boeufs ridge was inhabited.

Then, the line proposed here (ABDHJKF) fits the words of the law, maintains the spirit of legislation on the subject in general, is attested to in varying degrees by historic cartographers, follows the principles of good practice, and accords with the natural character of the lands and waters along the general route of the boundary.

## 5

# The Barataria Estuary

A vast, swamp-and-marsh lowland lying between the alluvial ridges of the Mississippi and Bayou Lafourche, the Barataria estuary is by and large a "low-energy" environment; that is, streams and lakes are unlikely to change size and shape on account of rapidly shifting streams. The upper segment from Lac des Allemands to the lands just south of Lake Salvador has kept the same shape since reasonably accurate mapping began in the mid-nineteenth century. The principal difficulty for boundary delimitation lies in discovering and delineating legislative will.

Below Lake Salvador, however, difficulties multiply on account of the progressive degradation of land areas in favor of encroaching lakes and widening bayous and bays. Barataria and Caminada bays, as well as many lakes lying between these bays and Lake Salvador, have enlarged notably during historic time. Some areas around Little Lake have lost land at rates exceeding 200 acres per year,<sup>1</sup> making it very difficult to determine even the base upon which to construe legislative intent.

### The Boundary through Lac des Allemands (Grand Lac des Allemands ou Lac Maçon)

The legislature clearly intended to allocate to St. John the Baptist Parish all of Lac des Allemands, except small strips given to Lafourche Parish along the southern shore, between the right bank of Bayou Chevreuil and the right bank of Bayou des Allemands,<sup>2</sup> and perhaps to St. Charles Parish along the eastern shore. The allocation is vague and subject to at least four interpretations, all of them meeting the requirements of the Act of 1824 (Fig. 8). The polygon of potential dispute embraces such a small area of such slight present importance that it could be settled amicably by accepting the rendering shown as USGS 1:250,000, Baton Rouge. That line follows the middle of the wider part of Bayou des Allemands, joining the right bank, according to the act, only where the channel of the bayou narrows (E). The lake can, reasonably, be closed more standardly by a line (DF) between the points where the lakeshore turns to become the bayou channel. To this right-bank point (D), either a straight or median line may be run from the mouth of Bayou Chevreuil (B). The differences among the several interpretations are of little consequence.

The Act of 1823 takes no cognizance of a notable widening of Bayou des Allemands, known as Little Lac des Allemands (B on Fig. 9). Nor does the act note Island of the Black Prince or Bayou Prince Noir, a left-bank fork of Bayou des Allemands. This lake, island, and fork bayou were clearly shown on Hughes's map of 1842, but the legislators

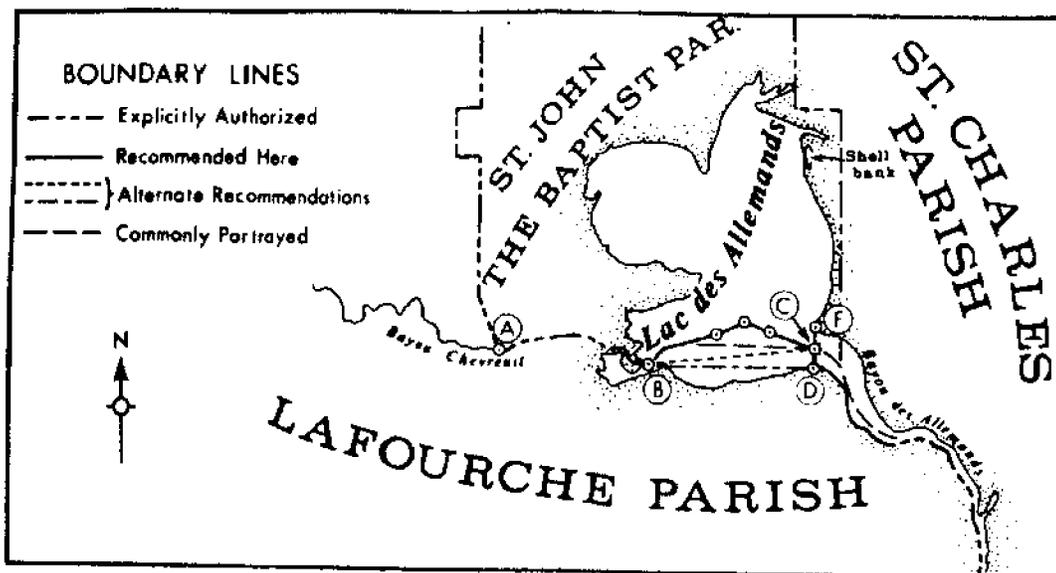


Fig. 8. The boundaries in and near Lake des Allemands.

could not have seen Hughes's map before passing their act in March of 1824. In any event and lacking authorization in law to depart from the right bank, the boundary between St. Charles and Lafourche parishes must remain on "the right [western] bank of Bayou des Allemands as far as grand lake Barataria" (i.e., Lake Salvador).<sup>4</sup>

Lake Salvador  
(Lac Périer ou Oaches, Lake Barataria, Lake Ouacha, Lake Washa)

Lake Salvador has been the subject of past misunderstanding and much variance in the drawing of parish boundaries in the area. From the presumed historic mouth (C) of Bayou des Allemands, there can be a line (CD on Fig. 9) drawn "from the mouth of Bayou des Allemands to the mouth of Bayou Pierrot" (D) in accordance with the Act of 1824.<sup>5</sup> However, the thalweg of Bayou des Allemands (CH) extends into Lake Salvador, as does the thalweg of Bayou Pierrot (GD). According to good practice, these channels must be followed by the boundary, unless explicit authority exists for deviating. Further, the thalweg of Bayou Bordeaux (PE) between Lakes Cataouatche and Salvador also extends into Lake Salvador. These three thalweg mouths could be connected by *straight* lines (EM and CD), or they could be connected by short, arbitrary lines (HI and GL) to median lines (EJ, JL, and JI) radiating from the one point (J) equidistant from all three jurisdictions (St. Charles, Jefferson, and Lafourche parishes). But the disposition of boundaries in Lake Salvador is integrally involved with the boundary in Lake Cataouatche and will be discussed further, below.

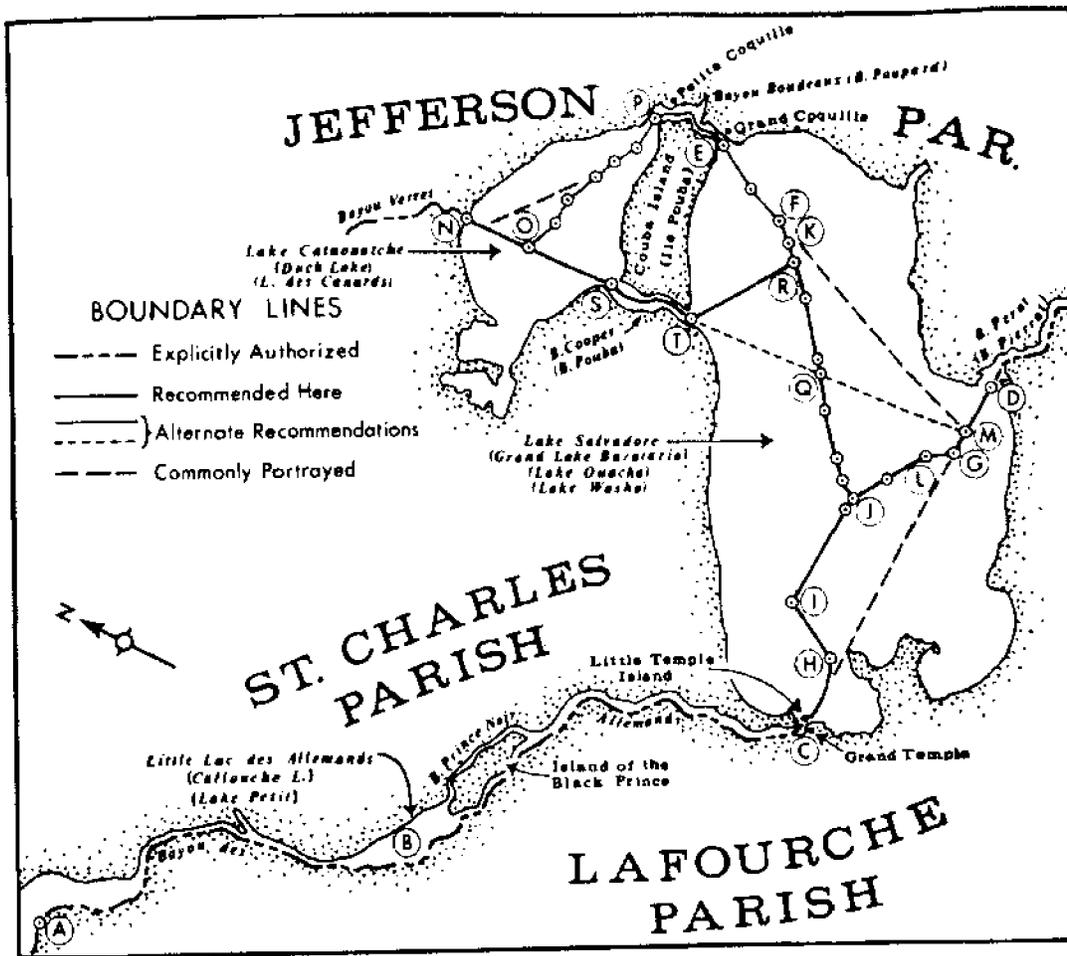


Fig. 9. The boundaries through Lakes Salvador and Cataouatche.

Lake Cataouatche  
(Lake Chou Ouacha, Baia Cataouachia, Duck Lake, Lac des Canards)

Problems emerge when attention is directed to adjacent Lake Cataouatche. Jefferson Parish, as successor to the upper boundary of Orleans Parish as described in 1805 by Act of Legislative Council,<sup>6</sup> includes Couba Island. This is the only specific reference that allocates Couba Island to any parish. Graham 1838 shows a boundary between St. Charles and Jefferson roughly from Bayou Verret (N), through Lake Cataouatche by a straight line (NOM), through a single outlet in the middle of the south shore of Lake Cataouatche and through Lake Salvador, to the head of Bayou Perot (M). Hughes 1842 shows Lake Cataouatche with both of its southern outlets, Bayou Poubas (Cooper, Couba) and Bayou Bordeaux. On account of Bayou Poubas's having the same historic name as Ile Poubas ("Bayou Couba Island; see Hauke 1856a,b) one might surmise that Bayou Poubas was the presumed principal outlet, as Graham 1838 shows and the Act of 1805 seems to imply. If Couba Island is consigned to Jefferson

Parish, the median line between Jefferson and St. Charles would have to be redetermined.

#### Lake Salvador and Lake Cataouatche, Together

Quite obviously, we have in Lakes Salvador and Cataouatche a complex, irregularly shaped water body into which three jurisdictions must, by rights, simultaneously press their territorial claims. Any two of them can settle their mutual boundaries only insofar as they do not impinge upon the just claims of the third. Yet such a pair cannot fully know the limit of the area under their merely bilateral jurisdiction without an accord with the third.

Lafourche Parish might cede to St. Charles and Jefferson parishes all claims to the southern polygon of potential dispute (CIJG) lying in the southern middle part of Lake Salvador, between the point (J) that is equidistant from all three shores and the commonly rendered, straight line (CD) from the mouth of Bayou des Allemands and the head of Bayou Perot. Such a straight line (CD) is, in fact, one possible fulfillment of the terms of the Act of 1824, "a line drawn from the mouth of Bayou des Allemands to the mouth of Bayou Pierrot." In that event, the problem of having a third party would be settled, and the remaining two, Jefferson and St. Charles parishes, could proceed to conjoint agreement over the remaining parts of the lakes. Yet, even this apparent simplification would require that Lafourche Parish's declaration of cession of claims not specify that either St. Charles or Jefferson be the recipient of the ceded claim. The as-yet-undetermined extent to which the jurisdictions of St. Charles and Jefferson parishes would divide the supposed straight-line, northern boundary of Lafourche Parish would require St. Charles Parish, at least, to reject any agreement in which Lafourche Parish ceded any part of the southern polygon of dispute to Jefferson Parish; the three parishes would be conjointly involved, even in the manner in which Lafourche Parish gave up its largest claim to part of Lake Salvador.

There still would remain in Lake Salvador a polygon of dispute involving all of the lake west of St. Charles Parish's most eastward claim (EM). Jefferson Parish has actually advanced claims over the entire surfaces of Lake Catahaouatche and Lake Salvador north of Lafourche Parish. Jefferson Parish has repeatedly pressed claims to Couba Island and at least to the middle of Bayou Cooper. Yet St. Charles Parish has consistently claimed Couba Island, the middle of Bayou Bordeaux, and the largest part of Lake Salvador.<sup>7</sup>

Under the principle that the beginning and ending points of a boundary through a lake must be settled before the boundary in the lake can be determined, the disposition of Lake Salvador is clearly conditional upon the allocation of Lake Cataouatche and Couba Island. The only explicit lake-margin allocation in this connection is the assignment of Couba Island to Jefferson Parish as successor to Orleans Parish. Yet Jefferson Parish's maximum claim to the western shores of the lakes lacks authorization, just as does St. Charles Parish's claim to Bayou

Bordeaux. Although early maps before Hughes 1842 present a confused conception of the size, shape, location, and orientation of Lake Cataouatche, at least since 1803, the basic character of Couba Island as an island has been known, at least to some. For that reason, it seems unreasonable to argue that the legislative council expressed its will inadequately. Thus, the legislative intent to allocate Couba Island to Orleans Parish and, through succession, to Jefferson Parish, places the boundary through the middle of Lake Cataouatche and Bayou Cooper (NT).

The placement of the boundary in Bayou Cooper gains further support under the principle that legislative will is more likely to have been understood by contemporaries of the act of allocation. Such maps as Darby 1816, Graham and Tanner 1834, Graham 1838, Bradford 1838, Morse and Breese 1842, and LaTourrette 1845 place the boundary between Jefferson and St. Charles parishes either in Bayou Cooper or in the western part of Lake Cataouatche. Hardee 1895, following Lockett 1872, places the boundary in Bayou Bordeaux. (Note that Hauke 1856b assigns the name "St. Katherine's River" to the lower part, running north-south, of Bayou Bordeaux; the name "Baie des Bardeaux" was applied to an upper, east-west, segment that joined "Bayou des Coquilles.")

If the parishes thus determine to place the boundary in Bayou Cooper, thus conforming to legislative intent and forming a compromise between the two maximum claims, they can next deal with the boundary through Lake Cataouatche. By happenstance, the straight line (NM) shown on early nineteenth-century maps lies very near the median line (NO). Simplicity and historic evidence seem to justify choice of a straight-line boundary from the mouth of Bayou Verret to the head of Bayou Cooper, although a strict median line could also be followed. The mouth of Bayou Cooper (T), then, would provide the beginning point for the boundary through Lake Salvador.

The two parishes, if they accept the boundary delineated thus far, have three reasonable choices in completing their mutual boundary over such of Lake Salvador as they hold bilateral jurisdiction. They may accept the straight-line boundary (NM) commonly shown on early nineteenth-century maps either as far as the median line (Q) or as far as the northern boundary of Lafourche Parish (M); or they may use the median line throughout their mutual boundary in the lake, which would involve a median line from the mouth of Bayou Cooper (Q) to where that line intersects the general median line (R) through the lake; or they could contrive some arbitrary line lacking any principle or precedent but their conjoint consent. We, of course, recommend the use of the median line (TRJ) wherever explicit authorization to the contrary and definite thalwegs are absent.

In the event that Lafourche Parish succeeds in claiming jurisdiction beyond its commonly rendered straight-line (NPEM) northern boundary and in the further event that all three parishes agree to the median-line technique, the point (J) where all three jurisdictions meet would be the point whence the three boundaries radiate.

Between Lake Salvador and Bay des Ilettes

Below Lake Salvador, the Barataria estuary is a region of rapidly enlarging lakes, bayous, and bays. As such, the shapes, sizes, and even positions of these water bodies are different from what they were in 1824 when the legislature placed this segment of the boundary between Lafourche and Jefferson parishes thus:

the right bank of Bayou Pierrot, the half of Petit lac des Canards, the half of the bayou which unites the last with Lake Rond, the half of Lake Rond, the half of the bayou by which the said lake is united to Lake des Islets....<sup>9</sup>

Whatever the intention of the legislature in this description (and even men of good will and competence might yet disagree), further discussion is rendered moot by joint parish action and by Louisiana Supreme Court confirmation (Fig. 10). In a landmark case, Justice Hamiter, writing for the court, confirmed that line, as

[C]ommencing at the junction of Lake Salvador and the right bank of Bayou Perot, and running along the right bank of Bayou Perot to its junction with the eastern shore of Little Lake, a distance of 15 miles; thence through the center of Little Lake to the center of Grand Bayou opposite Observation Stations Nos. 1 and 2, a further distance of 10.1 miles; thence with the center of Grand Bayou in a southeasterly direction to Hackberry Bay opposite U.S. Coast and Geodetic Survey Triangular Station "Ran" and Observation Station No. 15; thence in a southerly direction through Hackberry Bay

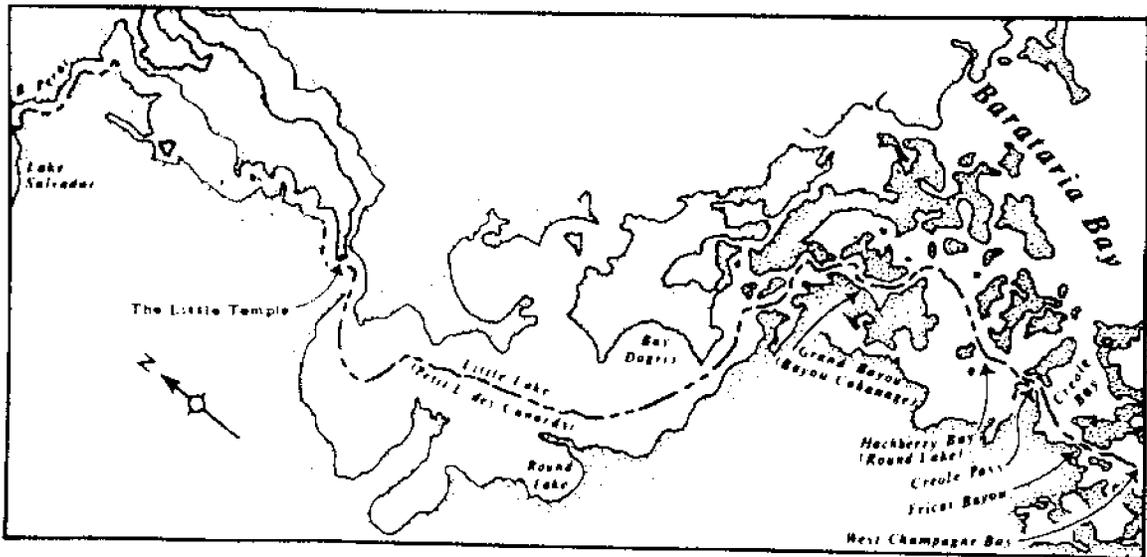


Fig. 10. The boundary from Lake Salvadore to West Champagne Bay.

to Creole Pass, opposite Observation Station No. 8; thence continuing through the center of Creole Pass to Creole Bay; thence crossing Creole Bay to Fricot Bayou; thence with the center of this bayou to the north shore of Bay Des Islettes opposite U.S. Coast and Geodetic Survey Triangular Station "Got," a further distance of 14.4 miles.<sup>10</sup>

Thus, 120 years after the relevant act, the boundary between Lafourche and Jefferson parishes was settled over the distance from Lake Salvador and the "north shore of Bay Des Islettes." Through that bay to the Gulf of Mexico, the dispute was remanded to the Seventeenth Judicial Court (Parish of Lafourche) where, however, no definitive settlement has resulted.

#### Bay des Ilettes to the Gulf

Having confirmed 39.5 miles of boundary southward of the head of Bayou Perot, the Supreme Court declared, concerning the remainder of the judgment of the District Court:

The judgment is also affirmed in so far as it recognizes Cheniere Caminada as being within and a part of the Parish of Jefferson, and it dismisses, as of non-suit, plaintiff's demand "for the judicial approval and adoption of that part of the Lovell survey that essays to locate and identify the actual limits of Cheniere Caminada."

In all other respects the judgment of the district court is reversed and set aside. And it is now ordered, adjudged and decreed that Grand Isle be recognized as constituting a part of and belonging to the Parish of Jefferson. Further, it is ordered that this case be remanded to the district court for additional proceedings in accordance with law and consistent with the views herein expressed.<sup>11</sup>

Thus, beyond recognizing as correct the placement of Cheniere Caminada and Grand Isle in Jefferson Parish, the Supreme Court of Louisiana declared the boundary below the north shore of Bay des Ilettes to be undetermined.

The Act of 1824 continued the eastern boundary of Lafourche Parish thus:

the bank of the Lake Des Islets as far as la Passe a Mondion, the half of the Passe a Mondion as far as the sea, including the Grande Isle....

The legislature, having in 1824 drawn the boundary through "Passe a Mondion to the sea, including the Grand isle," passed an amendment (an act to amend an act...) in 1827,

That until the boundaries of the parishes of Orleans, Jefferson and Lafourche shall have been particularly

defined by law, the island commonly called Grand Isle, shall make part of the parish of Jefferson.<sup>12</sup>

Then in 1830, the legislature declared that "the Chenier Caminado which was comprised within the limits of the parish of Orleans before the adoption of [the Act of 1824] be annexed to the parish of Jefferson."<sup>13</sup> Justice Hamiter summarized this turn of events by saying, "Hence, both Chenier Caminado and Grand Isle actually were a part of and belonged to Jefferson Parish in 1827, notwithstanding the boundary provisions of the Act of 1824."<sup>14</sup> Justice Hamiter seems to legislate here, because a more plausible interpretation of the acts of 1824, 1827, and 1830 runs thus: For whatever reasons, the Act of 1824 actually set Grand Isle and Chenier Caminado in Lafourche Parish. In 1827 and 1830, perhaps in response to petition for legislative redress, the legislature reassigned first Grand Isle, then Chenier Caminado, to Jefferson, but without redefining the boundary as delineated in the Act of 1824 (see, however, LaTourrette 1845). The justice seems to legislate, under this view, in two words: "actually...notwithstanding." The two laws cannot support these two words because the Act of 1827, following a conditional phrase ("until the boundaries...shall have been...") declared that Grand Isle "shall [i.e., a command to be fulfilled] make part of the parish of Jefferson," and in the Act of 1830, the legislature clearly said that Chenier Caminado was to be "annexed to the parish of Jefferson." The point is, admittedly, probably no longer at issue, but it seems clear enough: The legislature, first, completely removed Grand Isle and Chenier Caminado from Jefferson Parish and then restored them. Just in case this interpretation of these acts leaves any doubt on this point, the Act of 1824, it may be recalled, included two quite specific phrases in its description; the eastern boundary of Lafourche Parish:

...the half of the Passe a Mondion as far as the sea, including the Grand Ile, shall constitute the eastern boundary line of the parish of Lafourche Interior, *any law to the contrary notwithstanding.* [Italics added.]

Unless it can be shown that the legislature lacked in 1824 the authority to allocate at will the lands and waters of Louisiana, Barataria Pass was, in simple fact, the 1824 eastern boundary of Lafourche Parish.

The apparently moot point is belabored here because in returning the two tracts to Jefferson Parish, the legislature said nothing about returning any of the water area previously given to Lafourche Parish in the Act of 1824, however much that act may have altered the western boundary of the County of Orleans, of which Jefferson was then a part. As to the location of that western boundary of that county, Justice Hamiter had already declared, "It was impossible for Major Payne [surveyor for Jefferson Parish] to determine with any degree of accuracy, from the description so used [Act of 1805], the western limits of the County of Orleans."<sup>15</sup> Thus, the first and only delimitation of any explicitness is the Act of 1824, and its *only* alterations were the return of two tracts of *land*.

It seems, now, that the interpretation of the Act of 1824, amended by the acts of 1827 and 1830, depends upon the locations (Fig. 11) of

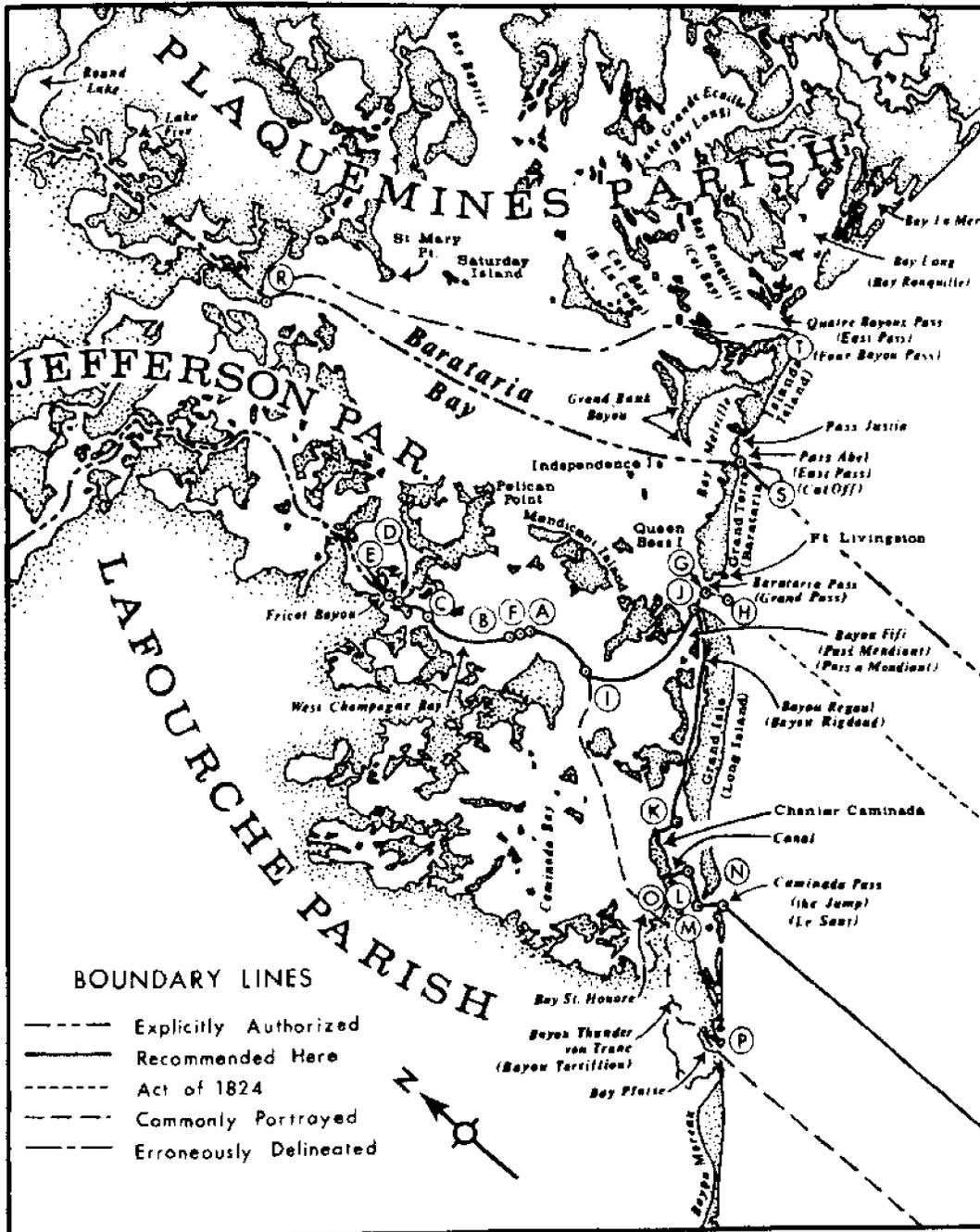


Fig. 11. The boundaries through Barataria Bay.

Fricot Bayou and of the northern end of Bay des Ilettes, the choice east or west shore of Bay des Ilettes, the location of la Passe a Mondion, the route from la Passe a Mondion to the sea, the limits of "Chenier Caminada," and a means of drawing the Jefferson Parish boundary around Chenier Caminada and Grand Isle. Upon these six determinations, however tedious, depends the equitable interpretation of legislative statements of intent.

*The locations of Fricot Bayou and of the northern end of Bay des Ilettes.* The court accepted the present "Fricot Bayou, which now connects Creole Bay and Bay Des Islettes,...[as] the identical stream referred to in the Act of 1824."<sup>16</sup> The court is probably correct in identifying the streams as the same, but on account of the high rates of land change in this area, the modern Fricot Bayou could scarcely be "identical" with its historic predecessor.

Historic cartographers (such as Darby 1816, Gadsden 1818, Tanner 1833, Graham and Tanner 1834, Graham 1838, Copley 184?, Hughes 1842, and Gerdes 1853) clearly show in Barataria Bay a prominent bend in the shore, today known as Pelican Point. These same cartographers show, as lying just to the west of Barataria Bay, two or more bodies of water. They all show and often name Bay des Ilettes lying just inland of Grande Isle. More to our problem here, they (except for Darby 1816), taken as a group, show a progressive enlargement of Bay des Ilettes, relative to Pelican Point and other reasonably well-known points, such as Fort Livingston (on the west end of Grand Terre). In other words, the better historic map makers, despite the faultiness of their field information, show a trend of land-water changes that conforms to trends presently known to have taken place. During the period from 1816 to 1842, these geographers and engineers mapped the gradual extension of Bay des Ilettes toward the northwest, as measured from Fort Livingston. Relative to Pelican Point, these historic maps portray a northward growth of Bay des Ilettes from about halfway (A) to Pelican Point (Gadsden 1818) to nearly the same latitude (B) and (C) as that point (Graham and Tanner 1834 and Hughes 1842). By the time of the War for Southern Independence (Hains 1864), the head of the Bay des Ilettes had retreated (D) nearly to its present location (E), and by the time of Henry 1872, "Bay des Ilettes" was considered to extend to section 21, T20S, R24E, and to be entered by way of "Creole Pass" through sections 9, 16, and 21 from Creole Bay. (According to Henry 1872, West and East Champagne bays were separate from, and east of, Bay des Ilettes.) In other words, the Fricot Bayou in 1824 reached about two miles farther to the south-southwest than geodetic station "Got" designated by Justice Hamiter. Land-loss rates of between 110 and 230 acres per year have been confirmed for modern times in the area of Fricot Bayou.<sup>17</sup>

Thus, to carry out the instruction of the court to begin the remainder of the boundary at the northern shore of Bay des Ilettes, negotiation must begin near the mouth of Fricot Bayou as of 1824 (F). The exact determination of the mouth of that bayou, as with all other such matters lies beyond the scope and competence of this study; instead, such determinations await the legal process of negotiation between the interested parishes, perhaps following the negotiating procedure suggested below.

*The choice of east or west shore of Bay des Ilettes.* The Act of 1824 quite confidently directs the boundary in the vicinity of Bay des Ilettes along "the bank of Lake des Islets as far as la Passe a Mondion." The very simplicity of that call leaves it thoroughly ambiguous to our modern eyes because Bay des Ilettes is now a ragged, open body of water dotted with islands and communicating easily with adjoining bays and lakes. Further, as Justice Hamiter correctly points out,<sup>18</sup> "That description, it will be noticed, does not show which of the two banks, whether east or west, of Bay Des Islettes was intended...."

The only map that we have found that dates from before the Act of 1824 and that includes the call, Bay des Ilettes ("L. Des Islets") as a lake, is Darby 1816 (and an apparent partial copy of it by Cathcart in 1819). If Darby's was the map before the legislators in 1824 (as seems to be the case), the confidently simple language of the act makes somewhat more sense (Fig. 12). To Darby, "L. Des Islets" included what we call today West Champagne Bay, Bay des Ilettes, Bay Tambour, and Caminada Bay. The northern shore of this compound water body, according to Darby, ran toward the east-southeast from what must have been the mouth of Fricot Bayou to what is today the southern end of Mendicant Island (although there was no pass south of what is now that island, according to Darby). At that place, the shore turned southwest (toward what would today be Bay St. Honore) and intersected presently what Darby calls "Pass a Mondion." Hence, the most reasonable interpretation of the intent of the Act of 1824 would place the boundary along the eastern shore of Bay des Ilettes. We must agree with Justice Hawthorne who in another case remarked, "We are convinced, however, that the Legislature included these words in the statute for some definite purpose, and that they cannot be declared meaningless if we can give them a reasonable interpretation."<sup>19</sup>

The ambiguity of the Act of 1824 does not emerge in the better historic maps (Fig. 12) until much later (for example, Hughes 1842), after both exploration and land-loss had progressed considerably from Darby's time. Hughes was in 1842 a captain of topographical engineers who, with five other men, prepared the first accurate map of the Barataria estuary that has come to our hands. Captain Hughes's map shows "B. Des Ilets" in approximately its present form, and the map shows degradation of the eastern shore in the disruption of the peninsula (formerly shown by Darby 1816 as completely separating "L. Des Islets" from Barataria Bay) nearly forming what is today Isle Mendicant (Mendicant Island). The unevenness of this eastern shore (if it was as uneven then as it is now) could not have been known to the legislature in 1824 and, hence, could not have influenced their description.

*The location of la Passe a Mondion.* In a parenthetical aside, Justice Hamiter, writing for the court, equated la Passe a Mondion with today's Barataria Pass.<sup>20</sup> The only authority that has come to hand for the court's identification is Kyser's study<sup>21</sup> of parish boundaries, which also makes the unexplained equation parenthetically. We have, on the contrary, found no map of the nineteenth century that applies "Passe a Mondion" or even any remote equivalent of that name to Barataria Pass. The names "Grand Pass Barataria," "Grand Pass," and "Barataria Pass" are

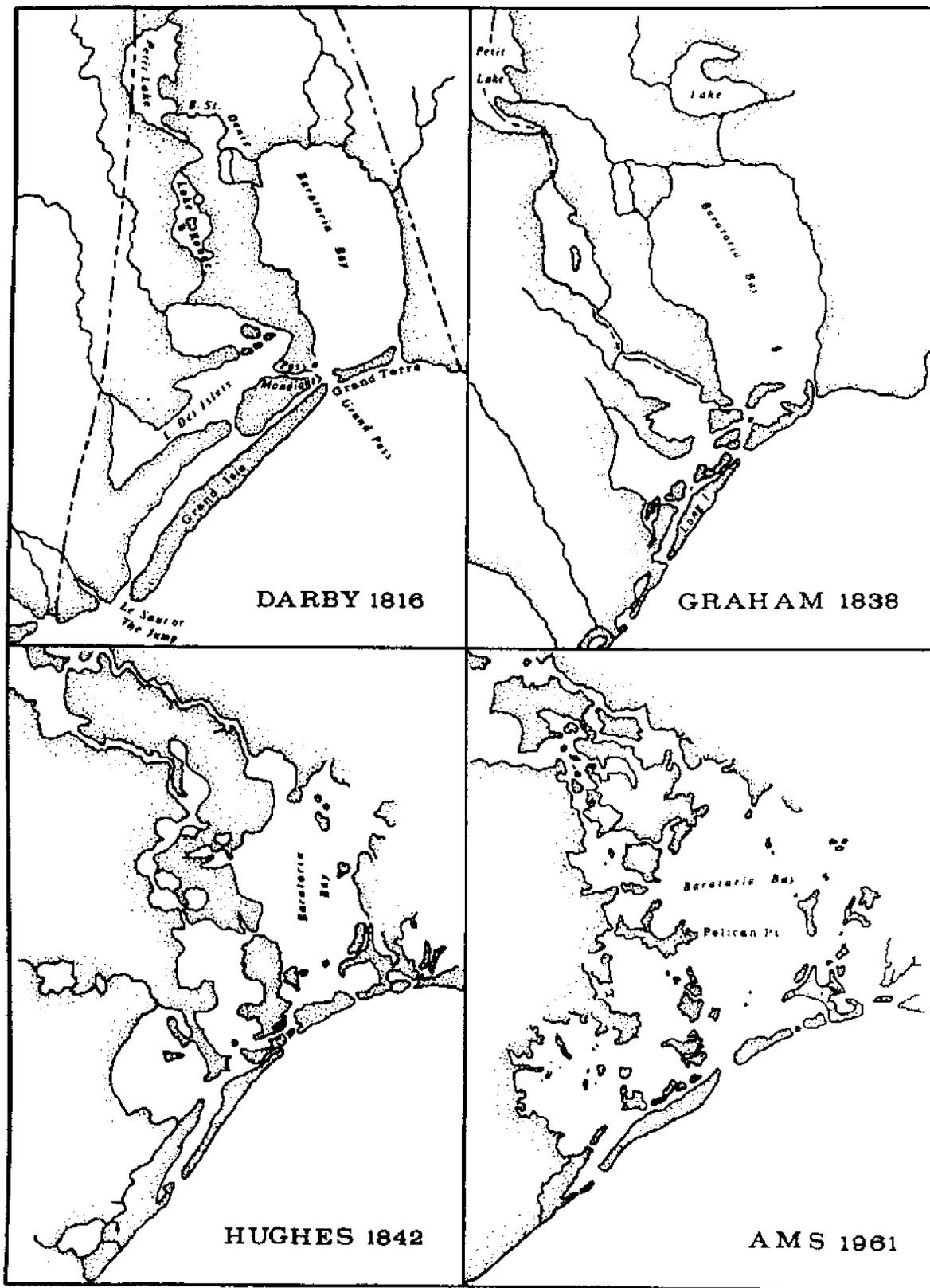


Fig. 12. The form of Barataria Bay, according to historic maps.

the only ones known (see Darby 1816, Cathcart and Hutton 1819, Kneass 1823, Graham and Tanner 1834, Copley 184?, Barnard 1841, Hughes 1842, LaTourrette 1845, Gerdes 1853, Sands 1854, Hains 1854, and Judice 1884). To say that la Passe a Mondion is the same as Barataria Pass amounts to a wholly gratuitous and clearly erroneous assertion.

On the other hand, at the southern end of his apparent peninsula separating Bay des Ilettes from Barataria Bay, Darby 1816 shows a water-course (today, "Bayou Fifi"), which he called "Pass a Mondion. ("Mondion" is probably an Anglo-Saxon rendering of the Louisiana French *mendiant* from the Continental French *mendicant*, "beggar.") Poussin 1817, although rendering Bay des Ilettes with neither a name nor the proper size and shape, also applies "Pass a Mondion" to what is today Bayou Fifi, placing it north of "Petite Ile," which is today Fifi Island. South of Petite Ile, Poussin delineates a nameless channel which is today Bayou Rigaud (where LaTourrette 1845, quite inexplicably, places the boundary); south of that bayou, "Grand Ile." Furthermore, Poussin shows a line of soundings following both the Pass a Mondion and Bayou Rigaud eastward to an unnamed Barataria Pass. There can be little doubt that Poussin had field information based upon circumnavigation of both Fifi Island and Grand Isle. Cathcart and Hutton 1819, at least partially based either upon Darby 1816 or upon the same reports used by Darby, portrayed the same channels as Darby 1816 and Poussin 1817, but placed the name "Mendiant" upon the modern Fifi Island. Gadsden 1818 shows a more accurate form for Pass a Mondion (Fifi Bayou) and Bayou Rigaud, but neglects to name either. Graham and Tanner 1834, in a note placed beside the name "Grand Pass," included an arrow and the name "Pass Mendicant"; the arrow points through Grand Pass to the location of today's Bayou Fifi. Barnard 1841 shows "Pass Mendicant" lying between "Fifi's Island or Petite Isle" (where "Fifi's Houses" are located across from "Men's Quarters" at Fort Livingston) and "Island Mendiant" and connecting "Bay des Islets" and "Grande Pass." Hughes 1842 places "Pass Mendiant" in Bayou Fifi. According to Hughes 1842 and Gerdes 1853, Darby's peninsula had become, or had been discovered to be, "I. Mendiant" or "Mendicant Isld.," less completely separating "Bay des Islets" from "Bay of Barataria." And Howell 1880, admittedly following but also updating Hughes 1842, also places "Pass Mendiant" in Bayou Fifi. Finally, Judice 1884 names the following in order from the gulf northward: Grand Isle, Bayou Rigaud, Petite Isle, Pass Mendiant, and Mosly or John Popp's Island. (Darby's "peninsula," separating the two bays has continued to break up, and the larger northern parts of it have become known as Mendicant Island; in other words, the name has been displaced northward by "Bayou Fifi," but remains in the area.) Clearly then, la Passe a Mondion, if historic maps be any guide, lay in 1824 where Bayou Fifi lies today.

*The route from la Passe a Mondion to the sea.* The channel of Pass Mondion (now Bayou Fifi) is reasonably well shown by Lafon 1813, Darby 1816, Poussin 1817, Gadsden 1819, Hughes 1842, and Judice 1884 and 1885, to be oriented more-or-less due east. Gadsden, in particular, shows its main channel (thalweg) to point just north and west of Fort Livingston (Fig. 13). Hence, the boundary should follow approximately the deepest water of Bayou Fifi, generally eastward to the thalweg (G) of Barataria Pass, and thence with the deepest water of that Pass to the Louisiana

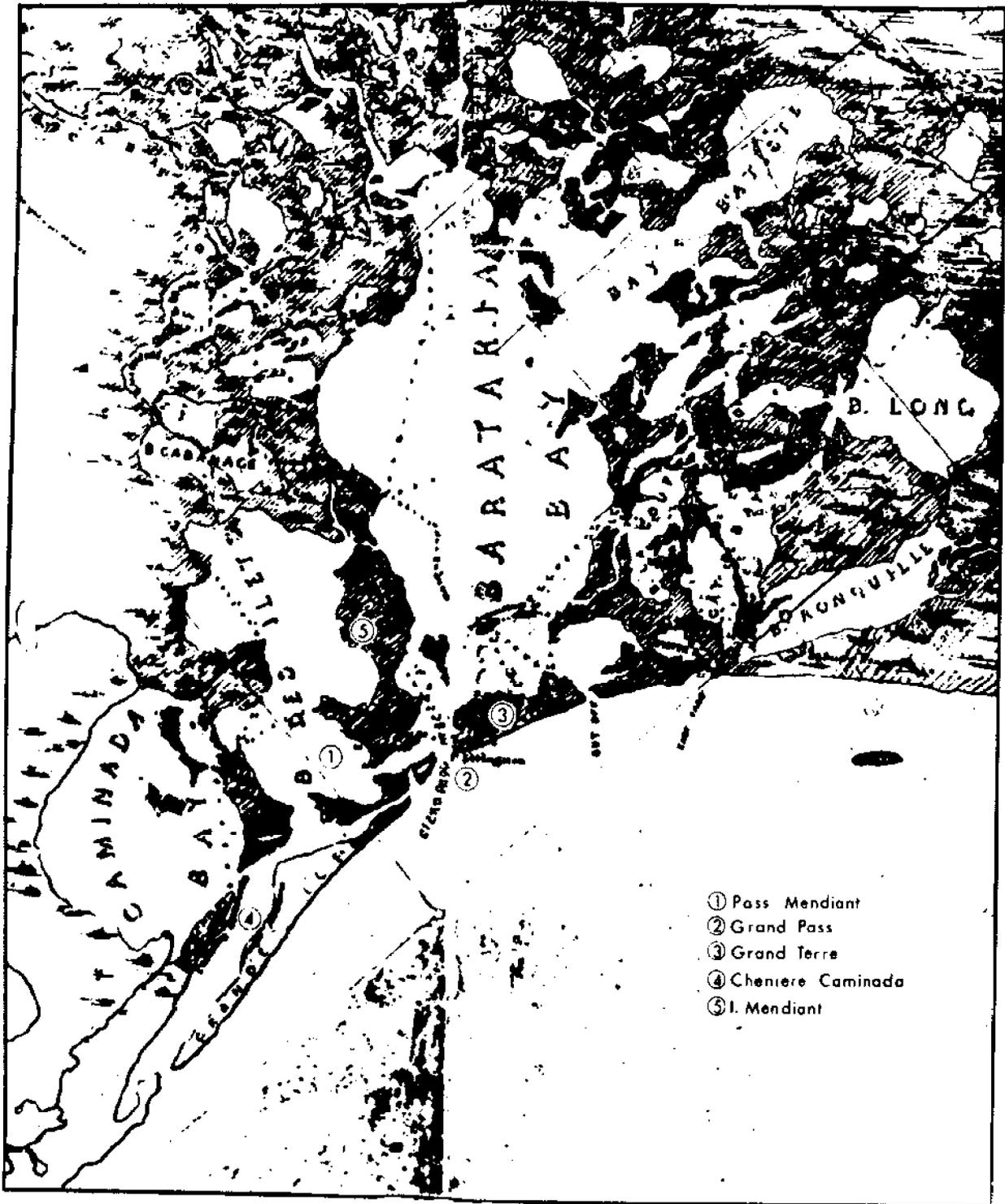


Fig. 13. La Passe a Mondion and Chenier Caminada, according to Hughes 1842.

baseline (H). From its juncture with the baseline, the 1824 boundary should follow the meridian, south to the limit of state jurisdiction.<sup>22</sup>

Until it can be shown that the acts of 1827 and 1830 or subsequent bilateral agreements between the parishes of Lafourche and Jefferson specifically move the boundary, it remains, presumably, in Barataria Pass where placed by the legislature in the Act of 1824 (see Morse and Breese 1842).

*The limits of "Chenier Caminada."* The Act of 1830 added "Chenier Caminada" to Jefferson Parish, but what that name was meant to embrace is difficult to determine. Whether the intention of the legislature was to unite a natural land area or a settled place to Jefferson Parish is not clear. Darby 1816 shows a peninsula that corresponds to one today, at least partly, called "Chenier Caminada"; but he gives no indication of habitations. Gadsden 1818 shows the same peninsula as notably smaller and pointing more toward the north; near the connection of the peninsula to the larger land area and to the northward of a pass to the gulf called "Jump" (also called elsewhere "the Jump or Le Saut" and lying perhaps a mile southwest of the present-day Caminada Pass), he shows small tree symbols, apparently representing the forest cover of the natural chenier. Cathcart and Hutton 1819 place a symbol (perhaps representing a cluster of trees) at about the same place (that is, due north of the Jump), and they lay the word "Caminada" so as to extend along the land toward the northeast to end by the tree symbol; they add two more such symbols successively inland and supply the names "Laurier Blanc" and "Belle Vue." These three cheniers correspond to three vague such features to be seen there today; that is, there are three clusters of natural, sand ridges (cheniers) that converge to form one ridge on the small peninsula.<sup>23</sup> Hughes 1842 shows the peninsula much as it is today (Fig. 13), but less disrupted by land loss. At a point north-northeast of an unnamed pass (The Jump), Hughes 1842 and Gerdes 1853 show a canal in the same place (between sections 5 and 6, T22S, R24E) where there now is a broad pass through the peninsula. Even more importantly, they place their forest symbols northeast of this canal, and Hughes places the name "Chenier Caminada" along the southern shore so as to name only the northeastern extremity of the peninsula as it appears today, that is, the part lying well to the northeast of modern Louisiana Highway 1; Gerdes 1853 places "Cheniere Caminada" so as to cross and designate only that northeastern extremity (sections 1 through 5, T22S, R24E). Gerdes, having shown habitation on Grand Isle and Grand Terre, shows none on Chenier Caminada. Connelly 1838, however, lays "Cheniere Caminada" so as to run northeastwardly from section 20 through section 1; that is, from a mainland point just north of "Saut," northeastward to the end of the peninsula. Connelly 1838 also shows a live-oak ridge running southwest-northeast in sections 20 to 16.

Hence, if we place greatest weight on the testimony of a captain of topographical engineers who with his party surveyed and mapped the Barataria estuary and the record of an officer of the USCS who used soundings and geodetic triangulations to construct his map, we must conclude that "Chenier Caminada" pertained in 1824 only to that part of the peninsula lying northeast of this canal repeatedly noted by mapmakers. However, a

Land Office Deputy Surveyor, P. N. Judice, extended the name "Chenier Caminada" to the whole peninsula. (See also Anon. 1871b and Judice 1866.)

*A means of drawing the Jefferson Parish boundary around Grand Isle and Chenier Caminada.* Clearly, under law and by Supreme Court decree, Grand Isle and Chenier Caminada fall within the jurisdiction of Jefferson Parish. The Acts of 1827 and 1830, however, failed to mention any change in the boundary as described in the Act of 1824. Thus, because it is their legal responsibility, the respective parishes face a serious problem. Recently published maps show the Lafourche-Jefferson boundary running through Bay St. Honore and along Bayou Thunder von Tranc (formerly, "Bayou Tortillion," in part; see Gerdes 1853), through to the gulf. This seemingly gratuitous placement can be taken as the maximum reasonable Jefferson Parish claim toward the west, while the line of 1824 (through Bayou Fifi and Baratavia Pass) can be taken as the maximum Lafourche Parish claim toward the east, excluding only the land areas of Grand Isle and the old Chenier Caminada. The extreme western boundary of this polygon of dispute has no known constitutional or legislative authorization and, thus, cannot stand. (The possibility of assigning Grand Isle and Chenier Caminada as land areas only is certainly to be considered; see, for example, the detached part of St. Martin Parish and all of the "cross-river" parishes below Baton Rouge.) The extreme eastern boundary of the polygon has a much stronger basis in the Act of 1824. But it is quite unlikely, once the material presented has been considered, that an agreement can be obtained on either of these two extreme claims. The boundary must lie between the two sides of the polygon of dispute.

*Proposed compromise.* Our proposed compromise is that the boundary be run, after following the middle of the 1824 Bay des Ilettes (FAI) eastward through Bayou Fifi (IJ, Fig. 11), turning back westward through Bayou Rigaud (JK) to a point in the middle of the bay between Grand Isle and the northeast tip of Chenier Caminada, thence generally northwest to that tip, thence along the northern and northwestern boundaries of sections 1 through 5, T22S, R24E, to the historic canal, thence through that canal (the boundary between sections 5 and 6) and thence by the most direct thalweg route (KL) to the intersection of the thalweg of Caminada Pass (MN) and the baseline, and thence with the meridian through the gulf to the limit of the state.<sup>24</sup> Under this compromise (which conforms to the laws in question), Jefferson Parish would yield its somewhat plausible claims in Bay des Ilettes and its nearly groundless claims to Bayou Thunder von Tranc in exchange for Lafourche Parish's concession of somewhat plausible claims to the gulf area south of Grand Isle.

The chief impediment to this proposal is the incomplete and now apparently lapsed bilateral negotiation between the parishes during the decade following the Supreme Court's remanding of the case to District Court in 1944. A very confusing documentary record, especially between 1950 and 1954, shows the parishes attempting to reach an accord. They agreed in January, 1951, to submit the determination of the boundary through Bay des Ilettes to the US Army Corps of Engineers.<sup>25</sup> But by June, 1951, they had retained Dean Lee H. Johnson of Tulane University College of Engineering to carry out the same determination.<sup>26</sup> The parishes--or

more likely, their engineers--found Dean Johnson's map acceptable;<sup>27</sup> but in 1954, Lafourche Parish officials suggested submitting the boundary to Judge Watkins for a rendered judgment.<sup>28</sup> After that date, Jefferson Parish records of the dispute cease, except for two items for 1974: a copy of a *States-Item* news story on the desire of Grand Isle residents to be annexed to Lafourche Parish<sup>29</sup> and a Jefferson Parish resolution opposing such a transfer.<sup>30</sup> According to the news account, Grand Isle residents have asked for the transfer for several years, at least. We must conclude that the boundary through Bay des Ilettes and to the gulf by way of Bayou Thunder von Tranc is not settled because neither final agreement nor ordinances were found.

Dean Johnson, using only "the unmarked [Bay Tambour 7 1/2', 1:31,680] quadrangle and [his] knowledge of mathematics and engineering in general," drew a line (IO, Fig. 11) that is the apparent source of the erroneous, commonly published delineation. Dean Johnson's assumptions were made explicit in his statement to the Police Juries:

It was assumed that the lands on the western side of the Bay Des Ilettes, namely the islands enclosing Raccoon Lake, and northern sides of the Bay Des Ilettes, namely Beauregard Island, Mendicant Island, and the small islands between the Bay Des Ilettes and West Champagne Bay, should lie in Jefferson Parish. It was further assumed that the boundary should lie approximately along the center line of the Bay Des Ilettes as defined approximately by the bounding islands.<sup>31</sup>

And his section called "Turning Points," following his "Assumptions," contained the further assumption: "The two ends of the existing boundary lines as drawn on the Bay Tambour Quadrangle were, of course, selected as turning points." Yet, as we have shown above, there is no historic support for any of these assumptions. No provision of any constitution, no statute passed by the legislature, no ordinance passed by both parishes, and no historic cartographic authority warrants the assumptions. The only authority for the Dean's allocation lies in the Supreme Court's pointing out that the Act of 1824 "does not show which of the two banks, whether east or west, of Bay Des Islettes was intended..." and the apparently merely operational agreement to ask Dean Johnson to determine the boundary. Thus, unless Lafourche Parish has agreed by ordinance to Dean Johnson's line, the boundary below Fricot Bayou remains unresolved.

It must be noted as well, in the interest of methods of drawing boundaries through lakes, bays, and sounds, that Dean Johnson's technique of determining the middle of Bay des Ilettes is completely mistaken and wholly inadequate, whatever the general course of the line may be:

The two ends of the existing boundary lines as drawn on the Bay Tambour Quadrangle were, of course, selected as turning points. Four additional intermediate turning points were selected, one on each of four lines drawn across the Bay Des Ilettes. The first line was drawn from the western promontory of Beauregard Island to the island enclosing Raccoon Lake,

approximately at right angles to the shore line of the latter island. The second line was drawn from the southwestern promontory of Mendicant Island to Point Des Ilettes. The third line was drawn from the western end of the small island lying on the 90th meridian to Point Des Ilettes. The fourth line was drawn from the small triangular island on the northern side of Bay Des Ilettes to the island enclosing Raccoon Lake, approximately at right angles to the shore line of the latter island. The four intermediate turning points are approximately the mid-points of these four lines. Measurements were made and mid-points determined to the nearest one-hundredth of an inch.

Boggs had already shown in 1937 (fourteen years before Dean Johnson dealt with the boundary) that such an arbitrary procedure will not produce a unique, unambiguous line:

We may examine first what might be called the landsman's or the shore-line viewpoint. It would perhaps seem reasonable to suppose that one might start with one of the shores of the lake and from successive points draw lines to the nearest point on the opposite shore; the line connecting the mid-points of each of these lines might be regarded as the median line of the lake. It would be a line of mid-distances measured from shore to shore...this concept is quite impossible, even from one shore, and ... the results from the opposite shores would be quite dissimilar.<sup>32</sup>

Thus, none of the balance of the Dean's admittedly sophisticated reckoning is of any consequence because another engineer can arrive at another line using the same apparent principle and manner of figuring.

The error ("the landsman's or the shore-line view point") committed by Dean Johnson is only a more complex case of the error in Justice Hamiter's rendering of the Supreme Court judgment in the United Gas Pipe Line case noted in Lake Pontchartrain.

Thus, we yet urge our proposed compromise, unless the parishes have completely fulfilled the legal prescriptions for determining their mutual boundaries. Of course, in the light of desires of citizens living on Grand Isle and Chenier Caminada to be annexed to Lafourche Parish, the legislature could enact such a change; but under the Constitution of 1975, the changed boundary would have to receive approval of two-thirds of the voters in each affected parish. Because such a referendum seems doomed in Jefferson Parish, the parishes are left with some compromise approximating our proposal.

#### The Boundary through Barataria Bay

The land boundary between Jefferson and Plaquemines parishes through Barataria Bay has been adequately determined by conjoint action. Based

upon extrapolation of various acts, apparent mutual agreement between assessors, and reasonable inferences, the recognized line (GHK) seems to be that as determined by the Board of State Engineers and eventually demarcated by joint survey through Bayou Dupont and Round Lake to the exit of that bayou from that lake, thence with the line between ranges 24 and 25 east to the mouth of Bayou St. Denis at the head of Barataria Bay.

According to the Act of 1884,<sup>33</sup> "Barataria, Grand Terre" islands are embraced within Jefferson Parish. According to the 1944 Supreme Court Decision in *Lafourche v. Jefferson*,<sup>34</sup> that statute still stands. Therefore, under this derivation, the commonly published line (QRS, Fig. 11) emerges as the boundary. Grand Terre Island must end at Pass Abel (East Pass), according, for example, to Hains 1842.

If we ignore the smaller bays and lakes to the east of Barataria Bay proper, the general shape is portrayed similarly by Darby 1816, Graham 1838, and Hughes 1842 (Fig. 12). In each case, Grand Terre Island stands boldly across the southern end of the bay. If Grand Terre belongs to Jefferson--as Darby 1816, Graham 1838, Hardee 1895, the Act of 1884, and *Lafourche v. Jefferson* maintain--then the boundary should lie in Pass Abel (Cut Off, East Pass). Considering these historic maps to show the state of knowledge at their respective times (*ca.* 1818 to 1842), and keeping in mind the continuing land loss in this region, a boundary running through Barataria Bay should run through a bay of approximately the form shown by Hughes 1842 and should exit through Cut Off (S).

The boundary (RT) shown on AMS 1:250,000 Breton Sound, 1950, is in error. Hughes 1842 and Haines 1864 show this route to have been improbable, if not impossible. That route was quite circuitous, and Quatre Bayoux Pass was oriented northeast-southwest in 1842. Further, Independence Islands seem to block exit through Pass Abel. Haines 1864 shows the same situation with regard to these passes, except that the "marsh islands" had broken up somewhat in the intervening twenty-two years.

Part of the confusion leading to placement of the boundary in Quatre Bayoux Pass seems to result from an extension of the name "Grand Terre Island" toward the east, to include the islands between Quatre Bayoux Pass and Pass Abel. The historic record, however, is adamant in limiting the name "Grand Terre" to the island athwart the main body of Barataria Bay (see, for example, Darby 1816, Gadsden 1818, Cathcart and Hutton 1819, Kneass 1823, Tanner 1833, Graham and Tanner 1834, Connelly 1838, Graham 1838, Bradford 1838, Copley 1847, Hughes 1842, Coast Survey 1855, Holle 1861, Hains 1864, Anon. 1871b, Lockett 1872, Howell 1880).

The earliest maps portraying what is today Grand Terre as continuous east of East Pass are Gauld 1764 and 1768. Gauld shows the correct distance of sixteen miles between Grand Pass and the entrance of Bay Bastian, but his sounding track moves away from the coast where Pass Abel is; thus he drew the coast as unbroken by either Pass Abel or Quatre Bayoux Pass. Many maps were copied from Gauld's map. Poussin 1817 is the first map (that we have seen) showing "Grand Terre" as designating an island reaching from Grand Pass to Quatre Bayoux Pass, a distance of about eight miles (today, less than seven miles or less than eight if the

entrance to Long Bay was intended); but from the shape of the bay lying, according to Poussin, inland of the eastern end of "Grand Terre," Poussin's party may well have been in Bay Melville, but surely not in Bay Ronquille. At the crucial point for seeing what is today Pass Abel (about 3.2 miles east of Grand Pass), Poussin's sounding tracks (like Gauld's) move away from the shore; indeed, Poussin's soundings on the gulf side of "Grand Terre" are the same as Gauld's and, thus, he was relying upon Gauld and trying to reconcile his new soundings inside Barataria Bay and Bay Melville with Gauld's earlier maps. The error continues, for example, in Coast Survey 1878 (sheet 1382), where no gulf-side soundings were made, and in Leach 1887. At least by 1937, Pass Abel (East Pass) and Pass Justin divide what is now known as Grand Terre Islands.

With Leach 1887, there begins a general shifting of names of water bodies in the southeastern part of the Barataria estuary: Bay Ronquille becomes nameless; "Bay Ronquille" moves to what had been Cat Bay or Cat Bayou Bay; "Cat Bay" moves to what had been Bay la Coup; eventually, on later maps, "Bay Long" moves into what had been Bay Ronquille; and "Lake Grand Ecaille" appears in what had been Bay Long.

Thus, among reliable cartographers, we find two opinions concerning Grand Terre: those (such as Darby 1816 and Hughes 1842) who restricted "Grand Terre" to the single, smaller island west of Pass Abel (East Pass) and those (such as Gauld 1764 and Poussin 1817) who extended the name to Quatre Bayoux Pass. Modern maps (such as current editions of USGS topographic quadrangles) show the relevant expanse of coast much as Hughes 1842, but apply the name "Grand Terre Islands" (now plural) to all lands between Grand Pass and Quatre Bayoux Pass. Hence, on account of modern confirmation of the first group (Darby 1816, Hughes 1842, and others), and on account of the research of J. P. Morgan for the tidelands suit of the Louisiana Attorney General that reconstructs the 1812 coastline as interrupted at Pass Abel (East Pass, Cut Off),<sup>36</sup> we must conclude that the boundary between Jefferson and Plaquemines parishes ought to run through Pass Abel.

We would have urged that the Boggs median line (HK) be drawn through the Barataria Bay approximately as the shape of the bay is shown in Hughes 1842. But in 1943, the parishes of Jefferson and Plaquemines carried out a conjoint survey of a mutually agreeable boundary, and both parishes accepted by ordinance the survey and proces-verbal.<sup>37</sup> The surveyors agreed on a line from "the thread, or middle of Bayou St. Dennis" running "in a southeasterly direction through the middle of Barataria bay...to a small unnamed pass [Pass Abel] on the eastern end of Grand Terre Island...." (The ambiguity in the name "Grand Terre" still survives; the proces-verbal assigns the name to the land west of Pass Abel, but the map shows "Grande Terre Islands" extending to "Four Bayou Pass.") The line shown on the conjoint map departs but little from the Boggs line and not at all from the law. The balance of the agreement conforms to the description of the boundary as given by the state Board of Engineers (QRS).

The verbal agreement contains a flaw, partly corrected by its attached map. The agreement says that the boundary between Jefferson and Plaquemines parishes runs:

Thence from this last point...[the mouth of Bayou St. Dennis] in a southeasterly direction *through the middle* of Barataria Bay, approximately twelve (12) miles to a small unnamed pass on the eastern end of Grand Terre Island.... [Italics added.]<sup>38</sup>

But for the inclusion of repeated reference to their map ("...all is fully shown on the map accompanying the proces verbal..."), the agreement would have been without a specific delimitation in Barataria Bay. Careful and precise description was given for the land boundary, and it was marked by stakes, iron pipes, and concrete posts. The water body boundary, however, was handled in the landsman's usual fashion: "through the middle of Barataria Bay." For full culmination of the boundary-making process, the parishes have yet to state precisely and demarcate the boundary in Barataria Bay, Bay Melville, and Pass Abel.



## 6

# The Terrebonne and Timbalier Bays

The "distributary parish" of Terrebonne was created in 1822 out of Lafourche Parish.<sup>1</sup> The legislative act establishing Terrebonne Parish was subject to misinterpretation as it pertained to Terrebonne's boundary with Lafourche Interior Parish. Confusion and controversy arose concerning the relation of Bayou Blue and Bayou Blue Water, together with their relations to Bayou Point au Chien. This has resulted in a subsequent legislative attempt<sup>2</sup> at defining the boundary between these two parishes and to extensive litigation.<sup>3</sup> In 1850, the legislature confirmed the boundary of 1822, but it also designated conformity with LaTourrette's map. This map was given special legal status in 1848 when the legislature directed that it was to be used in establishing the boundaries between the parishes of Terrebonne and Lafourche Interior. These determinations of the boundary--the Act of 1822 and LaTourrette's map as authorized by Acts of 1848 and 1850--were not in agreement, but presented different lines.

Despite the legislature's recurrent involvement, the boundary remained unsettled. The dispute reached the Louisiana Supreme Court in 1882, which fixed the boundary along Bayou Blue and Bayou Pointe au Chien. This decision still failed to provide a satisfactory delimitation because it included an inexplicable "cross-over" between the two streams. Because of interest in oyster beds in Timbalier Bay, the boundary dispute was revived with a continuation of litigation between 1894 and 1897. The Louisiana Supreme Court, however, reaffirmed its decision of 1882. Even though it appears that the court's decision was based on inadequate information, it should stand because of long practice and established use, coupled with *res judicata*. Having stood since 1882 and without having been contested since 1897, the boundary should be considered fixed (Fig. 14).

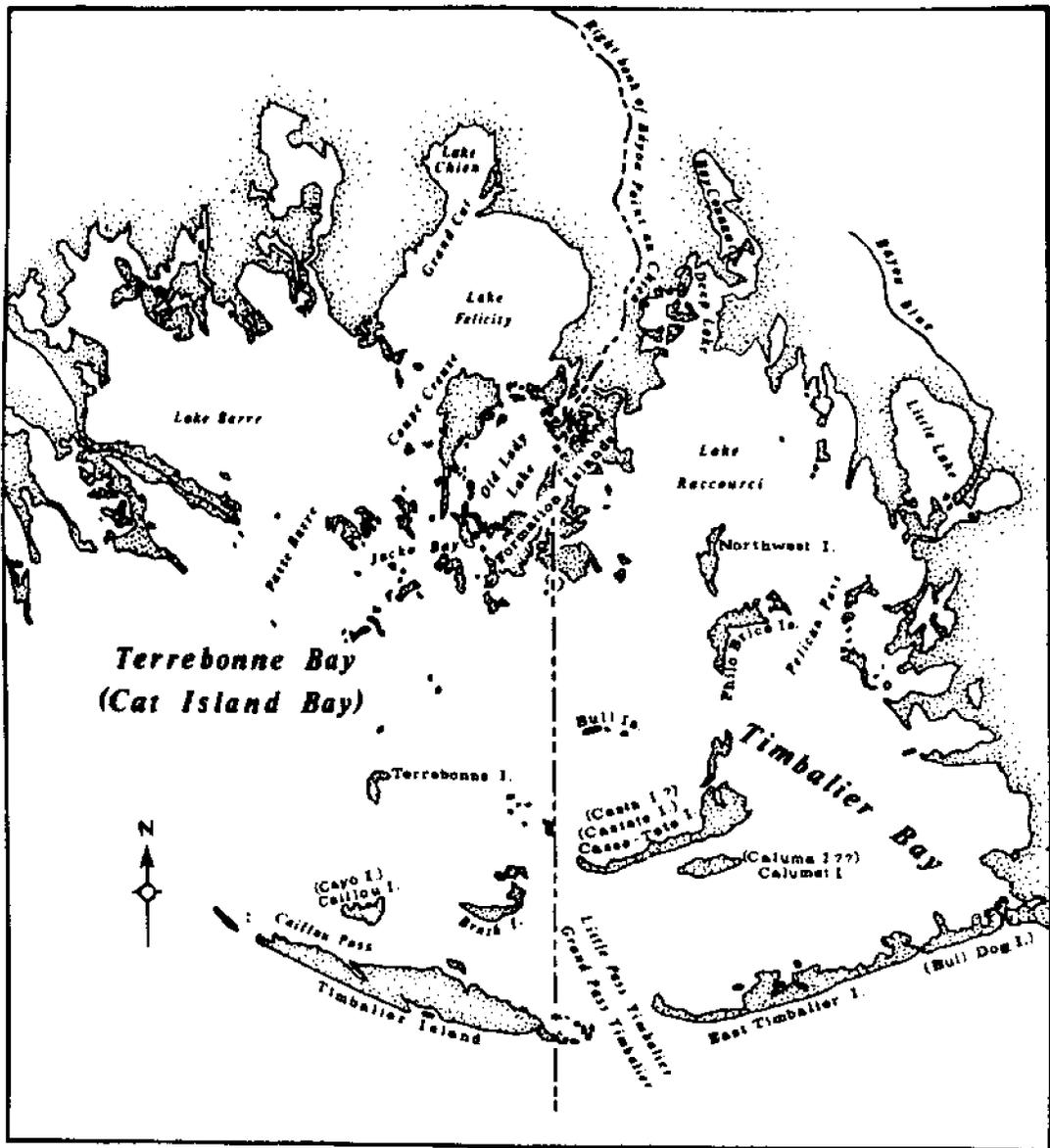


Fig. 14. The boundary between Terrebonne and Lafourche parishes in Terrebonne and Timbalier bays.

## The Atchafalaya Basin

During the past several millenia, the Mississippi has flowed toward the gulf along one of two routes that lie between two low bluffs, one along the western edge of Baton Rouge and the other east of Opelousas. The older of these two river courses is today occupied mainly by Bayou Teche; the younger is still occupied by the Mississippi. Along each route, the river built a ridge of flood-borne deposits, each higher than the lowland lying between the ridges. That lowland region is the Atchafalaya Basin, named for the stream that has carried both Red River waters and waters escaping from the main channel of the Mississippi. The share of the Mississippi current turning through the Old River outlet where the three rivers meet increased such that artificial dams, docks, and levees were built to prevent "diversion" of the Mississippi. Since the shocking flood of 1927, interest in the Atchafalaya River and Basin continually increased until, today, it occupies the attentions of many people.

Had the Old River locks and control structure not been built, the main channel of the Mississippi would long since have turned to the lowland between its old alluvial ridges and exited to the gulf at the location of Atchafalaya Bay, near Morgan City.<sup>1</sup> Had it done so, and the projected date was about 1972, it would have found an incompletely defined set of parish boundaries. We might wonder at the confusion that would have resulted from so momentous an event as that diversion through a land where civil order would have been poorly delineated.

In the nineteenth century when the relevant acts were adopted, however, the Atchafalaya Basin held little interest for either citizen or lawmaker. As a result, parishes were drawn so as to "back" into the basin, usually back to the Atchafalaya. The Counties of Attakapas, Acadian Coast, German Coast, and Lafourche, for example, all shared a boundary along a poorly known Atchafalaya (Darby 1816). As the territories of the successor parishes were allocated, they too backed to the Atchafalaya: Iberville and Ascension from Acadian Coast; Assumption and Terrebonne from Lafourche; and St. Martin, St. Mary, and Iberia from Attakapas. Even as new parishes were created, there was so little public interest in the basin that two of the few major legislative blunders in boundary delineating took place there, as well as two special acts aimed at redressing two other, lesser errors in the basin. By the Act of 1847 further defining legislative will concerning these boundaries--at least in regard to Iberville and St. Martin parishes--Grand River (or Old River) was equated with the lower Atchafalaya. The Act of 1847 moved the eastern boundaries farther eastward. Yet Darby 1816, for one example among many, shows the Atchafalaya to follow what we would today call Grand River. Common opinion in the early nineteenth century clearly held the Atchafalaya-Grand River channel to mark the backs of parishes to its

east and to its west. The backs of these parishes continued in neglect until, in this century, flood-control measures and, more especially, petroleum discoveries kindled interest and uncovered the lack of clear civil authority in the basin.

Avoyelles, St. Landry, and Pointe Coupee parishes also back to the Atchafalaya, but no lakes, bays, or sounds are at issue among them. Below the northern boundary of St. Martin Parish, six parishes have incompletely defined boundaries.

#### Whiskey (Oski) Bay

The boundary between St. Martin and Iberville parishes, in the vicinity of Whiskey Bay (Fig. 15) is today *res judicata* and falls west of the bay (lake). The case is of interest here because (1) it was claimed in suit that the boundary lay in the middle of Whiskey Bay, (2) the legislature redefined (or refined) the boundary to bring it more in line with a long-standing legislative principle, and (3) the Louisiana Supreme Court upheld that legislative principle. The claim by St. Martin Parish to half of Whiskey Bay stemmed from pressing the Act of 1807 over the Act of 1847;<sup>1</sup> this claim was ultimately denied.

The Act of 1847 upheld, by explicit example, one of the legislature's most persistent principles for drawing boundaries of parishes in the alluvial lands of south Louisiana. On receipt of citizen memorials, the legislature relocated the boundary between St. Martin and Iberville parishes, in T7S, R8E, and T8S, R8E, so as to include the residents of both banks of the East Fork of Alabama Bayou in the same parish. The principle is simply this: keep residents of a natural community in the same parish, that parish being the most convenient one for carrying on public affairs. To do this, the legislature placed boundaries through the uninhabited, lower, swampy backlands and between alluvial ridges where nearly all residents live.

The Supreme Court, in the hand of Justice Hawthorne, confirmed this intention of the legislature and declared it to be just under the constitution and laws of the state.<sup>2</sup> Justice Hawthorne's opinion included, besides a thorough and scholarly review of the matter, a detailed and reasonably accurate map (Fig. 16).<sup>3</sup> This apparently unique contribution to the jurisprudence concerning parish boundaries deserves extensive emulation.

Below Whiskey Bay, the St. Martin-Iberville boundary passes in T11S through a small segment of Lake Chicot. This "lake," however, is today part of a channel and can thus be divided on the basis of the thalweg method. In any case, very little territory would be at stake, even if the boundary had not already been decided by the Supreme Court in the estimable opinion by Justice Hawthorne.<sup>4</sup>

Descending the Atchafalaya Basin, the next boundary in a water body appears in Grand Lake, but two boundaries approach that lake from the

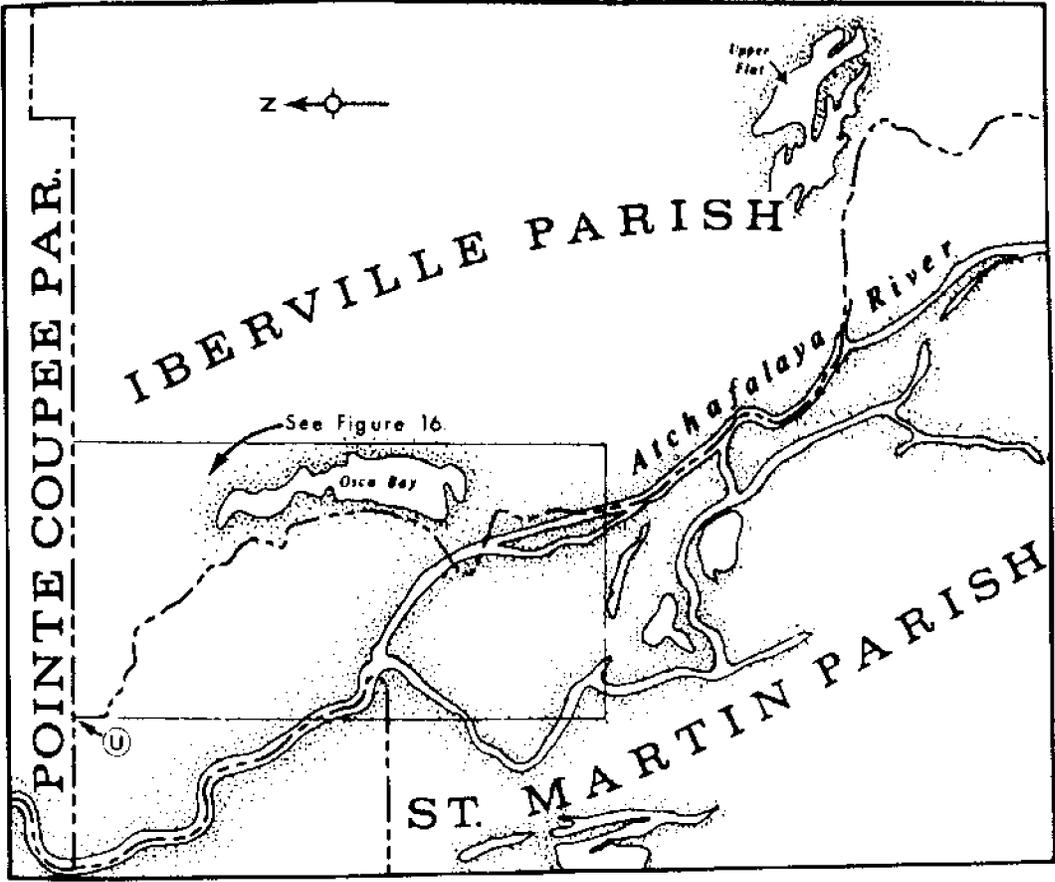


Fig. 15. The boundaries in and near Whiskey Bay.

west that should be considered first, because they partially affect the division of Grand Lake.

Lake Tasse (Spanish Lake, Lake Yasse)

Between the old Bayou Teche course of the Mississippi and the low bluff on the western side of the valley, lies a small, roundish water body known as Lake Tasse. For some reason, the legislature took special care to run a boundary through it. The boundary between St. Martin and Iberia parishes passes "southeastwardly through the middle of said lake [Tasse] in a true line," according to the Act of 1868 that created Iberia

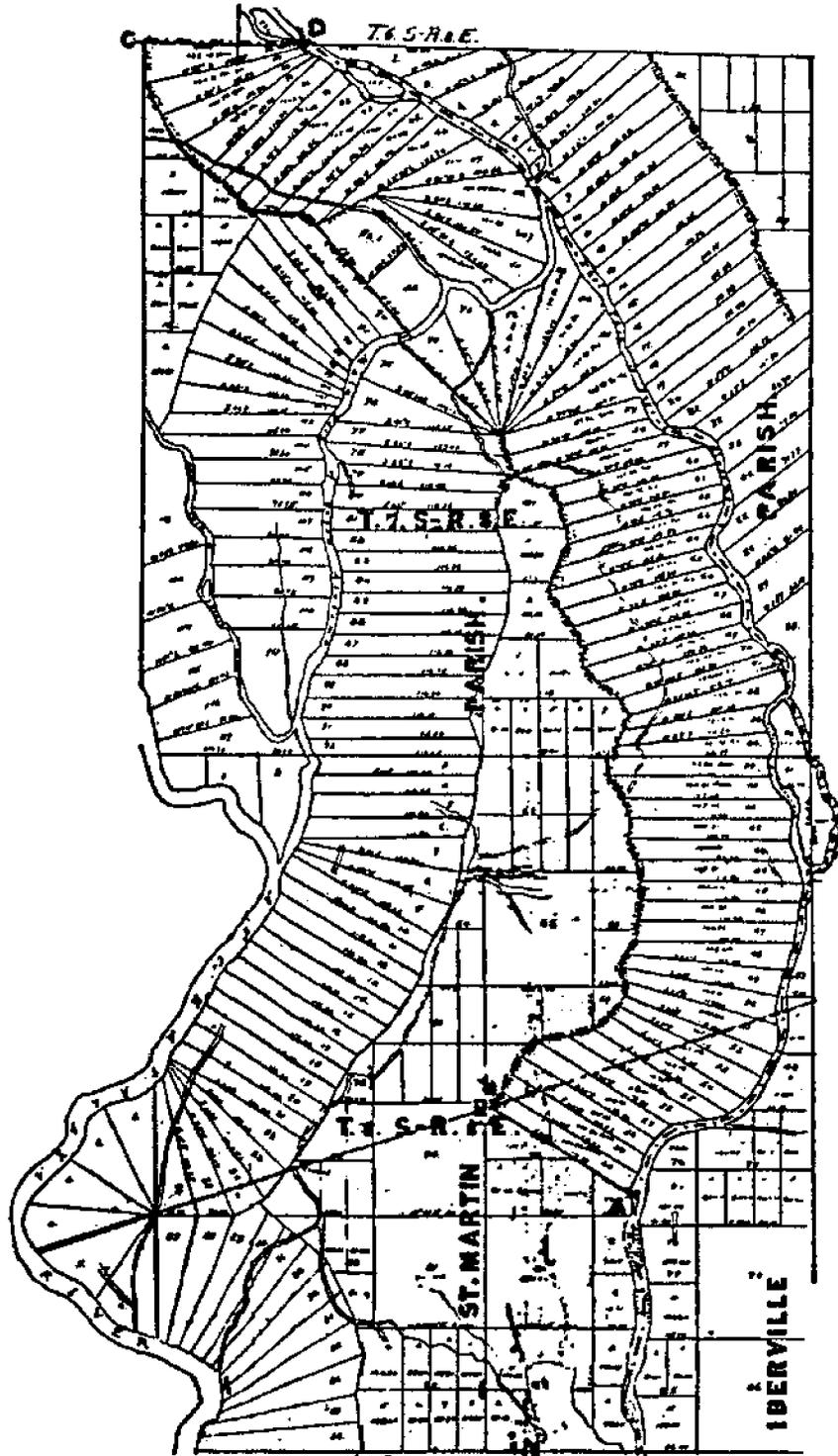


Fig. 16. Charles Gutekunst's map of T7S, R8E, and T8S, R8E, annotated by the Louisiana Supreme Court.

Parish.<sup>5</sup> The act specified the point on the northeastern shore (where the upper line of section 59 meets the lakeshore) whence the southeastwardly line will be drawn. The same was done for the southeastern point. The will of the legislature is completely explicit, and demarcation of this boundary is merely a matter of engineering (Fig. 17).

#### Lake Fausse Point (Long Lake)

Lake Fausse Point, a northwestern arm of Grand Lake (Fig. 17), appears on maps at least as early as Darby 1816, although its portrayal long remains confused (see, for example, Ludlow 1818, Finley 1828, Graham and Tanner 1834, Graham 1838, and even Hopkins 1870). The true form of Lake Fausse Point began to emerge at least by the time of LaTourrette 1848 and became well delineated by the War Between the States (Abbot 1863). Yet, the name "Lake Fausse Pointe" denoted that part of Grand Lake lying south of Mestayer Point (Point Coquille) as late as Abbot 1863 (see also LaTourrette 1848 and 1853), and Abbot 1863 shows that "Grand Lake" comprises that part of Grand Lake (now "Lake Fausse Point") southeast of Lake Dauterive and northeast of Mestayer Point. But in 1864, Abbot's newer map showed a peninsula-like land of flood deposits extending southward into Grand Lake, cutting a nameless Lake Fausse Pointe from the larger "Grand Lake." Gradually, other cartographers began to show Lake Fausse Point as separate from Grand Lake: Cotton 1864, Mitchel 1867, and Lockett 1872.

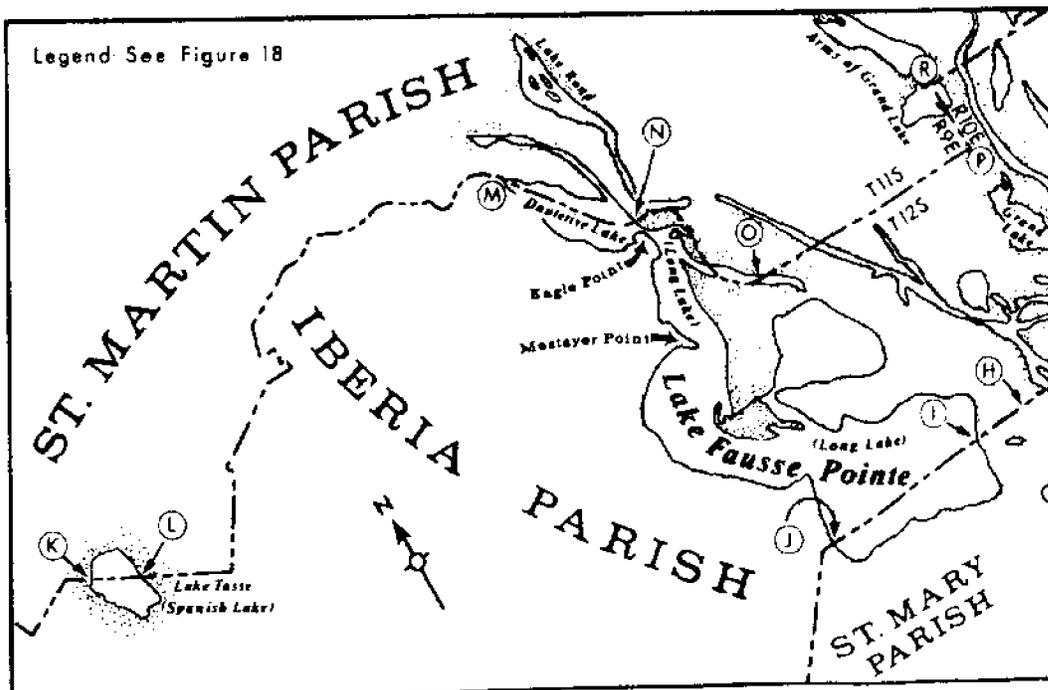


Fig. 17. The boundary through Lake Tasse, Dauterive Lake, and Lake Fausse Pointe.

As the name "Lake Fausse Point" moved northward, an old name for Lake Fausse Point, "Lake Long" (also "Long Lake"), moved into what is today Lake Dauterive (Holle 1861) and then disappeared. In Howell 1874 and 1882, two very detailed maps with many locally known place-names, Lake Dauterive remains nameless. The earliest connection of the name with the lake is "Dautrive Landing," a short way north of Coquille Point in Abbot 1863. Not until the USGS 15' topographic quadrangle, 1934, have we found the name "Lake Dauterive" applied to the water body that it presently designates.

In any event, it seems reasonable to presume that, in 1868 when the act creating Iberia Parish was adopted, "Lake Fausse Point" included Lake Dauterive. Thus, the intent of the language,

to Coule Portage, following said Coule to Bayou Portage, thence along the middle of said Bayou to Lake Fausse Point, and through the middle of said lake to a point intersected by the line between townships eleven and twelve south<sup>6</sup>

is to have the boundary between Iberia and St. Martin parishes follow the thalweg of Dauterive Lake (MN, Fig. 17), past Eagle Point (N) and through the Lake Fausse Pointe of that time (NO) to the T11-12S line (OP). The common rendering of that boundary on such maps as USGS topographic quadrangles fairly approximates the legislature's intent (despite the note "Boundary Indefinite" and subject to confirmation by geomorphologists of the shape of Lake Fausse Pointe as of 1868). The present boundary through what used to be the northern part of Lake Fausse Pointe follows very closely both the apparent ancient thalweg and the median line as of 1868.

The southern boundary of Iberia Parish with St. Mary Parish also crosses Lake Fausse Pointe in its southern part. This boundary is no longer at issue, the respective parishes having come to an agreement, carried out a joint survey, and obtained a mutually acceptable judgment concerning that agreement and survey.<sup>7</sup> The boundary conforms to the Act of 1868,

thence southwardly [along Grand River] to the line between townships twelve and thirteen south; thence westwardly in a direct line to the northwest corner of the lands of Charles Cravenberg.

In regard to Lake Fausse Pointe, this boundary (IJ) is but a part of the line from Grand River (VJ, Figs. 17, 18), and its designation leaves no latitude of interpretation, beyond the engineering problems of locating the respective calls and demarcating the line on the land.



Grand Lake  
(Attakapas Lake, Chetemache Lake)

The two lines extending eastward from Lake Fausse Pointe (OPRT and JV, Figs. 17, 18) form the northern and southern boundaries of the eastward prurption (a very long narrow extension of political territory) of Iberia Parish:

through the middle of [Lake Fausse Pointe] to a point [O] intersected by the township line between townships eleven and twelve south; thence east along said line [OPRT] to the eastern limits of the parish of St. Martin, or Grand River; thence southwardly with said limits [TV] to the line between townships twelve and thirteen south; thence westwardly in a direct line [VJ] to the northwest corner of the lands of Charles Gravenberg....

Interpreting the will of the legislature in these lines offers no difficulties to standard historical and engineering procedures.

The northern boundary of the Iberia Parish prurption is offset northward (PR) east of the R9-10E range line because that offset occurs in the T11-12S township line in the General Land Office Survey.<sup>8</sup> The southern boundary deviates slightly south of due west because of the location of Gravenberg's lands. Neither of these lines (OPRT and VJ) is defined in terms of Grand Lake, but they connect arbitrary points beyond the shores of Grand Lake. The engineering problem becomes one of determining the locations on the land of the relevant points and of agreeing in demarcating a boundary.

In allocating territory thus to Iberia Parish, the legislature committed one of its few important blunders in creating parishes in alluvial Louisiana: the dividing of St. Martin Parish into two territories. In so leaving a disrupted jurisdiction, the legislature created a precedent for legislative erraticity that makes it slightly plausible to argue the lack of clear principles to guide legislation.

In the cases of the "cross-river parishes" along the Mississippi, from Iberville to Plaquemines (except St. Bernard), no other jurisdiction intervenes between the land areas on the left and right banks. But this Iberia Parish prurption, together with the ambiguities in the Terrebonne-Lafourche, St. Bernard-Plaquemines, and Jefferson-Lafourche boundaries, tarnish the otherwise enlightened policies of the legislature. Quite clearly, it would have been much wiser to have allocated in the Act of 1868 the disjunct piece of St. Martin Parish to St. Mary Parish.

In any event, the area of old Grand Lake is rapidly filling with sediment, and the Mississippi will, inevitably, make a new channel through that region, exiting through Atchafalaya Bay. It is salutary indeed to see that Iberia and St. Mary parishes (1975),<sup>9</sup> St. Mary and St. Martin parishes (1962),<sup>10</sup> and St. Martin and Iberville parishes (1947)<sup>11</sup> have set about demarcating their boundaries under the provisions

of the constitution. Once St. Mary and Terrebonne parishes come to a formal agreement, the Atchafalaya Basin will have the proper frame of civil jurisdictional order, and the respective parishes will all be prepared for the new Mississippi. Even so, the new Mississippi will probably leave Iberia Parish divided into two and St. Martin Parish into three land territories.

The part of the old Grand Lake lying south of the southern boundary of Iberia Parish is divided between St. Mary and St. Martin parishes, along a line ambiguously allocated in 1811 and 1813. This lower part of Grand Lake includes what today are called "Grand Lake," "Six Mile Lake," "Flat Lake," and "Willow Cove."

The County of Attakapas was divided to create St. Martin and St. Mary parishes by the Orleans Territory Act of 1811.<sup>12</sup> This act was so vague that the legislature was moved in 1813 to explain the areas encompassed by the creation of the two parishes.<sup>13</sup> The Act of 1812 gave the boundary between the two parishes as running through "the middle of the Great Lake" by establishing that as the boundary of St. Mary Parish. However, the Act of 1811 had fixed the eastern boundary of St. Martin as Grand Lake, leaving the western part of that lake apparently in dispute because it was not adequately clarified by the Act of 1812. In 1833, the legislature authorized a survey to determine the boundary, and such survey was run from 1832 to 1847, but apparently failed to resolve the issue. The survey was to have conformed to the Act of 1812, that is, through "the middle of the Great Lake." The problem was finally settled in 1958 by agreement between the two in a conjoint survey and a process-verbal.<sup>14</sup>

Grand Lake has been undergoing such considerable change, primarily in the form of alluvial additions of land, that it has been questioned as to whether the body of water was actually a river or an inland lake.<sup>15</sup> In *Miami Corp. v. State*, the Louisiana Supreme Court adhered to the view that a vast expanse of water, such as Grand Lake, despite being traversed by a stream is, indeed, a lake. Such geomorphic change as seen in Grand Lake makes boundary delimitation difficult because it becomes necessary to determine the shape, size, and location of the lake at the time of legislative allocation. This problem, however, was settled by special agreement between St. Martin and St. Mary parishes.

The methods used in constructing the St. Martin and St. Mary boundary to reflect the true intent of the legislature is well worth reviewing. Officials for the parishes determined from various legislative acts (March 31, 1807; April 17, 1811; March 20, 1813; February 15, 1833; Act 297 of 1850; and Act 208 of 1868) that the boundary was to proceed "through the middle of the Great Lake." "Great Lake" included Grand Lake, Six Mile Lake, Flat Lake, Willow Cove, and Lake Palourde.

Extensive changes in the shores, shapes, and sizes of these water bodies made it difficult to reconstruct the location of a median line as it was between 1807 and 1868. Accordingly, parish officials agreed to use the meander lines (surveyor-drawn shorelines) of the original government survey between 1832 and 1847.

To locate the original meander lines, a survey was made approximately at six-mile intervals on both sides of the lakes, with the meanders adjusted between the intervals as necessary. These points were then stated in terms of the Lambert Coordinates with a triangulation system using points along the southern and western shores of the lakes. The original meander lines were rendered in terms of these triangulation points so as to permit any surveyor at some future time accurately to reconstruct the lines.

The next step in creating a median-line boundary would (according to the surveyors) have entailed the determination of mid-points between the meander lines (the landsman's point of view). Because numerous irregularities made a precise solution virtually impossible, the surveyors determined that a new meander line of long, straight lines would be run on each side of each lake. These lines were located so that the area of land on the lake side of the line equalled the area of water on the land side. The mid-points between these new meander lines formed the basis of the boundary between St. Martin and St. Mary parishes.

Adjustments were then made to avoid having the boundary run across islands. The line was thus altered to bypass Dog Island and another island (unnamed) with care taken to exchange equal areas. When the line was finally established, it was keyed to Lambert Coordinates.

The description of this boundary, in the form of a proces-verbal, was recorded in the 16th Judicial District Court of St. Mary Parish on April 29, 1959, and subsequently enacted as Ordinance No. 667 of St. Mary Parish on December 10, 1962 (entry no. 116, 176, recorded in book 12-L of Conveyances, p. 284).

The St. Mary and St. Martin boundary through Grand Lake and Lake Palourde is settled under the constitution. Despite the claims of the surveyors, the precise determination of a median line is not impossible. Had the engineers, first and with the approval of their respective police juries, agreed upon a historical reconstruction of the shape and size of Grand Lake, a precise, unique, and unambiguous median line could most certainly have been delimited. That line is, of course, the Boggs median line, every point of which is equidistant from the adjacent land jurisdictions (the waterman's point of view). Use of Boggs's method would have produced a line only slightly more favorable to St. Martin Parish than the boundary described on the proces-verbal (Fig. 18). Because the surveyors, presumably with the concurrent approval of their police juries, had chosen the General Land Office township plats as accurate depictions of the shores of Grand Lake, they could more easily have used the Boggs median line than the complicated straightening, dividing, and compensating that they actually used. Naturally, once the true median line is determined, it can be simplified, and its turning points can also be expressed in terms of Lambert Coordinates.

Lake Palourde  
(Lake Pollard, Lake Poulard)

In the same agreement in which St. Mary and St. Martin parishes settled their Grand Lake boundary, they settled their Lake Palourde boundary (AB). The agreed-upon boundary departs little if at all from the vague allocation of the legislature.

A second boundary in Lake Palourde (AF) has arisen, apparently, through the mutual, tacit agreement between the assessors of St. Mary and Assumption parishes.<sup>16</sup> Because this tacit agreement seems to be of long standing, it probably has the status of law: *L'erreur commune fait le droit.*

Atchafalaya Bay  
(Bay of Atchafalaia)

The boundary between St. Mary and St. Martin parishes becomes the boundary between St. Mary and Assumption parishes in the southeastern exit of Lake Palourde through Bayou Boeuf. The eastern boundary of St. Mary Parish apparently follows the thalwegs of Bayous Boeuf, Black, Chene, Penchant, and Shaver and the lower Atchafalaya (Sweet Bay Lake and Berwick Bay) to the mouth of the river (Fig. 19). The true locations of these boundaries depend upon historical and engineering studies and present no serious difficulty until we reach Avoca Island Lake (actually, nameless on most maps). This lake (C) is new, the result of a flood-control levee and certainly subsequent to the boundary. As such, the boundary, following the old course of Bayou Penchant, runs near the waters and into the waters of Avoca Island Lake. The encroachment of this largely artificial lake upon the boundary cannot change the boundary. These bayous were navigable streams in the early and mid-nineteenth century.<sup>17</sup>

Following Bayou Shaver (Shaffer, Chevre) into Sweet Bay Lake, the boundary remains in the thalweg, making consideration of the varying historic portrayals of that lake largely irrelevant. The same holds for Berwick Bay (actually, a mere widening of the lower Atchafalaya).

Somehow, the status of the lower part of the Atchafalaya River must be determined, but this may best be done after settling other matters. The relevant date seems to be 1822 when an act created Terrebonne Parish from Lafourche County. Whatever the intent of the Act of 1811 that created St. Mary Parish from Attakapas County, or the Act of 1812 that explained the Act of 1811, the Act of 1822 stipulated that the western boundary of Terrebonne Parish follow "the eastern shore of Atchafalaya Bay to the sea, including Marsh Island," and because none of Louisiana lies outside parish jurisdiction, St. Mary and Terrebonne parishes must abut on a common boundary. Common maps of the day (such as Darby 1816, Ludlow 1818, Cathcart and Hutton 1819, and Kneass 1823) clearly show that the large island closing the southeastern part of Atchafalaya Bay was called "Marsh Island," and some (such as Darby 1816, Cathcart and



Hutton 1819, and Kneass 1823) show "Pte. au Fer" as the western tip of that island. Thus, if the western boundary of Terrebonne Parish lies along the shoreline of Point au Fer Island, Atchafalaya Bay lies wholly within St. Mary Parish.

The precise delimitation of the boundary between St. Mary and Terrebonne parishes in Atchafalaya Bay faces several difficulties. Not the least of these is the rapid sedimentation of that bay by the Atchafalaya River, especially just prior to the War Between the States and after World War II. This filling of Atchafalaya Bay has proceeded such as to preclude accurate determination of the shape or thalweg of that bay as of 1822. It even seems likely that the shape of the bay and perhaps the number and locations of islands in the bay have changed.

This, then, is the second difficulty: the location of the eastern shorelines of Atchafalaya Bay, including such islands as may have existed in 1822. Most of the historic cartographers show a gently flaring mouth for the Atchafalaya River, with some approximation of Shell Island on the right bank. Most also show one or more islands or a peninsula making part of the northeastern shore and closing Fourleague Bay, toward Point au Fer Island (Table 4). The small area between the mouth of the Atchafalaya and South Point on the north end of Point au Fer Island is the most confusing boundary zone in coastal Louisiana.

Plumb Island Point in T19S, west of the mouth of Crooked Bayou (Fig. 19), appears as an island on Bayley 1853, USCS 1854, Anon. 1871a, and Leach 1887; yet they do not agree on its size or location. Anon. 1871a even calls it "Plump Island Bank." The Plumb Island Point of today may not be an actual part of the historic Plumb (Plump) Island, or that island may have been joined to the mainland. In his 1819 journal, Cathcart gives a somewhat confusing description of Plumb Island, yet even with the ambiguities of his account, we can see that the present-day disposition of land and water around what is now called Plumb Point fit Cathcart's description.<sup>18</sup> Rightor and Collam 1837 delineate a "Plumb Is." as a circumnavigable tract about one-half mile inland of Atchafalaya Bay. According to them, Plumb Island had a grove of trees on its western end, and these trees may designate a chenier or Indian mound which was actually the "island" named. A similar situation is portrayed by Gerdes 1855.

More confusing yet, nearly two dozen historic cartographers, several of them quite competent, show an unnamed island (of 1,845.43 acres, according to Rightor and Collam 1837) lying southeast of Plumb Island Point and partially closing the entry of Fourleague Bay (Marsh Island Bay, Saltwater Lake). Several other cartographers, all competent, show a peninsular extension of the mainland, also unnamed (except for Lockett 1872 who called it "Alligator Point"; but Leach 1887 placed "Alligator Point" on the northern tip of Point au Fer Island)--instead of the nameless island. Cathcart's journal calls it, simply, "the Peninsula."<sup>19</sup> The cartographers disagree as to the size, shape, and location of the nameless island. The shape of the nameless point, shown on modern maps in somewhat the same location as the nameless island, corresponds with none of the historic representations of the shape of that island.

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Table 4. How Atchafalaya Bay is separated from Fourleague Bay, according to historic cartographers, 1816 to 1883.

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Separated by an Unnamed Island:

Ludlow 1818	Coast Survey 1854
Cathcart and Hutton 1819	Gerdes 1855
Rightor and Collam 1837	Colby 1857
Graham 1838	McCulloh 1859
Bradford 1838	Johnson 1862, 1866
Tanner 1840	Anon. 1863
Hughes 1842	Houston, 1863
Morse 1842, 1856	Haines 1864
Bayley 1853	Mitchell 1866
LaTourrette 1843, 1848, 1853	Anon. 1871a
Boyd 1849, 1850	Leach 1883
Colton 1854, 1855, 1861	

Separated by a Named Island:

Gerdes 1853 (Pheab Isld.)	Hardee 1895 (Alligator Pt.)
Lockett 1872 (Alligator Pt.)	

Separated by a Peninsula of the Mainland:

Anon. 1816	Kneass 1822, 1823
Darby 1816	Finley 1824, 1826

No Island or Peninsula Shown:

Anon. 1829	Mitchell 1848
Burr 1834	Cowperthwait 1853
Copley 184?	Gerdes 1854
Blount 1841, 1860	Hazzard 1856
Greenleaf 1842, 1849	Rand McNally 1880

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A second island (Halters Island) appears between nameless and Point au Fer Island on Lockett 1872 and Leach 1883. Cathcart's journal apparently designates this island as "branch willow island" and the passage between the island and Point au Fer Island as "branch willow pass."<sup>20</sup> Gerdes 1855 includes in this pass: "Steam boat channels from the Atchafalaya bay to the Gulf" and "West Entrance--through fare." Yet Halters Island has disappeared from modern maps, while its name appears in Halters Island Gas Field where the nameless island or peninsula used to be shown.

A similar tale of disagreement among historic cartographers regard to the shoreline of Point au Fer Island, except that they generally agree in showing a progressive retreat of the bay, while the island advances toward the northwest (Bradford 1838, Hughes 1842, Bayley 1853, USCS 1854, and Anon. 1871a). These same maps show a retreat northward of the island on its southern (gulf) side. Both of these changes in Point au Fer Island conform to modern conceptions of geomorphic processes surrounding the island: erosion on the gulf side, deposition on the bay side.<sup>21</sup>

Considering the whole testimony of historic cartographers, Terrebonne Parish could make a claim that the shoreline (made up of islands and closing lines) of 1822 lay considerably west of its present location, so as to include nearly all of Halter Island Gas Field. At the same time, St. Mary Parish could advance Bayley 1853 or Hughes 1842 (among the principal authorities for Terrebonne's claim) as authoritatively portraying the historic northwestern shoreline of Point au Fer Island, claiming thereby the northern fourth of that island. Reconciliation of these two claims would require extensive surveys, studies, and litigation, none of which promises factually definitive conclusions. On the other hand, the boundary could be placed along the present shoreline, thus cancelling or trading claims and escaping the expense and delay attendant upon ordinary litigation. The matter hangs urgently under the threat of the diversion of the Mississippi through Atchafalaya Bay.

Reaching Point au Fer and the baseline of the state, the boundary, of course, follows the meridian to the limit of Louisiana jurisdiction. This delineation, in effect, places the future delta of the Mississippi entirely in St. Mary Parish or in St. Mary and Iberia parishes.

In any event, there is no authority whatever for the boundary depicted on the USGS 1:250,000, New Orleans, showing the boundary lying along the east (left) bank of the Atchafalaya River, below Sweet Bay Lake, and running from the left bank of the mouth, southwestwardly through the Eugene Island shell reef. The Act of 1812, explaining the Act of 1811 creating St. Mary Parish, did not stipulate either bank of "the entrance into the Bayou Teche" and cannot, therefore, support placing the boundary along the left bank. But the erroneous delineation calls attention to this second important blunder by the legislature in allocating the Atchafalaya Basin to parishes. Had the Act of 1822 placed the boundary through Atchafalaya Bay and allocated Eugene Island to St. Mary Parish, a Boggs median line (AB) would have divided the bay reasonably, allowing each parish control of the affairs adjacent to its shore. The unreasonableness of the actual allocation was also underscored by an attempt in 1836 by St. Mary Parish to have Terrebonne Parish agree to drawing the boundary through Fourleague Bay and Oyster Bay (ADEF).<sup>22</sup> The proposed line was passed as an ordinance of St. Mary Parish, but neither Terrebonne nor Assumption responded to the call to carry out a conjoint survey. St. Mary Parish's 1836 attempt arose in response to an 1835 act authorizing such a survey. In 1837, the legislature passed an act<sup>23</sup> conforming to St. Mary's proposal of 1836 in the section from Lake Palourde, along Bayou Boeuf, through Bayou Black, and through Bayou Chene. The Act of 1837 ends its specific allocation,

"thence down the Bayou Chene as laid down by the commission, as laid down under the law of 1835, providing for running the boundary lines between the parishes of the state." Thus no departure was authorized from the Acts of 1811, 1812, or 1822, below the mouth of Bayou Chene (and presumably Shafer), and St. Mary Parish's claim to half of Four-league Bay and all of Point au Fer Island lapsed from being ignored.

## 8

# The Cote Blanche-Vermilion Bays

### The Cote Blanche Bays

The boundary through East and West Cote Blanche bays separates St. Mary and Iberia parishes. This boundary was allocated by the legislature in the Act of 1868<sup>1</sup> placing that line so as to run "to Vermilion Bay, thence through said Bay to the southeast pass of Cote Blanche Bay." Until recently, the boundary had not been delimited, much less demarcated, although many general-information maps purported to show the boundary. The legislature's ambiguous, equivocal allocation allowed honest differences in interpretation between the parishes. It was not possible to let the boundary lie along the middle of a navigable channel, because no single such channel exists (USCGS charts 1276 and 1277).

By agreement in 1975, the two parishes accepted a boundary between them. That boundary is a series of straight lines that approximate a true median line (Fig. 20) and that conform to the legislative intent expressed in the Act of 1868. Some departures from the true Boggs line were agreed upon in order to minimize the revenue loss to Iberia Parish which had been collecting on the basis of oil wells that had been presumed to lie within that parish's jurisdiction. The final judgment in *St. Mary Parish v. Iberia Parish*<sup>2</sup> departs very little from the legislature's will as expressed in the Act of 1868. This is true, especially if Morrison's Cut Off is construed as "the southeast pass of Cote Blanche Bay." Such a construal would have allocated Rabbit Island to Iberia Parish, as did the final decree. Rabbit Island, having something of the status of an historic island, moved the median line eastward. The negotiation and litigation which resulted in this boundary's delimitation lasted over six years, and much of it could have been avoided if the parishes had delimited and demarcated their mutual boundaries before the border zone had become remarkably valuable. If the parishes had done so with the intent of declaring the boundary most appropriate to this bay, the strict Boggs's median line would have been used.

By agreement, the parish boundary was extended to "the point of intersection with the south line of the State of Louisiana established in accordance with the United States Supreme Court in the *U.S. v. La.*, 95 S. Ct. 2022 (1975)."

The attorney representing St. Mary Parish, Mr. Jack Caldwell, carried out a classic piece of forensic geography to define the boundary. He became convinced that the numerous, specific, detailed calls used in the Act of 1868 meant that the legislators who drafted the act had to have had a map before them. Mr. Caldwell also compared the language of the preliminary form and the final form of the act, finding that fifty-nine changes had been made--nearly all of them increasing the specificity

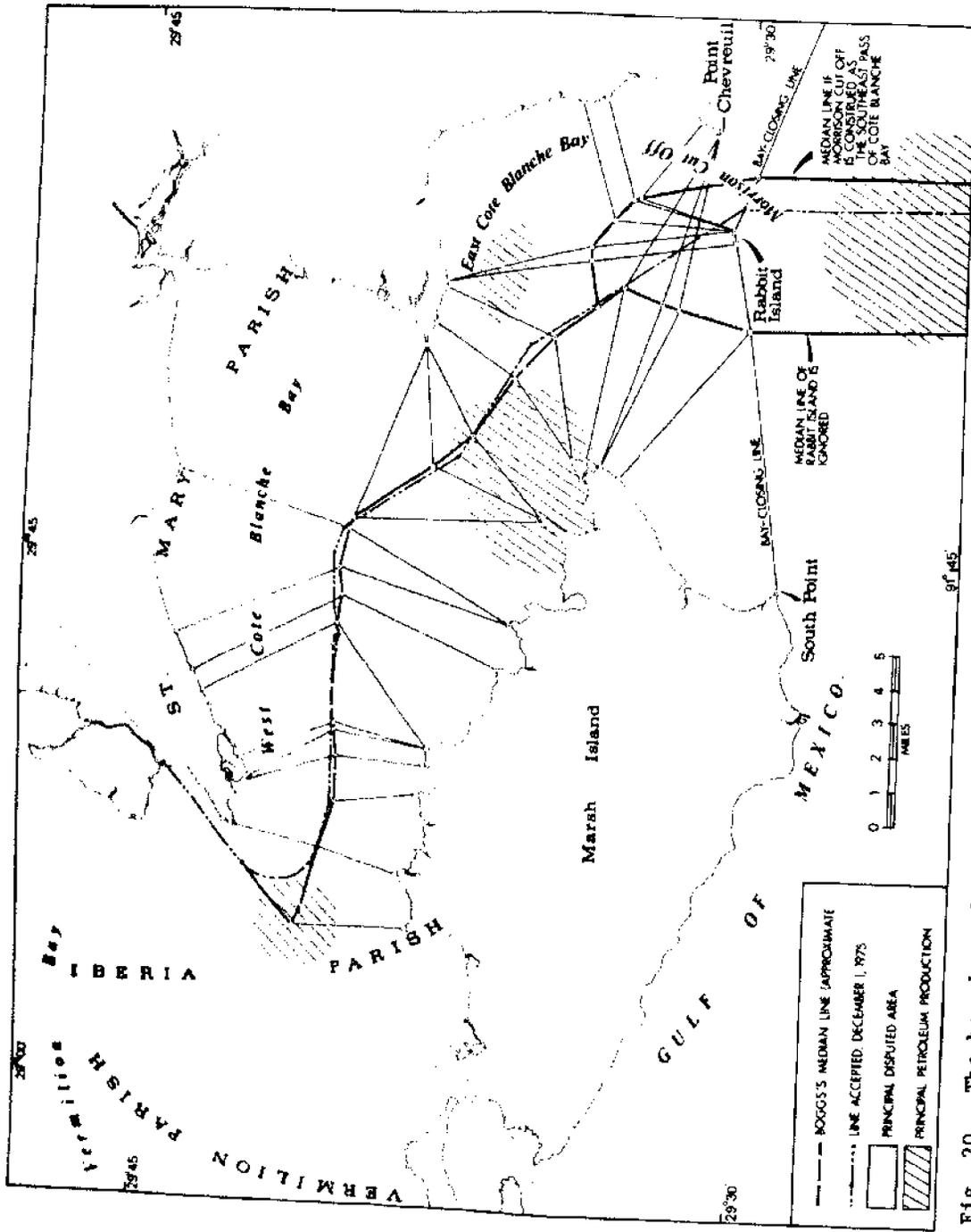


Fig. 20. The boundary through the Cote Blanche Bays.

of the calls. He identified thirty-four calls and set about to find whether there had been a single map with all of the calls. Such a map was found only in LaTourrette 1853.<sup>3</sup> The legislators could not have given the detail that they did in drawing the boundaries of Iberia Parish without using a map, and the single map that furnishes all of the calls but one in its drawn and spelled elements is LaTourrette 1853. The one missing call was "the southeast pass of Cote Blanche Bay."

On LaTourrette's map, the water area between Rabbit Island and Point Chevreuil was designated "Morrison's Cut Off." St. Mary Parish argued that if the legislature, with the map before it, had intended the boundary line to run through Morrison's Cut Off, the act would have used this term. The failure of the legislators to name Morrison's Cut Off convinced St. Mary Parish that the legislators used the term "southeast pass" to designate the entire stretch between Point Chevreuil and South Point on Marsh Island, and that the median line should accordingly be run between these points. Iberia Parish, of course, argued that "southeast pass" meant the most easterly of the several south passes of Cote Blanche Bay. The compromise gives some effect to both of the arguments.

To facilitate comparing the proposed and the enacted laws, interlined texts (italics indicating changes inserted in the act as passed) were prepared and run thus:

Beginning at the Gulf of Mexico at the entrance <sup>to</sup> of the South-west<sup>s</sup>  
or Vermilion; thence along the middle of the main channel  
~~pass and running along the southern shore~~ of said pass  
the <sup>V</sup> ~~its~~ entrance into <sup>B</sup> Vermillion <sup>B</sup> Bay; thence in a direct line to the  
mouth of Petite Anse <sup>B</sup> ~~payou~~; thence in a direct line to the western shore  
of <sup>L</sup> Lake Peigneur; ~~Peignier~~, thence along the western shore of said lake<sup>s</sup> and  
~~the river~~ <sup>along the line</sup> dividing the parishes of St. Martin, <sup>Vermilion</sup> ~~from Vermillion~~ and  
Lafayette<sup>s</sup> to a point intersected by a line running east and west<sup>s</sup> two  
miles and <sup>one-half miles</sup> ~~a half~~ north of the township <sup>line</sup> ~~river~~, between town-  
ships <sup>eleven and twelve south, in range five east,</sup> ~~11 and 12;~~ <sup>due</sup> thence ~~east along said river~~  
~~until the same strikes the southern boundary of land confirmed to Francois~~

~~Declouet, per certificate B. 1852, thence along said southern boundary~~

*to the township line between ranges five and six east, thence southeast to the upper line of lands now belonging to S. M. Darby (originally confirmed to J. Fontenette, Commonly represented as number fifty-nine) thence north-eastwardly along said upper line*

*Yasse southeastwardly through said lake, in a direct line to lake ~~Fasse~~, thence ~~along~~ the middle of ~~lake Fasse~~ to the upper line of lands now owned by John F. Wyche*  
~~piece of land belonging to Doctor Peebles; confirmed to Madame Saint~~

Marc Darby, thence along said <sup>upper</sup> line to the <sup>B</sup> Bayou Teche, thence east

~~along the southern shore of the bayou Teche at low water mark, to the~~

~~upper line of land belonging to the widow of Neuville Declouet northward~~

~~along the said upper line to the~~

*crossing said bayou to the upper line of lands belonging to J. F. Wyche; following said upper line to the depth of forty arpents, thence following the rear concession of lands lying south of J. F. Wyche, and fronting Bayou Teche at a distance of forty arpents from said bayou to the south line of Onezephore Delahoussaye, thence circumscribing the lands of said Onezephore Delahoussaye to Coulie Portage, following said Coulie to*

<sup>B</sup> Bayou Portage, thence along the <sup>middle</sup> ~~southern shore~~ of said bayou to lake

Fausse Pointe, ~~thence along~~ <sup>and through</sup> the middle of <sup>said lake</sup> ~~lake Fausse Pointe~~, to a point

intersected by the township line between townships <sup>eleven</sup> ~~11~~ and <sup>twelve</sup> ~~12~~ south;

thence east along said line to <sup>the</sup> eastern limits of the parish of St.

<sup>on Grand River</sup> Martin, <sup>southwardly</sup> thence ~~south~~ with said limits to the <sup>line</sup> ~~river~~ between

townships <sup>twelve</sup> ~~12~~ and <sup>thirteen</sup> ~~13~~ south; thence <sup>westwardly in a</sup> ~~east by a line~~

<sup>direct line to</sup> ~~drawn from~~ the north-west corner of the land <sup>s</sup> of Charles <sup>Gravenberg</sup> ~~Gravenberg~~

~~thence southeastwardly~~  
~~running therewith thence south with said line, and the upper line of~~  
~~Charles Gravenbergs land across the~~ <sup>B</sup> ~~Bayou Teche, to the land of~~ *along the upper line*  
~~of said lands of Charles Gravenberg and in a direct line~~  
~~Ortaire Delahoussaye, thence along the northern and western boundary~~  
~~of said land of Ortaire Delahoussaye, south to the sea marsh, thence~~  
~~through~~ *midway* ~~along~~ *highlands of* ~~the said sea marsh~~ ~~between the high lands on bayou~~  
Cypremort and Grand Cote to the Vermillion bay, thence through said bay/  
to the southeast pass *of Cote Blanche Bay and* ~~of Vermillion bay,~~ thence along the  
*coast of* ~~western shore of said pass to~~ the Gulf of Mexico/ ~~thence to the~~  
~~point~~ *Petite Anse Island.*  
~~place~~ of beginning--including ~~Marsh/Island.~~

#### Vermilion Bay

The boundary through Vermilion Bay separating Vermilion and Iberia parishes (Fig. 21) is clearly set forth in the Act of 1868<sup>4</sup> creating the latter parish

that the following shall be the boundaries of the parish of Iberia, viz: Beginning at the Gulf of Mexico at the entrance of the Southwest, or Vermilion Pass; thence along the middle of the main channel of said pass to the entrance of Vermilion Bay; thence along a direct line to the north of Petite Anse Bayou, thence in a direct line to the western shore of Lake Peigneur.

From the intersection (A) of the mouth of the thalweg of Southwest Pass and the meridian extending to the line of the state, the boundary follows the thalweg of Southwest Pass, generally northeastward, to the head of that thalweg (B) in Vermilion Bay. From that point, the line (BC) crosses that bay, directly to the mouth of the thalweg of Bayou Petite Anse (C). From the mouth of that thalweg, the line runs directly to the western shore (D) of Lake Peigneur. The only possible items of dispute along this boundary are the geomorphological-engineering determinations of the locations of the turning points (A, B, C, and D) and the question of historic usages that may have led to a de facto delimitation.

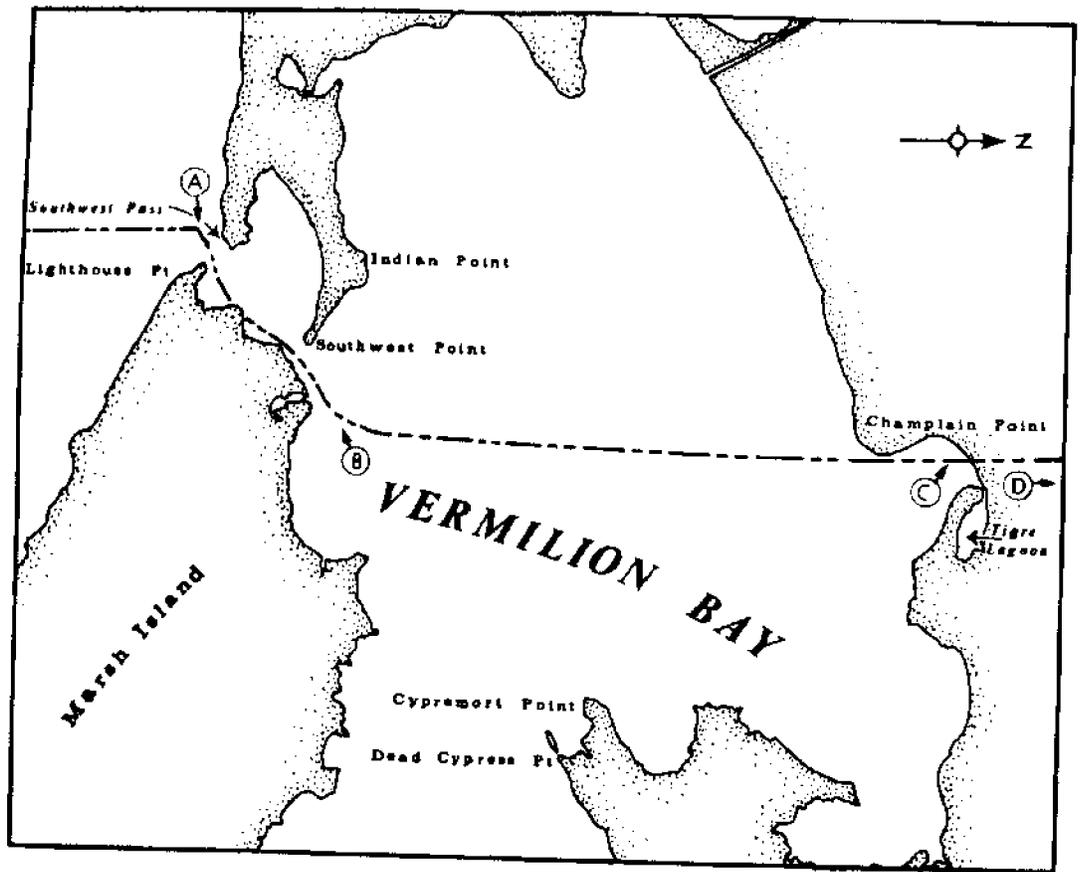


Fig. 21. The boundary through Vermilion Bay.

## 9

# Other Lakes

### Calcasieu Lake and Lake Arthur

Cameron Parish was created out of "the southern portion of the parish of Calcasieu," and according to the Act of 1870, the boundary separating them was to be drawn<sup>1</sup>

commencing at a point on the Sabine River, on the township line dividing townships eleven and twelve south, thence east on said township line to the range line between ranges numbers two and three west, thence south on said range line to the Gulf of Mexico.

Such an allocation leaves few difficulties other than actual monumenting of the boundary and keeping track of lakes which tend to enlarge in this region. The east-west segment of the boundary crosses the northern end of Calcasieu Lake and the southwestern end of Lake Arthur. The north-south segment passes through a region of small round lakes between Grand Lake and White Lake; in that region it impinges upon many of these round lakes, among the larger of which are Blackfish, Alligator, and Turtle lakes.

### Spanish Lake

The boundary through Spanish Lake was finally determined, as between Ascension and Iberville parishes, in 1847 when the legislature enacted<sup>2</sup> that the line be that surveyed and established by Augustus S. Phelps in 1837. That boundary was retraced and monumented in 1925 by the State Board of Engineers as extending from a point on the Mississippi River near the junction of the line between townships 9 and 10 south and ranges 1 and 2 east (southeast district) and then northeastward until it intersected Alligator Bayou near its confluence with Bayou Manchac. This is essentially the same line as that shown on Catesby Graham's map of 1838 and LaTourrette's map of 1848.

### Catahoula Lake

Rapides Parish was created from Rapides County in 1807.<sup>3</sup> In 1808, Catahoula Parish was created from Rapides.<sup>4</sup> Then, in 1908, LaSalle Parish was created from Catahoula.<sup>5</sup> The LaSalle Parish boundary in this area was legislatively defined in 1908 in terms of the Rapides Parish boundary. However, that boundary necessitates review of the Catahoula Parish boundary through Catahoula Lake. LaSalle Parish is successor to that boundary.

In an Act of 1813 to define the limits of Catahoula Parish, the words, "thence down Little River to Catahoula Lake; thence a direct line to strike Black River at the mouth of the Crocodile," created an ambiguity as to where the boundary should actually run. This problem was thought to have been resolved in 1818 in an act<sup>6</sup> establishing the boundaries of Avoyelles Parish when it was determined that the boundary should run "due north until said line strikes Catahouley Lake, thence down the said lake to the lower end thereof, thence a direct line to strike the Black River, opposite the mouth of the Bayou Crocodile."

Yet such a boundary is impossible because the due-north extension of the western boundary of Avoyelles Parish passes west of Catahoula Lake. A later act,<sup>7</sup> passed in 1847, redefined the boundary between Rapides and Avoyelles parishes as running from the mouth of Little River in the southwestern part of Catahoula Lake to its exit, known as Big Saline Bayou. That line is essentially correctly portrayed on various common maps, such as USGS 1:250,000, Alexandria.

#### Saline Lake

The southwestern boundary of LaSalle Parish, lying along Big Saline Bayou passes through a wider part of that stream, known as Saline Lake. The boundary between LaSalle and Rapides parishes follows the thalweg through that lake.<sup>8</sup>

#### Other Thalweg Lakes

There are other lakes, like Saline Lake, that are wide parts of active or inactive streams that are called "lake" by custom.<sup>9</sup> As such, unless the relevant act designates otherwise, the boundary is presumed to follow the thalweg as of the date of the act. Along the Tensas River, one finds Tensas Lake, and along its tributary, Big Roaring Bayou, appears Big Lake; insofar as the boundary between Tensas and Franklin parishes follows these streams, it follows the thalweg of the "lakes" as well. The same principle must be applied to other widenings called lakes by custom.

Along the Red River are many cutoff lakes arising from shortening of its course by engineers and by natural processes. The boundary, however, must follow the thalweg of the Red as of 1843, the date of the formation of Bossier from Claiborne Parish.<sup>10</sup> Because of the existence of accurate surveys of the Red River, the course of 1843 is well known, and the boundary departs often from the present course, often through cutoff lakes. The boundaries portrayed on common maps, such as USGS quadrangles, are presumed to be correct.

#### Lakes Having Antecedent Boundaries

When a lake is formed or enlarged by artificial or natural means after a boundary through its area had been determined, the bed is divided for purposes of jurisdiction as the area had been before the impoundment.

Several artificial lakes have flooded valleys where a parish boundary had previously followed a stream thalweg (Table 5). Such antecedent boundaries remain in force, regardless of the growth of the lake. A class of lakes (known to geomorphologists as "raft lakes") that includes, for example, Lake Bistineau and Black Lake was long known as lakes or swampy tracts. In recent years some of these raft lakes have been augmented by artificial dams, but even in their natural conditions, they had discernible thalwegs. In all cases, except the Red River-Natchitoches boundary in Black Lake, boundaries through raft lakes follow the thalwegs through these lakes. In the case of the boundary between Red River and Natchitoches parishes, the Act of 1878 specified the "western margin" of the lake, as far south as the line between townships 11 and 12 north.<sup>11</sup>

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Table 5. Louisiana lakes having antecedent boundaries.

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Lake	Impinging Parishes	Portion
Wallace	DeSoto, Caddo	Entire length
Bayou Bodcau Reservoir	Bossier, Webster	North of T20, 21N
Bistineau	Bossier, Bienville	South of T16, 17N
Saline	Natchitoches, Winn	Entire length
Bayou D'arbonne	Lincoln, Union	West of R1, 2W
Cocodrie	Evangeline, Rapides	Entire length

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# Notes

## Notes to Chapter 1

1. Roy O. Martin Lumber Co. v. Baird, 255 La. 14, 71 So. 2d 865 (1954).
2. See LSA-R.S. 50:221 et seq., Roy O. Martin Lumber Co. v. Baird, *supra*.
3. See LSA-R.S. 50:221-224. Comegys v. Stanolind Oil & Gas Co., 227 La. 657, 80 So. 2d 110 (1955).
4. Roy O. Martin Lumber Co. v. Baird, *supra*.
5. Louisiana Constitution of 1975, Article VI, Section 1. (A).
6. United Gas Pipe Line Co. v. Moise, 220 La. 969, 58 So. 2d 197 (1952).
7. *id.*
8. *id.*
9. Parish of Caddo v. DeSoto, 114 La. 366, 38 So. 273 (1905); Op. Atty. Gen. 1938-40, p. 602; Parish of Lafourche v. Parish of Jefferson, 206 La. 615, 19 So. 2d 328 (1944); Comegys v. Stanolind Oil and Gas Co., *supra*.
10. LSA-C.C., Art. 18.
11. Red River v. Parish of Caddo, 118 La. 938, 43 So. 556; Parish of Caddo v. Parish of DeSoto, 119 La. 120, 43 So. 978; Parish of Bossier v. Parish of Bienville, 130 La. 429, 58 So. 137.
12. Parish of St. Tammany v. Tranchina *et al.* 105 La. 610, 30 So. 100 (1901); United Gas Pipe Line Co. v. Moise, *supra*.
13. Parish of Caddo v. Bossier Parish, 164 La. 378, 113 So. 882 (1927); Fitzsimmons v. Cassity, 172 So. 824 (1937).
14. Parish of Red River v. Parish of DeSoto, 119 La. 992, 44 So. 822 (1907); St. Martin Parish Police Jury v. Iberville Parish Police Jury, 212 La. 886, 33 So. 2d 671 (1948). *But*, if a specific bank is not designated, see United Gas Pipe Line Co. v. Moise, *supra*.

15. *State v. Texas Co.*, 211 La. 326, 30 So. 2d 107 (1947); *State v. Beard*, 249 La. 811, 191 So. 2d 631 (1966); *State v. Malone*, 134 La. 779, 54 So. 711 (1914).
16. *State v. Texas Co.*, *supra*; *Comegys v. Stanolind Oil & Gas Co.*, *supra*.
17. *Comegys v. Stanolind Oil & Gas Co.*, *supra*.
18. *State ex rel. Bergeron v. Robichaux*, 33 So. 2d 27 (La. App. 1948).
19. *St. Martin Parish Police Jury v. Iberville Parish Police Jury*, 33 So. 2d 671 (1947).
20. *St. Martin Parish Police Jury v. Iberville Parish Police Jury*, *supra*; *United Gas Pipe Line Co. v. Moise*, *supra*.
21. *St. Martin Parish Police Jury v. Iberville Parish Police Jury*, *supra*.
22. *Parish of Lafourche v. Parish of Jefferson*, 206 La. 615, 19 So. 2d 328 (1944).
23. J. R. V. Prescott, *The Geography of Frontiers and Boundaries* (Chicago: Aldine, 1965), p. 64; see also pp. 64-72.
24. S. W. Boggs, "Problems of Water-boundary Definition; Median Lines and International Boundaries through Territorial Waters." *The Geographical Review* 27:447.
25. Boggs, p. 447.
26. *United Gas Pipe Line Co. v. Moise*, 220 La. 969, 58 So. 2d 197 (1952).
27. H. L. Johnson to F. J. Deemer and M. G. Riviere; 1951. This letter to the secretaries of the police juries of the parishes of Jefferson and Lafourche, respectively, includes Dean Johnson's report: "Determination of Boundary between Jefferson and Lafourche Parishes in the Bay Des Ilettes."
28. C. H. Fenstermaker, Jr., and T. F. Kramer, "Proces Verbal of Survey of Parish Line between St. Martin & St. Mary Parishes, La." Filed in St. Mary Parish Clerk's Office, April 29, 1959.
29. Boggs, p. 449.
30. For a contrary view, see *State v. Hightower*, 187 N. C. 300 (1924).
31. For one example of a claim to "unique" ability for a discipline, see Louis DeVorsey, "Florida's Seaward Boundary: A Problem in Applied Geography." *The Prof. Geog.* 25:214-220. Justice Hamiter, however, had already outlined most of the same principles mentioned by DeVorsey; *United Gas Pipe Line Co. v. Morse*, *supra*.

## Notes to Chapter 2

1. See *Parish of Lafourche v. Parish of Jefferson*, 206 La. 615, 19 So. 2d 328 (1944).
2. LSA-R.S. 50:221 *et seq.*
3. *United Gas Pipe Line Co. v. Moise*, *supra*.
4. LSA-R.S. 50:221.
5. The uniqueness of each instance of boundary making makes it difficult to prescribe adequate base maps. Even so, very accurate maps of lakes, bays, and sounds near the coast have long been prepared by USCGS and its predecessor, the US Coast Survey. Some errors may be found on some of these coastal charts, but such errors can be dealt with after boundary makers settle upon a nearly adequate base map. The Map Room, School of Geoscience, Louisiana State University, Baton Rouge, has a nearly complete file of the several editions of these charts.
6. An up-to-date, thorough bibliography on Louisiana place-names, as well as the only serious study of Louisiana generic place-names, can be had in R. A. Detro, "Generic Terms in the Place-Names of Louisiana, An Index to the Cultural Landscape. 1970. Ph.D. diss., Louisiana State University, Baton Rouge. Nearly everyone thinks of himself as knowing intuitively the meanings of place-names in his own region; careful boundary makers will, however, consult Detro.
7. *U.S. v. La.* 394 U.S. 11 (1969).
8. 43 U.S.C.A. 1301 (c) (1964).
9. A. N. Yiannopoulos, *Louisiana Civil Law Treatise*, Vol. 2 (Property), Sections 27 and 28.
10. Opinions of the Attorney General, 1938-40, p. 610.
11. *State of Louisiana v. State of Mississippi*, 26 S. Ct. 408, 421, 202 U.S. 1, 50 L. Ed. 913.
12. Of course, this line "closing" the mouth of a river should, like all other determinations based upon a shoreline, be reckoned at mean low water. The reasons for using the low-water work are discussed by G. E. Percy, 1959. "Geographical Aspects of the Law of the Sea." *Annals*, Assn. Amer. Geog. 49:6. As to how the mouth of a river is to be closed, see G. E. Percy, 1959. "Measurement of the U.S. Territorial Sea." *Dept. State Bull.* 60(1044):966.
13. J. S. Kyser, "The Evolution of Louisiana Parishes with Reference to Population Growth and Movement," Ph.D. diss., Louisiana State University, Baton Rouge, La., 1938, pp. 92-93.

14. Such memorials are noted and discussed in *St. Martin Parish Police Jury v. Iberville Parish Police Jury*, *supra*.
15. See, for example, the complaints of some residents of Grand Isle, as reported in the *New Orleans States-Item*, June 5, 1974, p. 1.
16. In a case of "Prosecution for theft of hogs," *State v. Beard* (La., 191 So. 2d 631), the Louisiana Supreme Court held, November 7, 1966, "the testimony of inhabitants of the area in dispute is admissible and acceptable as proof of the boundary," if that boundary had not previously been legally culminated.
17. Owing to the special status of customs as a secondary source of law in Louisiana (cf. LSA-C.C. Art. 3), careful consideration should be given to the means of investigating customs for legal purposes. Cultural geographers, anthropologists, and folklorists are among the kinds of experts who should be sought; but these experts should have training and experience in gathering facts on customs and doing so without influencing those whose testimony will be used. If such experts have experience among the cultures of Louisiana, they may be able to aid the negotiators with little or no additional and costly field investigations.
18. W. P. Cumming, *The Southeast in Early Maps* (Chapel Hill: Univ. of North Carolina Press, 1962), p. 2.
19. See, for example, the works of S. F. Lockett, *Louisiana As It Is* (Baton Rouge: Louisiana State University Press, 1969); B. Romans, *A Concise Natural History of East and West Florida*, 1775 (facsimile reprint; Gretna, La.: Pelican Press, 1968); W. Darby, *A Geographical Description of the State of Louisiana* (Philadelphia: John Melish, 1817); J. L. Cathcart, "Southern Louisiana and Alabama in 1819...: The Journal of James Leander Cathcart." Eds. Walter Pritchard, Fred B. Kniffen, and Clair A. Brown. *Louisiana Historical Quarterly* 28(3):735-921.
20. For example, LaTourrette's map (presumably the edition of 1848) was mentioned in Act 97 of 1850 thus: "The whole of said above line being in conformity to the boundaries of the parish of Terrebonne as laid down by LaTourrette's map of the State of Louisiana."
21. *St. Martin Parish Policy Jury v. Iberville Parish Police Jury*, *supra*.
22. For a guide to the reasonably reliable maps available at any date, see J. P. Morgan, *A Geographical and Geological Study of the Louisiana Coast, with Emphasis on Establishment of the Historic Shoreline*. (Baton Rouge: Louisiana State University, Coastal Studies Institute, 1955).

23. Boundary makers should be warned that, of course, there are those who will propose elaborate studies of matters that are reasonably well known and understood. Such unscrupulous persons want fees and expenses for their colleagues and retinue of subcontractors.
24. For a very fine example of using a historic map in discovering the legislature's will, see the technique of Mr. Jack Caldwell, described in chapter 8.

### Notes to Chapter 3

1. United Gas Pipe Line Co. v. Moise, 220 La. 969, 58 So. 2d, 197. See also Parish of Red River v. Parish of Caddo, 118 La. 938, 43 So. 556; Parish of Caddo v. Parish of DeSoto, 119 La. 120, 43 So. 978; Parish of Bossier v. Parish of Bienville, 130 La. 429, 58 So. 137.
2. USCGS, chart No. 1269.
3. Treaty of Paris (1763), Article VII.
4. See the "private claims" delineated, for example, on the relevant USGS topographic quadrangles.
5. Kyser, pp. 44-45.
6. Constitution of the United States (1789), Article IV, Section 3.
7. Louisiana Constitution of 1812, Preamble.
8. Act of Congress, April 8, 1812, 2 Stat. 701, recited the same description as contained in the preamble of the Louisiana Constitution of 1812, thereby making the line through the middle of "lakes Maurepas and Pontchartrain to the Gulf of Mexico" one of the state's boundaries.
9. Act of Congress, 1812, 2 Stat. 708, provided for the annexation to Louisiana of West Florida (Felician County) lying west of the eastern branch of the Pearl River.
10. August 4, 1812. See also La. Acts for August 25, 1812, which repeated the description in providing for representation in the state legislature of the newly annexed territory.
11. Parish of St. Tammany v. Tranchina, 105 La. 610, 30 So. 109; United Gas Pipe Line Co. v. Moise, 220 La. 969, 58 So. 2d 197 (1952).
12. La. Acts of 1832, 3rd S. of 10th L., p. 20 (Feb. 10, 1832).
13. La. Acts of 1850, 3rd L., Act No. 95, p. 67 (Mar. 12, 1850).
14. La. Acts of 1869, 2nd S. of 1st L., Act No. 85, p. 83 (Mar. 6, 1869).

15. Orleans Territory Acts of 1810, 2nd S. of 3rd L., Ordinance, p. 210 (Dec. 22, 1810); Orleans Territory Acts of 1811, 2nd S. of 3rd L., Chap. 28, p. 2120 (April 24, 1811).
16. Parish of St. Tammany v. Tranchina, *supra*; United Gas Pipe Line Co. v. Moise, *supra*.
17. Orleans Territory Acts of 1807, 2nd S. of 1st L., Chap. 1, p. 2 (Mar. 31, 1807).
18. United Gas Pipe Line Co. v. Moise, *supra*.
19. In an opinion of the state attorney general, the boundary between St. John the Baptist Parish and Tangipahoa Parish was determined as Pass Manchac. Op. Atty. Gen., 1936-38, p. 682.
20. Orleans Territory Acts of 1807, 2nd S. of 1st L., Chap. 1, p. 2 (Mar. 31, 1807).
21. United Gas Pipe Line Co. v. Moise, *supra*.
22. Orleans Territory Acts of 1805 (April 10, 1805).
23. Orleans Territory Acts of 1807 (Mar. 31, 1807).
24. La. Acts of 1882, Reg. S., Act No. 20, p. 14 (June 23, 1882).
25. La. Acts of 1912, Reg. S., pp. 253-54 (May 13, 1912).
26. La. Acts of 1825 (Feb. 11, 1825).
27. Op. Atty. Gen., 1936-38, p. 682.
28. Anon., "Map Showing Location of Surveyed Boundary Line Between the Parishes of Jefferson and St. Charles...", 1943 (unapproved).
29. 220 La. 969, 58 So. 2d 197.
30. Contrary to the supposition of the Supreme Court of Louisiana in Lafourche v. Jefferson (206 La. 615, 19 So. 2d 328), we cannot say, "Undoubtedly the engineers, in preparing these maps and in placing thereon the broken lines, had in their possession certain evidence that has not been brought to our attention and which is not before us." See Fig. 5.
31. See Note 25, *supra*.
32. Easterly, E. S. III, and M. B. Newton, Jr., "Several Parishes Seeking Lake Boundary Agreement." *Louisiana Parish Government* 12(5): 22-23. Several journalistic accounts have appeared; see, for example, "Dividing the Lake." *The States-Item* November 15, 1976, p. A10; John Fahey, "Lake Boundaries." *Times-Picayune*, November 21, 1976.

33. State of Louisiana v. State of Mississippi, 202 U.S. 53, 26 S. Ct. 571 (1906).
34. La. Acts of 1912, Reg. S., pp. 253-54 (May 13, 1912).

#### Notes to Chapter 4

1. S. M. Gagliano and J. L. van Beek, *Geologic and Geomorphic Aspects of Deltaic Processes, Mississippi Delta System*, 1970. Louisiana State University Center for Wetland Resources, Baton Rouge, La. Hydrologic and Geologic Studies of Coastal Louisiana, p. 130.
2. There are at least five versions of LaTourrette's map; four versions are dated 1845 (two), 1848, and 1853. There are at least two versions dated 1845, and one undated version predates the two 1845 versions. There are some indications of versions produced in 1839 and 1841.
3. La. Acts of 1842, 2nd S. of 15th L., Act No. 14, p. 22 (Jan. 12, 1842).
4. St. Martin Parish Police Jury v. Iberville Parish Police Jury, 33 So. 2d 671 (1947).
5. See, for example, Darby 1816, Finley 1824, Graham and Tanner 1834, Graham 1838, and Bradford 1838. Copley 184? places "Breton Sound" where we would today place that name.
6. There is the claim by some officials and residents of St. Bernard Parish that Grand Gosier Island is part of their parish. Except for the coloring on LaTourrette's map, that allocation would also fit the Act of 1842 and would require a new median line. Such an allocation would also make the line IF in Fig. 7 a more attractive compromise boundary.
7. See note 3, *supra*.
8. Note that in 1847 the legislature provided legislative redress, subsequently upheld by the Louisiana Supreme Court, for residents along Bayou Alabama whose community and affairs had been disrupted by the boundary between St. Martin and Iberville Parishes; St. Martin v. Iberville, 1947.

#### Notes to Chapter 5

1. Gagliano and van Beek, p, 130.
2. La. Acts of 1824, 2nd of 6th L., p. 68 (Mar. 7, 1824).
3. *id.*

4. *id.*
5. *id.*
6. Orleans Territory Acts of 1805 (Feb. 17, 1805).
7. Such a claim by Jefferson Parish was added in color to Anon. 1943. The failure of that attempt at amicable agreement shows that St. Charles Parish does not recognize that claim.
8. Anon., "Plan Local De las tierras que Rodean la Ciudad de Nueva Orleans" [Local plan of the lands that surround the city of New Orleans], 1803.
9. La. Acts of 1824, 2nd S. of 6th L., p. 68 (Mar. 7, 1824). The rendering of the Lafourche-Jefferson boundary by Lockett 1872 is especially puzzling: along Bayou Perot, the right bank of Little Lake, Grand Bayou to the R23, 24E line, the range line through Small lakes in T21S, turning southeast in T22S, R23E, to Tortillion Bayou, northeast along that Bayou to Caminada Bay, and then southwest to "S. W. Pass." We cannot find authorization for Lockett's peculiar delineation.
10. Lafourche v. Jefferson, 206 La. 615, 19 So. 2d 328 (1944).
11. *id.*
12. La. Acts of 1827, 1st S. of 8th L., p. 156 (Mar. 22, 1827).
13. La. Acts of 1830 (Mar. 15, 1830).
14. Lafourche v. Jefferson at 335, *supra*.
15. Lafourche v. Jefferson, at 332, *supra*.
16. Lafourche v. Jefferson, at 334, *supra*.
17. Gagliano and van Beek, p. 130.
18. Lafourche v. Jefferson, *supra*.
19. St. Martin v. Iberville, *supra*.
20. Lafourche v. Jefferson, at 334, *supra*.
21. Kyser, p. 74.
22. LSA-R.S. 49:6.
23. Consult USGS topographic quadrangle Caminada. For a concise discussion of common usage relative to "Chenier," see Detrow, pp. 161-65.

2. St. Martin Parish Police Jury v. Iberville Parish Police Jury, 212 La. 886, 33 So. 2d 671 (1947).
3. *id.*, at 675.
4. On rehearing, Justice Bond wrote the brief majority opinion.
5. La. Acts of 1868, 1st S. of 1st. L., Act No. 208, p. 272 (Oct. 30, 1868).
6. *id.*
7. See St. Mary Parish Ordinance No. 667, recorded in Book 12-L of conveyances, p. 284 (Dec. 10, 1962).
8. For a clarification of such offsets, see J. W. Hall, "Louisiana Survey Systems, Their Antecedents, Distribution, and Characteristics," Ph.D. diss., Louisiana State University, Baton Rouge, 1970; pp. 148-56.
9. St. Mary v. Iberia, Dockett No. 43, 113 (La. 16th Dist., 1975).
10. See note 7, *supra*.
11. St. Martin v. Iberville, 212 La. 886, 33 So. 2d 674 (1947).
12. Orleans Territory Acts of 1811, 2nd S. of 3rd L., Chap. 24, p. 104 (Apr. 17, 1811); La. Acts of 1812, 2nd S. of 1st L., p. 134 (Mar. 20, 1813).
13. La. Acts of 1833, 1st S. of 11th L., p. 28 (Feb. 15, 1833).
14. Proces-verbal dated Oct. 8, 1958. Recorded in the 16th Judicial Dist. Court of St. Mary Parish, April 29, 1959. Enacted an Ordinance No. 667 cited in note 7, *supra*.
15. Miami Corp. v. State, 186 La. 784, 173 So. 315 (1936), certiorari denied 302 U.S. 700, 58 S. Ct. 19, 82 L. Ed. 541.
16. Mr. Roger Bourg, Secretary, Assumption Parish Police Jury, personal communication, September 27, 1976.
17. S. H. Lockett, *Louisiana As It Is* (Baton Rouge: Louisiana State University Press, 1969), p. 101.
18. Cathcart, pp. 799-801.
19. Cathcart, p. 801.
20. Cathcart, pp. 801, 809.
21. Morgan, 1955.

24. Subject to modification of the baseline as a result of U.S. v. La. (1975).
25. See exchange of letters between Jefferson and Lafourche parishes, filed in the office of the secretary of Jefferson Parish Council.
26. Files of the clerk of Jefferson Parish.
27. Jefferson Parish Police Jury, Minute Book 20, 1951; pp. 167-68.
28. Jefferson Parish Police Jury, Minute Book, 23, 1954.
29. New Orleans *States-Item*, June 5, 1974, p. 1.
30. Resolution 23950, June 13, 1974.
31. Johnson, 1951.
32. Boggs, 1937; p. 447.
33. La. Acts of 1884, Act No. 92.
34. 206 La. 615, 19 So. 2d 328.
35. La. Acts of 1884, Act No. 92.
36. J. P. Morgan, manuscript maps prepared for the Attorney General of Louisiana, 1955. Geology Department, Louisiana State University.
37. Jefferson Parish Ordinance No. 823, May 12, 1943; Plaquemines Parish Resolutions, May 11, 1943.
38. Ibid.

#### Notes to Chapter 6

1. La. Acts of 1822, March 22.
2. La. Acts of 1850, 3rd L., Act No. 97, p. 68.
3. Terrebonne v. Lafourche, 34 Louisiana Annual 1230 (1882). Litigation continued before the Louisiana Supreme Court concerning the question of oyster beds in Timbalier Bay until 1897 when the Court affirmed its earlier decision.

#### Notes to Chapter 7

1. Orleans Territory Acts of 1807, 2nd S. of 1st. L., Chap. 1, p. 2 (March 31, 1807; La. Acts of 1847, 2nd S. of 2nd L., Act No. 130, p. 95 (April 15, 1847).

22. St. Mary Parish Ordinance No. 4084, recorded April 7, 1836.
23. La. Acts of 1837, 1st S. of 13th L., p. 22 (Feb. 23, 1837).

#### Notes to Chapter 8

1. La. Acts of 1868, Act No. 208.
2. Docket No. 43, 113 (La. 16th Dist.).
3. As noted in chapter 4, there are at least four versions of LaTourrette's map.
4. La. Acts of 1868, Act No. 208.

#### Notes to Chapter 9

1. La. Acts of 1870, 34d S., No. 102.
2. La. Acts of 1847, 2nd S., No. 130.
3. Acts of 1807 (Mar. 31, 1807).
4. Acts of 1808 (Mar. 23, 1808).
5. La. Acts of 1908, No. 177.
6. La. Acts of 1818 (Feb. 4, 1818).
7. La. Acts of 1847, 2nd S., No. 153.
8. The boundary through Saline Lake is essentially as shown on USGS Buckeye, 1969.
9. Detro, 1970; pp. 148-152.
10. La. Acts of 1843, No. 33.
11. La. Acts of 1878, 2nd Sess. of 5th Leg., No. 70, p. 109.



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