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CONTENTS

amaxgraph (photographer). Municipio Sassacorvaro, Marcha, Italy. 2008 July 27.
Found at www.flickr.com/photos/24437979@N08/2800256429

Municipal.
(1) of or pertaining to the local government of a town or city.

(2) (archaic) pertaining to the internal affairs of a state or nation rather than to international affairs.

Municipium.
(Lat: munus, a duty or privilege)

The term applied primarily to a status, a certain relation between individuals or communities and the Roman state.

The status had its origin in 381 B.C. and was widely extended in the settlement made by Rome.

(see ROME: Ancient History).

(left)
Municipal (page 941). in Stein, Jess (Editor in Chief). The Random House Dictionary of the English Language. New York: Random House (1967).

(right)
Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Municipium (continued).

The municipia stood in very different degrees of dependence on Rome, but all had certain features in common.

Their citizens were called upon to pay the same dues and perform the same service in the legions as full Roman citizens - but had not the right of voting in the comitia (ius suffragii) or of holding Roman magistracies (ius honorum).

Municipium must therefore have been more a burden than a privilege.

Of the internal life of the municipia very little is known before the empire.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Municipium (continued).

The municipal constitution of the 1st century (A.D.) is based upon a type common to Greece and Rome from earliest times.

The government of each town (was) independent of the Roman government except in cases of higher civil jurisdiction.

The citizens were grouped in tribes or curiae (and named tributa or comitia curiata).

The theoretical powers of these comitia were extensive, but the growing influence of municipal senates gradually made popular election a mere form.

The chief feature of the local government is the activity of the authorities in improving the conditions of life in the town.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Municipium (continued).

Provision was made out of the public funds for feeding the poor and providing corn at a moderate price.

In Pliny's time there existed in many towns schools controlled by the municipal authorities.

At Como, leading townspeople subscribed for the maintenance of the school and the control remained in the hands of the subscribers.

Physicians seem to have been maintained at the public expense.

The water supply was provided out of the municipal budget and controlled by magistrates.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Municipium (continued).

To enable it to bear the expense of all these undertakings, the local treasury was assisted by benefactions from individual citizens …

But direct taxation was hardly ever resorted to.

The treasury was filled out of the proceeds of the landed possessions of the community, especially mines and quarries - and out of import and export duties.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Municipium (continued).

In the 3rd and 4th centuries AD, the policy of encouraging civic patriotism and independence of the towns was superseded by a deliberate effort to use towns as instruments of the imperial government under control of the emperor's representatives in the provinces.

This policy was accompanied by a decay of civic feeling and municipal enterprise.

Popular control of the towns was ceasing to be a reality by the end of the 1st century AD.

Two centuries later local government was a mere form.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Municipium (page 953). in Encyclopaedia Britannica Volume 15 Maryborough to Mushet Steel. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

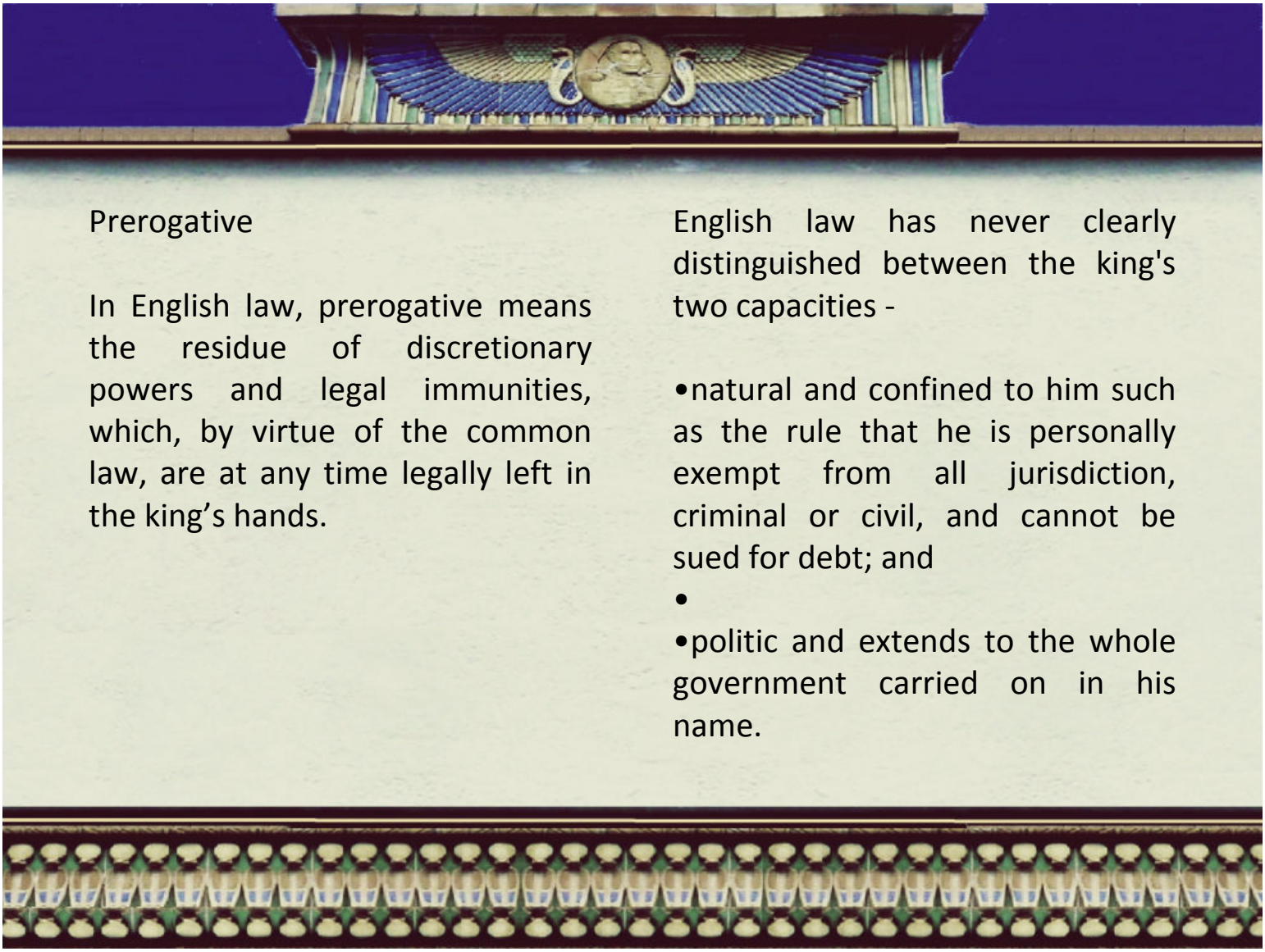
Parliament

As for the cities and boroughs -

By royal charters, or by the usurpation of small self-elected bodies of burgesses, the choice of members had fallen into the hands of town councils and neighbouring landowners.

The anomalous system of close and nomination boroughs, which had arisen early in English history, was suffered to continue without a check for 400 years as a notorious blot upon a free constitution.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Parliament (p. 315). in Encyclopaedia Britannica (Volume 17: P to Planti). Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1957).



Prerogative

In English law, prerogative means the residue of discretionary powers and legal immunities, which, by virtue of the common law, are at any time legally left in the king's hands.

English law has never clearly distinguished between the king's two capacities -

- natural and confined to him such as the rule that he is personally exempt from all jurisdiction, criminal or civil, and cannot be sued for debt; and
-
- politic and extends to the whole government carried on in his name.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Prerogative (p.438E). in Encyclopaedia Britannica Volume 18: Plants to Raymund of Tripoli. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Prerogative (continued)

The king was completely identified with the state and even modern British constitutional law knows no such term as 'the state.'

The state is the king.

All writs run in his name.

All indictable offenses are offenses against the peace of our lord the king, his crown and dignity.

All 'public' property is legally vested in the king.

All statutory powers conferred upon the government are declared to be conferred on his majesty in council.

All money voted by parliament is voted to the king, even though it be appropriated by statute to public services from which the king is powerless to divert it.

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Prerogative (p.438E). in Encyclopaedia Britannica Volume 18: Plants to Raymund of Tripoli. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Prerogative (continued)

The term crown is occasionally used to mark the distinction between the king's government and the king's person.

As the king is the government, the rule of immunity found new application in a principle that no government acts could be the subject of legal proceedings.

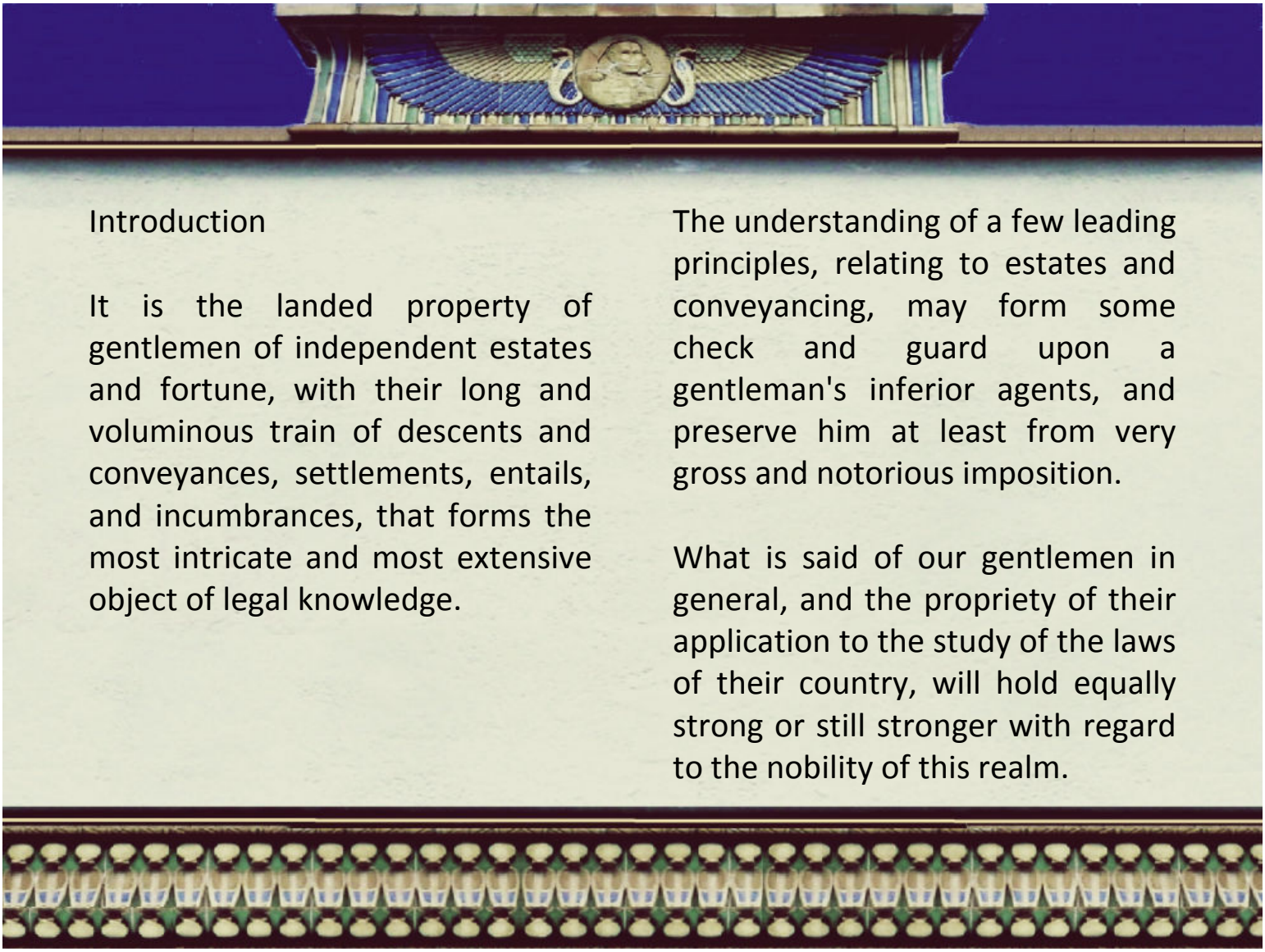
Carried to its logical conclusion, it would have resulted in the immunity of all the king's officers from being sued for their wrongful acts.

But English law was, and is, too practical a science to be logical

Faculties of the Universities of Chicago, Oxford, Cambridge & London. Prerogative (p.438E). in Encyclopaedia Britannica Volume 18: Plants to Raymund of Tripoli. Chicago/ London/ Toronto: Encyclopaedia Brittanica, Inc., William Benton (publisher) (c.1929-1960).

Reading The Law. Illustration on p. 279. The Human Interest Library: Visualized Knowledge. Volume IV. Old World Travelogues. Chicago: The Midland Press. Copyright, 1915, 1922, 1924, 1925, 1926, By The Midland Press.

On the forehead of the Rabbi is bound a phylactery and over his head the tallith with fringes, following literally the directions of the Law of Moses respecting the Word of God. All devout Jews follow this custom from the age of 12 years when a Jew becomes a son of the Law and capable of taking part in the synagogue service.



Introduction

It is the landed property of gentlemen of independent estates and fortune, with their long and voluminous train of descents and conveyances, settlements, entails, and incumbrances, that forms the most intricate and most extensive object of legal knowledge.

The understanding of a few leading principles, relating to estates and conveyancing, may form some check and guard upon a gentleman's inferior agents, and preserve him at least from very gross and notorious imposition.

What is said of our gentlemen in general, and the propriety of their application to the study of the laws of their country, will hold equally strong or still stronger with regard to the nobility of this realm.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

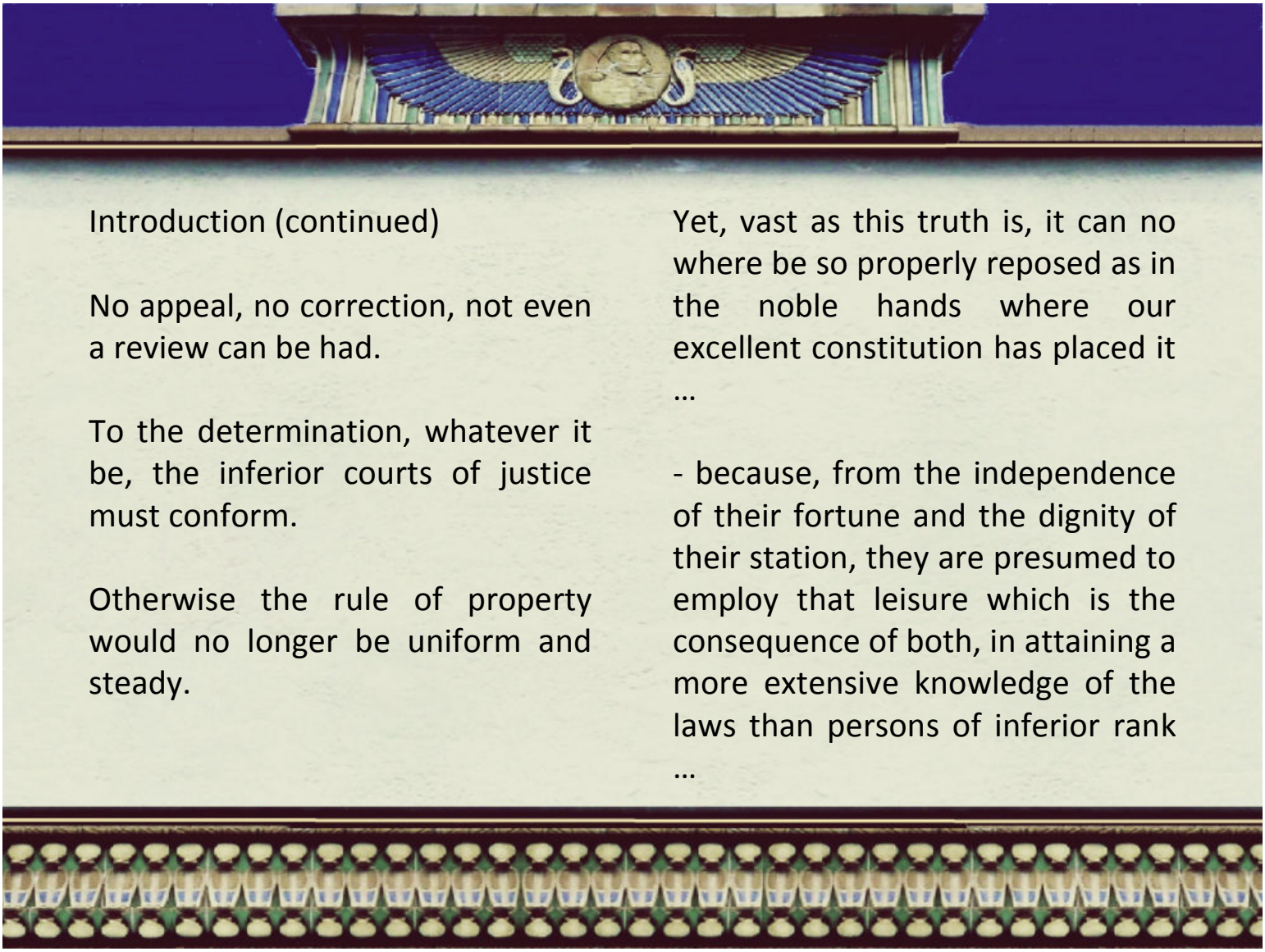
Introduction (continued)

The nobility have several peculiar provinces of far greater consequence and concern; being not only by birth hereditary counsellors of the crown, and judges upon their honour of the lives of their brother peers, but also arbiters of the property of all their fellow subjects in the last resort.

In this their judicial capacity they are bound to decide the nicest and most critical points of the law; to examine and correct such errors as have escaped the most experienced sages of the profession, the lord keeper and the judges of the courts at Westminster.

Their sentence is final, decisive, irrevocable.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.



Introduction (continued)

No appeal, no correction, not even a review can be had.

To the determination, whatever it be, the inferior courts of justice must conform.

Otherwise the rule of property would no longer be uniform and steady.

Yet, vast as this truth is, it can no where be so properly reposed as in the noble hands where our excellent constitution has placed it …

- because, from the independence of their fortune and the dignity of their station, they are presumed to employ that leisure which is the consequence of both, in attaining a more extensive knowledge of the laws than persons of inferior rank …

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

- and because the founders of our polity relied upon that delicacy of sentiment, so peculiar to noble birth …

- which, as on the one hand it will prevent either interest or affection from interfering in questions of right, so on the other it will bind a peer in honour …

- an obligation which the law esteems equal to another's oath, to be master of those points upon which it is his birthright to decide.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

It becomes highly necessary for every civilian and canonist that would act with safety as a judge, or with prudence and reputation as an advocate, to know in what cases and how far the English laws have given sanction to the Roman …

- in what points the latter are rejected …

- and where they are both so intermixed and blended together, as to form certain supplemental parts of the common law of England.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

That antient collection of unwritten maxims and customs, which is called the common law, however compounded or from whatever fountains derived, had subsisted immemorially in this kingdom - and though somewhat altered and impaired by the violence of the times, had in great measure weathered the rude shock of the Norman conquest.

This had endeared it to the people in general, as well because its decisions were universally known, as because it was found to be excellently adapted to the genius of the English nation.

In the knowledge of this law consisted a great part of the learning of those dark ages.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

It was then taught in the monasteries, in the universities, and in the families of the principal nobility.

The judges therefore were usually created out of the sacred order, as was likewise the case among the Normans.

All the inferior offices were supplied by the lower clergy, which has occasioned their successors to be denominated clerks to this day.

The English common law being not committed to writing, but only handed down by tradition, use, and experience, was not so heartily relished by the foreign clergy, who came over in shoals in the reigns of the conqueror and his sons, and were utter strangers to our constitution and our language.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

An accident nearly completed the ruin of English common law.

A copy of Justinian's pandects, newly discovered at Amalfi, brought the civil law into vogue all over western Europe, where before it was laid aside and forgotten, though traces of its authority remained in Italy and eastern provinces of the empire.

This now became the favourite of the popish clergy, who borrowed the method and many of the maxims of their canon law from this original.

The study of it was introduced into several universities abroad, particularly that of Bologna

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

Many nations on the continent, just then beginning to recover from convulsions consequent upon the overthrow of the Roman empire, and settling by degrees into peaceable forms of government, adopted the civil law as the basis of their several constitutions - blending and interweaving it in their own feodal customs.

Nor was it long before the prevailing mode of the time reached England.

Theobald, a Norman abbot, elected to the fee of Canterbury, and extremely addicted to this new study, brought over with his retinue many learned proficients therein, among them Roger, whom he placed in the university of Oxford, to teach it to the people of England.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

But it did not meet with the same easy reception in England as it did upon the continent.

The monkish clergy, devoted to the will of a foreign primate, received it with eagerness and zeal …

- yet the English laity, who were more interested to preserve the old constitution, and had already severely felt the effect of many Norman innovations …

- continued wedded to the use of the common law.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

King Stephen published a proclamation, forbidding the study of Norman laws, then newly imported from Italy.

Monks treated the proclamation as impiety and did not hinder the clergy from reading and teaching foreign law in their own schools and monasteries.

From this time the nation was divided into two parties -

•bishops and clergy, many of them foreigners, who applied themselves wholly to the study of the civil and canon law …

•English nobility and laity, who adhered with equal pertinacity to the old common law …

- both parties jealous of what they were unacquainted with.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

The jealousy prevailed above a century afterwards, when the nobility declared with a kind of prophetic spirit -

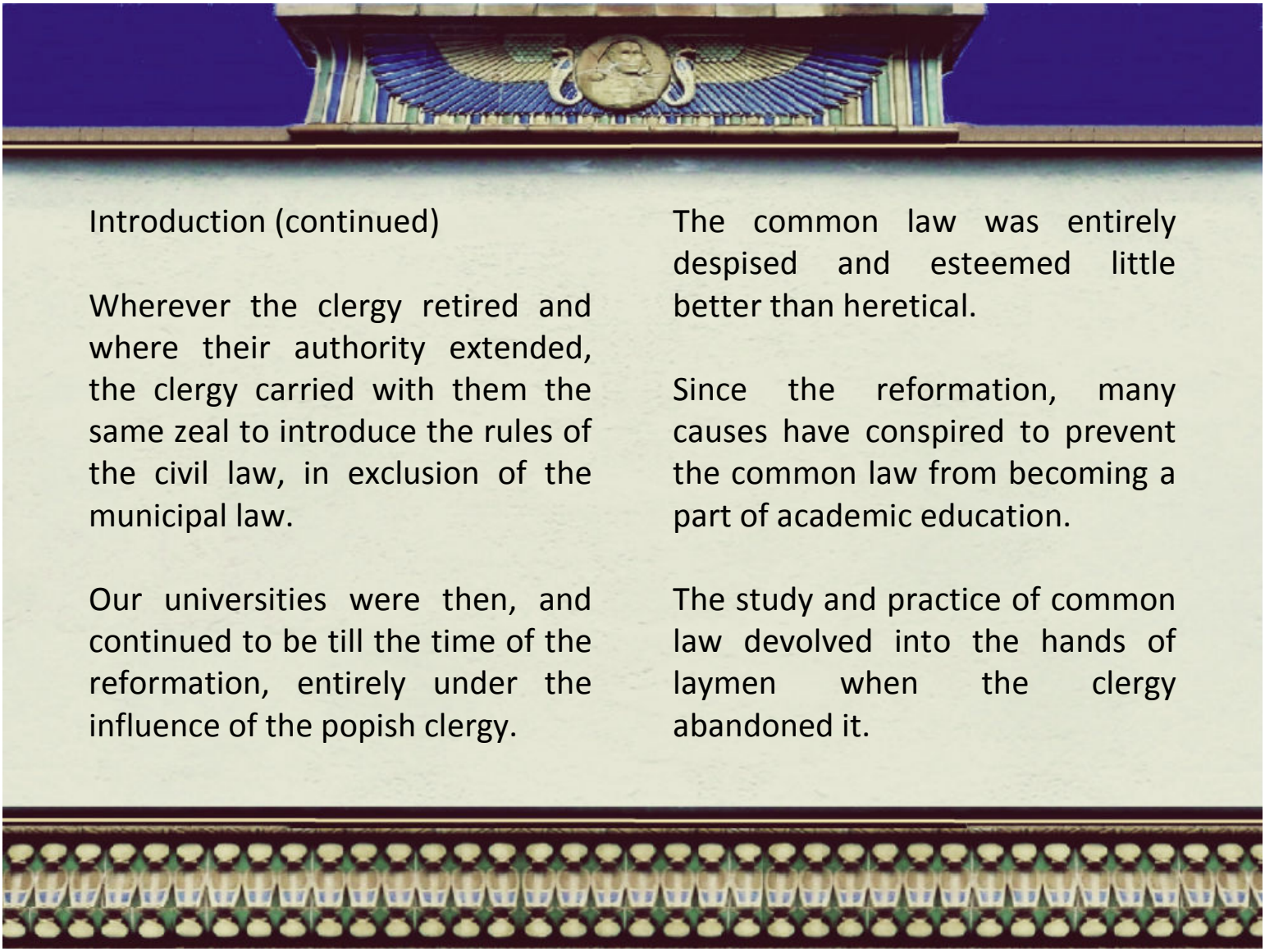
'the realm of England hath never been unto this hour, neither by the consent of our lord the king and the lords of parliament, nor shall it ever be, ruled or governed by the civil law.'

The clergy found it impossible to root out the municipal law and began to withdraw themselves by degrees from the temporal courts.

The clergy kept possession of the high office of chancellor, then of little juridical power.

Afterwards, as its business increased by degrees, the clergy modeled the process of the court at their own discretion.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.



Introduction (continued)

Wherever the clergy retired and where their authority extended, the clergy carried with them the same zeal to introduce the rules of the civil law, in exclusion of the municipal law.

Our universities were then, and continued to be till the time of the reformation, entirely under the influence of the popish clergy.

The common law was entirely despised and esteemed little better than heretical.

Since the reformation, many causes have conspired to prevent the common law from becoming a part of academic education.

The study and practice of common law devolved into the hands of laymen when the clergy abandoned it.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

When the common law was no longer taught, it would have been gradually lost and overrun had it not been for a peculiar incident.

The incident was the fixing the court of common pleas.

The court of common pleas was the grand tribunal for disputes of property to be held in one certain spot.

The court of common pleas was held before the king's capital justiciary, in such of his palaces wherein his royal person resided and moved with his household from one end of the kingdom to the other.

This was a great inconvenience to the suitors.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

The remedy was made an article of the great charters of liberties, both that of king John and that of king Henry III -

'Common pleas should no longer follow the king's court, but be held in some certain place.'

They have ever since been held in Westminster palace only.

Professors of the municipal law were dispersed about the kingdom before.

The permanent location of the court formed them into an aggregate body, and a society was established of persons who addicted themselves wholly to the study of the laws of the land.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

The professors soon raised the laws to a pitch of perfection.

English laws were no longer considered a mere subordinate science.

In consequence of this lucky assemblage, the professors naturally fell into a kind of collegiate order …

- and found it necessary to establish a new university of their own at Westminster and London.

The crown seems to have soon taken under its protection this infant seminary of common law.

Exercises were performed, lectures read, and degrees in the common law were at length conferred.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

The more effectually to foster and cherish the common law, king Henry III issued an order directed to the mayor and sheriffs of London …

- commanding that no regent of any law schools within that city should for the future teach law therein.

The word law, being a general term, may create some doubt at this distance of time whether the teaching of the civil law, or the common, or both, is hereby restrained.

It tends to the same end in either case.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

If the civil law only is prohibited, it is then a retaliation upon the clergy, who had excluded the common law from their seats of learning.

If the municipal law be also included in the restriction, then the intention is evidently to collect all the common lawyers into the one public university, which was newly instituted in the suburbs, by preventing private teachers within the walls of the city.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

This juridical university has two sorts of collegiate houses, one called inns of chancery, in which the younger students of the law were usually placed and who, profiting therein, are admitted into the greater inns of the same study, called the inns of court.

The knights and barons, with other grandees and noblemen of the realm, placed their children in these inns of both kinds, though they did not desire to have them thoroughly learned in the law, or to get their living by its practice.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

In time there were about 2,000 students at these several inns, all of whom were filii nobilium, sons of nobility or gentlemen born.

But in the reign of queen Elizabeth there were not above 1,000 students.

The inns of chancery were then almost totally filled by the inferior branch of the profession …

- and were not proper for the resort of gentlemen of any rank or figure …

- so that there were very rarely any young students entered at the inns of chancery.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

Regimens and academical superintendance, either with regard to morals or studies, were found impracticable and were therefore entirely neglected.

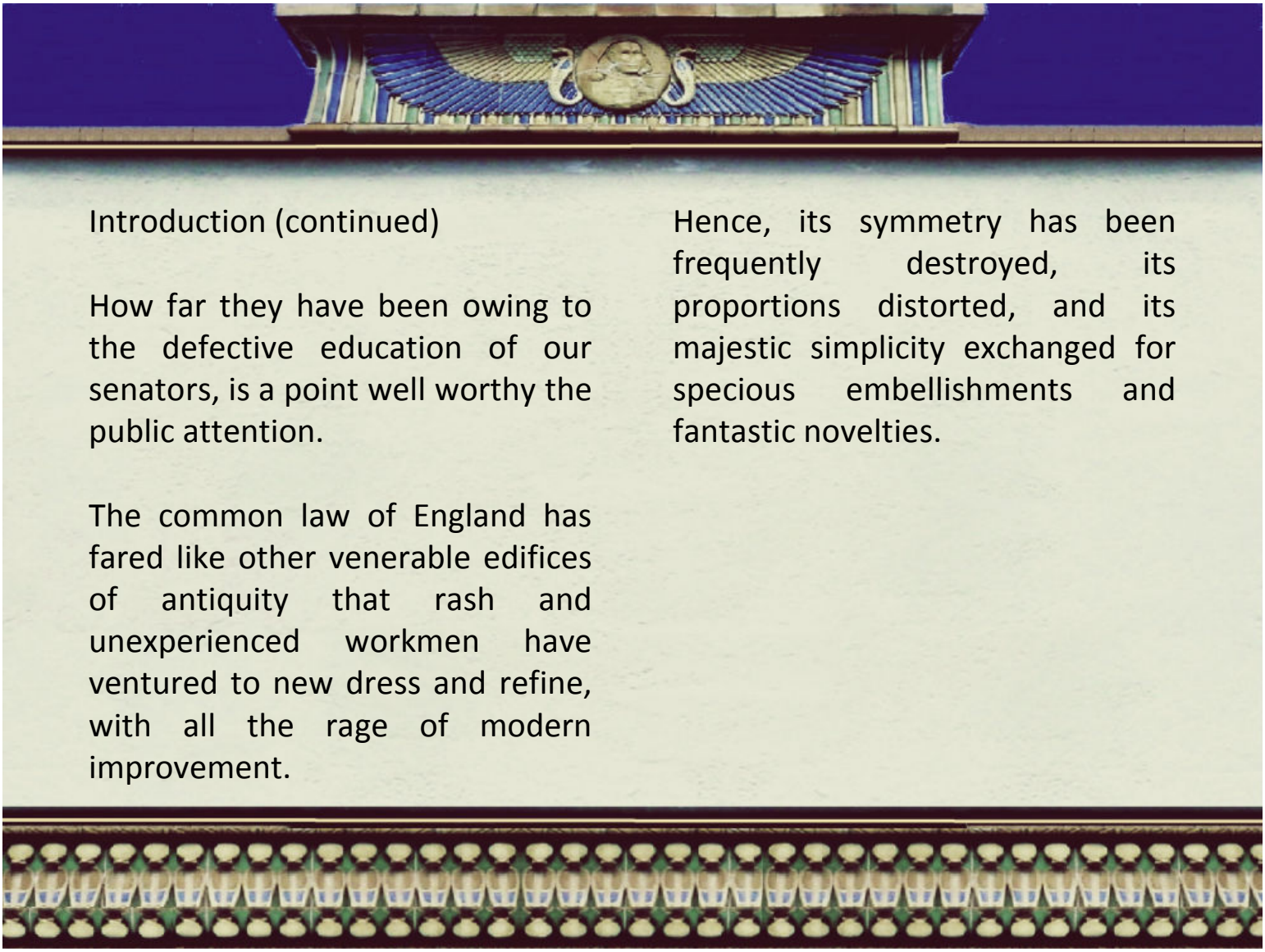
Persons of birth and fortune, after having finished their usual courses at the universities, seldom entered any new scheme of study at a new place of instruction.

Wherefore few gentlemen now resort to the inns of court.

The rest of our gentry - not to say our nobility - also having usually retired to their estates, or visited foreign kingdoms, or entered upon public life, without instruction in the laws of the land …

- the mischiefs to the public from inconsiderate alterations in our laws, are too obvious to be called in question.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.



Introduction (continued)

How far they have been owing to the defective education of our senators, is a point well worthy the public attention.

The common law of England has fared like other venerable edifices of antiquity that rash and unexperienced workmen have ventured to new dress and refine, with all the rage of modern improvement.

Hence, its symmetry has been frequently destroyed, its proportions distorted, and its majestic simplicity exchanged for specious embellishments and fantastic novelties.

Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Introduction (continued)

Almost all the perplexed questions which have sometimes disgraced the English, as well as other courts of justice owe their origin not to the common law itself …

- but to innovations that have been made in it by acts of parliament overladen with provisos and additions …

- and many times on a sudden penned or corrected by men of none or very little judgment in law.

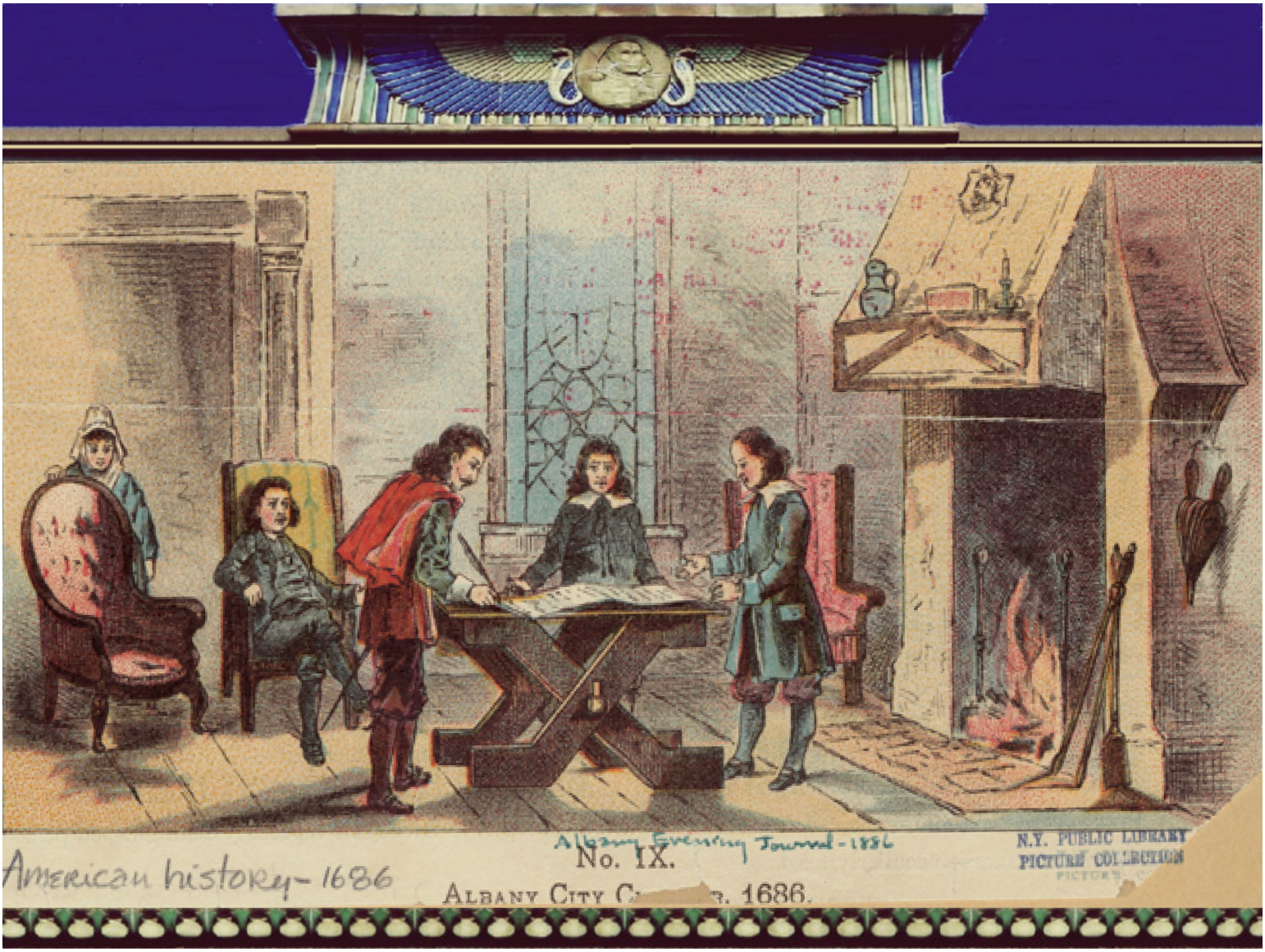
Blackstone, William (1765). Commentaries on the Laws of England. Volume 1. Of the Rights of Persons. Facsimile copy: Chicago/London: The University of Chicago Press.

Lund, A. G. Peter Stuyvesant and his counsel preparing the charter for the city of New York in 1652 / A.G. Lund

Reference
EM 10472, Emmet Collection of Manuscripts Relating to American History. Booth's History of New York, Volume 1.
Emmet, Thomas Addis (1828-1919) (collector).
New York Public Library, Stephen A. Schwarzman Building, Print Collection, Miriam and Ira D. Wallach Division of Art, Prints and Photographs
Catalog #MEZP, digital ID #421953, record ID #166144
Published: 9-3-2004; updated 7-11-2008
Found online at digitalgallery.nypl.org/nypldigital/dgkeysearchdetail.cfm?strucID=166144#_seemore

The Duke of York's Charter, 1664 (Plate No. VIII)
"Albany Evening Journal - 1886." written on border.

New York Public Librar, Mid-Manhattan Picture Collection, American history -- 1680s
Catalog #PC AME-168, digital ID #808252, record #701044, published: 10-28-2005, updated 1-16-2008.
Found online at http://digitalgallery.nypl.org/nypldigital/dgkeysearchdetail.cfm?strucID=701044#_seemore



Albany City Charter, 1686 (Plate IX).
"Albany Evening Journal - 1886." written on border.

New York Public Librar, Mid-Manhattan Picture Collection, American history -- 1680s
Catalog #PC AME-168, digital ID #808252, record #701044, published: 10-28-2005, updated 1-16-2008.
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The colony of New York transitioned from Dutch to English rule in 1664, when Nicolls became the British royal governor.

The people of New York were composed of three separate communities; and each had a different form of government …

- Dutch settlements on the Hudson
- settlements on the Delaware; and
- English towns that grew up under Dutch rule on Long Island.

The Dutch governor, Kieft, who encouraged popular government among the English towns, was wiser than Stuyvesant, who opposed it.

English towns held popular meetings, chose officials, and transacted other business after the manner of the New England towns.

Dutch towns had no town meetings and no popular elections.

Elson, Henry William. History of the United States of America, Chapter VII (pp.138-146). New York:The MacMillan Company (1904).

Transcribed by Kathy Leigh.
Found online at http://www.usahistory.info/colonies/New-York.html

Dutch officials formed a kind of closed corporation with power to fill all vacancies and choose their own successors.

As to which of these types is nearer the model for our local government of today, no reader need be informed.

Nicolls made little immediate change in the general or local government except to adopt English titles for the public officers.

The English charter for New York, true to the Stuart instinct, made the Duke of York absolute master, and made no provision for the people to take any part in their own government.

Elson, Henry William. History of the United States of America, Chapter VII (pp.138-146). New York:The MacMillan Company (1904).

Transcribed by Kathy Leigh.
Found online at http://www.usahistory.info/colonies/New-York.html

Nicolls proceeded, however, to frame a code of laws known as The Duke's Laws.

They were intended only for English settlers at first, but were later extended to all.

The Duke's Laws were borrowed largely from the laws of New England, with two omissions.

The code had no provision for the people of New York to take any part in the government.

The laws included no religious test for citizenship.

The Duke's Laws retained many Dutch features, and introduced a few new features.

Elson, Henry William. History of the United States of America, Chapter VII (pp.138-146). New York:The MacMillan Company (1904).

Transcribed by Kathy Leigh.
Found online at http://www.usahistory.info/colonies/New-York.html

The code assigned legislative and judicial power to the Court of Assizes (governor, council, sheriff and justice).

But the royal governor appointed the sheriff and justices; and there was no popular government in the plan.

Nicolls' plan didn't last.

English settlers clamored for representative government.

Agitation continued until 1681, when Edmund Andros was governor, and the English population was ready to break into open rebellion unless their demand for an assembly be granted.

In 1682, the duke promised the people an assembly.

Elson, Henry William. History of the United States of America, Chapter VII (pp.138-146). New York:The MacMillan Company (1904).

Transcribed by Kathy Leigh.
Found online at http://www.usahistory.info/colonies/New-York.html

In 1683, the first assembly, composed of 18 men, was elected by the people, while Thomas Dongan was governor.

The assembly proceeded to adopt a declaration of rights known as the Charter of Liberties.

The Charter of Liberties said …

- the assembly's laws were subject to the Duke's approval …

- the assembly would coordinate with the governor and council …

- and no taxes could be laid without the peoples' consent through their representatives in the assembly.

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The duke suddenly became king of England, as James II, when his brother died suddenly of a stroke of apoplexy.

New York became a royal colony; and the new king, who at heart despised popular government, refused to sign the Charter of Liberties.

James II abolished the New York assembly, and consolidated New York with New England and New Jersey.

The king appointed Andros to govern the 9 colonies, as a conquered province, with a council of 7 men.

Then James II fell, and Andros fell with him - but their fall didn't immediately bring peace to New York.

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Douglas Campbell - author of The Puritan in England, Holland, and America - took great pains to show that we are indebted far more to Dutch than to English sources for our system.

His attempt to prove too much leads the critical reader to believe too little.

The English race is more nearly related to the Dutch than to any other.

The English language resembles the Dutch language more than any other.

The Netherlands preceded England in securing religious liberty and in establishing free public schools.

The textile industry developed in Flanders earlier than in England - and the textile industry developed in England largely through the migration of skilled workmen from the Netherlands.

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Many thousands of Dutchmen and Flemings, driven from their country by religious wars, made their permanent home in England.

The influence of Netherlands institutions on English civilization must have been great.

The Dutch influence on American civilization was also great, because the Dutch immigrants to England nearly all became Puritans.

There's no doubt that Dutch blood coursed in the veins of a large percent of the New England Puritans.

No doubt also, the Pilgrim Fathers absorbed something from the Dutch during their sojourn in Leyden.

But it must be added that English popular self-government was ages in advance of the same in the Netherlands in the 1600s.

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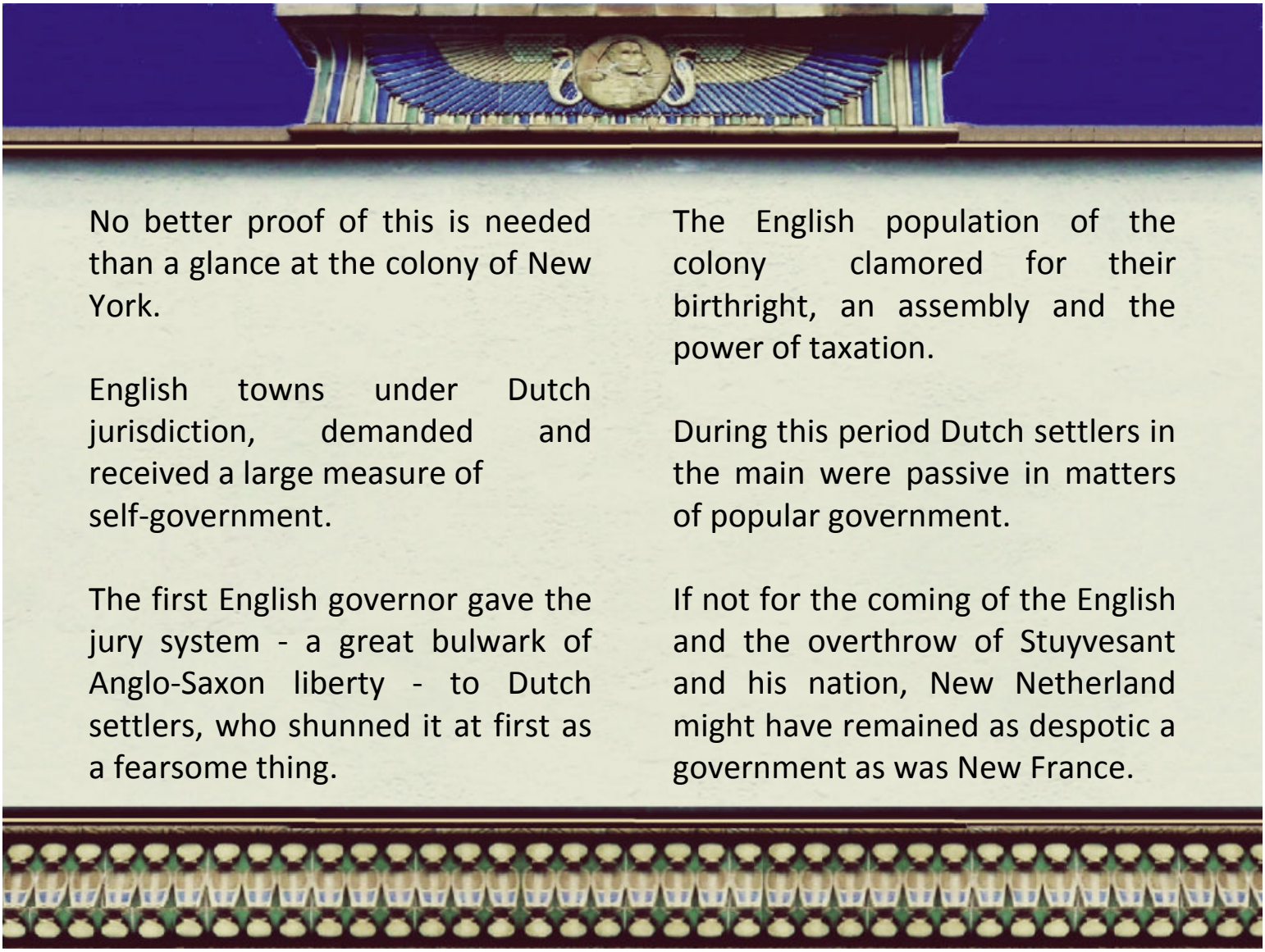

No better proof of this is needed than a glance at the colony of New York.

English towns under Dutch jurisdiction, demanded and received a large measure of self-government.

The first English governor gave the jury system - a great bulwark of Anglo-Saxon liberty - to Dutch settlers, who shunned it at first as a fearsome thing.

The English population of the colony clamored for their birthright, an assembly and the power of taxation.

During this period Dutch settlers in the main were passive in matters of popular government.

If not for the coming of the English and the overthrow of Stuyvesant and his nation, New Netherland might have remained as despotic a government as was New France.

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Moreover, the New England free school system grew, not from Dutch models, but from the inherent character of the Puritan religion.

In the face of these facts, how can anyone contend that our institutions are derived from Dutch sources?

News of the accession of William and Mary and of the imprisonment of Andros at Boston created a great excitement in New York.

The New York militia, led by Jacob Leisler, a German merchant, took possession of the government.

Leisler and Milborne, his son-in-law, governed the colony with vigor and energy for two years.

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But they offended the aristocracy and the magistrates, who pronounced him a usurper.

Meantime he took measures to defend the colony against the French and Indians, who had fallen on the frontier town of Schenectady, massacred the people, and burned the town.

The Leisler movement was in part the outgrowth of the anti-Catholic wave that swept over England and her colonies during the reign of James II.

Leisler's vivid imagination greatly magnified the danger of a general religious war.

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Leisler called for the election of an assembly to vote taxes for the pending war with Canada, but many of the people denied his authority and refused to respond.

Leisler's next step was one that marked the beginning of great things.

He called for a meeting in New York of delegates from all the colonies to make preparations for the war.

The seven delegates that met, chiefly from New England, constituted the first colonial congress in America.

They took counsel concerning the war.

The clouds were now darkening around the head of Leisler, and his career was almost over.

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Henry Sloughter was appointed governor in 1691, and sent his lieutenant to Leisler to demand the surrender of the fort.

The lieutenant could not prove his authority, and Leisler refused to surrender.

When Sloughter arrived, Leisler yielded to his authority and quiet was soon restored.

But Leisler's enemies were determined on his destruction.

Tradition informs us that Leisler and his son-in-law were cast into prison

Sloughter, a weak and worthless man, was induced to sign their death warrants while drunk.

Leisler and Milborne were taken from prison and hanged before he recovered his senses.

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Leisler had doubtless been legally wrong in seizing the government; but his intentions were undoubtedly good.

His execution, after all danger was past, was little else than political murder, and it created two hostile factions in New York that continued for many years.

Royal government was restored, with the passing of Leisler.

The people secured for the first time the permanent right to take part in their government, as in the other colonies; and, as in the others, the assembly steadily gained power at the expense of the governor.

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The royal governors sent to New York were, for the most part, men without principle or interest in the welfare of the people.

A rare exception was the Earl of Bellamont, governor of New York, Massachusetts, and New Hampshire, for a few years at the close of the century.

The years were too brief for the people, who loved him as few royal governors were loved.

His successor, Lord Cornbury, was probably the most dissolute rascal ever sent to govern an American colony, not excepting the infamous Sothel of the Carolinas.

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Plan of New York (1730)

Printed by William Bradford in 1735 from a survey by James Lyne in 1730-1731.

William Bradford (1663-1752) was born in Britain.

He emigrated to Philadelphia, where he set up the city's first press, and the colonies' first paper mill.

He went on trial in 1690 for criticizing the Quaker Government of Pennsylvania.

No verdict was reached.

He migrated to New York, where he set up the city's first press in 1693 and became royal printer.

He printed 400 items in the next 50 years.

Stanford, John (artist) (1828). Facsimile of Plan of the City of New York from an actual survey. James Lyne (cartographer) and William Bradford (printer) (1735).

1828 copy by John Sanford for the New York City Mayor and Common Council.

Found at www.georgeglazer.com/archives/maps/archive-nyc/ancientny.html

Bradford's work included New York's first newspaper (the New York Gazette), the first American Book of Common Prayer, almanacs, and pamphlets.

Bradford's map shows downtown Manhattan.

Bradford dedicated the map to His Excellency, John Montgomerie, Esquire, General and Governor in Chief, His Majesty's Provinces of New York, New Jersey, etc.

In 1731, Montgomerie granted a municipal charter to New York thatreorganized the city into seven wards.

In the late 1820s, New York expanded rapidly.

It absorbed communities like Greenwich Village to the north; built new streets; and had 3,000 buildings under construction.

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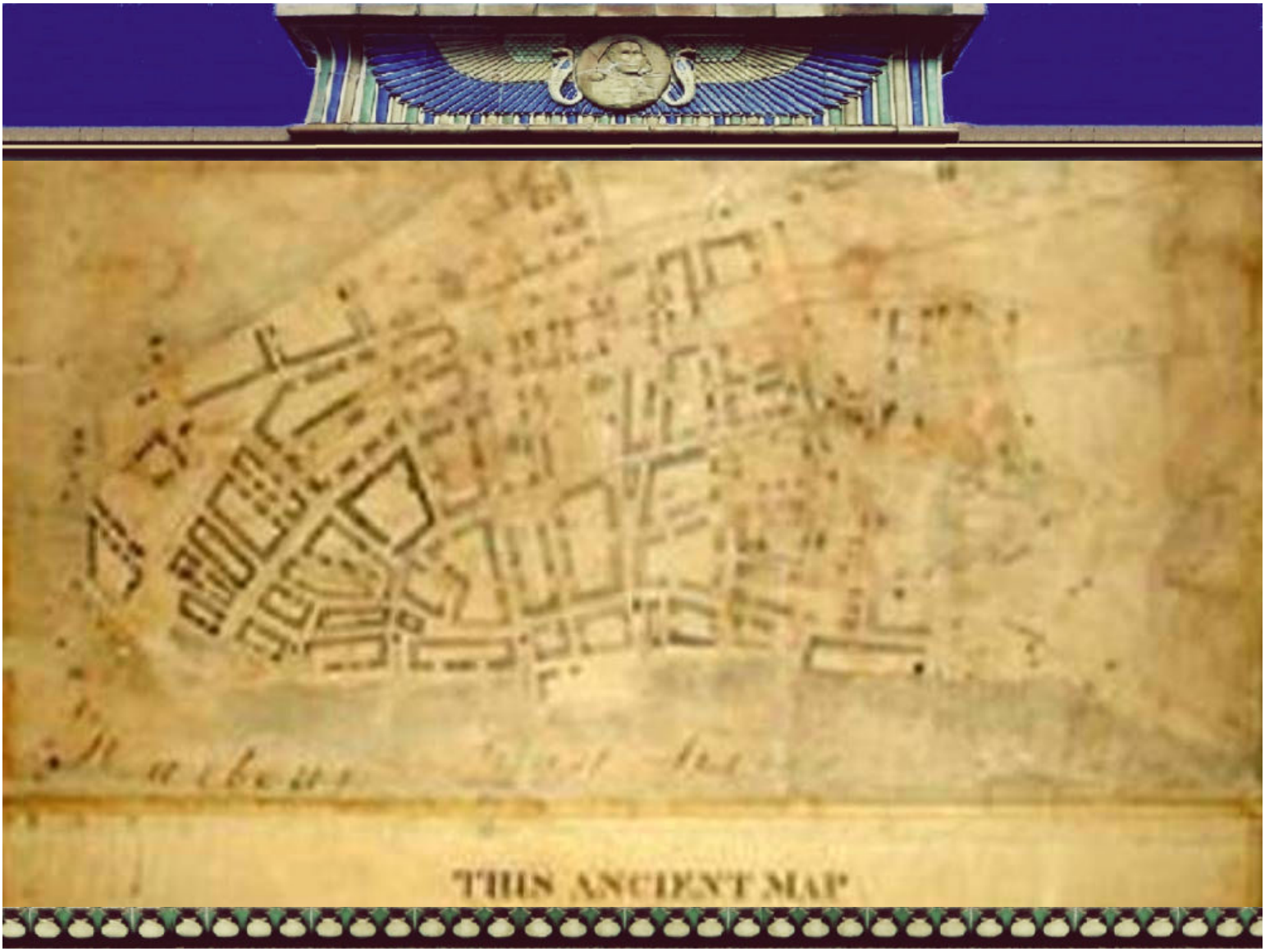

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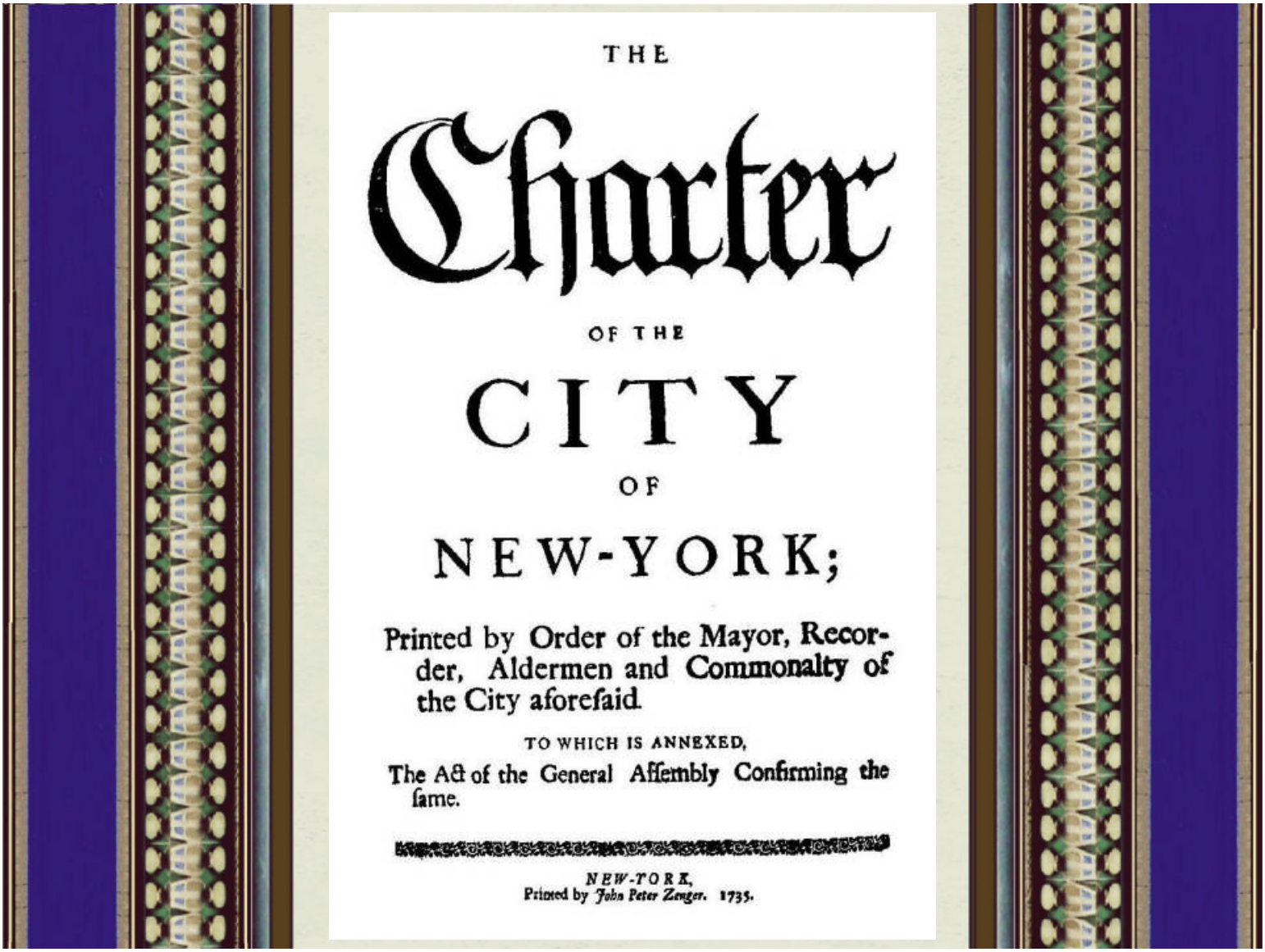

THE

Charter

OF THE

CITY

OF

NEW-YORK;

Printed by Order of the Mayor, Recorder, Aldermen and Commonalty of the City aforesaid.

TO WHICH IS ANNEXED,

The Act of the General Assembly Confirming the same.

NEW-YORK,
Printed by John Peter Zenger. 1735.

Hildeburn, Charles R.
Title: Sketches of Printers and Printing in Colonial New York.
Citation: New York: Dodd, Mead, & Company, 1895.
Subdivision: Chapter II.

http://www.dinsdoc.com/hildeburn-1-2.htm

THE

CHARTER

OF

THE CITY OF NEW-YORK, — Com. Cour

WITH NOTES THEREON.

ALSO,

A TREATISE

ON

THE POWERS AND DUTIES

OF THE

Mayor, Aldermen, and Assistant Aldermen,

AND

THE JOURNAL

OF

THE CITY CONVENTION.

Prepared at the Request of the Common Council,
BY CHANCELLOR KENT,
AND PUBLISHED UNDER THEIR DIRECTION.

NEW-YORK:
PRINTED BY CHILDS AND DEVOE, 80 VESEY-STREET.
1836.

NOTES

AND

ILLUSTRATIONS.

NOTE I. P. 5.—A.

THE CHARTER OF GOVERNOR DONGAN IN 1686, is recited at large in the charter of 1730. It is an interesting document, inasmuch as the grants which it makes, and the rights and privileges which it recognizes and confirms, were intended to be included in the latter charter, subject to such alterations, enlargements, and additions, as the latter contains.

The recital contained in the first Section of Lieut. Governor Dongan's Charter, speaks of New-York, as being then *an ancient city*, and body corporate, possessing divers lands, rights and franchises, as well by prescription, as by charters and grants; not only from the English, but from several Dutch Governors, while the province was under their jurisdiction. The recital was founded on historical facts, for a charter was granted to the City on the 2nd of February 1657, by the Dutch Government. But it was a very limited and imperfect grant. The most striking part of it was, the division of the inhabitants into "great and small citizens." The former included the members of the Government and their descendants in the male line, ministers of the Gospel, &c. The latter, all who "resided within the city during a year and six weeks, and kept their fire and lights." The original of this charter is on file in the Secretary's Office, and a copy is inserted at large in the journal of the City Convention of June 1829.

Col. Nicoll, the first English Governor of New-York, also granted, in 1665, a charter of incorporation to the inhabitants under the administration of a Mayor, Aldermen, and Sheriff. The Dutch name of incorporation was that of Schout, Burgomasters, and Schephens, of the city of New-Amsterdam.

The charter of Dongan appears to be quite singular, when we consider, that at the date of it, under the arbitrary sway of King James 2nd, there was a general attack on the part of the Crown, of all chartered rights and privileges throughout the King's dominions. While Governor Dongan was granting liberal charters to New-York and Albany, and a free constitution to the province, his master was waging war upon the New-England charters. This marked partiality may be imputed in part to the personal character and influence of the Governor, who was a man of integrity and moderation, and in part to the partiality of the King for a province, of which, as Duke of York, he was the proprietary. Indeed, the civil privileges of the *town of Manhattans*, as New-York was then called, were essentially confirmed in the very liberal articles of capitulation granted to the Dutch by Col. Nicolls, on the first surrender of the colony to the English in 1664. The charter mentioned among other rights and property which this ancient city then possessed, the City Hall, two market houses, the wharves and docks with their appurtenances, a cemetery, and one settled and established ferry from the city to Long Island.

Note ii. p. 7.—B.

The general granting clause in the 2nd Section, was made by the Governor by virtue of his royal commission and upon the petition of the Corporation. It granted and confirmed to the Corporation of the city, all the rights and franchises which they *anciently* held and enjoyed; provided that none of them were "inconsistent with, or repugnant to the laws of England, or of the General Assembly of the province." It also confirmed to them their right and title to the City Hall and the ground belonging to it, the two market houses, the wharves and dock, burial place, and the Long-Island ferry, with its rents and profits.

A grant was likewise made of all the existing streets, lanes, highways, and alleys within the city, for the use of the Corporation and inhabitants; and with power to the Corporation to establish, make, lay out, amend, and repair all streets, highways, alleys, lanes, water courses, ferry and bridges in and throughout the city, necessary and convenient for the inhabitants. The grant was accompanied with the proviso, not to take away any person's right of property, without his consent, *or by some known law of the province.* The restriction on the laying out of new streets and highways, if laid out over private property, without the consent of the owner, or without some known law, was a provision that did honor to the character of the charter. Private property must, however, be subservient to public necessities, and the Legislature have the right, even against the owner's consent, to assume private property for necessary public uses, on making just compensation. A law of the province would probably have been deemed of itself, sufficient at that day, but the security of private right has been greatly increased, and the value of that security highly exalted since that period. "A known law of the Province" would not now be sufficient, without something more. The language of the Constitution is, that "private property cannot be taken for public use without just compensation."

The corporate power for regulating buildings, streets, lanes, wharves, docks and alleys, was enforced and en-

larged by the Colony act of October 1, 1691, Ch. 18, which authorized the Common Council to appoint a Surveyor to regulate the same under their orders. If private ground was taken for streets, reasonable compensation was to be fairly assessed and paid to the owners. This was a noble provision and much better than the check on corporate authority, contained in the charter. The charter power on the subject of streets and highways, was continued and confirmed by the charter of 1730, as see *post*, Sec. 16, and note H. H.

NOTE III. P. 8.—C.

The grant in the 3rd section to the Corporation, of all the waste, unpatented and unappropriated lands within the city and on Manhatten Island, extending to low water mark, together with all rivers, rivulets, coves, creeks, ponds, waters and water courses, in the City and Island, not before granted, was, doubtless, a valid grant; and the rights of property thereby acquired, could never thereafter have been lawfully devested without the consent and act of the Corporation, or due process of law.

It may not be amiss to state here, once for all, that it is an acknowledged and settled principle, that no vested right of property, whether it belongs to private individuals, or be in the shape of a corporate franchise, can ever be lawfully taken away without some default or forfeiture, to be ascertained upon a fair trial and pronounced by judicial decree. The English statute of *Magna Charta* established as a great principle, the sanctity of rights and privileges, then existing or thereafter to be lawfully procured; and that principle was intended to be of general and perpetual application. It provided that the city of London and *all other cities* should have all their liberties and free customs; and that no *freeman* should be disseized of his freehold, or liberties, or free customs, but by lawful judgment of his peers or by the law of the land. Corporate franchises in this country rest on a basis which ought to be at least as solid as *Magna Charta*, for they are founded on grants which are *contracts*, and "no state," says the constitution of the United States, "can pass any law impairing the obligation of contracts."

The Section contains also a grant of the "Royalties of fishing, fowling, hunting, hawking, &c. appertaining to the city and island." But I apprehend that the royal franchise of the chase and game was never practically applied to the colonies, and was never introduced. The right to take and appropriate all unreclaimed animals *ferœ naturæ*, belongs to every man of common right, and exclusively, upon his own soil, and to every member of the community as a common right in the public unpatented domains, except in those special cases in which the right is restrained by positive law. Statutes have frequently been passed from the early colonial history down to this day, prohibiting the killing of certain species of game, in certain seasons of the year, or the obstructing of the course of fish, or taking or destroying of fish, in certain waters, in certain seasons. (N. Y. Revised Statutes, vol. I. 687-689.) The statute prohibitions go to prevent the destruction of game by a man on his own land. The Act of April 21, 1818, ch. 253, and the *Revised Statutes*, vol. I. 702, prohibit the killing of certain game on this Manhattan Island or city and county of New-York, in certain seasons of the year. These are benevolent regulations, intended for the preservation and growth of migratory game, to be finally applied to the use and benefit of all classes of the people, who have a common interest in their protection and nurture. The corpora-

tion by their citizens would have had the right to take game, even without the special grant in the charter of the "Royalties," in the waste and unpatented lands so granted, subject, however, to the restraints of the by-laws of the corporation, so long as they retained their property in the lands, and subject also to all statute prohibitions for the better preservation of game. There is no pretext for any claim, by any persons whomsoever, to enter and take game upon another man's land without his consent. It would at all times be a palpable trespass.

The grant of the vacant lands is simply to the Mayor, Aldermen and Commonalty, whereas, the grant of the royalties is to them and *their successors forever.* But there is no ground for any distinction in the case; a grant to a corporation aggregate is a good grant in fee, without adding the words "and to their successors forever." Every grant to such a corporation will last as long as the corporation endures, unless the subject of it be in the meantime, aliened or forfeited. The grant in the charter includes all *rivers* as well as rivulets and water-courses on the island. This must have arisen from the redundancy of description usual in such instruments; for though the streams or rivulets on the island were probably much more copious when the island was covered with woods than they are at present, it could not have afforded nourishment for rivers, properly so called, at any period since the flood.

The reservation of the annual quit rent of one beaver skin, or the value thereof in money, was expressly confirmed in and by the charter of 1730. See Sec. 38 and Note D. D. D.

Note iv. p. 9.—D.

This section declares that the limits and jurisdiction of the city shall extend to low-water-mark in and throughout the Island of Manhattan; and that the corporation shall quietly hold and enjoy all their rights and franchises before granted and confirmed, without let or hindrance on the part of the government.

The limits and jurisdiction of the city were more amply defined in the charter of 1730, as see infra. sec. 2. of that charter.

Note v. p. 10.—E.

This fifth section designates the city officers, but though the title and character of the officers have been generally retained, others have been added, and the whole made subject to a new organization, as will be seen hereafter. This section has, therefore, been essentially superseded.

Note vi. p. 11.—F.

The sixth section contains the usual words of incorporation of the city, and gives it a name, and the corporate capacity of perpetual succession, and to purchase, hold, sell, give, and demise in their discretion lands and chattels of any kind, and to sue and be sued, and to have, make and alter a common seal.

All these powers and capacities were re-granted in and by the charter of 1730, sec. 1, and they remain undiminished, except that by a subsequent section of Dongan's charter, sec. 12, the yearly value of the lands which the corporation could take and hold was limited to £1000 per annum, and which, by the charter of 1730, sec. 96, was enlarged to £3000 per annum. See my observations on this limitation in the note annexed to sec. 96, and designated as B. B. B.

Note vii. p. 14.—G.

The officers under this charter were appointed by name, and the section creates and defines the composition of the Common Council of the city, and its power to make, enforce and repeal laws and ordinances for the rule and government of the city, and with the cautious proviso that those laws and ordinances should remain in force for three months only, unless confirmed by the Governor and Council.

The whole of this section has become obsolete, being superseded by new and more enlarged provisions in the charter of 1730, as see section 14, of that charter, and the note F. F.

Note viii. p. 16.—H.

The eighth section provided among other things, that the Mayor and Sheriff should be annually appointed upon the feast day of St. Michael. That day for the appointment of charter officers was continued until the year 1800, as see infra. note B. B. The Recorder, Town Clerk and Clerk of the Market were otherwise appointed, but the whole arrangement has been done away by new and different provisions. This will be noticed hereafter. The provision that the Mayor or Recorder and any two Aldermen might, as justices of the peace, hold general sessions of the peace to hear and determine and punish misdemeanors and offences under the degree of grand larceny, remains in some respects, though it has undergone essential alterations, as will be seen hereafter, in note R. R., and the whole section may be passed over as wholly superseded.

Note ix. p. 18.—I.

The provision in the ninth section was for the election of Aldermen and Constables annually, and for the due commitment of offenders by the Mayor, Recorder and Aldermen as trustees of the peace.

This section has also become useless and obsolete by new and more specific regulations, which cover and change the whole subject.

Note x. p. 19.—K.

The tenth section of Governor Dongan's charter gave to the Mayor, (and it was declared to be according to usage and custom) the right to grant tavern licenses, and for selling by retail all sorts of exciseable or strong liquors, and the license fees were declared to be for the use of the corporation. This provision was adopted and confirmed in and by the charter of 1730, as see sect. 25, and note Q. Q., where the subsequent modifications of the power are noted.

Note xi. p. 21.—L.

The Eleventh Section authorized the Mayor, Recorder and Aldermen, or the Mayor and any three Aldermen, to make free citizens of the city, on their paying for the use of the Corporation, a pecuniary compensation not exceeding £5. The same power was conferred by the charter of 1730. See Infra. Sec. 20, 21 and my observations upon it, in Note M. M.

Note xii. p. 21.—M.

The general capacity of the Corporation to purchase and hold lands in fee, had been already confirmed by

the 6th Section of this charter, as see *ante*, p. 10. Here that capacity is more explicitly defined, and it is restricted in amount to lands, whereof the yearly value should not exceed £1000 per annum. The sum was enlarged by the charter of 1730, to £3000 ster. per annum, as see *Post*. Sec. 36, and note B. B. B. The same lands the Corporation are authorized to demise, grant and dispose of at their pleasure. The power and right of unlimited purchase and sale of all property, real and personal, is incident to all corporations, vested with the usual general capacities, unless the power be restricted and defined by the charter, or by statute.

The general power to take and possess lands excluded of course, acquisition by devise or will, for all corporate bodies were incapacitated from being devisees by the statute of wills of 32, Hen. 8, and that restriction has been continued in every revision of our statute code

NOTE XIII. P. 22.—N.

The 13th Section authorized the corporation to hold three market days in every week of the year. This power was enlarged by the charter of 1730, as see *Post*. Sec. 17 of that charter. Note XXXII.

NOTE XIV. P. 22.—O.

In this Section there was a plain grant of power to the corporation, to fill, make up and lay out the lands in and about the city and island, and to build up and use the same in any way or manner, which to them should seem expedient, and as far into the rivers as low water mark.

This power would have been implied from the circumstance that the corporation was seized in fee of the lands to which the authority applied, and which was held by them in their public corporate capacity as trustee for the inhabitants. The provision must have been inserted *for* greater caution, and it may be considered as absorbed in the more ample powers conferred by the charter of 1730.

NOTE XV. P. 23.—P.

This Section gave to the Mayor, Recorder and Aldermen, or to any three of them, whereof the Mayor or Recorder was to be one, the power to hold courts of Common Pleas, for personal and mixed actions on every Tuesday of every month in the year. The authority was confirmed and enlarged by the charter of 1730, as see *Post*. Sec. 27, and note XLI. S. S., and this Section may be considered as entirely superseded.

NOTE XVI. P. 24.—Q.

We have in this 16th Section, a confirmation to the corporation, of all the privileges, franchises, and powers, not inconsistent with the law of the land, which they had enjoyed, or were entitled to within twenty years preceding, under any former charter, grant, prescription, custom or usage. The retrospect carried the grant back to the year 1666, soon after the capitulation of the city and province by the Dutch Governor, to the English arms. It covered, of course, all the rights and privileges secured to the city by the liberal terms of the capitulation in 1664, and by the charter of Col. Nicolls, in 1665. It saved, however, to the crown and its officers, certain lands, and among others, the Governor's garden by the gate of the Fort,and the King's farm and the swamp next to the fresh water, and the quit rents

reserved in former grants. All these grants and reservations became merged to the subsequent charter, and in the more specific and better defined rights and powers which it contained.

Note xvii. p. 24.—R.

The last clause in Lieut. Governor Dongan's charter, saves all grants of lands and chattels before made for pious and charitable uses. What grants of the kind were alluded to, does not appear; but whatever they were, they were confirmed, whether in the hands of the corporation, or of any of the citizens.

In reviewing this charter, we have perceived many things in it, denoting a wise and liberal policy. It may be said to have laid the basis of a plan of government for a great city. Its broad foundations have been built upon, enlarged and improved, the better to meet with success, the exigencies of the most commercial metropolis on this side of the atlantic. When we consider the time when, and the power from whom this charter emanated, we cannot but admire the enlightened sense which it displays, of the sanctity of corporate and private rights, the cautious manner with which they are treated, and the provident guards enacted for their security.

Note xviii. p. 31.—S.

Charter of 1708.—This charter was granted by Governor Cornbury, for a special purpose. It was made upon the petition of the Corporation of New-York, in which they set forth their vested right, under former grants and charters, in and to a certain Ferry between the city and Long Island, called *the Old Ferry;* and they prayed for a confirmation of it, together with all the vacant and unappropriated land between high and low water mark on Long Island, between the Wallabout and New-York.

The charter followed the petition, and conformed to it entirely. It granted to the corporation the Old Ferry on both sides of the East river, as the same was then held and enjoyed, together with the fees, rents, and profits thereof, and all the vacant and unappropriated ground on Long Island, between high and low water mark, fronting the city of New-York, from the east side of the Wallabout to the west side of the Red Hook. The charter has much of the form and language of an ordinary conveyance in fee, and the franchises and lands were to be held in free and common soccage, as of the manor of East Greenwich, in England, and under a quit-rent of five shillings per annum.

It likewise granted to the corporation, and their successors, leave and license to set up, establish, and maintain one or more ferry or ferries, as the corporation should from time to time see fit, within the limits and bounds aforesaid, for transporting passengers and chattels between New-York and Long Island, under such reasonable rates as have been usually received, or may be established, with the consent of the Governor and Council; and with power to make and change, in their discretion, by-laws for the more orderly keeping and maintaining the ferry already established, or any ferry or ferries which might thereafter be set up within the bounds aforesaid, so as the same be not contrary to law.

This ample grant of the old ferry, and this right to establish new ferries between the city and Long Island, and of the shore between Wallabout and Red Hook, on Long Island, were renewed in the charter of 1730, as see *Post*, sections 15 and 37, and see Note

XXX, G.G., for observations on the ferry rights of the corporation. The grant of the shore on Long Island, between high and low water mark, and between Wallabout and Red Hook, is confirmed, and is an indefeasible grant in fee of property existing in full force to this day.

NOTE XIX. P. 37.—T.

CHARTER OF 1730.—This is the charter upon the foundation of which the city of New-York is at present governed. The two prior charters of 1686 and 1708, may be considered as merged in this. They are recited at large in it, and all the grants and franchises contained in them are repeated and confirmed and enlarged, with the addition of other powers, rights, and privileges. This last charter is entitled to our respect and attachment, for its venerable age, and the numerous blessings and great commercial prosperity which have accompanied the due exercise of its powers. It has withstood the shock of the American Revolution, which for a time suspended its functions, and it was confirmed by the Constitution of 1777, and again by the Constitution of 1821. It remains to this day with much of its original form and spirit, after having received by statute such modifications, and such a thorough enlargement in its legislative, judicial, and executive branches, as were best adapted to the genius and wants of the people, and to the astonishing growth and still rapidly increasing wealth and magnitude of the city.

The recital, in the charter of 1730, admits that the inhabitants of New-York, as a corporate body, had anciently held, or claimed to hold, sundry lands, rights, privileges, franchises, and powers, as well by prescription as by grant, and not specified in the preceding charters; and that the corporation had by petition prayed for a grant of confirmation of all their rights and privileges so held and enjoyed; and also, for a grant of the soil 400 feet beyond low water mark, on the Hudson river, from a certain creek or kill, southward to the fort, and the same number of feet round the fort, and so along the East river as far as the north side of Corlaer's Hook; and also for a grant of other needful powers and privileges.

The 1st section accordingly ordains that the city of New-York shall remain a free city, and be one body corporate and politic, by the name of the *Mayor, Aldermen, and Commonalty of the city of New-York*, with perpetual succession, and the capacity to sue and be sued, and to purchase, take, and hold real and personal estate of every kind, description, and extent, and with power to demise, assign, and sell the same at pleasure, and to have and change at pleasure a common seal.

NOTE XX. P. 42.—U.

The 2d section describes the extent of the city and its division into wards.

The boundary line begins at the mouth of *Spuyten Duyvel* creek, on the Westchester side thereof at low water mark, and runs on the Westchester side at low water mark, to the East river, which it crosses, to Long Island, to low water mark there, including Great Barn island, Little Barn island, and Manning's island; and from thence along Nassau Island shore at low water mark, to the south side of the Red Hook; and from thence across the North river, so as to include Nutten island, Bedlow's island, Bucking island, and the Oyster island, to low water mark on the west side of the North river, *or so far as the limits of the*

province extends, and so to run up along the west side of the river, at low water mark, *or along the limits of the province*, until it comes opposite to the creek aforesaid, and thence to the place of beginning.

Every revision of our statute laws contained this same boundary line, as the limits and jurisdiction of the city, and with the same reservation as to the west bounds on the Hudson river, and leaving the west bounds of the state along the city line in uncertainty. But the vexed and litigated point concerning the boundary line between this state and New-Jersey was happily settled by commissioners mutually appointed by each state, in 1833. The boundary line as now established between the two states, from a point in the middle of Hudson's river, opposite the point on the west side thereof, in the 41st degree of north latitude to the main sea is, so far as concerns the city of New-York, the middle of the said river and of the bay of New-York. But this state and consequently this city retains its jurisdiction over Bedlow and Ellis's Islands; and the state and this city to the extent of its chartered rights, have exclusive jurisdiction over all the waters of the bay of New-York, and over all the waters of Hudson's river lying west of Manhattan Island, and to the south of the mouth of *Spuyten Duyvel* creek, and of and over the lands covered by the said waters, to the low water mark on the westerly or New-Jersey side thereof, subject nevertheless to the following exceptions, viz: the state of New-Jersey has the exclusive right of property in and to the land under water, lying west of the middle of the Bay of New-York, and west of the middle of that part of Hudson river which lies between Manhattan Island and New-Jersey. She has also the exclusive jurisdiction of and over the wharves, docks and improvements made or to be made on the shore of New-Jersey, and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that such vessels are to be subject to the quarantine or health laws of the state of New-York, and laws now or hereafter made in relation to passengers. New-Jersey has also the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, provided that the navigation be not obstructed or hindered. See the Act of this State, of Feb. 5th 1834, ch. 8.

The residue of this second section consists of the division of the city into seven wards, with their boundaries specified. This division has been superseded by new boundaries and new wards adapted to the increase of the city. Thus in 1791 the boundaries of the wards were altered, so as to correct the inequalities, and apportion the extent of the wards to the population. In 1803 the boundaries of the wards were re-modified, and the wards were increased to nine. This increase of the wards, and consequently of the number of Aldermen and Assistants, was a material alteration in the chartered organization of the Common Council, and it was done without their application or consent. It became therefore a question in the Council of Revision whether the alteration, without such assent, ought to be made. But the objection raised and reported by one of the members of the Council, was overruled, and the bill passed without any, and became a precedent for future alterations of the like kind. In 1808 the wards were increased to ten. In 1817 the Legislature were again under the necessity of equalizing the wards without increasing them. In 1825 the wards were increased to twelve; in 1827 to fourteen, and in 1832 to fifteen wards,—the number into which the city is at present divided.

NOTE XXI. P. 43.—X.

The third Section directs that there shall be forever

thereafter one Mayor, one Recorder, seven Aldermen, seven Assistants, one Sheriff, one Coroner, one Common Clerk, one Chamberlain, one High-Constable, sixteen Assessors, seven Collectors, sixteen Constables, and one Marshal ; and with authority to the Mayor, to appoint one of the Aldermen his deputy to act in his stead, during his sickness or absence, or in case of his death until a new Mayor shall have been duly appointed.

This Section remains in force as to the designation of the officers, and with such an increase in the number of Aldermen, Assistants and other city officers as was required by the increase of the wards and of the population. The authority given to the Mayor to appoint a deputy is superseded by the provision in the act of 7th April, 1830, ch. 122, amending the charter. See next Section, and see also *post*, Note XXV. B.B.

NOTE XXII. P. 44.—Y.

This Section related entirely to the Deputy Mayor, and it authorised him to do the duties appertaining to the office of Mayor, to all intents and purposes, while acting as deputy.

The amended charter (Act of April 7th, 1830, ch. 122. Sec. 16.) in like manner supersedes this provision, by vesting the President of the Board of Aldermen with all the right and power of the Mayor, during the continuance of a vacancy in the office of Mayor, or during his absence or inability.

NOTE XXIII. P. 44.—Z.

This Section respecting the appointment of Recorder, and the tenure of his office is entirely superseded by subsequent alterations of the charter. By the constitution of the state as amended in 1821, (Art. 4, Sec. 7) the Recorder is appointed upon the nomination of the Governor, and with the consent of the Senate. He holds his office (*Ibid.* Art. 5, Sec. 6.) for five years, but may be removed by the Senate on the recommendation of the Governor for causes to be stated by him. By the act of the Legislature of the 7th of April, 1830, ch. 122, amending the constitution, he is no longer a member of the Common Council ; and by the act of Feb. 27th, 1821, ch. 72, establishing a Court of Common Pleas in the city, and providing for the appointment of a first Judge of the court, the Recorder is a member of that court, but it is made his special duty to hold the Court of General Sessions of the Peace. He was made a salary officer, with a salary, to be paid quarter-yearly by the corporation, not less than $1500, nor more than $2,500 per annum in the discretion of the Common Council.

NOTE XXIV. P. 47.—A. A.

The 6th, 7th, 8th and 9th Sections of the charter were mostly temporary in their provisions, and soon ceased to operate.

The provision in the 9th Section, directing all Sheriffs thereafter to be appointed, to give bond with sureties in at least £1000, for the due execution of the office, was superseded by subsequent laws. As the law now stands (*Revised Statutes*, Vol. 1, 378) every sheriff, within twenty days after notice of his election, must give a bond to the people of this state with two sureties, who shall be freeholders, in $20,000, for the faithful execution of his trust. Though chosen for three years, under the direction of the constitution, his security is, by the statute, to be annually renewed, and the amended constitution authorised laws for such re-

newed security to be passed. (Const. Art. 4, Sec. 8.)

NOTE XXV. P. 50.—B. B.

The 10th Section of the charter has undergone great alterations.

It provided that the Governor with the advice of the Council of the province, should appoint annually on the feast day of St. Michael, the Mayor, Sheriff and Coroner of the city. That mode of appointment continued until the Revolution, when the power of appointing those officers was, by the constitution of 1777, vested in the Governor and Council of Appointment, and was to continue there until otherwise directed by the Legislature. The power remained in the Council until the amended constitution of 1821, when the Mayor was directed to be appointed annually by the Common Council, and the Sheriff and Coroner, as well as the Register and Clerk of the city, to be chosen triennially by the electors in the city. (Const. Art. 4. Sec. 8. and see also R. S. Vol. 1. 112.) The Mayor continued to be appointed by the Common Council until the Act of March 3d, 1834, ch. 23, directed that he be annually elected by the electors of the city, qualified to vote for charter officers.

The Aldermen, Assistants, Assessors, Collectors and Constables were by the charter directed to be annually elected on the feast day of St. Michael (29th September) by the freemen of the city being inhabitants, and by the freeholders of each ward respectively, from among themselves. This provision continued until the act of March 21st, 1800, ch. 35, when the time for the election of charter officers was, on the petition of the corporation, changed from the 29th of September to the 3d Tuesday in November. The time for charter elections was again changed by the act of April 7th, 1830, ch. 122, amending the charter, to the 2d Tuesday in April annually, where it still remains.

The act of 1800 confined the qualifications of electors to those prescribed by the charter; and to guard against abuse and fraud, the act required the freehold elector to have been one for a month next preceding the election; and the elector who voted as a freeman of the city, to have been admitted as such at least three months previously, and to have actually resided in the ward for which he voted, at least for one month before the day of election.

But further and essential inroads upon the charter were made by the act of April 5th 1804, chapter 62. Those officers who were to be appointed annually by the council of appointment on the charter day, might be appointed at any time during the session of the legislature in each year. The qualification of the electors, instead of being confined to freeholders and freemen under the charter, was enlarged so as to include every male citizen of 21 years of age and upwards, who should have resided in the city for the space of six months preceding the election, and rented a tenement of the yearly value of $25, and have paid taxes.

This act was passed without the application or consent of the Mayor, Aldermen, and Commonalty of the city, and it was objected to in and by the council of revision, but was passed notwithstanding their objection. The objection was drawn by the elder Governor Clinton, and supported by him and a majority of the council, on the ground that no strong public policy or necessity indicated the measure; and that it had been considered as a settled and salutary principle in the government, that charters of incorporation, containing grants and privileges, were not to be essentially affected without the consent of the parties, or without

due process of law. In confirmation of the fact, many previous statutes since the revolution, relative to the corporations of the cities of New-York, Albany, and Hudson, were referred to, in which alterations in their charters had been made upon the application of the corporations, or with a saving of rights held by their charters.

The section now under review further directed that the Chamberlain and High Constable of the city, should be annually appointed by the Mayor and four or more Aldermen and Assistants in Common Council. The appointment of those officers remains in the Common Council, where the charter had placed it, and the Chamberlain is the County Treasurer, with the responsibilities attached to that office. (R. S. vol. 1, 370.) The provision in the charter that the Mayor, Sheriff, and all other officers, were to continue in office until other fit successors were respectively appointed and qualified, is now by law extended to all officers duly appointed, except the Chancellor, Judges of the Supreme Court, and Circuit Judges. (R. S. vol. 1, 117.) It was further provided by the charter that in case the Mayor, Sheriff, or Coroner, should die within the year, the Governor and Council of the province were to appoint a successor for the remainder of the year.

The mode of supplying vacancies under the charter was plain, but the present law on the subject does not appear to be in all respects sufficiently so.

As to the office of Mayor, the act of April 7th 1830, chapter 122, amending the charter, directed the President of the board of Aldermen to act as Mayor whenever there should be a vacancy in the office, or the Mayor should be absent from the city, or be prevented by sickness, or any other cause, from attending to the duties of the office. He was to act during the continuance of such vacancy, absence, or disability. There is no provision by law for a special election of a new Mayor within the year, in case of his death. The President of the board of Aldermen supplies his place for the residue of the year. Here is no difficulty.

As to the office of Sheriff, the act of April 24th, 1823, chapter 268, provided for a special election in the case of a vacancy in that office, as well as in that of Register or Clerk of the city, happening within the prescribed term of service. But all such special elections were done away by the *Revised Statutes*, unless the right of office of the person elected should cease before he commenced his service. (Vol. 1, 126, sec. 6, 8.) They declare that *all vacancies* in those offices were to be supplied at the next *general* election; and vacancies in the office of Clerk or Register, otherwise than by death, were to be supplied by the Governor, who is to appoint some fit person to execute the duties of the office, until the vacancy is supplied by an election. (R. S. vol. 1, 124, sec. 49.) There does not appear to be any specific provision for supplying the vacancy occurring by *death* in the office of Register or Clerk, until the next general election thereafter for the city officers. The statute (R. S. vol. 1, 379, sec. 72. Ibid. 380, sec. 78) provides that the under Sheriff shall supply the Sheriff's place whenever a *vacancy* in the office occurs. The vacancy here must mean by death or removal from office, but if the Sheriff be otherwise totally disabled to execute the office, the provision for the case does not seem to be explicit. There appears also to be a want of explicitness or provision for the case of the death of the Coroner. There is no provision for supplying a vacancy arising from that cause, prior to the next succeeding general election, unless in the rare occurrence that a vacancy proper to be supplied at a general election was not so

supplied, and then there is to be a special election. (1. R. S. 128, sec. 9.) The act of April 12th, 1822, Sec. 4, followed the charter and directed only one Coroner to be elected in New-York; and by the *Revised Statutes* (vol. 1, 122) he is directed to be elected at the same *general* election as Sheriff, In the case of the absence or inability of the Coroner, any Alderman or special Justice may perform the duties of the office, during such absence or inability. (R. S. vol. 2, 743, sec. 9.) Still the occurrence of his death within the year, does not seem to be provided for.

Note XXVI. p. 52.—C. C.

The 11th Section provided for supplying vacancies happening within the period of the regular appointment or election, in the office of Alderman, Assistant, Collector, Constable, Chamberlain, and High Constable by a special election or appointment. The provision is supplied by new statute regulations. Thus by the act of the 7th of April, 1830, Ch. 122, a special election is to be ordered by the Board of Aldermen or Assistants as the case may be, for supplying within the year, the vacancy in the office of Alderman or Assistant, by death removal from the city, resignation or otherwise.

The act of April 8, 1813, Ch. 86, Sect. 13, provided that if any of the Aldermen *or other officers of the city*, chosen by the people, as charter officers, should refuse to serve, die, or remove out of the city before his time of service expires, and the office becomes vacant, the Common Council were to order a special election to supply the vacancy. The same provision was in the act of Feb. 23d, 1787, regulating the election of charter officers, and it applied specially to Aldermen, Assistants, Assessors, Collectors, and Constables.

There is no other provision that I am aware of, for

supplying vacancies by death or otherwise, happening within the year in the office of Assessor, Collector, or Constable, but that contained in the act of 1813, and which has not been repealed, nor introduced into the Revised Statutes, and I presume it therefere remains in force. The charter made adequate provision for the case, and the act of 1813 may be considered as an affirmative or cumulative provision of more specific direction.

Note XXVII. p. 53.—D. D.

This Section imposed a penalty not exceeding £15, for the use of the Corporation, which might be assessed by the Common Council upon every person elected Alderman, Assistant, Assessor, Collector, or Constable, or appointed High Constable who should on due notice neglect or refuse to serve.

I have not seen any Statute abrogating this provision and I presume it remains in force. It is analagous to the policy of the law in respect to town officers throughout the state. Thus a fine of $62 50, was formerly imposed upon every Supervisor, Town Clerk, Assessor, Collector, Commissioner of highways, Overseer of the Poor, and Constable, who should refuse to serve in the office to which he was elected. (Act 27th of March, 1801, Ch. 78. Act March 19th, 1813, Ch. 35.) The fine reduced to $50 is still continued against the town officers, except the Collector and Constables, who are required to give security, which it might be inconvenient or impossible to be procured, and the fine for not serving is withdrawn. (R. S. Vol. 1. p. 346, 347.)

Note XXVIII. p. 54.—E. E.

The 13th Section provides for the case in which the

election should fall on Sunday. This necessity arose from fixing on the 29th of September yearly, or the feast day of St. Michael the Archangel. The law now prevents any such difficulty, by naming as the day of election, another day in the week of the month designated.

NOTE XXIX. P. 56.—F. F.

The 14th Section relates to the Constitution and power of the Common Council, and it was materially altered by the Act of 7th April, 1830, Ch. 122, amending the charter.

Neither the Mayor or Recorder are any longer members of the Common Council, and instead of a single chamber, composed of the Aldermen and Assistants acting together, as one indivisible body, the Aldermen and Assistants meet in separate chambers, with equal rights and concurrent power, and no act, ordinance, or regulation can pass without the assent of each House or Board, nor until it has been presented to the Mayor and received his approbation, or returned with objections, and then reconsidered and passed in each Board by a majority of the members elected thereto. The Common Council as now organized, resembles in the order of its proceedings, and in the checks imposed, a regular legislative body; and considering the great interests confided to its care, and the large discretionary powers with which it is invested, it was fit and proper that its laws and ordinances should pass with similar deliberation and solemnity.

I apprehend that the general powers of the Common Council, as described in this Section of the charter, remain in full force. The amended charter of 1830, superseded certain other powers and checks, in respect to the borrowing and appropriation of monies, and the annual publication of detailed statements of receipts and expenditures, during the year preceding, and in respect to the establishment of distinct executive departments, and providing for the accountability of officers and persons entrusted with the city funds. The general power under the charter, was to make, ordain and establish, from time to time, laws and ordinances, such as to the Common Council should "seem to be good, useful or necessary for the good rule and government of the body corporate, and of all officers, inhabitants and residents of the city, within the limits thereof;" and for "the further public good, common profit, trade, and better government and rule of the said city;" and for governing and disposing of the corporate property, real and personal. These broad and latitudinary powers were given to be exercised with sound discretion, and with a liberal spirit commensurate with the growing wants and prosperity of a great commercial metropolis. The courts construe powers liberally, for such purposes. Thus in the case of the *Mayor and Aldermen of Memphis v. Wright*, in 6 Yerger, Rep. 497, when the town of Memphis, in Tennessee was laid off on the banks of the Mississippi, there was a public promenade set apart, and the corporation, under the authority in its charter, "to do all things necessary to be done by corporations," diverted the promenade to a different use, by converting it into wharves and landings for Steam Boats and Flat Boats; and it was held by the Supreme Court of Tennessee in 1834, that the corporation had authority to do so, and to enforce the regulation by penalties, and that the power was included in the words above quoted.

The Common Council were authorized also to ordain and enforce penalties for breaches of their laws and ordinances, and to collect the same by the summary process of warrant and distress and sale of the delinquents' goods, or by action of debt. The By-Laws were not to be repugnant to the statute or common law of the

land, and they were to remain in force for a year and no longer, unless allowed of and confirmed by the governor and council, of the province. The counsel was abrogated by the revolution, and no substitute on this point provided. The By-Laws were therefore not deemed valid beyond the year, unless renewed by the Common Council, and it became the practice after the peace of 1783, for the Council annually to renew the By-Laws of the preceding year, in one entire collection with little or no alteration, and this practice continued until the statute of April 9, 1813, Ch. 86, Sect. 274, declared that all laws and ordinances of the Corporation might remain in full force for three years, unless sooner repealed by the Council, or originally limited to a shorter period.

The city code of ordinances was formerly distinguished for its brevity and paucity of regulations. But when we approach the present times, the code assumes a new character, in the number and diversity of its regulations, better adapted to the wants of the city, arising from the great increase of business, population, wealth and extent. Though the charter would seem to contain a grant of ample powers, sufficient for all the purposes of a well-ordered police, and for the good government of the city in its complicated concerns, yet the Legislature has been in the practice of granting more specific and detailed powers, sometimes upon the application of the Common Council, and more frequently without it. I do not here allude to those regulations respecting the exports and commerce of the city, in which the state at large has a general if not an equal interest, such, for instance, as those which relate to the inspection or regulation of *flour and meal, pot and pearl ashes, sole leather, hides and skins, lumber, culling of staves and heading, beef and pork, public health, fish, distilled spirits, harbor master, and master and wardens of the port.* In these and like cases the statute regulations have been numerous, cumulative, and subject to excessive mutations. These are more peculiarly matters of state or general concern. But I allude particularly to a series of statute regulations clearly within the powers of the charter, and on matters peculiarly belonging to the city, and the comfort and safety of the inhabitants. Such for instance are the laws regulating *the rate of ferriage* to and from Long-Island, concerning which a great many laws have been passed from 1717, when the colonial assembly first interfered, down to the last regulation of the 17th April 1822. These laws were passed as auxiliary to the corporation right of ferriage which was always recognised. Such also are the numerous statutes regulating the opening, laying out, and repairing of the *streets and highways and sewers* in the city. They were generally made in aid and confirmation of the general corporate powers on the subject, and sometimes with the avowed wish and consent of the corporation. Such are also the laws relating to *wharves, slips and wharfage*, and to the *alms house, bridewell, city prison and penitentiary, hackney coaches, butchers, gaming houses*, &c. In all these and in many cases of the like kind, the statutes act as auxiliary to the powers and duties of the Common Council, and confer upon them, precise and adequate authority. The act of January 23d, 1833, ch. 11, being one of the most recent, may be referred to particularly as containing a grant to the corporation of powers which were undoubtedly in most respects covered by the general powers contained in the section of the charter now under review. It authorises the punishment of persons intoxicated, or riding with undue speed in the city; and it authorises the Common Council to pass ordinances regulating the sale of arti-

cles of food by hawkers and petty dealers, and the regulation of work-shops, and pawnbrokers, and victualling houses, and dirt carts, and the firing of arms, squibs, rockets, &c.

Amidst such a multitude of statute regulations, it becomes difficult to know how far an ordinance of the Common Council rests upon the authority of the charter, and how far upon the authority of some special statute. When the latter exists, the exercise of the power is of course to be referred to the statute as the more certain and paramount authority. The city ordinances sometimes act concurrently with and in aid of the statute power, though much more frequently the statute law comes in and carries out to a definite and precise extent, the authority which lies dormant in the comprehensive powers of the charter. If we take up and run through the ordinances of 1833, and now in force, we shall find many of them to be the exercise of charter powers simply; others are the exercise of charter and statute powers combined; and others again rest solely on the statute grant of authority. There is no doubt that when any of the ordinances alluded to cannot be referred to the grant and power by any express statute revision, the general and unlimited grant of ordinance power in this section of the charter is sufficient to uphold and warrant it. The efficient checks against any abuse of such enlarged discretion, are public opinion, the elective franchise, and the established principles of the constitution and of recognised common law. In addition to these checks, all corporations are liable to legal process in behalf of the state, for non-user or misuser of their rights and powers.

But to proceed with the 14th section of the charter,—the summary conviction and process of distress for the collection of penalties, was not abrogated by the constitution. That instrument only declared that trial by jury *as before used in the colony*, should be inviolate, and summary convictions for petty offences and misdemeanors were continued and sanctioned in many instances by statutes passed subsequent to the Revolution. Thus, for instance, by the statute of 4th May, 1784, for regulating highways, persons neglecting or refusing to work on the highways were liable to be fined promptly by the overseers of the highway, and to have the fine levied and collected by distress and sale of the delinquent's goods. The same summary process for collecting penalties was retained in the highway acts of 1801 and 1813, but with some mitigation in the latter act, by requiring the overseer not to assess the fine himself, but to make his complaint to a justice of the peace, and he was to do it on summons of the delinquent, and by summary conviction and distress warrant. The same power under the same mitigation is in the R. S. Vol. 1, 510. Summary convictions and warrants of distress were also prescribed by statute for breaches of the act to suppress immorality, and for the due observance of Sunday, and in and by the act for apprehending and punishing disorderly persons, and for assessments on regulating streets. (Acts of 9th Feb. 1788, and 9th April, 1813.)

But though the power to assess and levy fines summarily, be a power still dormant in the charter, it has long since grown into disuse, as not being quite congenial with the spirit of our institutions. The ordinance of May 1793, directed that all fines, penalties, and forfeitures, imposed in and by any of the laws of the corporation, should be recovered and levied by and in the name of the Chamberlain of the city. This would seem to have contemplated a recovery by regular suit at law, and the ordinance of 1834, chapter 48, puts an end to all summary process, for it directs that

all fines, penalties, and forfeitures, imposed by any law or ordinance of the corporation, be sued for and recovered, with costs, in the name of the corporation, in any court having cognisance thereof.

The power conferred by the charter to disfranchise delinquents of the freedom and privileges of the city, instead of punishing them by fine and amerciament, is altogether abandoned. I presume there is no instance, at least since the revolution, of such a punishment inflicted by the corporation. The great constitutional principle is, that no man is to be disfranchised, unless by the law of the land, or the judgment of his peers. The further provision in this section, that the Common Council shall have the sole power of determining on all elections of corporate officers, is still valid; subject however to the qualification of that power by the act of April 7th 1830, chapter 122, which makes each board the sole judge of the qualifications of its own members.

NOTE XXX. P. 58.—G. G.

The 15th section authorizes the Common Council to fine members who are absent without reasonable cause. The act of 1830, amending the charter, supersedes this power, by conferring the same and larger powers for the same purpose, and with more efficient effect, on each board separately. It gives them the authority to compel the attendance of absent members, to punish members for disorderly behaviour, and to expel a member, with the concurrence of two-thirds of the members, elected to the board. In what way, and by what means, the board is to *compel* the attendance of absent members, and to *punish* them for disorderly behaviour, is not defined. I presume that each board may compel and punish by fine, and if the disorder be grievous, by imprisonment. The most efficient punishment is expulsion, and as that is the only one specifically stated, it is very appropriate when admonition fails to awaken in the breast of the offender a sense of duty and propriety. A delinquent may be brought in by an officer of the board, by compulsory process from it, in like manner as each House of Congress may compel the attendance of absent members, in such manner, and under such penalties, as each House may prescribe. (Act of April 7th, 1830, chap. 122, sec. 8.—See *Post*, p. 101.)

The residue of the section confers a very important power, right, and privilege, on the corporation, by authorizing the Common Council, with sole and exclusive power to establish as many ferries round Manhattan island, for transporting people, cattle, and goods, &c., to and from Nassau island, and from Manhattan island to any of the opposite shores all round the same, and in such and so many places as to the Council shall seem fit, and to let and dispose of all or any of the said ferries; and the rents, ferriages, and profits thereof, are fully and freely granted to the Mayor, Aldermen, and Commonalty of the said city, and their successors forever, to be taken, held, and enjoyed, to and for their own use.

This ferry grant is also mentioned and confirmed, as see *Post*, sec. 37. The section last referred to contains a grant and confirmation to the corporation, and their successors, forever, of the ferry and ferries on both sides of the East river, and of all other ferries then or thereafter to be created and established all round Manhattan island, and the management thereof, and all fees, ferriages, and perquisites, to the same belonging; and also all the ground and soil between high and low water mark, on Long Island, from the east side of the place called Wallabout, to the west

side of Red Hook; and to make laws and rules for governing the ferries then established, or thereafter to be established round Manhattan island: saving to the inhabitants between Wallabout and Red Hook, the right of transporting themselves and their goods only in their own boats, from and to their respective dwellings and plantations without paying ferriage. The ferries then and thereafter to be established, and the right of ferriage, are connected with the grant and confirmation of lands within the city of New-York, and on Manhattan island, and they are all equally granted with the regular *Habendum* clause, appropriate to the grants of estates in fee.

The rights of the corporation in respect to the establishment, license, and regulation of ferries between the city of New-York and Long Island, has, within a recent period, been ably and zealously discussed, both in and out of the Common Council. It seemed to be conceded that the grant of the old ferry beetween New-York and Brooklyn, (and which was specially granted and confirmed by the charter of 1708, as see *ante*, p. 29, and Note S.) was an absolute grant of vested property, or an estate in fee, which could not be lawfully questioned or disturbed, except by due process of law. The colony act of 14th October, 1732, regulating the rates of ferriage, admitted that the corporation was "legally and solely seized" of the ferry. The same statute declared that the corporation might keep "one or more ferries" between the city and Nassau island, and that no other persons than the corporation of New-York, should erect and keep a ferry "between New-York and Nassau island." But the grant of a right to establish other ferries, and to appropriate the profits, was said to be the grant of a sovereign legislative power, of a public legislative character, and liable to be recalled at the pleasure of the legislature. I do not perceive that there is any solid ground for such a distinction on this point, between the grant of the old ferry with its rents and profits, and the grant of the right to establish other ferries, when needed, with their rents and profits. They are equally grants of corporate franchises, partaking of the nature of private property. They are made in the same terms, and in the same connexion with the grant of lands.

They confer on the inhabitants of New-York, vested and valuable interests arising from the rents and profits of every ferry established and to be established under the charter. Whether a new ferry in any given case be wanted, and whether it would be a burden or a benefit to the citizens, was intended to be and was properly left to the discretion of the Corporation, as all such grants must necessarily be left to be exercised according to sound discretion. The grant was founded on the two fold consideration, as a source of revenue to the city and an accommodation to the public; and in the latter view, the Corporation are amenable to the judicial tribunals for the abuse of their discretion, and the omission of a due exercise of the power. A corporate body is capable of taking the grant of a ferry, or of the right to establish one, and it is a freehold right and as much beyond the reach of a gratuitous legislative resumption, as any other franchise or property held by grant or charter. The ferry franchise is not the grant of political power, strictly speaking, any more than the grant of any other franchise or any other use of property. It certainly is not more so in respect to the right to establish new ferries, than the grant of the old ferry, and that is admitted to be an absolute irrevocable grant in fee. The grant of political power is exclusively a matter of public and general concern, but the ferriage grant was for the benefit of the grantees, and the rents, issues, and profits were given exclusively to the in-

habitants of the city. The inhabitants in their aggregate corporate capacity, have as vested an interest in the entire grant of the old ferry, and of the right to establish others, as they have individually in any government grant of lands, tenements and hereditaments. Nor can such a grant be lawfully revoked, any more than the grant of any other hereditament, except for non-user or misuser, to be ascertained by a judicial proceeding. There is no danger that the power of establishing ferries in discretion, will be abused to the prejudice of the inhabitants of the city, or of its neighbors, considering the popular foundation of the council. Its sympathies with the feelings and judgment of its constituents must be lively, active and incessant. The power is more likely to be used to the best interests of the city, and with discretion and judgment, than if it was recalled and deposited elsewhere and exercised by any other body of men whatever; for it is to be presumed that the citizens of New-York, in matters that concern their local interests and convenience, are sufficiently sharp-sighted, liberal and persevering. The act of March 4th, 1814, Ch. 29, relative to the establishment of steam ferry boats on the old Brooklyn ferry, was passed upon the application of the Common Council, for the purpose of having the rates of ferriage increased, in order to encourage the establishment of steam ferry boats, and with power to prevent the interruption of them by ships or other vessels. This act does not, therefore, in any degree impair the previously vested right of the Corporation in the ferry, except so far as it was done by their own act and contract.

NOTE XXXI. P. 59.—H. H.

The 16th Section gave to the Common Council, power to establish, direct, lay out, alter, repair and amend streets, lanes, alleys, highways, water courses, and bridges throughout the city and island.

This is a grant of a public nature without any private interest or property or revenue connected with it, and it has always continued with the Common Council, under free and active exercise; subject nevertheless at all times to legislative interference and direction. The Legislature interferes with the power in their discretion, and I think there can be no question as to the right of the Legislature to do so, for the power is not exclusive in the Corporation, nor irrevocable, nor in the nature of the grant of private right. The Common Council exercise it consistently with legislative directions, and in other cases where the statute law is silent. The statute laws are not intended to alter or control, (except in the given cases) the charter on the point, but the object is generally to give additional, specific, and subsidiary relief, and the Corporation have frequently applied for legislative authority, and have preferred to exercise the power under that sanction, though the general terms of the charter gave it to them. Thus the colony acts of 7th, November 1741, Ch. 712, of November 25, 1751, of 4th May, 1754, of October 20th, 1764, and of March 9th, 1774, conferred powers or gave directions, in respect to the public roads on the island, and the city streets. So the act of March 21, 1787, Ch. 61, made the Common Council, Commissioners of high-ways, with ample powers; and the act of April 3, 1807, Ch. 115, prepared the way for the great avenues and regular cross streets, from the then settled parts of the city, to the northern parts of the island. The proceedings of the Commissioners appointed under that law, were upon a large and liberal scale, and their map and plan were made matter of record. That plan was declared by the statute, to be final and Conclusive, as well in respect to the corporation, as

to individuals. It has nevertheless been occasionally altered in unessential parts, as in the instances afforded by the Acts of April 15th, 1814, Ch. 175, and of April 11th, 1815, Ch. 152, and of Jan. 23d, 1824, Ch. 10, and of April 25th, 1829, Ch. 269, and of April 23d, 1831, Ch. 253, and of April 5th, 1832, Ch. 89, and of April 10, 1832, Ch. 101, and of May 11th, 1835, Ch. 268.

The map and plan of the Commissioners, laid out the highways on the island upon so magnificent a scale, and with so bold a hand, and with such prophetic views, in respect to the future growth and extension of the city, that it will form an everlasting monument of the stability and wisdom of the measure.

The Acts of June 16th, 1812, Ch. 174, and of April 3rd, 1813, Ch. 86, conferred powers upon the Corporation, to make By-Laws relative to draining, pitching and paving the streets, and altering, amending and cleansing them, and relative to laying out and opening streets, avenues and squares. The Statute of April 9th, 1813, Ch. 86, Sect. 193—197, also declared, that the Common Council should continue to be Commissioners of highways, to regulate and keep them in repair, and this act is still in force. Under this general power, they are specially authorized to build bridges and causeways, and make ditches when necessary, through any person's land, and to appoint Overseers of the high ways, and to keep them in repair and to enforce penalties for the causing obstructions in the highway, and the Overseers are charged to remove nuisances and obstructions. The act of April 20th, 1818, Ch. 213, passed upon the application of the Common Council, authorized them to close streets, roads, lanes, and alleys, wherever they should judge proper, upon the terms and in the mode therein prescribed. So the Act of January 31st, 1817, Ch. 25, authorized the Common Council to make public cisterns in any of the streets, whenever they should deem it expedient; and the Act of April 9th, 1813, Ch. 86, Sec. 200, gave the Common Council the like power, as to wells and pumps to be made in any of the streets.

The statute powers have become so ample, so various, and so full of direction, that the charter power seems to be in a great measure, absorbed and lost in the new statute powers; but whenever and wherever the statute provisions do not supply precise and adequate authority in the given instance, the Common Council can always resort to the never failing powers under the charter, which gives broad and large authority, commensurate to every case. The charter powers have been so frequently and so fully confirmed, defined, enforced and specially applied, by legislative acts, that there seems to be no want of jurisdiction from the one source or the other, for every exigency; and the Common Council have, by ordinances now existing, created the Street Commissioner's department, and the department for cleaning streets with much detailed regulation. The *Revised Statutes*, Vol. 1, 526, relative to the highways, bridges, and ferries, save and except all the rights which the Corporation of New-York before enjoyed. The charter says nothing in particular, in the section before us, relative to rules for making and maintaining partition and other fences, and the Common Council might have resorted for that purpose, to the general power, to make By-Laws, as see *ante*, p. 54, and note F. F. But even this power is supplied by the act of March 27th, 1801, Ch. 78, Sec. 17, and the ordinance of 1833 for regulating fences and walls, is in pursuance of that authority.

NOTE XXXII. P. 59.—I. I.

This 17th Section relates solely to the power granted

to the Corporation to establish and keep markets at five specified places, on every day in the week, except Sunday; and they were authorized also, to have, hold and keep such and so many other markets, at such and so many other times and places as they should think fit.

On this general authority, the power rests to this day. Though the charter would seem to be imperative as to the five specified places, yet the direction has been suffered to fall gradually into oblivion. Under the great change in localities which the growth and commerce of the city has produced, the adherence to the specification would have been idle and absurd. And notwithstanding the fulness and explicitness of the grant, legislative assistance have been occasionally afforded, and probably asked. Thus by the act of April 9th, 1813, Ch. 86, Sect. 272, the Common Council are authorized to pass ordinances, to regulate or prohibit the sale of goods, fruits, meats, &c. on Sunday; and to regulate the butchers, and assign the places for their business, and to prohibit any persons except licensed butchers, from carrying on their business. And by the act of March 22d, 1822, Ch. 101, the Corporation were empowered to cause public markets, if they should find it necessary, to be erected and kept over the waters of the East and North rivers, adjoining to any of their docks or wharves. Again by the act of April 25th, 1829, Ch. 267, they were also authorized to erect a public market and lay out and open a public street in the Eleventh Ward.

The ordinance of June 1833, contains a very full specification of the regulations, of which the authority contained in the charter was susceptible, and of which the wants, competition, trade and luxury of an immense population stood in need.

Note xxxiii. p. 60.—K. K.

The grant in this Section is of the assize and essay of bread, wine, beer, ale, and all other victuals and things whatsoever, set to sale in the city, and with authority to amend and correct the assize, and to lay and levy fines and forfeitures concerning the same, to the use of the Corporation.

The power to assize or fix the weight, measure and price of articles sold in the market, remains unchanged, and it has been exercised in several particulars by the Common Council, to the present time. The object was, originally, to prevent extortion by means of a monopoly, as, for instance, on the part of the bakers, in the *science* of making bread; and it was continued to prevent frauds and imposition upon the ignorant and unwary in the sale of articles of the first necessity. The assize of bread was formerly, in the colony of New-York, extended to the weight and price of loaves, of the finest flour. Thus in 1768 the assize was regulated by the price of flour at 18-6 per cent. In 1771 at 22-9, and in 1773 at 24 per cent.

After the Revolution, the establishment of prices was dropped, but the ordinances of the Common Council for many years required the initials of the baker's name to be marked or stamped on every loaf of bread, and the bread was to be of good and wholesome flour or meal, and inspectors were appointed to examine the quality of the bread, and to see that the same was of due weight according to the assize. Now the ordinances only require that the bread be of good and wholesome flour or meal, and sold by averdupois weight, with penalties for breaches of the ordinance.

The ordinances no longer interfere with the prices and qualities of other necessaries in the market, but they regulate the sale of articles, and the modes of

dealing in articles, where the trafic in them might easily lead to impositions not accessible to ordinary observation. Thus, for instance, there are ordinance regulations for pawnbrokers, dealers in second-hand articles, and keepers of junk shops, and for the sale of coal in respect to measure and weight, and for the sale of firewood, lime, hay, &c.

The ancient English statute of 51, Hen. 3d, in the year 1366, fixed the assize of bread and ale, and required the name of the owner to be marked on every loaf of bread. The baker was bound to see that his assize, weight and price of bread corresponded with the market price of wheat; and the brewers of ale and the vintners of wine were equally bound to see that their articles also bore the true relation to the quality and price in the market of barley and wine. These regulations would be evidence of a very civilized police, if it were not for the penalties subjoined, and which subjected bakers and brewers for repeated breaches of the assize, to disgraceful corporeal punishment. The statute was amended in 1709, as to the price and assize of bread, by the act of 9, Anne, ch. 18, and which was continued down to 1757. It prescribed a new table for the assize of bread, and which would seem to have been the precedent for the colonial ordinances of the corporation of this city on the subject. But owing to the increasing knowledge of the community in the science of political economy, and a sense of the folly of undertaking to regulate prices of marketable commodities, which, under free competition, in large trading cities, will naturally regulate their own value, the setting an assize as to price was gradually relinquished, and the statute of 55 Geo. 3. c. 99, finally abolished the practice in London. The assize is, however, continued, and regulated by law as to the ingredients to be used in making bread, and as to the sale by averdupois weight. Bakers may now sell in London and elsewhere, where an assize is not set, bread of such weight and size as they think fit, subject only to the statute regulations as to ingredients and weight; and this is the ground on which the New-York ordinances now stand.

The setting an assize as to wine, beer, ale, "and all other victuals and things whatsoever," though within the charter power, has been finally and wisely abandoned.

Note xxxiv. p. 61.—L. L.

The 19th Section conferred upon the corporation the office of gauger of all gaugeable liquors and vessels; and of measurer of salt, grain, and all measurable merchandises; and of surveyor and packer of bread, flour, beef, and all other provisions and merchandises to be surveyed or packed in the city; and the office of cartage and portage of all goods to be carted and carried in or through the city; and the garbling of all merchandises and things to be garbled, together with all the fees and perquisites arising therefrom.

These powers have been gradually assumed, encroached upon, or disturbed by statute regulations, and of which it will be proper to take some notice.

The act of April 14th, 1832, ch. 141, regulates the *measuring of grain* in this city, and directed the appointment of a Measurer General, and between ten and twenty measurers of grain. The act so far does away the corporate power in the charter, and declares that no persons, except those appointed under the act, should measure any grain in New-York for hire or reward. A question arose, and was decided in the Superior Court of the city, in the case of *Satterlee* v. *Sutton*, whether the statute provision was sufficient to destroy the char-

ter power on that subject, and to supersede a measurer of grain appointed under the corporation. Ch. J. Jones, who delivered the opinion of the court, held, that the grant to the corporation to appoint measurers, was a grant of political power, coupled with no interest, save the fees as a compensation for measuring; and that the grant in question was not to be considered in the light of property, or intended as a source of revenue; and that the legislative act was valid, and the grant in the charter so far controlled.

If this be the true construction of the power of the legislature over the charter, the same rule would seem to apply to every other part of this section, for the whole rests upon the same principle. And indeed if the test of the inviolability of a charter franchise be the grant of some special pecuniary interest, or matter of private property in the grantee as an individual or aggregate corporate body, like the case of a grant of land, or of the emoluments of a ferry, then there are very few provisions in the charter that can stand the test, notwithstanding that the act of 1732, confirming the charter, declared that the corporation and their successors "should and might forever thereafter, peaceably have, hold, use and enjoy, all and every the rights, gifts, charters, grants, powers, liberties, privileges, franchises, customs, immunities, markets, duties, tolls, lands, &c. before granted by any letters patent or charter," and notwithstanding the Constitution saved the charter from the effects of the Revolution. It is not my intention, nor would it be proper in this place, if I had the inclination, to gainsay the decision in the case alluded to. My object is merely to show its general applicability. Most of the statute provisions in relation to New-York have been auxiliary to or in extension of charter powers, but the act referred to goes directly to destroy the corporate office of measurer of grain. It is therefore a strong case to show the dependence of charter franchises on legislative discretion, except in those cases in which the franchise is a matter of private interest.

The statute of March 31, 1818, ch. 70, for the appointment and regulation of gaugers and inspectors of fish oils, and the *Revised Statutes*, Vol. 1, 535 to 574 interfere largely with some of the powers contained in the section under review. They provide for the inspection of flour, meal, beef, pot and pearl ashes, fish, oil, lumber, staves and heading, flaxseed, sole leather, hops, distilled spirits, leaf tobacco; and for weighing and branding butter-firkins, and the packing and sale of pressed hay. The charter does not expressly grant any power to the corporation respecting weighmasters, and yet the Common Council, by ordinance in 1834, prescribe for the appointment, and they regulate the duties of *weighmasters* as well as of measurers of the city. This was in pursuance of the act of March 21st, 1800, ch. 35, which was passed upon the application of the Common Council, and the substance of the act was renewed April 9th, 1813, ch. 86, sec. 238. But the act of May 1st, 1835, ch. 183, withdrew this power in a very essential degree from the Common Council, for it provided that the Governor and Senate should appoint the Weigher General and the weighers of merchandise, and it declared that no persons, except those so appointed, should weigh any merchandise in New-York for hire, *except merchandise intended for the use or consumption of the city*. This act left the weighmasters appointed by the Common Council to exist, but with very reduced and subordinate powers, and they were bound to account monthly to the Weigher General, of the kinds of merchandise weighed, and the amount of fees received. The act does not apply to the weighers of anthracite or mineral coal.

The office of *garbling* merchandize, I presume was done away with, at least essentially, by the act for the culling of staves and heading, and the office of *cartage and portage*, seems to be the only one mentioned in this section of the charter, which remains untouched by legislative regulations.

NOTE XXXV. P. 63.—M. M.

The 20th and 21st sections gave to the Mayor and four or more Aldermen, the power to make free citizens of the city, on payment of a fee not exceeding £5, to the use of the corporation. This was only a repetition of the power conferred by Governor Dongan's charter, as see *ante*, p. 19, and Note L.

The power contained in these two sections was formerly of momentous importance; for the charter, while it granted the power, at the same time prohibited all persons, other than such free citizens, to use any art, trade, mystery, or manual occupation, within the city, saving in the times of fairs; or to sell or expose to sale, any manner of merchandize or wares whatsoever, by retail, when no fair was at the time kept in the city, under a penalty for each offence. It was further provided that no person should be made free as aforesaid, but native born, or naturalized, or denizated subjects.

This chartered power has ceased to be of any importance, and is used only as a testimonial of respect or gratitude, on the part of the corporation, towards persons in high stations, or who may have entitled themselves to the honor by personal merit, or some distinguished service. There are instances in the annals of the corporation, of this species of reward. But the admission to the freedom of the city, was, at the date of the charter, not only a token of honor, but a grant of substantial benefit. By making a person a freeman of the city, he became entitled to all its municipal privileges; and among others, to the right of voting for, and of being voted to corporate offices, and which right belonged only to corporate freemen and to freeholders, until the charter was altered by statute, in 1804, as see *ante*, Note B. B.

But although the exclusive privileges formerly conferred on the inhabitants of chartered towns and cities, of pursuing commerce and exercising the mechanic arts, have fallen into discredit in Europe, among men of enlarged views and liberal policy, as being impolitic monopolies, which restrain competition, damp the spirit of enterprise, check the free circulation of labor, and raise the price of commodities; and although such monopolies are utterly reprobated and abandoned in this country, yet they were originally introduced in Europe, and afterwards cherished during the disorder and violence of the middle ages, as invaluable barriers against the insecurity and oppression of the feudal system. They were ardently desired, and frequently granted by the benevolence or policy of princes, during the 12th and 13th centuries, who confirmed local usages and enabled the inhabitants of towns and cities to possess common property, and to have their feudal Exactions either abolished or defined and limited, and to enjoy the inestimable privilege of being amenable only to their own municipal jurisdictions. Those incorporations conferred freedom on the feudal Serfs who escaped into them unless duly reclaimed. They were *cities of refuge* to the oppressed. This was the case in France and Germany, as well as in England. If a villain, says Glanville, b. 5, ch. 5, remained for a year and a day, in any privileged town, which had franchises by prescription or charter, he became thenceforward a free member of

the corporation. Manumission, said lord Coke, (Co. Litt. 137, 6,) among other significations, meant "the incorporating of a man to be free of a company or body politic, as a freeman of a city, or burgess of a borough."

We are therefore not to be surprised that this ancient privilege (so tenacious is established usage) should continue to be cherished long after the occasion for it, and the reason of it had ceased: nor that it should have been inserted and continued by our ancestors in the early charters of New-York. There has been, until recently, something dear and sacred attached to the very mention of *chartered rights and privileges*. We perceive ample proofs of this sentiment and feeling in all the early proceedings of our revolutionary patriots and statesmen.

NOTE XXXVI. P. 63.—N. N.

The 22d section is only a specific detail of the powers granted to the corporation by the 19th section, as see *ante*, p. 60. It has therefore been in a very considerable degree abridged by successive acts of the legislature. We have seen, in the examination of the subject in note L. L., that the authority hereby given to appoint surveyors, measurers, gaugers, and garbles, has been superseded by legislative regulations incompatible with the exercise of the like power by the corporation. But the authority of the Common Council to appoint beadles, bellmen, watchmen, Bridewell-keepers, or keepers of houses of correction, and almshouses, cryers, and bell-ringers, has not been disturbed. The Common Council may appoint and dismiss, and add to and diminish, at pleasure, all such police agents.

The control and regulation of the city watch, like the appointment and regulation of cartmen and porters, is a very interesting and valuable deposit of municipal power, and one essential to the peace, security, and good government of the city. The same remarks apply to the regulation of the alms-house, penitentiary, city prison, and Bridewell, and the appointment of the keepers to them respectively. The ordinances on these subjects form a minute, well digested, and valuable code of alms-house and prison discipline.

NOTE XXXVII. P. 65.—O. O.

The 23d section authorized the corporation to erect and build one or more bridewells, houses of correction, and work-houses, for offenders, as well as an alms-house for the relief of the poor. It also authorized the Mayor, Recorder, and Aldermen, or any one of them, to arrest vagabonds, and idle and suspicious persons, and commit them to the work-house, for a term not exceeding forty days, or else to bridewell, to receive such punishment, not extending to life or limb, as they may direct. The corporation were further authorized to provide one or more gaols, and appoint the keepers, who were to receive all persons charged with crimes and offences and committed to their custody.

The powers in this section have been enlarged, modified, restricted, and better defined, by successive statutes. The Mayor, Recorder, and Aldermen, are *ex-officio* justices of the peace, and authorized to hold courts of general sessions of the peace, and courts of special sessions. (*Revised Statutes*, vol. 2, 216, 223.) Corporal punishment, otherwise than by imprisonment and at hard labor, is prohibited. (R. S. vol. 2, 697, sec. 40. *Ibid.* 701, sec. 16.) The act of March 2d, 1798, ch. 24, committed the charge of the bride-

well, or gaol for criminals, to the corporation, and authorized the Common Council to appoint the keeper, and who was to hold at their pleasure.

The jurisdiction in criminal cases conferred by the charter, seems to have been completely absorbed and merged in statutory provisions. In attending to the historical progress of the changes, we perceive that by the colony act of 1st September, 1744, ch. 767, the Mayor, Recorder, and Aldermen, or any three of them, of which the Mayor or Recorder to be one, were authorized to try summarily, offenders under the degree of grand larceny, who did not give bail within 48 hours, to appear at the general sessions of the peace; and on conviction, to order corporal punishment at discretion, not extending to life or limb. The same power was given by the act of March 24, 1787, chap. 65, and by the act of 9th February, 1788, ch. 31. Disorderly persons were defined and described, and it was made lawful for any justice of the peace to convict them summarily, and commit them to bridewell, not exceeding sixty days. And by the act of February 6, 1789, ch. 19, the Mayor, Recorder, and Aldermen or any two of them, were authorized to punish disorderly persons summarily convicted before them, by imprisonment in the bridewell at hard labor, not exceeding six months. By the new penal code, in the act of March 26th 1796, ch. 30, corporal punishment, otherwise than by imprisonment and at hard labor, in cases not capital, was, for the first time in the history of our criminal law, abolished. The court of special sessions, consisting of the Mayor or Recorder, and any two Aldermen, with the jurisdiction to try summarily, petty crimes and misdemeanors under the degree of grand larceny, was continued by the act of March 24th 1801, ch. 70, and again by the revised act of April 9th, 1813, ch. 89. By the act of April 15th, 1814, ch. 176, sec. 4, the Mayor, Recorder, and Aldermen, and the special justices, or any two of them, were empowered to convict and commit disorderly persons to the penitentiary at hard labor for six months. The *Revised Statutes*, vol. 1, 638, contained a formidable list adopted from the existing statutes, of persons described as *disorderly persons*, but they were to be dealt with less summarily than formerly. The justice before whom they were brought, was, upon evidence of the fact of their character, to require sureties for their good behaviour for a year, and in default thereof to commit them to gaol. The next court of general sessions of the peace was to take cognizance of the case, and in their discretion to discharge, or require sureties, or detain them in gaol at hard labor, for a term not exceeding six months, or for a term not exceeding thirty days, to be kept on bread and water only.

The act of January 23d, 1833, Ch. 11, defined the persons who should be deemed *vagrants*, with authority for the Mayor or Recorder, or one of the Aldermen or Special Justices, to convict them summarily and commit them in his discretion to the Alms House at hard labor, not exceeding five months, or to the penitentiary for a like period. This would appear to be the latest statute provision on the subject of the summary criminal jurisdiction, granted by the charter; and the review is sufficient to show, that the charter jurisdiction on the subject, has been long superseded.

NOTE XXXVIII. P. 66.—P. P.

The 24th Section makes the Mayor for the time being Clerk of the market and water bailiff, and conservator of the North and East rivers, and upon the banks, shores, and wharves thereof, with authority to take to

his own use, the fees and perquisites thereof. He is also authorized to appoint and license at discretion, Marshals, Porters, Carriers, Cartmen, Carmen, Packers, Cullers, Common Cryers and Scavengers, and to add to and diminish them at pleasure.

The office of Clerk of the market, with all the fees and emoluments attached thereto, was taken from the Mayor and vested in the Common Council, by the Act of April 9th, 1813, Ch. 86, Sec. 168.

It is to be presumed that this act was passed with the consent of the Mayor, for a fixed salary was at the same time provided for him. As to the office of water bailiff, I am at a loss to discover the extent and use of that authority, and I find no statute ordinance regulation on the subject. I should presume it was not at this day of any efficacy, and that as a police power, it was absorbed in the powers of the Common Council, or in the Custom House duties, under the authority of the United States. There can be no fees or perquisites attached to it, for all such things are taken away by the act, providing a salary to the Mayor. The wharves, slips, and wharfage are all subjected to statute and ordinance regulation. The ordinance of 1833, Ch. 34, regulates the lying of vessels at the wharves, and in the slips belonging to the Corporation, and the rates of wharfage. Various statutes have successively regulated the wharfage and cranage in respect to the wharves which were private property. Such were the statutes of 17th April, 1784, Ch. 32.—April 6th, 1795, Ch. 44. —April 9th, 1813, Ch. 86, Sec. 212 to 236. This last act gave to the Common Council specific and large powers on the subject of wharves, piers, and slips, and with a general authority to make By-Laws and ordinances from time to time for regulating the same.

The original object of water-bailiffs in port towns in England, was to search ships, and in London the office was once very vexatious, but it has now degenerated into one of a very subordinate and servile nature. The statute of 28, Hen. 6, c. 5, declared it to be a trespass for water-bailiffs and searchers, and their servants to levy charges and impositions upon the vessels and goods of merchants.

The authority given to the mayor to appoint marshals, cartmen, &c., remains in full force; except that by the act of April 8th, 1813, ch. 86, sec. 44, the number of marshals in the city was not to exceed sixty; and by the act of March 26th, 1832, ch. 58, they may be increased, so as not at any one time to exceed one hundred; and by the act of January 4th, 1820, ch. 1, the marshals who are to serve process of the justices court, or of the court of any assistant justice, are not to exceed thirty, and they are to be selected and commissioned by the mayor for that purpose. The cartmen, porters, &c. are under the constant supervision and regulation of the Common Council, and the ordinances of 1833, ch. 4, 8, 27 & 47, may be cited as examples. There is no power more salutary than this discretionary power in the mayor, and this power of regulation by the Common Council, of marshals and cartmen. There is none which requires the exercise of a more steady and firm purpose. The business and trade of the city, and the comfort and safety of the persons and property of all classes of citizens are deeply concerned in the good and responsible character of our marshals and numerous cartmen.

The authority given to the mayor to appoint *common cryers*, seems to be inconsistent with the like power given to the Common Council to appoint *cryers*. (See ante. p. 63.) If there be no known distinction between the two classes of citizens, and the power be concurrent in the mayor and in the Common Council, it is nevertheless too insignificant a power to produce in its exercise any unpleasant collision.

Note xxxix. p. 68.—Q. Q.

The 25th section gave to the mayor exclusively the power to grant, annually, licenses to keep taverns, inns and victualling houses, with liberty to sell exciseable or strong liquors. The fees on granting licenses were to be received for the use of the corporation, and penalties were prescribed for acting therein without such license.

The power was very early assumed by the legislature, and transferred from the mayor to other hands. The colonial act of July 15th, 1713, ch. 263, in derogation of the then charter power in the mayor, (as see ante. p. 18, sec. 10) authorised and required the mayor and aldermen of the city to farm out yearly, at auction to the highest bidder, the excise on strong liquors. But this mode was abandoned after the Revolution, and by the act of March 1st, 1788, ch. 48, a commissioner of excise was directed to be appointed in New-York with a salary, and the mayor was made *ex officio*, such commissioner, and he was to grant licenses in the manner prescribed by the charter, and to determine the amount of the excise to be paid annually, not exceeding £20, nor less than 40s. in any case. He was to retain £60 as a salary per annum in lieu of his fees, and to account for the residue to the chamberlain to be applied in part for the use of the New-York hospital, and the residue under the direction of the Common Council, towards the contingent expenses of the city. The act of April 7th, 1801, ch. 164, continued the law, but authorised the Council of appointment to appoint as commissioner of excise in New-York, not the mayor specifically, *but such person as they should think proper*, thereby leaving the Council of Appointment at liberty to select some other person than the mayor. Here was at least a complete demolition of the mayor's power under the charter. At last, by the act of April 10th, 1824, ch. 215, the whole subject underwent a new modification, and on the application of the corporation, the mayor, aldermen and assistants were declared to be the sole commissioners of excise for the city. They were directed to collect the duty of excise from the venders of strong or spiritous liquors, and in their discretion to grant licenses to retail strong or spiritous liquors, or to keep an inn or tavern, public ordinary or victualling house within the city, and the monies arising therefrom were to be applied towards the support and maintenance of the city poor. The act was amended the succeeding year, by the act of April 16th, 1825, ch. 196, declaring that the mayor, and the alderman and assistant *of each ward* should be commissioners of excise for the wards respectively. A city ordinance on the basis of those statute revisions, and in furtherance of them, was passed in January, 1834, and so stands at present the law on the subject.

Note xl. p. 71.—R. R.

The 26th Section declares that the mayor, deputy mayor, recorder and aldermen shall be *ex officio* justices of the peace, and that any four of them, of whom the mayor or recorder to be one, shall hold Courts of General Sessions of the Peace, in February, May, August and November in every year, and with jurisdiction to inquire into, hear and determine, correct and punish crimes and misdemeanors, in like manner as justices of the peace, in their quarter sessions in England, might do. They were likewise declared to be justices of Oyer and Terminer and Gaol Delivery, and to be named in every commission thereof, and the sheriff and other officers of the city were required to execute their, and each of their warrants and commands.

The criminal jurisdiction of the mayor, recorder and

aldermen, as justices of the peace, and their authority to hold courts, rested upon this provision in the charter, during the whole course of the colonial government. But since the Revolution a succession of statute regulations have entirely superseded this section of the charter, and new-modelled the courts, and enlarged their jurisdiction. The act of January 30th, 1787, ch. 8, first interfered and confirmed their power, by declaring that any three justices should hold sessions of the peace, and that the mayor, recorder and aldermen of New-York, (omitting the deputy mayor) should have all the powers of justices of the peace. The act of February 5th, 1787, ch. 10, established the Courts of General Sessions of the Peace, on the same quarterly days as fixed in the charter, but with a prolongation of the terms, and with the express grant of power to the mayor, recorder and aldermen, or any three of them, of whom the mayor or recorder to be one, to hold those courts in and for New-York. The act of February 22d, 1788, ch. 88, also clothed the mayor, recorder and aldermen with the authority of commissioners of Oyer and Terminer and Gaol Delivery, and with power to hold such courts, along with one of the justices of the Supreme Court. The acts of March 2d, 1798, ch. 24, and of the 21st of March, 1800, ch. 35, increased the number of terms of the courts of General Sessions of the Peace to six, and established a police office in the city with two justices and a clerk, to be appointed in the character of *special justices* to that duty. The act of January 23d, 1833, ch. 11, authorised the Common Council to appoint one or more clerks to that office. Until that period the aldermen in rotation or by arrangement among themselves, kept a daily police court as justices of the peace in the city hall. These special justices were invested with the powers of justices or conservators of the peace, but the mayor, recorder and aldermen might in their discretion be in the police office, and act therein as conservators of the peace. This establishment has been continued in the subsequent revisions of the laws. See the acts of April 9th, 1813, ch. 86, sec. 22—43, and of March 26th, 1832, ch. 58. By the last act these special justices are increased to four, and by the act of 1835, ch. 151, to five; and the constitution of 1821 (art. 4, sec. 14.) provided that they should be appointed by the Common Council, and should hold their offices for four years, but liable to be removed by the county court for due cause.

According to the revised statutes, vol. 2, 216, 217, and the act of 1834, ch. 94, the first judge and the associate judge of the county courts in and for the city, and the mayor, recorder, and aldermen or any three of them, of whom the first judge, or associate judge, or mayor or recorder is to be one, are authorised to hold the Courts of General Sessions of the Peace, and it is made the special duty of the recorder to hold those courts, and the powers of the General Sessions are enlarged, so as to be enabled to hear and determine any indictment for any crime punishable by imprisonment for life, or for a shorter period. It is made the duty of two of the aldermen, when notified or required by the mayor or recorder, to attend as judges of the said court, and the courts are to be held on the first Monday in every month, and may continue for three weeks. These regulations and improvements were first made by the act of February 27th, 1821, ch. 72, on the application of the corporation.

By the same revised statutes, vol. 2, 204, 205, the Courts of Oyer and Terminer and Gaol Delivery, in the city, may be held concurrently with the Circuit Courts, by a judge of the Supreme Court, or a circuit judge, or the first judge of the Court of Common Pleas, together with the mayor, recorder and alder-

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men of the city, or with any two of them. Though the Governor, by and with the consent of the Senate, may issue commissions of Oyer and Terminer and Gaol Delivery, whenever the occasion shall require, yet no proceeding under the commission can be had without the presence of a justice of the Supreme Court or a circuit judge.

Upon these statute foundations, and not on this section of the charter, now rest all the powers originally conferred by the section under review.

NOTE XLI. P. 72.—S. S.

The 27th Section authorised the mayor, or his deputy, or the recorder, together with any three or more aldermen, to hold a court of record for the trial of civil causes, real, personal and mixed, arising within the city, upon every Tuesday in the year, and with all the powers requisite thereto.

This provision has become wholly superseded by affirmative, cumulative and new statute regulations, changing, in a considerable degree, the organization and character of the court.

The earliest interference with the *Mayor's Court* under the charter, was by the act of February 5th, 1787, ch. 10, which enlarged the terms of the court from one to three days, if necessary, and with declaring the power of the court to hear, try and determine all actions, real, personal and mixed, arising within the city, and with authority to the mayor, recorder and aldermen of the city, (omitting the deputy mayor) or any three of them, of whom the mayor or recorder to be one, to hold the Mayor's Courts. The power to try transitory actions, not arising within the city, was given by the act of April 5th, 1787, ch. 72. Then by the act of January 3d, 1797, ch. 1, on a representation by the corporation, the charter was altered so as to allow the Mayor's Court to be held by the mayor or recorder without the presence of any aldermen, and the terms were enlarged to five days.

The Mayor's Court was early changed from a weekly to a monthly court, and by the act of February 17th, 1806, ch. 11, the terms were changed from the first to the third Monday of every month, with power to prolong each term to two weeks, if necessary.

The final settlement of the court was by the act of February 37th, 1821, ch. 72, and the provisions of which were incorporated in the revised statutes, vol. 2, 216, 217. That statute dropped the name of Mayor's Court, which had become quite inapplicable, and it declared that the court should be the *Court of Common Pleas or County Court* of the city and county of New-York. It was to have the same general jurisdiction as the Mayor's Court, and be held by the first judge of the same, who was created by the act for that purpose, and by the mayor, recorder and aldermen, or by the first judge, or the mayor or recorder alone, without the necessity of the attendance of any alderman. The evident policy of the act was to commit the charge and business of the court essentially to the first judge, and of the Sessions of the Peace to the recorder, so as to leave to the mayor the increasing, engrossing and responsible duties appertaining to the chief executive magistrate of the city. Since the revised statutes an associate judge has been created, with the like powers as the first judge, and whose duty it is equally to hold the said court. (Act of 1834, ch. 94.)

The 28th Section was nothing more than what followed of course, and as an indispensible part of the ordinary duty of the sheriff, coroner and other officers of the city, and which was to execute the precepts and process of the courts.

NOTE XLII. P. 74.—'T. T.

The 29th Section authorized the Corporation to have a common Clerk of the city, who was to be the Clerk of the Mayor's court, and Clerk of the peace and of the sessions of the peace, and to take and enjoy the fees and perquisites appertaining to the same. He was to be appointed by the Governor, and to hold during good behaviour, and the Common Council were authorized to supply vacancies until a successor was appointed.

The appointment of Clerk continued with the Governor until the revolution. But under the constitution of 1777, he was thereafter to be appointed by the council of appointment, and hold during its pleasure.

This single office of Clerk of the city, was subsequently broken up into fragments, and a large share of its complicated duties distributed among other clerical departments. Thus by the act of March 27th 1807, Ch. 75, passed on the petition of the Corporation, the Clerk of the city or common clerk was discharged from acting as Clerk of the Common Council, and they were authorized to appoint their own Clerk, and the provision was incorporated in the Digest of City Laws, passed April 9, 1813, Ch. 86, Sec 166, and by Sect. 159 of the Act last mentioned, the duty of the city or common Clerk, as to the registry of mortgages and recording of deeds, was transferred to the office of Register in and for the city, who was to be appointed by the Council of appointment. By the amended Constitution of 1821, Art. 4. Sec. 13, the Clerk of the court of Oyer and Terminer, and General Sessions of the peace, was to be appointed by the court of general sessions of the peace, and to hold during the pleasure of the court; and by the 9th Sec. of the Constitution, all other Clerks of courts were to be appointed by the courts respectively, and to hold for three years, unless sooner removed by the council. The Register and *Clerk of the city* (being this same common Clerk in the charter) was by the Constitution, (Art. 4th, Sect. 8,) to be chosen by the electors triennally, and as often as vacancies should happen. Under the Act of April 7th, 1830, Ch. 122, amending the charter, each board of the Common Council choses its own Clerk, but the Clerk of the board of Aldermen was to be by virtue of his office, Clerk of the Common Council. As the law stands, the common Clerk of the charter is stripped of the office of clerk to the Common Council, and of clerk of the courts of Oyer and Terminer and General Sessions of the peace, and of clerk of the peace, and as register of deeds and mortgages. He is reduced, so far as *Courts* are concerned, to the single office of Clerk of the court of Common Pleas; but he is still the *Clerk of the city and county*, and as such, is charged with many incidental duties belonging to such an office, such are his duties relative to elections, and to the board of supervisors, and to the registry of names in times of pestilence, and relative to a variety of other matters appropriate to the office of county and city clerk.

NOTE XLIII. P. 76.—U. U.

This Section affords a striking sample of professional monopoly. The charter appointed eight Attornies by name, during good behaviour, as Attornies in the Mayor's court, and with a prohibition to any other Attornies to practice therein. These named, were liable to be removed by the court with the approbation of the Governor for ill behaviour, and with permission in the court to recommend to the Governor others to supply vacancies, and whom he was to approve of and appoint. The number of Attornies was never to exceed five after the death or removal of any two of those named.

This power in the Governor, and that limitation as

to number, ceased at the revolution. The constitution of, 1777 placed in every court, the power of appointing, licensing and regulating in its discretion, the attornies of the court, and so the power has continued to this day, subject to legislative regulation. (See R. S. Vol. 1. 108, 109, and Vol. 2, 28.

NOTE XLIV. P. 78.—X. X.

The 31st Section has become entirely superseded. It authorised the Mayor, Recorder, and Aldermen, and each of them, to hear, try and determine, with or without a jury, and according to equity and good conscience, civil causes to 40*s.* value in controversy; and to administer an oath to either party at discretion; and to enforce the judgment or decree by imprisonment.

The authority of Justices of the peace in every part of the colony, to try civil causes not exceeding 40*s.*, was established by the colony act of 1737, soon after the date of the charter. Their jurisdiction was subsequently enlarged to £5, by the act of 12th March 1772, and an attempt of the colonial Legislature to increase their jurisdiction to £10, was defeated. The first £10 act since the revolution, was passed on the 11th of April 1782, and it enabled the Mayor, Recorder and Aldermen, separately as justices of the peace, to hold such courts. The Act of 17th April 1787, Ch. 89, was a regular digest of the jurisdiction and proceedings in justices courts, and to relieve the city magistrates, it authorized the appointment of *assistant justices* in New York, specially to hold such courts. It was a matter of doubt whether Aldermen as justices of the peace could hold these courts, and the Act of 21st February, 1791, Ch. 12, was accordingly passed, declaring that they could not try causes under the £10 act. Afterwards by the act of February 16th, 1797, Ch. 20, a new system was tried by the appointment of justices of the peace for the special purpose, with directions for two of them according to an order of rotation, to hold *a court of Record daily* in the city hall, and to have a Clerk and seal, and hear civil causes of £10 value and under.

This last act was repealed and a new organization of the system introduced by the act of March 24th, 1804, Ch. 27, directing the appointment of *eight justices of the* peace with exclusive power of trying causes of the *value of* $50 and under. They were to hold daily, two courts, each at a distinct place in the city, and two justices were to be present in each court; and they were to hear and try marine causes between masters and seamen, though exceeding $50 in value. This last act was amended by an act of 4th April, 1806, and then repealed, and a further scheme of holding justices courts, instituted and tried under the act of April 6, 1807, Ch. 139. By that act *an assistant justice* was to be appointed in each ward of the city, with authority to each, to hold a court for the trial of civil causes, not exceeding $25 in value. Each of these tribunals were regular *justices courts for each ward.* The same act established also as a distinct tribunal, *the justices court.* It directed the appointment and commission of three justices of the justices court, who were to hold it and to try causes between $25 and 50, and marine causes between master and mariners, though the demand exceeded $50. Two of the justices were to constitute the court. It was to be held daily, and had a seal and clerk as a court of record. This last act was amended by the act of March 18th, 1808, Ch. 58, and also re-enacted in the revision of the statutes in 1813, (act April 9th, 1813, Ch. 86, Sec. 85—149) and is now in force under some modifications. Thus by the act of

February 28, 1817, Ch. 60, the jurisdiction of the justices court was enlarged by the power of arrest of ships and vessels for marine debts; and by the act of April 15th, 1817, Ch. 249, the general jurisdiction of the court was enlarged from $50 to $100 in amount. So by the act of April 25th, 1818, Ch. 265, any one justice may hold the justices court; and by the act of March 16th, 1819, Ch. 71, the justices court is directed to be called *the Marine Court*, and the assistant justices of the several wards were not to have jurisdiction as to seamen's wages.

By the act of January 4th, 1820, ch. 1, the *assistant justices* were reduced to five, with jurisdiction as such justices over distinct and specified wards, and enlarged to causes of $50 in value. Each assistant justice was to have a clerk appointed and paid for his services by the Common Council. The bounds of their jurisdiction were altered, and the number of them increased by the act of April 14th, 1817, chap. 262, and by the R. S. vol. 1, 97, so as to consist of seven assistant justices, with a clerk to each, appointed by the Common Council. These assistant justices and their clerks were directed by the constitution of 1821, (art. 4, sec. 14, and R. S. vol. 1, 110,) to be appointed by the Common Council of the city, and to hold their offices for four years, and to be removable by the county court for cause shown. By the act of March 21st, 1823, ch. 70, (see also R. S. vol. 1, 107.) the justices of the marine court are directed to be appointed by the Governor and Senate, and they hold their offices for five years.

This is a general historical sketch of the exceedingly mutable, but now complex and stately system of civil jurisdiction over small civil cases, which has grown out of the humble provision contained in the 31st section of the charter, and which has entirely overwhelmed and destroyed it.

The 32d section was the ordinary direction to the Sheriff, common Clerk, Chamberlain, and all other subordinate officers, to be obedient to and to execute the commands of the Mayor, Recorder, and Aldermen.

NOTE XLV. P. 81.—Y. Y.

The 33d section related to the oaths of office to be taken by the Mayor, Recorder, Aldermen, and all other city officers, and by whom to be administered. This whole section was superseded by the act of February 8th, 1788, ch. 28, which prescribed the form of the oaths to be taken by every judicial and ministerial officer in the state, and by whom to be administered. The R. S. vol. 1, 118, 119, have declared the existing law on the subject.

NOTE XLVI. P. 82.—Z. Z.

The 34th section provides that none of the free citizens of New-York, shall, while inhabitants thereof, be bound against their will, to serve on any jury or inquest out of the city; nor be elected assessor, taxer, or collector of taxes, out of the city; nor be appointed or chosen constable, bailiff, or other ministerial officer, out of the city; nor be liable to fines or forfeitures for refusing to serve on any inquest or jury out of the city.

The privileges conferred by this section are valid vested rights, of which the citizens could not lawfully be divested. They are personal rights granted to each inhabitant, who, as a citizen, partakes of the corporate franchise. The grant, however, is of no moment at this day, for no town or ward out of the city would ever think of having a non-resident assessor,

collector, or constable, put over them. The law authorizing the courts to order a foreign jury when they think proper, and to award a venire to the Sheriff of the county from which the jury is to come, to summon them and return their names to the court in another county; and the power of the supreme court to order trials at bar of issues, in fact, from any of the counties, are powers which might come in collision with this franchise. (See R. S. vol. 2, 409, 410; and the same power was granted by the act of April 19th, 1786, ch. 41.) But if a citizen summoned to another county should choose to contest the right with the court, under the article in the constitution of the United States, prohibiting state laws impairing the obligation of contracts, (a case, however, not likely to occur,) I am of opinion he would be successful.

NOTE XLVII. P. 83.—A. A. A.

This section contains a grant or confirmation to the inhabitants, of all the real estate before granted to them by the government of the colony, or corporation of the city. No such title can become a matter of dispute at this day; and the quit-rents reserved by the charter, and the long arrears of which were demanded by the Comptroller of the state, on the first institution of his office, in 1797, have doubtless been extinguished by commutation; or if there be any remains of them not discharged in that way, or demanded, they are probably discharged by the operation of the statute of limitations, which commenced to run against quit-rents on 1st January, 1820. (Act of April 12th, 1813, ch. 119.)

NOTE XLVIII. P. 84.—B. B. B.

The 36th section authorizes the corporation to hold real estate in fee simple, within and without the city, so as that the clear yearly value of the real estate so owned by them at any one time, does not exceed the clear yearly rent or value of £3,000 sterling, and the same to let and dispose of at pleasure.

The limitation of the amount of lands to be held by the corporation, means only that the value be within the sum prescribed, when purchased or taken by the corporation. If the lands should afterwards rise in value by good management, or by extraneous causes, or any means whatsoever, (as the lands of the corporation doubtless have risen in value beyond all anticipated calculation,) the title of the corporation is not thereby affected. The yearly value at the time, is all that the limitation requires. This reasonable rule of construction is founded on the common law. (2 Coke's Inst. 722.

NOTE XLIX. P. 86.—C. C. C.

The 37th section contains a general grant and confirmation to the corporation, and their successors, in fee, of the city hall and gaols, the five market-houses, the great dock, the crane and wharf, the powder-house, all the ferries then and thereafter to be established all around Manhattan Island, with power to make rules and regulations for governing the same; the ferry houses on Long Island, with their appurtenances; the land between high and low water mark, on Long Island, from the east side of the Wallabout to the west side of Red Hook; the unpatented and unappropriated lands in the city and on Manhattan Island, extending to low water mark, with the right of all docks, wharves, cranes, and slips, within the city, with the rents and profits thereof; and the rivers, creeks, ponds, waters, water-courses, fishing, fowling,

hunting and hawking, mines and minerals, and other royalties and privileges within the city and island; and all the rights, privileges, franchises, jurisdictions, powers, courts, offices, markets, ferries, fees, perquisites, rents, and real estate, granted in and by the charter of 1686, and in the charter of Queen Anne, aforesaid, or which the corporation or inhabitants hold by prescription; excepting Fort George and its appurtenances, and the governor's garden, and the king's farm, and the swamp adjoining it.

The observations naturally arising on this wide-sweeping confirmatory grant, have been already anticipated and made, when former sections on the same subjects were under review. See note B. p. 7, note C. p. 8, note D. p. 9, note Q. p. 24, note S. p. 34, and note G. G. p. 58. It becomes unnecessary to enlarge upon them here. There can be no doubt that all the grants and franchises confirmed by this section, were binding as grants of property, and could not ever lawfully be disturbed. But notwithstanding the amplitude of the charter powers, as to wharves, piers, docks, bulkheads, and shores along the East river and Hudson river, legislative and special powers have been granted on this as well as on most subjects of municipal police; and for this see the acts of April 16th, 1830, ch. 222, April 26th, 1834, ch. 186, and of April 20th, 1835, ch. 124, and the general act of April 9th, 1813, ch. 86, secs. 219—236, by which the authority to lay out wharves and slips, and to cause piers to be sunk and completed in front of the streets and wharves, and to regulate the whole subject, is amply conferred.

NOTE L. P. 89.—D. D. D.

The 38th section contains a grant and confirmation to the corporation and their successors in fee, of the soil of Hudson river under water, extending 400 feet into the river, and containing 82 1-2 acres of land. It is described by courses and distances, and lies at the south west end of the city, adjoining the then Fort. Also of the soil of the East river, form the north side of Corlaer's Hook to Whitehall, described by courses and distances, and comprehending 400 feet, from low water mark, into the East river, containing 127 acres, with power to wharf out the same, and to build upon and use it as they, the corporation, should see fit. It excepts from its operation all previous grants of keys or wharves to individuals beyond low water mark; and also 40 feet broad, to be left towards the East and North rivers for public necessities, and reserving upon the grants made by the charter, a yearly quit-rent of 30 shillings proclamation money, besides the yearly rent of one Beaver skin, or the value thereof, under the charter of 1686, (as see *ante*, p. 8,) and of 5 shillings under the charter of Queen Anne, as see *ante*, p. 29. In the case of *Verplanck* vs. *the city of New-York*, in 2 Edw. v. ch. Rep. 220, it was observed that the consolidated act of 1813, ch. 86, sec. 224 and 225 related to the building of *piers on private property*, and that the corporation were vested with authority to direct piers to be sunk and completed at the expense of the proprietors of lots lying opposite to the places where piers shall be sunk, and then to grant to the owners of lots a community of interest in the piers in proportion to the breadth of their lots. This was a mere power, and the corporation acquire no interest or ownership in the piers, unless the individual proprietors refuse or neglect to construct the piers. In that event the corporation do the work at their own expense, and become owner, and receive the wharfage. The corporation cannot reserve or take any wharfage arising from a pier built at the expense of individuals, nor any slip-

age on the side of the pier adjacent to a public slip, but not contiguous or on a line with the side of the slip. (*Corporation of New-York* vs. *Scott*, 1 Caines, 543.) But the powers and rights of the corporation relative to sinking piers and enlarging slips, and receiving wharfage and slipage in such cases, were enlarged afterwards and confirmed and incorporated in the general act of April 9th, 1813, ch. 86, sec. 128--130, and which act is still in force.

There can be no question about the validity and indefeasible nature of those grants of property to the corporation, nor that they were equally bound to answer for the quit rents reserved, and would be still if the quit rents were not commuted or extinguished, as is understood to be the case. (See Ante. note A. A. A.)

NOTE LI. P. 92.—E. E. E.

This Section, by express covenant, assures to the corporation the full and perfect enjoyment of all their rights and privileges, free from all hindrance by information, *quo warranto*, or other process; and notwithstanding any previous default, non-user or mis-user, which are all remitted and released, together with all fines and forfeitures whatsoever. This section requires no comment.

NOTE LII. P. 95.—F. F. F.

The concluding section of the charter is a repetition of the one preceding, for it contains a covenant that the corporation shall quietly enjoy all its rights, franchises and property as contained in the charter, and which is to be taken and expounded benignly in favor of the corporation.

NOTE LIII. P. 105.—G. G. G.

The charter was explicitly confirmed in all its parts and bearings by an act of the colonial legislature of the 14th of October, 1732; and it was along with other charters, saved and confirmed by the constitution of 1777, and again by the constitution of 1821.

A city convention was chosen by the people, in pursuance of the recommendation of the Common Council, to revise and propose amendments to the charter. The convention consisted of five members from each ward, (total 65 members,) and they met in June, 1829, and after a protracted discussion, they agreed to a series of amendments, which were submitted together to the people, and approved of by them by a regular vote by ballot in the several wards. An application was thereupon made to the legislature to have the amendments ratified by law and made part of the charter. This was done by the act of April 7th, 1830, ch. 122.

The essential alterations in the charter by the proceedings and act referred to, consist in a division of the Common Council into two boards, consisting of a Board of Aldermen and a Board of Assistants, who are to sit and act separately, with concurrent and equal powers. Every law, ordinance or resolution of the Common Council must pass both Boards, and be submitted to the Mayor before it passes, and if he, within ten days, returns the same with objections, it must be reconsidered, and pass both Boards by a majority of all the members elected to each, before it becomes a law of the corporation. The general duties of the Mayor are more specifically defined and enlarged, by requiring him to communicate to the Common Council, once a year and oftener, if need be, a general statement of the condition of the city government, finances and improvements, and recommend such measures as he

shall deem expedient; and to be active and vigilant in the exercise of the duties of his executive trust as Mayor.

As a further check to improvident legislation, no monies are to be drawn from the city treasury, but upon previous specific appropriations; and the Common Council are prohibited to borrow monies on the credit of the corporation, except in anticipation of the revenue of the year, unless authorised by a special act of the legislature; and they must publish annually, two months preceding the charter election, a detailed statement of the receipts and expenditures of the corporation for the year preceding; and provide for the accountability of all officers and others entrusted with city funds, by requiring security from them.

There is no part of the amended charter of 1830 which goes to control the exercise of the general powers contained in the original charter, (*ante.* p. 54, and note F. F.) as to the expenditure of monies by the Common Council in their sound discretion, for objects, connected with the safety, welfare, property, trade or character of the city, and of which they are the representative guardians and trustees. The act of 1830 specially authorises annual and occasional appropriations, by proper ordinances, for every branch and object of city expenditure, and as those objects are not and could not be defined, they must necessarily be left to the good sense and judgment of the Common Council. The checks against improvident expenditures, or injudicious investments of the city funds, consist specially in the mode in which ordinances are to be passed, and in the annual detailed statements of the receipts and expenditures, as well as generally in the representative character of the Common Council. When extraordinary expenses are requisite, and which the ordinary revenues of the corporation are inadequate to meet, the Common Council are in the practice of applying for legislative aid. We have instances of this in the act of June 8th, 1812, ch. 99, authorising the corporation to create a public fund or city stock, by subscription, not exceeding $900,000; in the act of March 24th, 1820, ch. 101, authorising the creation of further stock to $400,000; and, especially, in the act of January 16th, 1836, authorising the corporation to purchase bonds belonging to fire insurance companies, duly secured by mortgage, to an amount not exceeding six millions of dollars, and to provide the requisite funds for that purpose, by the issue of corporate stock, at an interest not exceeding five per cent., and redeemable within seventeen years.

BROOKLYN DAILY EAGLE ALMANAC.

1902.

[SECOND EDITION.]

A Book of Information, General of the World, and Special of New York City and Long Island.

Entered at the Brooklyn Post Office as Second Class Matter, Vol. XVII, No. 1, of the EAGLE LIBRARY, January, 1902. Issued Quarterly by the BROOKLYN DAILY EAGLE. Trade Mark "Eagle" registered. Yearly Subscription, One Dollar. Almanac Number, 25 cents.

Office of Publication,
EAGLE BUILDING, BROOKLYN-NEW YORK CITY.

CITY OF NEW YORK MUNICIPAL GOVERNMENT.

THE CHARTER OF NEW YORK CITY.

The charter of the City of New York, as revised by the Legislature of 1901, the revision going into effect on January 1, 1902, is a development of the charters of the former cities of New York, Brooklyn and Long Island City, differing from all of them, however, by the introduction of the principle of local control over local affairs. In this feature the charter provides a system of government more nearly like that of London and continental cities than any prevailing in this country. The original charter of the City of New Amsterdam was granted by the Dutch government in 1653. Twelve years later, when the colony had passed under English control, Governor Nicolls granted a charter to "his Majesty's town of New York," substituting for the Schout-Burgomasters and Schepens of the Dutch government, Mayor, Aldermen and Sheriff. The subsequent colonial charters, known by the name of Governors Dongan, Cornbury and Montgomerie, were granted respectively by them under King James II in 1686, Queen Anne in 1708 and King George II in 1730. The last named charter was confirmed by act of General Assembly of the colony in 1732. The original state constitution, and subsequent ones, have reaffirmed all the rights of the city granted previous to 1775. The first complete charter from the State was granted in 1813, and in 1830, and again in 1873, revised charters were passed. In 1882 the Consolidation act, embodying a complete revision of the New York City Charter, was passed, and remained in force until the beginning of the year 1898.

The charter provided for the city at the time of consolidation remained in force with minor amendments until Jan. 1, 1902, when the charter now in force and which was prepared by a legislative commission of which Geo. L. Rives was chairman, with the view of correcting mistakes in the first Greater New York Charter, went into effect.

The original incorporation of Brooklyn as a village was effected by legislative action in 1816. This act was repealed and a new one passed in 1827. The first charter of Brooklyn as a city was enacted in 1834. This charter was revised in 1850, and in 1854 a new charter, consolidating the cities of Brooklyn and Williamsburgh was adopted. This charter was revised in 1873, and again in 1888. The last revision was in force until the independent existence of the municipality ended with the year 1897. The first charter of Long Island City was enacted in 1870, and a new one was granted in 1871.

The amended Greater New York Charter follows, in the main, the lines of the charter of the old City of New York, with important provisions adapted from the Brooklyn charter and from those of other American and European cities. The greater part of it is the law as it has existed for half a century, and the chief change has been made necessary by the adoption of the borough system and the system of giving control to localities over their own affairs.

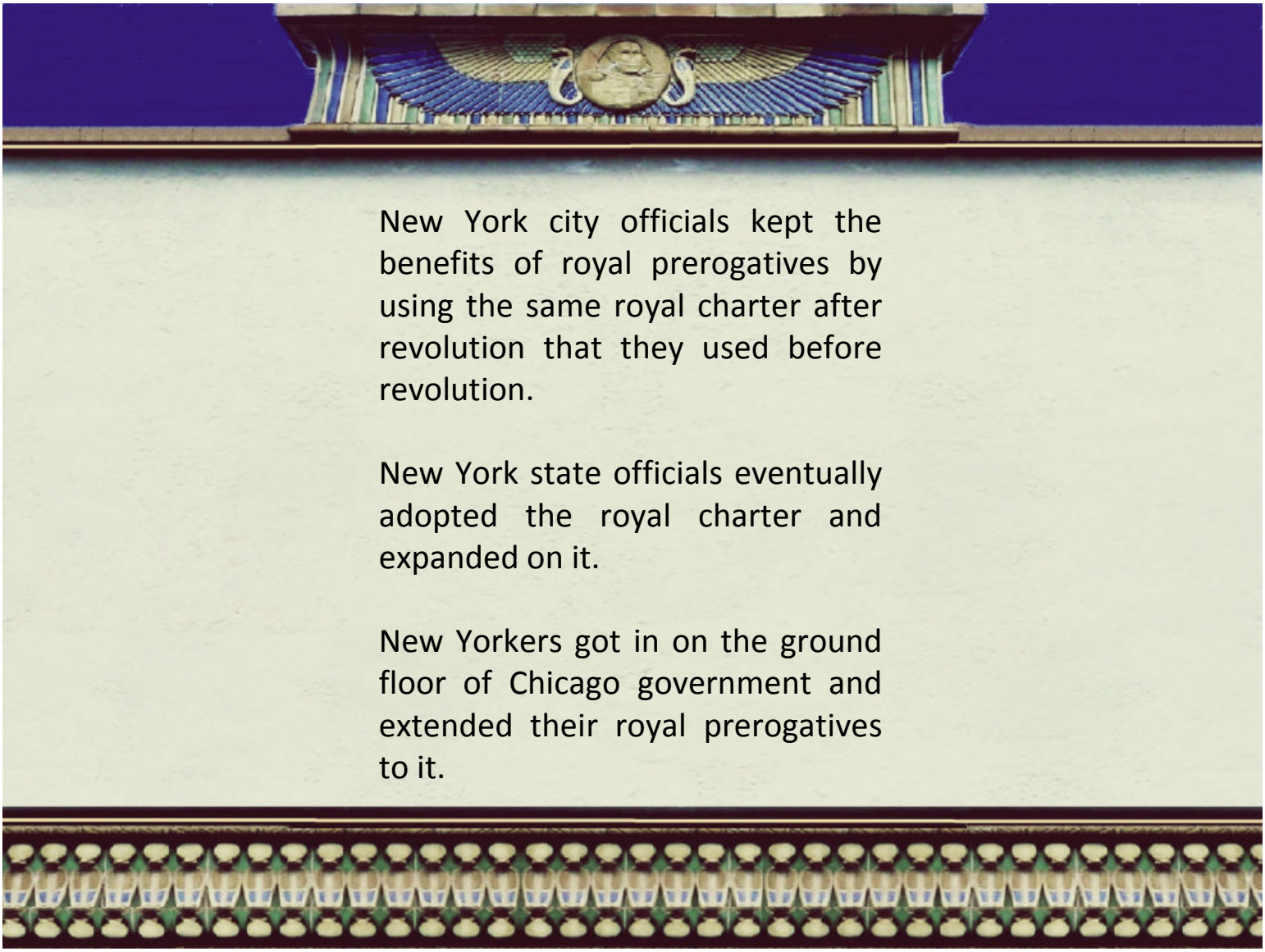
The charter is the governmental instrument for the territory embraced within the new limits of New York, comprising the former city of New York on Manhattan Island, and in Westchester County, the former City of Brooklyn, coterminus with the County of Kings, the entire County of Richmond and the portion of Queens County included in Long Island City, the towns of Newtown, Jamaica and Flushing, and a part of the town of Hempstead. This territory is divided into these boroughs: Manhattan, comprising Manhattan and the adjacent smaller islands; The Bronx, including the part of the former City of New York in Westchester County north of the Harlem River and Spuyten Duyvil Creek, and the islands adjacent; Brooklyn, comprising the whole of Kings County; Queens, including the part of Queens County named in the act of annexation, revised by Legislature of 1899; and Richmond, which consists of the county of that name, including the whole of Staten Island.

THE MAYOR.

The executive power of the city is vested in the Mayor, the Presidents of the Boroughs and the officers of the departments. The Mayor is the chief executive officer and he is a magistrate. His term begins at noon on the first day of January after his election and continues for two years. He is eligible for re-election. The salary of the office is $15,000 per year. The Mayor appoints the heads of departments and commissioners, except those over which the Presidents of the Boroughs have jurisdiction, and except, also, the head of the Department of Finance. He can remove at any time any official appointed by him, except the members of the Board of Education and Aqueduct Commissioners, trustees of the College of the City of New York and trustees of some hospitals, and certain judicial officers. He himself can be removed from office by the Governor, after a hearing upon charges. His duties are to communicate to the Board of Aldermen, at least once a year, a statement of the finances, government and improvements of the city; to recommend to the same body such measures as he deems expedient; to keep himself informed of the work of all departments, and to be vigilant in enforcing ordinances and the laws of the State. Every three months he must report to the Board of Aldermen the expenses and receipts of his office, stating the salaries paid to and the nature of the duties of his clerks and subordinates, whom he has the power to appoint. The Mayor has the power of veto over all ordinances and resolutions of the Board of Aldermen, but if he does not disapprove they become laws after a lapse of ten days. An ordinance or resolution can be passed over the Mayor's veto by a vote of two-thirds of all the members elected to the Board of Aldermen, except that when it involves the expenditure of money, the creation of a debt, or the laying of an assessment, a three-fourths vote is required. The Mayor countersigns all warrants drawn by the Comptroller upon the Chamberlain for payments on behalf of the corporation. He has also to sign all bonds, together with the Comptroller. In the absence or sickness of the Mayor the President of the Board of Aldermen is the Acting Mayor. He shall not appoint to, or remove from, office any official, unless the absence or sickness of the Mayor continues thirty days, nor shall he approve or disapprove any resolution or ordinance unless such absence or sickness continue nine days.

SETH LOW.

Seth Low, Mayor of New York City, taking office Jan. 1, 1902, was born in Brooklyn, N. Y., Jan. 18, 1850; son of Abiel Abbot Low, a wealthy tea importer of Brooklyn. He was graduated from Columbia College, N. Y., in 1870. Upon graduation he entered his father's establishment and rose through successive clerkships to membership in the firm in 1875. He rapidly achieved importance in the mercantile world, became a member of the Chamber of Commerce and other commercial bodies, and served on various important committees. In 1881 he became candidate upon an independent ticket for Mayor of Brooklyn, and achieved a pronounced victory over James Howell. In 1883 he was elected for a second term over Joseph C. Hendrix. Resuming business after a brief term abroad, he, in 1890, succeeded Dr. Barnard as president of Columbia College. The institution at once received new life and vigor. He reorganized its departments and has put the university upon a sound financial basis, and it was through his initiative efforts that the splendid group of college buildings, now being completed on the heights of Morningside Park,—the site alone valued at $2,000,000—was erected. In 1897 President Low was a candidate for Mayor of New York City on the Citizens' Union ticket, but suffered defeat, through the division of the anti-Tammany parties. In 1899 he served as delegate to the Disarmament Conference at The Hague. In the Mayoralty campaign in New York City in 1901 a complete fusion of the Republican party with the Citizens' Union and



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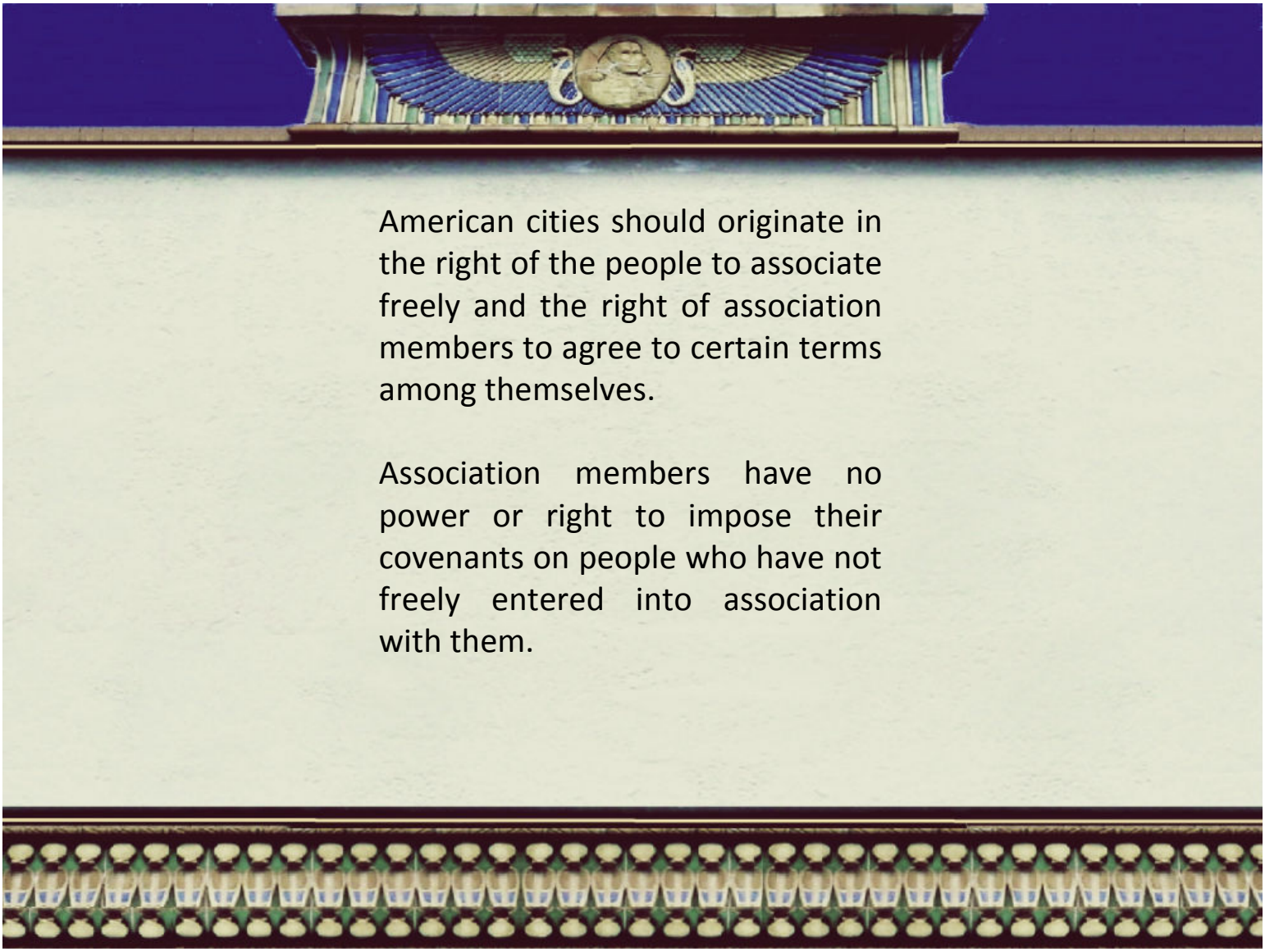

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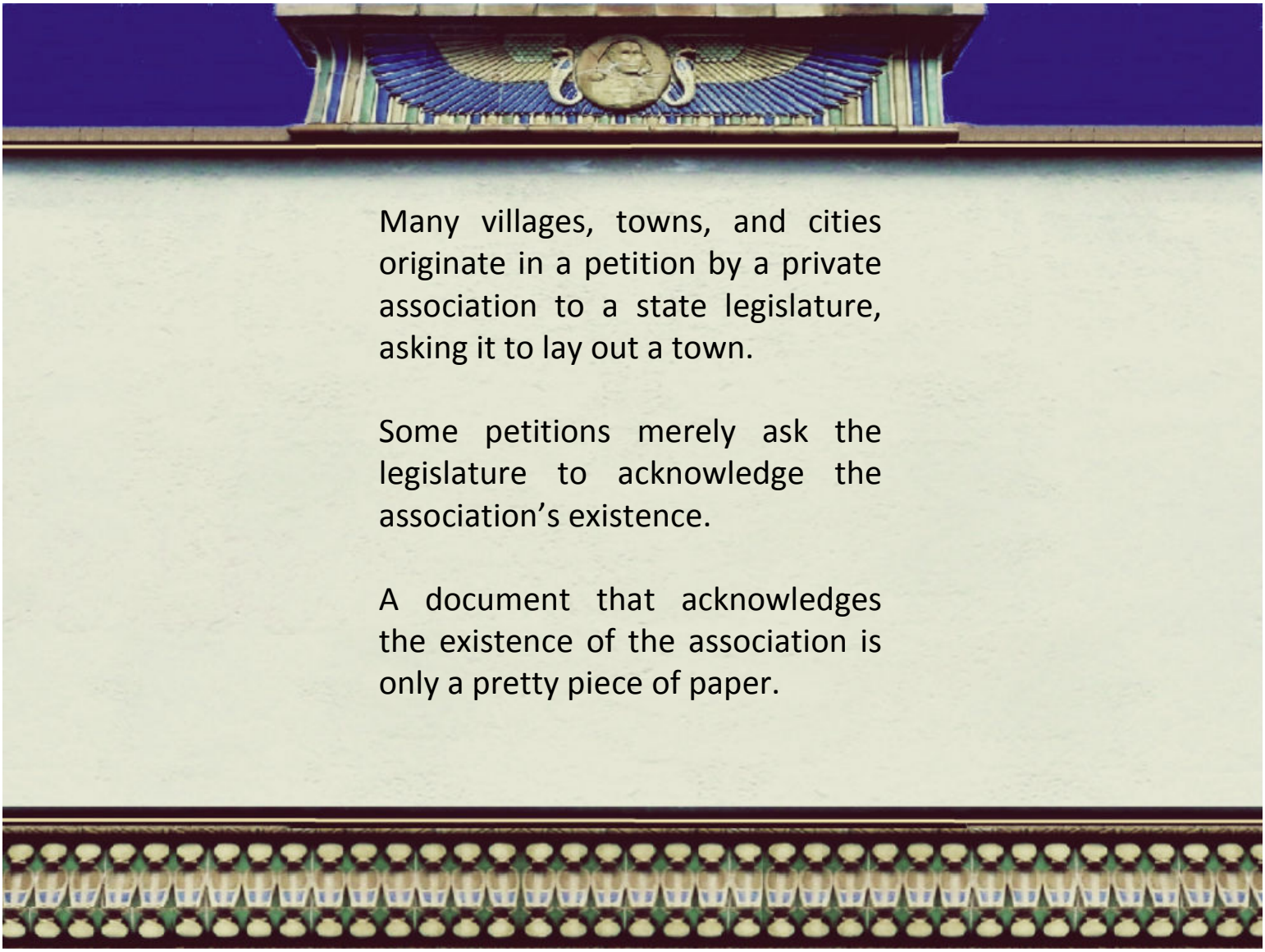

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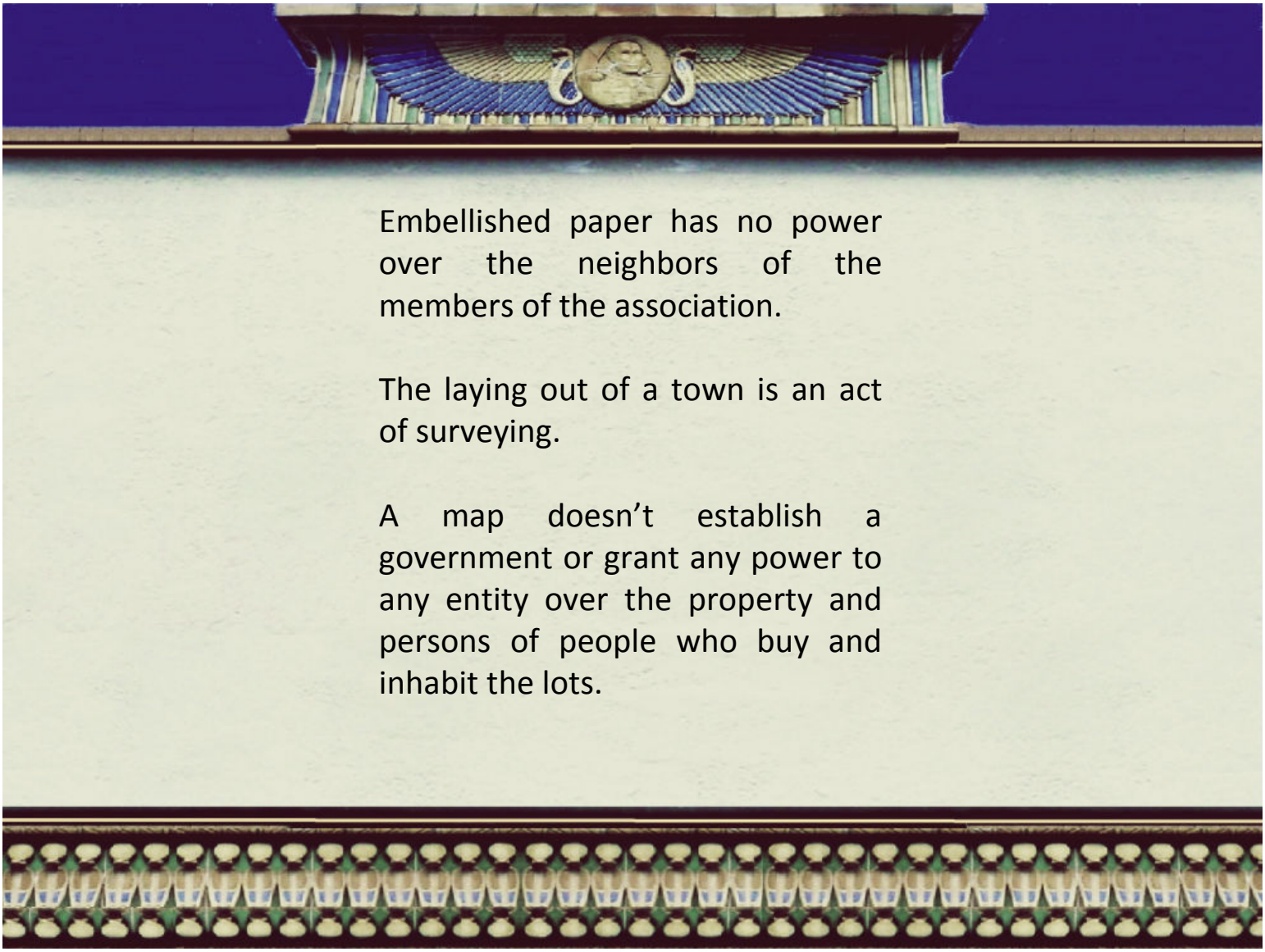

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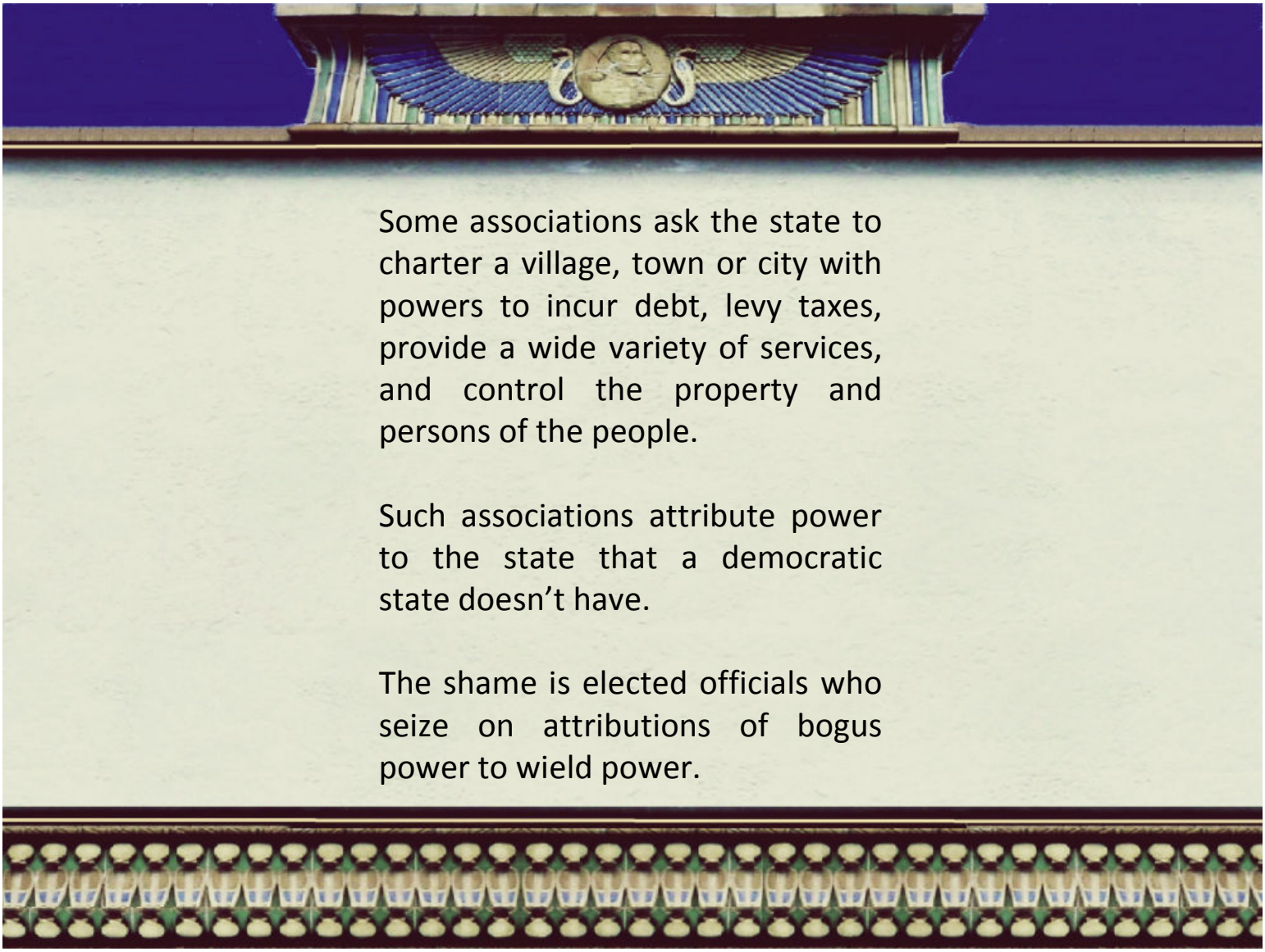

Some associations ask the state to charter a village, town or city with powers to incur debt, levy taxes, provide a wide variety of services, and control the property and persons of the people.

Such associations attribute power to the state that a democratic state doesn't have.

The shame is elected officials who seize on attributions of bogus power to wield power.

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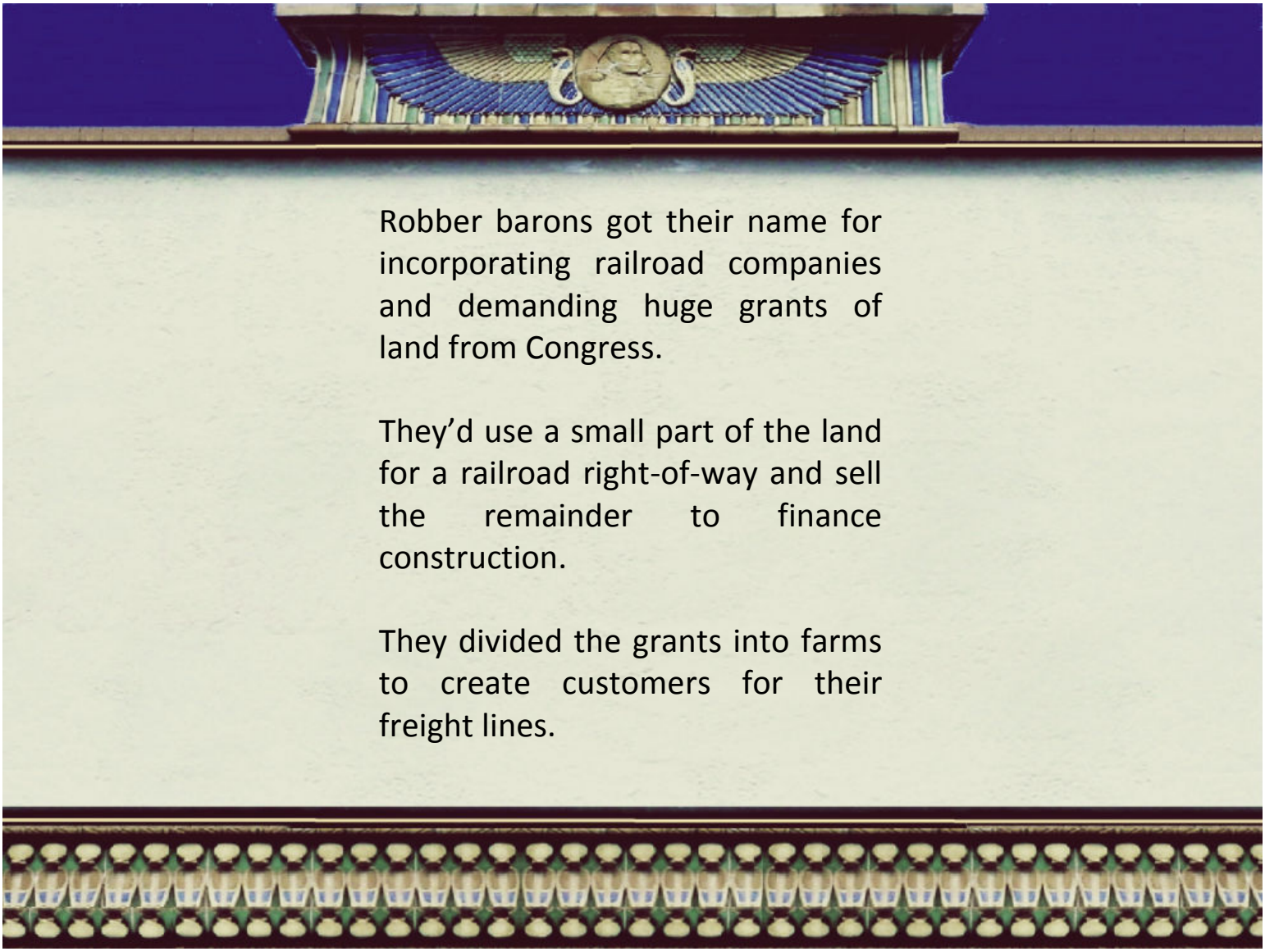

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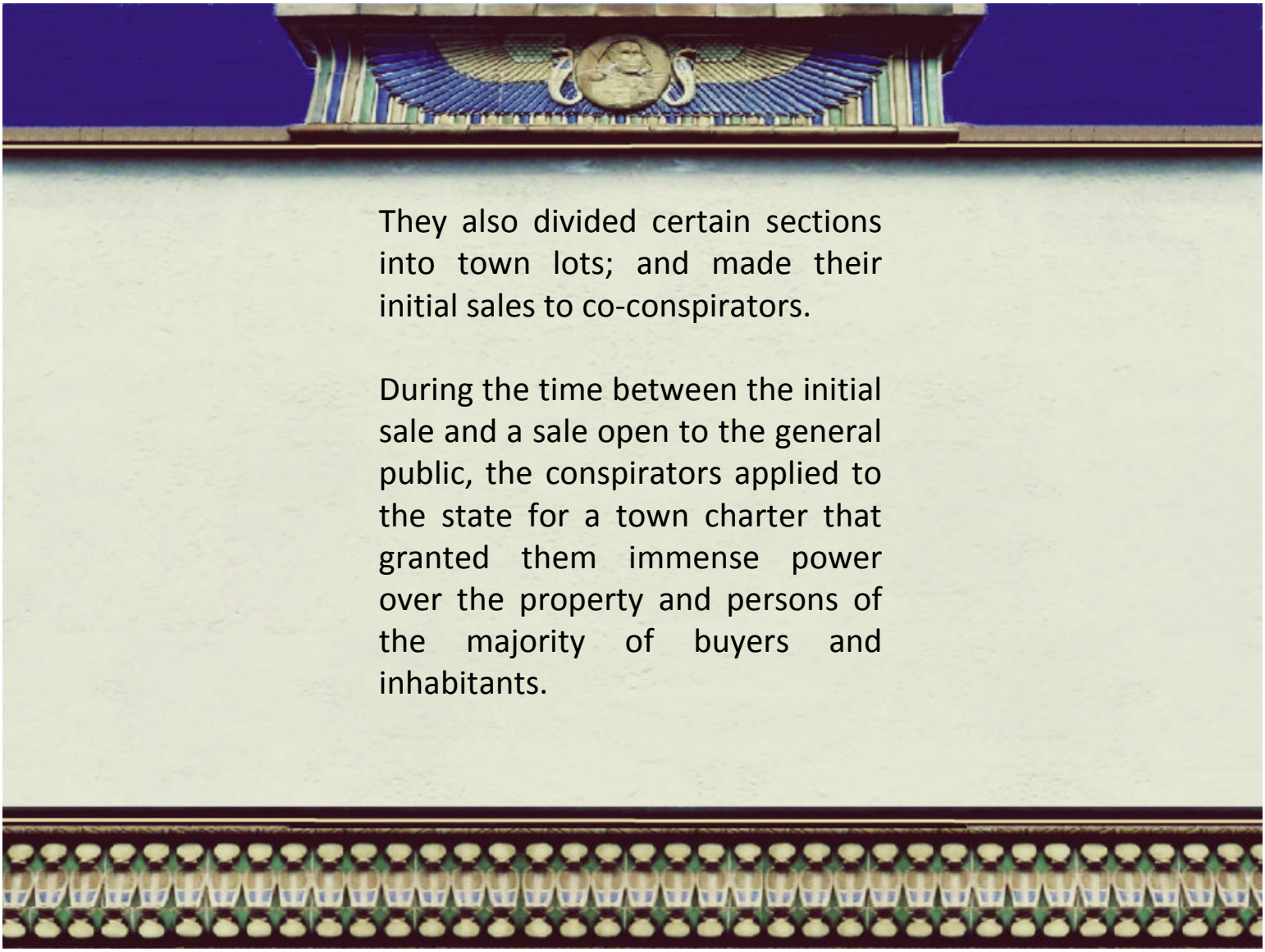

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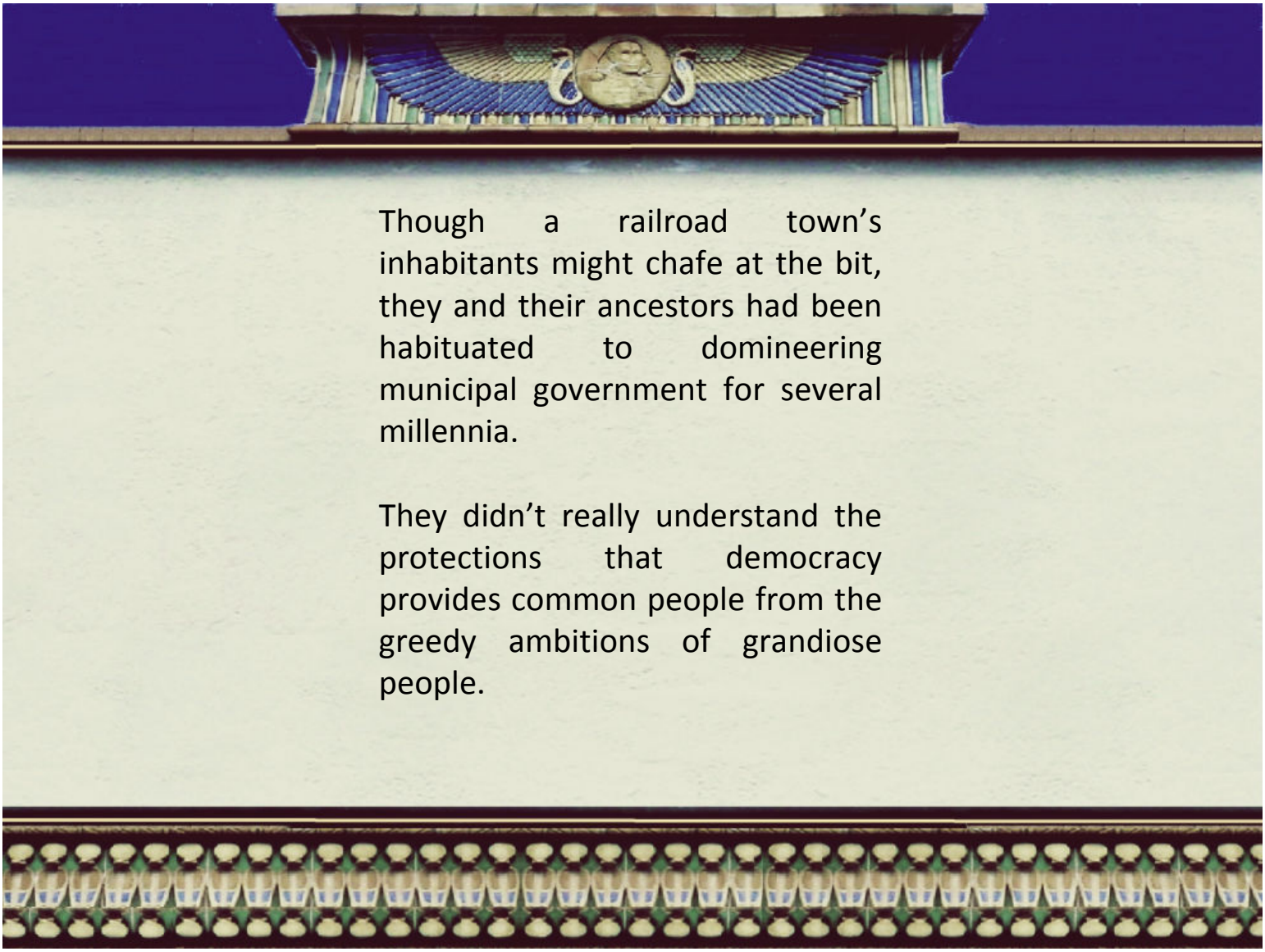

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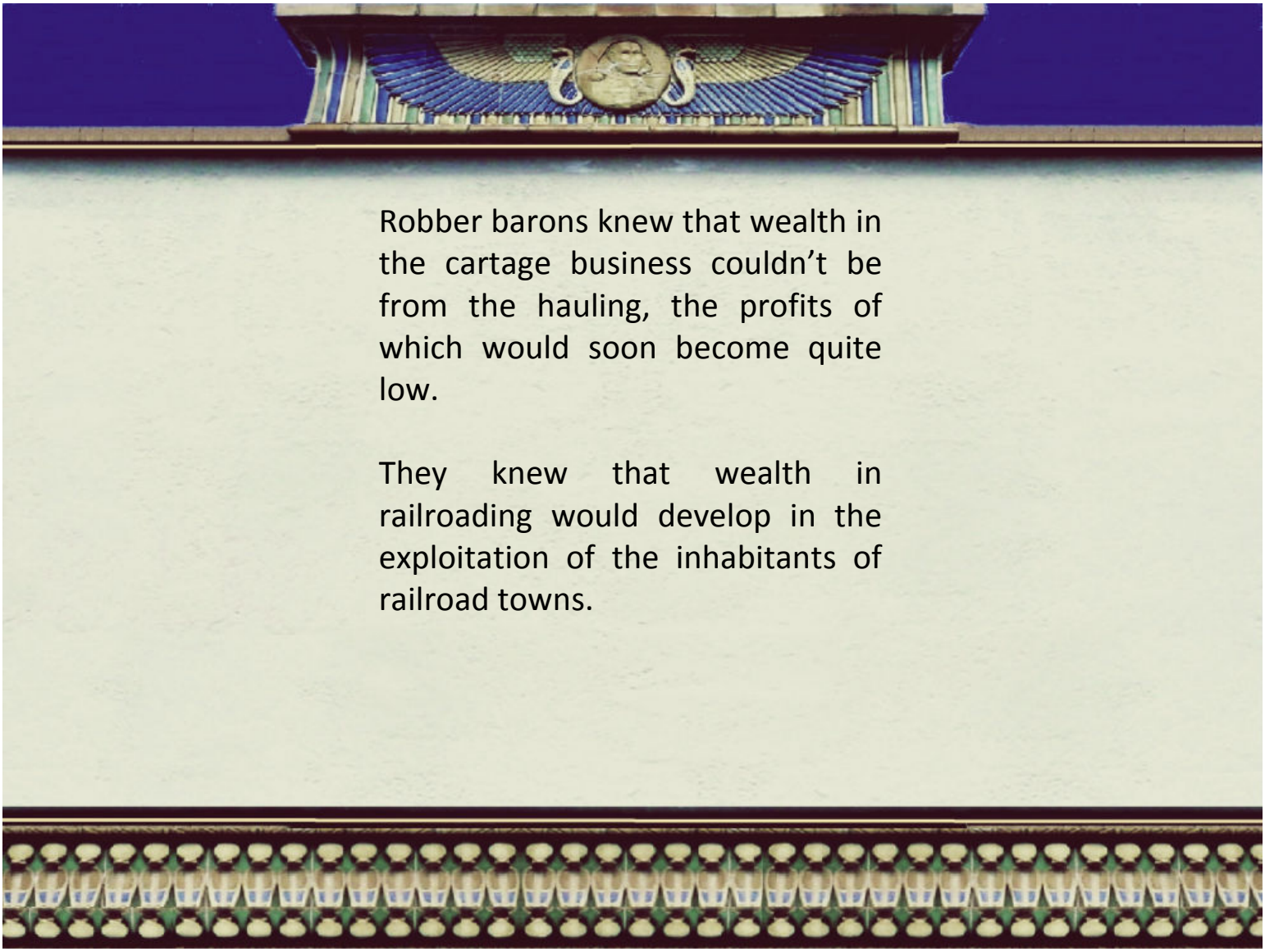

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OF THE

BOOKS MANUSCRIPTS AND MAPS

RELATING PRINCIPALLY TO

AMERICA

COLLECTED BY THE LATE

LEVI ZIEGLER LEITER

With Collations and Bibliographical Notes

BY

HUGH ALEXANDER MORRISON

WASHINGTON
PRIVATELY PRINTED
1907

PREFACE.

The collection of books and manuscripts described in this catalogue illustrates the interest taken by the late Mr. Levi Z. Leiter in American history and in rare and early printed books.

It is not often that a love for books finds a place in the life of an active business man, and still more rarely that a discriminating taste and exact bibliographical knowledge, such as Mr. Leiter displayed in bringing together this remarkably fine collection of rarities, accompany the talents which made him one of the preëminently successful business men of America. His correspondence with such scholars and bibliophiles as Dr. W. F. Poole, Rufus Blanchard, Henry Stevens, and Joseph Sabin indicates that his interest was continuous.

A perusal of the titles of the works contained in this library will indicate that it is the collection of a book-lover, that it consists of a well-balanced selection of works relating to America, and that it includes an exceptional number of rare works beyond the reach of the ordinary collector.

Among the works in geography, voyages, and travel are to be found Peter Martyr's First three decades of the new world, 1516, and the two English editions of 1612 and 1625, Hakluyt, Purchas, Thévenot, and Wytfliet.

New England is represented in the works of the Mathers, Eliot, Backus, Morton, Neal, Norton, Cotton, Hubbard, Bishope, Burrough, Byfield, Hutchinson, Josselyn, Letchford, Winthrop, and others of equal importance.

The works on New York include the rare Dutch work of Van der Donck, Horsmanden's Journal of the negro plot . . . burning the city of New York, 1744, and the rare copy of the Charter of the city of New York, printed by Peter Zenger in 1735.

Among the works relating to Pennsylvania are Penn's Letters of 1683 and 1688, his Further account of the Province, 1685, Budd's

Morrison, Hugh Alexander (born 1863) (cataloguer). The Leiter library. A catalogue of the books, manuscripts and maps relating principally to America, collected by the late Levi Ziegler Leiter. Washington: The Leiter family (1907). Levi Zeigler Leiter (1834-1904). University of California Libraries. Found at http://www.archive.org/details/leiterlibrarycat00leitrich.

Good order established, 1685 (the second issue of William Bradford's press), Thomas's Historical and geographical account, 1698. The collection of tracts relating to the province should also be noted.

New Jersey, Maryland, Virginia, the Carolinas, Georgia, and Florida are also represented by such writings as Acrelius, The Acts of Thomas Bray, 1700, Hamor, Keith, Beverly, Stith, Bonoeil, Williams, Jefferson's Notes (his own copy with marginal notes), Brief description of Carolina, 1666, Wilson's Account of Carolina, 1682, Carolina, 1682 (attributed to Thomas Ash), Oglethorpe's South Carolina and Georgia, 1732, Tailfer's Colony of Georgia, 1741, and Romans's East and West Florida, 1775.

Among the early works of Spanish and Portuguese writers are Voyages and discoveries in South America, 1698, A Relation of the invasion and conquest of Florida by the Spaniards, 1686, B. de las Casas and Zaráte.

This collection contains some of the earliest and most important books relating to the vast region of New France and Canada, such as Sagard-Théodat, Champlain, Lescarbot, Charlevoix, Hennepin, Lahontan, and Vaughan.

The literature of the French and Indian war and the American Revolution is fully represented. It would be well to note such works as the Historical account of the Bouquet expedition by Wm. Smith, Pouchot's Mémoires, the compilation by Moreau, containing Washington's Journal and Braddock's Letters, Parkman's works, a complete set of the Remembrancer, edited by John Almon, Phillips's Colonial and continental paper money, The Clinton and Cornwallis controversy, Simcoe's Journal, and the Court-Martial proceedings of André, Arnold, Lee, St. Clair, and Schuyler.

Among the other important works may be mentioned Audubon's Birds of America, the first edition of the Book of Mormon, the Confession of Faith, New London, 1710 (the first book printed in Connecticut). There are also many state and town histories.

Another very important feature of this library is the collection of books, pamphlets, and newspapers relating to the Confederate states. It is one of the largest private collections in existence today, and is nearly as complete as that in the Library of Congress. Many of these works were destroyed during the war, and

it would entail considerable time and expense to make such a collection today.

Some of the best specimens of the early American printers, such as the Bradfords, Franklin, Zenger, Jansen, and others, are contained in the collection.

Many of the books have been bound by Pratt, Bedford, Riviere, Tout, Matthews, and Zachnsdorf, and display some of their best workmanship.

The arrangement of this catalogue is in two divisions, alphabetically by authors. Part One, Americana, includes all books relating to America, or books by American authors, the literature of the Confederacy, and the original papers of David Hartley, consisting of letters and documents relating to the negotiations of the Definitive Treaty of Peace between Great Britain and the United States, 1783.

Part Two is a collection of miscellaneous literature. It includes some of the rarest works of the English writers, such as the first four folio editions of Shakespeare's works, the first five editions of Izaak Walton's Compleat Angler, the first folio edition of Spenser's Faerie Queene, the works of the Water-Poet, John Taylor, and others of equal importance.

The titles of the rare books are given in full, and in most cases line for line, with full collations and bibliographical notes. The sizes are given according to the usual method, with the measurements in centimeters (in parentheses) following. The measurements are in all cases those of the leaves and not of the bindings. In the cases of maps, however, the measurements are given in inches.

The compiler gratefully acknowledges the assistance extended to him by his associates in the Library of Congress, and more especially that rendered by his friend and colleague, Mr. George Thomas Ritchie, who has aided in the reading of the proof and by many helpful suggestions throughout the course of the work.

WASHINGTON, D. C.,
May 1, 1907.

Morrison, Hugh Alexander (born 1863) (cataloguer). The Leiter library. A catalogue of the books, manuscripts and maps relating principally to America, collected by the late Levi Ziegler Leiter. Washington: The Leiter family (1907). Levi Zeigler Leiter (1834-1904). University of California Libraries. Found at http://www.archive.org/details/leiterlibrarycat00leitrich.

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LIST OF PLATES.

Morrison, Hugh Alexander (born 1863) (cataloguer). The Leiter library. A catalogue of the books, manuscripts and maps relating principally to America, collected by the late Levi Ziegler Leiter. Washington: The Leiter family (1907). Levi Zeigler Leiter (1834-1904). University of California Libraries. Found at http://www.archive.org/details/leiterlibrarycat00leitrich.

Published for the information of all sober People who/desire to know how the state of New-England now/stands, and upon what foundation the New Eng-/land Churches are built, and by whose strength/they are upholden now they are degenerated and/have forsaken the LORD./

The truth of which we are witnesses, (who by their cruel hands have suffered) { John Ross, John Copeland, Samuel Shattock } Strangers; { Nicholas Phelps, Josiah Southwick } Inhabitants.

Whereunto is annexed a Copy of a Letter which came/from one who hath been a Magistrate among them,/to a friend of his in London, wherein he gives an/account of some of the cruel suffering of the/people of God in those parts under the/Rulers of New-England, and their un-/righteous Laws./ *London: Printed in the Year* 1659.

20 pp., sm. 4°. (18 x 14 cm.) Half morocco, uncut. Brinley copy, No. 3566.

Signatures: A-B in fours, C in two.

"It contains the Laws and Proceedings of the General Court of Massachusetts, Plymouth, and New Haven, against the Quakers, 1656–59; followed by 'A true Copy of a Letter which was sent from one who was a Magistrate in New-England, to a Friend of his in London.' This is the letter of Capt. James Cudworth, of Scituate, for writing which he was disfranchised by the Plymouth Court. It was reprinted by Bishop, in *New-England Judged*, pp. 168-176. *See Palfrey's History of New England*, II, p. 533, *Deane's History of Scituate*, pp. 245-248."—*J. H. Trumbull.*

New Jersey. (Province.)

Speeches and Addresses/During the Sitting of the Assembly,/Begun at Burlington, the 28th Day of February, 1721. [Colophon]: *Philadelphia: Printed by Andrew Bradford, at the Bible in the Second Street*, [1721].

16 pp., Folio. (31 cm.) Mottled calf extra, gilt back and top edges, sides paneled, inside border, by F. Bedford. Uncut.

[Includes also:]

A Letter from the Lords of Trade and Plantations, to his Excellency Robert Hunter, Esq.; Captain/General and Governour in Chief of the Province of/New York, &c., concerning the Council's Amending of/Money Bills,/November 13, 1711, pp. 1-17; An Act for Support of the Government of New-Jersey, May 3, 1721, pp. 18-32.

pp. 18-32. (32½ cm.)

[Also:]

Journal/of the/Votes & Proceedings/of/The General Assembly of/his Majestys Province/of New-Jersey in America/[from Dec. 9 to 29, 1727]. [*Philadelphia: William Bradford*, 1727.]

14 pp., Folio 3 Nos. (32½ cm.)

New York. (State.)

Report of the Commissioners appointed by the governor under authority of a joint resolution of the two houses of the legislature of the State of New York, passed April 26, 1870, to revise the laws for the assessment and collection of taxes. David A. Wells, Edwin Dodge, George W. Cuyler, Commissioners. *Albany: The Argus Company*, 1871.

154 pp., 8°. Paper cover.

New York. (City.) *Charter.*

The/Charter/of the/City/of/New-York;/Printed by Order of the Mayor, Recor-/der, Aldermen and Commonalty of/the City aforesaid./To which is annexed,/The Act of the General Assembly Confirming the/same./ *New-York:/Printed by John Peter Zenger*, 1735./

52 pp., Folio. (31½ cm.) Contains the old wall paper cover. Sprinkled calf, sides paneled in plain calf, gilt back and edges, inside border, by F. Bedford. Fine copy.

New York. (City.) *Authors' Club.*

Liber scriptorum. 'The first book of the Authors' Club. *New York: Published by the Authors' Club* [*De Vinne Press*], 1893.

xvi pp. [1 l.], 591 pp., 4°. (32 x 22½ cm.) Full calf, blind tooling, top edges gilt. Paper specially made for the Authors' Club.

251 copies printed. 109 articles by different authors with signatures attached. This is No. 183.

Contents.—Abbey, H. To baffle time.—Adler, F. Sir Thomas Moore.—Alden, H. M. "Flammantia mœnia mundi."—Auringer, O. C. The road-builders.—Benjamin, M. A hero and a victim.—Bigelow, P. Russian rule as it is felt by ten millions of the unorthodox.—Bixby, J. T. Portals of beauty.—Black, A. The last pun.—Boner, J. N. A ball at Belvoir.—Bostwick, A. E. Credo.—Bowker, R. R. A song of nests.—Boyesen, H. H. The king's bastard.—Bridge, J. H. The gospel of over-consumption.—Brooks, E. S. Vatel.—Brooks, N. The books of an old boy.—Buel, C. C. Prayer of the practical politician.—Butler, N. M. The place of Comenius in the history of education.—Carey, W. Beethoven.—Carleton, W. The ghost of Sable island.—Carnegie, A. Genius illustrated from Burns.—Carpenter, W. H. The Southern cross.—Cary, E. An impression.—Chambers, J. Exactly zero.—Champlin, J. D. The fate

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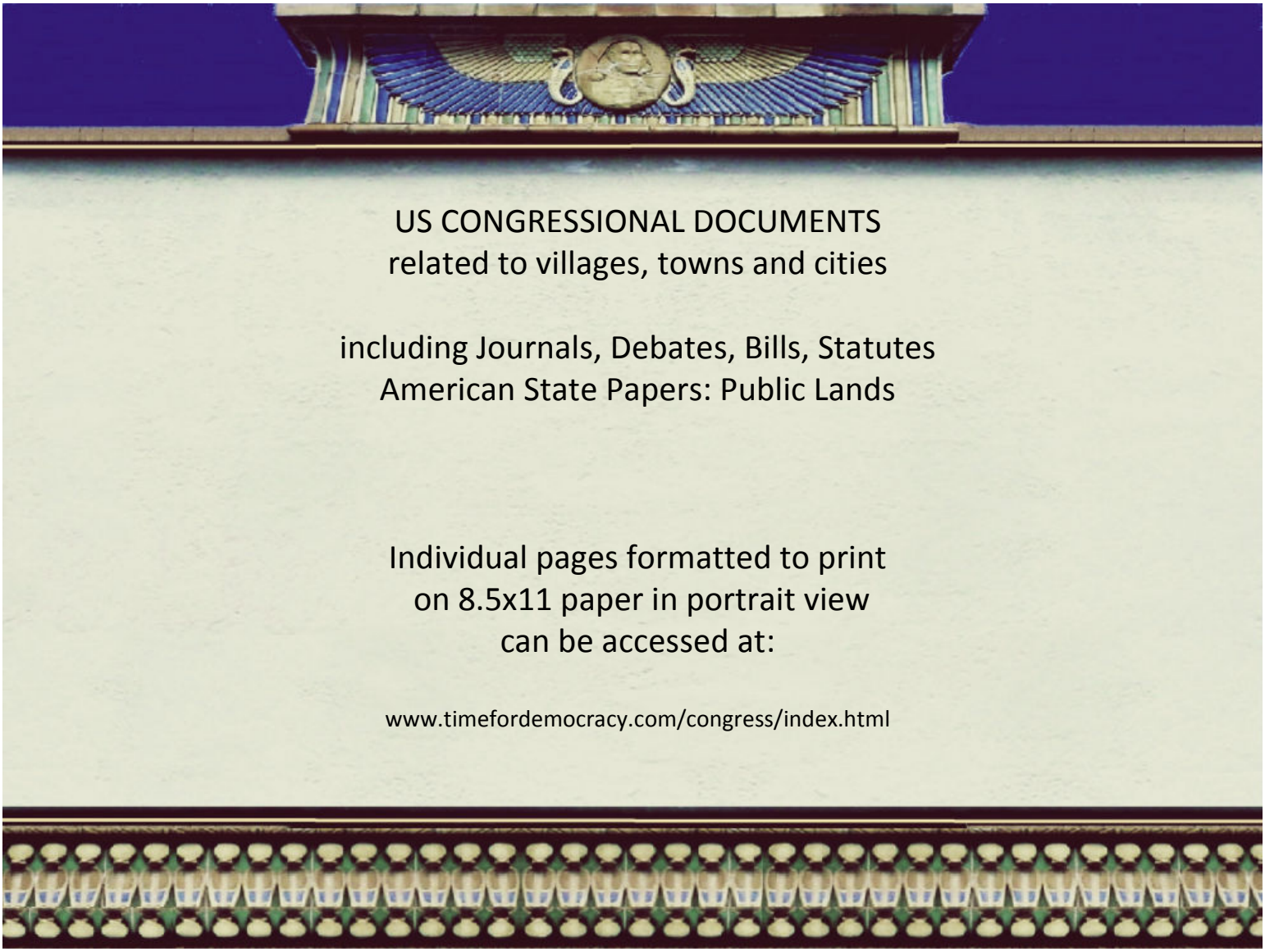

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DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTY-FIRST TO THE FIRST SESSION OF THE TWENTY-THIRD CONGRESS,

COMMENCING DECEMBER 1, 1828, AND ENDING APRIL 11, 1834.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

VOLUME VI

WASHINGTON:
PUBLISHED BY GALES & SEATON.
1860.

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COMMUNICATIONS FROM THE PRESIDENT OF THE UNITED STATES.

COMMUNICATIONS FROM THE TREASURY DEPARTMENT, INCLUDING REPORTS FROM THE GENERAL LAND OFFICE.

21st Congress.] No. 841. [1st Session.

PROPOSITION TO LAY OFF A TOWN AT CHICAGO, ILLINOIS, AND ANOTHER AT ST. MARK'S, FLORIDA.

COMMUNICATED TO THE SENATE MARCH 25, 1830.

GENERAL LAND OFFICE, *March* 22, 1830.

SIR: I take the liberty to enclose you a diagram exhibiting the survey of the public lands lying on Lake Michigan, at the mouth of Chicago creek, and would recommend that an act be passed authorizing the President to lay off a town at this point. Section 9 has been allotted to the State of Illinois, under the act granting to her certain lands for the purpose of making a canal.

Should the United States establish a town at the mouth of the creek, the State would probably derive much benefit by extending the lots into section 9, as Chicago creek affords a good harbor through the whole of this section.

It is understood that the waters of Lake Michigan may be drawn into the Illinois river, by a thorough cut of moderate length, and not more than seventeen feet deep at the summit; when this is

effected, and the bar on the outside of the mouth of Chicago creek is so deepened as to admit into the harbor with facility vessels of the largest class navigating the lakes, Chicago must inevitably become one of the most important depots and thoroughfares on the lakes.

The government is about bringing into market a vast extent of country between Lake Michigan and the Mississippi river, which, as to the advantages of local position, fertility of soil, healthfulness of climate and mineral resources, is not perhaps excelled by any other tract of country of equal extent in the United States. The deepening of the inlet of the harbor of Chicago would essentially facilitate the sale of these lands, and promote the settlement of the country.

I would also recommend that the President be authorized to lay off a town at St. Mark's, at the junction of the Wawculla and St. Mark's rivers. These waters drain a country of no great extent, but very valuable. On this subject I refer you to the enclosed copy of a letter from General Call, the receiver of the land office at Tallahassee, and a diagram furnished by Colonel Butler.

With great respect, your obedient servant,

GEO. GRAHAM.

Hon W. KANE, *Senate.*

WASHINGTON, *March* 13, 1829.

SIR: During the last session of Congress a memorial of the inhabitants of the middle district of Florida was sent to the delegate, praying that a portion of the public ground at or near the fortress of St. Mark's might be laid off in town lots and exposed for sale at public auction. What attention was paid to this memorial I am uninformed; but believing that the land department is vested with ample power to carry this plan into execution, if approved, and knowing the deep interest which is felt on this subject by the people of Florida, I am induced to present it to your consideration.

St. Mark's is the commercial depot of middle Florida. The imports and exports to and from this point are already considerable, and are increasing with great rapidity. The right to this property yet remaining in the government, individuals are prevented from making the improvements necessary for the convenience of commerce. If a few acres of land were laid off in town lots, and exposed in market at the approaching land sales, they would bring a considerable sum of money, and would contribute greatly to the convenience and prosperity of our country. Allow me to solicit your attention to this interesting subject.

Yours respectfully,

R. K. CALL.

Mr. GEORGE GRAHAM, *Commissioner of General Land Office.*

22d Congress.] No. 1069. [1st Session.

RELATIVE TO MAKING PROVISION FOR ADJUSTING CERTAIN PRIVATE LAND CLAIMS DERIVED FROM THE SPANISH GOVERNMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JUNE 14, 1832.

DEPARTMENT OF STATE, *Washington, June* 12, 1832.

The Secretary of State, to whom, on the 22d instant, was referred the resolution of the House of Representatives of February 7, 1832, on the expediency of providing by law for the final adjustment of all the claims to land derived from the former government of Spain and its local authorities in that part of West Florida between the Mississippi and Perdido rivers, from the date of the Louisiana treaty of 1803 to the proclamation of President Madison, in 1810, either by a confirmation of the titles or a reference of them to the judiciary, with directions to report to the House of Representatives the recent correspondence between the Spanish minister and the Secretary of State, with the opinion of the latter upon the justice and validity of these claims, has the honor to report:

That the government of the United States having by several acts asserted their right to all the territory between the Mississippi and the Perdido, under the treaty of 1803, it would be improper to contradict that asserted right, and unnecessary to support it. Assuming, therefore, as the groundwork of this report, that the construction which the United States have put on the treaty of cession is in this respect the true construction, and that by it they acquired a right to all the land referred to in the resolution of the House, it is equally true that the Spanish government, from the time the transfer of Louisiana took place, put a different construction upon it, maintained that it did not include any part of the Floridas, refused to deliver the possession of this territory when the rest of the ceded country was transferred to the French, held it when we received the country from France, and kept the whole until the year 1810, when a part of it was wrested from them by an insurrection, and the residue until 1813, when it was forcibly taken by the troops of the United States; and that during all this period they exercised an undisturbed jurisdiction over this territory, and disposed by sale of sundry tracts of land, as well to citizens of the United States as to Spanish subjects. For these sales the proper officer of the crown received a consideration in money, caused the lands to be surveyed, and gave to the purchasers titles in form.

After West Florida became incorporated into the Union, either as part of the State of Louisiana or of the then Territory of Mississippi, a board of commissioners was constituted to receive the evidence of title from the claimants to the lands between the Mississippi and the Perdido and to report the same to the General Land Office, declaring that those who neglected to record their titles should never after receive a confirmation thereof, and that no title not recorded should be received in evidence.

But by the act of Congress entitled "An act for erecting Louisiana into two Territories, and providing for the temporary government thereof," it was enacted that all grants for lands ceded by the French republic to the United States by the treaty of April 30, 1803, the title to which was in the government of Spain at the date of the treaty of St. Ildefonso, and every proceeding towards obtaining any claim to such lands made subsequent thereto, should be null and void, with an exception in favor of actual settlers prior to December 20, 1803, who had obtained a right under the laws and usages of Spain; but these were to be entitled to not more than six hundred and forty acres of land.

This law precluded the commissioners from allowing any claim under the Spanish grants made in virtue of the sales above mentioned, as they were, all of them, after the date of the treaty of St. Ildefonso, which was made in the year 1801.

Many of the purchasers under the Spanish government filed their claims; others, deterred by the provisions of the law of 1804, made after most of the purchases had been completed, neglected to do so, knowing that their claims would be rejected, and evinced a disposition to demand from the Spanish government the reimbursement of the purchase money they had paid.

Things remained in this situation until negotiations were opened, in the year 1818, for the cession of the Floridas to the United States. The first formal and written proposition came from Spain, through their minister, in a note enclosed in his letter of the 14th of October of that year, preceded, no doubt, by verbal communications. The part of the note immediately bearing on this subject is in the following words: "His Catholic Majesty, to give an eminent proof of his generosity, and of the desire which animates him to strengthen the ties of friendship and good understanding with the United States, and to put an end to the differences which now exist between the two governments, cedes to them in full property and sovereignty the provinces of East and West Florida, with all their towns and forts, such as they were ceded by Britain in 1783, and with the limits which designated them in the treaty of limits and navigation concluded between Spain and the United States on the 27th of October, 1795. *The donations or sales of land made by the government of his Majesty, or by legal authority, until this time are, nevertheless, to be recognized as valid.*"

To this part of the proposition Mr. Adams answers, in his letter of October 31, 1818: "Neither can

the United States recognise as valid ALL the grants of land UNTIL THIS TIME, and at the same time renounce all their claims, and those of their citizens, &c. * * * * * * * *

It is well known to you, sir, that notice has been given by our minister in Spain to your government that all the grants of land LATELY alleged to have been made [alleged to have been lately made] by your government *within those territories* must be cancelled, unless your government should provide some other adequate fund from which the claims above referred to may be satisfied. From the answers of Don J. Pizarro to this notice, we have reason to expect that you will be sensible of this necessity, and that *some time must be agreed upon, subsequent to which no grant of land,* WITHIN THE TERRITORIES in question, shall be considered as valid."

In the reply of the Spanish minister he adverts to the sale of the lands "*in the two Floridas, ceded by his Catholic Majesty,*" as the means by which the United States would be enabled to pay the sums due to their citizens.

When the treaty was nearly concluded, the Chevalier de Onis was prevented by indisposition from meeting Mr. Adams; and Mr. Hyde de Neuville, then minister of France, seems to have been admitted, informally, as a mediator between the negotiators. In one of his notes on the subject of the confirmation he uses the following observation, which seems to be addressed to the Chevalier de Onis, in order to explain to him the views of Mr. Adams: "The Secretary of State observed to me, that certainly it could never be the intent of the federal government to disturb the individuals in the enjoyment of property acquired legally or *bona fide;* but that a treaty ought not to be made to cover frauds, and that nothing more could be demanded of the United States than the King could offer; that they put themselves precisely in his place, and that they would fulfil all his engagements, but most certainly it could never be understood that they should do more. The Secretary of State proposes even, if Mr. Onis desire it, that the article shall be inserted in the treaty such as Mr. Onis has proposed, on condition that the explanation above stated" [that all grants not annulled by this convention are valid to the extent that they are binding on his Catholic Majesty] "shall be given in a note." The article as proposed by Mr. Onis, to which Mr. Adams is said by Mr. Neuville to have consented with the above modification, is in these terms: "All the grants of land made by his Catholic Majesty, or by his authorities, in the *aforesaid territories of the two Floridas,* and others which his Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting these grants which may have been made after the 24th day of January last year, the date of the first proposals which were made for the cession of those provinces, which shall be held null, in consideration of the grantees not having complied with the conditions of the cession."

In all this negotiation not an objection seems to have been raised to the confirmation of all the Spanish *bona fide* grants, excepting only certain extravagant concessions, covering nearly the whole of the ceded country, made subsequent to the first offer of the cession of the country. The idea of disturbing any such titles is expressly disavowed by Mr. Adams, and the treaty was finally concluded on the 22d February, 1819, in the same spirit that prevailed during the negotiation, the 8th article stipulating in these terms:

"All the grants of land made before the 24th of January, 1818, by his Catholic Majesty, or by his lawful authorities, in the said territories ceded by his Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands to the same extent that the same grants would be valid if the territories had remained under the dominion of his Catholic Majesty. But the owners in possession of such lands who, by reason of the recent circumstances of the Spanish nation and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this treaty; in default of which, the said grants shall be null and void. All grants made since the said 24th of January, 1818, when the first proposal, on the part of his Catholic Majesty, for the cession of the Floridas, was made, are hereby declared, and agreed to be, null and void."

Subsequent, however, to the signature of the treaty, doubts arose whether the large grants intended to be cancelled had really been executed before or after the date fixed by the treaty (January 24, 1818.) This led to a warm correspondence between the agents of the two governments, during the whole of which not a doubt respecting the operation of the treaty, as confirming all the grants prior to 1818, is raised. And, finally, the treaty is ratified with an explanatory article, by which the date in the 8th article is stated to be one fixed "for the *confirmation of the grants of lands* made by the King in the Floridas," excepting specially the large grants.

From these statements the House of Representatives will be the better able to decide on the true intent of the 8th article, so far as it relates to the concessions or grants of land mentioned and described in their resolution. These were all long anterior to the date fixed by the article, (January 24, 1818,) they were completed in their form, made by the proper officer, and for a valuable consideration. The lands lie in that territory which, when in the possession of Spain, was by them called West Florida, and are situated to the east of the river Mississippi. They came, therefore, in every point, within the stipulations of the 8th article, that they "shall be ratified and confirmed to the same extent that the said grants would be valid if the territories had remained under the dominion of his Catholic Majesty."

Two objections seem to have been raised against this construction by the Supreme Court, in a cause in which the validity of one of these concessions was brought in question. In that case the principal ground of decision against the confirmation was drawn from the language of the article, which declares that the concessions *shall be* ratified and confirmed; which the court say is an act not done by the treaty itself, but made obligatory upon another branch of the government to do, which branch is the legislature, not the judiciary; that the legislature had not yet performed this obligation, created by the treaty; and that until it should be done, the court could not declare the treaty to be valid, inasmuch as the sales were made subsequent to the date of the treaty of St. Ildefonso, and therefore void, unless they were confirmed by the treaty of 1819. But they add, if the language of the article had been different, if the treaty had declared by words, *in presenti,* that the grants *are* confirmed, then the treaty would have been a law obligatory on the court, and, by its paramount force, would have operated a repeal of the 14th section of the act of 1804, above quoted and referred to, and have induced a different decision.

If this part of the decision shall be found to be based on just principles, then there is a clear obligation upon the legislature to pass a law confirming those grants and repeal the law of 1804, which prevented their confirmation by the commissioners before the treaty.

In a late case decided in the Supreme Court reference is made to the language used in the Spanish version of the 8th article, to which their attention was not drawn in the case of Foster and Elam *vs.* Nelson. There there, with great strength of reasoning, demonstrate that the language of the 8th article

in the Spanish original is that which is used by the party who grants, and contains, in his own words, the condition on which he cedes; that therefore this language must govern; and, as words expressing a present confirmation of the grants are used, not a future obligation on the other party to confirm them, that the concessions made before the 24th January, 1818, in the language of the article, "quedan," *remained confirmed and ratified*, and that therefore no act of legislation was necessary, but that the prior concessions were, *ipso facto*, confirmed. This part of the decision is important, and it is therefore given in the words of the court:

"It became, then, all important to ascertain what was granted by what was excepted. The King of Spain was the grantor; the treaty was his deed; the exception was made by him; and its nature and effect depended on his intention, expressed by his words in reference to the thing granted and the thing refused, and excepted in and by the grant. The Spanish version was in his words, and expressed his intention; and though the American version showed the intention of this government to be different, we cannot adopt it as the rule by which to decide what was granted, what excepted, and what reserved: the rules of law are too clear to be mistaken, and too imperative to be disregarded by this court. We must be governed by the clearly expressed and manifest intention of the *grantor*, and not the *grantee in private, à fortiori*, in *public grants*. That we might not be mistaken in the intention or in the true meaning of Spanish words, two dictionaries were consulted, one of them printed in Madrid; and two translations were made of the 8th article, each by competent judges of Spanish, and both agreeing with each other, and the translation of each agreeing with the definition of the dictionaries. 'Quedaran,' in Spanish, correctly translated, means 'shall remain;' the verb '*quedar*,' in French, '*rester*,' Latin, '*manere*,' '*remanere*,' and English, '*remain*,' in the present tense. In the English original, the words are 'shall be,' words in the future. The difference is all important as to all Spanish grants. If the words of the treaty were that all the grants of land 'shall remain confirmed,' then the United States, by accepting the cession, could assert no claim to these lands thus expressly excepted. The proprietors could bring suits to recover them without any action of Congress, and any question arising would be purely a judicial one. 'Shall be ratified,' makes it necessary that there should be a law ratifying them, or authorizing a suit to be brought, otherwise the question would be a political one, not cognizable by this court, as was decided in Foster and Elam *vs.* Nelson.

"But, aside from this consideration, we find the words used in the Spanish sense as to the grants made after January 24, 1818, which are, by the same article, in English, '*hereby declared, and agreed to be, null and void*.' The ratification is in Spanish and English. The Spanish words in the Spanish version are, '*quedado*' and '*quedan*' in reference to the annulled grants; the English are, '*have remained*,' '*do remain*.' The principles of justice, and the rules of both law and equity, are too obvious not to require that, in deciding on the effect and legal operation of this article of the treaty by the declared and manifested intention of the King, the meaning of Spanish words should be the same in confirming as in annulling grants. A regard to the honor and justice of a great republic alike forbids the imputation of a desire that its legislation should be so construed, and its law so administered, that the same word should refer to the future as to confirming, and to the present in annulling grants in the same article of the same treaty.

"For these reasons, and in this connexion, we consider that the grants were confirmed and annulled, respectively, simultaneously with the ratification and confirmation of the treaty; and that when the territory was ceded the United States had no right in any of the lands embraced in the confirmed grants."

Had the decision stopped here, the undersigned would have been of opinion that the case was open for relief to the persons claiming under the grants described in the resolution which has been referred to him. But after this explicit declaration that the Spanish version is to govern; that under it the early grants are, *ipso facto*, by the treaty confirmed; and that no further legislation is required, the court, "to avoid (as it says) all possible misapprehension," declare that they give validity to the grant which they were then considering by virtue of laws which empowered them "*to decide according to the stipulation of any treaty*," but that should they be called on to decide on the validity of a title acquired by any Spanish grant not embraced by these laws they would feel bound to follow the course pursued in Foster and Elam *vs.* Nelson, in relation the stipulation in the 8th article of the Florida treaty, "*that the legislature must execute the contract before it can become a rule for this court*."

This conclusion, so contrary to that which the undersigned would have drawn from the premises, has continued the difficulty which he had hitherto found to answer what he considers the just complaint of the Spanish government in the letters which, by the resolution of the House, he has been directed to report. Convinced in his own mind that the claims which were urged by the minister of Spain were well founded, he was in hopes, first, that the legislature, by passing a law to do that which the court had declared, in the case of Foster and Elam *vs.* Nelson, to be an obligation created by the treaty upon the legislative, not the judiciary, branch of the government, would have enabled him to answer the Spanish minister that justice had been done to the claimants; and when, by the failure of their petition presented to Congress for that purpose, he lost that hope, he encouraged the one that has now equally proved vain, that the discovery which he made and pointed out of a difference between the Spanish and English version of the treaty, would have induced the court to decide that their opinion in the case of Foster and Elam *vs.* Nelson was erroneous, as being based only on the English version. They did, as has been shown, most explicitly decide that that version should govern; that it imports a present confirmation, not a promise to confirm in future. But yet, as they give formal notice that they will persevere in a decision given expressly on the assumption that the English version is to govern, the undersigned is bound to believe that they have been governed by some good reasons which have not occurred to him from the view, probably an erroneous one, he has taken of the case. However this may be, the declaration is explicit, and imposes on the undersigned the necessity of a strong appeal to the legislature to relieve him, should they deem his reasoning correct, from the embarrassments he is under in making a proper reply to the claim of the minister of Spain in behalf of his government. While the suits of the grantees were pending his answer was easy: "The judiciary will decide, and their decision will be satisfactory, because it will be just. If they decide against the claim you must submit, because they are the proper judges of the legal right. If they allow the claim, it is all you ask." But they have decided, not against the claim, nor yet have they allowed it; but, while they acknowledge that the treaty intended to protect the right of the claimants, they say it created an obligation on the legislature to do a preliminary act, which act they have not done. Following this out, it will at once be seen that the hard task would be imposed on the Secretary of State of saying to a foreign minister, my government has, by treaty, engaged to do an act of justice to the grantees of your sovereign, which they have hitherto refused to perform, although a co-ordinate branch has acknowledged the obligation by a solemn decision. It can scarcely be

alleged, as a sufficient answer to this, that the legislature substantially fulfilled this obligation by the appointment of a board of commissioners to decide on the validity of the Spanish grants, and to report for confirmation such as they deemed valid: first, because the commissioners could confirm no grant exceeding 640 acres; but, conclusively, because they were expressly bound by law not to confirm any of them, the law of 1804 expressly inhibiting the confirmation of any grant made subsequent to the treaty of St. Ildefonso. But these grants were all made two and three years subsequent to that treaty, and were rejected on that ground, as appears by the certificates of the commissioners of the land offices, hereunto annexed.

It has also sometimes, and by some of the judges, in their opinions, been argued that the lands west of the Perdido having been decided by the government of the United States to be included in the purchase of Louisiana, the stipulations of the treaty of 1819 could not apply to them, and that the grants agreed to be confirmed by the 8th article of that treaty were such only as were made in East Florida and that part of West Florida which lies east of the Perdido, and they reason thus: "The 8th article confirms the grants of land in the 'territories ceded by his Majesty to the United States.' What lands were ceded? For this we must look to the 2d article, where we find that *his Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him situated to the eastward of the Mississippi, known by the name of East and West Florida*. Now, the territories to the west of the Perdido did not belong to him; they had been incorporated into the Union under the Louisiana treaty. Therefore the grants made in that region cannot come within the purview of the 8th article, which contemplates only the territories belonging to the King of Spain."

The error of this reasoning consists in discarding that rule of construing an agreement which directs that the intent of the parties is to govern, and that this intent is to be sought as well in the avowed object of the agreement as in the language used to carry it into effect, and that for this purpose such construction of doubtful words should be adopted as will reconcile them where they apparently differ from each other.

The object of this treaty was, as is expressed in the preamble, "to consolidate on a permanent basis the friendship and good correspondence which happily prevails between the two parties, and to settle and terminate all their differences and pretensions by a treaty," &c.

Now, what were those differences? Spain, when she executed the treaty for ceding Louisiana, insisted that, except the island of New Orleans, no part of it lay to the east of the Mississippi; that all the rest of her dominions in that quarter were included in the provinces of East and West Florida. She kept possession of them for some years after the country was ceded to the United States, when they were wrested from her by force. During the early part of that period, she made the sales and concessions now in question, and ever since protested against the occupation by the United States. One of the differences to be settled was, then, this very one of the right to that part of West Florida which lies west of the Perdido. How was this to be effected? Precisely in the way that was devised by our able negotiator, Mr. Adams, by using such language as would end the dispute without the mortifying acknowledgment by either party that it had been wrong. We claimed that Louisiana extended eastward to the Perdido; the Spaniards that, with the exception of New Orleans, it was bounded by the Mississippi. To the country east of the Perdido we had no claim; but Spain, for a proper consideration, agrees to cede it to us. Now, if the second and eighth articles relate solely to the territories purchased by that treaty, what would have been the description? Certainly different from that actually used. The Perdido, and not the Mississippi, would have been assumed as the western boundary. But, although this would have designated the territory which, according to the argument, was all that is intended by the two articles, it would have left undetermined one of the principal causes of dispute. How was this to be avoided? By taking the Mississippi as the western boundary, and thus including in the cession all the disputed territory. It cannot be doubted that this was one of the great objects of the treaty; but, whatever may be our opinions on this point, it will be conceded that, to give effect to this intent, the written language of the treaty must be such as will justify it.

Let us examine it with that view:

"His Catholic Majesty cedes to the United States all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida." Here are two designations of the territory ceded: *all the territories east of the Mississippi which belong to him*, and those territories are further described as those *known by the name of East and West Florida*. Now, it never was doubted that the designation of West Florida, while that country was possessed by Great Britain, and after it was ceded to Spain, was applied to the territory bounded by the Mississippi. The whole of the description, then, will apply to the lands in question as it was understood by one of the parties; and as this description was given in the very act by which the whole of the Spanish claim was relinquished to the United States, it was a matter of little moment to this latter power what words were used by Spain to avoid a confession which, in a compromise, they never could be called on to make; that their previous pretensions were unjust, provided the same precautionary language were observed with respect to the United States. The treaty was a compromise. Spain undoubtedly had a claim, founded on at least a color of right, to the territory between the Perdido and the Mississippi, a claim they had always asserted. In delivering possession of Louisiana, to which we contended this was an appendage, they refused to deliver this territory. Our commissioners did not demand it, nor did those of France when the province was transferred. The Crown of Spain remained in peaceable possession until an insurrection deprived them of the possession of a part, and an invasion by our troops some time after, of the rest. Spain had made these sales and grants to *bona fide* purchasers for a valuable consideration, while they were in this peaceable possession. How, therefore, could Spain be supposed to consent to any arrangement that should formally acknowledge that she had unjustly refused to deliver possession of what she had ceded, and had sold lands to which she had no title; nor could the United States, with propriety, acknowledge that they had unjustly taken and retained the possession. The cession of the territories east of the Perdido afforded an opportunity of using language that would effect the purpose of both powers without committing the dignity of either. By describing the country ceded as lying to the east of the Mississippi, and known by the name of East and West Florida, it included as well that part of West Florida formerly in dispute as the territory then first ceded by that treaty; and by agreeing that the *bona fide* concessions in the territory ceded should be confirmed to the possessors, the United States did an act of justice which equity would seem to have demanded, even had there been no stipulations. For let it always be remembered that Spain was the sovereign *de facto* of the disputed territory at the time the grants in question were made, and continued in the undisturbed possession of it for many years after.

It seems also worthy of remark, that these grants having been made for a pecuniary consideration paid into the treasury of Spain; not only justice to her grantees, but a strong actual interest, must have induced her, in any treaty, to have stipulated for a confirmation of these grants, the annulling of which would have created a just claim for a large amount upon the treasury of that country.

It must be clear, therefore, from the language of the negotiators, both before and after the signature of the treaty, which has been quoted in the beginning of this report, corroborated by what was called for both by the interest and honor of Spain, that the confirmation of these grants was an object of high importance to that power, and that she thought this object was attained by the treaty. If, therefore, the language is at all doubtful, according to the just reasoning of the Supreme Court, hereinbefore quoted, the words of the condition on which the cession was made must be construed in the sense in which it is understood by Spain, and honor and justice require that the condition should be fulfilled.

If the opinion of the undersigned had been called for before the decision of the Supreme Court, in the case of Foster and Elam *vs.* Nelson, he would have said that the words, "shall be ratified and confirmed," even taking the English version for the text, as used in the treaty, import an actual, not a future confirmation; because, when such words are used by the body having the power to do the act, and the words are not coupled with any condition or limitation as to time, they then operate *in presenti*, and take effect at once. Here there is no doubt that the President and Senate had a right by treaty to confirm the grants; the Supreme Court have said so, when they declare, that if the words had been *are confirmed*, that they would have repealed the law of 1804, which annulled those grants; but, since that decision, and the other in the case of Arredondo, the undersigned is bound to consider the eighth article in the treaty as an obligation upon the faith of the country, which can only be fulfilled by an act confirming the *bona fide* grants in question.

It may not be improper to add, as coming within the spirit of the resolution, that, on many of the tracts in question, settlements were made subsequent to the dates of the grants, and that the settlers have received donations of their lands from the United States. The confirmation of the grants, therefore, to the original grantees would create great distress and confusion by disturbing the possessions of the settlers; to avoid which the grantees, it is understood, would willingly agree to relinquish their claim to all such settlements as may have been made on their tracts, respectively, on receiving a confirmation of their title to the residue, and an equivalent in lands of the United States, in the State of Louisiana, for the lands of which they may have been deprived by the confirmation of settlement rights.

The letter of Mr. Tacon, the minister of Spain, dated the 24th of October, 1829, annexed to this report, will show to the House of Representatives the light in which the question of these grants is viewed by the Spanish government. The list to which that letter refers was, before the undersigned came into the department, transmitted to an agent who was then despatched to Cuba to obtain the originals, and cannot now be furnished; but the annexed list of the claims filed before the commissioners for the land office west of Pearl river, it is supposed, will give an idea of the quantity of land that may be claimed under these grants. There were also several Spanish grants and confirmations made after 1803, east of Pearl river and west of the Perdido, the number of which cannot be ascertained, but they are not supposed to be considerable. No formal answer having been given by the late Secretary of State to this letter of the Spanish minister, application has frequently been renewed to the undersigned who, in an informal manner, has urged the necessity of delay until the legislature should definitely have acted on the case. For this delay the pendency of the suits above mentioned, and of the application of the claimants to Congress, afforded a motive that seems to have been deemed satisfactory; but now the undersigned cannot much longer avoid giving an official answer, the character whereof must depend on the proceedings of Congress, which he has no doubt will be consistent with justice and a faithful regard to national engagements.

The undersigned, Secretary of State, most respectfully offers to the consideration of the House the draught of a bill which would effect the purpose of satisfying the claimants under the Spanish grants, and quieting the possessions of those who may hold under donations, confirmations, or sales, made by the United States, of lands comprehended in the said Spanish grants.

All which is respectfully submitted, with the expression of a decided opinion that the eighth article of the treaty between the United States and Spain, if it did not confirm the grants and sales in question, at least created an express obligation upon the former power to confirm them; that this obligation has not been fulfilled, and that its performance ought no longer to be delayed. The scrupulous regard we have hitherto paid to our engagements with foreign powers has not only established our character for fidelity and honor, but is indispensable when we wish to enforce our claims upon other nations. To suffer it to be sullied by a reasonable doubt would be a serious injury at all times, and in the present instance would operate injuriously on the negotiations in which the Executive is now engaged to procure indemnity for injuries that have been inflicted on our commerce.

EDWARD LIVINGSTON.

List of accompanying papers.

A, B, C. Certificates of the commissioners of the land offices for the Pearl river districts.
D. Letter of Mr. Tacon to Mr. Van Buren, (with enclosure,) dated October 24, 1829. Translation.
E. Draught of bill.

A.

Extracts from Report, No. 5, or "register of claims to land in the district east of Pearl river, in Louisiana, founded on grants said to be derived from either the French, British, or Spanish governments, which, in the opinion of the undersigned commissioner, are not valid agreeably to the laws, usages, or customs of such government."

	Present claimant.	Original claimant.	Nature of claim, and from what authority derived	Date of claim.	Quantity claimed.
					Arpents.
1	Harry Toulmin and Edmund P. Gaines	John Trouillet	Spanish government	August 14, 1807	800
2	John Forbes & Co	John Forbes & Co	do	March 7, 1807	5,040
					Acres.
3	Claire R. Carman	Margaret Collon	do	June 18, 1805	1,600

"All these grants have been made by the Spanish government since the right of Spain to Louisiana has ceased to exist, and are therefore void. Nor are they entitled to the benefit of the proviso contained in the 14th section of the act of Congress, passed on the 26th of March, 1804, in favor of settlers, because the grantee was not a settler at the date of the grant, nor has been since, except in No. 2, which cannot be confirmed, because the quantity exceeds that allowed by law, and the claimant has other claims coming within the proviso of the law. Some of these grants refer to ancient grants or concessions, and purport to be made in consideration thereof. No. 1 refers to a grant said to have been made by the French government, and destroyed at the time of the conquest of the Floridas by the Spaniards. These claims cannot derive any validity from the grants or concessions said to have been anciently made, because they do not appear; nor from the subsequent confirmation, because at the time of confirmation Spain had no right to Louisiana; nor can the subsequent grant be any evidence of a former grant or concession, because the evidence adduced, if any, to prove that there was a former grant, was before a tribunal which had no cognizance of the case.

"It is certainly remarkable that Spain should not have confirmed, until the year 1807, a grant said to have been destroyed at the conquest of the Floridas, after a rightful possession of the country for twenty years. If any reference in a grant, void in itself, were sufficient to render it valid, the whole of Louisiana might have been granted by Spain after she had transferred her right even without the control of the true proprietor.

"WILLIAM CRAWFORD, *Commissioner.*"

B.

Extract from the Report, No. 8, of the Register and Receiver at Jackson Court-House, being a "register of claims to land in the district east of Pearl river, in Louisiana, founded on complete grants and orders of survey, which, from their nature, require a special report."

	Present claimant.	Original claimant.	Nature of claim.	Date of claim.	Quantity.
					Arpents.
1	Representatives of William Donaldson	William Donaldson	Spanish grant	June 20, 1804	20,000

"No. 1. A grant from the Spanish government, issued the 20th of June, 1804, by John V. Morales. This grant is void under the fourteenth section of the act of March 26, 1804, which enacts that all grants for lands within the territories ceded by the French republic to the United States by the treaty of April 30, 1803, the title whereof was, at the date of the treaty of St. Ildefonso, in the Crown, government, or nation of Spain, and every act and proceeding subsequent thereto, of whatsoever nature, towards the obtaining any grant, title, or claim to such lands, and under whatsoever authority transacted or pretended, 'should be, and the same were thereby declared to be, and to have been from the beginning, null, void, and of no effect in law or equity.' Nor can it derive any relief from the equity of the provisoes contained in the said section which require, first, that the *grantee* should be an actual settler upon the lands so granted; second, that such grant should not secure to the grantee *more than one mile square* of land, together with such other and further quantity as heretofore had been allowed for the wife and family of such actual settler agreeably to the laws, usages, and customs of the Spanish government. It is further to be remarked in relation to the merits of this claim—first, that, from the date of the application for the purchase, the Spanish authorities, in Louisiana, must have been apprised of the cession of the province by France to the United States, and could not in good faith make grants of lands, and especially such excessive sales, after such knowledge; secondly, the title in form was not issued until the 20th of June, 1804—more than fourteen months after the cession of the province, and six months after its actual delivery to the United States."

C.

Extract from register C "of claims to land in the district west of Pearl river, in Louisiana, founded on grants said to be derived from either the French, British, or Spanish governments, which, in the opinion of the undersigned commissionar (James O. Cosby) are not valid, agreeable to the laws, usages, or customs of such government."

Present claimant.	Original claimant.	Nature of claim	Date of claim.	Quantity claimed.
				Arpents.
William Plunkett *et al.*	Margaretta Plunkett	Spanish patent	Dec. 5, 1803	550
William Corner	William Corner	do	Dec. 12, 1803	400
Thomas Billis	Christopher Miller	do	May 17, 1804	600
Caleb Weeks	Caleb Weeks	do	Dec. 24, 1803	313
John P. Sanderson	James McLeroy	do	June 25, 1804	800
Manuel Garcia	Manuel Garcia	do	Sept. 1, 1806	15,000
John Rhea	William Gardner	do	June 25, 1804	200
William Vardeman	William Vardeman	do	May 22, 1810	1,200
John Rhea	James Foster	do	July 4, 1804	1,200
David Lejeune	David Lejeune	do	Oct. 8, 1806	142
John Rhea	James Brennan	do	July 9, 1804	1,000
Do	Antonio Son	do	July 3, 1804	784½
Do	James Clark	do	July 21, 1804	200
Do	John Higgins	do	June 4, 1804	400
Chew & Relf, executors of D. Clark	Gilbert Audry	do	Feb. 29, 1804	30,000
Heirs of James Juranerly	Charles Raymos	do	March 5, 1804	20,000
Thomas Power	Bernard Villars	do	Jan. 17, 1805	40,000
Chew & Relf, executors of D. Clark	Thomas Urquahart	do	Nov. 29, 1803	10,263
John Lynd	John Lynd	do	July 12, 1806	32,025
A. Va. de la Gord	A. Va. de la Gord	do	May 17, 1804	1,000
Francis Herault	Francis Herault	do	Oct. 3, 1806	2,000
Chew & Relf, executors of D. Clark	George Pollock	do	Jan. 5, 1805	40,000
Do	Philip B. Dagues	do	Jan. 17, 1805	40,000
Charles Proffit	Charles Proffit	do	Nov. 18, 1803	1,000
Executor of Isaac Johnson	Isaac Johnson	do	Dec. 10, 1803	143½
Lilly & Co	Cornelius Seely	do	Nov. 23, 1804	155
Do	Thomas Anderson	do	July 3, 1804	400
Robert Young	Pedro Deloquy	do	May 17, 1804	800
John Murdock	Widow Coma	do	July 2C, 1804	320
Do	Pedro R. Deloquy	do	May 23, 1804	427
John B. Labetut	John B. Labetut	do	Jan. 20, 1804	16,000
A. Duplantier	A. Duplantier	do	April 26, 1804	10,000
Anthony Grass	A. Grass	do	Jan. 20, 1804	3,000
Do	do	do	Oct. 20, 1806	80
John Martin	James Jackson	do	June 11, 1805	256
James Martin	John McGowan	do	Mar. 15, 1805	400
V. S. Pintada	V. S. Pintada	do	Feb. 23, 1804	1,250
Do	do	do	May 22, 1810	283
Do	do	do	May 20, 1810	200
Do	do	do	May 22, 1810	108
Do	do	do	May 22, 1810	279
F. Guedray	F. Guedray	do	Aug. 14, 1806	4a 6t 5p
C. & M. de Armas	C. & M. de Armas	do	Oct. 23, 1806	20,000
Eulogia de Cassas	J. Rufinica	do	April 1, 1807	14a 18t 5p
Joseph Reynes	Joseph Reynes	do	Jan. 2, 1804	40,000
Alexander Bookter	Alexander Bookter	do	Feb. 7, 1804	1,000
Eliza Bookta	David Jones	do	April 12, 1804	400
Catholics of Feliciana	Catholics of Feliciana	do	Sept. 1, 1804	62
Brown & McDonough	G. Lachiapella	do	Mar. 28, 1804	120,000
Bernard Marigny	do	do	June 28, 1804	35,000
Bernard Marigny *et al.*	James Joida	do	Jan. 2, 1804	40,000
William Kirkland	Isabel Waltman	do	July 3, 1804	500
James Johnson *et al.*	Manuel Langos	do	Jan. 2, 1804	35,000
A. Dupuie	A. Dupuie	do	Aug. 13, 1806	175
Miss De Grandpree	Miss De Grandpee	do	Oct. 5, 1803	1,500

"REGISTER C.—The claims embraced in register C are such as, in the opinion of the Commissioner, ought not to be confirmed by the government of the United States. This opinion is founded upon the following considerations: 1st. The government of the United States claim an absolute property in all that country comprehended within the boundaries of Louisiana in virtue of her treaty with France. 2d. It is believed that the Spanish government herself considered that treaty as divesting her of all right, title, and interest in the soil. That such was the understanding of that government is inferred from the following fact: The course which she pursued in the distribution of her unappropriated territory posterior to her treaty with France was materially and essentially different from what it had been prior to that time. In all her grants made anterior to that epoch the number of arpents given was apportioned to

the situation and circumstances of the applicant. Patents for large extent of country had been issued; but they were granted for specific purposes, and were defeasible upon a non-compliance with certain prescribed conditions. So far as comes within the knowledge of the Commissioner, sales of land were never made in the above-mentioned country by that government until after she had ceased to be the legal owner of the soil. This departure from her known laws, usages, and customs previously adopted and invariably observed warrants the inference that that government was sensible of the illegality of her claim, and had a view only to her own emolument. The fact, also, that the King of Spain, by a special royal order in 1805, ratified and confirmed the sales made by Morales, enjoining him to make that branch of his business as profitable as possible to the coffers of the royal treasury, is an additional evidence in support of this inference. By a reference to the register it will be discovered that the patents for lands purchased from the royal treasury, at a price of estimation, generally refer to orders of survey given in the latter part of 1803, and specify the valuation per arpent. The payment of the whole amount is uniformly acknowledged in the patents. Admitting the claim of the United States to the country above mentioned to be unquestionable, (and I see no reason to doubt it,) the question then arises, how far the possession of that country by the Spanish government, after the right of the United States accrued, ought to affect those claims which were granted by the former government during the time which intervened between the purchase and the time when possession was taken by the United States. If the United States had taken possession of West Florida at the same time that they did of Louisiana west of the Mississippi, many serious injuries to individuals might have been prevented. As this was not the case, it becomes an inquiry of interest and importance whether the government is not morally bound, both by considerations of equity and policy, to make them a compensation commensurate to the injuries they may have sustained. This could be done by making them donations of any quantity of land which the government may deem just; particularly that class of claimants who have improved and cultivated their lands. They are not numerous, and, with few exceptions, their claims are moderate. It may not be impertinent also to remark that, generally speaking, they were such persons as were most liable to be deceived by the Spanish officers.

"In relation to that class of claimants who have not inhabited or cultivated their lands, which is generally the case with those who hold large claims, it appears to the commissioner that the government of the United States is not legally bound to confirm them. Nevertheless, from a variety of considerations which will doubtless enter into the decision of this question, the government may deem it politic either to confirm their claims to a certain extent or in some other way to effect a compromise with them. Their unlimited confirmation would, in the opinion of your commissioner, seriously injure many individuals, some of whom probably resided on the lands before they were surveyed for the patentees."

D.

[Translation.]

Mr. Tacon to Mr. Van Buren.

PHILADELPHIA, *October* 24, 1829.

SIR: The colonel of infantry in the armies of my august sovereign, Don Manuel Garcia Muñiz, now a resident of New Orleans, has informed me, under date of the 14th of September last, that, by decrees of the President of this Union of June 13 and July 16, of the present year, orders had been issued to offer for sale, at public vendue, certain lands in Florida as property of the United States, which comprehended a tract of fifteen thousand acres belonging to the colonel above named, and situated within the jurisdiction of St. Helena, New Feliciana, within the district of Baton Rouge; and that he had been obliged to enter the protest contained in the document hereunto annexed.

This important innovation, which would seem to affect many other individuals in the same situation with the claimant, places me under the necessity of calling the attention of the President to the serious injury which will accrue from the above-mentioned decrees to the vassals of the King, my master, and other proprietors of land granted by the legitimate authorities of his Majesty, as set forth in detail in the statement which I had the honor of addressing to you on April 11, of this year, in order that his excellency may have the goodness to take into his consideration a subject of so much importance, and to take such measures as he may think proper to cause such grants to be respected, according to the stipulations of the eighth article of the treaty of February 22, 1819.

I avail myself of this opportunity to offer you the assurance of my distinguished consideration.

God preserve you many years.

FRANCISCO TACON.

Copy of the protest.

In the city of New Orleans, State of Louisiana, on the fourteenth day of September, in the year of our Lord one thousand eight hundred and twenty-nine, and the fifty-fourth of the independence of the United States of America, before me, Felix de Armas, notary public, duly commissioned and sworn, in and for the city and parish of New Orleans, residing therein, and in presence of the undersigned witnesses, personally came and appeared Colonel Manuel Garcia Muñiz, at the service of his Catholic Majesty, the King of Spain, knight of the royal and military order of St. Hermenigilda, now in this city, for the service of the King.

Which appearer declared that, whereas he has seen in the paper called the "Louisiana Advertiser" a certain advertisement in the words and figures following, to wit:

"By the President of the United States.

"In pursuance of law, I, Andrew Jackson, President of the United States of America, do hereby declare and make known that a public sale will be held at the land office at St. Helena court-house, in the State of

Louisiana, on the second Monday in November next, for the disposal of the unappropriated public lands within the limits of the undermentioned townships, situate in the land district west of Pearl river, and east of the island of New Orleans, to wit:

"Township two, of range one.

"Township one, two, three, five, and six, of range two.

"Township one, two, three, four, and six, of range three.

"Township one, two, three, four, five, six, and seven, and fractional townships eight and nine, of range four.

"Townships one, two, three, four, five, six, and seven, and fractional township eight, of range five.

"Townships one, two, three, four, five, six, and seven, and fractional township eight, of range six.

"Townships one, two, three, four, five, six, and seven, and fractional township eight, of range seven.

"Townships one, two, three, four, five, six, and seven, and fractional township eight, of range eight.

"Townships one, two, three, four, five, six, and seven, of range nine.

"The above townships are all situate south of the thirty-first degree of latitude and east of the meridian, and embrace nearly all the land lying on Amite, Tickshaw, and Tangapaha rivers.

"The townships will be offered in the order above designated, beginning with the lowest number of section in each.

"The lands reserved by law for the use of schools, or for other purposes, will be excluded from the sale.

"Given under my hand, at the city of Washington, this thirteenth day of June, A. D. 1829.

"ANDREW JACKSON.

"By the President:

"GEORGE GRAHAM,
"*Commissioner of the General Land Office.*

"AUGUST 11."

And whereas the said appearer of said lands is the owner of fifteen thousand arpents of land, situate in West Florida, by him purchased from and paid to the governor of his Catholic Majesty; and has, ever since said purchase, constantly fulfilled the requisites of the laws of the United States for the recording of lands, and paid all the taxes and other charges imposed by the government of the United States, as will appear by receipts held by him from competent officers: Now, therefore, the said appearer doth, by these presents, solemnly and publicly protest as well against the sale aforesaid (as regards the lands belonging to him) as against all other persons whom it may or doth concern for all damages, costs, charges, and interests to be suffered by the sale aforesaid.

The said appearer reserving to avail himself of his rights in time and place.

Thus done and protested at New Orleans aforesaid, in presence of Messrs. Felix Percy and Jules Mossy, witnesses hereto required, and residing in this city, who signed these presents, together with the said appearer and me, the notary.

Two words erased—null; two words interlined—approved.*

MANUEL GARCIA.
FELIX PERCY.
J. MOSSY.
FELIX DE ARMAS, *Not. Pub.*

I certify the foregoing to be a true copy of the original. In faith whereof, I grant these presents under my signature and seal of office, at the city of New Orleans, this sixteenth day of September, 1829.

FELIX DE ARMAS, *Not. Pub.*, [L. S.]

UNITED STATES OF AMERICA, *State of Louisiana.*

These are to certify that Felix de Armas, whose name is subscribed to the instrument of writing herein annexed, was, at the time of signing the same, and still is, a notary public for the city and parish of New Orleans, duly qualified and commissioned.

Given at New Orleans, under my hand and seal of the State, this seventeenth day of September, one thousand eight hundred and twenty-nine and of the independence of the United States the fifty-fourth.

P. DERBIGNY. [L. S.]

E.

AN ACT for giving effect to the 8th article of the treaty with Spain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the sales, grants, and confirmations of land made by the Spanish government *bona fide* prior to the —— day of ——, in the year 1810, for lands lying west of the river Perdido, east of the Mississippi and south of the 31st degree of latitude, be, and the same are hereby, ratified and confirmed: *Provided*, That such sales, grants, or confirmations would have been valid against the King of Spain, if he had remained sovereign of the said country: *And provided, also*, That if the whole or any part of the lands contained in such sale, grant, or confirmation shall have been given by the United States as a donation or settlement right, or sold as public land to any other person, the sale, grant, or confirmation by the United States shall be valid, and the claimant under the Spanish sale or concession shall receive as a compensation an equal quantity of land, to be located in any of the tracts of the public land surveyed for sale in the State of Louisiana in the manner hereinafter provided.

SEC. 2. *And be it further enacted*, That no claimant shall receive the benefit of this act but those whose title was perfected during the time that Spain was in possession of the territory in which the lands lie according to the usual forms for making such titles.

* These interlineations have not been noticed in making the copy.

SEC. 3. *And be it further enacted*, That if the whole or any part of the lands contained in any Spanish grant herein confirmed shall have been sold, granted, or in any other manner alienated by the United States before the passage of this act, the claimant under such Spanish grant may apply to the surveyor general of the district in which the lands are situated, and, on obtaining a certificate from him of the quantity of land lying within such claimant's Spanish grant that has been so sold, granted, or alienated by the United States, countersigned by the register and receiver of the land office for such district, he shall be entitled to locate an equal quantity on any of the lands of the United States in the State of Louisiana which shall then have been surveyed for sale, and shall be entitled to a patent in the usual form for the lands so located.

22d CONGRESS.] No. 1070. [1st SESSION.

STATEMENT OF THE NUMBER AND COST OF PATENTS PREPARED AT THE GENERAL LAND OFFICE WHICH HAVE NOT BEEN SIGNED BY THE PRESIDENT OF THE UNITED STATES.

COMMUNICATED TO THE SENATE JUNE 21, 1832.

GENERAL LAND OFFICE, *June* 19, 1832.

SIR: In obedience to a resolution of the Senate of the 11th instant in the following words: "*Resolved*, That the Commissioner of the General Land Office be, and he is hereby, directed to inform the Senate what number of patents for the public lands are now in his office which have not received the signature of the President, and what is the cost of each patent prepared for such signature," I have the honor to state that there are now in this office ten thousand five hundred and ninety patents, which have been written and recorded, and which have not yet received the signature of the President; and that the cost of each patent prepared in this office for such signature is fifty-three cents. Those prepared by persons employed out of the office cost each thirty-nine cents. The parchment, printing the same, and record for each, cost twenty-one cents; the cost of writing and recording each patent in the office is twenty-nine cents; the cost of examining the title papers, with the patent and the record, is three cents; making fifty-three cents for each patent prepared in the office.

The cost of writing, recording, and examining each patent in the office, is calculated upon the allowance of $1,000 per annum to each person engaged in that business.

It has been the practice to allow to those employed out of the office fifteen cents for writing and recording each patent; that sum, added to the cost of skin, &c., &c., as above stated, makes the whole cost thirty-nine cents for each patent written by those employed out of the office.

I have the honor to be, very respectfully, your obedient servant,

ELIJAH HAYWARD.

Hon. JOHN C. CALHOUN, *President of the Senate.*

IN SENATE OF THE UNITED STATES, *January* 9, 1832.

On motion by Mr. ELLIS:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of revising the act of Congress of the 25th of April, 1812, entitled "An act for the establishment of a general land office in the department of the Treasury," so as to provide for the more speedy issuing of patents after the sales of the public lands.

Attest: WALTER LOWRIE, *Secretary.*

WASHINGTON, *December* 23, 1831.

SIR: I introduced a resolution the other day instructing the Committee on Public Lands to inquire into the expediency of so modifying the law relating to the issuing of patents from the General Land Office as not to require the signature of the President to said patents. I should be pleased to know whether, in your opinion, there would be any serious objection to dispense with the signature of the President, and if you should think he might be relieved from this onerous duty with safety to the public as well as private rights; whether any other mode or form of execution would be necessary than the signature of the Commissioner and the seal of the General Land Office. Would it be advisable to have the patents bear the teste of the President?

I should like to be informed whether patents have often been forged, and whether, under the present system of registering, there is much danger of forgery, and whether the omission of the President's signature would afford much or any greater inducement to commit this offence?

I would also beg the favor to be informed of the number of patents that are issued yearly from the office requiring the President's signature, and whether he is able to sign the patents as fast as they are required, and if not, what are the inconveniences that are experienced?

I am, sir, &c., &c.,

JONATHAN HUNT.

Hon. ELIJAH HAYWARD, *Commissioner of General Land Office.*

P. S.—If agreeable, I should like to have you draw the form of a bill to accomplish my object if you think favorably of it.

J. HUNT.

23d Congress.] No. 1189. [1st Session.

ON LAND CLAIMS IN MISSOURI, WITH TRANSLATIONS OF SUNDRY SPANISH LAWS AND CUSTOMS RELATING THERETO.

COMMUNICATED TO THE SENATE FEBRUARY 19, 1834.

Report of the commissioners of land claims under the act for the final adjustment of private land claims in Missouri, and the act supplementary thereto of 2d March, 1833, with translations of sundry Spanish laws and customs having relation thereto, and furnished by Hon. J. M. White, delegate from Florida.

RECORDER'S OFFICE, *St. Louis, Missouri, November* 27, 1833.

SIR: In pursuance of the act of Congress entitled "An act for the final adjustment of land claims in Missouri," and of the act supplementary thereto, of the 2d March, 1833, the undersigned recorder and commissioners beg leave to lay before you, for the decision of Congress, the result of their examination.

In the report now submitted the board have included only such claims as appeared to be entitled to confirmation and to be placed in the first class. They reserved their decision upon those claims which seemed to be destitute of merit in law or equity under the laws, usages, and customs of the Spanish government, for their final report to Congress. We were influenced to take this course from the belief that we were authorized by the terms of the act, which provide that the lands contained in the second class shall not be subject to sale until the final report of the recorder and commissioners shall have been made. This view of the subject was the more readily adopted from the fact that during the almost entire existence of the board the cholera has prevailed to such an extent as to prevent, in a great measure, the appearance of the claimants or their witnesses before the board. Under such circumstances, ordinary justice, not only to the claimants but to the government itself, seemed to require that the greatest indulgence should be given which the law could possibly extend.

Before entering into an examination of the claims, the board came to the determination of settling such general principles as might be found to be applicable, and which should be not only their guide in the decisions to be made, but the basis of the report which they are required to submit.

These principles or general propositions will be found embodied, in the form of resolutions, in the paper marked A, which accompanies this report, and to which you are referred.

The tabular form has been adopted as the most convenient mode of presenting each claim, including the evidence produced in support of it. But as it is made the duty of the board not only to present the claims as they have been submitted, but also to "*state the authority and power under which they were granted by the French or Spanish governors, commandant, or sub-delegate*," they will do so as succinctly as the nature of the case will permit.

For the purpose of arriving at correct conclusions upon the merits of the claims reported, we have availed ourselves of all the sources of information accessible to us. We have consulted not only all the authorities and proofs within our reach on the subject of the French and Spanish laws, usages, and customs, but have also attentively considered the acts of Congress heretofore passed on the subject, and the construction which has been given to them.

By a reference to the various acts of Congress relative to the incomplete French and Spanish claims in Louisiana, it will be seen that the confirmations which have been made of those titles have not been donations or gratuities on the part of our government, but, on the contrary, were predicated upon a right vested in the grantee, or those claiming under him, and founded upon the laws, usages, customs, and practice of the government under which the claims originated. These acts and confirmations might, therefore, have been considered as conclusive, as far as they went, of those laws, usages, customs, and practice; and, consequently, that every claim of a similar character should be confirmed, or placed in the first class, would be the reasonable and natural inference. Without, however, going this length, the board felt it to be their duty, whenever a principle protective of a claim was furnished by those acts, to give it effect, unless some law, usage, or custom of the government which originated the claim should be found to be inconsistent with their provisions.

Among the claims examined, we found that many of them had been excluded from confirmation upon grounds which have since been abandoned by Congress, or upon grounds which have been taken by former commissioners to whom the claims were submitted, and from whose decision there was no appeal; or, lastly, upon grounds which, although justified perhaps by the letter of those acts, were evidently opposed to their spirit and intention. No claim, by the act of 1807, could be confirmed which contained a lead mine or salt spring, and, consequently, a class of claims whose merits in every other particular were admitted were rejected for that reason. This objection, although at the date of the act considered sound, it seems, has long since been abandoned. By the act of 1824, and those subsequent to it, no such exception is made. A meritorious claim, therefore, although containing a lead mine or salt spring, was entitled, intrinsically, to as favorable consideration in 1807 as in 1824, and, in justice, it would seem, should never, at any time, have been excluded from confirmation.

Again: By the act of 1814 it is provided "*that in every case where it shall appear, by the report of the commissioners, register, or recorder, that the concession, warrant, or order of survey under which the claim is made contains a special location, or had been actually located or surveyed* (within the Territory of Missouri) *before the 10th day of March*, 1804, *by a surveyor* duly authorized by the government making such grant, the claimants shall be, and are hereby, confirmed in their claims, provided that no claim adjudged fraudulent, nor a greater quantity than a league square, nor the claim of any person who has received in his own right a donation grant from the United States in said Territory, shall be confirmed."

Now, if those claims coming directly within the provisions of the act just alluded to were entitled to be confirmed and were actually confirmed, we would reasonably conclude, from the same views, that the claims now reported, especially such as are within a league square, are entitled to protection from principles established not only by the acts of 1807 and 1814, but by other acts of Congress; for we are not able to perceive the difference in merit or character which has confirmed some and rejected others which were evidently intended by Congress should be confirmed.

By a parity of reasoning, the authority of the Spanish sub-delegate officers in Upper Louisiana to grant lands, not only to the quantity of 7,056 arpents, or a league square, but even to the extent of 27,000 arpents, it would seem has been established by Congress. In several cases Congress confirmed claims to land exceeding 7,056 arpents based upon *mere permission to occupy*, given by the lieutenant governor. The case of the Valles and others for the *Mine la Motte* tract, believed to contain 27,000 arpents, and that of the Shawanee Indians, who inhabited a considerable tract of country in the former districts of St. Genevieve and Cape Girardeau, who removed from their situation in the United States, by invitation of the Spanish government through their agent, Louis Lorimier, to use them against the aggressions of foreign or domestic enemies in the province of Upper Louisiana, is another and a strong instance illustrating the view here taken on this point.

By several acts of Congress, also, concessions by the lieutenant governor to various individuals have been confirmed to the extent of 7,056 arpents, out of a larger quantity, of from 15,000 to 20,000 arpents, including the original grant. From this the board would conclude that, in thus ratifying those concessions, Congress have settled the question of the power of the granting officer to make them; because they would reasonably suppose that, if the authority was not possessed, the grant would have been void *in toto*, as it would have been an usurpation on the part of the officer, and a flagrant violation of his duty to make grants to such an extent. Such a concession should be regarded as a whole, and its validity or invalidity settled accordingly.

When we ascend beyond the various acts of Congress passed upon the subject of these claims, and seek for their grounds of confirmation under the laws, usages, customs, and practice of the government, and of the authorities at New Orleans acting in obedience to them, as we are required by the law under which we act, we find nothing in those laws, usages, customs, or practice which would justify the idea that Congress, in extending its protection to these claims, has transcended the bounds of propriety and of justice. On the contrary, a close and, as far as we could, a thorough investigation of the subject has brought our minds to the conclusion that, with the exception of the act of 1834, and those acts amendatory of and supplementary to it, the laws of Congress passed in relation to these claims have not been sufficiently comprehensive. Impressed with this belief, we cannot but think that those acts which limit confirmations within a league square; those which exclude claims which contain lead mines or salt springs; and those which require either a special location, or a survey previous to March 10, 1804, have not had sufficiently in view the rights of the claimants as founded upon the laws, usages, customs, and practice of the French and Spanish authorities, and as protected by the treaty of cession and the law of nations.

Breckenridge, in his "Views of Louisiana," speaking of these claims, says, page 143, "it is a subject on which the claimants are feelingly alive. This anxiety is a tacit compliment to our government, or under the former their claims would scarcely be worth attention. The general complaint is the want of sufficient liberality in determining on the claims. There is, perhaps, too great a disposition to lean against the larger concessions, some of which are certainly very great; but when we consider the trifling value of lands under the Spanish government, there will appear less reason for this prepossession against them. For many reasons, it would not be to the honor of the United States that too much strictness should be required in the proof or formalities of title, particularly of a people who came into their power without any participation on their part, and without having been consulted."

In compliance with the provision in the act which requires the commissioners *to state the authority and power under which each claim was granted by the French or Spanish governor, commandant, or sub-delegate*, we would refer for proof of the same to—

1. The usage and practice of the lieutenant governors and sub-delegates in Upper Louisiana from the earliest period to the last concession granted in that province.

2. To the usage and practice of the governors general and the intendant general at New Orleans.

3. To the Spanish laws and royal ordinances on the subject of grants of lands belonging to the royal domain in all its colonial possessions in the western hemisphere.

That the usage and practice have been consistent with the presumption of lawful power in the officers who made grants is, in our opinion, demonstrated and sustained by all the evidence, oral and written, to which we have had access. It is to be observed that the lieutenant governor and the other sub-delegates in Upper Louisiana have almost universally originated the claim or concession. The cases are few in which the original grant emanated from the governor general, and scarcely constitute exceptions to the general practice; since, even in those few cases, the survey was to be made under the immediate sanction of the subordinate provincial authority.

Not a single case has been discovered in which the exercise of the power to grant by the lieutenant governor has been questioned, nor where a complete title has been refused by the governor general or intendant, at New Orleans, upon the ground of the want of power in the lieutenant governor or sub-delegate to make the grant, nor have we found that any was ever refused on the ground that the granting officer had transcended his powers. On the contrary, in the complete titles which have come to our knowledge, the inchoate or primary concession is recognized as legal and valid, and with the survey form the foundation of the formal or complete title. It is a fact worthy of notice, that all the lieutenant governors in Upper Louisiana, from the first to the last, exercised this power of making grants varying in the number of the arpents according to the prayer of the petitioner and the circumstances of the case. Every grant, as far as we have been able to ascertain, made by the French authorities prior to the treaty of Fontainbleau, in 1762, by which Spain acquired possession of Louisiana, and indeed all such as were made prior to the year 1767, the time when Spain was put in possession of the country, were subsequently recognized by the Spanish authorities. The right to make such grants by the French authorities was never questioned. From that period to the date of the purchase of the country by the American government, there was a continual and uninterrupted exercise of the granting of lands by lieutenant governors and sub-delegates, and no complaint was ever uttered by the French or Spanish government for this use of authority. The proclamation made by the Spanish commissioners at New Orleans, May 18, 1803, in the presence of the American authorities, upon delivering the province of Louisiana to the French republic, explicitly assures the people who were then about to pass into the hands of a new sovereign of protection in their rights, by announcing "*that all concessions or property of any kind soever given by the governors of these provinces be confirmed, although it had not been done by his Majesty.*" These facts alone are sufficient, in our opinion, to authorize the conclusion that those officers who made grants in Upper Louisiana had the power so to do, and did act within the pale of their authority. It would be a very rash and violent presumption to suppose that a succession of provincial officers, regularly pursuing the same course, for nearly half a century, in the granting of lands, were, in

every step taken, and every act done, usurping power, and violating not only the mandates of an arbitrary despotism, but also the laws, usages, customs, and practice of the government under which they acted. And it would be an unreasonable inference to be deduced from these facts that, because the sovereign has nowhere given his *express assent* to such proceedings, they were therefore illegal and void. We are happy to find that we are sustained in these views by the opinion of the Supreme Court of the United States in the case of the United States against Arredondo. These are the words of the court: "The grants of colonial governors, before the revolution, have always been and yet are taken as plenary evidence of the grant itself, as well as authority to dispose of the public lands. Its actual exercise, without any evidence of disavowal, revocation, or denial by the King, and his consequent acquiescence and presumed ratification, are sufficient proof, in the absence of any to the contrary, (subsequent to the grant) of the royal assent to the exercise of his perogative by his local governors. This or no other court can require proof that there exists in every government a power to dispose of its property; in the absence of any elsewhere, we are bound to presume and consider that it exists in the officers or tribunal who exercise it by making grants, and that it is fully evidenced by occupation, enjoyment, and transfers of property, had and made under them without disturbance by any superior power, and respected by all co-ordinate and inferior officers and tribunals throughout the State, colony, or province where it lies."—(6th Peters's Report, p. 728.)

We find that all the complete grants, eighteen only of which have come to our knowledge, were based on grants made by the subordinate authorities subsequent to the first of December, 1802; no complete title could be made, as appears from the letter of the intendant, Morales, to the lieutenant governor of Upper Louisiana of the same date, stating that the office was closed on account of the death of the assessor, and directing that no applications for complete titles should be made till further orders. No order, so far as we know, was given; nor does it appear that the office was ever reopened previous to the treaty of cession.

The difficultics attending the making of titles complete were many and great. The expenses in procuring a complete title at New Orleans were enormous, and considered as extortionate. Stoddart, in his "Sketches of Louisiana," a book to which we particularly refer as shedding much light on this subject, says that it "was necessary that a concession should pass through four, and, in some instances, seven offices, before a complete title could be procured, in which the fees exacted, in consequence of the studied ambiguity of the thirteenth article, frequently amounted to more than the value of the lands." Besides, the difficulties of intercourse between the posts in Upper Louisiana and New Orleans were so great that few were willing to encounter them, especially as the formalities of a complete title seemed in the minds of the people to vest no more right than was acquired when incomplete.

From the closest scrutiny that we have been able to make, the quality and the location of the land were the principal concern; but little importance was attached to the fact that the title was incomplete. And why should it have been otherwise, when the governor general unquestionably well knew the constant and invariable practice of the lieutenant governors in granting lands, and never, so far as we know, either ordered or required that the concessions should be taken to New Orleans for his signature, before they could be considered as passing titles. These incomplete grants could be and were sold for debts, did pass by devise, and were transferable at the will of the concessionary; and it is notorious that these several modes of disposing of them were resorted to and adopted as the fixed practice of the country. The governor general, as the superior of the lieutenant governor, or sub-delegate, must be presumed to have known the acts of his inferior, and the ordinary customs of the country; and if such practices and customs were contrary to law, the supposition is that he would have prohibited them for the future. There was no regulation or law that we have been able to find in the researches which we have made, which required that the grantee should apply within any given time to have his grant made complete. It would seem that he was at perfect liberty to consult his own convenience. Indeed, the royal domain was distributed in such a liberal manner, and for such worthy purposes, that it appears the people were entirely satisfied with the assurance of property contained in the grant made by the lieutenant governor. The objects contemplated by these grants were the improvement of the country, the increasing of population; and also they were given as rewards, and as compensation for services rendered. We have not been able to find a single instance of the sale of the royal domain in Upper Louisiana, from the first establishment of the post of St. Louis in 1764 to the 10th of March 1804. A proposal to purchase was made by Bartholomew Cousin, on the 5th of March, 1800, at a price to be fixed by the intendant general, but it does not appear that it was ever acted on. The first sale of land that was ever made in Upper Louisiana by the sovereign of the soil was, from all the information in our possession, made by the government of the United States.

The regulations of O'Reily, Gayoso, and Morales, in the opinion of the board, had no effect in changing the practice in the distributing of the royal lands; nor were ever considered as a new code, different from the one already existing as the settled law of the Spanish American dominions. Those by Gayoso evidently had reference to new settlers coming from foreign countries, and, as regards Spanish subjects, were disregarded by himself, as appears by a complete title granted by him to one Regis Loisel, of St. Louis, described in the grant as a merchant. By his regulations no grants were allowed to merchants. As respects the laws of O'Reily, Stoddart, in his Sketches of Louisiana, pages 251 and 252, says that "it may be doubted whether the land laws of O'Reily ever operated in Upper Louisiana. They bear date nearly three months before the Spaniards took possession of that part of the country, at which time there existed only a few miserable huts in it; the first settlements commenced only four years before." Again he says, "indeed, the regulations contained in them were totally inapplicable to that part of the country, and the Spanish authorities there always conceded lands on principles not derived from them."

The same author, speaking of the laws of Morales, says, page 252, "it is believed that these laws were never in force, certain it is that they were never carried into effect. The reason for the first is, that the great clamor raised against them in all parts of the province induced the governor general and cabildo to draw up a strong protest against them and to lay it before the King. The consequence was, that Morales was removed from office, though he was afterwards reinstated, merely to assist in transferring the possession of the country to the French republic. The reason for the second is, that the assessor died soon after they were promulgated, which totally deranged the tribunal of finance and rendered it incapable of making or confirming land titles." The board cannot therefore believe, if they were ever so intended, that these laws had the effect to supplant the laws, usages, customs, or practice of the Spanish government in the province of Upper Louisiana, as they were then known to the people and recognized and acted upon by those in power. The general code of the Spanish land laws in Louisiana

seemed to have grown into gradual though silent operation, originating from the circumstances of the country, and accommodating itself to the necessities and condition of the people. They were resorted to as the country required their application and became ripe to receive them, and furnished the rules of action and decision for all the subordinate civil authorities of the province.

So peculiarly connected with the circumstances of the country was the administration of the law, that Stoddart, page 250, advances the opinion that the lieutenant governors had a *discretionary power* in the making of grants. "For," says he, "they always exercised it, and it is difficult to presume that they would contravene the known laws of their superiors without instructions to that effect. In all their concessions they were regulated by the wealth and importance of the settlers." He adds, "the governor general at first imposed considerable restrictions on the commandant relative to the concession of lands, but he afterwards found it necessary to be more liberal than even the land laws of O'Reily. In July, 1789, he wrote to the commandant at New Madrid as follows: "Notwithstanding the instructions heretofore sent you, more or less front or depth may be given according to the exigency of the ground, *as likewise a greater or less quantity of land agreeably to the wealth of the grantee.*" In the claims which have been examined, and are now submitted for the supervision of Congress, we noticed the fact as remarkable that grants prior to 1789 differed from those subsequent to that period, not only as regards quantity, but also the terms of the grant; those subsequent generally containing a much larger quantity and being more liberal to the concessionary.

In a colony so partially organized, and under such circumstances, it would seem unreasonable to call for the *precise* written authority under which each officer acted, or to require that the particular law or ordinance of the Spanish government under which any act or series of acts was done should be *specially exhibited.* It is sufficient that nothing in these laws, usages, customs, or practice is inconsistent with or repugnant to the royal ordinances of the King.

The Spanish laws which we have consulted, and to which we beg leave to refer Congress as calculated to throw some light upon the subject, are to be found in the *Recopilacion de Leyes de los Indias;* the royal ordinance of the 15th of October, 1754, by Ferdinand the Sixth; that of 1786, by Charles the Third, and the royal letters to Morales of the 22d of October, 1798. Also we would here again refer to the "Sketches of Louisiana," written by Mr. Amos Stoddart, who was the first civil and military commandant in Upper Louisiana after the country was taken possession of by the American government. The board have with great attention consulted this author, and have relied with unhesitating confidence on his statements. Coming to the country, as he did, immediately after the treaty of cession, to take command of the country as a civil officer of the American government, when the Spanish officers were many of them still in the province, and the laws, usages, customs, and practice, as exercised and applied under the Spanish government, although it had just ceased to exist, were still fresh in the minds of the people, with the Spanish records in his possession, he must have known as facts what he has stated as such; and if fraud had been practiced, of all other times it must then have been discovered.

The laws authorizing grants of land for the purposes of settlement and population are to be found in White's Compilation, pages 34, 35, 38, 39. Those relating to grants of lands as rewards for services, or as pure graces, "mercedes," will be found in the same work, pages 30, 35, and 41. The earliest of the first class of laws bears date in 1513. The first law of the second class was made in 1542; the former twenty-one years, the latter fifty years, after the discovery of the New World by Columbus.

The grants of land for services rendered were of a liberal character, and we are bound to believe had the sanction of the sovereign, as we know of no objection having been urged to the usage. The practice seems to have originated from the liberal views of the Emperor Charles in his decree of 1542, which ordains that the viceroys of Peru and New Spain and the governors of the provinces under their authority *grant such rewards, favors, and compensation as to them may seem fit.* This decree, recognized successively by Philip the Second, in 1588; in 1614, by Philip the Third; and in 1628, by Philip the Fourth, was finally incorporated by Charles the Second, in 1682, into the *Recopilacion de Leyes de los Reynos de las Indias.*

Thus it manifestly appears by the laws and authorities above recited and referred to that it was the duty of the provincial authorities not only to grant and distribute the royal lands in the King's name for the purposes of settlement and population, but that it was specially enjoined upon them to grant lands as rewards for services.

The royal ordinances of 1754 and 1786 have been carefully examined, and nothing has been found in them to limit the power conferred on the authorities in the *Recopilacion.* An order of Philip the Fifth, of the 24th of November, 1735, which required confirmation by the crown, was revoked by the ordinance of 1754, which authorized the *audiencias* to issue the confirmations in the King's name; and when the sea intervened, or they were in distant provinces, empowered the governors, with the assistance of other officers mentioned, to issue complete titles.

By the 31st article of the ordinance of 1786, intendants in the kingdom of New Spain were made exclusive judges of grants of lands, and referred them for their government to the various laws on the subject in the *Recopilacion,* and to the ordinance of 1754, which is appended to the 31st article.—(See White's Compilation, pages 54, 55, 56, 57, and 58.) The ordinance of 1786, so far as it vested in the intendants the power to grant lands, was for the first time declared to be in force in Louisiana by the royal order of October 22, 1798, to be found in White's Compilation, page 218.

In the enacting part of the ordinance of 1754, it is to be observed that the King speaks of "mercedes," rewards, as contemplated by it. This ordinance does not specifically mention the laws of the Emperor Charles, of the 2d, 3d, and 4th Philip, and of Charles the Second, who compiled and promulgated the *Recopilacion;* but it does not therefore follow that they were repealed, or in any manner altered as respects the power given by those laws to the subordinate authorities in the Spanish American dominions to grant lands as rewards or graces, "mercedes," for services rendered the government. Nor have we discovered anything in this ordinance to lead us to the opinion that a mere sale of lands with a view to revenue was the object of the government, or that the far more useful and wise policy of settlement and population, as developed in the *Recopilacion,* was intended to be abandoned.

It would extend this report beyond reasonable limits to enter at large into a detail of the circumstances and state of Louisiana to show that the Spanish land system then observed and practiced upon was expedient and applicable to that part of the Spanish American dominions. The importance of population and settlement in that province, arising from its contiguity to the North American republic on the one side and its great exposure to numerous and formidable Indian nations on the other, were certainly great inducements for the establishment of those laws, usages, customs, and practice which we find did

most certainly prevail. These causes and circumstances, instead of narrowing the power to grant, given by the code of Indies, must rather have been a sufficient reason for widening its range and facilitating its exercise.

In forming an opinion as to what would have been the fate of the claims submitted and now reported "if the government under which they originated had continued in Missouri," the view here taken of the laws, usages, customs, and practice of the Spanish government in the province of Louisiana, and the spirit and policy which they disclose, have led us to the conclusion that those claims which we have examined, and which are now reported to Congress, would have received the sanction of the governor general at New Orleans and been perfected into complete titles. Laying aside every other consideration, the practice alone which universally prevailed of regarding these grants as private property by the government in both Upper and Lower Louisiana, would have strongly inclined the board to regard them in a favorable light. It is a matter of record history that inchoate concessions, were such as were unlocated, unsurveyed, and having nothing special in their character, were the objects of sale, transfer, inheritance, and devise; that they were sold under execution for debt, included in the inventories of persons deceased intestate; in short, that they were regarded by the inhabitants and public authorities, to all intents and purposes, as any other available property, satisfactorily appears from the claims heretofore confirmed and from those examined by the board and now submitted for the consideration of Congress. Some were even adjudicated upon by the governor general at New Orleans. May it not, then, be inferred that the government which would adjudicate upon and sell under execution an inchoate concession and complete the title in favor of the purchaser would, *a fortiori*, unless fraud were shown, perfect that into a complete title, if required, which was in the hands of the original grantee?

In the claims reported it will be seen that some have been recommended for confirmation which were never surveyed. The fact that such grants were regarded by the inhabitants and authorities of the country as property, also induced the board, from that custom, to look upon it in the same light; and as we have not discovered that any condition appears ever to have been implied as to the time within which a complete title was to be applied for, so the same view holds good as to the time when the land should have been located or surveyed. Nor was it possible in the nature of things that the inhabitants could have anticipated a change of government. A survey, besides, as appears from evidence brought before us, and which is now submitted with this report, was accompanied with great expense and difficulty. The cost for surveying a league square was near six hundred dollars. Besides, it was impossible to obtain surveys of all concessions. First, because of the scarcity of surveyors; secondly, because of the presence of hostile Indians on the lands granted. We are unwilling to suppose that the Spanish government, had it still continued, would, under such circumstances, have declared the grant void for the want of a survey on or previous to March 10, 1804. This date is mentioned because by the act of 1814 a survey previous to it is made an indispensable prerequisite to confirmation. It appeared, therefore, to be no valid objection to the confirmation of a grant in the opinion of the board that it had not been surveyed either before or after March 10, 1804, because previous to that date, and even subsequent to it, it was almost impossible to make surveys, and by the act of Congress passed March 26, 1804, such survey was prohibited under heavy penalties.

The same view of the subject has brought the board to the conclusion that where no improvement or cultivation upon land, included within an incomplete grant, although located or surveyed previous to March 10, 1804, has been made, it should work no injury to the grantee, because that act specially forbade any improvement, suspended his rights, and deprived him of all practical benefit of his land until it should be confirmed. This construction of the act was taken by Mr. Madison, the President of the United States, who, in his proclamation of December 12, 1815, prohibited all occupation of unconfirmed lands, and ordered the proper officers of the United States to drive off those who should enter upon them. In the examination of these claims by the board, most carefully made, we have looked with an eye particularly directed to the question of their *bona fide* character. At the same time that we have labored with an anxious scrutiny to detect fraud, we have been careful not gratuitously to presume its existence. On this head we have been governed by the well-settled principle recognized by every enlightened nation, that fraud must be proved and not presumed. In the luminous decision given by the Supreme Court of the United States in the Arredondo claim, this view of the subject is ably laid down and sustained. "Fraud," say the court, "is not to be presumed, but ought to be proved by the party who alleges it; and if the motive and design of an act was to be traced to an honest source equally as to a corrupt one, the former ought to be preferred." With such sound principles, sustained not only by the voice of society but by the decision of the highest judicial tribunal in the country, we have endeavoured to conform our opinions, and it is but justice to declare that in the examination of the claims reported no proof of fraud has been made.

Some claims are reported and submitted for the consideration of Congress which rest alone upon a mere grant. There was no survey, and, as far as we know, no cultivation. From the most mature reflection that we have been enabled to bestow on this class of claims, the conclusion was forced upon our minds, from the circumstances and condition of the country, and from the customs and practice of the inhabitants and civil authorities, that such should be recommended for confirmation. In the first place, the grant was made and signed by an officer of the existing government, whose acts we are bound to presume were in accordance with his powers, and sanctioned by the sovereign will, as contained and expressed in the laws, customs, usages, and practice of the country.

Secondly. They were regarded as vesting a right so far indefeasible that they were subject to the adjudication of the civil authorities; were so adjudged upon; were made liable to public sale for debt; were transferable in the ordinary transactions of life; could be inherited, and were capable of being devised.

Thirdly. By a reference to the testimony of Baptiste Vallé, sr., Frémon Delauriere, and others, which accompanies this report, it will be seen that it was both dangerous and difficult, on account of the Indians, and the scarcity of surveyors to make surveys. The difficulty of making cultivation, habitation, or improvement arose from the same causes. Indeed, the inhabitants found it a matter of no small concern and difficulty to protect themselves from the Indians without encountering the dangers which would arise from excursions into the woods. Breckenridge, in his "Views of Louisiana," bears testimony, page 138, that but "a few troops were kept up in each district throughout the province, and were too inconsiderable to afford much protection to the inhabitants."

Fourthly. There being no limited time within which a survey should be made, the change of government prevented the execution of it under the French and Spanish governments, and our laws after the existence of those governments prohibited it.

Fifthly. If such, for the want of survey and cultivation by the laws, usages, customs, and practice of the Spanish government, were void, they would, by those same laws, usages, customs, and practice, have been reannexed to the domain. Whenever a grantee became delinquent as to any of the conditions or requisitions contained in his grant, such land so granted was reannexed to the royal domain. Stoddart, page 247, says, "the same formality and solemnity were observed in the annexation of lands to the domain as when they were granted or conceded. All annexations were declared, by an ordinance of Louis XV, in 1743, to be null and void, and of no effect, *unless they were judicially decreed.* The same principle obtained under the Spanish authorities; and they deemed it obligatory." That such was the law, custom, or usage, and so practiced by the authorities of the country, is fully established by reference to the "Livre Terrein," now in the office of the recorder of land titles, in which we have instances of this method of "judicially decreeing" an annexation to the domain of such lands as had been forfeited for a non-fulfilment of the terms of the grant.

Sixthly. Such grants bear in their terms the character of vesting a fee simple in the grantee. They seem to have been so petitioned for, and were so granted. If such a title could not have been passed by the grant, it would be unreasonable to suppose either that it would have been so requested or so granted. It must be admitted that they were acquainted with their own laws and customs; and allowing them only a small degree of regard and obedience to the same, it is nothing more than a fair presumption that what was asked for and what was granted was legitimate and proper.

In the claim of Bernard Pratte for 800 arpents, to be found among those examined and recommended for confirmation, it will be seen that a transfer of it was made before the grant was located, all of which was sanctioned by the lieutenant governor himself.

In 1779, land was granted by Ferdinand de Leyba to one John Saunders upon express condition that said Saunders should cultivate it one year from the date of the grant. Before the expiration of the year Saunders sold the land, and his assignee made or proved no cultivation. In 1793, Zenon Trudeau, lieutenant governor, made a decree in favor of the claimant against one Joseph Hortez, who claimed the same as his property. Who will say that Trudeau, the lieutenant governor, in this proceeding, violated the laws and customs of the country, and that this was an act of usurpation? There is certainly much more in the history of the country, during the time the French and Spanish governments existed in Louisiana, to prove that it was in accordance with their laws and customs than that it was a violation and an act of usurped authority.

There is one claim reported which seemingly is at variance with the principle contained in the tenth resolution adopted by the board. It is the claim of Louis Bissonet for 40 arpents. The grant was made in 1777 by Francisco Cruzat, in which there was an express condition that the land should be cultivated within a year from its date. No cultivation is shown until the year 1798. It was then claimed by and cultivated as the land of Louis Bissonet. Subsequently, the same land was surveyed by Antoine Soulard, surveyor general of the province of Upper Louisiana, under the Spanish government. Much reflection induced the board to recommend this claim for confirmation, because it was believed that, although the condition was not proven to have been performed, yet the claim so long set up was a fair presumption that the condition had been fulfilled, and that if it had not it would have been re-annexed to the domain.

Having thus presented the views which we have of the question referred to the board by the act of July 9, 1832, we will now proceed to state, in a few words, the nature and grounds of the decisions made upon the claims submitted to them by virtue of the act of March 2, 1833, founded upon settlement and cultivation.

In deciding upon and applying the evidence submitted in support of these claims, we have observed the following rules:

1st. That, under the act of 1833, only such claims founded on settlement and cultivation are cognizable as have been heretofore filed with the recorder.

2d. That all such claims as come within the provisions and requisitions of the act of Congress of March 2, 1805, and the acts supplementary thereto, of April 21, 1806, March 3, 1807, and June 13, 1812, are entitled to confirmation.

The evidence in support of the claims herewith reported is spread upon the tabular statement of each of them, to which we beg leave to refer.

Before concluding, permit us to notice one or two subjects more, upon which we think it is proper that some suggestions should be made. In the examination of the question submitted to us, it was discovered that there were some cases which could not be noticed, in consequence of their not having been filed within the time limited by the acts of Congress. The omission to file them arose from numerous causes; in some cases they were found to be in the hands of infant heirs; in other cases owned by the French or Spaniards, who, not knowing our language, were ignorant of our laws, and of what was demanded under them. But most generally the omission to file them in proper time arose from the ignorance of the people, that such a requisite was necessary to the validity of their claims. The first settlers of the country were daring men, who were scattered over a wide range of country, and whose sources of information of the proceedings of the government were few and difficult; besides, by the act of March 2, 1805, section 4, it was not obligatory on the claimants to file notice of claim founded on any incomplete grant, bearing date prior to the first of October 1800. The 4th section of the act of 1805 provides that every person claiming land "by virtue of an incomplete title, bearing date subsequent to the first day of October, 1800, shall, before the first day of March, 1806, deliver to the recorder of land titles, within whose district the land may be, a notice, in writing, stating the nature and extent of his claim, together with the plat of the tract or tracts claimed." The 5th section of the act of March 3, 1807, provides that "the time fixed by the act above mentioned, (the act of 1805,) and the acts supplementary thereto, be extended to July 1, 1808." Many of these claims deserve, perhaps, the favor which has been extended to those which have been filed.

From all that we can learn, some of those claims seem to possess intrinsic merit. We have been led to make these suggestions, from the fact that these claims were recognized by the act of March 26, 1824, and the acts supplementary thereto, under which the United States district court of Missouri was authorized to adjudicate upon the French and Spanish unconfirmed land claims in said State. There are many claims depending on settlement and cultivation in the same situation, and arising from the same causes.

Upon the subject of conflicting claims we have been unable to ascertain to what extent they exist;

having no *data* by which our exertions could be directed, we have labored pretty much in vain to find out in what cases they have taken place, although we caused a notice to be published, requesting in it adverse claimants to come forward and notify us of the fact; which notice is forwarded with the report. We are of opinion, however, that they exist to a considerable degree. There are numerous cases of lands lying within these French and Spanish claims, belonging to individuals whose right or claim originated under the government of the United States; some depend upon purchases; some upon the law allowing pre-emption; some others upon New Madrid locations; and some again upon settlement rights, which have been confirmed.

Most of these persons have been for a long time settled on their lands. Their claims being of a *bona fide* character, derived from the government of the United States, they went on to improve their lands, making for themselves and families comfortable homes, without any belief that they would ever be interrupted in their possessions. Should the claims reported by the board be confirmed by Congress, in whole or in part, Congress will, in their wisdom, no doubt notice the suggestion here made, and carve out such a course as will quiet the uneasiness and anxiety which are felt, by doing everything which even the most scrupulous demands of justice could require.

We deem it proper to state, before concluding, our apprehension that, in some cases where French or Spanish grants have been held for a small quantity of land only, the grants have been laid aside, and a claim set up by settlement right for 640 acres, a much larger quantity. It is difficult to discover or detect the imposition.

We would respectfully suggest that, in the event of the confirmation of this report, in whole or in part, a provision should be made, confirming settlement rights, where they have sufficient merit, upon the condition that the person to whom it is confirmed had not previously held under a French or Spanish grant. It is due to the claims reported to say that no such suspicion attaches to them, nor will we say positively that we know of any case where such a course has been taken. We have ventured to make the suggestion from circumstances which authorize the belief that some such instances have occurred.

We now close this report by observing that the great number of claims originating under the French and Spanish governments arose from the condition of the country, from their want of population, and from their desire to have the lands speedily brought into a state of cultivation and improvement; for we find that France, in attempting to accomplish her great plan of permanently uniting the St. Lawrence with the Gulf of Mexico, held out inducements to emigration, with the view to form a permanent barrier against the encroachments of the English. Around her various military posts in this quarter colonies were planted, where, amid the vicissitudes of climate, at war with the elements and various Indian tribes, suffering every privation, they continued to flourish under the fostering care of the mother country. The same policy was pursued by the Spanish government. In recommending the claims of these people now presented to your notice, we do it on the grounds of their merit, the various laws, usages, customs, and practice of the different governments under which they originated, and, in our opinion, the great and immutable principle of justice.

All of which is most respectfully submitted.

ALBERT G. HARRISON.
L. F. LINN.
F. R. CONWAY.

ELIJAH HAYWARD, Esq., *Commissioner of the General Land Office.*

A.

Resolutions passed by the board of commissioners on the 30th October, 1833.

First. *Resolved*, That it was the custom of both France and Spain, and formed a part of the policy of those nations in the settling of new countries, to appoint officers whose business it was, by express regulations, to grant lands to all such of their subjects as might wish to settle in those countries, for the avowed purposes of improving and populating said countries.

Second. That all acts in relation to grants, concessions, warrants, and orders of survey done and performed by the French and Spanish officers during the time those governments had possession and exercised the sovereignty over the province of Upper Louisiana, ought to be considered as *prima facie* evidence of their right to do those acts and perform those duties, and ought to be held and considered binding on the government of the United States, inasmuch as the acts of the officers in said province were not only tolerated but approved by their superiors in power.

Third. That all grants, concessions, warrants, or orders of survey made and issued by the French or Spanish officers in the late province of Upper Louisiana on or before the 10th day of March, 1804, where the same are not proved to be fraudulent, ought to be confirmed, provided the conditions annexed to the grant have been complied with, or a satisfactory reason given for not fulfilling the same.

Fourth. That O'Reily's instructions or regulations of February 18, 1770, those of Gayoso of September 9, 1797, and those of Morales of July 17, 1799, were not in force in Upper Louisiana, except, perhaps, the provisions contained in those of Gayoso which related to new settlers.

Fifth. The sub-delegates, in making grants, &c., were not limited by any known law or custom as to the quantity of arpents they should grant, except, perhaps, as to new settlers, and that such grants passed title, and that a survey was merely an incidental matter after the title had passed by the grant, so as to identify the land that the grantee might take possession of it.

Sixth. That what are called incomplete grants by the custom and practice of the country were recognized as property capable of passing by devise, transferable from one to another, and were liable to be sold for debt.

Seventh. That those grants which are general in their terms pass as good a title as those which are more special, the difference being in the description of the land, and not in the title.

Eighth. That those officers of the French and Spanish governments whose names are signed to concessions must be presumed to have acted agreeably to powers vested in them by their sovereign, and that their acts are accordingly legal until the contrary is shown.

Ninth. That fraud is an affirmative charge, and, as relates to the French and Spanish claims, as well as in all other cases, must be proved, and not presumed.

Tenth. That in all cases where there are conditions to a grant, &c., if the grantee show satisfactorily that he has been prevented from a fulfilment of the conditions by the act of God, by the act of law, by the enemies of the country, or by the act of the party making the grant, or any other sufficient cause, that the grantee will be considered as absolved from the performance of the same, and the grant regarded as absolute.

A. G. HARRISON.
L. F. LINN.
F. R. CONWAY.

PRIVATE LAND CLAIMS.

The undersigned, commissioners appointed for the purpose of finally settling the private land claims in Missouri, would beg leave respectfully to notify all whom it may concern that the time of taking testimony is limited to the 9th of July next, after which period no new evidence can be received. From great age and infirmity many of the witnesses cannot attend at this place. One of the commissioners is authorized to proceed to the southern counties for the purpose of receiving testimony. He will give notice when and where he will be in attendance for that object.

There is another point to which they would call your attention. Many persons have bought lands from the government of the United States which had been covered by Spanish and French grants. Where this is the case the undersigned should be informed, that they may report the fact to Congress, which may have the effect of preventing embarrassment and litigation.

L. F. LINN.
A. G. HARRISON.
F. R. CONWAY.

St. Louis, *March* 21, 1833.

Editors of papers would confer a favor on the public by giving the above a few insertions.

A true copy of an advertisement published in the Free Press of March 28, 1833.

JULIUS DE MUN, *Translator Board of Commissioners.*

St. Louis, *November* 27, 1833.

Letter from J. M. White, delegate from Florida, to Hon. Mr. Linn, Senate of the United States, with translations of sundry Spanish laws and customs having reference to land claims.

WASHINGTON, *February* 16, 1834.

SIR: I regret very much that I have not been enabled, from my pressing engagements, public and professional, to read your report upon the Missouri land claims.

I have made some translations of Spanish laws, which may serve to illustrate the subject since the publication of my compilation. If they are deemed of any value, they are at your service.

With great respect, your most obedient,

JOSEPH M. WHITE.

Hon. Dr. LINN, *of the Senate.*

COMPENDIUM OF THE HISTORY OF ROYAL LAW OF SPAIN.

From the institutions of Alvarez.

[Translation.]

As this compendium has no other object than to give to beginners some idea of our codes of law, I will only make in it a brief relation of what our authors are agreed in, without mixing in the prolix disputes which this matter generally gives rise to.

Although there are some who have wished to discover the laws by which the first founders of Spain were governed before its invasion by the Carthagenians, yet it is necessary to confess that we have nothing certain upon this subject. The most probable appears to be that they had no laws written, and that they undoubtedly were governed by those of custom, and by arbitrary decrees founded in equity and justice. It is believed that the Carthagenians would begin at least by introducing theirs into the provinces which they ruled, but even this conjecture is not altogether fixed, if we consider the short time that their government lasted, which was a little more than two hundred years, during which they were agitated with continual wars.

To the Carthagenians succeeded the Romans in the sway over Spain, and these, there is no doubt, as soon as they completed the conquest of all the provinces, introduced in them their language, customs, and legislation.

In the decadence of the Roman empire of the west, Spain passed under the dominion of different barbarous nations of the north, viz: the Goths, Vandals, Alans, the Suevi, and Silingi; all of these disputed the dominion a long time among themselves until the Goths, by the ruin or banishment of all the others, remained sole masters of Spain, which happened about the year 412 of Jesus Christ. These Goths, in the beginning of their reign, permitted the Spaniards to continue the use of the Roman laws, to which it appears they were accustomed, and from time to time went on establishing others. The first who gave them in writing was the King Eurico, who died in the year 483. To these were added others

by his successors, and chiefly by Leovigeldo, who mended and regulated those which existed, taking away those which were superfluous, and adding others necessary.

The first code of Gothic laws is the famous one published in the 12th century in Latin by the title of Liber Judicum, also called Fuero de los Juices ò Fuero Juzgo, (judges' statutes;) and this is held as the fountain or origin of the laws of Spain. The work is divided into twelve books, also divided into chapters, and its laws are composed of edicts of divers Gothic kings of various councils of Toledo and other enactments of unknown origin. There are doubts as regards the author, some giving it to Sisenando, some to Chindasvindo and others to Recesvinto, who all flourished in the seventh century.

After the entry of the Arabs into Spain, which happened in the year 714, in which the Gothic monarchy was destroyed, the Gothic laws continued to govern for many years in the provinces which were preserved from the Moors, and in those which were got back, which were governed by them and by the general customs of the nation. The division of the provinces which were conquered from the Moors, and the difference which, in time, was remarked in many things of the individual government of each, were the cause of the variety of codes which were then established. In Castile was established at the end of the 10th century and commencement of the 11th, by the Count Sancho Garcia, the *Fuero* called *Viejo de Castilla*, (old statutes of Castile,) the laws of which are, after those of the Fuero Juzgo, the fundamental ones of the crown of Castile, separate from those of Leon. Don Alonzo VII, in the cortes of Najera of 1128, augmented and amended it, publishing besides various laws with respect to the nobles. To these were afterwards annexed several usages and customs of Castile and different *fazañas* or sentences pronounced in the tribunals of the kingdom, all which governed up to the reign of Alonzo XI, who desired the preference to be given to the code which he published and regulated in the cortes of Alcala in the year 1348, known by the name of Ordenamiento Real de Alcala, (royal regulations of Alcala.) Lastly, the King Don Pedro, in the cortes of Valladolid of 1351, mended and regulated the Fuero de Castilla in the form in which it has arrived to our times. This code is also known by the names of Fuero de los Hijosdalgos, (statutes of gentlemen,) Fuero de Burgos, (statutes of Burgos,) and Fuero de los Fazañas, (statutes of the sentences,) ancient laws and customs of Spain.

In the kingdom of Leon, King Alonzo V, in the general cortes which he held in the city of that name in the year 1020, gave the statute which he called of Leon, composed of laws established in that assembly for the government of that city and kingdom, including Gallicia and the part of Portugal then conquered, all which continued to be governed by them until the publication of the code called *Fuero Real;* and although the aforesaid two statutes of Castile and Leon were established in both these kingdoms, the laws of the Fuero Juzgo continued also to be observed in the provinces more or less respectively in every thing relating to common law until with time the observance of them began to cool, principally in Old Castile; but if here their vigor decayed it was recovered throughout the whole of New Castile, and the provinces which continued to be conquered from the period of the reign of Alonzo VI up to the beginning of that of Alonzo the Wise, which monarchs gave the laws of this code to the conquered people for their government in all that belonged to common law.

King Alonzo X, called the Wise, being desirous of annulling the statutes of population and conquest and the general ones of Castile and Leon, in order to avoid the confusion and even complication of such a multitude of different laws in each province, ordained and published in the year 1255 the *Fuero Real*, known also by the names of the Book of the Councils of Castile, Statute of the Laws, and Statute of the Court, because by it were chiefly decided the processes in the tribunals of the court, and he ordered that the laws therein should be the general and only ones in all his dominions; but the nobles and the people, particularly of Castile, finding out that their ancient statutes and privileges were by it destroyed, they made their complaint and recovered them in time of the same Don Alonzo, when among these the observance of the Fuero Real ceased; but it was generally in use in Estremadura, Algarva, Andalusia, kingdom of Murcia, &c. The same complaint was made by the councils of the cities and towns of the crown of Leon in the time of the discords of the Infante Don Sancho with his father the same Don Alonzo, when the re-establishment of the laws of the statutes of Leon and of the Fuero Juzgo was agreed upon among other things.

The Fuero Real was not without many defects, and on this account and for its greater clearness and intelligence it became necessary to form the explanations called Leyes de Estilo (laws of the age) to the number of 252, by the authority of the same King Don Alonzo, of his son Don Sancho, and of Don Fernando el Emplazado, as it is declared in the prologue. These were published at the end of the 13th century or beginning of the 14th, and some of them are found inserted in the New Recopilation.

After the Fuero Real follows the celebrated code of the *Partidas*. The prologue to this work informs us that the King Don Alonzo the Wise undertook it by order of his father, Fernando, in the year 1251, and fourth of his reign, and that he finished it in seven years afterwards. These laws were not in practice until the time of Alonzo XI, (about the year 1348,) who, by the law 1 of the 28th chapter of his ordinance of Alcala, published and gave them force after they were mended and corrected by him to his satisfaction. The same appears in law 3, tit. 1, book 2, of the New Recopilation. It is considered as certain that the cause of such a great delay in the publication of this code was the disturbances, wars, and other most important matters which occurred in the reign of Don Alonzo the Wise and the two following.

The Partidas was composed in a great measure of the laws of Roman codes, of chapters from the canonical law, and authorities of the holy fathers. It is evident that they likewise contain many ancient laws of the kingdom, and that the customs and statutes of the nation were consulted, the desire being to issue a perfect legal code, and peculiar to our Spain; but this so important object was not attained completely.

Don Alonzo XI, desirous that all his dominions should be governed by one and the same laws, and in view of what he had promulgated in the cortes of the royal city of Segovia, formed in the cortes of Alcala, in the year 1348, the *Ordenamiento de Leyes*, (ordinance of laws,) known by this name, ordering that those should govern in his dominions in preference to the ancient codes; and, after them, those of the municipal statutes of the cities, and those of the parties after he had corrected them; and this was renewed by Enrique II, in the cortes of Toro, in the year 1369, and by Queen Doona Juana, in the law first of Toro, which is found inserted in the New Recopilation. Of this code almost all the laws passed, in like manner, into that Recopilation, either entire or with some slight alteration.

From the laws of this code, and those which were promulgated by the Kings, the successors from Don Alonzo XI down to the Catholic Kings, was formed that which we know by the title of Royal Ordinances of Castile, and also that called Royal Ordinance. It is composed of various laws, some loose, some found in the Fuero Real, Leyes de Estilo, and Ordinance of Alcala, and is divided into eighty books. It is thought

that its author, Alonzo Montalvo, undertook this work by order of Fernando and Isabella, as he himself says in his prologue; but there never was a law issued to put in force this compilation, and therefore its laws have no other than the merit they have acquired in the original.

After the collections just related followed another which is called the New Recopilation. This was concluded and published in the year 1567, in two volumes, comprehending nine books, having in them the laws which appeared in various pamphlets, and others which were found loose. In the later editions, made in the years 1581, 1592, and 1598, 1640, 1723, and 1745, there were added many laws, established in the intermediate time from one edition to another; so that, in that of 1745, there was added a third volume, in which, under the name of Autos Acordados del Consejo, (acts agreed upon in council,) were included more than 500 pragmaticas, cedulas, decrees, orders, declarations, and resolutions of the King, issued up to that year, all which were distributed in the same order of titles and books contained in those of the volumes of the recopilated laws. With the augmentation of 26 laws and 12 decrees appeared other three editions in the years 1772, 1775, and 1777; the public being promised, in another volume separate, by way of supplement, the great number of cedulas and royal decrees and acts agreed upon since the year 1745.

Latterly has been published another edition of the same Recopilation, not in the method and order of the old one, but in a new form, taking in the useful laws contained in the first, and adding more than 2,000 dispositions appertaining to them, from the year 1745 up to 1805. This collection, which is divided into 12 books, was approved and ordered to be observed, by King Charles VI, with the title of Novisima Recopilacion de las Leyes de España, by a royal cedula of July 15, 1805, which is found at the beginning of the work.

The epochs being known of the promulgation of all these codes, and the principle being established that "later laws destroy the former," the relative value will be known of all these parts of our legislation, and it will be seen by what laws judgment must be had in the various cases which occur; but, in order to proceed in so important a matter according to the tenor of the laws, see the law 3, tit. 2, book 3, of that newest Recopilacion.

HISTORY OF CUBA.—Cap. VII., p. 200.

Government of the island.

The island is divided into two provinces, whose capitals are the Havana and St. Jago de Cuba.

The governor and political chief of the former is captain general of the island, and that province extends to Puerto Principe.

The governor of the latter has jurisdiction over the remaining part of the island, which embraces the province of Cuba, whose government is given to a military officer, who is political chief in his province, and, in military matters, is subordinate to the captain general.

Both governors have jurisdiction in military controversies only.

His excellency Don Juan Ruiz de Apodaca, in compliance with a law of the 9th October last (1812) regulating the powers of courts, declared that his jurisdiction, civil and criminal, in ordinary cases was at an end, and ordered all causes then pending before him to be transferred to the auditor, Lieutenant Governor Leonardo del Monte, to be determined according to the law referred to. Military jurisdiction was reserved to the governor.

The former governors of Cuba were governors of the whole island. In the time of Pedro Valdes it was finally determined that the captaincy-general of the whole island should be annexed to the governor of Havana, leaving the governor of the province of Cuba political and military governor in the district under his command.

In both governments there are six lieutenant-captaincies. In that of the captain general are those of Puerto Principe, Cuatro Villas, and Filipinas. In that of Cuba those of Baraços, Bayamo, and Hoguin. These lieutenants exercise jurisdiction in military causes, with appeal to the captain general, but not in civil matters.

There is, in this branch, a superior tribunal of secondary instance, which is the audience sitting at the city of Puerto Principe, and composed of two chambers (salas) and nine judges, (ministros.) It was formerly presided by the captain general of the island, but now by its regent.

In all the towns and villages of the island there are corporations, *ayuntamientos*, elected annually by the people, agreeably to the constitution. And when judicial jurisdiction is exercised by them, and the political and economical government by the judge of *letters* and the constitutional alcaldes, the circuit judges and district captains are suppressed.

The ayuntamiento now consists of two alcaldes, elected annually; twelve regidors, one-half renewed annually; two attorneys, (procuradores,) one renewable annually; one secretary. This body is presided by the captain general of the island.

The principal tribunals are:

The captaincy-general, with jurisdiction in military matters only.

The courts of the judges of letters, (jures de letras,) of whom there is one for every twenty-five thousand souls. They have original jurisdiction in civil and criminal matters.

The court of constitutional alcaldes having concurrent jurisdiction with the last mentioned, but exclusively in cases first brought before it (a prevencion;) appeal lies from these to the territorial audience.

The tribunal del consulado, having jurisdiction in mercantile matters. It consists of a prior, two consuls, an assessor, and a clerk. From this appeal lies to the tribunal of algadas in matters of considerable amount. This is presided by the captain general, and consists of two members, whom he chooses from among four who are proposed by the parties, and one assessor. The clerk of the consulado serves also in this.

The administration of the royal treasury of the island is presided by the superintendent general residing at Havana, and two intendants of provinces in Puerto Principe. The superintendent is president of the tribunal of accounts, of the board of tythes, of the superintendency of the *cruzada*, judge conservator of the national lottery. He presides in the tribunal in the trial of suits concerning the public treasury; and

from this appeal lies to the superior board, which is presided by the superior accountant, instead of the court of account of Mexico, where such appeals were formerly carried.

The tribunal of superintendence of tobacco is composed of a superintendent, assessor, fiscal and clerk. Appeal lies from it to the supreme court of justice in Spain.

The tribunal of marine, presided by the commandant general.

Ordenanza de Intendantes.

Moved by the paternal affection which all my subjects deserve from me, even the most distant, and by the anxious desire with which, since my exaltation to the throne, I have endeavored to equalise the government of the great empires which God has committed to me, and put in a state of order, happiness, and defence my extended dominions of both Americas, I have resolved, after well-founded reports and mature deliberation, to establish in the kingdom of New Spain provincial intendants, and of the army, in order that, being clothed with authority, and having competent incomes, they may govern those settlements, and the inhabitants, in peace and justice, as far as is entrusted to them; and they are charged by this instruction, that they may take care of the polity, and collect together the lawful interests of my royal exchequer, with the integrity, zeal, and vigilance, which are prescribed by the wise laws of the Indies and the two royal ordinances which my august father and King, Don Ferdinand VI., published July 4, 1718, and October 13, 1749; which prudent and just rules I wish to be observed exactly by the intendants of said kingdom, with the amplifications and restrictions which will be found explained in the articles of this ordinance and instruction.

ARTICLE 1. Orders the division of that empire into twelve intendancies by name, and continues, "each of these intendencies will comprehend the jurisdictions, territories, and districts, which will be respectively assigned to them at the end of this instruction, which instruction will be delivered to the new intendants which I may elect, with the corresponding titles, (which, for the present, will be despatched by the secretary of state and universal affairs of the Indies;) for I reserve always to myself to name, and for the time I think proper, for these employments, persons of accredited zeal, integrity, intelligence and good conduct, seeing that in them I shall rest from my cares, committing to them the immediate government and protection of my people.

ARTICLE 2. The viceroy of New Spain must continue in the fullness of his superior authority and powers of all kinds which are granted to him by my royal title and instruction, and by the laws of Indies, in quality of governor and captain general in the district of that command; to which high employments is added that of president of the audience and chancery of the capital city of Mexico; but leaving the superintendence and regulation of my royal exchequer in all its branches and products to the care, direction, and management of the general intendancy of the army and exchequer, which is to be erected in said capital, and to which the others of the province will be subordinate, which I order, also, to be erected by this instruction.

ARTICLE 3. The viceroy to give currency to the despatch and authority of the intendant.

ARTICLE 4. The superintendency which is thus to be exercised by the said intendant general of the army is understood to be delegated from the general one of my royal estate of the Indies, which is invested in my secretary of state and universal affairs of said Indies; and for the just purpose of procuring to the said superintendent sub-delegate some relief in his important duties, and to assist at the same time this establishment of intendancies by uniting the direction of all, for the purpose of making uniform its government, as far as is permitted by the difference of those towns and provinces, I ordain and order this superintendent sub-delegate, with the approbation of my viceroy, to establish immediately in the capital of Mexico a superior *junta* of my royal exchequer, to which he must unite as president, the best being composed conformably to law 8, tit. 3, lib. 8, of the regent of that audience, the fiscal, &c.

ARTICLE 15. The intendant general, and every one of those of province, must have a second, a lawyer, who may of himself exercise the jurisdiction in matters forensic, civil and criminal, in the capital and in his particular quarter, and who may be, at the same time, assessor in ordinary in all affairs of the intendancy, supplying the place of its chief in his absence, sickness, or visits to his provinces, or any other cause; it being understood that the assessor of the intendant general must be assessor, also, in everything relating to the superintendence of my royal exchequer, which employs him, supplying the place there, also, in case of defalcation, sickness, or absence. And that the said vice-intendant may possess all the requisites which his situation demands, they must be examined and approved by my counsels, chanceries, or audiencies, and shall be named by me with the consultation of my chamber of Indies, &c.

Then follow various clauses relating to their duty in watching over the general police and good government, agriculture in all its branches, cotton, silk, cochineal, &c., public roads, temples, streets, &c.

ARTICLE 75. Being already explained in general the obligations of the intendants corregidors of their provinces, and that of making their subaltern officers fulfil theirs as respects the administration of justice and political and economical government, upon which depends the augmentation and happiness of my subjects, they must preserve the following rules as regards the third class belonging to their cognizance, which is that of my royal exchequer.

ARTICLE 76. The direction in chief of my royal rents which are established, or may be established, in the circuit of my said kingdom, and that of whatever dues may belong now and always to my royal fisc, in whatever manner, will be conducted in future under his exclusive inspection and cognizance, with all accompanying, dependent upon, or annexed to it, without distinction, whether the branches be administered for my own account, or be rented, or be in the name of others; and I ordain and declare, besides, that the forensic jurisdiction granted by law 2, tit. 3, lib. 8, to the royal officers for the collection of the effects and branches of my royal treasury, it is understood now, united in, and transferred to, the intendants in their respective provinces, to the absolute exclusion of those ministers of the royal exchequer who will remain with this title for the future, together and individually, with that of contadors and treasurers, although always subject, as heretofore, to securities and a joint responsibility as far as this regards them, and subordinate to these, my new magistrates, looking to them as their chiefs and superiors. Nevertheless, these ministers will take in their charge the obligation which is now held by the royal

officers to administer and collect what belongs to my royal fisc, in the branches which are now in their charge, exercising all the co-active economical powers which may effect the one and the other, with the difference that, in cases where it may be necessary to proceed judicially against the debtors to the fisc, they may proceed to prosecute and follow up the demand in my name, before their respective intendant or sub-delegate, so that, using the jurisdiction which is thus declared to them, they may despatch the orders in course, and conformable to justice.

ARTICLE 77. In order to effect this, and that the orders and decrees of the intendants in respect to this branch, and that of war, may be carried into execution in all the districts of their provinces by persons duly authorized, they will nominate as well in the head cities of the governments, political and military, which are suffered to remain, (except those of Yucatan and Vera Cruz,) as in the other cities and towns which are well populated, and especially where there may be a treasury of my royal exchequer, although this may be of an inferior class, sub-delegates for the forensic part only of these two departments, in the understanding that in the head cities and districts of the said governments the said appointment must fall upon the governors themselves, as is ordered in the eighth article; and also that in the other places indicated, and their respective territories, in no event must the alcaldes be elected, and less the contadores or treasurers, or others, administrators of any branch of my fisc; but be confided to persons private and of the best repute and necessary standing, by previous report of persons who can give it with due acquaintance, declaring, as I now declare, that the military, as far as their appointment of sub-delegate to their respective intendant, must be subordinate to him, and that the faculties of the said sub-delegates, and those of the others ordered by the twelfth article to be established, as far as regards the aforesaid two branches, are only to extend to causes which they may set on foot themselves, or may be passed to them in summary by any lower officers of my custom-house, until they are brought to a point for sentence; for in this state they must be remitted to the intendant of the province for pronouncing, with the advice of his assessor, what may appear just.

ARTICLE 78. As regards the exercise of the forensic jurisdiction in the processes and affairs of my exchequer, the intendants must take cognisance exclusively, and to the absolute separation of all other magistrates, tribunals, and audiences of that kingdom, with the sole exception of the superior junta of exchequer; and this will also actuate in all causes in which my treasury may have any interest or any injury, or which may belong to any branch, or any dues which may be in administration or rented, as well in respect to recoveries as in all incidental matters, so that no intendant, not even the one of Mexico, as regards his district, will admit from any recourse or appeal, unless it be to the said superior junta in cases and with respect to things which admit of it, in the same manner that from the decrees of this last none can be made but to my royal person, and by the private channel of the Indies; and it must be observed that the superintendent sub-delegate must not be present when there is a motion to appeal from a sentence which he has given as intendant of province in his direct charge, neither can the assessor of the superintendency, if it has been pronounced by his advice, &c.

ARTICLE 81. The intendants shall also be exclusive judges of the dependencies and causes which may occur in the district of their provinces about sales, compositions, and divisions of lands, whether realengos or of my dominion; the possessors, and those who pretend to new concessions of them, having to represent their rights and reduce to form their demands before the intendants themselves, in order that these, when they are duly informed of these affairs by means of a promoter of my royal fisc whom they shall appoint, they may determine upon them according to right, with the advice of the usual assessor, and admit appeals to the superior junta of exchequer, or render an account to this if the interested do not wish to appeal with the original process when they judge this in a state for despatching the title; in order that, when it is seen by the junta, it may be returned either that it may be despatched, if no objection is made, or that, before despatching it, the alterations may be made which that junta may point out and advise; by which means, and without new impediments, the corresponding confirmations may be made, which will be drawn out by the superior junta itself, it proceeding in the matter, as also the intendants, his sub-delegates, and the others, agreeably to what is ordained in the royal instruction of October 15, 1754, *in as far as it is not opposed to what is now decreed by this*, without losing sight of the salutary dispositions of the laws which are therein cited, and of that 9, tit. 12, lib. 4.

ARTICLE 83. They will likewise take cognizance in all cases of prizes, shipwrecks, vessels in distress, and vacant property, be this in whatever manner it may, as well for the examination thereof as to put it in a way of recovery, and of applying them to my royal exchequer, the necessary steps being first adopted according to right, and giving me an account of all by the private channel of the Indies, in order that, by that way, an understanding may be had with the respective tribunals, and the decrees which may be advisable may be communicated to the intendants themselves.

ARTICLE 305. Gives to this instruction and ordinance the force of law; all other dispositions, establishments, customs, or practices to the contrary are revoked; any interpretation or amplification is prohibited, and it is ordered to be observed by all the tribunals and chiefs, secular and ecclesiastical, and by all and every one whom it concerns, avoiding all discussion or hindrance.

DECEMBER 4, 1786.

"*Custom is unwritten law that has been introduced by use.* In order to be such, and not vicious, (corruptela,) it is required that the usage be that of the people, or of the greater part of them, for the space of ten years, and that it be in harmony with the general utility. Two uniform judgments or sentences are one of the proofs of custom. A legitimate custom has the force of law, derogates the former law that is contrary to it, and interprets the doubtful law; from whence it is said that there is a custom beyond the law, contrary to the law, and according to the law."

Manuel del Abogado, 1 vol., page 3.

Partida I, tit. 2, treats of usage and custom, and accords with the above.

Manuel del Abogado, America, lib. 3, tit. 5, vol. 2, page 16

SEC. 1. Definition of judge.

SEC. 2. Who cannot be judge.

SEC. 3. What age is requisite in order to be judge.

SEC. 4. Concerning the assessor.

SEC. 5. The judge is *ordinary or delegated.* Ordinary is *he who exercises jurisdiction in his own name by the proper right of his office.* Delegated is *he who exercises jurisdiction by order of the supreme authority, or of the ordinary judge who commissions him for some particular case.*

SEC. 6. Jurisdiction is *the power of taking cognizance of and deciding civil and criminal causes.* With

it goes united *empire*, (el imperio,) which is *armed power;* that is to say, *the power of causing the decisions to be executed*, and it is divided into absolute and *mixed:* absolute empire is *the power of administering justice in causes in which the punishment may be inflicted of death, loss of member, or perpetual banishment;* mixed is *the power of taking cognizance of and determining civil causes, and criminal causes, in which the sentence is less severe than those above-mentioned.*

Sec. 7. Jurisdiction is divided into *ordinary, delegated, and prorogated.* The ordinary, which is also called *proper*, is *that which belongs to the magistrate by the proper right of his office.* The delegated, which is also called *mandada*, (literally, *commanded or sent,*) is *that which one exercises in the name of the ordinary judge, in the form and with the limitations that he grants for a certain and particular case.* Lastly, the prorogated is *that which, by the express or tacit consent of the parties, is extended to persons or causes to which it was incompetent.*

Sec. 8. It is an axiom that the delegate cannot sub-delegate; but the judge who is delegated by the supreme authority may do it as if he were the ordinary judge; and the judge delegated by the ordinary may also sub-delegate the causes, provided they have been litigated before the latter.

Sec. 9. There are some things which cannot be delegated except under certain limitations. In the first place, the absolute *empire* (el mero imperio) cannot be delegated, except on account of the just and necessary absence of the delegating judge, and then only until sentence, which must be given by him. In the second place, neither can be delegated the appointment of guardians or curators, nor causes in which the matter in controversy exceeds the value of three hundred maravadis of gold, except in the case mentioned, of absence, and that of a great pressure of business in the public service. Law 6, tit. 10, book 11, of the Novisima Recopilacion, permits the ordinary judge to appoint a substitute, if he be sick or absent, for any lawful cause; and if there be regidors in the town, what is observed is, that in such cases the first regidor exercises the jurisdiction, and in default of him the second, &c.

Sec. 10. Delegated jurisdiction is ended: First, by the revocation of the delegating judge. Second, by the death or loss of office of the delegating judge before the citation. Third, by the promotion of the delegated judge, if he equal or exceed in rank the judge by whom he was delegated. Fourth, by the lapse of a year without making use of the delegation. Fifth, by the death of the person delegated, unless it was not granted to him as an individual, but as holding some dignity or office; for, in this case, the successor will continue in the delegation, because the office never dies. Sixth, by the conclusion of the business or time for which it was granted.

Sec. 11. Jurisdiction is prorogated by the express or tacit consent of the parties, as was said in the definition: by the *express*, as if two persons agree to submit themselves to a judge, who, in respect to both or one of them, was not competent, provided the cause can be litigated (puede actuarse) before him; by the *tacit*, as if the defendant contests the suit before an incompetent judge, without objecting the incompetency, or as if the plaintiff resorts to a judge incompetent as respects himself, and before that judge a cross demand is set up by the defendant, to which cross demand the plaintiff will be obliged to plead. It is disputed whether prorogation can be extended from place to place and from time to time; and the opinion that denies that it can appears more probable, because the judge, when out of the place or time for which he is appointed, is no more than a private person without any jurisdiction.

Sec. 12. It is also usual to divide jurisdiction into *contentious* or compulsory and *voluntary*. The former is *that which is exercised over even those who are not willing;* that is, the jurisdiction which the superior or judge has over those subject to him; the latter is *that which is exercised between those who are willing, without justice being formally administered*, as when there is made before the judge any adoption, manumission, emancipation, or other similar acts. The first is, strictly speaking, jurisdiction, the second not so. Some call the prorogated jurisdiction voluntary. Lastly, there is another division of jurisdiction into *exclusive* and *accumulative;* exclusive is that which deprives other judges of the cognizance of the cause, as that which is possessed by one delegated by a judge superior to the judge of the district; and accumulative is that by which a judge may take cognizance beforehand of the same causes as another, that is to say, anticipate him in taking cognizance of the same.

Sec. 13. As, in order to exercise jurisdiction, it is not sufficient that one be a judge, but he ought also to be competent, it is necessary to know who is so in each cause. In the first place, it is to be observed that every judge has a designated territory, within which, and not out of it, he may exercise his jurisdiction, which neither is extended to all the persons, nor to all the things within his district, because there are many which, being exempted from the ordinary or common, are only subject to some exclusive jurisdiction, as the military, that of the public revenue, (exchequer-hacienda publica,) the ecclesiastical, and various others, which fail not to introduce confusion and to impede the march of the administration of justice.

Sec. 14. These principles being established, a competent judge in civil causes is, 1st, the judge of the place where the defendant is domiciled, or was when he contracted; 2d, he who was mentioned in the contract, or the judge of the place in which it was made, provided the defendant be found there when the action is commenced; 3d, the judge of the place where the things in litigation are situated; 4th, when a moveable thing is demanded with right of ownership, the judge of the place in which the defendant shall be found with it, although he be a resident elsewhere, unless he give sureties de estar à derecho; 5th, in matters of the accounts that guardians or curators ought to give, the judge of the place where the guardianship or curatorship was administered; 6th, in possessory causes of inheritances, the judge of the place where the inheritable things are; 7th, in causes where legacies are claimed, if they are specific, the judge of the place where they are, or where the greater part of the property of the deceased may be, or where the heir may reside; and if they are generic, (in kind,) or of an article which it is usual to count, measure, or weigh, the judge of the two first places indicated, or the judge of the place in which the heir commenced paying the legacies, unless the testator had designated the place.

[The remaining sections of this title are irrelevant.]

Article 83. They (the intendants) will also take cognizance in all cases of prizes, shipwrecks, distress of ships, and *vacant property, in whatever manner it may appear*, as well for the examination thereof as to put them in a state of value, and for applying them to my royal exchequer, taking previously the steps required necessary by law, and giving me information thereof by the private way in affairs of Indies, in order that through that channel instructions may be issued to the respective tribunals, and suitable resolutions may be communicated to the intendants themselves.

Solorzano, lib. 4, cap. 25.

Art. 23. They (the commissaries of cruzade) have also tried, in order to extend their jurisdiction, to

bring under their office, administration, and jurisdiction the stray cattle, and any other property lost or vacant, the owner of which is not known, and which are generally denominated Bienes de Mostrenco; and also of all those who die in the Indies *ab intestate*, or, at least, the fifth part of these. This is likewise denied to them with great reason, and even prohibited by some old cedulas of 14th January, 1536, and 14th February, 1540, renewed by another of 16th July, 1614.—(L. 18, tit. 20, lib. 1; l. 11, tit. 5, lib. 5; l. 6, tit. 12, lib. 3, Recop.)

Art. 24. And in another, given in Lerma, 28th October, 1602, a mandate which the religious order of Merced obtained from the nuncio of the Pope, is ordered to be recalled in its original and sent to the royal council of the Indies, for this property to be exhibited to them and applied to them alone in virtue of their privileges, and for the redemption of captives; and it assigns as the reason the cedula that it is contrary to justice, to the laws, and to the royal cedulas, *agreeably to which all the mostrenco property and effects belong to my camara and fisc.*

Art. 25. In proof of which we have many texts and authors which pronounce them and delare them as Regalias, (L. vacantia et per tot. c. de bon vacant; L. pen c. de petit, bon. Subl. lib. 10, tit. 10, l. 1, L. 7, 3, 8, tit. 13, lib 6, Recop. ubi accv. et laté Sextur. de Regal. lib. 2, cap. 9, Bocer. d. tract. c. 3, n. 26, et seqq. DD omnes per text. en c. 1, quæ sint Regalia in feudis,) and as such they should be picked up, collected, and administered by the royal officers, as they do not belong to other than the fisc, if no especial privilege is shown by which it may appear that this has been conceded, as in Spain is held by some portions of the religious order of Merced and of the Trinity, for the aforesaid redemption of captives; and the council of the *Mesta*, so called for the stray beeves applied to it.

Art. 26. From which it follows, in the opinion of Antonio Nebrixa, (in dect. verb. mostrencos,) the name of this mostrencos, when they ought to be called Mestengos, inasmuch as flocks without owner belong to the order of *Mesta*, whose laws dispose of the same; although Covarrubias (in thes. Linguæ castell. verb mostrencos) is of opinion that they are called mostrencos from the word *mostrando*, (showing) because wherever they are found they must be shown, then manifested and advertised publicly that the owner may be sought; and he not appearing within a year and a day they remain to the King, and are applied and adjudicated to his fisc and royal camara, as is expressed in the laws which I have cited.

Art. 27. Nor in opposition to the above can it be said that in Spain the commissary general and council of cruzade collect and administer this property *mostrenco* and ab intestate, and take cognizance and judge in the processes, because that proceeds from laws, commissions, and private instructions granted to them to that effect. These are related by Perez de Lara, (see note.) *But in the Indies there is no such concession, but on the contrary*, as has been seen.

Art. 28. A case in point.—(Book 6, chapter 6.)

Art. 1. Of the property called *mostrencos*, and the cause of their being so called, I said something in another chapter, where it was spoken of whether in the Indies the collection and administration belonged to the commissaries of the holy cruzade; what I have now to add is, that all moveable and immoveable property is held, and ought to be held as such, which have an owner or not; or, in case of having one, are lost, and without him appearing who may be the owner, after a year and a day, of steps taken, of manifestations, and advertisements in looking for him, which the laws of the Recop. direct, which speak of the matter, and which is treated of at length by Covarrubias, Avendaño, Juan Gutierrez, Bobadilla, and other authors, (see note,) and in particular Licte. Juan de Meneses, who, when he held the office of fiscal of the holy cruzade, upon the occasion of a right to this property being claimed by some titled gentry, and the orders of Merced and Trinidad, printed in the year 1618, a very copious argument and juridical discourse upon the subject.

Art. 2. In this his first and most judicious conclusion is that, at the present time, this property belongs to the fisc and royal camara, like the metals, salt works, and treasures of which I made mention in former chapters; and for this, in the Recop. de las Leyes *de Castilla*, all these things are collected under one title (Tit. 13, lib. 6, Recop. Cast.) which says: "Of the treasurers and miners of gold or silver, or any other metal, and salt works, also property mostrencos and property found."

Art. 3. Because as princes sovereign are universal owners; and also for the protection of all that is held in the provinces by his vassals, as Seneca has well said, and a text which must be explained in this sense, according to Cujacio and other grave authors, (see note;) when the particular owner does not appear, they introduce themselves and put themselves in his stead, and have incorporated, and do now generally incorporate this property of mostrencos with their royal crown, making this of the number and quality of other Regalias of which they have made use, and now use, under the protext that they want all for the good, the protection, and defence of the same provinces, and the subjects from whom it is derived, as is shown in the chapter upon feudal property (c. 1, Quæ sint Regalia in Feud ibi: Bona vacantia) which, in treating upon the said Regalias, comprehended this one under the name *of vacant property*. Whence Mateo de Aflictis, J. M. Novario, and all who comment upon him, make great mention of this; and also Peregrino, Regnero Sextino, Henrico Bozerio, Camilo Borrelo, and the rest of the authors who have written about them and others at every step, (see note.)

Art. 4. These speak of the customs which exist respecting this in all nations, and the name which is generally given to this kind of property, and the various species into which it is divided, all of which is embraced in one law of the kingdom, (Dict. L. b., tit. 13, lib. 6, Recop. *Cast.*) in these words: "Everything which may be found in any manner mostrenco, abandoned, must be delivered to the justice of the place or of the jurisdiction in which it may be found, and must be kept a year, and if the owner does not appear, it must be given to our camara." Not content with having said *every* and *thing*, which are words or expressions so universal and general, as is notorious, (see note,) it added, "in whatever manner mostrenco, abandoned," which is more universal still, and in its nature, by all the rules of justice, extend the disposition to all cases and to all things found in whatever manner, and comprehend not only things alike, but even those which are not so, or may appear greater than what is expressed; and the same is shown in the following laws, which by only saying things found and mostrenco, it appeared to them to have said all that was necessary to comprehend all those which should be found without an owner, and whose ownership was uncertain, as well animate as inanimate, for it is not permitted, nor are distinctions admitted by the laws which speak in words so general.—(L. de pretio cum. vulg. de publicans in rem act.)

Art. 5. And even more to the purpose is a whole title of the ordenamiento real, (tit. 12, lib. 6,) from which some of the laws of the Recop. have been taken, which title satisfies, by having but a sentence "of the things found, which are called mostrencos;" and with this it was judged to have comprehended as many species of these as could be imagined, and it put us in the line of another doctrine, which teaches (see note) that

the intention of the statute is declared by the words of this sentence: From it it is lawful to form an argument whereby to explain it.

Art. 6. And coming nearer to the municipal justice of our Indies, the same and in the same form is declared, and ordered there to be observed, by the cedulas of the years 1536, 1540, 1602, 1614, which I have cited in the chapter aforesaid, in conformity to which the cruzade and the religious order of Merced are prohibited from interfering or disturbing this property; giving for reason that all belongs to the camara and fisc of his Majesty.

Solorzano, (book 3, cap. 30.)

Art. 20. If the fisc is the plaintiff; if it can lay an action in the royal audience.

Art. 21. Reasons in favor; also the persons and communities who cannot possess Indians.—(Recop. lib. 6, tit. 8; laws 12 and 13.)

Art. 22. Yet I assert the contrary in the case where a private individual, from whom the fisc demands or claims to take away the encomienda, should have some lawful, or at least seeming cause for possessing it; for I find that the meaning is very general of the aforesaid for as many as plead, or would wish to plead about encomiendas in possession and those in property, that they be remitted to the supreme council of Indies. And as this order must be observed when the individual claims against the fisc, so also when the fisc claims from the individual: for these actions should not be unequal or operate defectuously as the laws say, and their doctors, (see note;) and the fisc must not disdain to have its rights equalized with those of an individual, and avail itself of the common law to both, only in cases where it is especially privileged.

Art. 23. In feudal questions of lordship, this and the vassals plead in one tribunal. The fisc uses that common to both.

Art. 24. And to this the cedulas which I have spoken of to the contrary are not repugnant, nor that the fisc never is used to litigate when it is not of possession; for those have their mark, and are used only in the cases which they mention, viz: where the fisc is holder, or enters with this express intention, and he with whom it litigates is not the possessor, but an intruder or unjust detainer of the encomienda without any title, not even pretended. In such case it is right that the royal audiences restore it to the fisc instantly, as they can also do, and ought to restore to all individuals who have been ejected in fact, agreeably to the law of Malinas and its commentaries, which I have cited.

Art. 25. And in this view the fisc can oblige all and whatever possessors of encomiendas by an edict and public advertisement, or in any form which may appear to him most convenient, to appear and exhibit their titles, agreeably to a cedula of 1551, in chapter 18 of the instructions to the viceroy of Peru, (see note,) of which mention is made by Antonio de Leon. For although, in general, nobody is obliged to exhibit to another the title of his possession as the law ordains, (see note,) this is limited to those who pretend possession of things of others, or when opinion is against them; and, consequently, in any case where defence is made under pretext of feudal, gratuitous, or censual right, they are obliged to exhibit it according to the common opinion of the doctors, (see note,) since it is the foundation of their intent; and, in not making the exhibition, the presumption is against him that all things are presumed to be free; so in matters of jurisdiction, says Gregorio Lopez and many others, (see note,) that for the reason that the King enters by founding his claim upon all his dominions, even upon lands of lords and of prelates, he can ask these, and compel them to exhibit the titles by which they claim their rights.

SPANISH LAWS—SOLORZANO'S POLITICA INDIANA.

Extracts from Solorzano's Politica Indiana, a work of approved authority in all Spanish tribunals, and the most celebrated of the Spanish commentators on the laws of the Indies. The translations compared and certified by the translator of foreign languages in the Department of State.

[Translation.]

Book 3, *chapter* 5, *article* 31.

Because, as Carolo Pascalio says, and Calisto Ramirez, subjects have no obligation to investigate or know the orders and instructions of a secret nature which are given to the viceroys, in which bounds are put to their power, for if they do not obey them, they are subject to reprehension or punishment; but what they may perform must be sustained, because they are in quality of factors or substitutes for royalty, for whose actions he who named them is accountable, and put them in that charge which is indeed conformable to right.*

Book 3, *chapter* 9, *article* 14.

But although this, as I said, proceeds with reference to common law, and it is fit that the viceroys and governors of the Indies never cease to bear it in mind, still, as regards the municipal duty of these, the whole, or almost the whole, is left to their discretion and prudence; because, in the conflict or concurrence of these *cédulas* (royal provisions) and orders *de providendo*, they have not to attend so much to the dates and orders of these as to that which may appear to them most convenient to execute, as also what the merits and services of those who have presented them ask and require, and the state of things in their countries or provinces, the government of which is committed to them. It is thus recommended to them in the royal cédulas, which I noticed in the beginning of this chapter, and others of the years 1567, 1605, 1610, directed to the viceroys, at that time, of Peru, Toledo, Monterey, Montesclaros.

Book 3, *chapter* 10, *article* 25.

This calls us to another question not less frequent and difficult, upon which I have seen some suits adjourned from a discord of opinions; I mean, who is to have the preference of two, of whom one obtained by favor from the court a special *encomienda* (Indian tribute) by dispensation made to him by his Majesty,

* L. 3, ff. de publicum, § fin. instit. de oblig. quæ ex quasi delic. Cabedus et alii apud Mc. d. c. 4 n. 78.

and another obtained the same in the Indies by grant of the viceroys or governors, having there power to do it, without having notice of the other from his Majesty.

I judge we can examine and easily solve this question as respects the right only by informing ourselves, and looking attentively as to the fact of which of these grants of the same object preceded the other; for if we suppose the vacancy to happen in the Indies, and the viceroy or governor, who *there is as the King himself*, made the appointment lawfully and immediately, and in exercise and use of his faculties, gave the title and possession thereof to some well-deserving person, we must come to the resolution that the grant of this encomienda, which afterwards may be found to be made by the King in his court, is in itself null and of no value or effect, because there is no vacancy to supply, as we said in chapter five, on account of its being previously occupied, and the grant made in proper time; and the concession made in the name of the King, in virtue of authority sufficient and his own commission, must be and must remain always firm and valid as if himself had made it. Of this we have an express text in speaking about what is done by the procurators of Cæsar, (l. 1. de off. Proc. Cæsar,) and others still more expressive, which decide upon what we are saying upon the subject of gifts.*

Book 5, *chapter* 12, *article* 1.

Although it may seem that enough was provided for the maintenance of peace and for justice in the provinces of the Indies by the creation of audiences and magistrates, of which mention has been made in the preceding chapters, still, as those went on peopling and distinguishing themselves so much, it became meet, at least in the principal parts, such as Peru, New Spain, &c., to place governors of greater weight, with the title of viceroys, who should also act as presidents of the audiences there residing, and who should separately have in charge the government of those extensive dominions, and of all the military bodies which might there arrive, as their captain general; and should act, watch, and take care of all which royalty in person would act and take care of if there present; and should be understood to be suitable for the conversion and protection of the Indians, and spreading of the Holy Word, the political administration, and for the peace and tranquillity, and the increase of things spiritual and temporal.

Article 3. And truly, the provinces of the Indies being, as they are, so distant from those of Spain, it became necessary that in these, more than any other, our powerful Kings should place these images of their own, who should represent them to the life and efficaciously, and should maintain in peace and tranquillity the new colonists and their colonies, and should keep them in check and in proper bounds by such a dignity and authority as the Romans did when they spread theirs over the best part of the globe, dividing the most remote into two kinds, which they called *consular* and *pretorean*; the Emperors themselves taking the government of the principal of these in their own hands, and charging the senate with the second; and giving to those who went to govern the first the name of proconsuls and to the others that of presidents, about which we have entire chapters in law, where the commentators speak of this more extensively, and an infinity of authors.

Article 4. Some of those observe (in terms of which we speak) that to these proconsuls or presidents may be likened the viceroys of the present day, although this is not agreed to by Pedro Gregorio, who says that the authority and power is greater of the viceroys, and that in France very rarely was such a dignity granted, except to a brother or child of the prince, or one designated as successor to the empire; and I find Bobadilla of the same opinion—afterwards Alciato and others whom he names.—*(See references.)*

Article 6. But however this may be, (their similitude to other titles,) it is of little importance. What I reckon as certain is, that the person to whom there is the greatest likeness is to the kings themselves who appoint them and send them out, generally choosing them from titled gentry, and the most worthy in Spain of his chamber counsel, causing them, in the provinces which are intrusted to them, to be looked upon, as I have said, as their own person, to be their substitutes; for this is properly signified in the Latin word proreges or vice-reges, which in the common language we call viceroys; and in Catalonia and other parts they are called alterego, on account of this ubiquity of likeness or representation, which is also treated of in some chapters of common law, and the laws of the Partidas, and which are described extensively by Budeo, Casaneo, and other authors.—*(See references.)*

Article 7. From which it happens that regularly in the provinces which are intrusted to them, and in every case, and in all things which are not especially excepted, they possess and exercise the same power, authority, and jurisdiction, with the King who names them; and this not so much as a delegation as in the common way, as is proved by the texts, and by the doctors already quoted, and a number of others which are cited by Avendano, Humada, Cordan, Tollada, Bobadilla, Calisto, Remirez, Berarto, and others of the moderns, and in particular Juan Francisco de Ponte and J. M. Novario, who have written especial and copious treatises upon the office and power of the viceroys, and who reprove Fontanela, who, in too general terms, calls it delegated, and to these I add the latest, Marco Zuerio, who, in one of his political emblems, expressed well this representation with the painting of a seal, which the wax, being warm, receives, in which it is stamped or printed, with the addition of the letters for motto, *alter et idem;* and he applies it to this communication and representation which the Kings make of their Majesty to the viceroys whom they send to govern provinces where themselves cannot be present, they remaining with their power entire, although it be transmitted or transferred from one to others.

Article 8. And, approaching nearer to the municipal right of our Indies, almost everything which relates to this great power and dignity of viceroys will be found in the cédulas which I have already quoted, and in particular that part regarding their representation in one issued at the Escorial, July 19, 1614, from which is inferred "that to the viceroys there is, and must be observed, the same obedience and respect as to the King, without putting the least difficulty, contradiction, or interpretation, under the penalty of those who should contravene, incurring the punishments ordained by law, who do not obey the royal orders, and the others which are there marked and related."—*(See references.)*

Article 9. And all this is very right, for wherever the representation of another is given, there is the true copy of that other, of which the image is produced or represented agreeably to the understanding of a text, and as Tiraquelo explains at great length, and other authors; and, in general, this representation is more resplendent when the viceroys *and magistrates* are further removed from the masters who influence and communicate it to them, as Plutarch finely expresses it by the example of the moon, which becomes of greater size and splendor in proportion as she removes from the sun, which is the object which gives her that splendor.

* C. si is qui. 12 de prob. lib. 6, vide verba apud Mc. d. c. 9 num. 35.

ARTICLE 10. From all which I infer, in the first place, that this viceroyal power and dignity being of this nature, and so great as has been said, and that it has to be exercised in so many and such arduous affairs and cases as occur generally in the Indies, the prince ought to look well to the persons he chooses and sends upon these employments, since even in those of oidors and other ministers of less note, I demonstrated the necessity of the same caution in other chapters; and as to governors who are sent to new or warlike provinces, this is adverted to in elegant expressions by Cassiodoro.—*(See references.)*

ARTICLE 11. And the Padre Josef de Acosta is not less elegant in treating of the qualities of the viceroys, when he says that if the Romans took so much pains to send to their remote provinces, and such as were lately conquered, men of the first choice, perfect and experienced, whom they knew, and scarcely trusted others than the very consuls of their own city; much greater pains are required with viceroys for the New World, which is so much further distant from the eyes of their Kings, and is composed of so many different nations and mixtures of people, and comprehends so many new provinces, in which every day there occurs some new and unthought of affairs; where mutiny and sedition are contemplated; where sudden and dangerous changes are experienced; where municipal laws are not known, or not found sufficient for every case; and if we wish to make use of the Roman code, or the Castilian, these do not square with those of the country, and the very state of the republic is so inconstant, varied, and different in itself every day, that things which yesterday might be judged and considered as very straight and regulated, to-day would become unjust and pernicious.

Book 5, *chapter* 13, *page* 376, *article* 2.

The first established rule and sentence is, that viceroys can act and despatch in the provinces of their government, in cases which have not been especially excepted, all that the prince who named them might or could do, if he were himself present, and for this reason and cause his jurisdiction and power must be held and judged more as a thing established than delegated.—*(See references.)*

ARTICLE 3. All which is indeed conformable to the purpose for which these honorable and pre-eminent employments were instituted, which was, as it appears, that subjects who live and reside in such remote provinces may not be obliged to go and seek the King, who lives so far off; and that they may have near to them a substitute of his, to whom they can apply, with whom and of whom they can treat; they can ask and obtain all which they might expect from the King himself, or obtain from him even in those things requiring power or especial provision, as, after Andres of Milan and Francisco de Ponte, is explained well by Capiblanco, Mastrillo, Gambacurta, and others who treat of this. And speaking of this, the lawyer, Ulpiano, dares to say, in an absolute style, "that there is no case in the provinces which cannot be despatched by them;" and the same doctrine, with many examples to confirm it, are taught to us by many other texts of law, civil, canonical, and royal.—*(See references.)*

ARTICLE 4. In particular passages relating to viceroys of the Indies we have an infinite number of cédulas which decide this and assert the same, which can be seen in the first volume of those in print from page 237; and, besides these, another still of a fresher date given at St. Lorenzo, July 19, 1614, which orders, generally, "that the viceroys, as holding the place of the King, can act and decree in the same manner as the royal person, and must be obeyed as one holding his authority, without replying, without interpretation, under the penalties to which are subjected those who do not obey the royal commands, and such laws as may be imposed by them; and that which they ordain and command, the King will hold as firm and valid."—*(See references.)*

ARTICLE 5. All which is certain, and in such manner that even when they exceed their powers or secret instructions, they must be obeyed, like the King himself, although they may transgress and are afterwards punished for it, as I have already said in other chapters; and Mastrillo expresses it at some length, in speaking of the practice of these secret instructions, and the form which must be observed in them. And the reason of this is because we must almost presume in favor of the viceroys, and what they do we must consider as done by the King who appointed them, as is said in many texts and by several authors.—*(See references.)*

Book 6, *chapter* 12, *page* 482, *article* 13.

And by another cédula in Madrid, October 27, 1535, it is permitted that the ancient conquerors, and *other well deserving* persons in the Indies, be remunerated and accommodated with lands and possession there, and that amongst these the most worthy should be preferred; which cédula is very just, and now can be enforced by the viceroys without contravening that of 1591, *when the merits were worthy of satisfaction*, because the interest of Kings is not small to give compliance to it, nor is it new to give a premium to old services, as I have said in other places.

I certify that I have revised the above translation, and compared it with the original, to which it corresponds minutely.

ROBERT GREENHOW,
Translator of foreign languages to the Department of State.

23d CONGRESS.] No. 1190. [1st SESSION.

ON CLAIM TO LAND IN LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 25, 1834.

Mr. CARR, from the Committee on Private Land Claims, to whom was referred the application of Simon Rodrigues, reported:

That said Rodrigues claims a tract of land in the State of Louisiana, on the east side of the Mississippi, upon two grounds: an order of survey made to Joseph Bahan for 800 arpents in the parish of St. Tammany, on the 18th of January, 1804, by order of Morales, and was surveyed by him on the 8th of

May, 1806, and also by virtue of his habitation and cultivation under the several acts of Congress upon that subject.

There does not seem to be any ground for the claim by virtue of the survey, and the reasons assigned by the board of commissioners who acted upon the subject are conclusive against the title claimed under the survey.

The second ground, as to habitation and cultivation, the applicant produces the following evidence:

1st. The affidavit of Renez Rahan, who swears that about March, 1804, a survey was made for Joseph Bahan by a Spanish surveyor, and that he obtained a Spanish concession, and labored on said land at different times; and furthermore, that the said tract of land is now and has been in possession of said Joseph Bahan, his heirs or assigns, ever since 1804, and that the said tract of land has been always called his, and known and in possession of Joseph Bahan, and no other person, ever since.

Also the evidence of Henry Cooper, who swears that he was the chain-carrier at the time of survey, in the year 1804, of the land whereon Simon Rodriguez now lives, and that, in the years 1808 and 1809, Joseph Bahan made improvements on said tract of land, and built small cabins thereon, and, as he understood, kept his stock of cattle thereon; and said Joseph Bahan, from his boyhood until his death, lived in the neighborhood, and said land was always known as his; that he paid the taxes, &c.

Simon Rodriguez, the applicant, also is sworn, and declares that he and Joseph Bahan were working on the land in partnership in the years 1808 and 1809, and that he built the two cabins and worked the land; and further, that he has *cultivated and inhabited said land* in the year 1830, and up to the present time, and that he has no other land.

Henry Cooper is again sworn, who proves the cultivation in 1808 and 1809, and two houses on it, and also knows that Rodriguez has occupied and cultivated said land since 1830.

Morgan also testifies that Bahan resided in the parish from 1809 until his death, in 1808, and said tract was always known as his land.

It appears that said claimant sets up title to 800 arpents of land, and the surveys show two different tracts each of 400 arpents. The proof introduced does not show whether the claimants had possession of one or the other, or both, and, besides, the testimony is too uncertain to justify us in acting upon. From the testimony of the witness Bahan, it would seem the applicant, Joseph Bahan, had been in the actual possession of the land since 1804, whilst the other witnesses show that he had only possession in 1808 and 1809, and since 1830. The proof should show the actual state of facts—whether the said Bahan in his lifetime resided on either of the tracts, and cultivated either, and when and how long; or whether he resided in the neighborhood and claimed the lands by his Spanish concessions, and occasionally used it. The committee would be unwilling to confirm the claim upon such testimony; and as the committee have introduced a bill providing for the examination of such cases at the land offices, they therefore recommend a rejection of the claim for the present, that the parties may apply and have their proof properly taken before the register and receiver of the land district.

23d CONGRESS.] No. 1191. [1st SESSION.

ON APPLICATION FOR THE LOCATION OF A BOUNTY LAND WARRANT IN ILLINOIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 27, 1834.

Mr. ASHLEY, from the Committee on Public Lands, to whom was referred the petition of John Jordon and Samuel Fisher, reported:

That John Jordon was a soldier in the service of the United States during the late war with Great Britain; that, in consideration of his services, he is entitled to one hundred and sixty acres of land, to be located in either of the tracts set apart for military bounties in the States of Illinois, Missouri, or the Territory of Arkansas, at his option; that he designated the tract situated in Illinois, and applied for a patent accordingly; but in reply he was informed that, in consequence of the preoccupancy of all the lands in Illinois and Missouri for the purpose of satisfying such warrants, his location must be, without the further action of Congress for his relief, confined to the military bounty tract in Arkansas.

The petitioner represents that he removed to Illinois with a large family, at great expense, and, withal, in indigent circumstances, under the full belief that his land would be assigned him in that State; that he is unable to encounter the additional expense of removing to Arkansas, nor is he disposed so to do. He therefore prays the passage of a law authorizing the location of land warrant No. 26464, issued from the War Department in his favor, upon any of the lands of the United States in the State of Illinois not otherwise appropriated.

Samuel Fisher, the second named petitioner, represents that he is the brother and one of the heirs-at-law of Vincent Fisher, deceased, late a soldier in the service of the United States in the late war with Great Britain, and was entitled, as a part of his bounty, to one hundred and sixty acres of land, a warrant for which has issued in the name of him, the said Samuel, as brother, and one of the heirs-at-law of said Vincent; that he is unwilling to receive said land in the Territory of Arkansas, and therefore prays the passage of an act authorizing the location of the same in the State of Illinois.

The committee, on referring to the General Land Office for information touching the principal facts set forth in the prayer of the petitioners, are fully satisfied of the truth thereof, and as the petitioners cannot be justly coerced to receive their lands in the Territory of Arkansas, report a bill for their relief.

23d Congress.] No. 1192. [1st Session.

APPLICATION OF INDIANA FOR A REDUCTION OF THE PRICE OF THE PUBLIC LANDS.

COMMUNICATED TO THE SENATE FEBRUARY 28, 1834.

A JOINT RESOLUTION in relation to a reduction of the price of the public lands.

Be it resolved by the general assembly of the State of Indiana, That our senators in Congress be instructed, and our representatives requested, to use their best exertions to procure the passage of a law providing for a graduated reduction of the price of the public lands, where the same shall have remained a reasonable length of time in market, and for an ultimate donation of the residue remaining unsold at the *minimum* price, under such rules and restrictions as will afford a suitable protection and encouragement to actual settlers, prevent monopoly by land speculators, and otherwise best comport with the public welfare.

Resolved, further, That the governor be requested to transmit to each of our senators and representatives in Congress, as soon as practicable, a copy of the foregoing joint resolution.

N. B. PALMER, *Speaker House of Reps.*
AMZ. MORGAN, *Pres't of the Senate pro tem.*

Approved February 1, 1834.

N. NOBLE

23d Congress.] No. 1193. [1st Session.

ON CLAIM TO LAND IN ARKANSAS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 4, 1834.

Mr. CAVE JOHNSON, from the Committee on Private Land Claims, to whom was referred the application of the heirs of Elisha Winter, reported:

That it appears that the said Elisha and William Winter and Gabriel Winter made application to the Congress of the United States in 1816, claiming a portion of the public domain in Arkansas under a paper purporting to be a Spanish grant, a copy of which, as set forth in their petition, accompanies this report, marked A, under which the said Elisha Winter claimed to have been granted to him "*one thousand arpents square of land;*" to William Winter, "*five hundred square;*" to Gabriel Winter, "*five hundred arpents square.*" The grant purports to have been made by El Baron Carondelet, who styles himself "knight of the order of St. John, field marshal of the royal armies, governor general and vice patron of the provinces of Louisiana and East Florida, inspector of the troops, &c., &c." The committee also accompany this report with the translation of the supposed grant, as made by John Graham, marked B, and that made by Mr. Stoughton, at the time attached to the Spanish legation, marked C.

It will be perceived that these purport to be the translations made *of the copy* of the original grant, and certified to be *a copy* of the original by *Don André Lopez de Armesto*, who certifies that the original was found among the papers in the office of the secretary of the Spanish government; his certificate is dated at New Orleans, the 19th of April, 1805, and a copy of it is annexed to this report. The copy is certified by an individual not authorized to have the possession of the original papers, or to give copies of it, and is not accompanied by an oath of the truth of the copy produced; and it is only certified "*to be of the following tenor.*" The survey which accompanies the papers for Elisha Winter is certified by Henry Cassady, a deputy surveyor, to be according to the grant, and that it "*was surveyed* by Don Carlos Villemont, captain commandant, &c., in the year 1798." The plat to William Winter is certified by Godfrey Jones, a deputy surveyor, for *two hundred and fifty thousand* arpents, and who certifies that he "*resurveyed*" in 1805, without any certificate or evidence of its ever having been surveyed. The survey to Gabriel Winter has a similar certificate of Henry Cassady, and refers to order of survey said to have been issued by Trudeau on the 24th of July, 1802, and which is an important paper, and must have been known to the claimants to be such; and if it is not produced, or the loss thereof satisfactorily accounted for, it may be fairly doubted whether there ever was such an order. It is, perhaps, not unworthy of observation here, that the original grant is not produced, nor the original surveys, if any were ever made. These papers were filed before the commissioners of the United States in 1808, and were adjudged by them invalid in June, 1808. These claims were also before the board of commissioners in 1813, the testimony of Don Carlos Villemont taken, which clearly proves that *no survey of either* of said tracts had *ever been made*. According to the regulations of O'Reily, of the 18th of February, 1770, which are believed by the committee to have been in force at the origin of the present claim, (Land Laws, page 979, No. 12,) after directing that all grants shall be made in the name of the King, &c., directs the surveyors to make *three copies* of all surveys, "one of which shall be deposited in the office of the scrivener of the government and cabildo; another shall be delivered to the governor general; and the third to the proprietor, to *be annexed to the titles of his grant;*" and yet the survey or plat said by Cassady to have been made in 1798 for Elisha Winter, the title papers, or the grant, do not seem, from anything before the committee, to have ever been in custody of said Elisha; and it is somewhat remarkable that, in procuring *copies* of the papers from Arkcato, there had not also been produced a copy of Elisha Winter's petition upon which the grant was made, and which usually accompanies Spanish titles presented for confirmation.

It will be perceived by an examination of the *translations of the copies* of the grant and the plats and surveys that an essential and a very important difference exists as to the quantity of land claimed by the applicants. According to the copy which accompanies their petition, the grant contains: To Elisha Winter, one million of arpents; to William Winter, five hundred thousand arpents; to Gabriel Winter, five hundred thousand arpents; making in all two millions of arpents. According to the plats and certificates accompanying it, and the claim presented to the board of commissioners in 1808, the said Elisha claims one million, and the said William and Gabriel each two hundred and fifty thousand arpents. The translation of Mr. Graham makes the grant contain: "To the said Elisha, one thousand arpents of land square, (or squared;) to Gabriel Winter, five hundred square, (or squared.") Mr. Stoughton's translation makes it as follows: "To Elisha Winter, one thousand square arpents; to Gabriel Winter, five hundred square arpents." At some subsequent time Mr. Stoughton corrects his translation, by saying that the word square should follow the word arpents, as it stood in the original. According to the evidence before the committee, the word *arpent* is strictly and properly applicable to superficial measure, and meaning, in the Spanish language, the same kind of measure that the word acre does in the United States, and bears the same proportion to it that 750 does to 640; but in Louisiana it is in common use as a measure of length equal to 193 English feet; so that if the word arpent in the grant is to be used as a measure of length, then the grant will contain, according to the translation of Graham and Stoughton: To Elisha Winter, 1,000,000 arpents; to Gabriel Winter, 500,000 arpents. And according to the claim in the petition: To Elisha Winter, 1,000,000 arpents; to Gabriel Winter, 500,000 arpents; to William Winter, 500,000 arpents. And according to the claim made by them before the board of commissioners in 1808: To Elisha Winter, 1,000,000; to Gabriel Winter, 250,000; to William Winter, 250,000. But if the word arpent is used, in its strict and proper sense, as applicable to superficial measure, then the grant, as translated by Graham and Stoughton, contains: To Elisha Winter, 1,000 arpents; to Gabriel Winter, 500 arpents.

It is impossible from the evidence before the committee to ascertain the true meaning and intention of the grant at the time it was made; and where so much property depends upon the construction of the sentence granting the land, there seems to be no excuse for the omission on the part of the claimants to produce the original grant and survey if made; nor does it seem, from anything before the committee, that an application was ever made for them by the Winters, notwithstanding they were entitled to them if the grant had been *bona fide* made, nor is there any reason perceived why the Spanish officers should have wished to retain them; and from the evidence taken, the Winters seem to have been aware of the difficulties arising from the language of the grant; yet no means have been resorted to by them to remove them by the production of the grant itself, or the original survey, if any was ever made.

Most of the lands granted in that section of the country by the Spanish government were upon similar conditions, intending to increase the population of the country and promote its agriculture by inducing emigration to it, and therefore liberal terms were offered to actual settlers. The laws of the Indies, entitled "Recopilacion de las leyes de Indies," seem to have been general regulations for granting the domain of the King in America, (Land Laws, 967,) and specify the conditions and terms upon which it was to have been granted, and direct the governors of provinces to lay off the lands for persons desirous of making settlements, and making a distinction between gentlemen and laborers and others of less merit, and direct the lands to be granted to them in proportion to their merit, and required a residence of four years before the title should be completed and the settler authorized to sell, and direct the lands to be distributed fairly, without specifying the rule by which the Spanish officers were to be guided in the quantity of land allowed to each.

The regulations of O'Reily of February 18, 1770, specify the quantity of land to be granted to each settler who was desirous of settling on the borders of the river, six or eight arpents in front by forty in depth; and to obtain forty-two arpents in front by forty in depth, the applicant must make it appear that he is the "possessor of one hundred head of tame cattle, some horses and sheep, and two slaves to look after them, a proportion which shall be always observed for the grants to be made of greater extent than that declared in the preceding article," which prohibits grants in Attakapas, Opelousas, and Natchitoches, to one league front by one in depth; said regulations also require a residence of three years before the completion of title. These regulations respecting grants in the parishes of Attakapas, Opelousas, and Natchitoches, embracing the *pine* lands of Louisiana, appear to have been predicated upon the fact that these parishes were then considered as more suitable than the river parishes for the formation of vacheries, or large stock farms, while the other regulations have reference to applications for lands on the rivers and bayous for the ordinary purposes of cultivation. These regulations are believed to have been in force at the time the grant was made to the present applicants; and, in addition to this, it seems to have been the uniform custom from the time of the cession of the territory by Great Britain to Spain to allow lands to settlers in proportion to the property brought by them into the province or to the size of the families. And in September, 1797, this custom or usage was rendered more certain, more specific, by the regulations of Gayoso, then the intendant general of Louisiana, by allowing two hundred arpents to each settler who was married, fifty arpents for each child, and twenty arpents for each negro, and prohibiting the issuance of grants for a larger quantity than eight hundred arpents; and these regulations are substantially confirmed by the regulations of Morales in 1799.

The committee have not been able to see any law, custom, or usage, justifying the issuance of grants to settlers for such large quantities of the domain belonging to the King of Spain as was done by the Baron Carondelet to Elisha Winter and sons, if the grant is considered as containing the quantity claimed by them. Nor is there any consideration specified in the face of the grant, or proven, which would have justified it. The regulations of O'Reily, it is believed, limited the power of the Spanish officers to grant one league front by one league deep; in all grants of a larger size it seems to have been the custom, after the survey and sanction of the officers, to have submitted them to the King of Spain for his approbation, as was done in all grants before the ordinance of 1754; and this, from other acts of the Baron de Carondelet, seems to have been his understanding of his own powers as intendant general. He made the grant to Maison Rouge for the consideration of settlement, &c., thirty superficial leagues. In that case the agreement is made in March, 1795, and is approved by the King July 14, 1795, and the final grant is made June 20, 1797. So in the case of Baron Bastrop: on the 20th of June, 1795, application is made to the Baron Carondelet, who on the same day agrees to allow twelve leagues square for the purpose of settlement; the 18th of June, 1797, he suspends the fulfilment of a part of the contract by Baron Bastrop until the pleasure of the King is known in relation to it.

Shortly before the time Baron Carondelet entered upon the duties of his office as intendant, &c., General Wilkinson made an application to Governor Miro, as stated by Martin in his history of Louisiana,

for a large tract of country west of the Mississippi for the purposes of settlement, and this is refused him expressly for the want of authority to do so without first consulting the King of Spain. Upon the applications of the Duke of Alagon, De Vargas, and Count Punon Rostro, the grants were made by the King of Spain; so in the grant to Arredondo, after it was made it was sent to Madrid and approved by the King.

The committee are therefore induced to believe that the ordinance of 1754, which authorized the Spanish officers to make grants in the name of the King, was limited to the ordinary settlement of claims as described in the laws of the Indies, and that the regulations of O'Reily, in 1770, intended to limit their authority to make grants to one league square, and the power was still further limited by the regulations of Morales and Gayoso.

In the absence, therefore, of any express authority from the King of Spain to the Baron de Carondelet, the committee would not feel justified in taking the grant as *prima facie* evidence of authority from the King, and throw upon the government the burden of disproving such an implication. In the opinion of the committee, the absence of such an authority in any of the regulations of the Spanish government for the disposition of the public domain which are known to the government of the United States, the act of the Baron de Carondelet being contrary to the known usages and customs of the Spanish government in Louisiana, and being without any adequate consideration for so extensive a grant, justifies them in requiring the production of some direct authority from the Spanish government for the making of the grant to Winter. This seems to have been the view taken of the Spanish regulations by our own government from the time of the acquisition of that territory to the present time. The act of March 3, 1805, authorizes the confirmation of titles to actual settlers in a quantity not exceeding six hundred and forty acres, and the act of March 3, 1807, limits the powers of the board of commissioners to decide upon claims not exceeding one league square, apparently acting upon the idea that the customs and usages of the Spanish government limited the ordinary claims and grants to the quantity of land specified; and Mr. Gallatin, the Secretary of the Treasury, in his instructions to the board of commissioners, bearing date September 3, 1806, expressly directs them to reject all claims when the tract claimed "contains a greater quantity of land than was generally allowed to actual settlers and their families, agreeably to the laws, usages, and customs of the Spanish government, unless a duly authenticated copy of the ordinance authorizing the officers to grant such greater quantity of land shall have been produced and deposited with the commissioners."

The committee, with all these evidences before them as to the limitation of the power of the Spanish governors to grant, cannot yield to the opinion expressed by Don Luis de Onis, in his letter of February 6, 1816, in which he says he did not know of any limitation of the powers vested in the intendants general and governors of the Spanish provinces. Except the bounds of their respective premises, it may be true that *he knew of* no limitation of their powers; but it is certainly true that a variety of restrictions existed, as heretofore pointed out in this report.

The grant to Winter was evidently not a complete title, and could not have been so intended. The precise import of the Spanish word which has been translated "*grant*" is not known to the committee. The utmost force that could be given to the paper produced to them would be to consider it an authority to settle, with a promise to make a complete title when it was surveyed and actually settled. It was, in truth, the first step towards obtaining a title—the permission to settle upon the lands. The regulations of Morales of July 17, 1799, make provision for a class of cases of which this no doubt was one. The 18th article of the regulations is as follows: (Land Laws, 984.)

"ART. 18. Experience proves that a great number of those who have asked for land think themselves the legal owners of it—those who have obtained the first decree, by which the surveyor is ordered to measure it and put them in possession; others, after the survey has been made, have neglected to ask the title for the property; and as like abuses, continuing for a long time, will augment the confusion and disorder which will necessarily result, we declare that no one of those who have obtained the said decree, notwithstanding, in virtue of them, the survey has taken place, and that they have been put in possession, can be regarded as owners of land until their real titles are delivered, completed with all the formalities before recited."

And the 22d article of the regulations declares all such claims void unless application is made within six months and the title completed. The present applicants were evidently within that class who are described as "having obtained the first decree," and do not seem to have taken any steps for the purpose of having their title completed. The Spanish authorities continued in possession until the spring of 1804, and it is probable that a sufficient reason can be found for their omission to do so in the fact that the grant was made by the Baron Carondelet, June 20, 1797, and Gayoso was the intendant general very shortly afterwards, and made his regulations the 9th of September afterwards; and judging from the regulations established by him, among others, that no grant should exceed eight hundred arpents, the present applicant could have had but little chance of success in obtaining the completion of his title by Gayoso, or his successor, Morales.

It appears to the committee that many insuperable objections exist to the confirmation of the claims of the present applicants.

1. There is no survey made, as required by the copy of the paper produced to them and now called the grant.

2. The absence of the original grant itself, if any was ever made, and no sufficient reason given for the omission to produce it.

3. The differences in the translations are too material and important to justify any action of the government upon the copies produced.

4. No evidence is produced to the committee, nor is believed to exist, showing that the Baron Carondelet had any authority to make such a grant.

5. There is no adequate consideration for such a grant in the customs, and usages, and policy of the Spanish government.

6. The grant of such a quantity of land by the governors of provinces is believed to be contrary to the usages, customs, and laws of the Spanish government.

7. No confirmation was made of it, or application for that purpose, under the regulations of Morales, in 1799.

8. The claim of the applicants in the petition being so widely different from their claims before the commissioners in 1808, and so different from the translations of the grant accompanying this report.

The false certificate of Henry Cassudy as to the survey of Elisha Winter having been made in 1798, and which must have been known to said Winter to be untrue at the time of its production before the commissioners; the unusual quantity of land granted to Elisha Winter for his own settlement right, and the unusual quantity allowed his two sons, one of whom seems to have been under age at the time; and the total absence of any authority for the grant or any propriety in it, and just about the time that Baron Carondelet was leaving the province; and no application for a completion of title to his successors, whose regulations required it; and, in addition to all this, there is no evidence before the committee that the conditions of the grant were complied with according to the spirit and intention of the grantor, supposing it to have been made as presented to the committee. The object of the grant seems to have been to promote "the agriculture *of wheat, hemp, and flax;*" and it does not appear that any establishment of the kind was ever made by the Winters. Proof of occupancy within the year is the only proof adduced to show a compliance with the principal objects of the grant; and it is fair to presume that the proviso contained in the grant intended that the grantees should, *within the year*, make establishments for that purpose. All these circumstances taken together, in the opinion of the committee, cast a doubt upon the justness and fairness of the translation upon which the present claim is founded which should forever prohibit its confirmation.

But inasmuch as it is shown to the committee that the said Elisha and Gabriel Winter removed about that time to the Arkansas, and made settlements upon the public domain, and continued there for some time, in the opinion of the committee the same provision should be made for them as has been heretofore made for other settlers upon the public domain, who had settled upon it prior to the 1st of October, 1800, *with the permission of the proper Spanish officers*, and which is declared by the act of the 3d of March, 1807, shall not exceed two thousand acres. The committee therefore recommend that the said tracts of land claimed by the said Elisha and Gabriel Winter be surveyed and sold as other public domain in Arkansas, reserving to said applicants, each, the quantity of land above described, including their respective improvements, and which, if accepted by them, shall be in satisfaction of all future claims under said supposed grant, and have reported a bill for that purpose.

[NOTE.—For the documents submitted with this report, see vol. 3, on Public Lands, p. 289.]

GENERAL LAND OFFICE, *February* 4, 1834.

SIR: I have to acknowledge the receipt of your letters of the 2d and 3d instant, and, in reply to the inquiries contained therein, have to state that the only abstract of French and Spanish titles in this office is an "abstract of concessions and patents granted by the French and Spaniards in the western district of the Territory of Orleans, from 1757 to 1802," which consequently does not embrace the alleged grant to the Winters in Arkansas.

The grant to Winter not being laid down on the maps in this office, I am unable to say what portion of it remains unsold, although I have no doubt of a part of the land included therein being yet undisposed of.

With great respect, &c.,

ELIJAH HAYWARD

Hon. C. JOHNSON, *Chairman Committee on Private Land Claims, House of Representatives.*

23D CONGRESS.] No. 1194. [1ST SESSION.

ON CLAIM TO LAND IN LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 4, 1834.

Mr. CAVE JOHNSON, from the Committee on Private Land Claims, to whom was referred the petition of Pierre Lafitte, reported:

That said applicant claims title to about eleven thousand acres in the neutral territory, under a paper signed "Ybanco," military captain and civil and military governor of the town of Nacogdoches and its dependencies, dated the 12th of June, 1784. The paper is a bare permission to settle, and a promise to recommend them to be treated according to their deserts; and in a note to said paper it is said, "it is well understood that the aforesaid grant of land is to extend from the parcel called 'Nodier,' and extends to that which is called Nabarchar, and they are entitled to all the proceeds of the same; of which grant I expect the approbation of the lieutenant governor of the province; and the cost being paid, I conform it on the said day, month, and year." Upon this description the land has been surveyed by John Dinsmore, deputy surveyor, the 6th September, 1823, extending from the Bayou Pierre to the Bayou Nanticot, by irregular lines, and including 11,393.89 acres. There is nothing further before the committee showing the quantity granted, or the manner in which the same should have been surveyed; and there is no reason for supposing that it was intended to embrace that quantity more than any other; and the committee see no reason for surveying the land in the manner in which it has been done, and is now claimed by the applicant; and the committee see no reason why the applicant should not have claimed twenty or five thousand acres as well as the quantity claimed by him. The concession seems to have been a mere authority to settle on the land between the two bayous, through which travellers and traders usually passed in getting into the province, with a view of guarding the province from intruders, and requiring the applicant to give notice to the governor, &c., and states the object of the grant to be, "that they may have firm possession of the said place and lots of land necessary to pasture and rear their flocks of cattle, smaller stock, and horses."

The testimony of Marie De Soto is taken the 15th of November, 1832, before a justice of the peace, who states that he was the commandant of the Bayou Pierre during the time of the Spanish government, and up to the time it was taken possession of by the American government; and that Pierre Lafitte had lived upon the land more than fifty years under a concession from the lieutenant governor of Nacogdoches; and he says the boundaries extended from the Bayou Nordes Hesse to the Bayou De la Bonne Chasse; and he says such titles were always recognized as good under the Spanish government.

The committee do not believe the grant anything more than a bare permission to settle, nor are they aware that the lieutenant governor had any authority to make a title to the land. The committee do not, therefore, consider the applicant entitled to any more than other occupants and settlers in that section of the country; and they therefore report a bill allowing him two thousand acres of land, the quantity allowed by the act of the 3d March, 1807, to those settling by permission of the Spanish government, and which, if accepted by said Lafitte, shall be in full satisfaction of all claim under said supposed grant.

23d Congress.] No. 1195. [1st Session.

ON CLAIM TO LAND IN LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 4, 1834.

Mr. C. Johnson, from the Committee on Private Land Claims, to whom was referred the petition of Jean Baptiste Grainger, reported:

Said applicant alleges that he had a Spanish title for 800 arpents of land in the Opelousas, on the Bayou Plaquemine, which was submitted to the board of commissioners; and that the same was confirmed by the board on May 29, 1811, and a certificate issued to him, (No. 606,) and alleges that he sold the land (400 arpents) to Joseph Read, by deed, dated October 1, 1812; the other 400 arpents to Etienne Robert De Lamorandiere fils, by deed, dated September 22, 1821. He further alleges that Jacob Harman and Henry Harper had each a Spanish title confirmed to them of 400 arpents, and certificates issued to them by the same board of commissioners, (Nos. 515 and 598,) and that these latter claims, when surveyed, cover the land confirmed to him, and by him sold to the parties as aforesaid, and supposes their titles to be best, they having the possession of the land; he alleges that he will be responsible upon his warranty to the purchasers from him, if they lose the land, and asks of Congress to allow them to remove their claims upon some other public lands in the Opelousas.

The facts of the case are proven by the production of certified copies of the certificates, and a plat showing the interference, and also copies of the deeds of conveyance made by the petitioner.

The committee think the applicant entitled to relief, and have reported a bill authorizing the purchasers from the petitioner to locate their lands elsewhere in the Opelousas, first executing a release of warranty to the said petitioner, and the petitioner executing a relinquishment to the government for any further claim by virtue of said confirmation.

23d Congress.] No. 1196. [1st Session.

ON CLAIM TO LAND IN ALABAMA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 4, 1834.

Mr. Carr, from the Committee on Private Land Claims, to whom were referred the petition of L. H. Loriens, attorney in fact for Pelagie Loriens, formerly the widow of Peter Juzon, deceased, and the papers accompanying the same, reported:

That the attorney in fact aforesaid states that he believes the said Pelagie Loriens is the rightful owner of the tract of land on the east and west side of the Mobile river, at a place called Cambir; that P. Juzon, the former husband of P. Loriens, derived his claim to said land from the Spanish government in the following manner: That he petitioned his excellency Estevan Miro, colonel of the regular army and governor of the civil and military of the city and province of Louisiana, for a tract of land of fourteen acres front on each side of the Mobile river, formerly the property of Dugell Cambell, limited on the south by a creek called Cedar creek and another creek called Chansuld, and on the north by a tract of land (Magillivry's) which was abandoned by said Dugell Cambell in the year 1780. It further appears that in pursuance to said petition the Spanish commandant aforesaid did, on the 15th day of May, in the year 1787, direct that the said P. Juzon should establish that part of land of fourteen acres front on each side of the river, with forty, as customary, at the same place mentioned in the petition, as it was abandoned by the proprietor, with the precise conditions of making the road, clearing regularly in the peremptory space of one year. There are, accompanying the petition, two plats of surveys which appear to have been made by James Gordon for said Peter Juzon, one of which contains eleven hundred and thirty-four acres,

and situate on the west side of the Mobile river, in the county of Washington, in the Mississippi Territory, survey dated March 16, 1804; the other plat of survey contains five hundred and fifty-eight acres, and is situate on the east side of the river Mobile, in the county and Territory aforesaid, dated March 17, 1804. These surveys do not agree with the directions given by the Spanish authority to said Juzon to establish himself at the place set forth in the petition. Charles Juzon swears that, anterior to the year 1787, his father, Perie Juzon, resided with his family on the tract of land situated on the east and west of Mobile river, as described in the survey accompanying the papers; that his whole family resided thereon for several years during the occupancy of that country by the British government, and that he verily believes that the conditions of the grant were fully fulfilled, and that he knows that the widow of the said Perie Juzon has ever considered the land as hers; that he knows of no opposing claim since the date of the grant, and that the said P. Loriens is the widow of P. Juzon. This is all the proof before the committee showing that said Juzon was ever in the possession of said land, or that the conditions of the grant were complied with. The permission given by the Spanish authority to said Juzon to establish said land is the only and all the title that is exhibited on the part of the claimant. The committee are not satisfied that the conditions of the grant or permission given to the said Juzon were complied with, nor is there, in the opinion of the committee, sufficient proof to warrant the confirmation of said claim to the legal representatives of the said Juzon. The widow Juzon has appointed, at different periods, four several attorneys in fact to sell or otherwise dispose of said tract of land, and to do anything necessary to be done about the premises. The first power is dated on the 20th of January, 1804, executed at the city of New Orleans; the second power is dated on the 10th day of February, 1818, executed at the same place; the third power is dated the 6th of August, 1821, executed at the same place; and the fourth is dated on the 24th of October, 1833, executed at the same place. George Owen, esq., of Mobile, in a letter addressed to the Commissioner of the General Land Office, April 6, 1831, in which it appears that he enclosed the papers in the above case to the Commissioner of the General Land Office, in which letter he states that, since the application to the register and receiver, the original papers had come to his possession, but that the grounds of objection taken by the *record* at St. Stephen's (to wit, that they have no jurisdiction) prevents from laying the case before them, and asks the department to instruct the officers at St. Stephen's not to grant a pre-emption to any portion of the land claimed. In answer to which the Commissioner of the General Land Office says: "Your letter of the 6th of April last has been received, but as the reports do not exhibit any confirmed claim in the name of Pelagie Lawrence Juzon, I am not able to give any instruction upon the subject." The committee ask to be discharged from the further consideration of said petition.

23d Congress.] No. 1197. [1st Session.

STATEMENT OF PATENTS FOR LAND SOLD IN ARKANSAS THAT HAVE BEEN SUSPENDED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 4, 1834.

Treasury Department, *March* 3, 1834.

Sir: In obedience to the resolution of the House of Representatives of the 18th ultimo, directing the Secretary of the Treasury "to inform the House how many patents for land sold, at either public or private sale, in the Territory of Arkansas *have been suspended*; together with the name or names of each purchaser, and the quantity of each purchase or entry, and the reasons which have induced such suspensions," I have the honor herewith to transmit a report from the Commissioner of the General Land Office, to whom the resolution was referred.

I have the honor to be, sir, very respectfully, your obedient servant,

R. B. TANEY, *Secretary of the Treasury.*

Hon. A. Stevenson, *Speaker of the House of Representatives.*

General Land Office, *February* 26, 1834.

Sir: In obedience to a resolution of the House of Representatives of the 18th instant, in the words following to wit: "*Resolved*, That the Secretary of the Treasury be directed to inform this House how many patents for land sold, at either public or private sale, in the Territory of Arkansas *have been suspended*; together with the name or names of each purchaser, and the quantity of each purchase or entry, and the reasons which have induced such suspensions," which you referred to this office for report, I have the honor to submit the enclosed statements, marked A and B, and a copy of a letter from this office to the register at Batesville, marked C, which afford the desired information.

I am, sir, with great respect, your obedient servant,

ELIJAH HAYWARD.

Hon. R. B. Taney, *Secretary of the Treasury.*

JOURNAL

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BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 7, 1829,

AND IN THE FIFTY-FOURTH YEAR OF THE INDEPENDENCE OF THE SAID UNITED STATES.

WASHINGTON:
PRINTED BY DUFF GREEN.
1829.

TUESDAY, DECEMBER 8, 1829.

Mr. White, from the committee appointed to wait on the President of the United States, and inform him that quorums of the two Houses have assembled, and that Congress are ready to receive any communications he may be pleased to make, reported, that the committee had performed the duties of their appointment, and that the President of the United States answered that he would make a communication, in writing, to the two Houses of Congress, this day at 12 o'clock.

The following written message was then received from the President of the United States, by Mr. Donaldson, his Secretary:

Fellow-Citizens of the Senate,
and House of Representatives:

It affords me pleasure to tender my friendly greetings to you on the occasion of your assembling at the Seat of Government, to enter upon the important duties to which you have been called by the voice of our countrymen. The task devolves on me, under a provision of the Constitution, to present to you, as the Federal Legislature of twenty-four sovereign States, and twelve millions of happy people, a view of our affairs; and to propose such measures as, in the discharge of my official functions, have suggested themselves as necessary to promote the objects of our Union.

I consider it one of the most urgent of my duties to bring to your attention the propriety of amending that part of our Constitution which relates to the election of President and Vice President. Our system of government was, by its framers, deemed an experiment; and they, therefore, consistently provided a mode of remedying its defects.

To the people belongs the right of electing their Chief Magistrate: it was never designed that their choice should, in any case, be defeated, either by the intervention of electoral colleges, or by the agency confided, under certain contingencies, to the House of Representatives. Experience proves, that, in proportion as agents to execute the will of the people are multiplied, there is danger of their wishes being frustrated. Some may be unfaithful:

all are liable to err. So far, therefore, as the people can, with convenience, speak, it is safer for them to express their own will.

The number of aspirants to the Presidency, and the diversity of the interests which may influence their claims, leave little reason to expect a choice in the first instance, and, in that event, the election must devolve on the House of Representatives, where, it is obvious, the will of the People may not be always ascertained; or, if ascertained, may not be regarded. From the mode of voting by States, the choice is to be made by twenty-four votes; and it may often occur, that one of these will be controlled by an individual Representative. Honors and offices are at the disposal of the successful candidate. Repeated ballotings may make it apparent that a single individual holds the cast in his hand. May he not be tempted to name his reward? But even without corruption—supposing the probity of the Representative to be proof against the powerful motives by which it may be assailed—the will of the people is still constantly liable to be misrepresented. One may err from ignorance of the wishes of his constituents; another, from a conviction that it is his duty to be governed by his own judgment of the fitness of the candidates: finally, although all were inflexibly honest—all accurately informed of the wishes of their constituents—yet, under the present mode of election, a minority may often elect the President; and *when this* happens, it may reasonably be expected that efforts will be made on the part of the majority to rectify this injurious operation of their institutions. But although no evil of this character should result from such a perversion of the first principle of our system—*that the majority is to govern*—it must be very certain that a President elected by a minority cannot enjoy the confidence necessary to the successful discharge of his duties.

In this, as in all other matters of public concern, policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system, that the office of Chief Magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority.

I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of the President and Vice President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for, by confining the second to a choice between the two highest candidates. In connexion with such an amendment, it would seem advisable to limit the service of the Chief Magistrate to a single term, of either four or six years. If, however, it should not be adopted, it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved, would not be proper.

While members of Congress can be constitutionally appointed to offices of trust and profit, it will be the practice, even under the most conscientious adherence to duty, to select them for such stations as they are believed to be better qualified to fill than other citizens; but the purity of our Government would doubtless be promoted, by their exclusion from all appointments in the gift of the President in whose election they may have been officially concerned. The nature of the judicial office, and the necessity of securing in the Cabinet and in diplomatic stations of the highest rank, the best talents and political experience, should, perhaps, except these from the exclusion.

There are perhaps few men who can for any great length of time enjoy office and power, without being more or less under the influence of feelings

unfavorable to the faithful discharge of their public duties. Their integrity may be proof against improper considerations immediately addressed to themselves; but they are apt to acquire a habit of looking with indifference upon the public interests, and of tolerating conduct from which an unpractised man would revolt. Office is considered as a species of property; and Government, rather as a means of promoting individual interests, than as an instrument created solely for the service of the people. Corruption in some, and, in others, a perversion of correct feelings and principles, divert Government from its legitimate ends, and make it an engine for the support of the few at the expense of the many. The duties of all public officers are, or, at least, admit of being made, so plain and simple, that men of intelligence may readily qualify themselves for their performance; and I cannot but believe that more is lost by the long continuance of men in office, than is generally to be gained by their experience. I submit therefore to your consideration, whether the efficiency of the Government would not be promoted, and official industry and integrity better secured, by a general extension of the law which limits appointments to four years.

In a country where offices are created solely for the benefit of the people, no one man has any more intrinsic right to official station than another. Offices were not established to give support to particular men, at the public expense. No individual wrong is therefore done by removal, since neither appointment to, nor continuance in, office, is matter of right. The incumbent became an officer with a view to public benefits; and when these require his removal, they are not to be sacrificed to private interests. It is the people, and they alone, who have a right to complain, when a bad officer is substituted for a good one. He who is removed has the same means of obtaining a living, that are enjoyed by the millions who never held office. The proposed limitation would destroy the idea of property, now so generally connected with official station; and although individual distress may be sometimes produced, it would, by promoting that rotation which constitutes a leading principle in the republican creed, give healthful action to the system.

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21st CONGRESS, 1st SESSION.

S. 161.

IN SENATE OF THE UNITED STATES,
MARCH 31, 1830.

Mr. KANE, from the Committee on Public Lands, reported the following bill; which was read, and passed to a second reading:

A BILL

To establish a town at St. Marks, and at the mouth of Appalachicola river, in Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to cause so much of the public lands, at or near St. Marks, and at West Point, near the mouth of Appalachicola river, in the Territory of Florida, as he may deem proper, to be laid off into town lots, not to contain more than one quarter of an acre each, and into streets, avenues, and out lots, and public squares, for the use of the town. And, whenever the survey of the same shall be completed, it shall be the duty of the surveyor for the Territory of Florida to cause two plats thereof to be made out, on which the town and out lots shall respectively be designated by progressive numbers, one of which shall be transmitted, with a copy of the field notes, to the Commissioner of the General Land Office, and the other to the Register of the Land Office for the proper District.

SEC. 2. *And be it further enacted*, That the aforesaid town and out lots at said sites, with the exception of such of them as the President may reserve for fortifications, shall be offered for sale to the highest bidder, under the direction of the Register and Receiver of the proper Land Office, at such times and places as the President shall, by public proclamation, designate for that purpose; and all lots remaining unsold at the closing of the public sales shall be subject to entry at private sale at the proper Land Office: *Provided*, That no town lot shall be sold for less than twenty-five dollars, nor any out lot for less than at the rate of twenty-five dollars per acre; and they shall, in every other respect, be sold on the same terms and conditions as are provided for the disposal of the other public lands of the United States.

SEC. 3. *And be it further enacted*, That, previous to offering the aforesaid town and out lots at public sale, the President of the United States shall cause the value of any improvements which may have been made thereon to be ascertained in such manner as he may prescribe for that purpose; and the purchaser at public sale of any lot, upon which there are such improvements, other than the owner thereof, shall, in addition to the sum to be paid to the United States, be, and hereby is, required to pay to the owner of the improvements the value of them as thus ascertained; and if payment therefor shall not be made upon the day on which the same was purchased, the

lot shall be again offered at public sale on the next day of sale, and such person shall not be capable of becoming the purchaser of that or of any other lot offered at that public sale: *Provided*, That if any lot so offered and bid off on the last day of the public sale shall not be thus paid for, the same may be entered at private sale, upon paying to the United States the sum at which it was bid off, and to the owner of the improvements the previously ascertained value thereof.

THURSDAY, March 25, 1830.

Mr. Kane presented sundry documents from the Commissioner of the General Land Office, relative to the expediency of laying off a town on the public lands, at or near the mouth of Chicago creek, in Illinois; and of causing certain public lands at or near St. Marks, in Florida, to be laid off into town lots.

Ordered, That the said petition and documents be referred to the Committee on Public Lands.

WEDNESDAY, March 31, 1830.

Mr. Kane, from the Committee on Public Lands, to whom documents from the General Land Office on the subject were referred, reported a bill to establish a town at St. Marks, and at the mouth of Appalachicola river, in Florida; which was read, and

Ordered, That it pass to a second reading.

Case

Chicago - no entry

Coburn

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F.

Florida,

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OF

THE UNITED STATES.

First Session, Twenty-first Congress—1829–'30.

RESOLUTIONS.

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U. S. Congress. House.

JOURNAL

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21st CONGRESS, 1st SESSION.

H. R. 255.

FEBRUARY 16, 1830.

Read twice, and committed to a Committee of the Whole House to-morrow.

Mr. DUNCAN, from the Committee on the Public Lands, reported the following bill:

A BILL

To authorize a change in the disposal of the land granted for the construction of the Illinois and Michigan Canal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, if the State of Illinois shall, at the next session of the Legislature thereof, after the approval of this act, by law relinquish to the United States, for ever, all the right and title of said State to the whole of the land granted to said State by an act of Congress, approved the second of March, one thousand eight hundred and twenty-seven, entitled "An act to grant a quantity of land to the State of Illinois, for the purpose of aiding in the opening of a canal to connect the waters of the Illinois river with those of Lake Michigan," except such parts thereof as may, in such law, be designated and specially excepted, not exceeding the sixteenth, in entire sections, or fractional sections, and excepting, also, from said act of relinquishment, any part of said land which may have been sold by said State before the approval of this act, or within thirty days thereafter, then, and in that case, it shall be the duty of the Commission-

er of the General Land Office to issue scrip in the name of such person as the said act of relinquishment may appoint for that purpose, and his assignees, for the quantity of land so relinquished, at the price of one dollar and twenty-five cents per acre, in the manner, and upon the conditions, hereinafter stated, and not otherwise.

SEC. 2. *And be it further enacted*, That, upon the application of the Governor, or other duly authorized agent of said State, and upon filing in the office of the Commissioner of the General Office a duly authenticated copy of an act of relinquishment passed by the Legislature of Illinois, containing the provisions by this act required, and also, a copy of the records as required by said State to be made, designating what parts of such land may have been sold, or the certificate of the Governor that no sales had been made: the said Commissioner shall issue scrip to the amount of fifty thousand dollars, and shall, from time to time thereafter, make issues of scrip, not exceeding fifty thousand dollars at any one time, until he shall have issued scrip for the whole amount of the land relinquished: *Provided*, That before the issuance of any scrip after the first quota, there shall be filed in the office of said Commissioner, copies of all contracts then made under the authority of said State, with sufficient security for the execution of so much of the said canal as shall cost at least the sum for which scrip shall be applied for, and also, sufficient vouchers, shewing that the

full amount of all previous issues of scrip shall have been applied to the discharge of contracts in like manner entered into for the construction of said canal, and for no other purpose: *And provided*, That the said issues of scrip shall not exceed, in any one year, the amount of one hundred thousand dollars.

SEC. 3. *And be it further enacted*, That the said Commissioner shall prescribe the manner in which copies of said contracts shall be certified or proved, and the kind of vouchers and proof of them shewing the application of the avails of scrip.

SEC. 4. *And be it further enacted*, That the said scrip shall be issued in certificates of one hundred dollars each, except upon fractional sections, or fractional half-quarters, in which cases the certificates shall conform to the sizes thereof.

SEC. 5. *And be it further enacted*, That all scrip which may be issued under the authority of this act, shall be receivable at any of the Land Offices in the State of Illinois, in payment of the public lands of the United States, as cash.

SEC. 6. *And be it further enacted*, That nothing contained in this act shall in any manner affect or change the right secured to the United States, under the act of Congress, referred to in the first section of this act, making said canal a public highway for the use of the Government of the United States, free from any toll or charge whatever, for any property of the United States, or persons in their service, passing through the same; nor the obligation imposed on said State of Illinois

by said act, to commence said canal in five, and complete the same in twenty years from the passage of said act.

SEC. 7. *And be it further enacted*, That the said State of Illinois shall be bound to refund to the United States the full amount, at par, of all scrip issued under this act, which shall not, in the manner herein prescribed, be shown to have been applied to the construction of said canal.

SEC. 8. *And be it further enacted*, That the act of relinquishment contemplated by the first section of this act shall contain the express assent of said State to all the conditions and regulations prescribed by this act, and the before-recited act of Congress, and the people of said State to abide by and perform the same, in all respects, on her part, otherwise the relinquishment shall not be accepted, and no scrip shall be issued thereon.

SEC. 9. *And be it further enacted*, That said act of relinquishment shall not extend to, or in any manner affect the land to the width of ninety feet, on each side of said canal, as reserved by the act, entitled "An act to authorize the State of Illinois to open a canal through the public lands to connect the Illinois river with Lake Michigan," approved thirtieth of March, one thousand eight hundred and twenty-two.

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF

THE UNITED STATES;

BEING THE SECOND SESSION OF THE TWENTY-FIRST CONGRESS,

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 6, 1830.

AND IN THE FIFTY-FOURTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

WASHINGTON:

PRINTED BY DUFF GREEN.

1830.

FRIDAY, DECEMBER 10, 1830.

On motion of Mr. Spencer, of New York,

Ordered, That the petition of the corporation of the city of Albany, in the State of New York, and the petition of inhabitants of Albany, praying for the improvement of the navigation of the Hudson river, both above and below that city, presented to this House at the last session of Congress, be referred to the Committee on Commerce.

On motion of Mr. White, of Louisiana,

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of authorizing the Register and Receiver of the several land offices in the State of Louisiana, to receive entries of claims to land derived from the French and Spanish Governments, under the acts of Congress heretofore enacted on that subject.

On motion of Mr. Duncan,

Resolved, That the several memorials on file in the office of this House, from the Legislature of the State of Illinois, on the subject of repairing cer-

That those which relate to a further donation of land, to enable the State to complete the Illinois and lake Michigan canal, be referred to the Committee on Internal Improvement;

That the memorials which relate to the improvement of the channel of the Mississippi river at the Des Moines and Rock river rapids, and the improvement of other rivers in the State, be referred to the Committee on Internal Improvement;

That those which relate to the exchange of seminary and school lands, be referred to the Committee on the Public Lands;

That those which relate to the running of the northern boundary line of the State, be also referred to the Committee on the Public Lands.

On motion of Mr. Pettis,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making appropriations for improving the navigation of the Missouri river, and that of the Mississippi river above the mouth of the Ohio river.

On motion of Mr. Mercer,

Ordered, That the memorial of the Chesapeake and Ohio Canal Company, requesting a subscription from the United States to the western section of the said canal, which was referred to the Committee on Internal Improvement at the last session of the present Congress, be again referred to the Committee on Internal Improvement.

MONDAY, JANUARY 31, 1831.

The House proceeded to the consideration of the motion made on the 6th of January instant, to reconsider the vote on the question, Shall the bill (No. 255) "to authorize a change in the disposal of the land granted for the construction of the Illinois and Michigan canal," be engrossed, and read a third time?

And the question being put, Will the House reconsider the said vote?

It was decided in the negative, { Yeas, ... 82, Nays, ... 109.

The yeas and nays being desired by one-fifth of the members present,

Those who voted in the affirmative, are,

Messrs. John Bailey, Mordecai Bartley, Robert E. B. Baylor, Thomas Beekman, John Blair, Ratliff Boon, Tristam Burges, Samuel Butman, William Cahoon, Clement C. Clay, James Clark, Nicholas D. Coleman, Lewis Condict, Joseph H. Crane, Thomas H. Crawford, David Crockett, William Creighton, jr., Benjamin W. Crowninshield, Henry Daniel, Edmund Deberry, Harmar Denny, John D. Dickinson, Philip Doddridge, Clement Dorsey, Joseph Duncan, Henry W. Dwight, Samuel W. Eager, George Evans, Edward Everett, James Findlay, Isaac Finch, James Ford, Innis Green, George Grennell, jr., Henry H. Gurley, Joseph Hawkins, Joseph Hemphill, James L. Hodges, Benjamin C. Howard, Thomas H. Hughes, Jonathan Hunt, Ralph I. Ingersoll, Thomas Irwin, William W. Irvin, Jacob C. Isacks, Kensey Johns, jr., Richard M. Johnson, William Kennon, John Kincaid, Humphrey H. Leavitt, Joseph Lecompte, Robert P. Letcher, Chittendon Lyon, Rollin C. Mallary, Henry C. Martindale, Charles F. Mercer, George E. Mitchell, Robert Monell, Dutee J. Pearce, Isaac Pierson, Robert S. Rose, William Russel, James Shields, Thomas H. Sill, Michael C. Sprigg, William Stanberry, James Standefer, Philander Stephens, James Strong, Joel B. Sutherland, Samuel Swan, John W. Taylor, John Test, John Thomson, Joseph Vance, Samuel F. Vinton, George C. Washington, Elisha Whittlesey, Ephraim K. Wilson, Joseph F. Wingate, Joel Yancey, and Ebenezer Young.—82.

Those who voted in the negative, are,

Messrs. Mark Alexander, Robert Allen, Willis Alston, John Anderson, William G. Angel, William S. Archer, William Armstrong, Benedict Arnold, Noyes Barber, John S. Barbour, Robert W. Barnwell, Daniel L. Barringer, John Bell, James Blair, Abraham Bockee, Peter I. Borst, Thomas F. Bouldin, John Broadhead, Elias Brown, James Buchanan, Churchill C. Cambreleng, John Campbell, Samuel P. Carson, Thomas Chandler, Thomas Chilton, Nathaniel H. Claiborne, Richard Coke, jr., Henry W. Conner, Richard M. Cooper, Richard Coulter, Henry B. Cowles, Robert Craig, Jacob Crocheron, Thomas Davenport, John Davis, Warren

R. Davis, Robert Desha, Charles G. De Witt, Joseph Draper, William Drayton, Jonas Earll, jr., William W. Ellsworth, Joshua Evans, Horace Everett, Chauncey Forward, Thomas F. Foster, Nathan Gaither, John Gilmore, William F. Gordon, Jehiel H. Halsey, Joseph Hammons, Jonathan Harvey, Charles E. Haynes, Thomas Hinds, Cornelius Holland, Michael Hoffman, Henry Hubbard, Peter Ihrie, jr., Leonard Jarvis, Jonathan Jennings, Cave Johnson, Joseph G. Kendall, Perkins King, Adam King, Pryor Lea, James Lent, Dixon H. Lewis, George Loyall, Wilson Lumpkin, John Magee, Lewis Maxwell, William McCreery, William McCoy, George McDuffie, Rufus McIntire, Daniel H. Miller, Henry A. Muhlenberg, William T. Nuckolls, Walter H. Overton, Spencer Pettis, James K. Polk, Robert Potter, William Ramsey, John Reed, Joseph Richardson, John Roane, Jonah Sanford, John Scott, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Ambrose Spencer, Richard Spencer, John B. Sterigere, Henry R. Storrs, Benjamin Swift, John Taliaferro, Wiley Thompson, Phineas L. Tracy, James Trezvant, Starling Tucker, John Varnum, Gulian C. Verplanck, James M. Wayne, John W. Weeks, Campbell P. White, Charles A. Wickliffe, Richard H. Wilde, and Lewis Williams.—109.

The House proceeded to the consideration of the bill (No. 330) for the relief of James Monroe.

The question to concur with the Committee of the Whole House in striking out the enacting words of the bill, recurred;

And being put,

It was decided in the negative, { Yeas, ... 80, / Nays, ... 109.

The yeas and nays being desired by one-fifth of the members present,

Those who voted in the affirmative, are,

Messrs. Mark Alexander, Willis Alston, John Anderson, William G. Angel, William S. Archer, Noyes Barber, Robert W. Barnwell, John Bell, James Blair, John Blair, Abraham Bockee, Peter I. Borst, Thomas T. Bouldin, John Broadhead, William Cahoon, Thomas Chandler, Thomas Chilton, Nathaniel H. Claiborne, Clement C. Clay, James Clark, Richard M. Cooper, Robert Craig, Joseph H. Crane, Thomas H. Crawford, Henry Daniel, Robert Desha, Clement Dorsey, Joseph Draper, William Drayton, William W. Ellsworth, James Findlay, James Ford, Thomas F. Foster, Joseph Fry, Thomas H. Hall, Jehiel H. Halsey, Joseph Hammons, Jonathan Harvey, Charles E. Haynes, Michael Hoffman, Henry Hubbard, Jonathan Hunt, Jabez W. Huntington, Peter Ihrie, jr., Jacob C. Isacks, Cave Johnson, John Kincaid, Perkins King, Adam King, Pryor Lea, Humphrey H. Leavitt, Joseph Lecompte, Robert P. Letcher, Dixon H Lewis, George Loyall, Wilson Lumpkin, John Magee, Thomas Maxwell, William McCoy, Rufus McIntire, Henry A. Muhlenberg, Isaac Pierson, James K. Polk, Robert Potter, John Roane, Jonah Sanford, Augustine H. Shepperd, James Standefer, William L. Storrs, Benjamin Swift, Wiley Thompson, James Trezvant, Starling Tucker, Joseph Vance, Samuel F. Vinton, John W. Weeks, Elisha Whittlesey, Charles A. Wickliffe, Lewis Williams, and Joseph F. Wingate.—80.

Those who voted in the negative, are,

Messrs. William Armstrong, Benedict Arnold, John Bailey, John S. Barbour, Daniel L. Barringer, Mordecai Bartley, Isaac C. Bates, Robert E. B. Baylor, Thomas Beekman, Ratliff Boon, Elias Brown, James Buchanan, Tristam Burges, Churchill C. Cambreleng, John Campbell, Samuel P. Carson, Richard Coke, jr., Nicholas D. Coleman, Lewis Condict, Henry W. Conner, Richard Coulter, Henry B. Cowles, William Creighton, jr., Jacob Crocheron, Benjamin W. Crowninshield, Thomas Davenport, John Davis, Edmund Deberry, Harmar Denny, Charles G. De Witt, John D. Dickinson Philip Doddridge, Joseph Duncan, Henry W. Dwight, Samuel W. Eager, Jonas Earll, jr., George Evans, Joshua Evans, Edward Everett, Horace Everett, Isaac Finch, Chauncey Forward, John Gilmore, William F. Gordon, Innis Green, George Grennell, jr., Henry H. Gurley, Joseph Hawkins, Joseph Hemphill, Thomas Hinds, James L. Hodges, Cornelius Holland, Benjamin C. Howard, Thomas H. Hughes, Ralph I. Ingersoll, William W. Irvin, Leonard Jarvis, Jonathan Jennings, Kensey Johns, jr., Richard M. Johnson, Joseph G. Kendall, James Lent, Chittenden Lyon, Rollin C. Mallary, Henry C. Martindale, William McCreery, George McDuffie, Charles F. Mercer, Daniel H. Miller, George E. Mitchell, Robert Monell, Ebenezer F. Norton, William T. Nuckolls, Walter H. Overton, John Mercer Patton, Dutee J. Pearce, Spencer Pettis, John Reed, Joseph Richardson, Robert S. Rose, William Russel, John Scott, William B. Shepard, James Shields, Thomas H. Sill, Jesse Speight, Ambrose Spencer, Richard Spencer, Michael C. Sprigg, William Stanberry, John B. Sterigere, Philander Stephens, James Strong, Joel B. Sutherland, Samuel Swan, John Taliaferro, John W. Taylor, John Test, John Thomson, John Varnum, Gulian C. Verplanck, George C. Washington, James M. Wayne, Campbell P. White, Edward D. White, Richard H. Wilde, Ephraim K. Wilson, Joel Yancey, and Ebenezer Young.—109.

And then the House adjourned.

C.

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TO

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First Session—Twenty-first Congress.

A.

C.

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DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTIETH TO THE SECOND SESSION OF THE TWENTIETH CONGRESS, INCLUSIVE:

COMMENCING DECEMBER 3, 1827, AND ENDING MARCH 3, 1829.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

VOLUME V.

WASHINGTON:
PUBLISHED BY GALES & SEATON.
1860.

20TH CONGRESS.] No. 643. [1ST SESSION.

RELATIVE TO A CHANGE IN THE ORIGINAL PLAN OF THE CITY OF DETROIT, IN MICHIGAN.

COMMUNICATED TO THE SENATE FEBRUARY 5, 1828.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the undersigned, inhabitants of Detroit and citizens of the United States in the Territory of Michigan, respectfully showeth: That by the provisions of an act of Congress entitled "An act to provide for the adjustment of titles to land in the town of Detroit and Territory of Michigan, and for other purposes," approved April 21, 1806, the governor and judges of the Territory were authorized to lay out a town, &c., and to grant to every citizen of the United States, under certain restrictions, who was an inhabitant of the old town of Detroit at the time of its conflagration, a donation lot not exceeding five thousand square feet; that, in pursuance of the provisions of the said act of Congress, the said governor and judges did lay out a town, embracing a large extent of ground, extending back from the river Detroit nearly one mile, and granted and sold all the lots so laid out by them, and gave deeds to the respective grantees and purchasers for the same. The said governor and judges did also expend large sums of money, and at repeated periods, to cause the said town or city to be surveyed and plats of said surveys to be made and recorded, on which the grants and public sales at auction of the said lots were made. Under those circumstances many of your memorialists became owners of lots, either as donations, or by purchase from the original grantees, or from the said governor and judges, at public auction. Your memorialists beg leave further to remark, that a period of nearly twenty-two years has elapsed since the laying out and establishing the plan of the said city of Detroit; that the titles of the respective owners of lots have for many years been recorded, agreeably to the statutory provisions of the said Territory; that many of your memorialists have expended large sums of money in labor, buildings, and improvements in and about the said lots and the streets on which they are situated; that your memorialists have been subjected to the payment of heavy taxes on the said lots, and have necessarily and unavoidably contributed large sums of money to roads, streets, public buildings, and other improvements within the said city; and, moreover, have been subjected to the depredations of savage enemies during the late war, and the consequences incident to such a state on a frontier Territory during the period of its occupation by the enemy. Your memorialists have, during many years, indulged the hope that a period would arrive when they would be in some measure remunerated and indemnified by the enjoyment of the fruits of their privations and economical savings during so long a period of time, by realizing the benefits of the increase in value of the said property; but just at the dawning of this prospect your memorialists, with mingled emotions of regret and disappointment, find that their hopes and expectations are suddenly obscured and in a great measure dissipated by an attack on their vested rights, entirely unexpected and unlooked for from the source from which it has emanated. It never entered into the minds of your memorialists that, as soon as a supposed improvement in the legislative authority of the Territory should be obtained, legislative enactments, under frivolous and delusive pretences, would be passed to impair and take away *rights* which we had fondly cherished as inalienable and permanent; but, to the great surprise and disquietude of your memorialists, the legislative council of the said Territory did, by an act entitled "An act relative to the city of Detroit," (see sections 13, 14, 15, 16, 17, 18, and 19 of said act,) approved April 4, 1827, authorize the mayor, recorder, aldermen, and freemen of this city to pass such laws and ordinances as they might think proper; to vacate and alter diametrically the recorded plan of said city; and the act of the said legislative council contains several other arbitrary provisions, intended to impair and take away the legal, vested, and constitutional rights of your memorialists to their property, lawfully acquired; and notwithstanding the remonstrances of your memorialists, directed both to the said legislative council and to the said mayor, recorder, aldermen, and freemen of Detroit, an ordinance of said corporation has been passed vacating the recorded plan of the city of Detroit, and authorizing streets and alleys to be run, in directions entirely different, over the private property of your memorialists, throwing everything into the utmost confusion, and thereby impairing and destroying the property and rights of your memorialists without any kind of expediency or necessity for the public good, but merely to gratify the whim and caprice of some men who pretend to have a great predilection to a rectangular

plan, instead of the old plan, which is on the basis of an equilateral triangle. Your memorialists would also observe that by such unwarrantable alteration it will be unsafe to hold any ground within the limits so altered, as the lots, agreeably to the new plan, will frequently be made up of parts of lots owned by various individuals, some of whom are absent from the country and in foreign parts, and others are owned by minors and heirs of the original grantees. It has been speciously urged by those who have planned the alteration that there were errors and incongruities in the old plan. Your memorialists can only reply, in answer to such reasons, that such alteration will only tend to increase, instead of obviating, the confusion which otherwise might easily be remedied.

Your memorialists cannot but be persuaded that the course which has been commenced and pursued, relative to the plan of the city of Detroit, is replete with sinister consequences, and will operate injuriously and ruinously on many of its inhabitants. Such example will also have great weight over the whole Territory, and operate as a great discouragement to men of property in vesting their money in landed property within this city or Territory; for if this corporation has power to alter the plan diametrically this year, what guarantee have the owners of property against future and frequent alterations hereafter? What man of ordinary prudence would, under such circumstances, think of holding any real estate or of erecting buildings in a place under such circumstances?

Your memorialists are fully persuaded that much of the future prospects of this city must be founded on its commercial growth and importance, being the metropolis; and from its advantageous and central position there is reason to believe that it will continue to be the most important commercial entrepot for all the upper lakes and the country bordering on them. Any measure, therefore, having a tendency to unsettle the titles to lots in said city will always and lastingly be felt, and should, therefore, be deprecated as a great public as well as private misfortune.

Your memorialists, in conclusion, beg leave to observe that it is an axiom in civilized governments, as sound as it is wise and just, that much of the prosperity of all states must depend essentially upon the laws which secure and guarantee to private individuals the rights of property and the faithful administration of such protecting laws. Take away such protection and security, and what is there left to stimulate the faithful citizen to honest exertion, and industry, and economy, to acquire real estate? What becomes of private as well as public wealth? Is not the power of states and empires in a measure commensurate with the wealth and numbers of its population? Is not the secure tenure of real estate one of the greatest and most essential and prominent features in our great American bill of rights, the magna charta of American independence? Are not such rights recognized and guaranteed to the citizens of the United States residing under the territorial governments by the provisions of the articles of compact, declared to be unalterable, promulgated by the authority of Congress in their ordinance of July 13, 1787?

Your memorialists, therefore, for these and several other reasons which might with great propriety be urged in the premises, respectfully request that your honorable bodies will take this our memorial into consideration, and the reasons on which it is founded, and also pass in review the act of Congress hereinbefore mentioned, of April, 1806, and especially such part as relates to the duties imposed by the provisions of the said act on the governor and judges, requiring a report of their proceedings; and your memorialists further request that a confirmation by Congress of the acts of the said governor and judges, so far as relates to titles held under them, may be made; and that the original plan, as established by the said governor and judges, may also be approved; and that your honorable bodies will be further pleased to extend your paternal and protecting authority over the rights of your humble memorialists by repealing or annulling the act of the legislative council of this Territory of April 4, 1827, and all other acts supplemental or in addition thereto tending to impair, abridge, or take away the vested rights of your memorialists.

And your memorialists, as in duty bound, will ever pray.

W. N. Deecriss.	Jos. Campau.	Wm. Brown.
Garry Spencer.	Robert Smart.	Joseph Amlin.
John Farmer.	Peter Demoyers.	Robert Abbott.
D. Cooper.	B. Campau.	James May.
Wm. Durell, jr.	Wm. M. Coskry.	D. B. Cole.
Z. L. King.	Oliver W. Miller.	W. De Grummond.
Martin Booth.	M. Hanks.	C. P. Cole.
W. H. St. Clair.	Catharine McNiff.	Lewis B. Sturgis.
Jno. McKenney.	Jno. Trusx.	Theo. Williams.
John Garrison.	Jeremiah V. R. Ten Eyck.	Gildersleve Hurd.
Rufus Weller.	D. C. Cannuff.	Richard Butler.
Jos. Coté.	Jeremiah Moors.	Martin Story.
Presque Coté.	John Cook.	Harvey Williams.
Thomas Coquilar.	Henry Chapoton.	Gilbert Bagnall.
Eustache Chapoton.	Job Bodet.	Edward A. Trumbull.
Jno. R. Williams.	Moses Girardin.	J. B. D. Beaubier.
Chs. Jackson.	F. Letourno.	J. G. Navarre.
Alex. D. Fraser.	Leonard Loomis.	

DETROIT, *January* 12, 1828.

MICHIGAN TERRITORY, *County of Wayne:*

I certify the within petition to be a true copy of the original, transmitted by General John R. Williams, of this city, to the honorable Mr. Van Rensselaer, of the House of Representatives.

JOHN McDONELL.

CITY OF DETROIT, *January* 20, 1828.

AN ORDINANCE.

DETROIT, *April* 23, 1827.

The following ordinance is published in conformity with the 17th section of the "Act relative to the city of Detroit;" notice will hereafter be given of the time and place appointed for bringing the same under the consideration of a public meeting of the freemen of said city:

AN ORDINANCE relative to a change of the plan of the city of Detroit, passed in conformity with the provisions of the 14th section of an act of the legislative council of the Territory of Michigan, entitled "An act relative to the city of Detroit," approved April 5, 1827.

SECTION 1. *Be it ordained by the mayor, recorder, and aldermen of the city of Detroit*, That so much of said city as is embraced within the limits set forth in the 13th section of the act mentioned in the title of this ordinance be laid out anew, agreeably to the plan draughted by John Mullett, under the direction of the mayor, recorder, and aldermen; of which the original shall be deposited with the city clerk, and a copy thereof shall be placed on the records of the city register. And all streets, alleys, public squares, &c., not therein specially recognized, shall henceforth cease to be such.

SEC. 2. That all owners of lots situated upon that part of the city plat mentioned in the foregoing section, who may approve of the provisions of the 13th, 14th, 15th, 16th, and 17th sections of the act of the legislative council mentioned in the title of this act, and may desire that the same be carried into effect, shall subscribe a paper to be deposited at the office of the city clerk, setting forth such assent, and thereupon the provisions of the act of the legislative council aforesaid shall be binding upon the lots of such assenting proprietors; and non-resident owners of lots may make known their assent by letter, or other written evidence. And it shall be the duty of the common council to appoint twelve freeholders of the city of Detroit, who shall proceed to affix a valuation to all lots laid out on that part of the plan heretofore established which is changed by this ordinance, and also a valuation to all lots as laid out in the plan adopted in the 1st section of this ordinance. And it shall be the duty of the mayor, recorder and aldermen to grant to such proprietors as may have expressed their assent to the act upon which this ordinance is founded, in the manner before prescribed, an equivalent in lots or money, at the option of such proprietors, upon quit-claim being made to the mayor, recorder, aldermen, and freemen of the city, of all lots for which equivalent is claimed.

SEC. 3. That before any street shall be opened and established on that part of the city plat of which the plan is altered by this ordinance, which shall affect the interest of such owners of lots as may not have declared their assent, as is before provided, the common council shall proceed in the manner prescribed in the 18th and 19th sections of the "Act relative to the city of Detroit," and such owners shall be entitled to the privileges and subject to the provisions thereof.

JOHN BIDDLE, *Mayor.*

Attest: JOHN J. DEMING, *Clerk of the Common Council.*

The following are the sections of the "Act relative to the city of Detroit" referred to in the preceding ordinance:

"SECTION 13. That the mayor, recorder, and aldermen of the city of Detroit, or a majority of them, be, and they are hereby, authorized to cause to be surveyed all that part of the said city lying northerly of Larned street, westwardly of Woodward avenue, southerly of the out-lots, and easterly of the Macomb line, so called, and also all that other part of the said city lying northerly of Larned street, westerly of the Brush line, so called, southerly of said out-lots, and eastwardly of said Woodward avenue, or so much thereof as they may deem expedient, and to relay out and divide the same into lots, streets, lanes, and squares, so that every street running easterly and westerly shall be parallel to said Larned street, and every street running northerly and southerly shall be parallel to said Woodward avenue, or as nearly so as practicable.

"SEC. 14. That it shall be competent for the mayor, recorder, and aldermen of the said city of Detroit, or a majority of them, and they or a majority of them are hereby authorized to provide, by an ordinance to be by them passed, for assessing the value of all the lots owned by individuals or corporations, or held in trust by the governor and judges of the Territory of Michigan under an act of the Congress of the United States, approved in April, 1806, in that part of the said city which they, the said mayor, recorder and aldermen, or a majority of them, shall cause to be surveyed, relaid out, and divided, as aforesaid, and for assigning to the owners of such lots other lot or lots to the value assessed, if such owner or owners shall consent to take such lots, and for the payment of said value, or any part thereof, in money: *Provided*, That a right of appeal be allowed to the circuit court of the county of Wayne; and said court shall cause an issue to be made up, and the amount of damages to be assessed by a jury, from the decision on the value of any lot, if said appeal shall be prosecuted within one year after such value shall be assessed, and not otherwise.

"SEC. 15. That when the value of any lot or lots ascertained and determined, pursuant to the provisions of the ordinance to be passed as aforesaid, or so much thereof as shall be covered by any street or alley, shall be paid or tendered to the owner or owners thereof; or when any other lot or lots to the said value shall be assigned to such owner or owners, the said owner or owners shall thereupon release and quit-claim to the mayor, recorder, aldermen, and freemen of the city of Detroit all title to his, her, or their lot or lots, the value of which has been paid or tendered, or some other lot or lots assigned to the value thereof, as aforesaid; and if such owner or owners, after such payment or tender, or assignment, as aforesaid, shall neglect or refuse, for the space of one year, to execute and deliver to the said mayor, recorder, aldermen, and freemen of the city of Detroit, good and valid release and quit-claim of all his, her, or their title in and to the lot and lots aforesaid, then, and in such case, the deed and deeds of such owner or owners of the lots aforesaid shall be void, and shall not be given in evidence of title in any court of law or equity in this Territory. And the deed and deeds which may thereafter be executed and delivered for conveying title to the lot and lots, or any part thereof, of such owner or owners, shall be deemed and taken to be, in all courts of law and equity in said Territory, conclusive evidence of legal title in fee of the premises described in such deed and deeds, any law or usage to the contrary notwithstanding: *Provided*, That nothing herein contained shall be so construed as to deprive or debar the owner and owners aforesaid from having the value of his, her, or their said lot and lots so ascertained as aforesaid and in

manner aforesaid: *Provided, also*, That for recording and registering all deeds and other instruments necessary and proper to be recorded and registered in the fulfilment of the change of the plan of the said city in manner aforesaid, the common council of said city shall, at the expense of the said city, procure such record books and blanks as the said common council may deem suitable; and the city register shall be, and he is hereby, required, when said record books and blanks shall be procured, as aforesaid, to make therein all records and registry of all deeds and other instruments that may be deemed necessary by said common council; and the city register shall receive 6¼ cents for every one hundred words actually written, and no more.

"Sec. 16. That all the expenses which shall accrue for surveying, relaying out, and dividing said city as aforesaid; for assessing the value of lots, and for making all transfers necessary to give this act effect, and for recording the same, shall be paid by the mayor, recorder, aldermen, and freemen of the city of Detroit; and all the lots within the limits mentioned in the 13th section of this act, remaining after all the claims of the owner and owners thereof are satisfied and adjusted in the way and manner as aforesaid, shall become the property and be and remain to the mayor, recorder, aldermen, and freemen of the city of Detroit and their successors in fee: *Provided, however*, That a lot of suitable size, to be designated by the common council of said city, with the approbation and consent of the governor of this Territory, shall be reserved around the court-house and another around the jail.

"Sec. 17. That it shall be the duty of the mayor, recorder, and aldermen of said city, as soon as convenient after the passing of this act, to make and publish the ordinance prescribed in the 14th section of this act, and thereupon to call a public meeting of the freemen for the purpose of taking the same into consideration, and a majority of said freemen shall approve of such ordinance, or alter and amend the same until approved of; whereupon the said mayor, recorder, and aldermen shall proceed to carry the same into effect.

"Sec. 18. That the common council of the said city, or a majority of them, shall have full power and authority to lay out, establish, open, and make such streets, lanes, alleys, side-walks, highways, water-courses and bridges, within the limit and agreeably to the plan of said city as they may deem necessary for the public convenience: *Provided*, That notice of the intention to lay out, open, establish, and make such street, lane, alley, or side-walk, highway, water-course, or bridge, shall be given, either personally to those interested or by publication in some newspaper published in said city, previous to the meeting of the common council for that purpose.

"Sec. 19. That when the owner or occupant of any lot, tenement, or premises, through or adjacent to which any street, lane, alley, side-walk, highway, or bridge is proposed to be opened or made, shall claim damages therefor, such owner or occupant shall present his claim in writing, to be filed with the clerk of said city, previous to the meeting of the common council for the purpose aforesaid; and if the common council shall determine that such improvements shall be made, they shall issue their precept in the nature of a *venire facias*, directed to the marshal of said city, requiring him to summon six disinterested freeholders of said city, who shall assess the damages under oath which the party so claiming may sustain thereby; which sum so assessed, together with all costs, shall be paid or fully tendered before such street, lane, or alley, side-walk, highway, or bridge shall be made, opened, or established; and the marshal is hereby authorized and empowered to administer the oath aforesaid to the said jurors, well and truly to inquire of and assess the damages in the premises: *Provided, nevertheless*, That the party claiming damages shall have the right to remove such proceedings by *certiorari* or appeal to the supreme or circuit court of this Territory, upon giving notice of such intention of appeal to said common council in writing within three days after the award of the freeholders aforesaid; but no *certiorari*, appeal, supersedeas, injunction, or other process from said court shall prevent the immediate making, laying out, or opening such street, lane, alley, side-walk, highway or bridge; and the said supreme or circuit court, on hearing such *certiorari* or appeal, shall award such damages as may be deemed just, and may render judgment for the same in the same manner as in a suit against the corporation of said city; and if the said supreme or circuit court shall not give judgment for greater damages than those awarded by the freeholders aforesaid, the party removing such suit shall not be entitled to costs."

AMERICAN STATE PAPERS.

DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTY-FIRST TO THE FIRST SESSION OF THE TWENTY-THIRD CONGRESS,

COMMENCING DECEMBER 1, 1828, AND ENDING APRIL 11, 1834.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

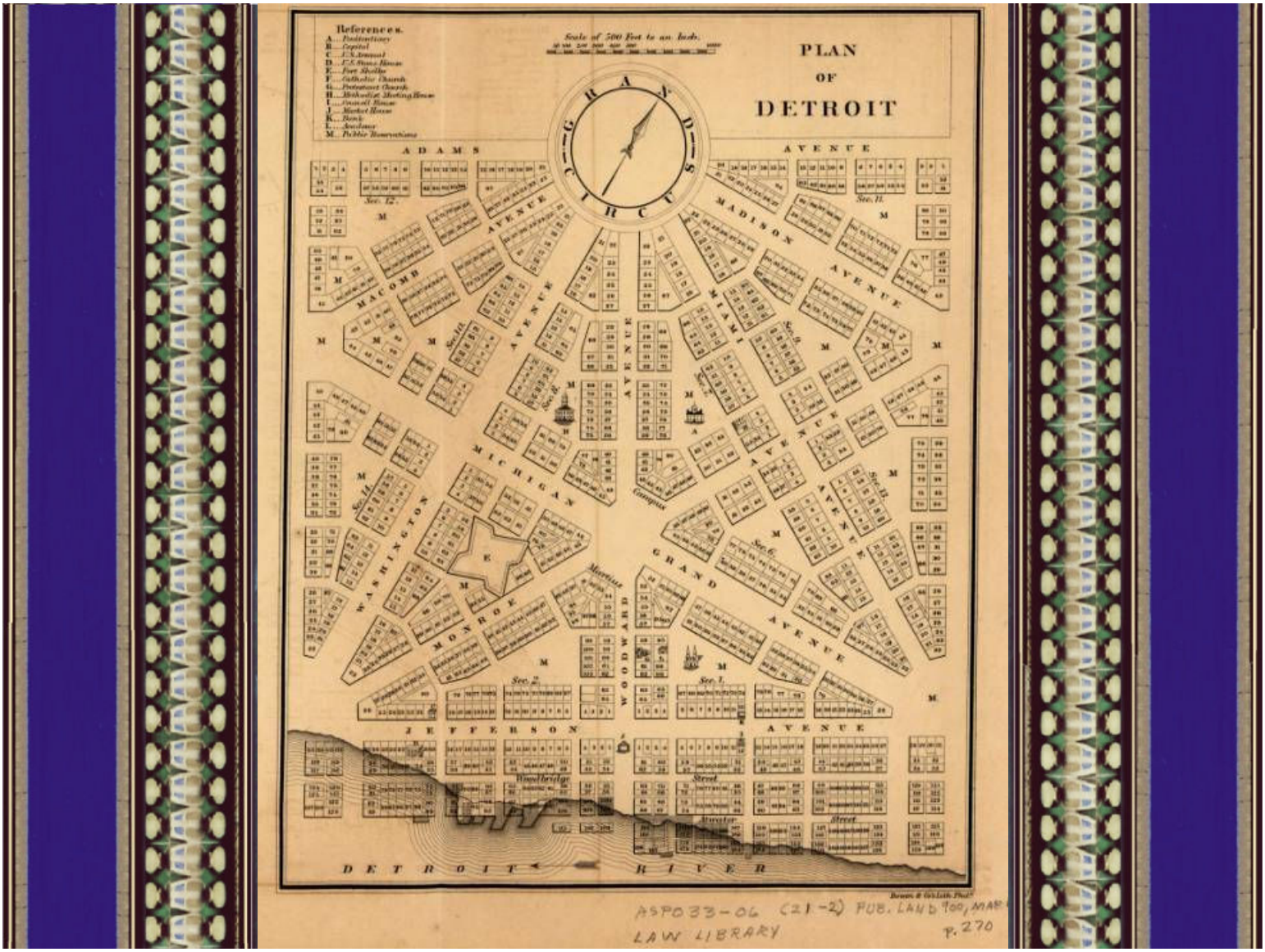
AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

VOLUME V

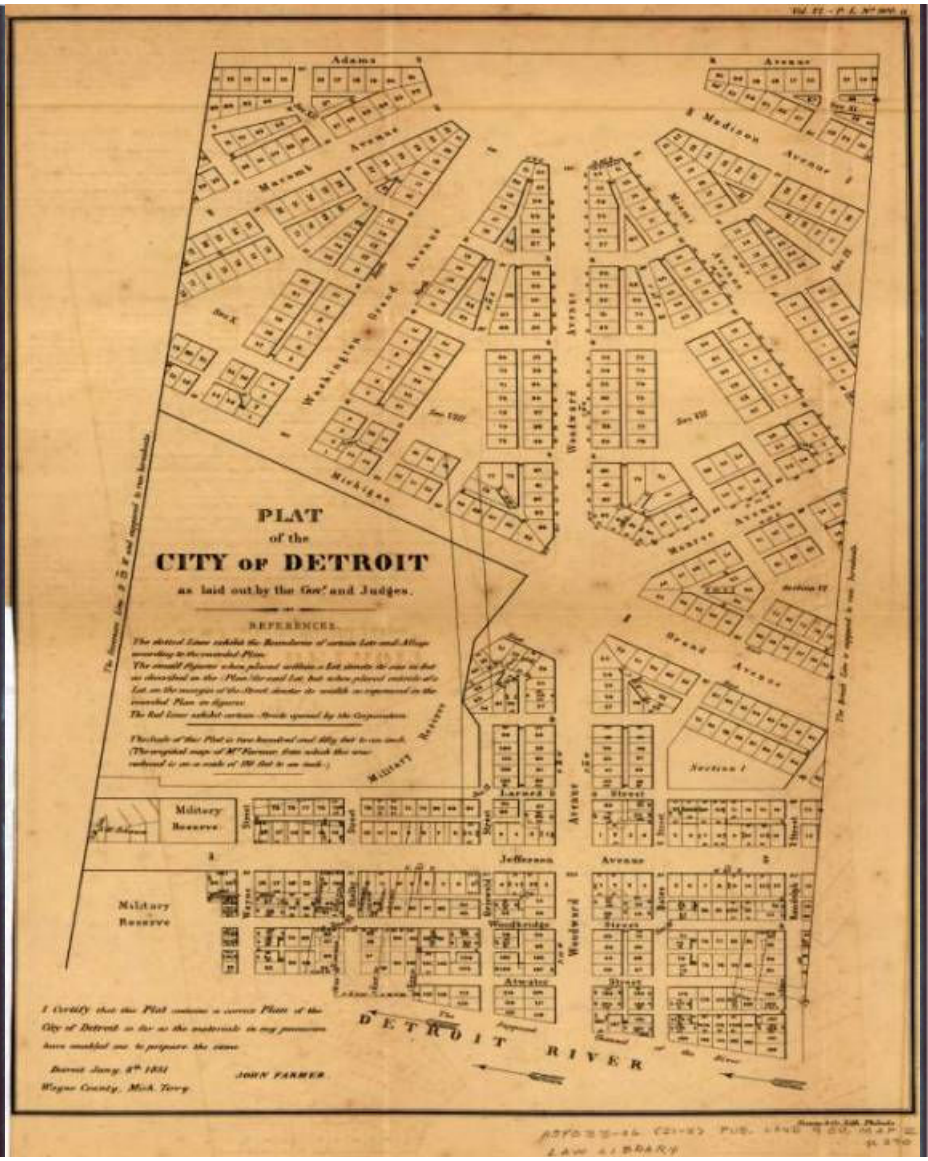
WASHINGTON:
PUBLISHED BY GALES & SEATON.
1860.

Mullett, John. Plan of Detroit (1830).
http://memory.loc.gov/gmd//gmd370m/g3701m/g3701fm/gct00025/aspl0601.jp2



Hildeburn, Charles R.
Title: Sketches of Printers and Printing in Colonial New York.
Citation: New York: Dodd, Mead, & Company, 1895.
Subdivision: Chapter II.

http://www.dinsdoc.com/hildeburn-1-2.htm



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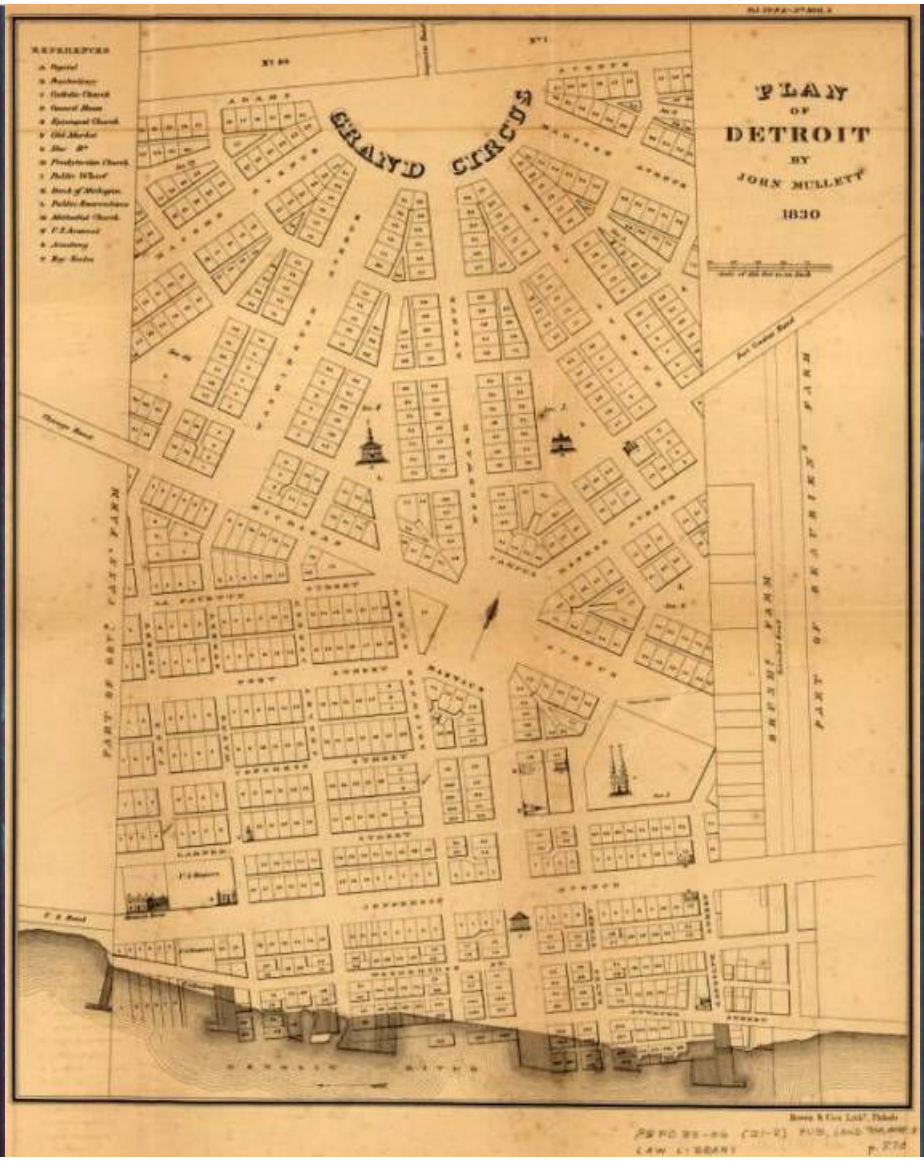

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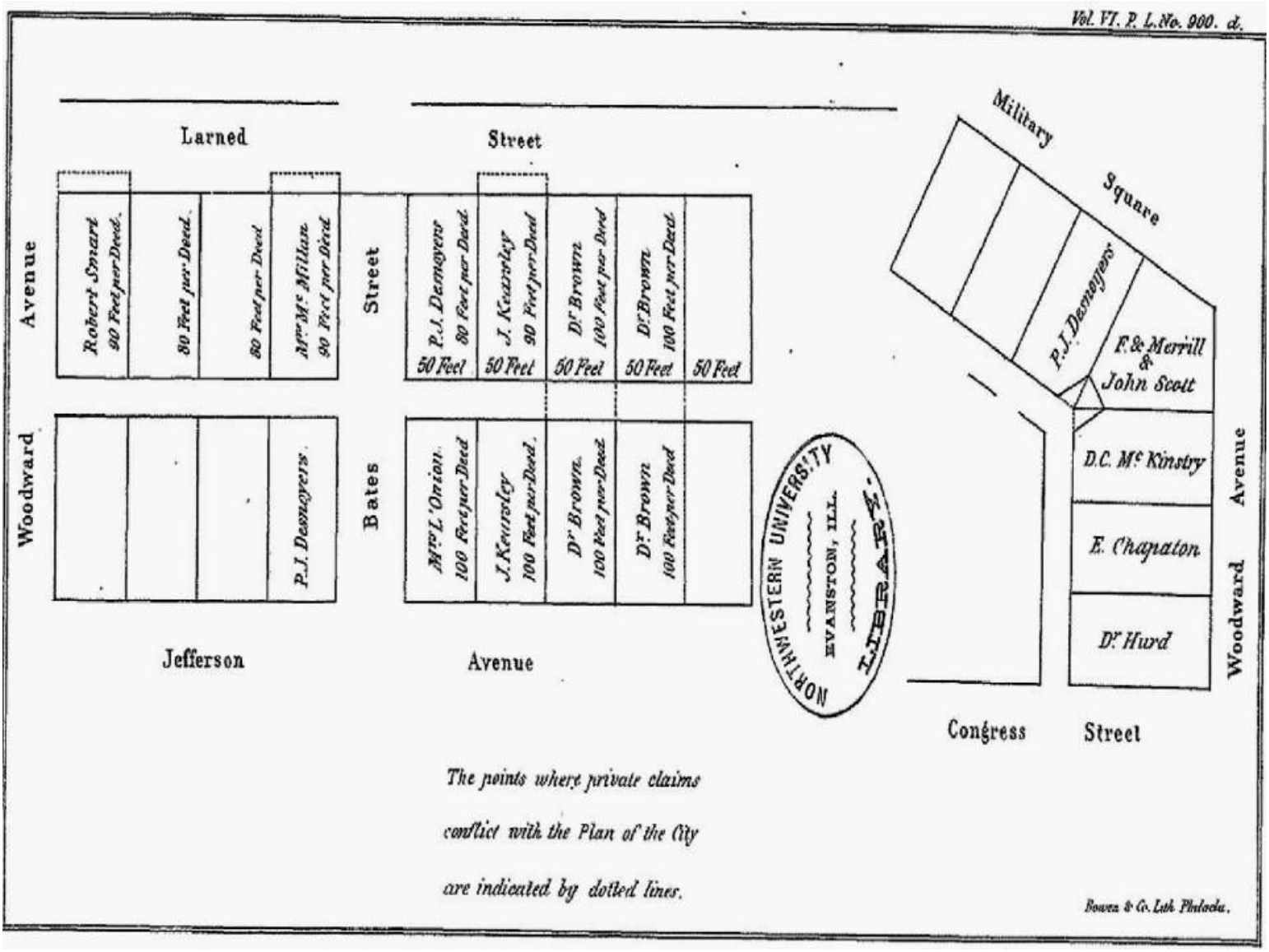

The points where private claims conflict with the Plan of the City are indicated by dotted lines.

Bowen & Co. Lith. Philada.

21st Congress.] No. 900. [1st Session.

ON THE ESTABLISHMENT OF THE PLAN OF THE CITY OF DETROIT, IN MICHIGAN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 12, 1831.

Mr. SPEIGHT, from the Committee on the Territories, to whom was referred, on January 24, 1831, the memorial of John R. Williams and others, citizens of Detroit, in the Michigan Territory, reported:

The old town of Detroit was destroyed by fire in 1805. In April, 1806, Congress passed a law appropriating ten thousand acres of land in and adjacent to the old town, and authorized the governor and judges of the Territory of Michigan to lay out a new town or city, to adjust the land titles, and dispose of the lands and funds. They were also required to report their proceedings. It does not appear to the committee that this has been fully done.

In May, 1830, an act was passed requiring them to transmit to the Secretary of State a plan of the town of Detroit. This has been complied with. This plan is called a "Plat of the city of Detroit, as laid out by the governor and judges," and is dated January 8, 1831, and certified by John Farmer, by whom it appears to have been made. It is believed not to differ essentially from the "Plan of Detroit by John Mullett, engraved and published by J. O. Lewis, 1830," except in the addition of several water lots in front of those on Mullett's plan. It is to this addition that the principal complaint is made. The memorialists allege that this addition to and extension of the city into the river destroys the value of their water lots, which they purchased in good faith and with the understanding that no lots were to be laid out in front of them. The committee, therefore, think it advisable to approve of "Farmer's plat of the city of Detroit," with the exception of the addition thereto, as mentioned above, saving to all persons all rights previously acquired.

It is due, however, to the governor and judges to say that they disclaim, in their communication to the Secretary of State, all authority or intention to do any act which shall prejudice these lot holders.

The powers which the governor and judges have by the act of 1806 the committee think ought to be taken from them and given to the city. The citizens of Detroit are certainly competent to manage their own affairs. It is fair to presume that they understand their own interests as well as anybody else can, and that they, like the inhabitants of other towns or cities, ought to have the control over them. But as the governor and judges have not as yet rendered a full account of their acts and proceedings, the committee have thought it due to them not at present to recommend the repeal of the act of 1806, and thus leave them accountable to the citizens of Detroit. The committee, however, have no doubt that so much of the act of 1806 as gives power to the governor and judges to lay out the town or city of Detroit ought to be repealed, and the power given to the city corporation; and that the governor and judges ought to be required to transmit to Congress a full and detailed statement of all their acts and proceedings, and of the state of the funds growing out of the trust reposed in them by the act of 1806.

The committee report a bill in conformity with these suggestions.

PLAN OF DETROIT.

Letter from the Secretary of State, accompanied by a plan of the town of Detroit

DEPARTMENT OF STATE, *Washington, January 24, 1831.*

The Secretary of State, in obedience to the act of Congress of May 28, 1830, entitled "An act relative to the plan of Detroit, in Michigan Territory," requiring the governor and judges of the Territory of Michigan, or any three of them, to make a report of the plan of laying out the said town, under and by virtue of an act entitled "An act to provide for the adjustment of titles of land in the town of Detroit and Territory of Michigan, and for other purposes," and further directing that one copy of the said plan shall be "transmitted to the Secretary of State of the United States, to be by him laid before Congress," has the honor herewith to lay before the House of Representatives the "Plat of the city of Detroit, as laid down by the governor and judges," agreeably to the direction of the act first referred to and lately received from them at this department, together with copies of the explanatory papers which have been also received from the said governor and judges.

Respectfully submitted.

M. VAN BUREN.

DETROIT, *January 8, 1831.*

SIR: Agreeably to the provisions of the act of Congress entitled "An act relative to the plan of Detroit, in Michigan Territory," passed May 28, 1830, we have the honor to forward the accompanying plan and the observations in explanation thereof.

Very respectfully, sir, we have the honor to be your obedient servants,

LEWIS CASS, *Governor of Michigan Territory.*
WM. WOODBRIDGE, *one of the Judges of Michigan Territory.*
SOLOMON SIBLEY, *Judge.*
HENRY CHIPMAN, *Judge.*

HON. MARTIN VAN BUREN, *Secretary of State.*

The governor and judges of the Territory of Michigan, in depositing the accompanying plan of the city of Detroit agreeably to the act of Congress of May 28, 1830, deem it necessary to annex thereto the following observations:

On the destruction of the old town of Detroit, in 1805, an act of Congress was passed authorizing the governor and judges of the Territory to lay out a new town, to adjust the titles, and grant deeds for the lots. In conformity with this authority, a portion of the town was in 1806 laid out, and deeds granted; but the original plan under which this was done is not and never has been in possession of the present board. The papers relating to this subject fell into the possession of the enemy during the late war, and were dispersed, and many of them lost, and great inconvenience has been the consequence. After the plan was first adopted and deeds granted, changes were made, both in the number and form of the lots and in the streets, but we have not the means of ascertaining these changes. In 1807 a plan of that part of the town included in sections 1, 2, 3, 4, 6, 7, and 8, was permanently established, and certified by the then governor and judges. We are not aware that any changes have been subsequently made in

these sections, but as neither of the undersigned was then a member of the board, we cannot speak from our personal knowledge of the subject. In section 3, water lots 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, and 119, and in section 4, water lots 188, 189, 190, 191, 192, 193, 194, and 195, have been subsequently laid out to accommodate the shipping interest of the community, and to enable them to extend wharves to the deep waters of the river.

The military reservations were not placed at the disposal of the governor and judges, and they are not, therefore, subdivided into lots upon this plan. They have since, with the exception of three tracts, been granted to the corporation of the town, and by them laid out upon a different plan, and many of the lots sold. We have reason to suppose that many deeds were granted before the alleys were laid out in sections numbered 1, 2, 3, 4, 6, 7, and 8, as they are now exhibited upon the plan in our possession, and upon that herewith deposited. Many of the lots, as deeded, cover portions of the alleys, and where this fact is known the dotted lines represent the alleys themselves, and the black lines the lots as granted; other dotted lines show the boundaries of certain lots, alleys, and streets, according to the plan adopted in 1807, and certified by the then governor and judges, but which being claimed according to the plan of the old town under their former titles by the proprietors, have been granted to them without reference to the lines of the present city. It will also be observed that three tracts, principally covered with water in section 3, were granted in 1811 in conformity with the lines of the old town, two of which extend further towards the deep water than is shown by the plan previously adopted.

It is impossible, for the reasons stated, that we can be certain of the entire accuracy of this plan. It has been compiled by a surveyor from the best materials in our possession, but it cannot be considered as conclusive evidence in determining the right of parties. The difficulty is confined to sections 1, 2, 3, 4, 6, 7, and 8; all the others, which have been laid out and established since the war, are believed to be correct. The incipient measures in settling the titles of lots in the old town, in adjusting conflicting claims, and in giving deeds for donations, were taken and principally carried into effect before the war. These extend only to sections 1, 2, 3, 4, 6, 7, and 8; and if interfering claims should hereafter arise in this portion of the town, they must necessarily be decided by reference to the state of things at the time the rights of the parties accrued.

It may be proper to add that claims have been advanced to lots 112, 113, 115, 116, 117, 118, and 9, in section 3, as appurtenants to property previously purchased, and that the subdivision upon this plan is not intended to prejudice or affect these claims in the slightest degree.

LEWIS CASS, *Governor of Michigan Territory.*
WM. WOODBRIDGE, *one of the Judges of Michigan Territory.*
SOLOMON SIBLEY, *Judge.*
HENRY CHIPMAN, *Judge of Michigan Territory.*

DETROIT, *January* 8, 1831.

DETROIT, *January* 11, 1831.

SIR: We have the honor to request that the accompanying explanatory remarks may be received as a part of the report transmitted to you by us on the 8th instant, in the execution of the act of Congress of May 28, 1830, requiring a plan of Detroit to be forwarded to the office of the Secretary of State.

Very respectfully, sir, we have the honor to be your obedient servants,

LEWIS CASS, *Governor of Michigan Territory.*
WM. WOODBRIDGE, *one of the Judges of Michigan Territory.*
HENRY CHIPMAN, *Judge.*

DETROIT, *January* 11, 1831.

The governor and judges of the Territory of Michigan, in the execution of the act of Congress of May 28, 1830, concerning a plan of the city of Detroit, beg leave to submit, in addition to the explanatory observations accompanying the said plan transmitted the 8th instant, that in transcribing the list of water lots which had been claimed by individuals as appurtenant to property purchased previously to the marking of such lots upon any plan, the lots of this description in section 4 were accidentally omitted. The governor and judges therefore state that the lots marked upon the said plan, and numbered 188, 189, 190, 191, 192, 193, 194, and 195, in section 4, are claimed by individuals as appurtenant to lots purchased before the above numbered lots were laid out, and that, in laying out the same, the rights of the said individuals were not intended to be, nor can they be in the slightest degree impaired or affected. These lots in this section were laid out upon the application of the owners of some of the adjacent property, who wished for a moderate compensation to quiet any doubt in their titles by procuring deeds from this board. And it was thought better to mark all the lots in section 4, between the tracts previously purchased and the channel, that each of the proprietors might procure a deed in the same way if he thought proper; and if he did not, but determined to rely upon his previous claim, this board then disclaimed all right to do anything which should affect his title in the slightest degree, and judged it improper, under the circumstances of the purchase, to transfer their claim, if they had any, to another person.

The undersigned would also remark that lot 114 was accidentally omitted in the list contained in the last paragraph of their explanatory observations before alluded to.

LEWIS CASS, *Governor of Michigan Territory.*
WM. WOODBRIDGE, *one of the Judges of the Territory of Michigan.*
HENRY CHIPMAN, *Judge.*

MEMORIAL OF CITIZENS OF DETROIT.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the undersigned, citizens of the United States, and inhabitants of the city of Detroit, respectfully showeth: That the governor and judges of the Territory of Michigan were authorized by an act of Congress, passed in the year 1806, to lay out a town, &c., &c., and to report their proceedings; and by an act passed during the last session of Congress they are required to transmit to the Secretary of State a plan of said town or city for the approval of Congress.

Your memorialists, feeling a deep interest in the prosperity of the city of Detroit, and particularly in whatever relates to the security of titles to lots within the same, consider it therefore their right and their duty to interpose their claims and their interest to counteract the improper, unjust, and tyrannical acts of the said governor and judges in the premises.

Although our language and remarks may seem bold, yet they are nevertheless founded in truth, as a recapitulation of facts and the result of experience will show.

First. The plan has been altered several times; for example, two or three plans were made by Mr. Thomas Smith at various periods; one plan was drafted by Aaron Greeley, one by Abijah Hull, one by John Mullett, and the last, probably the most exceptionable, was recently drafted by John Farmer.

In each of the foregoing plans there is good reason to believe that alterations were made from the original by altering the numbers of the lots, occasioning thereby great confusion and uncertainty in the titles to the said lots; by altering some of the streets, by selling and giving deeds for streets and parts of streets, rendering their width unequal at several points by projecting at right angles in some parts of the same street; by deeding away several of the alleys, and by giving in numerous instances two, and probably in some cases three deeds for the same lot; and in the last instance by laying out lots in deep water in the channel of the river Detroit in front of the lots that were sold as the external or outward and front tier of lots, at public auction in the year 1816, which outward or front tier of lots, sold at the period aforesaid, have been docked out and filled up at great expense by private individuals, and buildings erected thereon for the accommodation of commerce. That a plat of the city was exhibited by an order and resolution of the said governor and judges, together with a resolution for the sale of "all the water lots," for several days previous to the public sale in November, 1816; and that the return now on record on their journal is for the sale of all the water lots; and that the lots thus sold by them were purchased by individuals, as the titles witness, agreeably to the plan of the city then exhibited. That your memorialists cannot but consider as an act of injustice, tyranny, and oppression, after such a lapse of time, and after they have respectively expended large sums of money in filling up docks and making ground, and erecting buildings thereon, and in the payment of taxes on said property, to lay out lots beyond and in front of their improvements in deep water, thereby tempting the cupidity of speculators to purchase in front of the improvements of your memorialists, to cut them off from the benefit of navigation, and other their *bona fide* privileges; or at least involve them in the necessity of expending large sums of money in litigation before the Supreme Court of the United States to secure their absolute, proper, legal, and vested rights to the lots and property in question.

And it is respectfully asked what security will the public or individuals ever have so long as the governor and judges of the Territory of Michigan shall have the management of "the Detroit fund," so called by them; that even after the present and recent alteration, that so soon as individuals shall fill up again, or make additional improvements over the navigable waters, that they will not again and again lay out and sell more lots, until they shall even extend beyond the national boundary, in the middle of the river Detroit? Moreover, your memorialists have paid a large amount in taxes on said property, and have otherwise contributed liberally to the improvement of the city of Detroit and the Territory in general.

Your memorialists are fully apprehensive that the seeds and sources of litigation have already been abundantly sowed by the acts of the said governor and judges within the city of Detroit; and that posterity, as well as the present generation, will have abundant cause to appreciate their services and agency in procuring that execrable result.

The ostensible reason which we understand is assigned for such extraordinary conduct is that the said governor and judges want money to pay the debts of the Detroit fund. And why do they want money? Because they have expended several thousand dollars in making alterations, new surveys, new plans, and a variety of other expenditures not authorized by the act of Congress.

It is also alleged that the amount of money or certificates issued by them several years since, and bearing interest, is still considerable; that in case the fund should fall short it is believed that they, by their acts, have made themselves *individually liable* to redeem said certificates.

Your memorialists are therefore induced to suggest to your honorable body whether it would not be proper to institute an inquiry into the acts and doings of the said governor and judges, and their management of the said fund, especially when it is considered that a period of twenty-five years has elapsed since the trust was confided to them, and that they have never reported or made public their proceedings in the premises. It would therefore seem to be high time that your honorable body should interpose to protect and save the rights of your memorialists and of this community.

Sincerely impressed with the wisdom and justice of the national administration, your memorialists respectfully solicit that such early and prompt attention may be given to the premises as their importance to the interests of this community would justify.

And your memorialists, as in duty bound, will, &c.

JAMES CAMPAU.
O. COON.
D. FRENCH.
PETER DESNOYERS.
HENRY SANDERSON.
PETER J. DESNOYERS.
ANTOINE DEQUINDRE.
THEO. WILLIAMS.
JOHN R. WILLIAMS.
JOHN DEWELL.
JOHN ROBERTS.
B. CAMPAU.
WILLIAM BROWN.

DETROIT, *January* 1, 1831.

PETITION OF THE CORPORATE AUTHORITIES OF DETROIT RELATIVE TO THE PLAN OF THAT PLACE.

To the honorable the Senate and House of Representatives of the United States:

The undersigned, mayor, recorder, and aldermen of the city of Detroit, in behalf of the freemen of said city, beg leave respectfully to represent to your honorable body, that by an act of Congress approved 21st April, 1806, the governor and judges of Michigan Territory were authorized and empowered "to lay out a town, including the whole of the old town of Detroit, and ten thousand acres adjacent, excepting such parts as the President of the United States shall direct to be reserved for the use of the military department; and shall hear, examine, and finally adjust all claims to lots therein, and give deeds for the same, &c., &c.; and the said governor and judges are required to make a report to Congress, in writing, of their proceedings under this act."

Under the provisions of this act your petitioners believe that the governor and judges, for the time being, have granted many lots of ground in said city, agreeably to various and different plans, whereby much confusion has arisen, and probable insecurity of title to lots. Your petitioners, so far as they have been able to investigate this matter, are of opinion that a plan of said city was made and adopted by the then governor and judges in April, 1807, which should have governed all subsequent grants of lots, and established all streets, lanes, and alleys within said city; but your petitioners have discovered, in attempting to open and improve said streets, lanes, and alleys, that in many instances the grounds covered by them, agreeably to said plan, have been included within the lots subsequently deeded to individuals by the governor and judges, thus rendering it impracticable, in most instances, to open the streets, &c., agreeably to said plan, and consequently excluding many individuals from all access to the rear of their lots, contrary to the original design of said plan. Owing to this variance of plans, the present inhabitants are not only subjected to great inconvenience, such as many of them could not have anticipated at the time when lots were granted to them under the act of Congress, but the corporate authorities find it impossible to sustain that police essential to the health and convenience of the city. The same street is in some places sixty feet wide, in others fifty, and again but forty. Alleys intended by the aforesaid plan to run through a block of lots are, in most instances, interrupted by grants of lots extending so far in depth as to cover them. In short, so many alterations and such variety of plans have been pursued by different boards of governors and judges during the twenty-three years which have elapsed since the passage of the act aforesaid, that your petitioners know of no other method by which the freemen of this city can determine what is the plan of Detroit, or their titles to lots therein, except by praying that a law may be passed, requiring the governor and judges to report, within some limited time, a plan of this city; which plan shall have been recorded previously to its transmission, and shall be thereafter unalterable, unless disapproved by Congress.

J. KEARSLEY, *Mayor.*
JOSEPH W. TORREY, *Recorder.*
N. BROOKS,
R. GILLET,
H. V. DISBROW,
PETER DESNOYERS,
H. M. CAMPBELL,
B. CAMPAU,
THOMAS PALMER,
Aldermen.

DETROIT, *November* 30, 1829.

The Committee on Territories, to whom was referred the petition of the mayor, recorder, and aldermen of the city of Detroit, reported:

The petitioners ask for the passage of a law requiring the governor and judges of the Territory of Michigan to report, within a limited time, a plan of the city of Detroit, to be adopted as the plan of that city, unless disapproved by Congress. The committee beg leave to refer to the petition itself, and the letter of the mayor of Detroit, for a detailed statement of the facts and reasons upon which the application is founded; and believing in the propriety of legislating on this subject, at present, so far only as to require the governor and judges to report the plan upon which the town of Detroit was laid out under the act of 1806, submit the accompanying bill:

A BILL relative to the plan of Detroit, in Michigan Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the governor and judges of the Territory of Michigan, or any three of them, are hereby required to make a report of the plan of laying out the town of Detroit, under and by virtue of an act entitled "An act to provide for the adjustment of titles of land in the town of Detroit, and Territory of Michigan, and for other purposes," passed 21st April, 1806, one copy of which shall, on or before the first day of January next, be deposited and recorded in the office of the secretary of the Territory of Michigan, and another copy transmitted to the Secretary of State of the United States, to be by him laid before Congress.

To his excellency the governor and the honorable judges of the Territory of Michigan:

From the irregularities which have crept into the survey of the city, it becomes necessary to explain the several causes.

After the conflagration of the old town, in the year 1805, the city was laid off on a new model, and with as much care and accuracy as it was possible. The plan was taken to Boston and Washington, and

afterwards deposited in the legislative board of this Territory; but unfortunately the necessary precaution was not taken, and the plan fell into the hands of Mr. Hull, surveyor, who drew from it several other plans, different from the original, and also differing from each other, as well in the measurement as in the numbers of lots. Deeds were issued upon all those plans, and no regular record was kept, so it became impossible to know what lots were granted or ungranted.

Subsequently the original plan fell into the hands of Aaron Greely, surveyor, in whose house it was seen in a broken window, keeping out the weather, and in whose hands it disappeared. After this there was no guide, no index to the original locations, and the old boundaries were also pulled up; so that, after the close of the war in 1815, the confusion was so great that the new board, under the administration of Governor Cass, could not proceed to the granting of any more lots.

In 1816, all deeds and records that could be found were examined; and from the schedule of names thus collected, a new plan was constructed, but not without some degree of uncertainty, although it is presumed that, if it had been followed, it was the only medium by which the board might have evaded the greatest part of the difficulty that has presented.

In the compilement of the plan from collected materials, Hull's book of sections was kept in view; but as there was a standing resolve of the board that "the principle of the plan was not to be deviated from," some difference unavoidably occurred, to wit: 1st. In a corner lot No. —, section —, in the book of sections. 2d. Between the military square and the graveyard, where Mr. Hull violated the plan. 3d. In some of the water lots, where the surveyor, Greely, altered the numbers, courses, and the area of lots. 4th. Two names upon one lot signify two claimants; and where two numbers appear, they were intended to correspond with the title already issued, as well as with the plan; and as to two deeds having issued for the same lot, it is not surprising, when considered that no correct record was kept by the first board, and that the original plan was altered and at last disappeared. Such mistakes were not unexpected, and that continually some old claims would turn up that were not known when the last plan in 1816 was compiled: and latterly it was discovered that boundaries were put down by a short chain, which must have caused insurmountable difficulties, and therefore it would be well that every surveyor should first study the principle of the plan that the base was first laid down, which, upon mathematical principles, governs all subordinate bases, courses, distances, and the areas of lots; and by whatever chain the base was laid down, it is demonstrable that the same measurement must be continued throughout, or no angle will close, no lot will have its true situation and correspondent measurement.

Mr. S. begs leave to suggest to the board, that however injudicious matters were formerly conducted, as well to surveys as records, he cannot see any difficulty but what may be got over. That all locations made by the last plan of 1816 the *proprietors cannot resort to any other;* and that from casualties it was a medium constructed for the general good.

Mr. S. further states that Mr. Justice Woodward was authorized by the first board, under the administration of Governor Hull, to superintend the survey of the city, and that the original plan was drawn under his inspection. That that plan was rendered plain and practicable, and none of the mistakes which now appear could possibly have happened had it been preserved and strictly adhered to. The numbers began at a right angle, and then progressively round the section. But the by-corners, some inner streets, and the alteration of numbers were afterwards made, and have much disfigured the plan, and were always contrary to Mr. S.'s idea of propriety.

The principle of the plan was a continuation of an equilateral triangle, but the two hundred feet street alone altered its proportions; and after the several changes the plan has undergone, it is a quere now if the word "principle" is applicable to the plan.

To remedy the evils, Mr. S. would propose, where the numbers of the deed are different from the plan, to insert both; and that any section in which the numbers are confused, to be numbered anew, and the same number be inserted in the deed, as well as the old number.

THOMAS SMITH.

DETROIT, *May* 10, 1821.

To his excellency the governor and the honorable the judges of the Territory of Michigan:

Mr. Smith begs leave to state that the blue plan, which was laid before the board on the 18th instant, appears to be a copy of the original drawn by him in 1805. The plan was correctly laid down by the theodolite, and how it came to be altered is a matter that requires investigation.

It appears that Mr. Hull, the surveyor, made very material alterations, and which is seen by two of his plans now in the board. Secondly, Mr. Greely, another surveyor, also made deviations, and all these deviations were sanctioned, as appears by the book plan, and the titles issued.

In 1816, after the elapse of eleven years, Mr. S. was again requested to make a second plan, and to adjust the difficulties that then presented. But he found it impossible to conform to the many deviations, and at the same time to embrace the exact description of every title that had issued, and particularly as there was no index to many of the locations; yet a second plan was constructed by Mr. S. in the best manner the nature of the case would admit, called the plan of 1816.

Mr. S. is informed that other deviations have been made, and, therefore, in justice to himself, lest at a future day any incorrectness may be imputed to him, he prays the honorable board to be pleased to have the substance of this his declaration entered on record, as well as his former statements; and recommends (as the first plan of 1805, from the several changes, cannot now be referred to as a criterion) that the plan of 1816 be carried into effect, as it may avoid most of the difficulties that the several changes fancy might have occasioned.

Mr. S. further recommends to the consideration of the honorable board to have permanent monuments at the outward angles of every section, and not to extend the plan any further than the limits of the common, leaving the practicability and commodiousness of the scheme to future experience. That the sections be drawn and bound into a book, with the courses, distances, and the names of the grantees; and also another plan, of a convenient size, for a plate, accompanied by a book of reference, by which the original titles may be perpetuated beyond ordinary casualties.

All which Mr. Smith, very respectfully, submits.

MAY 24, 1821.

WASHINGTON CITY, *February* 3, 1831.

SIR: In settling the subject matter of the plan of the city of Detroit, so as to quiet the titles and establish the rights of the several proprietors of lots, I am aware that a tissue of difficulties seems to be presented at the first view of the subject, some of which may be irremediable to your honorable body, and must, perhaps, remain subject to judicial investigation and settlement. Cases of that description occur in most places, which it is very desirable to guard against and avert, whenever it may be practicable.

In executing the provisions and requisites of the act of Congress of 1806, in the laying out the town, granting titles to lots, and other matters, the history of those transactions affords a picture of capriciousness, instability, carelessness, and casualty, seldom, if ever, excelled in the local settlement and history of any town within the Union. How much of the evils which have and may flow from these sources of inattention and unsystematic conduct on the part of the governor and judges, time alone can fully develop and demonstrate.

Thus it would seem that there is some pretext, clothed at least with plausibility, to offer respecting the transactions antecedent to the war. How far that apology, which, in fact, is based in inattention and carelessness, should cover all the subsequent illegal acts and irregular proceedings of the said governor and judges, is for your honorable body to determine.

Commencing, then, with their proceedings in 1816: they procured their original surveyor, Mr. Thomas Smith, to make a new plan of the town from his own knowledge, and the best materials which he could obtain. In the mean time there was, and there is still extant, in the possession of the governor and judges, an original book plan of the several sections of the town, laid out before the war, dated in 1807, signed by William Hull, governor, and attested by the then secretary. It is presumed that Mr. Smith had also the benefit of this source of information to aid him in completing the plan of 1816. This plat was on a large scale, at least six feet square, and was the one exhibited at all the public sales which took place subsequently. It ought to have been carefully preserved. The last time I saw it was about a year since; it was then still in the possession of the secretary to the goveror and judges, but was much tattered, torn, and, in many parts, almost obliterated.

The governor and judges have repeatedly and reiteratedly been requested to cause that plan to be carefully preserved and engraved, with a view to perpetuate it beyond ordinary casualties.

The engraved copies that are now extant were, however, procured to be done by private subscription; the necessity of which was dictated by motives of protection to the private rights of individuals. The first plan was engraved under the care of the late Mr. Judd, then a surveyor of the Territory; he was believed, by all who knew him, to be well qualified in every particular to execute that trust; and, as far as my own observation has enabled me to judge, the plan which he caused to be engraved was in the main very correct, and liable to very few objections, and those principally relating to alleys that had, in some instances, been deeded away by the governor and judges.

After the grant was made by Congress to the corporation of the city of Detroit of the military reservation, (so called,) a project was started to alter the whole plan of the city, so as to establish it uniformly at right angles. To this project, which would have been in the origin a wise and acceptable one, great objections existed, which became more and more obvious and plain as the subject was examined into. After much individual effort, public meetings, and even legislative enactments by the legislative council, to authorize the corporation to alter the plan of the city, the project was, upon public reflection, abandoned as impracticable. It was, however, deemed a sort of compromise between the proprietors of lots in various parts of the city and the corporation, yielding to the municipality so far as to allow them to lay out the ground which they had acquired from the United States in their own way; which they accordingly laid out at right angles, so far as circumstances would enable them. The corporation, for several years past, have employed Mr. John Mullett, a gentleman both intelligent and well qualified, as the city surveyor. After the new grounds had been laid out, and a considerable proportion thereof purchased by individuals, the public became anxious and desirous to have another plat of the city, with the improvements and alterations made since that published by Mr. Judd. Mr. Mullett was therefore employed, by the unanimous consent of all parties, to prepare and execute that work. The result is the map published in 1830, engraved by J. O. Lewis; five hundred copies were subscribed for by the citizens of Detroit, at one dollar each. As far as my own observation and the information and remarks of others have enabled me to judge, I believe that map of the city to be as authentic and correct as any work of the kind can ordinarily be.

Upon examination of all the maps above and within mentioned, down to that published in 1830, you will perceive that the innovations made, and recently reported to Congress, by the governor and judges, do not appear. This, therefore, establishes the fact that the said governor and judges have taken upon themselves the latitude to make a plan essentially new in some of its parts, and therefore highly objectionable, inasmuch as the parts recently laid down by them interfere materially with private vested rights. Now, to confirm this new plan would evidently be a direct interference, tending to prejudice private rights, which, it is very desirable, should be avoided.

At the first view of the subject after I had the honor of appearing before your committee, from the strong and anxious desire which I entertained to have the matter finally put to rest, that we should have no further innovations nor alterations in the plan of our devoted city, my mind seized upon the first expedient as an alternative, to acquiesce in the opinion suggested of approving the late new plan, with a proviso reserving private rights. That course, in my opinion, would place us (the lot owners) in a worse situation than we would be without the action of Congress on the subject. It would evidently lead to the conclusion that Congress were disposed to sanction even the unauthorized acts of the governor and judges; and particularly the laying out of additional lots in front of those claimed by the proprietors. The reasons assigned by the governor and judges for this last proceeding are merely plausible, but without the color of necessity. There are, also, further objections to their new plat. It may contain many other errors and alterations which it will require time, experience, and careful examination to detect, whereas the plat engraved in 1830 has been in use, and in the hands of the community for which it is designed, for several months past. The corporation of the city (of which I have the honor to be the head) subscribed for twelve copies of this plat, and have since uniformly referred to it on all occasions, without having discovered any errors or objections to it. Under the various circumstances and changes that have been alluded to, it would be hopeless to expect that a plat, perfect in all its parts, and that would

meet and obviate all difficulties whatever, could be devised at present. Such a desideratum can only be attained with time, and the observance of great care in the detection and correction of errors and irregularities by the municipal authority of the place.

You will readily have observed, sir, that the difference existing between the governor and judges and the lot owners, particularly since their supplementary explanations, is not material. They have narrowed down their claim, to use their own language, to "a trifling consideration," &c. But the principal point at issue is the principle involved—whether they had a right to lay out more lots, after a lapse of fourteen years, in front of water lots, sold as front lots, bordering the navigable channel? On that subject I had the honor to submit sworn extracts of their resolutions. The testimony of many living witnesses can be adduced to the same effect.

The necessity of these presentments to your honorable committee has not originated with the proprietors. The course adopted by the governor and judges has, nevertheless, placed them under the necessity of self-defence, and the protection of your honorable body, to counteract what was and is still believed to be an unwarrantable violation of private rights.

The undersigned has therefore been induced to subject himself to the expenses and loss of time incident to a journey and sojourn in this capital, principally on account of the foregoing premises. The governor and judges are the agents of the government of the United States whilst acting under the laws of Congress; the wrongs done to individuals by their official acts present at least an equitable claim to the justice of the national government. It is, therefore, respectfully suggested that, to quiet all future controversies, which are always injurious to the prosperity and growth of commercial towns and ruinous to private individuals, the plan of the city of Detroit, published by John Mullet and engraved by J. O. Lewis in 1830, be approved by Congress, reserving to the respective owners of property all private rights which may conflict with said plan; and that the owners of water lots fronting and adjacent to the channel of the river Detroit shall and may be at liberty to dock out, in front of their respective lots, to the navigable channel of said river; and that the power heretofore given to the governor and judges of the Territory of Michigan by the acts of Congress passed in the years 1806 and 1830, &c., be revoked, and the said acts repealed; and the settlement of the Detroit fund (so called) be hereafter vested in the mayor, recorder, aldermen, and freemen of the city of Detroit, saving all private rights and claims that have and may accrue against the said fund. All of which is very respectfully submitted.

At the same time permit me, sir, to express, through you, to the members of your honorable committee the grateful sense of feeling which I entertain for the polite and indulgent treatment which I have experienced, for which I ask you, sir, and each member individually, to accept my sincere thanks.

JOHN R. WILLIAMS.

Hon. JAMES CLARK, *Chairman of the Committee on Territories, &c.*

Farmer, John. Plan of the City of Detroit (1831).
http://memory.loc.gov/gmd//gmd370m/g3701m/g3701fm/gct00025/aspl0602.jp2

BY AUTHORITY OF CONGRESS.

THE

Public Statutes at Large

OF THE

UNITED STATES OF AMERICA,

FROM THE

ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS ON THE SAME SUBJECT,

AND

COPIOUS NOTES OF THE DECISIONS

OF THE

Courts of the United States

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN

INDEX TO THE CONTENTS OF EACH VOLUME,

AND A

FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH

The Declaration of Independence, the Articles of Confederation, and the Constitution of the United States;

AND ALSO,

TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY, IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY

RICHARD PETERS, ESQ.,

COUNSELLOR AT LAW.

VOL. II.

BOSTON:

CHARLES C. LITTLE AND JAMES BROWN.

1845.

Acts of the Ninth Congress of the United States.

STATUTE I.—1805. 1806.

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STATUTE I.

April 21, 1806.

Act of March 3, 1807, ch. 34.

A town to be laid out by the governor and judges of Michigan.

Titles to lots to be adjusted and settled by them.

Lots to be given to actual settlers of the town of Detroit when it was burnt, if they

CHAP. XLIII.—*An Act to provide for the adjustment of titles of land in the town of Detroit and territory of Michigan, and for other purposes.*(a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the governor and the judges of the territory of Michigan shall be, and they, or any three of them, are hereby authorized to lay out a town, including the whole of the old town of Detroit, and ten thousand acres adjacent, excepting such parts as the President of the United States shall direct to be reserved for the use of the military department, and shall hear, examine, and finally adjust all claims to lots therein, and give deeds for the same. And to every person, or the legal representative or representatives of every person, who not owning or professing allegiance to any foreign power, and being above the age of seventeen years, did on the eleventh day of June, one thousand eight hundred and five, when the old town of Detroit was

(a) See notes to act of March 3, 1807, chap. 34.

burnt, own or inhabit a house in the same, there shall be granted by the governor and the judges aforesaid, or any three of them, and where they shall judge most proper, a lot not exceeding the quantity of five thousand square feet.

were citizens of the United States.

Land undisposed of according to the preceding section to be sold by the governor and judges.

Sec. 2. *And be it further enacted*, That the land remaining of the said ten thousand acres, after satisfying claims provided for by the preceding section, shall be disposed of by the governor and judges aforesaid, at their discretion, to the best advantage, who are hereby authorized to make deeds to purchasers thereof, and the proceeds of the lands so disposed of, shall be applied by the governor and judges aforesaid, towards building a courthouse and jail in the town of Detroit, and the said governor and judges are required to make a report to Congress, in writing, of their proceedings under this act.

Approved, April 21, 1806.

Statute I.

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STATUTE II.—1806, 1807.

STATUTE II.

March 3, 1807.

Act of March 26, 1804, ch. 35. Act of March 3, 1805, ch. 43.

CHAP. XXXIV.—*An Act regulating the grants of land in the territory of Michigan.*(b)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the decisions made

(a) See notes to act of May 18, 1796, chap. 29, Vol. i. 464.
(b) Acts relating to the sale of the public lands in Michigan:—
An act regulating the grants of lands in the territory of Michigan, March 3, 1807, chap. 31.

Act of April 21, 1806, ch. 43. Decisions of commissioners in favour of land in certain cases, confirmed.

by the commissioners appointed for the purpose of examining the claims of persons claiming lands in the district of Detroit, in favour of such claimants, as entered in the transcript of decisions which have been transmitted by the said commissioners, to the Secretary of the Treasury, according to law, be, and the same are hereby confirmed.

Persons in occupation of land in Michigan, to which Indian title has been extinguished, confirmed in their titles as of estates of inheritance, in fee simple.

Sec. 2. *And be it further enacted*, That to every person or persons in the actual possession, occupancy, and improvement, of any tract or parcel of land, in his, her, or their own right, at the time of the passing of this act, within that part of the territory of Michigan, to which the Indian title has been extinguished, and which said tract or parcel of land was settled, occupied and improved, by him, her, or them, prior to and on the first day of July, one thousand seven hundred and ninety-six, or by some other person or persons, under whom he, she, or they hold or claim the right to the occupancy, or possession thereof, and which said occupancy or possession has been continued to the time of the passing of this act; the said tract or parcel of land thus possessed, occupied, and improved, shall be granted, and such occupant or occupants shall be confirmed in the title to the same, as an estate of inheritance, in fee simple: *Provided however*, that no other claims shall be confirmed, by virtue of this section, than such as have been entered with the register of the land-office of Detroit, within the time, and in the manner provided by law, and by the commissioners aforesaid, have been inserted in their report, transmitted as aforesaid; nor shall more than one tract or parcel of land be thus granted to any one person, and the same shall not contain more than the quantity claimed, nor more than six hundred and forty acres: *And provided also*, that the same shall not extend to any tract heretofore reserved, or which may by the President of the United States, be set aside for public uses, in the town of Detroit and its vicinity, or on the island of Michilimackinac.

Proviso.

Proviso.

Secretary of Michigan, and the register and receiver of public monies of the land-office of Detroit, made commissioners for claims, &c.

Their oath of office.

Sec. 3. *And be it further enacted*, That the secretary of the territory of Michigan, together with the register and receiver of public monies of the land-office of Detroit, shall be commissioners for the purpose of ascertaining and deciding on the rights of persons claiming the benefit of this act: and the said commissioners shall, previous to entering on the duties of their appointment, respectively take and subscribe the following oath or affirmation, before some person qualified to administer the same: I do solemnly swear (or affirm) that I will impartially exercise and discharge the duties imposed upon me, by an act of Congress, intituled "An act regulating the grants of land in the territory of Michigan." And it shall be the duty of the said commissioners to meet at the town of Detroit, on or before the first day of July next, and they shall not adjourn to any other place, or for any longer time, than three days, until the first day of January next, or until they shall have completed the business of their appointment. And the said commissioners, or a majority of them, shall have power to hear and decide in a summary manner, all matters respecting such claims, to compel the attendance of witnesses, to administer oaths and examine witnesses, and such other testimony as may be adduced, and to determine thereon according to justice and equity. Minutes of the proceedings, decisions, meetings, and adjournments of the board, shall be regularly entered by the register, in a book to be kept for that purpose, together with the evidence on which such decisions are made, unless such evidence has already been entered according to law, in the book or books of minutes, kept by the commissioners appointed under former acts, to investigate the claims to land in the district of Detroit. And when it shall appear to the said commissioners that the claimant is entitled to a tract of land by virtue of this act, they shall give a certificate thereof stating the circumstances of the case, and that the claimant is entitled to receive a patent for such a tract of land, by virtue of this act; which tract shall be surveyed in conformity with the decision of the commissioners, at the expense of the party, and under the direction of the surveyor-general by such of his assistants, residing in the territory of Michigan, as the said surveyor-general shall appoint for that purpose: *Provided*, that the whole expense of surveying and marking the lines, shall not exceed three dollars for every mile that shall be actually run, surveyed, or marked. The surveyor-general shall transmit to the register of the land-office at Detroit, general and particular plots of all the lands surveyed as aforesaid, and shall also forward copies of the said plots to the Secretary of the Treasury. The commissioners shall transmit to the Secretary of the Treasury a transcript of their decisions in favour of claimants, which shall contain a fair statement of the evidence on which each respective claim is founded, and shall be signed by the said commissioners, and shall state the names of the parties in whose favour the certificates have been granted, the number of acres granted and the situation of the land. And the certificate and certificates granted as aforesaid, by the commissioners, being duly entered with the register of the land-office of Detroit, prior to the first day of January, one thousand eight hundred and nine, shall entitle the party or parties, as soon as the plot or plots aforesaid, shall have been transmitted to the said register, to receive from him a certificate or certificates, for each of which certificates the register shall receive one dollar, directed to the Secretary of the Treasury; and if it shall appear to the satisfaction of the said secretary, that such certificates have been fairly obtained according to the true intent and meaning of this act, then and in that case, patents shall issue, in like manner as is provided by law, for the other lands of the United States.

Powers and duties of the commissioners.

Lands to be surveyed, &c.

By whom.

Proviso.

General and particular plots to be sent by the surveyor-general to the register of land-office at Detroit, and copies also to Secretary of Treasury.

Transcripts of commissioners' decisions to be likewise forwarded to Secretary of Treasury.

Certificates of commissioners to give titles to land, &c.

Fees to be paid for certificates.

Sec. 4. *And be it further enacted*, That the powers vested by this act in the commissioners above mentioned shall not extend to lots in the town of Detroit, the claims to which shall be ascertained and decided upon, in the manner provided by the act, intituled "An act to provide for the adjustment of titles of land in the town of Detroit, and territory of Michigan, and for other purposes."

Powers of commissioners not extended to lots in town of Detroit.

How claims to such lots are to be decided upon.

Sec. 5. *And be it further enacted*, That the secretary of the territory of Michigan shall be entitled to receive five hundred dollars, in full for all the services rendered by him under this act, to be paid out the sums which have been, or may be appropriated for carrying into effect the several laws enacted for the disposal of public lands, and for the adjustment of claims in the Indiana or Michigan territories.

Compensation to secretary of Michigan, for services under this act.

Out of what fund to be paid.

Approved, March 3, 1807.

An act making provision for the disposal of the public lands in the Indiana territory, and for other purposes, March 26, 1804, chap. 35, sec. 2, &c.

An act supplementary to the act entitled, "An act making provision for the disposal of the public lands in the Indiana territory, and for other purposes," March 3, 1805, chap. 43, sec. 6.

An act for the adjustment of titles to land in the town of Detroit and territory of Michigan, and for other purposes, April 21, 1806, chap. 43.

An act supplemental to "an act regulating the grants of land in the territory of Michigan," April 26, 1808, chap. 67.

An act to authorize the granting patents for lands according to the surveys that have been made, and to grant donation rights to certain claimants of land in the district of Detroit, and for other purposes, April 23, 1812, chap. 62.

An act allowing further time for entering donation rights to lands in the district of Detroit, March 3, 1817, chap. 99.

An act to revive the powers of the commissioners for ascertaining and deciding on claims to land at Green Bay and Prairie des Cheins, in the territory of Michigan, May 11, 1820, chap. 84.

An act to revive and continue in force, certain acts for the adjustment of land claims in the territory of Michigan, February 21, 1823, chap. 10.

An act to confirm certain claims to lands in the territory of Michigan, April 17, 1828, chap. 12.

An act to establish a land-office in the territory of Michigan, and for other purposes, February 19, 1831, chap. 27.

An act supplementary to "an act to provide for the adjustment of titles to land in the town of Detroit and territory of Michigan, and for other purposes," passed April 21, 1826, August 29, 1842, chap. 260.

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Acts of the Twelfth Congress of the United States.

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STATUTE I.

April 23, 1812.

Act of March 3, 1817, ch. 99. Patents, to be granted to persons whose claims have been confirmed.

CHAP. LXII.—*An Act to authorize the granting of Patents for Land, according to the Surveys that have been made; and to grant Donation Rights to certain Claimants of Land in the district of Detroit, and for other purposes.*(a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That patents shall be granted to the persons whose claims to land have been confirmed in the district of Detroit, in conformity to the surveys which have been made under the direction of the surveyor general, and the general plat of which has been returned to the Secretary of the Treasury, notwithstanding the surveys shall not, in every respect, correspond with the description of the tracts as confirmed by the commissioners for adjusting land claims in the said district: *Provided*, that the confirmation of the commissioners and certificate of the register shall, in every other respect, be conformable to law.

Proviso, that the confirmation shall be conformable to law.

SEC. 2. *And be it further enacted*, That every person, whose claim has been confirmed by the commissioners aforesaid to a tract of land bordering on the river Detroit, and whose tract, as confirmed, does not extend in depth eighty arpens, French measure, shall be entitled to a donation of any vacant tract of land adjacent to and back of the land confirmed to him as aforesaid, provided that such donation shall not exceed forty arpens, French measure, in depth, nor in quantity of land that contained in the tract already confirmed to him, nor shall in any case the tract confirmed as aforesaid, and that allowed as a donation, together exceed eighty arpens, French measure, in depth, and in all cases where, by reason of bends in the said river, and of adjacent prior claims, each claimant cannot obtain a tract equal in quantity to the tract already confirmed to him, the vacant land applicable to the object shall be divided between the claimants in such manner as shall appear to the commissioners for adjusting the claims most equitable. And every person claiming a donation in virtue of this section shall, on or before the first day of December next, deliver to the register of the land-office at Detroit, a notice, in writing, of the situation and extent of his claim, which he shall file in his office on receiving twenty-five cents from the party or parties for each claim; and if such person shall neglect to deliver such notice within the time limited, his right to a donation, under this section, shall become void. And the commissioners for adjusting claims to land in the said district shall, as soon as may be after the first of December next, proceed to examine and decide, according to the provisions of this section, on the claims filed as aforesaid; and when it shall appear to the said commissioners that the claimant is entitled to a donation of land, they shall give a certificate stating the circumstances of the case, and that the claimant is entitled to receive a patent for such a tract of land by virtue of this section, which tract shall be surveyed in conformity with the decision of the commissioners, at the expense of the party, under the direction of the surveyor general, by such of his assistants residing in the said district as the said surveyor general shall appoint for that purpose. The expense of surveying shall be the same, and the plats of surveys and transcript of the decisions of the commissioners in favour of claimants shall be made and transmitted to the Secretary of the Treasury in the same manner; and the certificates granted by the commissioners shall be entered with the register of the land-office, and certificates of the register be granted to the party or parties on payment of the same fees, and patents granted, in every respect, in the same manner as is directed by the third section of an act, entituled "An act regulating the grants of land in the territory of Michigan," passed the third day of March, one thousand eight hundred and seven.

Donations of vacant lands, how regulated.

Where bends of the river, an equal quantity to be granted, as commissioners may determine.

Commissioners to give a certificate.

Act of March 3, 1807, ch. 34.

SEC. 3. *And be it further enacted*, That the heirs of Joseph Harrison, late of Detroit, deceased, be permitted to enter with the register of the land-office, for the district of Detroit, their claim to any tract or tracts of land in the said district; and such entry shall have the same effect, and the commissioners shall have the same powers, and act thereon in the same manner, as if the entry had been made before the first day of January, one thousand eight hundred and nine; and in case of a decision in favour of their claim or claims, a patent or patents shall be granted for the lands so claimed and confirmed to them, any law to the contrary notwithstanding.

Heirs of Joseph Harrison may be permitted to make an entry in the land-office for the district of Detroit.

APPROVED, April 23, 1812.

(a) See notes to the act of March 3, 1807, chap. 34.

BY AUTHORITY OF CONGRESS.

THE

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OF THE

UNITED STATES OF AMERICA,

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EDITED BY

RICHARD PETERS, ESQ.,

COUNSELLOR AT LAW.

VOL. III.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

Acts of the Fourteenth Congress of the United States.

STATUTE II.—1817.

STATUTE II.

March 3, 1817.

The claimants to certain donation rights of land in the district of Detroit allowed until the 1st of Dec. 1818, to file their claims.

Act of April 23, 1812, ch. 92.
Act of May 11, 1820, ch. 84.

CHAP. XCIX.—*An Act allowing further time for entering donation rights to lands in the district of Detroit.*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the claimants to certain donation rights to land in the district of Detroit, granted by the second [section] of an act, entitled "An act to authorize the granting of patents for land, according to the surveys that have been made, and to grant donation rights to certain claimants of land in the district of Detroit, and for other purposes," passed the twenty-third of April, one thousand eight hundred and twelve, be, and they are hereby, allowed until the first day of December, one thousand eight hundred and eighteen, to file their claims with the register of the land office, for the district aforesaid.

APPROVED, March 3, 1817.

U.S. Congress. Library.

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF

THE UNITED STATES:

BEING

THE FIRST SESSION OF THE TWENTY-FIRST CONGRESS,

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 7, 1829,

AND IN THE FIFTY-FOURTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES

WASHINGTON:
PRINTED BY DUFF GREEN.
1829.

21st CONGRESS, 1st SESSION.

H. R. 383.

MARCH 25, 1830.

Read twice, and ordered to be engrossed, and read the third time to-morrow.

Mr. COWLES, from the Committee on the Territories, reported the following bill:

A BILL

Relative to the plan of Detroit, in Michigan Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Governor and Judges of the Territory of Michigan, or any three of them, are hereby required to make a report of the plan of laying out the town of Detroit, under and by virtue of an act, entitled "An act to provide for the adjustment of titles of land in the town of Detroit, and Territory of Michigan, and for other purposes," passed twenty-first April, one thousand eight hundred and six, one copy of which shall, on or before the first day of January next, be deposited and recorded in the office of the Secretary of the Territory of Michigan, and another copy transmitted to the Secretary of State of the United States, to be by him laid before Congress.

BILLS—Continued.

No.	Bills House of Representatives.	Reported.	Proceedings in Committee of the Whole, and in the House.	Pas'd H. R.	Passed S.	Other proceedings.	Approved.
383	A bill relative to the plan of Detroit, in Michigan Territory, - - - - - - -	461	- -	465	743	755, 766	767

5 o'clock, P. M. MAY 28, 1830.

The House resumed its session.

Mr. Richardson, from the Joint Committee for Enrolled Bills, reported that the committee did this day present to the President of the United States, enrolled bills of the following titles, viz:

An act relative to the plan of Detroit, in Michigan Territory;

BY AUTHORITY OF CONGRESS.

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EDITED BY

RICHARD PETERS, ESQ.,

COUNSELLOR AT LAW.

VOL. IV.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

Acts of the Twenty-First Congress of the United States.

STATUTE I.—1829, 1830.

STATUTE I.

May 28, 1830.

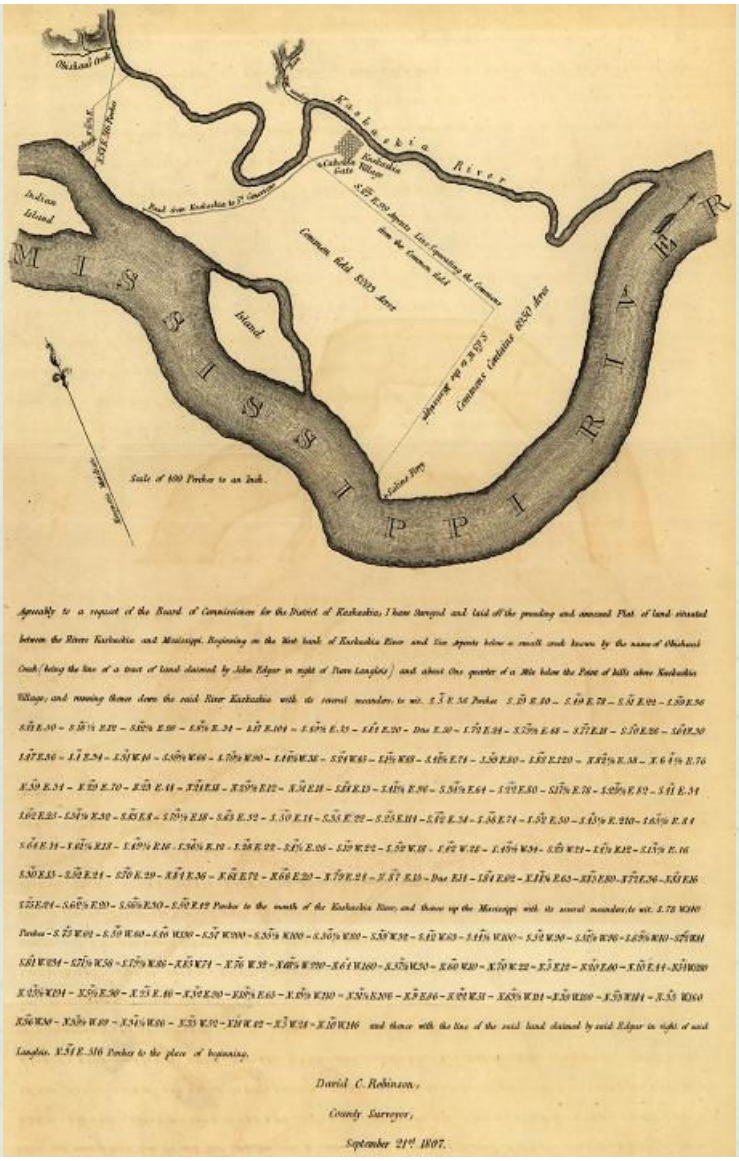
CHAP. CLI.—*An Act relative to the plan of Detroit, in Michigan territory.*

Report to be made.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the governor and judges of the territory of Michigan, or any three of them, are hereby required to make a report of the plan of laying out the town of Detroit, under and by virtue of an act, entitled "An act to provide for the adjustment of titles of land in the town of Detroit, and territory of Michigan, and for other purposes," passed the twenty-first April, one thousand eight hundred and six; one copy of which shall, on or before the first day of January next, be deposited and recorded in the office of the Secretary of the territory of Michigan, and another copy transmitted to the Secretary of State of the United States, to be by him laid before Congress.

Act of April 21, 1806, ch. 43.

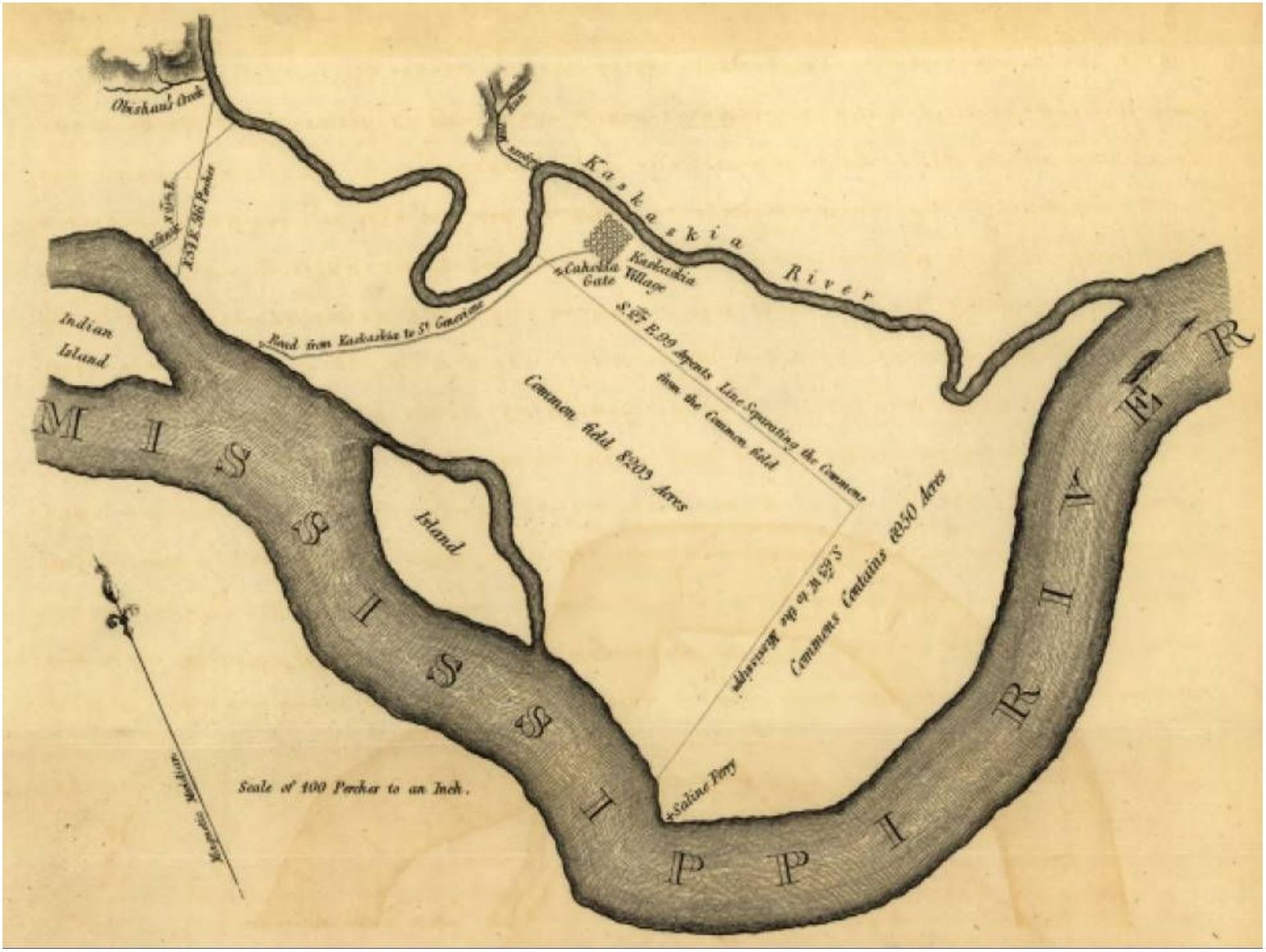
APPROVED, May 28, 1830.



Agreeably to a request of the Board of Commissioners for the District of Kaskaskia; I have Surveyed and laid off the preceding and annexed Plat of land situated between the Rivers Kaskaskia and Mississippi. Beginning on the West bank of Kaskaskia River and five Arpents below a small creek known by the name of Okahaul Creek (being the line of a tract of land claimed by John Edgar in right of Pierre Langlois) and about One quarter of a Mile below the Point of hills above Kaskaskia Village; and running thence down the said River Kaskaskia with its several meanders, to wit. S. 3° E. 56 Perches S. 19° E. 10 – S. 49° E. 78 – S. 8° E. 92 – S. 50° E. 56 S. 8° E. 50 – S. 80½ E. 32 – S. 85° E. 80 – S. 8° E. 34 – S. 47° E. 104 – S. 87° E. 33 – S. 44° E. 220 – Dist. E. 30 – S. 79° E. 34 – S. 72½ E. 48 – S. 77° E. 28 – S. 70° E. 26 – S. 60° E. 30 S. 47° E. 56 – S. 1° E. 54 – S. 5° W. 40 – S. 30½ W. 60 – S. 70½ W. 90 – S. 44° W. 36 – S. 24° W. 45 – S. 12½ W. 68 – S. 8½ E. 74 – S. 50° E. 80 – S. 83° E. 220 – S. 82½ E. 38 – S. 6 ¼ E. 76 S. 59° E. 34 – S. 29° E. 70 – S. 23° E. 44 – S. 74° E. 38 – S. 29½ E. 12 – S. 38° E. 28 – S. 24° E. 13 – S. 48½ E. 96 – S. 56½ E. 64 – S. 32° E. 50 – S. 27½ E. 78 – S. 29½ E. 52 – S. 51° E. 34 S. 62° E. 25 – S. 54½ E. 50 – S. 85° E. 8 – S. 29½ E. 18 – S. 8° E. 52 – S. 50° E. 14 – S. 55° E. 22 – S. 25° E. 111 – S. 8° E. 54 – S. 56° E. 74 – S. 5° E. 50 – S. 45½ E. 210 – S. 18½ E. 44 S. 64° E. 34 – S. 42½ E. 18 – S. 49½ E. 16 – S. 56½ E. 10 – S. 28° E. 22 – S. 2½ E. 26 – S. 20° W. 22 – S. 52° W. 18 – S. 6° W. 28 – S. 45¾ W. 34 – S. 25° W. 24 – S. 4½ E. 32 – S. 15½ E. 16 S. 50° E. 35 – S. 52° E. 24 – S. 70° E. 29 – S. 8½ E. 36 – S. 6° E. 72 – S. 66° E. 20 – S. 7° E. 24 – S. 8° E. 10 – Dist. E. 31 – S. 8° E. 92 – S. 11½ E. 63 – S. 15° E. 80 – S. 7° E. 36 – S. 6° E. 16 S. 25° E. 24 – S. 66½ E. 20 – S. 56½ E. 30 – S. 50° E. 42 Perches to the mouth of the Kaskaskia River, and thence up the Mississippi with its several meanders, to wit. S. 78 W. 40 Perches – S. 75° W. 64 – S. 50° W. 60 – S. 56° W. 100 – S. 54° W. 1000 – S. 55½ W. 800 – S. 56° W. 80 – S. 42° W. 63 – S. 44½ W. 180 – S. 52° W. 30 – S. 50½ W. 76 – S. 85½ W. 80 – S. 75° W. 84 S. 8° W. 84 – S. 27½ W. 58 – S. 17° W. 86 – S. 35° W. 74 – S. 76° W. 32 – S. 68° W. 270 – S. 64° W. 160 – S. 57½ W. 50 – S. 60° W. 20 – S. 70° W. 22 – S. 5° E. 12 – S. 60° E. 40 – S. 50° E. 44 – S. 8° W. 20 S. 25½ W. 24 – S. 50° E. 30 – S. 25° E. 46 – S. 32° E. 20 – S. 38½ E. 63 – S. 8½ W. 110 – S. 8° E. 106 – S. 8° E. 56 – S. 60° W. 8 – S. 35½ W. 84 – S. 50° W. 84 – S. 5° E. 44 – S. 35° W. 60 S. 56° W. 30 – S. 38½ W. 40 – S. 34½ W. 80 – S. 33° W. 92 – S. 8° W. 62 – S. 5° W. 28 – S. 10° W. 116 and thence with the line of the said land claimed by said Edgar in right of said Langlois. N. 51° E. 316 Perches to the place of beginning.

David C. Robinson,
County Surveyor,
September 21st 1807.

Robinson, David C. (county surveyor). Survey between Kaskaskia and Mississippi Rivers (1807 September 21). http://memory.loc.gov/gmd//gmd370m/g3701m/g3701fm/gct00025/aspl0202.jp2



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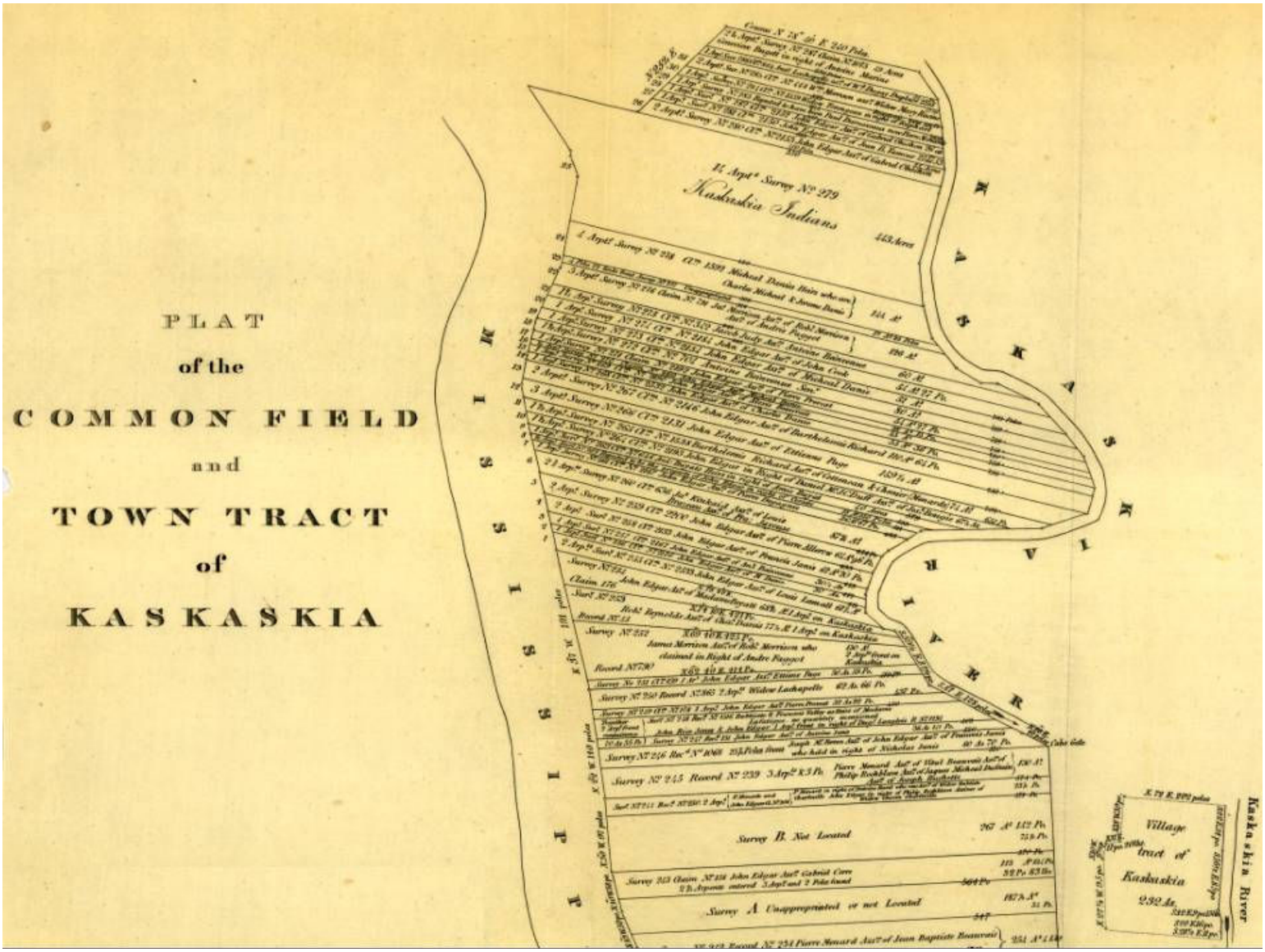

Rector, William and Rector, Elias (surveyors). Plat of the Common Field and Town Tract of Kaskaskia.
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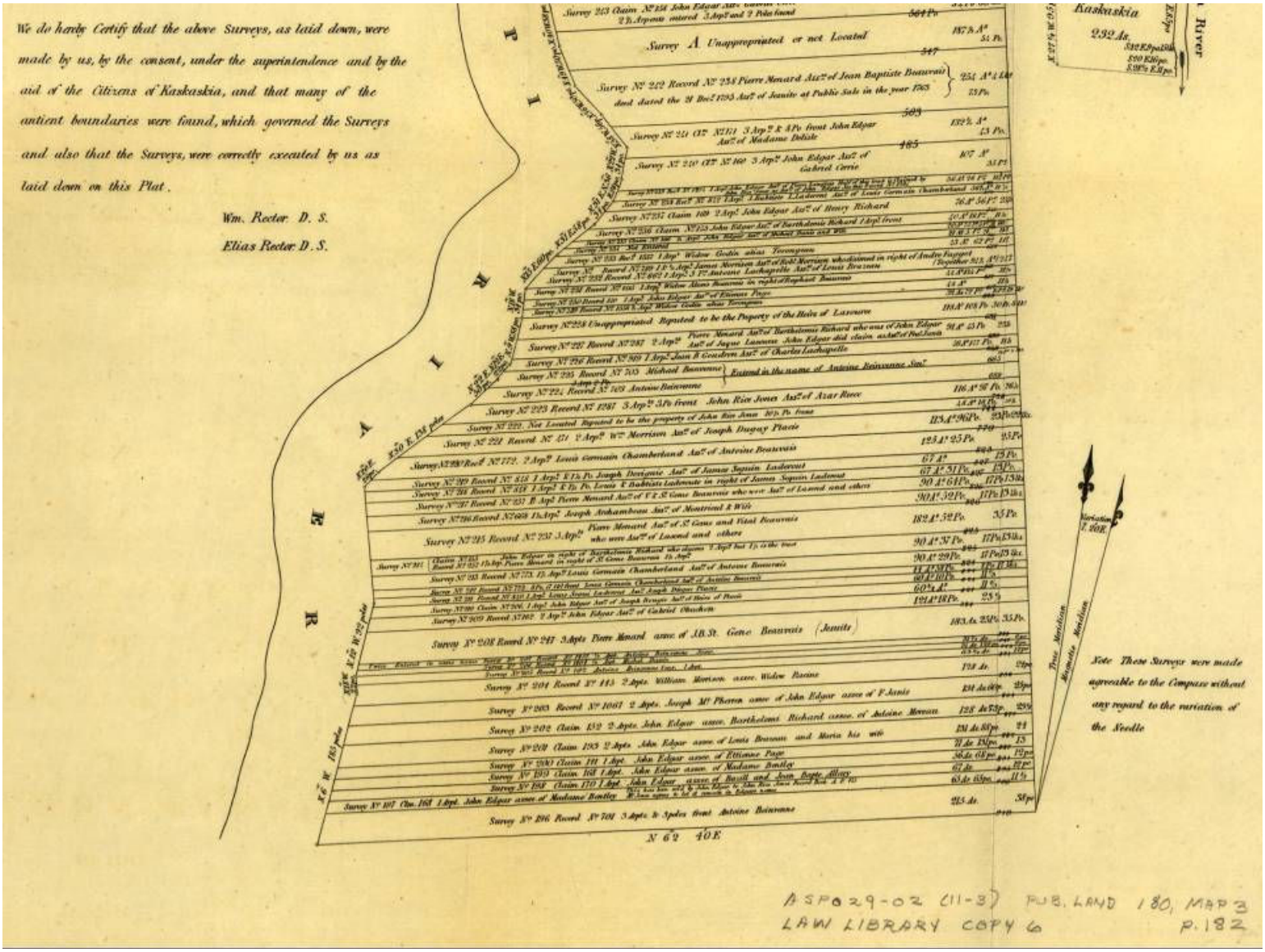

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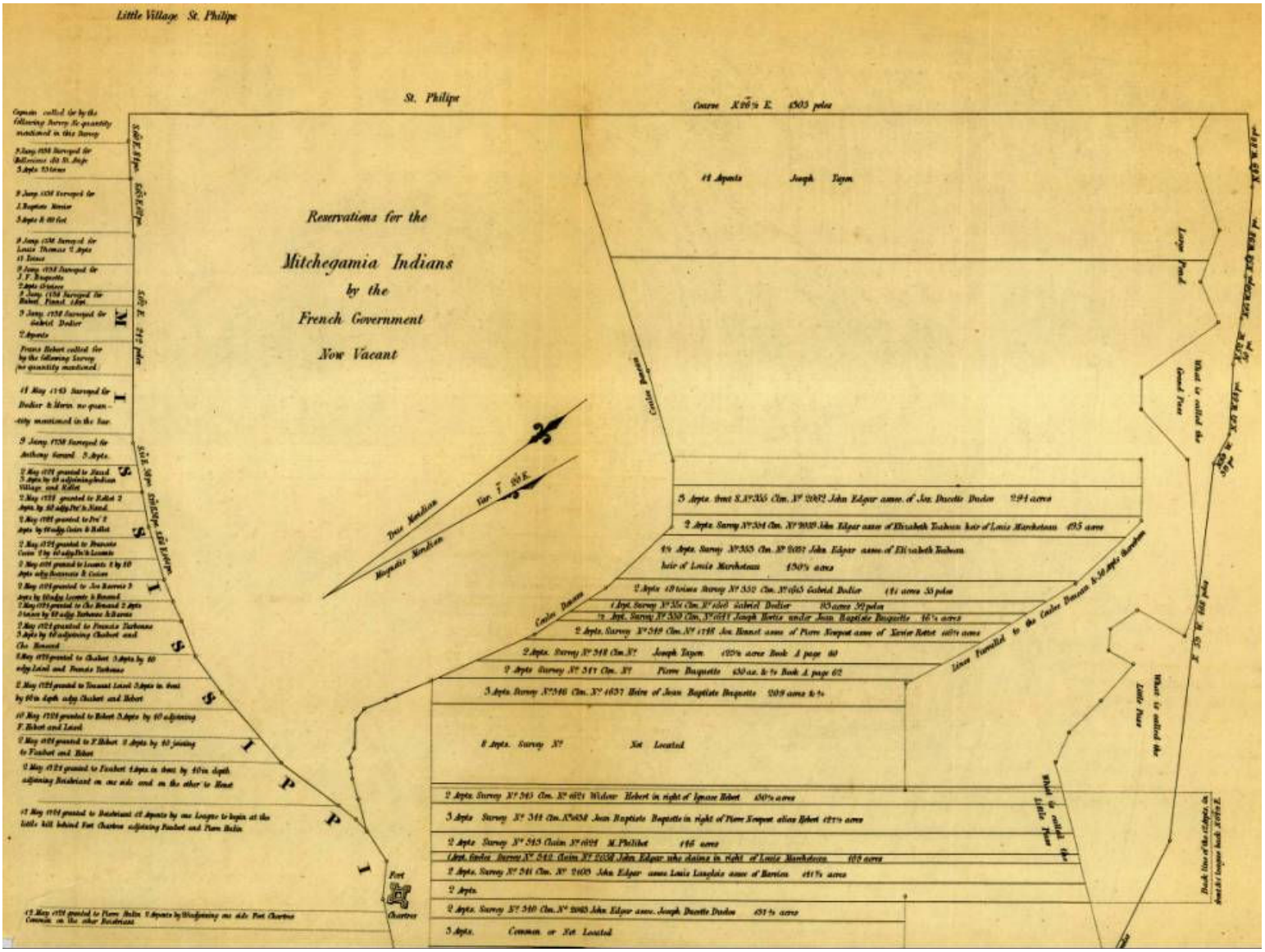

Rector, William (surveyor). Corrected Plan of Common Lands of Fort Chartres, Illinois. (1809 June 2)
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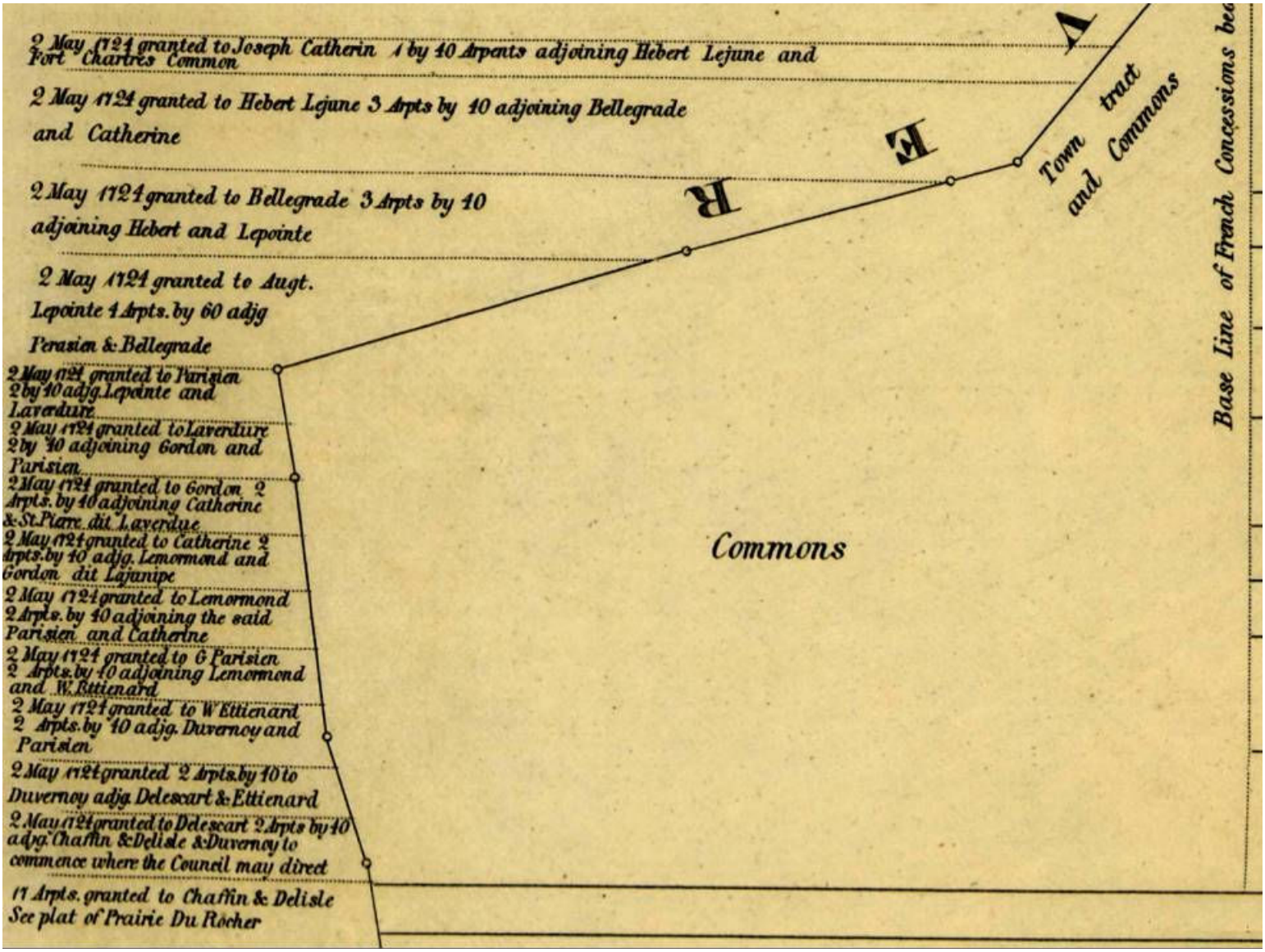

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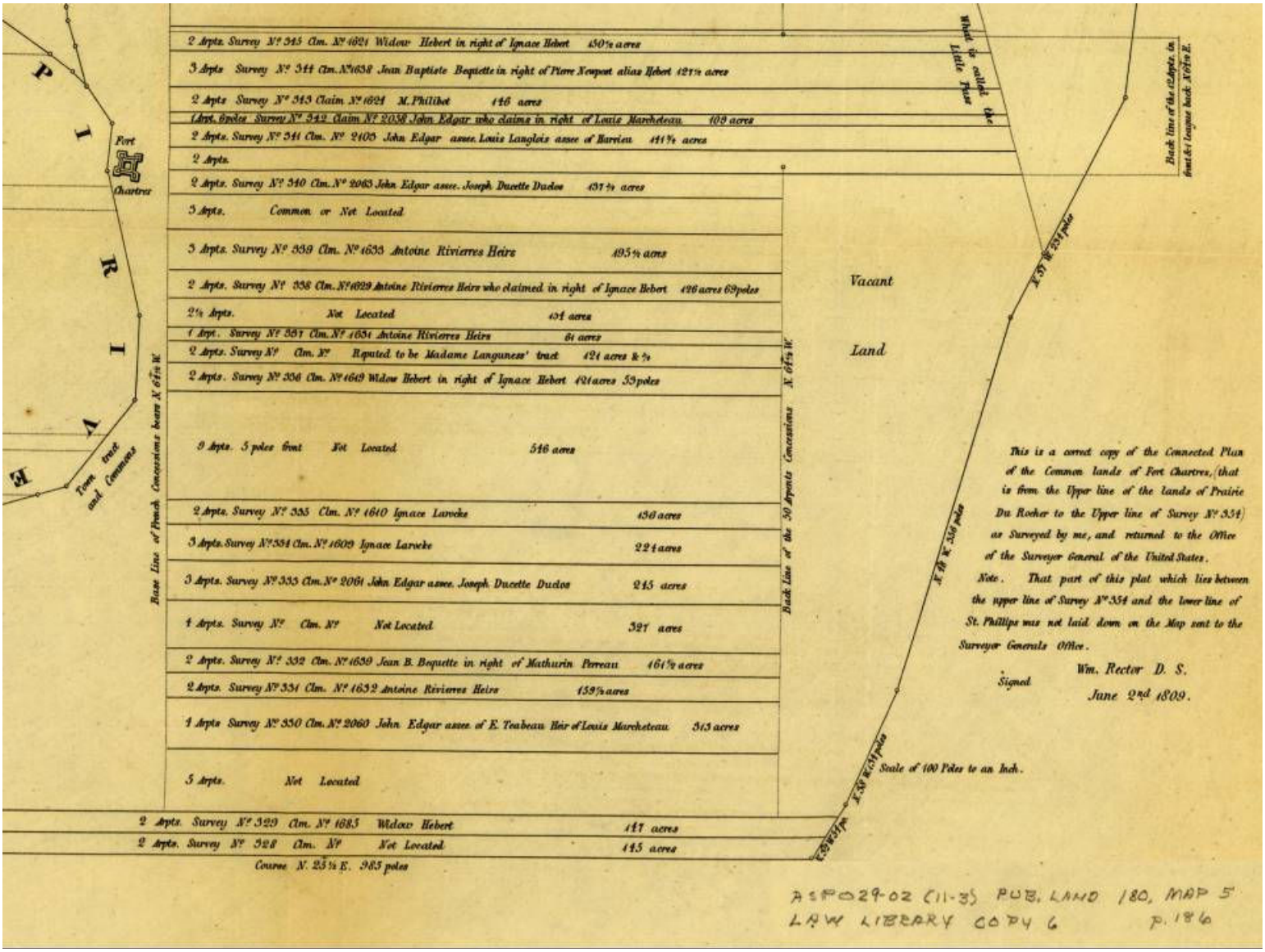

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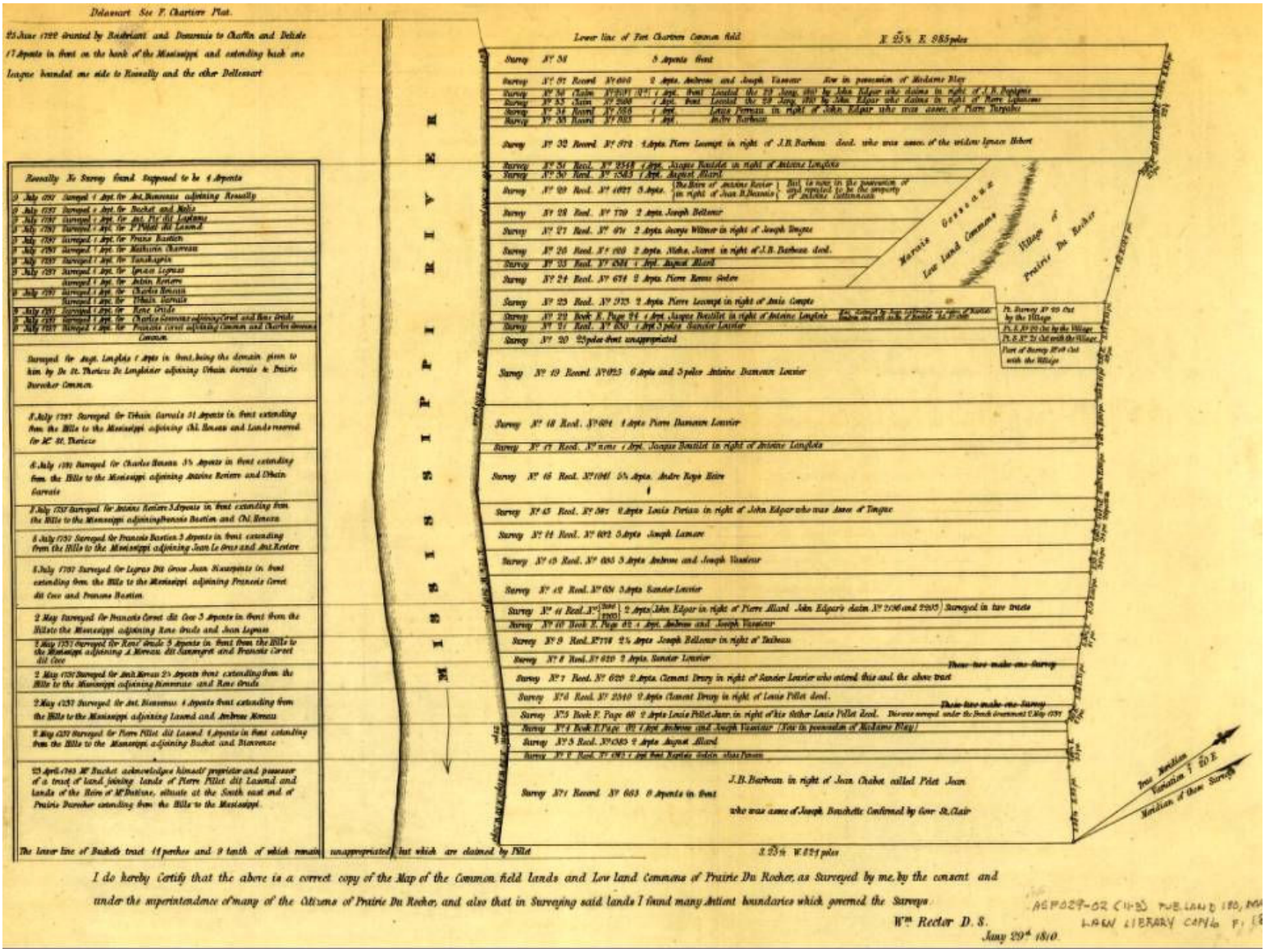

Rector, William (surveyor). Prairie Du Rocher (1810 January 24).
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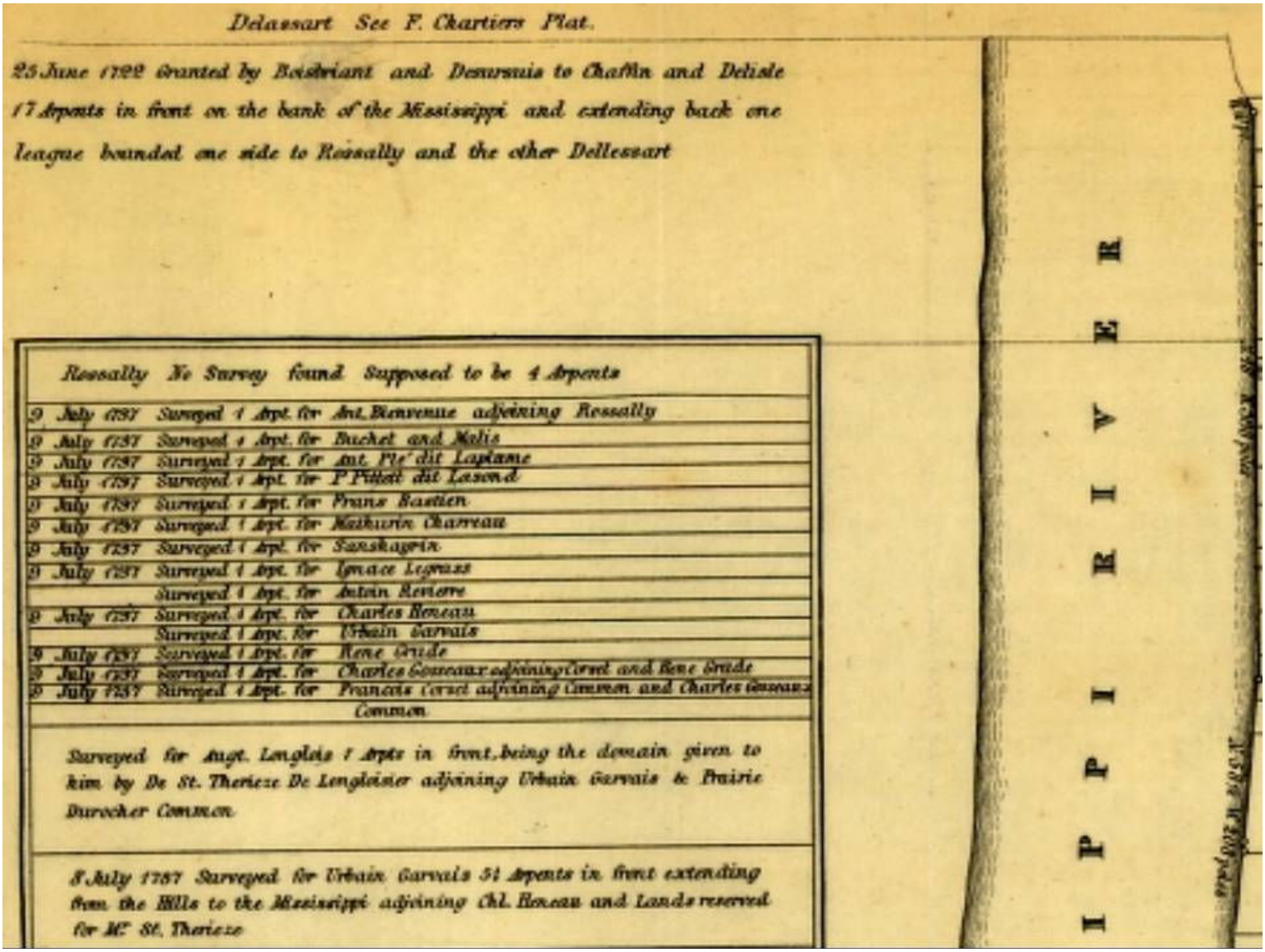

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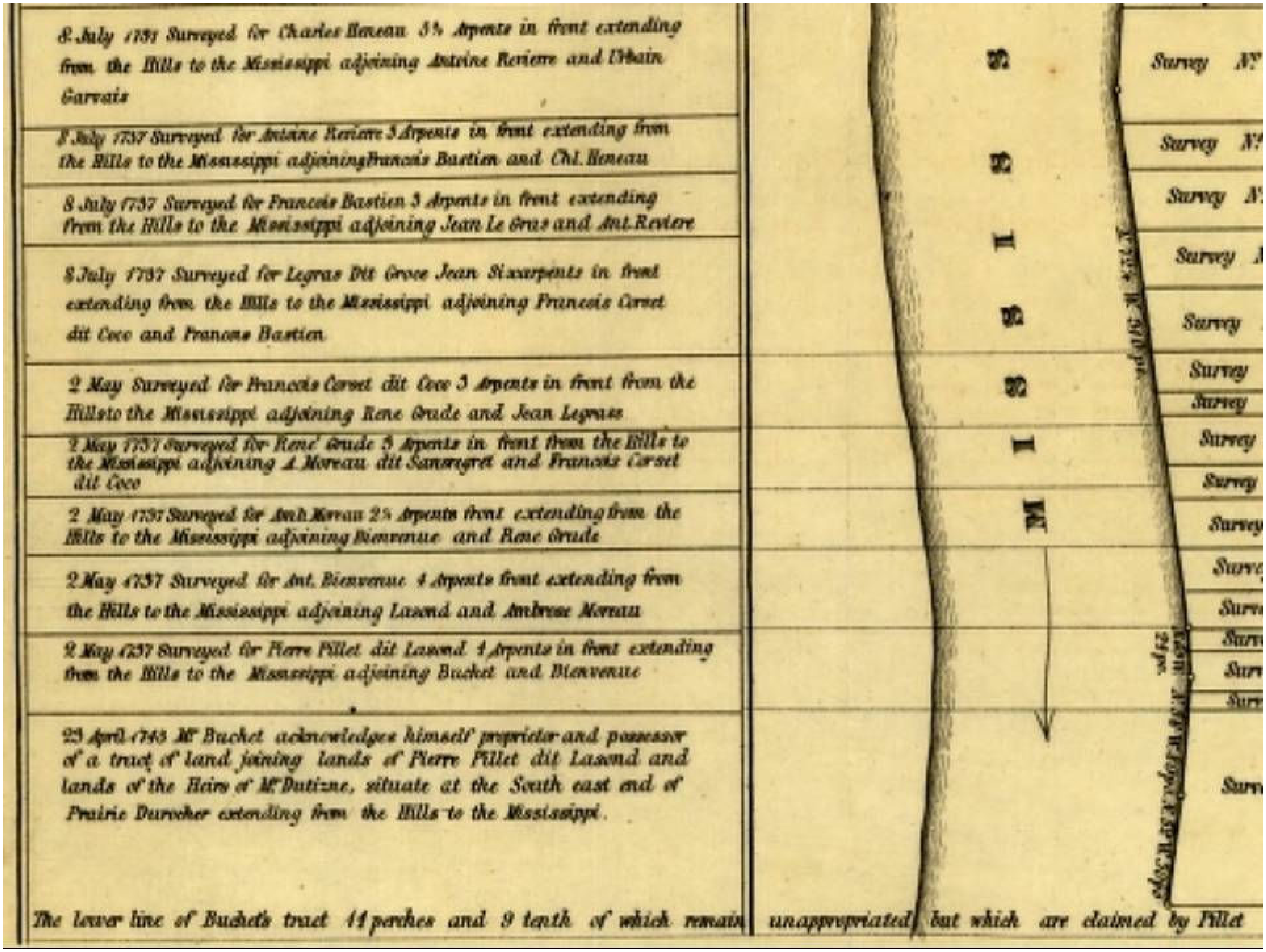

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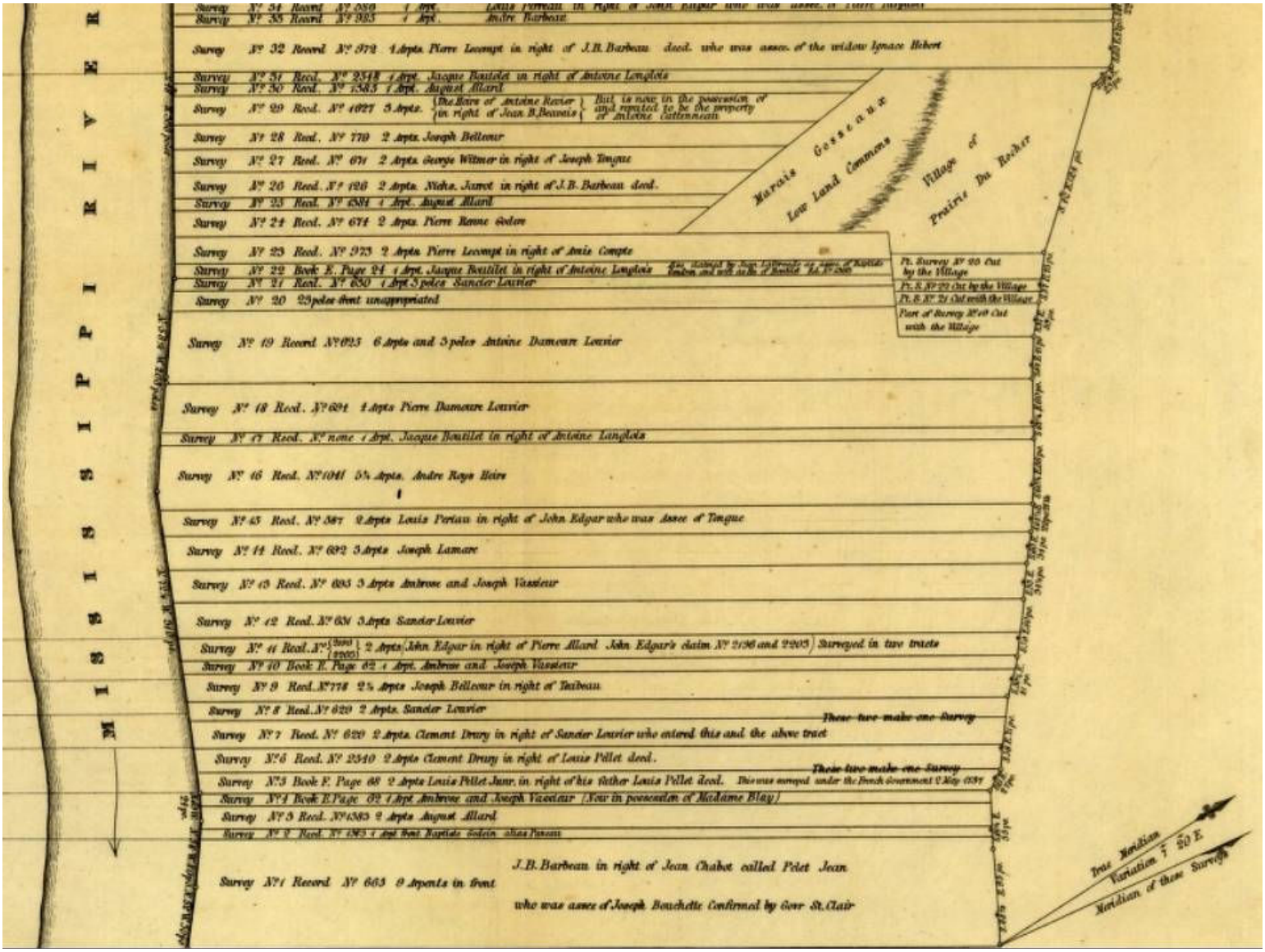

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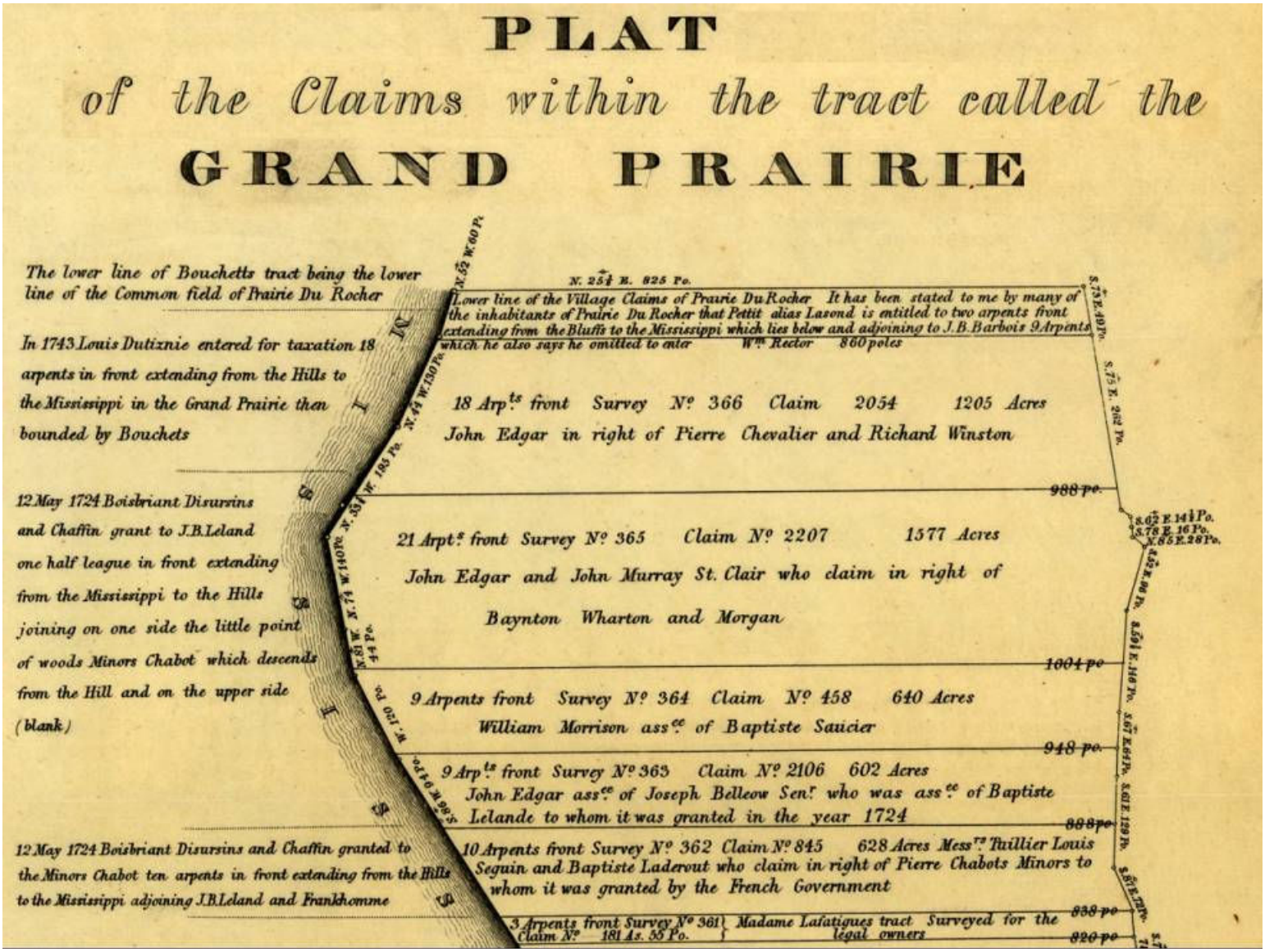

Grand Prairie, plat of claims (1811).
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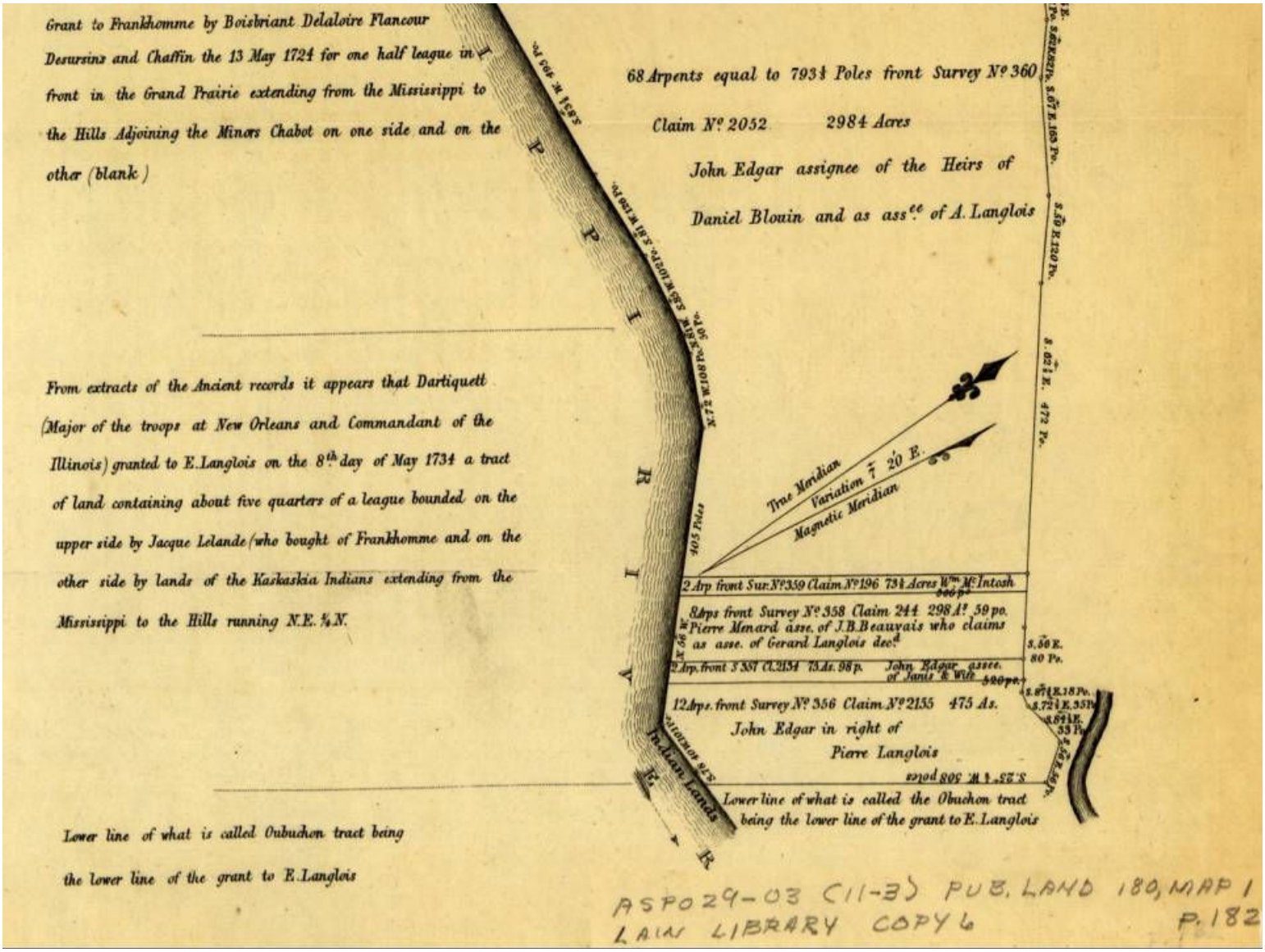

Grand Prairie, plat of claims (1811).
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Burr, David H. Map of Illinois with parts of Indiana, Ouisconsin &c. (1836).
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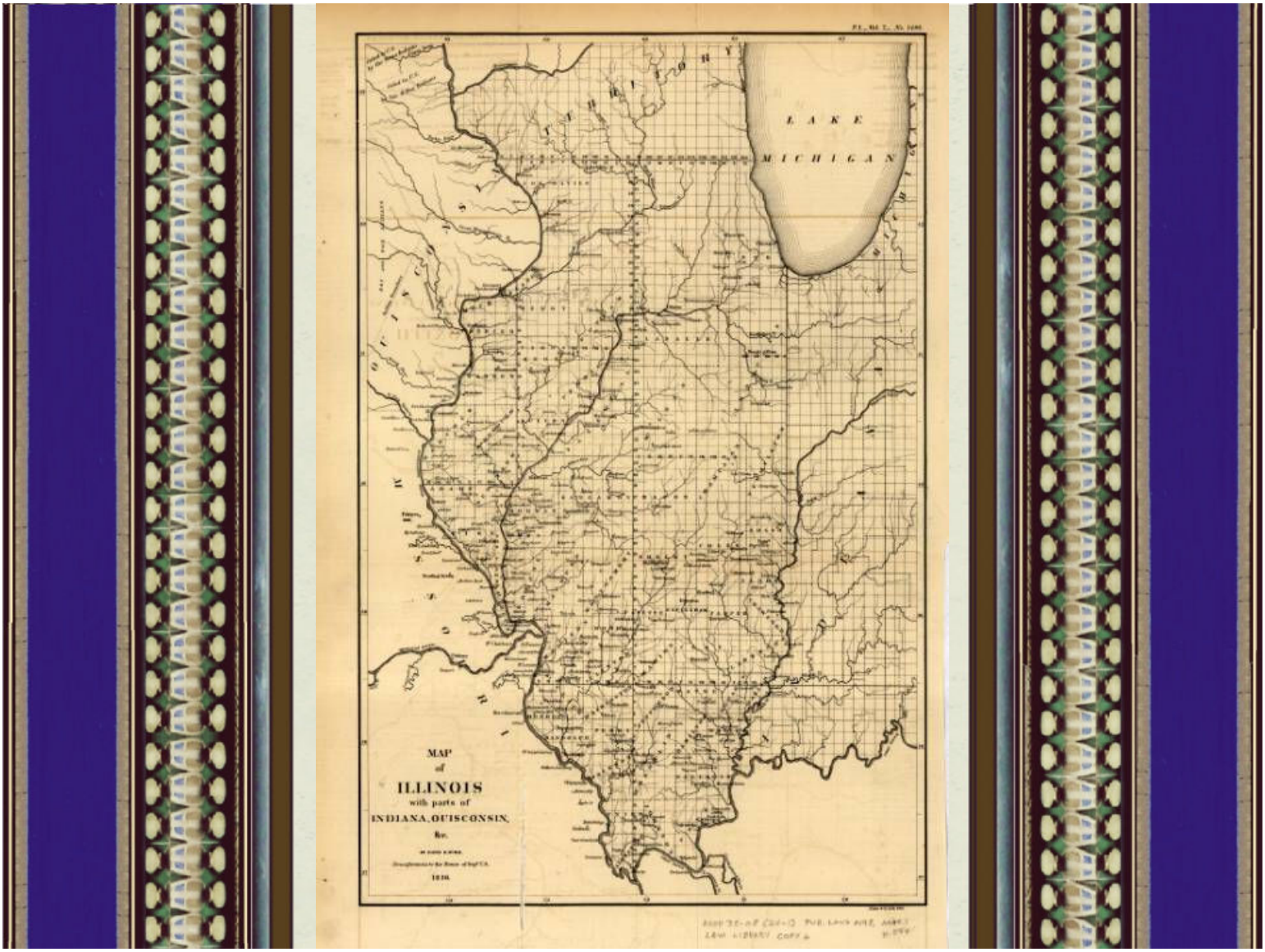

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EDITED BY

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COUNSELLOR AT LAW.

VOL. VI.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

PRIVATE ACTS OF THE TWENTY-FIRST CONGRESS

OF THE

UNITED STATES,

Passed at the first session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the seventh day of December, 1829, and ended on the thirty-first day of May, 1830.

ANDREW JACKSON, President; JOHN C. CALHOUN, Vice President of the United States, and President of the Senate; ANDREW STEVENSON, Speaker of the House of Representatives.

STATUTE I.

STATUTE I.
April 2, 1830.

CHAP. LVIII.—*An Act for the relief of the Mayor and City Council of Baltimore.*

Payment to them for money expended in defence of said city during the late war.

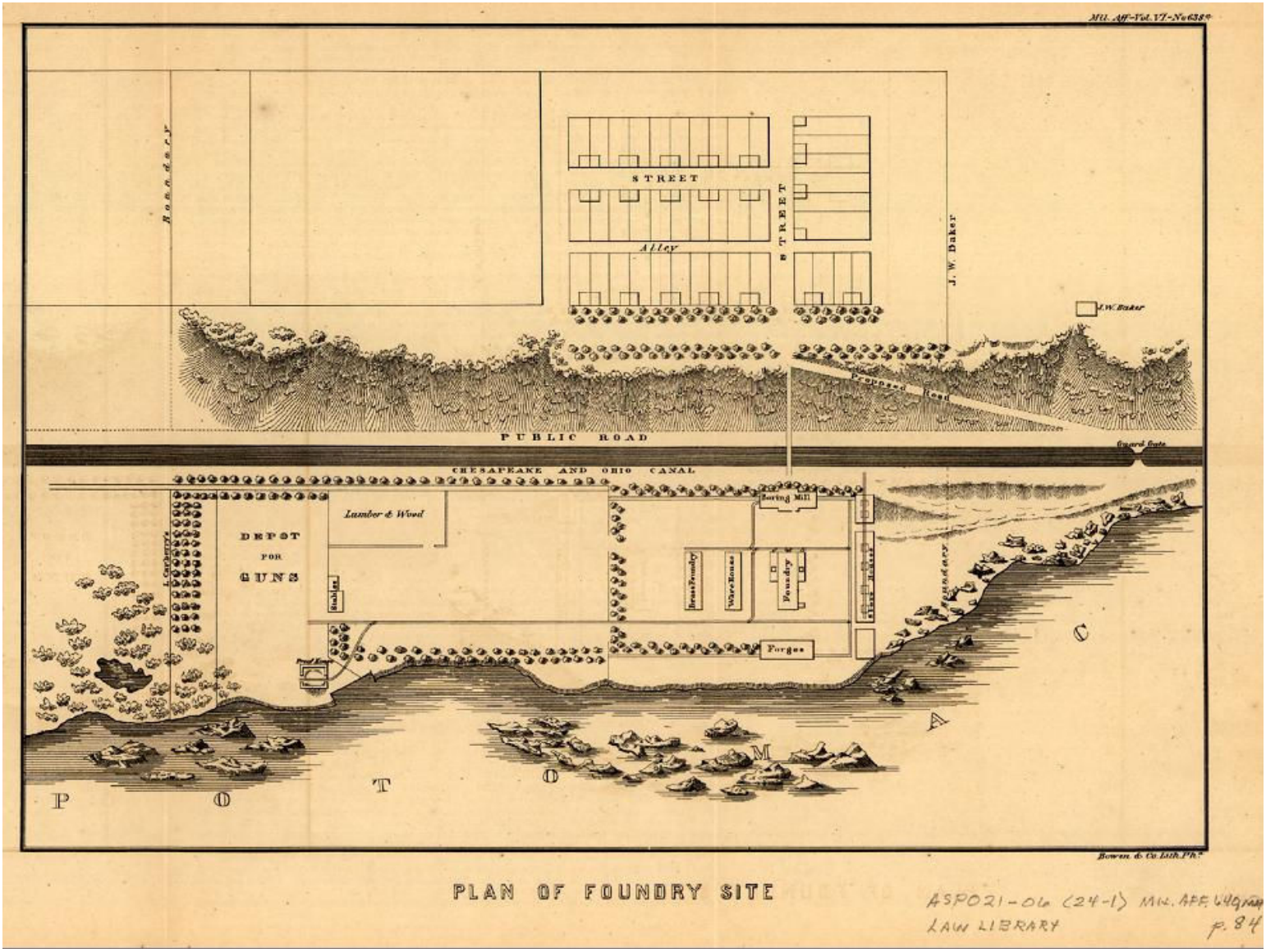
Be it enacted, &c., That the Secretary of the Treasury cause to be paid unto the Mayor and City Council of Baltimore, or to their authorized agent, the sum of seven thousand four hundred and thirty-four dollars and fifty-three cents, in full for their claim against the United States, for money borrowed and expended by them, in defence of said city, during the late war.

Also, interest on said sum.

SEC. 2. *And be it further enacted*, That said Secretary cause to be paid, as aforesaid, interest on the sum mentioned in the preceding section, according to the provisions and regulations of "the act to authorize the payment of interest due to the city of Baltimore," passed May the twentieth, one thousand eight hundred and twenty-six; and that said sum be paid out of any money in the treasury not otherwise appropriated.

Act of May 20, 1826, ch. 79.

APPROVED, April 2, 1830.



Potomac, Chesapeake, Ohio Canal (1836).
American state papers : documents, legislative and executive, of the Congress of the United States / selected and edited under the authority of Congress. Washington: Gales and Seaton (1832-1861).

NOTES
Class I. Foreign relations. 6 v. 1st Cong.-20th Cong., 1st sess., Apr. 30, 1789-May 24, 1828 -- class II. Indian affairs. 2 v. 1st Cong.-19th Cong., May 25, 1789-Mar. 1, 1827.

Class III. Finance. 5 v. 1st Cong.-20th Cong., 1st sess., Apr. 11, 1789-May 16 1828 -- class IV. Commerce and navigation. 2 v. 1st Cong.-17th Cong., Apr. 13, 1789-Feb. 25, 1823 -- Class V. Military affairs. 7 v. 1st Cong.-25th Cong., 2nd sess., Aug. 10, 1789-Mar. 1,1838 -- class VI. Naval affairs. 4 v. 3rd Cong.-24th Cong., 1st sess., Jan. 20, 1794-June 15, 1836 -- class VII. Post Office Dept. 1 v. 1st Cong., 2nd sess.-22nd Cong., Jan. 22, 1790-Feb. 21, 1833 -- class VIII. Public lands. 8 v. 1st Cong.-24th Cong., July 31, 1789-Feb. 28, 1837 -- class IX. Claims. 1 v. 1st Cong., 2nd sess.-17th Cong., Feb. 5, 1790-Mar. 3, 1823 -- class X. Miscellaneous. 2 v. 1st Cong.-17th Cong., Apr. 17,1789-Mar. 3, 1823.

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http://memory.loc.gov/gmd//gmd370m/g3701m/g3701fm/gct00025/asma0601.jp2

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EDITED BY

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COUNSELLOR AT LAW.

VOL. IV.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

STATUTE I.

May 13, 1826.

CHAP. XL.—*An Act to authorize a subscription for stock, on the part of the United States, in the Louisville and Portland Canal Company.*

Secretary of the Treasury to subscribe for, in the name of the United States, 1000 shares of the capital stock of the Louisville and Portland Canal Company.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to subscribe for, or purchase, in the name, and for the use of the United States, not exceeding one thousand shares of the capital stock of the Louisville and Portland Canal Company, and to pay for the same, at such times, and in such proportions, as may be required of, and paid by other stockholders of said company, out of any money in the treasury not otherwise appropriated:

Proviso.

Provided, Said shares can be procured for a sum not exceeding one hundred dollars each.

Secretary of the Treasury to vote for the president, &c., of said company.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury shall vote for president and directors of said company, according to such number of shares, and shall receive, upon the said stock, the proportion of the tolls which shall, from time to time, be due to the United States, for the shares aforesaid.

APPROVED, May 13, 1826.

STATUTE I.

May 18, 1826.

CHAP. LXV.—*An Act for the subscription of stock in the Dismal Swamp Canal Company.*

Secretary of the Treasury to subscribe, for 600 shares of the capital stock of the Dismal Swamp Canal.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to subscribe, in the name and for the use of the United States, for six hundred shares of the capital stock of the Dismal Swamp Canal, and to pay for the same, at such times, and in such proportions, as may be required by the existing rules and regulations of the said company.

SEC. 2. *And be it further enacted, by the authority aforesaid*, That the Secretary of the Treasury shall vote for the president and directors of said company, according to said number of shares, and shall receive, upon said stock, the proportions of tolls and emoluments which shall, from time to time, become due to the United States, on the shares of stock aforesaid.

This act not to go into effect until the board of engineers shall examine said canal, and make a report, in writing, to the Secretary of War.

SEC. 3. *And be it further enacted*, That this act shall not go into effect until the United States' board of engineers shall examine said canal, and make a report, in writing, to the Secretary of War, that, in their opinion, the plan on which the canal is to be executed, will answer, as far as circumstances will permit, as a part of the chain of canals contemplated along the Atlantic Coast, and that in their opinion, the sum hereby authorized to be subscribed for will be sufficient to finish the canal according to said plan: *And it is further provided*, That to carry this act into effect, the sum of one hundred and fifty thousand dollars is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated.

150,000 dollars appropriated to carry this act into effect.

The money subscribed on behalf of the United States to be actually expended wholly in the completion of the canal.

SEC. 4. *And be it further enacted*, That the money subscribed on behalf of the United States shall be actually expended in the completion of the canal, and not in the payment of any debt or debts now owing by the company; and it shall be the duty of the Secretary of the Treasury, before the payment of any part of the money subscribed on behalf of the United States, to adopt such measures as shall insure the application of the same to the completion of the said canal, according to the plan proposed, and to no other purpose whatsoever.

APPROVED, May 18, 1826.

STATUTE II.

March 2, 1827.

CHAP. LI.—*An Act to grant a quantity of land to the state of Illinois, for the purpose of aiding in opening a canal to connect the waters of the Illinois river with those of Lake Michigan.* (a)

A certain quantity of land to be allowed for opening a canal to unite the waters of the Illinois river with those of Lake Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the state of Illinois, for the purpose of aiding the said state in opening a canal to unite the waters of the Illinois river with those of Lake Michigan, a quantity of land equal to one half of five sections in width, on each side of said canal, and reserving each alternate section to the United States, to be selected by the commissioner of the land office, under the direction of the President of the United States, from one end of the said canal to the other; and the said lands shall be subject to the disposal of the legislature of the said state, for the purpose aforesaid, and no other:

Proviso.

Provided, That the said canal, when completed, shall be and forever remain, a public highway for the use of the government of the United States, free from any toll, or other charge, whatever, for any property of the United States, or persons in their service, passing through the same:

Proviso.

Provided, That said canal shall be commenced within five years, and completed in twenty years, or the state shall be bound to pay to the United States the amount of any lands previously sold, and that the title to purchasers under the state shall be valid.

Duty of the governor of the state, when the canal is located, &c.

SEC. 2. *And be it further enacted*, That, so soon as the route of the said canal shall be located and agreed on by the said state, it shall be the duty of the governor thereof, or such other person or persons as may have been, or shall hereafter be, authorized to superintend the construction of said canal, to examine and ascertain the particular sections to which the said state will be entitled, under the provisions of this act, and report the same to the Secretary of the Treasury of the United States.

Power given to the legislature.

SEC. 3. *And be it further enacted*, That the said state, under the authority of the legislature thereof, after the selection shall have been so made, shall have power to sell and convey the whole, or any part of the said land, and to give a title in fee simple therefor, to whomsoever shall purchase the whole, or any part thereof.

APPROVED, March 2, 1827.

(a) An act to authorize the state of Illinois to open a canal through the public lands to connect the Illinois river with Lake Michigan. March 30, 1822, ch. 14.

An act to amend an act entitled "An act to grant a quantity of land to the state of Illinois for the purpose of aiding in opening a canal to connect the waters of the Illinois river with those of Lake Michigan and to allow further time to the state of Ohio, for commencing the Miami canal from Dayton, to Lake Erie," March 2, 1833, ch. 87.

STATUTE II.

March 2, 1827.

CHAP. LVI.—*An Act to grant a certain quantity of land to the state of Indiana, for the purpose of aiding said state in opening a canal to connect the waters of the Wabash river with those of Lake Erie.* (a)

A certain quantity of land granted to said state, for opening a canal to unite, at navigable points, the waters of the Wabash river, with those of Lake Erie.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there be, and hereby is, granted to the state of Indiana, for the purpose of aiding the said state in opening a canal to unite at navigable points the waters of the Wabash river with those of Lake Erie, a quantity of land equal to one half of five sections in width, on each side of said canal, and reserving each alternate section to the United States, to be selected by the commissioner of the land office, under the direction of the President of the United States, from one end thereof to the other; and the said lands shall be subject to the disposal of the legislature of said state, for the purpose aforesaid, and no other; *Provided,* That the said canal, when completed, shall be, and forever remain, a public highway for the use of the government of the United States, free from any toll, or other charge, whatever, for any property of the United States, or persons in their service passing through the same: *Provided,* That said canal shall be commenced within five years, and completed in twenty years, or the state shall be bound to pay to the United States the amount of any lands previously sold, and that the title to purchasers under the state shall be valid.

Proviso.

Proviso.

Duty of the governor of said state, when the canal is located, &c.

SEC. 2. *And be it further enacted,* That, so soon as the route of the said canal shall be located and agreed on by the said state, it shall be the duty of the governor thereof, or such other person or persons as may have been, or shall hereafter be, authorized to superintend the construction of said canal, to examine and ascertain the particular lands to which the said state will be entitled under the provisions of this act, and report the same to the Secretary of the Treasury of the United States.

Power given to the legislature to sell.

SEC. 3. *And be it further enacted,* That the said state, under the authority of the legislature thereof, after the selection shall have been so made, shall have power to sell and convey the whole, or any part of the said land, and to give a title, in fee simple, therefor, to whomsoever shall purchase the whole or any part thereof.

APPROVED, March 2, 1827.

(a) An act granting certain lands in the state of Indiana, the better to enable the said state to extend and complete the Wabash and Erie canal, from Terre Haute to the Ohio river, March 3, 1845, ch. 42.

DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTIETH TO THE SECOND SESSION OF THE TWENTIETH CONGRESS, INCLUSIVE:

COMMENCING DECEMBER 3, 1827, AND ENDING MARCH 3, 1839.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

VOLUME V.

WASHINGTON:
PUBLISHED BY GALES & SEATON.
1860.

20TH CONGRESS.] No. 710. [2D SESSION.

APPLICATION OF CITIZENS OF MICHIGAN FOR LAND FOR A POOR-HOUSE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 5, 1839.

Mr. HUNT, from the Committee on the Public Lands, to whom was referred the petition of certain citizens of the Territory of Michigan, praying for the grant of a township of land for the erection of a poor-house, and for the deposit of such paupers as have gained no settlements in the several towns and counties of said Territory, reported:

Pauperism is an evil which has ever existed in the best regulated governments and the most flourishing communities. As it cannot be avoided, all civilized nations have made some public provision for the maintenance of those who, from their age or infirmity, are unable to support themselves.

In this country the support of the poor, excepting those who have become invalids in the public service, is not a subject of national legislation, but is under the provision of the State laws and municipal regulations. Hence it is that State and local taxes for the maintenance of the poor are as common as those for the support of State governments or the more limited jurisdictions and concerns.

Appropriations of the public lands have not unfrequently been made for the promotion of education and the construction of roads and canals; but these are objects of public importance, and in which the nation itself has an interest and concern. The maintenance of the poor has ever been regarded as a duty of a private and local character, and for which each State, county, or town is liable for its own particular share.

It is true that, from local situations or peculiar circumstances, some sections of the country may be more encumbered with the indigent than others. Such inequalities are, however, generally transient and fluctuating; but when they are of a more permanent nature, other causes most commonly exist, as the disbursement of public money, the resort of travel, the thoroughfare of business, the facilities to wealth, and other advantages sufficient to counterbalance the ostensible disparity of the burdened.

The petition represents that two-thirds of the paupers are either emigrants from other States or discharged soldiers and seamen, or the widows and orphans of such from the United States army and navy, and a great share of the other third are foreigners. From these facts the petitioners infer the justice and equality of a claim upon the general government for assistance and relief, and pray for the grant of a township of land in the Territory of Michigan for the purpose of erecting a poor-house in the county of Wayne, and for supporting the above description of paupers.

The committee, however, are not aware of any such great peculiarity in the above description of paupers, or in the excess of their number, as should entitle the Territory of Michigan to the peculiar bounty of government, and recommend the following resolution:

Resolved, That the prayer of the above petition be not granted.

BY AUTHORITY OF CONGRESS.

THE

Public Statutes at Large

OF THE

UNITED STATES OF AMERICA,

FROM THE

ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS ON THE SAME SUBJECT,

AND

COPIOUS NOTES OF THE DECISIONS

OF THE

Courts of the United States

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN

INDEX TO THE CONTENTS OF EACH VOLUME,

AND A

FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH

The Declaration of Independence, the Articles of Confederation, and the Constitution of the United States;

AND ALSO,

TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY, IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY

RICHARD PETERS, ESQ.,

COUNSELLOR AT LAW.

VOL. III.

BOSTON:

CHARLES C. LITTLE AND JAMES BROWN.

1846.

LIST

OF THE

PUBLIC ACTS OF CONGRESS,

CONTAINED IN VOLUME THIRD.

Acts of the Thirteenth Congress of the United States.

STATUTE I.—1813.

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Statute I.

July 22, 1813.

Chap. XVI.—*An Act for the assessment and collection of direct taxes and internal duties.*(a)

[Repealed.] Act of January 9, 1815, ch. 21, sect. 2.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of assessing and collecting direct taxes and internal duties, there shall be, and are hereby designated and established the following collection districts, to wit:

Collection districts. New Hampshire.

The state of New Hampshire shall contain five collection districts, as follow: The first district shall consist of the county of Rockingham; the second of the county of Strafford; the third of the county of Hillsborough; the fourth of the county of Cheshire; and the fifth of the counties of Grafton and Coos.

Massachusetts.

The state of Massachusetts shall contain eighteen collection districts, as follow: The first district shall consist of the county of Washington; the second of the county of Hancock; the third of the county of Lincoln; the fourth of the county of Kennebec; the fifth of the county of Somerset; the sixth of the county of Oxford; the seventh of the county of Cumberland; the eighth of the county of York; the ninth of the county of Essex; the tenth of the county of Middlesex; the eleventh of the county of Suffolk; the twelfth of the county of Norfolk; the thirteenth of the county of Plymouth; the fourteenth of the county of Bristol; the fifteenth of the counties of Barnstable, Dukes, and Nantucket; the sixteenth of the county of Worcester; the seventeenth of the counties of Hampshire, Franklin, and Hampden; and the eighteenth of the county of Berkshire.

Vermont.

The state of Vermont shall contain six collection districts, as follow: The first shall consist of the counties of Bennington and Rutland; the second of the county of Windham; the third of the counties of Windsor and Orange; the fourth of the counties of Addison and Chittenden; the fifth of the counties of Franklin and Grand Isle; and the sixth of the counties of Caledonia, Essex, and Orleans.

The aforesaid counties, comprised in the said districts contained in the state of Vermont, shall be taken to comprehend such territory as was included in the said counties respectively, prior to the formation of the county of Jefferson in said state.

Rhode Island.

The state of Rhode Island shall contain three collection districts, as follow: The first shall consist of the counties of Newport and Bristol; the second of the county of Providence; and the third of the counties of Washington and Kent.

Connecticut.

The state of Connecticut shall contain seven collection districts, as follow: The first shall consist of the county of Litchfield; the second of the county of Fairfield; the third of the county of New Haven; the fourth of the county of Harford; the fifth of the county of New London; the sixth of the county of Middlesex; and the seventh of the counties of Windham and Tolland.

New York.

The state of New York shall contain twenty-eight collection districts, as follow: The first shall consist of the counties of Suffolk, Queens, and Kings; the second of the city and county of New York; the third of the county of Westchester; the fourth of Duchess county; the fifth of the counties of Orange and Rockland; the sixth of the counties of Ulster and Sullivan; the seventh of the county of Schoharie; the eighth of the county of Columbia; the ninth of the county of Rensselaer; the tenth of the county of Washington; the eleventh of the county of Saratoga; the twelfth of the counties of Essex, Clinton, and Franklin; the thirteenth of the counties of Albany and Schenectady; the fourteenth of the county of Montgomery; the fifteenth of the county of Herkimer; the sixteenth of the county of Oneida; the seventeenth of the counties of Lewis, Jefferson, and St. Lawrence; the eighteenth of the county of Otsego; the nineteenth of the county of Chenango; the twentieth of the county of Madison; the twenty-first of the counties of Tioga, Broome, and Steuben; the twenty-second of the counties of Onandago and Cortland; the twenty-third of the counties of Cayuga and Seneca; the twenty-fourth of the county of Ontario; the twenty-fifth of the counties of Gennessee, Niagara, Chautaque, Cataragus, and Allegheny; the twenty-sixth of the county of Richmond; the twenty-seventh of the county of Greene; and the twenty-eighth of the county of Delaware.

Collection districts.

New Jersey.

The state of New Jersey shall contain six collection districts, as follow: The first shall consist of the counties of Bergen and Essex; the second of the counties of Sussex and Morris; the third of the counties of Somerset and Hunterdon; the fourth of the counties of Middlesex and Monmouth; the fifth of the counties of Burlington and Gloucester; and the sixth of the counties of Salem, Cumberland, and Cape May.

Pennsylvania.

The state of Pennsylvania shall contain twenty-three collection districts, as follow: The first shall consist of the city of Philadelphia; the second of the county of Philadelphia; the third of the counties of Chester and Delaware; the fourth of the county of Montgomery; the fifth of the county of Bucks; the sixth of the county of Lancaster; the seventh of the counties of York and Adams; the eighth of the counties of Northampton and Wayne; the ninth of the county of Berks; the tenth of the county of Dauphin; the eleventh of the counties of Cumberland and Franklin; the twelfth of the county of Northumberland; the thirteenth of the counties of Mifflin and Huntingdon; the fourteenth of the counties of Bedford, Sommerset, and Cambria; the fifteenth of the counties of Fayette and Greene; the sixteenth of the county of Washington; the seventeenth of the counties of Allegheny and Armstrong; the eighteenth of the counties of Westmoreland and Indiana; the nineteenth of the counties of Centre, Clearfield, Potter, Jefferson, and M'Kean; the twentieth of the county of Luzerne, having the same limits as it had before the counties of Susquehannah and Bradford were laid off; the twenty-first of the counties of Lycoming and Tioga, the same having the limits as it had before the county of Bradford was laid off; the twenty-second of the counties of Mercer, Butler, and Beaver; and the twenty-third of the counties of Crawford, Venango, Erie, and Warren.

Delaware.

The state of Delaware shall contain three collection districts, as follow: The first shall consist of the county of New Castle; the second of the county of Kent; and the third of the county of Sussex.

Maryland.

The state of Maryland shall contain nine collection districts, as follow: The first shall consist of the counties of Somerset, Worcester, and Dorchester; the second of the counties of Talbot, Queen Anne, and Caroline; the third of the counties of Kent, Cecil, and Hartford; the fourth of the city and county of Baltimore; the fifth of the counties of Anne Arundel and Prince George; the sixth of the counties of Calvert, St. Mary's, and Charles; the seventh of the counties of Montgomery and Frederick; the eighth of the county of Washington; and the ninth of the county of Allegheny.

Virginia.

The state of Virginia shall contain twenty-six collection districts, as follow: The first shall consist of the counties of Lee, Russell, Washington, Wythe, and Grayson; the second of the counties of Montgomery, Tazewell, Giles, Monroe, and Botetourt; the third of the counties of Greenbriar, Kanhawa, Cabell, and Mason; the fourth of the counties of Harrison, Wood, and Randolph; the fifth of the counties of Monongalia, Ohio, and Brooke; the sixth of the counties of Bath, Pendleton, Hardy,

(a) See notes to the act of July 1798, vol. i., p. 580, for a list of all the acts of Congress relating to the assessment of lands and slaves for direct taxes.

A bond given by the collector of the internal revenue, with sureties, conditioned that the collector had accounted and would account for all taxes collected or to be collected, is not binding on the sureties as to collections previously made. Armstrong et al. v. The United States, Peters' C. C. R. 46.

Collection districts.

and Hampshire; the seventh of the counties of Rockbridge and Augusta; the eighth of the counties of Rockingham and Shenandoah; the ninth of the counties of Frederick, Berkley, and Jefferson; the tenth of the counties of Bedford, Patrick, Henry, and Franklin; the eleventh of the counties of Campbell, Charlotte, Pittsylvania, and Halifax; the twelfth of the counties of Mecklinburg, Lunenburg, Brunswick, and Nottaway; the thirteenth of the counties of Prince Edward, Buckingham, Cumberland, and Amelia; the fourteenth of the counties of Powhatan, Chesterfield, Dinwiddie, and Prince George; the fifteenth of the counties of Greensville, Sussex, Southampton, and Surry; the sixteenth of the counties of the Isle of Wight, Nansemond, Norfolk, and Princess Anne; the seventeenth of the counties of Elizabeth City, Warwick, York, James City, and New Kent; the eighteenth of the counties of Charles City, Henrico, Goochland, and Hanover; the nineteenth of the counties of Amherst, Nelson, Albemarle, and Fluvannah; the twentieth of the counties of Orange, Madison, and Culpepper; the twenty-first of the counties of Fauquier, Prince William, and Stafford; the twenty-second of the counties of Loudon and Fairfax; the twenty-third of the counties of Spottsylvania, Louisa, and Caroline; the twenty-fourth of the counties of King George, Westmoreland, Richmond, Northumberland, and Lancaster; the twenty-fifth of the counties of King William, King and Queen, Essex, Middlesex, Gloucester, and Mathews; and the twenty-sixth of the counties of Accomack and Northampton.

North Carolina.

The state of North Carolina shall contain thirteen collection districts, as follow: The first shall consist of the counties of Currituck, Camden, Pasquotank, Perquimans, Gates, Chowan, and Hertford; the second of the counties of Bertie, Martin, Northampton, and Halifax; the third of the counties of Washington, Tyrrel, Hyde, Pitt, Edgecombe, and Beaufort; the fourth of the counties of Green, Craven, Carteret, Jones, Lenoir, Johnston, and Wayne; the fifth of the counties of Warren, Franklin, Nash, and Granville; the sixth of the counties of Onslow, New Hanover, Duplin, Sampson, Brunswick, Bladen, and Columbus; the seventh of the counties of Cumberland, Robertson, Montgomery, Richmond, Anson, and Moore; the eighth of the counties of Wake, Orange, and Person; the ninth of the counties of Rockingham, Caswell, Guilford, and Stokes; the tenth of the counties of Rowan, Randolph, and Chatham; the eleventh of the counties of Lincoln, Mecklenburg, and Cabarras; the twelfth of the counties of Buncomb, Haywood, Burke, and Rutherford; the thirteenth of the counties of Surry, Wilkes, Iredell, and Ashe.

Ohio.

The state of Ohio shall contain nine collection districts, as follow: The first shall consist of the counties of Hamilton, Butler, Warren, Clinton, and Clermont; the second of the counties of Greene, Montgomery, Preble, Miami, and Champaigne; the third of the counties of Pickaway, Franklin, Madison, Delaware, Knox, Licking, and Fairfield; the fourth of the counties of Ross, Athens, Gallia, Sciota, Adams, Highland, and Fayette; the fifth of the counties of Washington, Muskingum, Tuscarawas, and Guernsey; the sixth of the counties of Belmont and Jefferson; the seventh of the counties of Columbiana and Starke; the eighth of the counties of Trumbull and Ashtabula; and the ninth of the counties of Giauga, Cayahoga, and Portage.

Kentucky.

The state of Kentucky shall contain ten collection districts, as follow: The first district shall consist of the counties of Clark, Estill, Montgomery, Bath, Fleming, Greenup, and Floyd; the second of the counties of Fayette, Jessamine, and Woodford; the third of the counties of Scott, Harrison, Pendleton, Campbell, Boone, Gallatin, and Franklin; the fourth of the counties of Bourbon, Nicholas, Bracken, Mason, and Lewis; the fifth of the counties of Livingston, Caldwell, Christian, Breckenridge, Ohio, Grayson, Muhlenburg, Henderson, Hopkins, and Union; the sixth of the counties of Barron, Warren, Logan, Butler, and Cumberland; the

Collection districts.

seventh of the counties of Mercer, Garrard, Madison, and Clay; the eighth of the counties of Bullitt, Jefferson, Henry, and Shelby; the ninth of the counties of Lincoln, Rockcastle, Knox, Pulaski, Wayne, Adair, and Casey; and the tenth of the counties of Hardin, Nelson, Washington, and Green.

South Carolina.

The state of South Carolina shall consist of nine collection districts, as follow: The first shall consist of the district of Charleston; the second of the districts of Colleton and Beaufort; the third of the districts of Barnwell, Orangeburg, Lexington, and Richland; the fourth of the districts of Edgefield and Abbyville; the fifth of the districts of Pendleton and Greenville; the sixth of the districts of Laurens, Newberry and Fairfield; the seventh of the districts of Spartanburg, Union, York, and Chester; the eighth of the districts of Lancaster, Sumpter, Kershaw, and Chesterfield; and the ninth of the districts of Georgetown, Horry, Marion, Marlborough, Darlington, and Williamsburgh.

Tennessee.

The state of Tennessee shall contain six collection districts, as follow: The first shall consist of the counties of Washington, Sullivan, Green, Hawkins and Carter; the second of the counties of Claiborne, Granger, Jefferson, Knox, Cocke, Sevier, and Blount; the third of the counties of Anderson, Campbell, Roan, Bledsoe, Rhea, Overton, White, Warren, and Franklin; the fourth of the counties of Smith, Jackson, Sumner, and Wilson; the fifth of the counties of Davidson, Williamson, Rutherford, Bedford, and Lincoln; and the sixth of the counties of Maury, Giles, Hickman, Humphreys, Stewart, Dixon, Montgomery, and Robertson.

Georgia.

The state of Georgia shall contain six collection districts, as follow: The first shall consist of the counties of Chatham, Bryan, Liberty, M'Intosh, Glynn, Camden, Wayne, Effingham, Bullock, and Tatnall; the second of the counties of Scriven, Burke, Richmond, Jefferson, Washington and Montgomery; the third of the counties of Columbia, Warren, Hancock, and Greene; the fourth of the counties of Lincoln, Wilkes, Elbert, and Franklin; the fifth of the counties of Oglethorpe, Jackson, Clark, and Morgan; and the sixth of the counties of Laurens, Pulaski, Wilkinson, Telfair, Twiggs, Baldwin, Jones, Putnam, and Jasper, formerly called Randolph.

Louisiana.

And the state of Louisiana shall contain four collection districts, as follow: The first shall consist of the counties of Concordia, Ouachitta, Nachitoches, and Rapides; the second of the counties of Lefourche, Opelousas, and Attakapas; the third of the counties of Orleans, German Coast, Acadia, Iberville, and Point Coupee; and the fourth of the parishes of Feliciana, East Baton Rouge, Saint Helena, and Saint Tammany.

The several counties and districts heretofore enumerated, shall be held in reference to this act, to be such and with the same boundaries as they had at the time of taking the third census or enumeration of the people of the United States; and where any new county or district shall have been, or hereafter may be, formed within any state, out of any one or more of the counties or districts composing any one of the said collection districts, such new county or district shall be considered as part of such collection district; and if such new county shall have been or hereafter shall be formed out of counties lying in different collection districts, then the Secretary of the Treasury shall determine to which of such collection districts it shall belong.

Collector and a principal assessor to be appointed for each.

Qualifications.

Sec. 2. *And be it further enacted*, That one collector and one principal assessor shall be appointed for each of the said collection districts, who shall be a respectable freeholder and reside within the same; and if the appointment of the said collectors or any of them, shall not be made during the present session of Congress, the President of the United States shall be, and is hereby empowered to make such appointment

during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Districts to be divided by the principal assessor.

Proviso, that the Secretary of the Treasury may reduce the number of assessment districts.

Sec. 3. *And be it further enacted*, That each of the principal assessors shall divide his district into a convenient number of assessment districts, within each of which he shall appoint one respectable freeholder to be assistant assessor: *Provided*, That the Secretary of the Treasury shall be, and hereby is authorized to reduce the number of assessment districts in any collection district in any state, if the number shall appear to him to be too great; and each assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate, or some collector to be appointed by this act (who is hereby empowered to administer the same) the following oath or affirmation, to wit: "I, A. B. do swear or affirm (as the case may be) that I will, to the best of my knowledge, skill, and judgment, diligently and faithfully execute the office and duties of assessor for (naming the assessment district) without favour or partiality, and that I will do equal right and justice, in every case in which I shall act as assessor." And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor shall be appointed; and every assessor, acting in the said office, without having taken the said oath or affirmation, shall forfeit and pay one hundred dollars, one moiety to the use of the United States, and the other to him who shall first sue for the same, to be recovered with costs of suit, in any court having competent jurisdiction.

Oaths and affirmation of the assessors.

Secretary of Treasury to establish necessary regulations.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury shall establish regulations suitable and necessary for carrying this act into effect; which regulations shall be binding on each assessor in the performance of the duties enjoined by or under this act; and also frame instructions for the said assessors, pursuant to which instructions, and whenever a direct tax shall be laid by the authority of the United States, the said principal assessors shall, respectively, on such day as may be fixed by law laying such a tax, direct and cause the several assistant assessors in the district, to inquire after and concerning all lands, lots of ground with their improvements, dwelling houses and slaves, made liable to taxation, under any direct tax so laid by the authority of the United States, by reference as well to any lists of assessment or collection taken under the laws of the respective states, as to any other records or documents, and by all other lawful ways and means, and to value and enumerate the said objects of taxation in the manner prescribed by this act, and in conformity with the regulations and instructions above mentioned.

Direct taxes to be laid upon the value of lands, &c. &c.

Proviso.

Sec. 5. *And be it further enacted*, That whenever a direct tax shall be laid by the authority of the United States, the same shall be assessed and laid on the value of all lands, lots of ground with their improvements, dwelling houses and slaves, which several articles subject to taxation, shall be enumerated and valued by the respective assessors, at the rate each of them is worth in money: *Provided however*, That all property of whatever kind, coming within any of the foregoing descriptions, and belonging to the United States or any state, or permanently or specially exempted from taxation by the laws of the state wherein the same may be situated, shall be exempted from the aforesaid enumeration and valuation, and from the direct tax aforesaid.

Lists of taxable property to be delivered to assistant assessors.

Sec. 6. *And be it further enacted*, That the respective assistant assessors shall, immediately after being required as aforesaid by the principal assessors, proceed through every part of their respective districts, and shall require all persons owning, possessing, or having the care or management of any lands, lots of ground, dwelling houses or slaves, lying and being within the collection district where they reside, and liable to the direct tax as aforesaid, to deliver written lists of the same, which lists shall be made in such manner as may be directed by the principal assessor, and as far as practicable, conformably to those which may be required for the same purpose, under the authority of the respective states.

Assessors may write the lists upon the information of the persons to be taxed.

Sec. 7. *And be it further enacted*, That if any person as aforesaid, shall not be prepared to exhibit a written list when required, and shall consent to disclose the particulars of any and all the lands, lots of ground with their improvements, dwelling houses and slaves, taxable as aforesaid, then, and in such case, it shall be the duty of the officer to make such list, which being distinctly read and consented to, shall be received as the list of such person.

Penalties for giving in fraudulent lists.

Sec. 8. *And be it further enacted*, That if any such person shall deliver or disclose to any assessor appointed in pursuance of this act, and requiring a list or lists as aforesaid, any false or fraudulent list, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such person so offending, and being thereof convicted before any court having competent jurisdiction, shall be fined in a sum not exceeding five hundred dollars, nor less than one hundred dollars, at the discretion of the court, and shall pay all costs and charges of prosecution; and the valuation and enumeration required by this act, shall, in all such cases, be made as aforesaid upon lists according to the form above described, to be made out by the assessors respectively, which lists the said assessors are hereby authorized and required to make, according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises respectively; and from the valuation and enumeration so made, there shall be no appeal.

Absentees to be required in writing to furnish lists.

Sec. 9. *And be it further enacted*, That in case any person shall be absent from his place of residence, at the time an assessor shall call to receive the list of such person, it shall be the duty of such assessor to leave at the house or place of residence of such person, a written note or memorandum, requiring him to present to such assessor, the list or lists required by this act, within ten days from the date of such note or memorandum.

Property to be valued by assessors where the parties refuse or neglect to give in lists.

Sec. 10. *And be it further enacted*, That if any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or lists as aforesaid, within the time required by this act, it shall be the duty of the assessor for the assessment district, within which such person shall reside, and he is hereby authorized and required to enter into, and upon the lands, dwelling houses and premises, if it be necessary, of such person so refusing or neglecting, and to make, according to the best information which he can obtain, and on his own view and information, such lists of the lands, lots of ground with their improvements, dwelling houses and slaves, owned, possessed or under the care or management of such person, as are required by this act; which lists, so made, and subscribed by such assessor, shall be taken and reputed as good and sufficient lists of the persons and property for which such person is to be taxed, for the purposes of this act; and the person so failing or neglecting, unless in case of sickness or absence from home, shall moreover forfeit and pay the sum of one hundred dollars, to be recovered for the use of the United States, with costs of suit, in any court having competent jurisdiction.

Property of persons not living in the districts may be assessed by assessors.

Sec. 11. *And be it further enacted*, That whenever there shall be in any assessment district, any property, lands, lots of ground, dwelling houses or slaves, not owned or possessed by, or under the care or management of any person or persons within such district, and liable to be taxed as aforesaid, and no list of which shall be transmitted to the principal assessor in the manner provided by this act, it shall be the duty of the assessor for such district, and he is hereby authorized and required to enter into and upon the real estate, if it be necessary, and take such view thereof, and of the slaves of such absent persons, of which lists are required, and to make lists of the same according to the form pre-

scribed by this act, which lists, being subscribed by the said assessor, shall be taken and reputed as good and sufficient lists of such property under and for the purposes of this act.

Property may be assessed in the districts where the owners reside, though the property is situated in other districts.

SEC. 12. *And be it further enacted*, That the owners, possessors, or persons having the care and management of lands, lots of ground, dwelling houses and slaves, not lying or being within the assessment district in which they reside, shall be permitted to make out and deliver the list thereof required by this act, (provided the assessment district in which the said objects of taxation lie or be is therein distinctly stated) at the time and in the manner prescribed to the assessor of the assessment district wherein such persons reside. And it shall be the duty of the assistant assessors in all such cases to transmit such lists at the time and in the manner prescribed for the transmission of the lists of the objects of taxation lying and being within their respective assessment districts to the principal assessor of their collection district, whose duty it shall be to transmit them to the principal assessor of the collection district wherein the said objects of taxation shall lie or be, immediately after the receipt thereof, and the said lists shall be valid and sufficient for the purposes of this act; and on the delivery of every such list the person making and delivering the same, shall pay to the assistant assessor one dollar, one half whereof he shall retain to his own use, and the other half thereof he shall pay over to the principal assessor of his district for the use of such principal assessor.

Lists to be taken with reference to the day or days fixed by acts of Congress.

SEC. 13. *And be it further enacted*, That the lists aforesaid shall be taken with reference to the day fixed for that purpose by the act or acts of Congress laying the tax or taxes; and the assistant assessors respectively, after collecting the said lists, shall proceed to arrange the same, and to make two general lists, the first of which shall exhibit in alphabetical order, the names of all persons liable to pay a tax under the authority of the United States, residing within the assessment district, together with the value and assessment of the objects liable to taxation within such district for which each such person is liable to pay a direct tax and whenever so required by the principal assessor, the amount of direct tax, payable by each person on such objects under the state laws imposing direct taxes; and the second list shall exhibit in alphabetical order, the names of all persons residing out of the collection district, owners of property within the district, together with the value and assessment thereof, or amount of direct tax due thereon as aforesaid. The forms of the said general lists shall be devised and prescribed by the principal assessor, and lists taken according to such form shall be made out by the assistant assessors, and delivered to the principal assessor within sixty days after the day fixed by the act of Congress requiring lists from individuals. And if any assistant assessors shall fail to perform any duty assigned by this act, within the time prescribed by his precept, warrant, or other legal instructions, not being prevented therefrom by sickness or other unavoidable accident, every such assessor shall be discharged from office, and shall moreover forfeit and pay two hundred dollars, to be recovered for the use of the United States in any court having competent jurisdiction, with costs of suit.

Appeals may be had from the valuations fixed by assessors.

SEC. 14. *And be it further enacted*, That immediately after the valuations and enumerations shall have been completed as aforesaid, the principal assessor in each collection district shall, by advertisement in some public newspaper, if any such there be in such district, and by written notifications to be publicly posted up in at least four of the most public places in each assessment district, advertise all persons concerned of the place where the said lists, valuations, and enumerations may be seen and examined; and that during twenty-five days after the publication of the notification as aforesaid, appeals will be received and determined by him relative to any erroneous or excessive valuations or enumerations by the assessor. And it shall be the duty of the principal assessor in each collection district, during twenty-five days after the date of public notification to be made as aforesaid, to submit the proceedings of the assessors, and the lists by them received or taken as aforesaid, to the inspection of any or all persons who shall apply for that purpose; and the said principal assessors are hereby authorized to receive, hear, and determine, in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assessors: *Provided always*, That the question to be determined by the principal assessor, on an appeal respecting the valuation of property, shall be, whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same assessment district. And all appeals to the principal assessors as aforesaid, shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested; and shall moreover state the ground or principle of inequality or error complained of; and the principal assessor shall have power to re-examine and equalise the valuations as shall appear just and equitable; but no valuation shall be increased without a previous notice of at least five days to the party interested to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling house of the party by such assessor as the principal assessor shall designate for that purpose.

Conditions.

Lists to be open for inspection.

Where counties contain more than one assessment district, then the requisite apportionments may be made.

SEC. 15. *And be it further enacted*, That whenever the quotas or portions of direct tax payable by the states respectively, shall be laid and apportioned by law on the counties or state districts, and such county or counties, state, district or districts, shall contain more than one assessment district, then and in that case, the principal assessor shall have power, on examination of the lists rendered by the assistant assessors according to the provisions of this act, to revise, adjust, and equalise the valuations of lands, lots of ground with their improvements, dwelling houses and slaves between such assessment districts, by deducting from or adding to either such a rate per centum as shall appear just and equitable.

Lists of the property taxed to be made out.

SEC. 16. *And be it further enacted*, That immediately after hearing appeals, and adjusting and equalising the valuations according to the provisions of the preceding section, the principal assessors respectively shall make out lists containing the sums payable according to the assessments aforesaid, and according to the provisions of this act, upon every object of taxation within their respective districts, so as to raise upon the county or counties, state, district or districts, contained within the collection districts established by this act, for which they are respectively appointed, the quota of the direct tax laid by the United States, which shall have been imposed on such county or counties, state, district or districts, by the law laying such direct tax; which lists shall contain the name of each person residing within the collection district liable to pay the direct tax, or of the person residing within the said district and having the care or superintendence of property lying within the said district, which is liable to the payment of said tax, where such person or persons are known, together with the sum payable by each such person or persons aforesaid on account of the said direct tax as aforesaid. And where there is any property within any collection district, liable to the payment of the direct tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sums payable, and the names of the respective proprietors, where known.

Assessors to furnish collectors with taxable lists.

SEC. 17. *And be it further enacted*, That each of the collectors to be appointed as aforesaid, shall, within sixty days from the day on which the principal assessors shall have received the lists from the assistant assessors, be furnished by the principal assessors with one or more of the

lists prepared in conformity with the preceding sections by the principal assessor, signed and certified by such assessor. And each collector on receiving a list as aforesaid, shall subscribe three receipts, one of which shall be given on a full and correct copy of such list, which list and receipt shall remain with the principal assessor and be open to the inspection of any person who may apply to inspect the same; and the other two receipts shall be given on aggregate statements of the lists aforesaid, exhibiting the gross amount of taxes to be collected in each county or state district contained in the collection district; one of which aggregate statements and receipts shall be transmitted to the Secretary, and the other to the Comptroller of the Treasury.

Bonds to be given, and to be approved of by the Comptroller of the Treasury.

Sec. 18. *And be it further enacted*, That each collector, before receiving any list as aforesaid for collection, shall give bond, with one or more good and sufficient sureties, to be approved by the Comptroller of the Treasury, in at least double the amount of the taxes assessed in the collection district for which he may be appointed; which bond shall be payable to the United States with condition for the true and faithful discharge of the duties of his office according to law, and particularly for the due collection and payment of all moneys assessed upon such district; and said bond shall be transmitted to and deposited in the office of the Comptroller of the Treasury.

Assessed taxes to remain a lien upon the estates of persons to which they belong.

Sec. 19. *And be it further enacted*, That the taxes so assessed, shall be and remain a lien upon all lands and other real estate, and all slaves of the individuals who may be assessed for the same, during two years after the time it shall become due and payable; and the said lien shall extend to each and every part of all tracts or lots of land or dwelling houses, notwithstanding the same may have been divided or alienated in part.

Collectors may appoint deputies, but held responsible for their conduct.

Sec. 20. *And be it further enacted*, That each collector shall be authorized to appoint, by an instrument of writing under his hand and seal, as many deputies as he may think proper, assigning to each such deputy, by that instrument of writing, such portion of his collection district as he may think proper; and also to revoke the powers of any deputy, giving public notice thereof in that portion of the district assigned to such deputy. And each such deputy shall have the like authority in every respect to collect the tax so assessed within the portion of the district assigned to him, which is by this act vested in the collector himself; but each collector shall in every respect, be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done as deputy collector by any of his deputies, whilst acting as such: *Provided*, That nothing herein contained shall prevent any collector from collecting himself the whole or any part of the tax so assessed and payable in his district.

Proviso.

Public notice to be given of the times and places at which collectors will attend, &c. &c.

Sec. 21. *And be it further enacted*, That each of the said collectors, or his deputies, shall, within ten days after receiving his collection list, advertise in one newspaper printed in his collection district, if any there be, and by notifications to be posted up in at least four public places in his collection district, that the said tax has become due and payable, and state the times and places at which he or they will attend to receive the same, which shall be within twenty days after such notification; and with respect to persons who shall not attend, according to such notifications, it shall be the duty of each collector, in person, or by deputy, to apply once at their respective dwellings within such district, and there demand the taxes payable by such persons, which application shall be made within sixty days after the receipt of collection lists by the collectors; and if the said taxes shall not be then paid, or within twenty days thereafter, it shall be lawful for such collector and his deputies to proceed to collect the said taxes by distress and sale of the goods, chattels, or effects of the persons delinquent as aforesaid, with a commission of eight per centum upon the said taxes to and for the use of such collector: *Provided*, That it shall not be lawful to make distress of the tools or implements of a trade or profession, beasts of the plough necessary for the cultivation of improved lands, arms or household furniture, or apparel necessary for a family.

Tools or implements of trade and beasts of the plough and household furniture, not to be distrained.

Property in certain cases advertised for sale to satisfy taxes to be purchased by collectors on public account.

Sec. 22. *And be it further enacted*, That whenever goods, chattels, or effects, sufficient to satisfy any tax upon dwelling houses or lands, and their improvements, owned, occupied, or superintended by persons, known and residing within the same collection district, cannot be found, the collector having first advertised the same for thirty days in a newspaper printed within the collection district, if such there be, and having posted up in at least ten public places within the same, a notification of the intended sale, thirty days previously thereto, shall proceed to sell, at public sale, so much of the said property as may be necessary to satisfy the taxes due thereon, together with an addition of twenty per centum to the said taxes. And if the property so advertised for sale, cannot be sold for the amount of the tax due thereon, with the said additional per centum thereto, the collector shall purchase the same in behalf of the United States, for the amount aforesaid: *Provided*, That the owner or superintendent of the property aforesaid, after the same shall have been as aforesaid advertised for sale, and before it shall have been actually sold, shall be allowed to pay the amount of the tax thereon, with an addition of ten per centum on the same, on the payment of which, the sale of the said property shall not take place: *Provided also*, That the owners, their heirs, executors, or administrators, or any person in their behalf, shall have liberty to redeem the lands and other property sold as aforesaid, within two years from the time of sale, upon payment to the collector, for the use of the purchaser, his heirs or assigns, of the amount paid by such purchaser with interest for the same at the rate of twenty per centum per annum; and no deed shall be given in pursuance of such sale, until the time of redemption shall have expired; and the collector shall render a distinct account of the charges incurred in offering and advertising for sale such property, and shall pay into the treasury the surplus, if any there be, of the aforesaid addition of twenty per centum, or ten per centum, as the case may be, after defraying the said charges.

Proviso.

Redemption of lands sold for taxes.

Property of non-residents, how to be dealt with.

Sec. 23. *And be it further enacted*, That with respect to property lying within any collection district, not owned, occupied, or superintended by some person residing therein, and on which the tax shall not have been paid to the collector within ninety days after the day on which he shall have received the collection list from the principal assessor, the collector shall transmit lists of the same to one of the collectors within the same state, to be designated for that purpose by the Secretary of the Treasury. And the collector who shall have been thus designated by the Secretary of the Treasury, shall transmit receipts for all the lists received as aforesaid, to the collector transmitting the same, and the collectors thus designated in each state by the Secretary of the Treasury, shall cause notifications of the taxes due as aforesaid, and contained in the lists thus transmitted to them, to be published for sixty days in at least one of the newspapers published in the state; and the owners of the property on which such taxes may be due, shall be permitted to pay to such collector the said tax with an addition of ten per centum thereon: *Provided*, Such payment is made within one year after the day on which the collector of the district where such property lies, had notified that the tax had become due on the same.

Proviso.

Steps to be taken with property upon which tax is unpaid for twelve months.

Sec. 24. *And be it further enacted*, That when any tax, as aforesaid, shall have remained unpaid for the term of one year as aforesaid, the collector in the state where the property lies, and who shall have been designated by the Secretary of the Treasury as aforesaid, having first advertised the same for sixty days, in at least one newspaper in the state,

shall proceed to sell at public sale, so much of the said property as may be necessary to satisfy the taxes due thereon, together with an addition of twenty per centum thereon. If the property advertised for sale cannot be sold for the amount of the tax due thereon, with the said addition thereon, the collector shall purchase the same, in behalf of the United States, for the amount aforesaid. And the collector shall render a distinct account of the charges incurred in offering and advertising for sale such property, and pay into the treasury the surplus, if any, of the aforesaid addition of ten or twenty per cent. as the case may be, after defraying the said charges.

Collectors to deposit with the clerks of the district courts of the United States correct lists of the land, &c. &c., sold under this act.

This property redeemable.

Sec. 25. *And be it further enacted*, That the collectors designated as aforesaid, by the Secretary of the Treasury, shall deposit with the clerks of the district courts of the United States, in the respective states, and within which district the property lies, correct lists of the tracts of lands or other real property sold by virtue of this act, for non-payment of taxes, together with the names of the owners or presumed owners, of the purchasers of the same at the public sales aforesaid, and of the amount paid by such purchasers for the same. The owners, their heirs, executors, or administrators, or any person in their behalf, shall have liberty to redeem the lands or other property sold as aforesaid, within two years from the time of the sale, upon payment to the clerk aforesaid, for the use of the purchaser, his heirs or assigns, of the amount paid by such purchaser for the said land or other real property, with interest for the same, at the rate of twenty per centum per annum, and of a commission of five per centum on such payment, for the use of the clerk aforesaid. The clerks shall, on application, pay to the purchasers the moneys thus paid for their use, and they shall give deeds for the lands or property aforesaid, to the purchasers entitled to the same, in all cases where the same shall not have been redeemed within two years as aforesaid, by the original owners thereof or their legal representatives; and the said clerks shall be entitled to receive from the purchaser the sum of two dollars for every such deed, to be paid on the delivery thereof to such purchasers; and in all cases where lands may be sold under this act for the payment of taxes belonging to infants, persons of insane mind, married women,

Terms of redemption.

or persons beyond sea, such persons shall have the term of two years, after their respective disabilities shall have been removed, or their return into the United States, to redeem lands thus sold, on their paying into the clerk's office aforesaid, the amount paid by the purchaser, together with ten per cent. per annum thereon: and on their paying to the purchaser of the land aforesaid a compensation for all improvements he may have made on the premises subsequent to his purchase, the value of which improvements to be ascertained by three or more neighbouring freeholders to be appointed by the clerk aforesaid, who on actual view of the premises shall assess the value of such improvements on their oaths, and make a return of such valuation to the clerk aforesaid immediately.

Collectors to make monthly reports to Secretary of the Treasury.

Sec. 26. *And be it further enacted*, That the several collectors shall, at the expiration of every month after they shall respectively commence their collections, transmit to the Secretary of the Treasury, a statement of the collections made by them respectively, within the month, and pay over quarterly or sooner, if so required by the said Secretary, the moneys by them respectively collected within the said term. And each of the said collectors shall complete the collection of all sums assigned to him for collection as aforesaid, shall pay over the same into the Treasury, and shall render his final account to the Treasury Department within six months from and after the day when he shall have received the collection lists from the principal assessor: *Provided however*, That the period of one year and three months from the said day shall be allowed to the collector designated in each state as aforesaid, by the Secretary of the

Proviso.

Treasury, with respect to the taxes contained in the list transmitted to him by the other collectors as aforesaid.

Collectors to be charged with amount of taxes receipted for, &c. &c.

Sec. 27. *And be it further enacted*, That each collector shall be charged with the whole amount of taxes by him receipted, whether contained in the lists delivered to him by the principal assessor or transmitted to him by other collectors, and he shall be allowed credit for the amount of taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid; and also for the taxes of such persons as may have absconded or become insolvent, subsequent to the date of the assessment and prior to the day when the tax ought, according to the provisions of this act, to have been collected; provided it shall be proven to the satisfaction of the Comptroller of the Treasury, that due diligence was used by the collector, and that no property was left from which the tax could have been recovered; and each collector designated in each state as aforesaid by the Secretary of the Treasury, shall receive credit for the taxes due for all tracts of land, which, after being offered for sale by him in the manner aforesaid, shall or may have been purchased by him in behalf of the United States.

Remedy against delinquent collectors.

Sec. 28. *And be it further enacted*, That if any collector shall fail either to collect or to render his account, or to pay over in the manner or within the times herein before provided, it shall be the duty of the Comptroller of the Treasury, and he is hereby authorized and required, immediately after such delinquency, to issue a warrant of distress against such delinquent collector and his sureties, directed to the marshal of the district, therein expressing the amount of the taxes imposed on the district of such collector, and the sums if any, which have been paid; and the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels or any personal effects of the delinquent collector; and for want of goods, chattels, or effects aforesaid, sufficient to satisfy the said warrant, the same may be levied on the person of the collector, who may be committed to prison, there to remain until discharged in due course of law; and furthermore, notwithstanding the commitment of the collector to prison as aforesaid, or if he abscond, and goods, chattels, and effects cannot be found sufficient to satisfy the said warrant, the said marshal or his deputy shall and may proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels or any personal effects of the surety or sureties of the delinquent collectors. And the amount of the sums committed to

Amount of sums committed to a collector to be a lien on his land and real estate.

any collector for collection as aforesaid, shall and the same are hereby declared to be a lien upon the lands and real estate of such collector and his sureties, until the same shall be discharged according to law; and for want of goods and chattels or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks, in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold by the marshal or his deputy; and for all lands and real estate sold in pursuance of the authority aforesaid, the conveyances of the marshals or their deputies, executed in due form of law, shall give a valid title against all persons claiming under delinquent collectors or their sureties aforesaid; and all moneys that may remain of the proceeds of such sale, after satisfying the said warrant of distress and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

Penalties upon collectors for extortion or oppression.

Sec. 29. *And be it further enacted*, That each and every collector, or his deputy, who shall exercise or be guilty of any extortion or oppression, under colour of this act, or shall demand other or greater sums than shall be authorized by law, shall be liable to pay a sum not exceeding three hundred dollars, to be recovered by and for the use of the party injured, with costs of suit, in any court having competent jurisdiction; and each and every collector and his deputies shall, if required, give receipts for all sums by them collected and retained in pursuance of this act.

Compensation.

Sec. 30. *And be it further enacted*, That there shall be allowed and paid for the services performed under this act: To each principal assessor, two dollars for every day employed in hearing appeals and making out lists agreeably to the provisions of this act, and four dollars for every hundred taxable persons contained in the tax list as delivered by him to the collector: To each assistant assessor, one dollar and fifty cents for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose being certified by the principal assessor and approved by the Comptroller of the Treasury, and three dollars for every hundred taxable persons contained in the tax list as completed and delivered by him to the principal assessor: and the assessors respectively shall be allowed their necessary and reasonable charges for books and stationery used in the execution of their duties.

Specific appropriation.

Sec. 31. *And be it further enacted*, That the allowances made as aforesaid to the assessors, shall be paid at the Treasury to the principal assessors respectively; for which purpose one hundred and fifty thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated, are hereby appropriated.

President may appoint deputy post masters to act as collectors, &c. &c. in certain cases.

Sec. 32. *And be it further enacted*, That in cases where no person can be found in any collection district, or assessment district, to serve either as collector, principal assessor, or assistant assessor respectively, the President of the United States is hereby authorized to appoint one of the deputy postmasters in such districts, to serve as collector or assessor as the case may be; and it shall be the duty of such deputy postmaster to perform, accordingly, the duties of such officer.

Separate accounts to be kept of the direct tax and internal duties.

Sec. 33. *And be it further enacted*, That whenever a direct tax shall be assessed, or internal duties laid, separate accounts of each shall be kept at the Treasury of the United States, of all moneys received from the direct tax, and from internal duties, showing upon what articles or subjects of taxation those duties accrued; also the amount of moneys paid to collectors, assessors, assistant assessors, or other officers employed in the collection thereof; distinguishing the amount of moneys received from each State, and from what tax or species of duties received; and distinguishing also the amount of moneys paid to the officers in each State; which accounts it shall be the duty of the Secretary of the Treasury annually, in the month of December, to lay before Congress.

Approved, July 22, 1813.

Statute I.

August 2, 1813.

Chap. XXXVII.—*An Act to lay and collect a direct tax within the United States.* (b)

Act of July 22, 1813, ch. 13.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a direct tax of three millions of dollars shall be and is hereby laid upon the United States, and apportioned to the states respectively, in the manner following:

Apportionment.

To the state of New Hampshire, ninety-six thousand seven hundred ninety-three dollars and thirty-seven cents.	New Hampshire.
To the state of Massachusetts, three hundred sixteen thousand two hundred seventy dollars and ninety-eight cents.	Massachusetts.
To the state of Rhode Island, thirty-four thousand seven hundred two dollars and eighteen cents.	Rhode Island.
To the state of Connecticut, one hundred eighteen thousand one hundred sixty-seven dollars and seventy-one cents.	Connecticut.
To the state of Vermont, ninety-eight thousand three hundred forty-three dollars and seventy-one cents.	Vermont.
To the state of New York, four hundred thirty thousand one hundred forty-one dollars and sixty-two cents.	New York.
To the state of New Jersey, one hundred eight thousand eight hundred seventy-one dollars and eighty-three cents.	New Jersey.
To the state of Pennsylvania, three hundred sixty-five thousand four hundred seventy-nine dollars and sixteen cents.	Pennsylvania.
To the state of Delaware, thirty-two thousand forty-six dollars and twenty-five cents.	Delaware.
To the state of Maryland, one hundred fifty-one thousand six hundred twenty-three dollars and ninety-four cents.	Maryland.
To the state of Virginia, three hundred sixty-nine thousand eighteen dollars and forty-four cents.	Virginia.
To the state of Kentucky, one hundred sixty-eight thousand nine hundred twenty-eight dollars and seventy-six cents.	Kentucky.
To the state of Ohio, one hundred four thousand one hundred fifty dollars and fourteen cents.	Ohio.
To the state of North Carolina, two hundred twenty thousand two hundred thirty-eight dollars and twenty-eight cents.	North Carolina.
To the state of Tennessee, one hundred ten thousand eighty-six dollars and fifty-five cents.	Tennessee.

(a) Notes of the naturalization acts, vol. i. 103.
(b) See notes of acts relating to the assessment of lands for the direct taxes, and the acts for the collection of direct taxes, vol. i. 580.

South Carolina. To the state of South Carolina, one hundred fifty-one thousand nine hundred five dollars and forty-eight cents.

Georgia. To the state of Georgia, ninety-four thousand nine hundred thirty-six dollars and forty-nine cents.

Louisiana. And to the state of Louisiana, twenty-eight thousand two hundred ninety-five dollars and eleven cents.

County and district apportionment.

July 22, 1813, ch. 14.

Sec. 2. *And be it further enacted*, That the quotas or portions payable by the states respectively shall be laid and apportioned on the several counties and state districts of the said states, as defined with respect to the boundaries of the said counties and state districts by an act, entitled "An act for the assessment and collection of direct taxes and internal duties," in the manner following:

New Hampshire. *In the State of New Hampshire.*—On the county of Rockingham, twenty-five thousand two hundred ninety-eight dollars and eighty-nine cents.

On the county of Strafford, seventeen thousand six hundred ninety-eight dollars and sixty-six cents.

On the county of Hillsborough, twenty thousand two hundred nineteen dollars and sixteen cents.

On the county of Cheshire, nineteen thousand three hundred eighteen dollars and three cents.

On the county of Grafton, eleven thousand nine hundred ten dollars and forty-three cents.

On the county of Coos, two thousand three hundred forty-eight dollars and twenty cents.

Massachusetts. *In the State of Massachusetts.*—On the county of Washington, two thousand six hundred twenty-three dollars and fifty-nine cents.

On the county of Hancock, nine thousand one hundred ninety dollars and sixty-five cents.

On the county of Lincoln, thirteen thousand six hundred seventy-two dollars.

On the county of Kennebeck, nine thousand six hundred ninety-six dollars and fifty-two cents.

On the county of Sommerset, three thousand five hundred four dollars and sixty-three cents.

On the county of Oxford, five thousand five hundred fifty-nine dollars and sixty cents.

On the county of Cumberland, fifteen thousand seven hundred eighty-seven dollars and ninety-nine cents.

On the county of York, fourteen thousand one hundred seventy-five dollars and three cents.

On the county of Essex, forty-one thousand six hundred forty-three dollars and one cent.

On the county of Middlesex, twenty-six thousand four hundred thirty-three dollars and forty-five cents.

On the county of Suffolk, forty-three thousand six hundred seventy-six dollars and eighty-three cents.

On the county of Norfolk, fifteen thousand six hundred twenty-nine dollars and eighty-eight cents.

On the county of Plymouth, fourteen thousand four hundred seventy-eight dollars and sixty-seven cents.

On the county of Bristol, fourteen thousand four hundred sixty-nine dollars and sixteen cents.

On the county of Barnstable, six thousand five hundred fifty-three dollars.

On the county of Dukes, one thousand one hundred seventy-three dollars and thirty-three cents.

On the county of Nantucket, four thousand nine hundred twenty-four dollars and thirty-one cents.

On the county of Worcester, thirty thousand one hundred seventy-one dollars and seventy-one cents. Apportionment as to counties.

On the counties of Hampshire, Franklin, and Hampden, twenty-nine thousand six hundred thirty-four dollars and five cents.

And on the county of Berkshire, thirteen thousand two hundred seventy-three dollars and fifty-seven cents.

Vermont. *In the State of Vermont.*—On the county of Windham, eleven thousand eight hundred sixty-seven dollars and eighty-five cents.

On the county of Windsor, fifteen thousand five hundred forty-two dollars and thirty-two cents.

On the county of Orange, eleven thousand seven hundred eighty-four dollars and five cents.

On the county of Caledonia, seven thousand six hundred forty-three dollars and eighty-four cents.

On the county of Orleans, two thousand one hundred twenty-eight dollars and ten cents.

On the county of Essex, one thousand one hundred ninety-seven dollars and ninety-six cents.

On the county of Bennington, eight thousand three hundred ninety dollars and twelve cents.

On the county of Rutland, fourteen thousand thirty-six dollars and eighty-nine cents.

On the county of Addison, ten thousand seventy-nine dollars and eleven cents.

On the county of Grand Isle, one thousand five hundred fifty-three dollars and thirty-seven cents.

On the county of Franklin, five thousand eight hundred ninety dollars and forty cents.

And on the county of Chittenden, eight thousand two hundred twenty-nine dollars and seventy cents.

Rhode Island. *In the State of Rhode Island.*—On the county of Providence, fourteen thousand five hundred sixty dollars.

On the county of Newport, eight thousand fifty-six dollars.

On the county of Washington, five thousand three hundred ninety-four dollars.

On the county of Kent, four thousand two hundred ninety-five dollars.

On the county of Bristol, two thousand three hundred ninety-five dollars and eighteen cents.

Connecticut. *In the State of Connecticut.*—On the county of Litchfield, nineteen thousand sixty-five dollars seventy-two cents.

On the county of Fairfield, eighteen thousand eight hundred ten dollars and fifty-six cents.

On the county of New-Haven, sixteen thousand seven hundred twenty-three dollars and ten cents.

On the county of Hartford, nineteen thousand six hundred three dollars and two cents.

On the county of New London, thirteen thousand three hundred ninety-two dollars and four cents.

On the county of Middlesex, nine thousand sixty-four dollars and twenty cents.

On the county of Windham, fourteen thousand five hundred twenty-four dollars and thirty-eight cents.

And on the county of Tolland, six thousand nine hundred eighty-four dollars and sixty-nine cents.

New York. *In the State of New York.*—On the county of Suffolk, nine thousand thirty dollars.

On Queens county, nine thousand two hundred fifty dollars.

On Kings county, six thousand nine hundred thirty dollars.

Apportionment as to counties.

On the city and county of New York, one hundred nine thousand two hundred thirty dollars.

On the county of West Chester, thirteen thousand one hundred twenty dollars.

On the county of Duchess, twenty-four thousand one hundred forty dollars.

On the county of Orange, fifteen thousand dollars.

On the county of Rockland, two thousand six hundred eighty dollars.

On the county of Ulster, ten thousand six hundred seventy dollars.

On the county of Sullivan, two thousand four hundred fifty dollars.

On the county of Scoharie, five thousand six hundred ninety dollars.

On the county of Columbia, fourteen thousand six hundred dollars.

On the county of Renselaer, fifteen thousand one hundred ninety dollars.

On the county of Washington, fifteen thousand six hundred fifty-one dollars and sixty-two cents

On the county of Saratoga, nine thousand eight hundred thirty dollars.

On the county of Essex, two thousand seven hundred dollars.

On the county of Clinton, two thousand two hundred eighty dollars.

On the county of Franklin, seven hundred seventy dollars.

On the county of Albany, nineteen thousand four hundred twenty dollars.

On the county of Schenectady, four thousand one hundred dollars.

On the county of Montgomery, sixteen thousand four hundred twenty dollars.

On the county of Herkimer, seven thousand ninety dollars.

On the county of Oneida, thirteen thousand three hundred dollars.

On the county of Lewis, one thousand nine hundred sixty dollars.

On the county of Jefferson, four thousand six hundred ten dollars.

On the county of St. Lawrence, three thousand dollars.

On the county of Otsego, eleven thousand six hundred ninety dollars.

On the county of Chenango, six thousand one hundred twenty dollars.

On the county of Madison, seven thousand four hundred thirty dollars.

On the county of Tioga, one thousand nine hundred thirty dollars.

On the county of Broome, one thousand nine hundred ninety dollars.

On the county of Steuben, one thousand seven hundred seventy dollars.

On the county of Onandago, seven thousand eight hundred sixty dollars.

On the county of Cortland, two thousand one hundred seventy dollars.

On the county of Cayuga, nine thousand two hundred ninety dollars.

On the county of Seneca, five thousand dollars.

On the county of Ontario, fourteen thousand two hundred seventy dollars.

On the county of Genessee, four thousand eighty dollars.

On the county of Niagara, three thousand one hundred ninety dollars.

On the county of Allegheny, four hundred seventy dollars.

On the county of Richmond, two thousand two hundred twenty dollars.

On the county of Greene, seven thousand eight hundred fifty dollars.

And on the county of Delaware, five thousand four hundred ninety dollars.

New Jersey.

In the State of New Jersey.—On the county of Bergen, seven thousand twenty-seven dollars and thirty cents.

On the county of Essex, nine thousand nine hundred nine dollars and eight cents.

On the county of Sommerset, seven thousand two hundred thirty-three dollars and twenty-eight cents.

On the county of Middlesex, nine thousand one hundred eighty-two dollars and fifty-two cents.

Apportionment as to counties.

On the county of Sussex, eleven thousand twenty-two dollars and seventy-three cents.

On the county of Morris, eight thousand eight hundred eighteen dollars and twenty-nine cents.

On the county of Hunterdon, twelve thousand two hundred fifty-one dollars and seventy-eight cents.

On the county of Burlington, eleven thousand nine hundred twenty-nine dollars and thirty-six cents.

On the county of Gloucester, eight thousand eight hundred twenty-three dollars and sixty-three cents.

On the county of Monmouth, ten thousand two hundred four dollars and twelve cents.

On the county of Cumberland, four thousand three hundred fifty-seven dollars and sixteen cents.

On the county of Salem, six thousand five hundred twenty-eight dollars and seventeen cents.

On the county of Cape May, one thousand five hundred eighty-four dollars and forty-one cents.

Pennsylvania.

In the State of Pennsylvania.—On the city of Philadelphia, seventy-nine thousand five hundred dollars.

On the county of Philadelphia, thirty-eight thousand two hundred thirty dollars.

On the county of Chester, eighteen thousand two hundred seventy dollars.

On the county of Delaware, seven thousand sixty dollars.

On the county of Montgomery, fifteen thousand three hundred dollars.

On the county of Bucks, sixteen thousand six hundred dollars.

On the county of Lancaster, thirty-seven thousand four hundred dollars.

On the county of York, eleven thousand five hundred forty dollars.

On the county of Adams, five thousand four hundred fifty dollars.

On the county of Northampton, eleven thousand one hundred forty dollars.

On the county of Wayne, two thousand six hundred forty dollars.

On the county of Berks, twenty-one thousand five hundred fifty dollars.

On the county of Dauphin, seventeen thousand six hundred fifty dollars.

On the county of Cumberland, ten thousand three hundred dollars.

On the county of Franklin, nine thousand dollars.

On the county of Northumberland, seven thousand five hundred eighty dollars.

On the county of Mifflin, three thousand five hundred dollars.

On the county of Huntingdon, three thousand seventy dollars.

On the county of Bedford, two thousand six hundred ten dollars.

On the county of Sommerset, two thousand dollars.

On the county of Cambria, four hundred dollars.

On the county of Fayette, four thousand five hundred dollars.

On the county of Greene, two thousand one hundred thirty dollars.

On the county of Washington, six thousand nine hundred twenty dollars.

On the county of Allegheny, five thousand two hundred ten dollars.

On the county of Armstrong, one thousand two hundred fifty dollars.

On the county of Westmoreland, five thousand four hundred forty dollars.

On the counties of Indiana and Jefferson, one thousand three hundred twenty dollars.

On the county of Centre, three thousand one hundred fifty dollars.

On the counties of Clearfield, Potter and M'Kean, three hundred dollars.

On the county of Luzerne, having the same limits as before the for-

Apportionment as to counties.

mation of the counties of Susquehannah and Bradford, two thousand seven hundred twenty dollars.

On the county of Lycoming, having the same limits as before the formation of the county of Bradford, two thousand five hundred dollars.

On the county of Tioga, three hundred eighty-nine dollars and sixteen cents.

On the county of Mercer, one thousand seven hundred ten dollars.

On the county of Butler, one thousand five hundred dollars.

On the county of Beaver, two thousand five hundred ten dollars.

On the county of Crawford, one thousand two hundred sixty dollars.

On the counties of Venango and Warren, eight hundred dollars.

On the county of Erie, seven hundred eighty dollars.

Delaware. *In the State of Delaware.*—On the county of New Castle, twelve thousand two hundred eight dollars and eight cents.

On the county of Kent, ten thousand six hundred eighty-two dollars and seven cents.

And on the county of Sussex, nine thousand one hundred fifty-six dollars and six cents.

Maryland. *In the State of Maryland.*—On the county of Sommerset, five thousand five hundred forty dollars.

On the county of Worcester, four thousand nine hundred ten dollars.

On the county of Dorchester, five thousand five hundred ten dollars.

On the county of Talbot, four thousand one hundred forty dollars.

On the county of Queen Anne, five thousand six hundred thirty dollars.

On the county of Caroline, two thousand two hundred fifty dollars.

On the county of Kent, four thousand two hundred thirteen dollars and ninety-four cents.

On the county of Cecil, five thousand nine hundred fifty dollars.

On the county of Hartford, five thousand three hundred fifty dollars.

On the city and county of Baltimore, forty-eight thousand six hundred seventy dollars.

On the county of Anne Arundle, nine thousand eight hundred ten dollars.

On the county of Prince George, seven thousand six hundred ninety dollars.

On the county of Calvert, two thousand four hundred ten dollars.

On the county of St. Mary, three thousand nine hundred fifty dollars.

On the county of Charles, six thousand seven hundred forty dollars.

On the county of Montgomery, five thousand one hundred ten dollars.

On the county of Frederick, fourteen thousand one hundred seventy dollars.

On the county of Washington, seven thousand three hundred seventy dollars.

And on the county of Allegheny, two thousand two hundred ten dollars.

Virginia. *In the State of Virginia.*—On the county of Lee, three hundred forty-seven dollars and fifty cents.

On the county of Washington, one thousand eight hundred ninety-four dollars and fifty cents.

On the county of Grayson, two hundred thirty-three dollars and fifty cents.

On the county of Russell, one thousand three hundred thirty-six dollars.

On the county of Wythe, one thousand five hundred thirty-eight dollars and fifty cents.

On the county of Tazewell, one thousand two hundred sixty-seven dollars.

On the county of Botetourt, three thousand one hundred fourteen dollars and fifty cents.

On the county of Montgomery, one thousand three hundred twelve dollars and fifty cents.

Apportionment as to counties.

On the county of Giles, five hundred forty dollars and fifty cents.

On the county of Monroe, one thousand thirty dollars and fifty cents.

On the county of Green Briar, one thousand six hundred fifty dollars and forty-four cents.

On the county of Kenhawa, two thousand one hundred sixty-seven dollars and fifty cents.

On the county of Cabell, one thousand five hundred forty-six dollars and fifty cents.

On the county of Mason, one thousand one hundred thirty dollars and fifty cents.

On the county of Randolph, five thousand four hundred sixty-five dollars and fifty cents.

On the county of Harrison, two thousand six hundred seventy-two dollars and fifty cents.

On the county of Wood, one thousand three hundred thirty-eight dollars and fifty cents.

On the county of Monongalia, two thousand nine hundred ninety-two dollars and fifty cents.

On the county of Ohio, one thousand nine hundred seven dollars and fifty cents.

On the county of Brooke, one thousand one hundred ninety-five dollars and fifty cents.

On the county of Bath, two thousand three hundred five dollars and fifty cents.

On the county of Pendleton, one thousand four hundred twenty-eight dollars and fifty cents.

On the county of Hardy, two thousand one hundred twenty-six dollars and fifty cents.

On the county of Hampshire, three thousand seven hundred ninety-five dollars and fifty cents.

On the county of Rockbridge, three thousand three hundred ninety-one dollars and fifty cents.

On the county of Augusta, six thousand seven hundred thirty-nine dollars and fifty cents.

On the county of Rockingham, six thousand one hundred sixty-two dollars and fifty cents.

On the county of Shenandoah, five thousand nine hundred seventy-eight dollars and fifty cents.

On the county of Frederick, eleven thousand eight hundred seventy-six dollars and fifty cents.

On the county of Berkley and on the county of Jefferson, thirteen thousand twenty-two dollars and fifty cents.

On the county of Bedford, five thousand two hundred thirty-three dollars and fifty cents.

On the county of Patrick, seven hundred seventy dollars and fifty cents.

On the county of Henry, one thousand three hundred four dollars and fifty cents.

On the county of Franklin, two thousand four dollars and fifty cents.

On the county of Campbell, three thousand eight hundred fifty-two dollars and fifty cents.

On the county of Charlotte, four thousand ninety dollars and fifty cents.

On the county of Pittsylvania, four thousand three hundred sixty-three dollars and fifty cents.

On the county of Halifax, six thousand seven hundred eighty-six dollars and fifty cents.

Apportionment as to counties.

On the county of Mecklenberg, six thousand eight hundred sixty-six dollars and fifty cents.

On the county of Lunenberg, three thousand eight hundred twenty-one dollars and fifty cents.

On the county of Brunswick, four thousand eight hundred seventy-nine dollars and fifty cents.

On the county of Nottoway, four thousand three hundred twenty-two dollars and fifty cents.

On the county of Prince Edward, four thousand four hundred fourteen dollars and fifty cents.

On the county of Buckingham, five thousand seven hundred forty-one dollars and fifty cents.

On the county of Cumberland, four thousand seven hundred fifteen dollars and fifty cents.

On the county of Amelia, five thousand two dollars and fifty cents.

On the county of Powhatan, three thousand eight hundred ninety-nine dollars and fifty cents.

On the county of Chesterfield, six thousand four hundred forty dollars and fifty cents.

On the county of Dinwiddie and town of Petersburg, eight thousand one hundred ninety-two dollars and fifty cents.

On the county of Prince George, two thousand nine hundred eighty-eight dollars and fifty cents.

On the county of Greenville, two thousand six hundred thirty-five dollars and fifty cents.

On the county of Sussex, three thousand nine hundred forty-five dollars and fifty cents.

On the county of Southampton, four thousand six hundred fifty-six dollars and fifty cents.

On the county of Surry, two thousand two hundred forty-four dollars and fifty cents.

On the county of Isle of Wight, two thousand six hundred eighty-eight dollars and fifty cents.

On the county of Nansemond, three thousand two hundred three dollars and fifty cents.

On the county and borough of Norfolk, nine thousand eight hundred fifty-seven dollars and fifty cents.

On the county of Princess Anne, two thousand four hundred seventeen dollars and fifty cents.

On the county of Elizabeth City, eight hundred thirty-nine dollars and fifty cents.

On the county of Warwick, eight hundred fifty-five dollars and fifty cents.

On the county of York, one thousand three hundred seventy-three dollars and fifty cents.

On the county of James City, one thousand five hundred twenty-five dollars and fifty cents.

On the county of New Kent, two thousand six hundred eighty-seven dollars and fifty cents.

On the county of Charles City, two thousand one hundred fifty-four dollars and fifty cents.

On the county of Henrico, eight thousand fifty dollars and fifty cents.

On the county of Goochland, four thousand five hundred fifty-five dollars and fifty cents.

On the county of Hanover, six thousand forty-nine dollars and fifty cents.

On the county of Amherst and on the county of Nelson, nine thousand five hundred thirteen dollars.

On the county of Albemarle, nine thousand four hundred ninety-seven dollars and fifty cents.

Apportionment as to counties.

On the county of Fluvannah, two thousand one hundred thirty-one dollars and fifty cents.

On the county of Orange, five thousand two hundred six dollars and fifty cents.

On the county of Madison, four thousand two hundred forty-seven dollars and fifty cents.

On the county of Culpepper, eight thousand six hundred ninety-two dollars and fifty cents.

On the county of Fauquier, eight thousand nine hundred forty dollars and fifty cents.

On the county of Prince William, five thousand two hundred fifty-one dollars and fifty cents.

On the county of Stafford, three thousand five hundred seventy-nine dollars and fifty cents.

On the county of Loudon, eight thousand one hundred thirty dollars and fifty cents.

On the county of Fairfax, six thousand three hundred fifty-four dollars and fifty cents.

On the county of Spottsylvania, six thousand two hundred sixty-two dollars and fifty cents.

On the county of Louisa, four thousand four hundred twenty-five dollars and fifty cents.

On the county of Caroline, seven thousand one hundred four dollars and fifty cents.

On the county of King George, two thousand seven hundred thirty-six dollars and fifty cents.

On the county of Westmoreland, three thousand five hundred fourteen dollars and fifty cents.

On the county of Richmond, two thousand six hundred twenty-four dollars and fifty cents.

On the county of Northumberland, three thousand sixteen dollars and fifty cents.

On the county of Lancaster, one thousand nine hundred fifty-four dollars and fifty cents.

On the county of King William, three thousand four hundred fifty-four dollars and fifty cents.

On the county of King and Queen, two thousand eight hundred sixty dollars and fifty cents.

On the county of Essex, three thousand three hundred thirty-six dollars and fifty cents.

On the county of Middlesex, one thousand nine hundred forty-one dollars and fifty cents.

On the county of Gloucester, three thousand three hundred ninety-seven dollars and fifty cents.

On the county of Matthews, one thousand six hundred eleven dollars and fifty cents.

On the county of Accomac, five thousand one hundred thirty-nine dollars and fifty cents.

And on the county of Northampton, three thousand one hundred seven dollars and fifty cents.

North Carolina.

In the State of North Carolina.—On the county of Currituck, two thousand two hundred four dollars and eighty-six cents.

On the county of Camden, two thousand four hundred sixty-two dollars and ninety-five cents.

On the county of Pasquotank, three thousand four hundred ninety-three dollars and ninety-six cents.

On the county of Perquimans, two thousand one hundred seventy dollars and eighty-five cents.

Apportionment as to counties.

On the county of Gates, two thousand one hundred thirty-four dollars and twenty cents.

On the county of Chowan, two thousand six hundred forty-two dollars and seventy cents.

On the county of Hartford, two thousand nine hundred fifty-six dollars and thirteen cents.

On the county of Bertie, five thousand two hundred sixty-seven dollars and twenty-seven cents.

On the county of Martin, two thousand three hundred thirty-five dollars and twelve cents.

On the county of Northampton, six thousand seven hundred sixty dollars and eighty-eight cents.

On the county of Halifax, seven thousand seven hundred twenty dollars and ninety-seven cents.

On the county of Washington, one thousand eight hundred fifty dollars.

On the county of Tyrrel, one thousand three hundred ninety-one dollars and forty-eight cents.

On the county of Hyde, two thousand three hundred eighty-six dollars and sixty-five cents.

On the county of Pitt three thousand four hundred ninety-six dollars and forty-two cents.

On the county of Edgecombe, six thousand sixty-six dollars and eighty-nine cents.

On the county of Beaufort, two thousand eight hundred twenty-four dollars and sixty-five cents.

On the county of Green, one thousand six hundred forty-five dollars and ninety-four cents.

On the county of Craven, five thousand five hundred fifty-seven dollars, and sixty-five cents.

On the county of Carteret, one thousand three hundred seventy-three dollars and twelve cents.

On the county of Jones, two thousand two hundred thirty-three dollars seventy-nine cents.

On the county of Lenoir, two thousand one hundred seventy-eight dollars and ninety cents.

On the county of Johnson, three thousand two hundred sixty-three dollars and fifteen cents.

On the county of Wayne, three thousand thirty-four dollars and thirty-five cents.

On the county of Warren, five thousand five hundred twenty-five dollars and thirty-three cents.

On the county of Franklin, four thousand five hundred seventy-six dollars and ninety-five cents.

On the county of Nash, two thousand nine hundred eighty-eight dollars and thirty-three cents.

On the county of Granville, six thousand four hundred forty-four dollars and thirty-nine cents.

On the county of Onslow, two thousand two hundred thirty-four dollars and eleven cents.

On the county of New Hanover, six thousand six hundred ninety dollars and eleven cents.

On the county of Duplin, three thousand two hundred thirty-seven dollars and seventy-one cents.

On the county of Sampson, two thousand nine hundred fifty-one dollars and thirty-nine cents.

On the county of Brunswick, one thousand nine hundred eighty-three dollars and sixty-eight cents.

Apportionment as to counties.

On the county of Bladen, two thousand seven hundred two dollars and eighty-three cents.

On the county of Columbus, one thousand two hundred thirty-five dollars and fifteen cents.

On the county of Cumberland, five thousand six hundred thirty-eight dollars and eighty-four cents.

On the county of Robeson, three thousand three hundred twenty-three dollars and fourteen cents.

On the county of Montgomery, two thousand eight hundred seventy-five dollars and three cents.

On the county of Richmond, two thousand three hundred eighty-three dollars and thirty-nine cents.

On the county of Anson, two thousand seven hundred ninety-two dollars and twenty-seven cents.

On the county of Moore, two thousand three hundred ninety-seven dollars and ninety-two cents.

On the county of Orange, seven thousand three hundred sixty-six dollars and fifty cents.

On the county of Wake, six thousand four hundred forty-three dollars and fifty-four cents.

On the county of Person, two thousand eight hundred fifty-one dollars and fifty-seven cents.

On the county of Rockingham, three thousand nine hundred sixty-two dollars and forty-seven cents.

On the county of Caswell, four thousand sixty-seven dollars and ninety-nine cents.

On the county of Guilford, four thousand four hundred ninety-one dollars and sixty-six cents.

On the county of Stokes, three thousand eight hundred forty-two dollars and thirty-eight cents.

On the county of Rowan, eight thousand eight hundred seventy-two dollars and thirteen cents.

On the county of Randolph, two thousand seven hundred sixty-four dollars and ninety-five cents.

On the county of Chatham, four thousand three hundred thirty-seven dollars and eighty-three cents.

On the county of Lincoln, five thousand six hundred fifty-two dollars and sixty-five cents.

On the county of Mecklenburg, five thousand four hundred sixty-three dollars and sixty-three cents.

On the county of Cabarrus, two thousand six hundred forty-five dollars and seventy cents.

On the county of Buncome, two thousand eight hundred sixty dollars and forty-eight cents.

On the county of Haywood, eight hundred six dollars and eighteen cents.

On the county of Burke, two thousand seven hundred sixty-four dollars and ninety-two cents.

On the county of Rutherford, three thousand nine hundred seventeen dollars and fifty-three cents.

On the county of Surry, three thousand three hundred ninety-seven dollars and eighty-one cents.

On the county of Wilkes, one thousand eight hundred seven dollars and twenty-eight cents.

On the county of Ashe, seven hundred twenty-four dollars and thirty-four cents.

And on the county of Iredell, three thousand eight hundred twelve dollars and sixty-one cents.

Apportionment as to counties. Ohio.

In the State of Ohio.—On the county of Ross, three thousand eight hundred seventeen dollars and forty-nine cents.

On the county of Highland, eight hundred seventy-five dollars and twenty-one cents.

On the county of Clinton, four hundred ninety-one dollars and thirty-one cents.

On the county of Madison, four hundred one dollars and thirty-seven cents.

On the county of Champaign, eight hundred twelve dollars and sixty-one cents.

On the county of Green, one thousand five hundred seventeen dollars and fourteen cents.

On the county of Delaware, six hundred ninety one dollars and seventy-two cents.

On the county of Franklin, one thousand five hundred seventy-three dollars and ninety cents.

On the county of Tuscarawas, four hundred five dollars and eighty-eight cents.

On the county of Knox, four hundred dollars and thirty-two cents.

On the counties of Columbiana and Stark, two thousand six hundred eighty-seven dollars and forty-two cents.

On the county of Jefferson, one thousand nine hundred eighty-eight dollars and forty-two cents.

On the county of Warren, two thousand ninety-nine dollars and fourteen cents.

On the county of Scioto, four hundred twelve dollars and twenty-seven cents.

On the county of Licking, seven hundred eighty-nine dollars and thirteen cents.

On the county of Guernsey, two hundred thirty-seven dollars and forty-four cents.

On the county of Montgomery, one thousand five hundred fifty-six dollars and one cent.

On the county of Washington, one thousand seven hundred forty-two dollars and nine cents.

On the county of Muskingum, one thousand five hundred forty-seven dollars and forty-eight cents.

On the county of Pickaway, one thousand two hundred two dollars and eighty-five cents.

On the county of Belmont, one thousand one hundred seventy-one dollars and forty-one cents.

On the county of Adams, one thousand four hundred thirty-three dollars and forty-one cents.

On the county of Clermont, one thousand six hundred ninety-seven dollars and eighty-eight cents.

On the county of Hamilton, two thousand eight hundred seventy-five dollars and seventy-nine cents.

On the county of Miami, four hundred twenty-one dollars and ten cents.

On the county of Preble, three hundred twenty-six dollars and fifty-two cents.

On the county of Butler, one thousand three hundred fifty-seven dollars and twelve cents.

On the county of Athens, two hundred seventy-two dollars and three cents.

On the county of Gallia, five hundred two dollars and fifty-seven cents.

On the county of Portage, one thousand four hundred sixty-four dollars and sixty-five cents.

On the county of Geauga, eight hundred fifty-two dollars and twenty-one cents.

Apportionment as to counties.

On the county of Cayahoga, five hundred eighteen dollars and fifty-four cents.

On the county of Trumbull, including Ashtabulla, two thousand two hundred seventy dollars and four cents.

On the county of Fairfield, one thousand nine hundred twenty-four dollars and sixty-one cents.

And on the county of Fayette, two hundred eighty-three dollars and fifteen cents.

Which several quotas on the counties of the state of Ohio, are exclusively of the taxes on lands lying in the said counties respectively, and owned by persons not residing in the state.

And on lands owned by persons not residing in the state, sixty-one thousand five hundred twenty-nine dollars and ninety-one cents.

Kentucky.

In the State of Kentucky.—On the county of Clarke, four thousand eight hundred sixteen dollars and eighty-three cents.

On the county of Estill, three hundred fifty-four dollars and twelve cents.

On the county of Montgomery, two thousand six hundred fifty-eight dollars and ninety-five cents.

On the county of Bath, one thousand two hundred twelve dollars and ninety-two cents.

On the county of Fleming, two thousand four hundred forty-eight dollars and eighty-nine cents.

On the county of Greenup, eight hundred seventy-four dollars and ninety-six cents.

On the county of Floyd, six hundred sixty-five dollars and sixty cents.

On the county of Fayette, fourteen thousand five hundred eighty-five dollars and twenty-eight cents.

On the county of Jessamine, three thousand three hundred five dollars and ninety-seven cents.

On the county of Woodford, four thousand seven hundred seven dollars and thirty cents.

On the county of Scott, four thousand four hundred forty-nine dollars and thirty-seven cents.

On the county of Harrison, two thousand nine hundred forty-three dollars and ten cents.

On the county of Pendleton, seven hundred twenty-one dollars and sixty cents.

On the county of Campbell, one thousand three hundred fifty-nine dollars and forty-four cents.

On the county of Boone, one thousand eighty-nine dollars and thirty-one cents.

On the county of Gallatin, one thousand one hundred forty-six dollars and three cents.

On the county of Franklin, four thousand six hundred ninety-one dollars and sixteen cents.

On the county of Bourbon, seven thousand one hundred seventy-four dollars and twenty-six cents.

On the county of Nicholas, one thousand three hundred twenty-five dollars and seventy cents.

On the county of Mason, five thousand three hundred eleven dollars and nine cents.

On the county of Bracken, one thousand two hundred thirty-five dollars and three cents.

On the county of Lewis, six hundred fifty-seven dollars and sixty-four cents.

Apportionment as to counties.

On the county of Livingston, one thousand three hundred sixty-one dollars and eighty-nine cents.

On the county of Caldwell, one thousand three hundred ninety-seven dollars and fifty-eight cents.

On the county of Christian, three thousand four hundred seventy-six dollars and one cent.

On the county of Breckenridge, nine hundred seventy-two dollars and eleven cents.

On the county of Ohio, one thousand two hundred sixty-three dollars and twenty-five cents.

On the county of Grayson, five hundred twenty dollars.

On the county of Muhlenberg, one thousand two hundred thirty-six dollars and sixty cents.

On the county of Henderson, one thousand three hundred two dollars and ninety-six cents.

On the county of Hopkins, nine hundred sixteen dollars and ninety cents.

On the county of Union, seven hundred six dollars and ninety-one cents.

On the county of Barren, three thousand three hundred forty-four dollars and twelve cents.

On the county of Warren, three thousand one hundred one dollars and nine cents.

On the county of Logan, four thousand two hundred twelve dollars and ninety-one cents.

On the county of Butler, five hundred ninety-two dollars and thirty-three cents.

On the county of Cumberland, one thousand seven hundred two dollars and six cents.

On the county of Mercer, five thousand eight hundred eighty-five dollars and fifty-four cents.

On the county of Garrard, three thousand four hundred twenty-three dollars and thirty cents.

On the county of Madison, four thousand nine hundred thirty-three dollars and fifty-six cents.

On the county of Clay, five hundred twenty-two dollars and thirty-seven cents.

On the county of Bullitt, one thousand nineteen dollars and forty-three cents.

On the county of Jefferson, eight thousand six hundred thirty-five dollars and eighty-eight cents.

On the county of Henry, two thousand three dollars and seventy-one cents.

On the county of Shelby, five thousand four hundred thirty-one dollars and ten cents.

On the county of Lincoln, three thousand eight hundred fifty-two dollars and sixty-eight cents.

On the county of Rockcastle, five hundred sixty dollars and fifty-five cents.

On the county of Knox, one thousand three hundred eighteen dollars and twenty-two cents.

On the county of Pulaski, one thousand two hundred sixty-two dollars and eighty-two cents.

On the county of Wayne, one thousand three hundred forty-three dollars and six cents.

On the county of Adair, one thousand eight hundred eight dollars and sixty-eight cents.

On the county of Casey, seven hundred one dollars and twenty cents.

On the county of Hardin, two thousand three hundred eighty-three dollars and fifty-six cents.

On the county of Nelson, five thousand one hundred four dollars and ninety-eight cents.

Apportionment as to counties.

On the county of Washington, three thousand eight hundred fifty-eight dollars and forty cents.

And on the county of Greene, two thousand five hundred forty-four dollars and ninety-four cents.

Which several quotas on the counties of the State of Kentucky are exclusively of the taxes on lands lying in the said counties respectively, and owned by persons not residing within the state.

And on lands owned by persons not residing in the state, eighteen thousand four hundred ninety-three dollars and fifty-one cents.

The assessment on and distribution among the said lands of which sum, shall be made, any provision in any law to the contrary notwithstanding, by the assessor of that district in the said state, which includes the town of Frankfort, from the list of said lands, as entered for payment of taxes with the auditor of public accounts of the State of Kentucky, in the year one thousand eight hundred and eleven, and from such other information as he may be able to obtain; and on failure to pay the said tax in the manner provided by the laws of the United States, the sale of the said lands being previously advertised according to the said laws, shall be made by the collector of that district, which includes the said town, at the capital therein.

South Carolina.

In the State of South Carolina.—On the district of Charleston, forty-seven thousand five hundred and eighty dollars.

On the district of Colleton, twelve thousand nine hundred eighty-nine dollars and twenty-seven cents.

On the district of Beaufort, fifteen thousand four hundred twenty dollars and seventy-three cents.

On the district of Barnwell, two thousand seven hundred and fifty dollars.

On the district of Orangeburgh, four thousand six hundred and fifty dollars.

On the district of Lexington, two thousand and fifty dollars.

On the district of Richland, three thousand seven hundred dollars.

On the district of Edgefield, five thousand five hundred and seventy dollars.

On the district of Abbeville, four thousand nine hundred dollars.

On the district of Pendleton, two thousand one hundred and seventy dollars.

On the district of Greenville, one thousand four hundred five dollars and forty-eight cents.

On the district of Spartanburg, two thousand two hundred and seventy dollars.

On the district of Union, one thousand seven hundred and fifty dollars.

On the district of York, one thousand five hundred and sixty dollars.

On the district of Chester, one thousand eight hundred and seventy dollars.

On the district of Laurens, two thousand two hundred and fifty dollars.

On the district of Newberry, two thousand two hundred and eighty dollars.

On the district of Fairfield, two thousand eight hundred dollars.

On the district of Lancaster, nine hundred and eighty dollars.

On the district of Kershaw, three thousand eight hundred and fifty dollars.

On the district of Sumter, six thousand and thirty dollars.

On the district of Chesterfield, one thousand nine hundred and seventy dollars.

On the district of Darlington, two thousand one hundred and thirty dollars.

Apportionment as to counties.

On the district of Georgetown, eleven thousand two hundred and eighty dollars.
On the district of Horry, one thousand and sixty dollars.
On the district of Marion, three thousand and ten dollars.
On the district of Williamsburg, two thousand three hundred dollars.
And on the district of Marlborough, one thousand three hundred and thirty dollars.

Tennessee.

In the State of Tennessee.—On the county of Washington, two thousand four hundred ninety-two dollars.
On the county of Sullivan, two thousand two hundred five dollars.
On the county of Greene, three thousand one hundred twenty-seven dollars.
On the county of Hawkins, two thousand four hundred sixty-one dollars.
On the county of Carter, one thousand three hundred forty-nine dollars.
On the county of Cooke, one thousand six hundred fifty-nine dollars.
On the county of Knox, three thousand two hundred [dollars] seventy-five cents.
On the county of Jefferson, two thousand three hundred fifty-three dollars and seventeen cents.
On the county of Sevier, one thousand four hundred eighty dollars.
On the county of Blount, two thousand eight hundred forty-six dollars.
On the county of Grainger, two thousand and sixty dollars.
On the county of Claiborne, one thousand five hundred and forty-five dollars.
On the county of Anderson, one thousand two hundred seventy-five dollars.
On the county of Campbell, eight hundred fifty-nine dollars.
On the county of Roan, one thousand seven hundred ninety-seven dollars.
On the county of Bledsoe, one thousand and forty-nine dollars.
On the county of Rhea, eight hundred and six dollars.
On the county of Smith, five thousand six hundred twenty-six dollars.
On the county of Jackson, two thousand six hundred nine dollars.
On the county of Overton, two thousand seven hundred twenty-five dollars.
On the county of White, one thousand nine hundred forty-four dollars.
On the county of Warren, two thousand seven hundred sixty-five dollars.
On the county of Franklin, two thousand seven hundred sixty-seven dollars.
On the county of Bedford, three thousand nine hundred eighty-one dollars.
On the county of Lincoln, two thousand nine hundred forty-eight dollars.
On the county of Sumner, six thousand six hundred sixty dollars.
On the county of Davidson, seven thousand five hundred thirty-nine dollars.
On the county of Williamson, six thousand three hundred fifty-three dollars.
On the county of Rutherford, four thousand nine hundred fifty-eight dollars.
On the county of Wilson, five thousand seven hundred seventy-three dollars.
On the county of Maury, five thousand and three dollars.
On the county of Giles, two thousand one hundred ninety-six dollars.
On the county of Hickman, one thousand two hundred forty-seven dollars.
On the county of Humphries, seven hundred and thirty dollars.

On the county of Stewart, two thousand fifty-eight dollars and thirty-eight cents.

Apportionment as to counties.

On the county of Dixon, two thousand one hundred eighty-one dollars.
On the county of Montgomery, three thousand eight hundred seventy-four dollars.
And on the county of Robertson, three thousand five hundred eleven dollars.

Georgia.

In the State of Georgia.—On the county of Chatham, nineteen thousand three hundred fifteen dollars and thirty-five cents.
On the county of Bryan, nine hundred fifty-one dollars and seventy-five cents.
On the county of Liberty, three thousand fifty-eight dollars and fourteen cents.
On the county of M'Intosh, one thousand six hundred seventy-eight dollars and forty-eight cents.
On the county of Glynn, one thousand seven hundred eighty-four dollars and twenty-three cents.
On the county of Camden, one thousand six hundred sixty-seven dollars and forty-one cents.
On the county of Wayne, two hundred fifty-two dollars and eight cents.
On the county of Effingham, eight hundred forty-six dollars.
On the county of Bullock, six hundred forty-one dollars and eighty-eight cents.
On the county of Tatnall, four hundred seventy dollars and ninety-six cents.
On the county of Scriven, one thousand three hundred fifty dollars and sixteen cents.
On the county of Burke, three thousand six hundred one dollars and sixty-seven cents.
On the county of Richmond, six thousand eight hundred four dollars and eighty-nine cents.
On the county of Jefferson, two thousand one hundred eighty-eight dollars and seventy-eight cents.
On the county of Washington, two thousand five hundred sixty-five dollars and five cents.
On the county of Montgomery, six hundred seventy dollars and sixteen cents.
On the county of Columbia, three thousand seven hundred sixty-six dollars and forty-two cents.
On the county of Warren, two thousand three hundred thirty-five dollars and eleven cents.
On the county of Hancock, four thousand nineteen dollars and seventy-three cents.
On the county of Green, three thousand seven hundred twelve dollars and thirty-two cents.
On the county of Lincoln, one thousand four hundred seventy-three dollars and twelve cents.
On the county of Wilkes, four thousand six hundred eighty-two dollars and fifty-one cents.
On the county of Elbert, three thousand two hundred ninety-five dollars and forty-seven cents.
On the county of Franklin, one thousand six hundred forty-seven dollars and seventy-two cents.
On the county of Ogelthorp, three thousand seven hundred eight dollars and sixty-three cents.
On the county of Jackson, one thousand nine hundred sixty-seven dollars and forty-four cents.
On the county of Clark, two thousand twenty-four dollars and one cent.

Apportionment as to counties.

On the county of Morgan, two thousand twenty-one dollars and fifty-five cents.

On the county of Laurens, four hundred seventy-five dollars and eighty-eight cents.

On the county of Pulaski, six hundred and sixty-four dollars.

On the county of Wilkinson, including the county of Telfair, five hundred sixty-nine dollars and thirty-three cents.

On the county of Twiggs, eight hundred eighty-six dollars and fifty-eight cents.

On the county of Baldwin, three thousand ten dollars and nineteen cents.

On the county of Jones, one thousand five hundred seventy dollars and twenty-seven cents.

On the county of Putnam, two thousand seven hundred fifty dollars and seventy-three cents.

And on the county of Randolph, now called Jasper, two thousand five hundred eight dollars and forty-nine cents.

Louisiana.

In the State of Louisiana.—On the parish of Orleans, ten thousand six hundred fifty-seven dollars fifty-five cents.

On the parish of St. Bernard two hundred thirty-six dollars forty cents.

On the parish of Plaquemine, three hundred seventy-five dollars fifteen cents.

On the parish of St. Charles, one thousand one hundred sixty-seven dollars seventy-seven cents.

On the parish of St. John the Baptist, eight hundred nine dollars ninety cents.

On the parish of St. James, eight hundred nine dollars ninety cents.

On the parish of Ascension, six hundred thirty-seven dollars eighty-six cents.

On the parish of Assumption, four hundred and ninety-four dollars forty-five cents.

On the parish of La Fourche, interior, four hundred fifty-two dollars.

On the parish of Iberville, five hundred eighty dollars fifty cents.

On the parish of West Baton Rouge, three hundred eighty-five dollars fifty-one cents.

On the parish of Feliciana, one thousand three hundred eighty-three dollars forty-one cents.

On the parish of East Baton Rouge, one thousand one hundred fifty-four dollars.

On the parish of St. Helena, three hundred fifty-one dollars ten cents.

On the parish of St. Tammany, two hundred thirty-six dollars forty cents.

On the parish of Point Coupee, one thousand seven hundred ninety-nine dollars twenty-two cents.

On the parish of Concordia, five hundred eight dollars eighty-two cents.

On the parish of Warren, one hundred ninety-one dollars sixty cents.

On the parish of Ouachita, eight hundred thirty-one dollars seventy cents.

On the parish of Rapides one thousand nine dollars forty-eight cents.

On the parish of Avoyelles, two hundred fourteen dollars eighty-eight cents.

On the parish of Catahoula, one hundred forty-one dollars eighty cents.

On the parish of Natchitoches, one thousand seventy-nine dollars forty-five cents.

On the parish of St. Landrey, one thousand two hundred one dollars four cents.

On the parish of St. Martin, one thousand three dollars eighteen cents.

And on the parish of St. Mary, five hundred eighty-nine dollars fifteen cents.

Taxes on lands of non-residents in Kentucky and Ohio.

Residents' lands transferred by non-residents, in certain cases how to be taxed

Sec. 3. *And be it further enacted*, That the amount of taxes which by virtue of the provisions of the act for the assessment and collection of direct taxes and internal duties, and of this act, should be laid and collected on non-residents' lands, so called, in the states of Kentucky and Ohio shall be ascertained and levied in the same manner and at the same rates respectively, as they were by the laws of those states in the year eighteen hundred and eleven: and lands in that year entered for taxation as non-residents' lands, which since that time may have been sold and transferred to residents, or where the owners of such lands may have become residents, and have had their lands entered for taxation, as residents, the tax on the same shall be collected as the tax on non-residents' lands: *Provided*, In all cases where sales and transfers shall have been made as aforesaid, or where non-residents have become residents, if they reside on the lands formerly entered as non-residents' lands, they shall have notice from the collector, as in other cases of residents. And if the amount thus laid, shall in either of the said states exceed or fall short of the amount fixed by this act as the quota to be laid on non-residents' lands in said states respectively, the difference shall, in the next ensuing direct tax laid by the authority of the United States, be deducted from or added to the quota of such state, as the case may be.

Proviso.

How the taxes are to be assessed and collected.

Act of July 22, 1813, ch. 16.

Additional collectors in Ohio.

Sec. 4. *And be it further enacted*, That the said tax shall be assessed and collected in the manner provided, and by the officers to be appointed under and by virtue of the act aforesaid, entitled "An act for the assessment and collection of direct taxes and internal duties:" *Provided*, That there shall be appointed in the state of Ohio six additional collectors, who shall collect the tax due from non-resident proprietors of lands in the said state, shall have the same districts assigned them by the Secretary of the Treasury, reside at the same places which are or may be designated for similar officers under the state authority, and in other respects shall be under the same rules and regulations, be subject to the same penalties and forfeitures as are provided by the above recited act.

Principal assessors to issue precepts to their assistants to carry this act into effect—When.

Sec. 5. *And be it further enacted*, That the principal assessors shall issue their precepts to the assistant assessors for the purpose of carrying into effect this act on the first day of February next, and the assessments shall have reference to that day.

States to vary, if they please, the district and county apportionments of tax.

Sec. 6. *And be it further enacted*, That each state may vary, by an act of its legislature, the respective quotas imposed by this act on its several counties or districts, so as more equally and equitably to apportion the tax hereby imposed; and the tax laid by this act shall be levied and collected in conformity with such alterations and variations, as if the same made part of this act, provided that an authenticated copy thereof be deposited in the office of the Secretary of the Treasury prior to the first of April next; in which case it shall be the duty of the said Secretary to give notice thereof to the proper principal collectors in such state.

States may pay their respective quotas and be entitled to certain deductions.

Proviso.

Act of January 17, 1814, ch. 4.

Sec. 7. *And be it further enacted*, That each state may pay its quota into the Treasury of the United States, and thereon shall be entitled to a deduction of fifteen per centum if paid before the tenth day of February next, and of ten per centum if paid before the first day of May, in the same year: *Provided*, That notice of the intention of making such payment be given to the Secretary of the Treasury one month prior to such payment; and in case of payment so made he shall give notice thereof to the principal assessors and collectors of such state; and no further proceedings shall thereafter be had under this act in such state.

The states of Ohio and Louisiana may collect of purchasers of United States' lands an equal propor-

Sec. 8. *And be it further enacted*, That if either the states of Ohio or Louisiana shall pay its quota according to the provisions of the preceding section, the legislature thereof shall be, and they are hereby authorized and empowered to collect of all the purchasers of public lands, under any law of the United States, a just and equal proportion of the

tion of the tax of the states respectively.

quota of said states respectively, the compact between the United States and the said states to the contrary notwithstanding.

Approved, August 2, 1813.

Statute I.

August 2, 1813.

Chap. XXXIX.—*An Act laying duties on licenses to retailers of wines, spirituous liquors, and foreign merchandise.*

Act of Dec. 23, 1814, chap. 16, sect. 3. Repealed by act of Dec. 23, 1817, chap. 1.

Who are to be considered retailers under this act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall deal in the selling of any goods, wares, or merchandise, except such as are of the growth, produce, or manufacture of the United States, and except such as are sold by the importer thereof in the original cask, case, box, or package wherein the same shall have been imported, shall be deemed to be, and hereby is declared to be a retail dealer in merchandise within the meaning of this act; that every person who shall deal in the selling of wines in a less quantity or in less quantities at one time than thirty gallons, except the importer in the original cask, case, box, or package wherein the same shall have been imported, shall be deemed to be, and hereby is declared to be a retail dealer in wines, within the meaning of this act; and that every person who shall deal in the selling of any distilled spirituous liquors in less quantities than twenty gallons at one time, shall be deemed to be, and hereby is declared to be a retail dealer in distilled spirituous liquors.

This act not to extend to physicians, &c.

Provided, always, That nothing herein contained shall be construed to extend to physicians, apothecaries, surgeons, or chemists, as to any wines or spirituous liquors which they may use in the preparation or making up of medicines for sick, lame, or diseased persons only; or to the sale of domestic spirits sold in quantities not less than five gallons at the place where the same shall have been distilled, and by the person or persons to whom a license for distilling the same shall have been granted agreeably to the laws of the United States.

Retailers to procure licenses on or before the first day of January, 1814.

Sec. 2. *And be it further enacted*, That every person who, on the first day of January next, shall be a retail dealer in wines, distilled spirituous liquors, or merchandise as above described or defined, shall, before the said day, and every person who after the said day shall become or intend to become such retail dealer as aforesaid shall, before he shall begin to sell by retail as aforesaid, any wine, distilled spirituous liquors, or merchandise, apply for and obtain from the collector appointed by

Act of July 22, 1813, ch. 16.

virtue of the act, entitled "An act for the assessment and collection of direct taxes and internal duties," for the collection district in which such person resides, one or more licenses, as the case may be, for carrying on the business of selling by retail as aforesaid; which licenses respectively shall be granted for the term of one year upon the payment for each license respectively of the duty by this act laid on such license, and shall be renewed yearly upon the payment of the like sum for each license.

Penalty.

And if any person shall, after the said day, deal in the selling of wines, distilled spirituous liquors, or merchandise by retail as above described and defined, without having a license therefor as aforesaid continuing in force, such person shall, in addition to the payment of the duty forfeit and pay the sum of one hundred and fifty dollars, to be recovered with costs of suit. And no such license shall be sufficient for the selling of wines, distilled spirituous liquors, or merchandise as aforesaid by retail at more than one place at the same time; but any person who by colour of such license shall sell any wines, distilled spirituous liquors, or merchandise as aforesaid at more than one place at the same time shall be deemed to be in respect to such of the said articles as he or she shall so sell at more than one place at the same time, a retail dealer therein as the case may be, without license, and shall forfeit and pay the like sum

BY AUTHORITY OF CONGRESS.

THE

Public Statutes at Large

OF THE

UNITED STATES OF AMERICA,

FROM THE

ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS ON THE SAME SUBJECT,

AND

COPIOUS NOTES OF THE DECISIONS

OF THE

Courts of the United States

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN

INDEX TO THE CONTENTS OF EACH VOLUME,

AND A

FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH

The Declaration of Independence, the Articles of Confederation, and the Constitution of the United States;

AND ALSO,

TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY, IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY

RICHARD PETERS, ESQ.,

COUNSELLOR AT LAW.

VOL. IV.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

STATUTE I.

May 16, 1826.

CHAP. LIX.—*An Act to extend the time allowed for the redemption of land sold for direct taxes, in certain cases.*

Time allowed for the redemption of lands sold for non-payment of taxes, under several acts extended.
Act of Aug. 2, 1813, ch. 37.
Act of Jan. 9, 1815, ch. 21.
Act of March 5, 1816, ch. 24.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the time allowed for the redemption of lands which have been, or may be, sold for the non-payment of taxes, under the several acts passed on the second of August, one thousand eight hundred and thirteen; the ninth day of January, one thousand eight hundred and fifteen, and the fifth day of March, one thousand eight hundred and sixteen, for laying and collecting a direct tax within the United States, so far as the same have been purchased for, or on behalf of the United States, be revived and be extended for the further term of two years, from and after the expiration of the present session of Congress: *Provided, also,* That, on such redemption, interest shall be paid at the rate of twenty per centum on the taxes aforesaid, and on the additions of twenty per centum chargeable thereon; and the right of redemption shall enure, as well to the heirs and assignees of the land so purchased on behalf of the United States, as to the original owners thereof.

Interest to be paid, &c.

APPROVED, May 16, 1826.

27th CONGRESS, 2d SESSION.

S. 270.

[Pri.]

IN SENATE OF THE UNITED STATES.

JUNE 4, 1842.

Mr. CONRAD, from the Committee on Public Lands, reported the following bill; which was read, and passed to a second reading.

A BILL

To authorize the adjustment of the claim of the municipality number one, of the city of New Orleans, to certain lands within said municipality, and now in the occupation of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the municipality number one, of the city of New Orleans, be, and are hereby, authorized to institute a suit in the circuit court of the United States for the ninth circuit and eastern district of Louisiana, for the recovery of certain lands lying within the corporate limits of said municipality, between the river Mississippi, the front row of houses and canal, and Custom-house streets, and now occupied by the United States, or its officers; that the Secretary of the Treasury be, and is hereby, authorized and directed to employ the proper law officers of the United States, and any other counsel he may deem proper, to appear to said suit on behalf of the United States, and to defend the right and title of the United States to the same; that either party shall, at its option, have the right to have the judgment of the said circuit court reviewed by the Supreme Court

of the United States, by a writ of error to be sued out, returnable to the next term of said Supreme Court; and in case the final judgment in said cause shall be against the United States, possession of said property shall be forthwith relinquished by the United States.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to compromise said claim with the said municipality, or its authorized agents, on such terms and conditions as he may deem advisable.

Congress 27-2. 1842 June 4. Senate Bill 270 (Private).
Authorize adjustment of New Orleans Municipality 1 in US Circuit Court.
Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois

U.S. Congress. House.

JOURNAL

OF

THE HOUSE OF REPRESENTATIVES

OF

THE UNITED STATES:

BEING

THE FIRST SESSION OF THE TWENTY-SEVENTH CONGRESS,

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

MAY 31, 1841,

AND IN THE SIXTY-FIFTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

WASHINGTON:
PRINTED BY GALES AND SEATON.
1841.

Congress 27-2. 1842 June 4. Senate Bill 270 (Private).
Authorize adjustment of New Orleans Municipality 1 in US Circuit Court.
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BILLS OF THE SENATE—Continued.

Number.	Title.	First reading.	Proceedings before passage.	Passed Senate.	Passed H. R.	Other proceedings.	Approved.
	complete the donation to each of 400 acres, in pursuance of the resolution of Congress of August 29, 1798, and of the act of Congress entitled, "An act for granting lands to the inhabitants and settlers at Vincennes, and in the Illinois country in the territory northwest of the Ohio, and for confirming them in their possessions," approved March 3, 1791 - -	349	349				
262	A bill to regulate the appointment and pay of engineers in the navy of the United States - - - -	353	383, 454, 558	558	651	651, 652	654
263	A bill for the relief of Henry Newman	354	485	485			
264	A bill to provide for the permanent employment in the Post Office Department, of certain clerks heretofore for several years temporarily employed in that Department - - -	355	390, 395	395	503	508, 523	
265	A bill for the relief of Thomas O. Minn, Shields, Turner, & Renshaw, Glendy Burke, and Edward Yorke, and Edward Ogden - - - - - *(Amended.—See page 493.)*	360	493	493	628	634, 637	641
266	A bill for the relief of Charles D. Hammond and Augustus H. Kenan -	360	485	485	588	589, 591, 612	613
267	A bill for the relief of J. R. Vienne -	360	612				
268	A bill to authorize the issuing of a register for the brig Gulnare - -	369	369, 371	371	384	384, 385, 395	397
269	A bill to explain and amend an act entitled, "An act providing for the payment of horses and other property lost or destroyed in the military service of the United States," approved January 18, 1837 - - - -	369	369, 417, 436	436	573	573, 576, 596	599
270	A bill to authorize the adjustment of the claim of the municipality number one of the city of New Orleans, to certain lands within said municipality, and now in the occupation of the United States - - - - -	374	483, 576				
271	A bill for the relief of William H. Robertson, Samuel H. Garrow, and J. W. Simonton - - - - -	374	493	493	627	629	644
272	A bill for the relief of the legal representatives of Henry Eckford, deceased	374	485		628	634, 637	644
273	A bill to regulate appeals and writs of error from the district court of the United States for the northern district of Alabama - - - - -	377	377, 396, 496, 512	512	517	524, 531	537
274	A bill for the relief of William Dubuys	377	377				
275	A bill to reduce and equalize the rates of postage, to limit the use, and correct the abuse, of the franking privilege, and for other purposes - - *(Amended.—See page 510.)*	383	494, 498, 503	510			

Congress 27-2. 1842 June 4. Senate Bill 270 (Private).
Authorize adjustment of New Orleans Municipality 1 in US Circuit Court.
Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois

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Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois

A message from the House of Representatives, by Mr. Clarke, their Clerk:

Mr. President: The Speaker of the House of Representatives having signed two enrolled bills, and an enrolled resolution, I am directed to bring them to the Senate for the signature of their President.

After the consideration of Executive business,

The Senate adjourned.

WEDNESDAY, MAY 18, 1842.

The President pro tempore signed the two enrolled bills and the enrolled resolution last reported to have been examined, and they were delivered to the committee, to be presented to the President of the United States.

Mr. Merrick submitted a communication from J. H. B. Latrobe, relating to statements concerning his deceased father, B. H. Latrobe, contained in the documents relating to the claim of Littleton D. Teackle; which was ordered to be printed, in connexion with the report of the Committee of Claims on that claim.

Mr. Conrad presented the memorial of the Municipality No. 1 of the city of New Orleans, praying the relinquishment, by the United States, of a tract of land lying within the limits of that municipality, or that a suit may be instituted to test the validity of the claim of the United States to the same; which was referred to the Committee on Public Lands.

Mr. Wright presented the memorial of George Barclay and Schuyler Livingston, praying permission to take out an American register for a British vessel, of which they have become the owners by virtue of a sale made under the laws of the United States; which was referred to the Committee on Commerce.

Mr. Benton presented the memorial of citizens of Missouri, praying that the land-office of the contemplated land district in the Platte purchase, in that State, may be located at Platte city; which was ordered to lie on the table.

Mr. Benton presented the petition of citizens of Missouri, praying the establishment of a mail-route from Alexandria, in Missouri, to Iowaville, in the Territory of Iowa; a petition from citizens of the State of Missouri, praying the establishment of a mail-route from Brunswick to Union Mills, in the State of Missouri; and a petition from citizens of the State of Missouri, praying the establishment of a mail route from Springfield to the county seat of Jasper county, in Missouri; which were referred to the Committee on the Post Office and Post Roads.

Mr. Wright presented a preamble and resolution passed by the Legislature of the State of New York, requesting the Senators and Representatives of that State in Congress, to vote for a law refunding to Major General Andrew Jackson the amount of the fine and costs imposed on him by the United States district judge in the State of Louisiana.

Ordered, That they lie on the table, and be printed.

Mr. Conrad presented the petition of Glendy Burke, praying permission to enter other lands of like quantity, in lieu of those heretofore purchased by him from the United States, and for which the Commissioner of the General Land Office has refused to issue patents; which was referred to the Committee on Public Lands.

Mr. Benton presented the petition of John Baptiste Lataille, a soldier in the last war with Great Britain, praying to be allowed arrearages and increase of pension; which was referred to the Committee on Pensions.

Congress 27-2. 1842 June 4. Senate Bill 270 (Private).
Authorize adjustment of New Orleans Municipality 1 in US Circuit Court.
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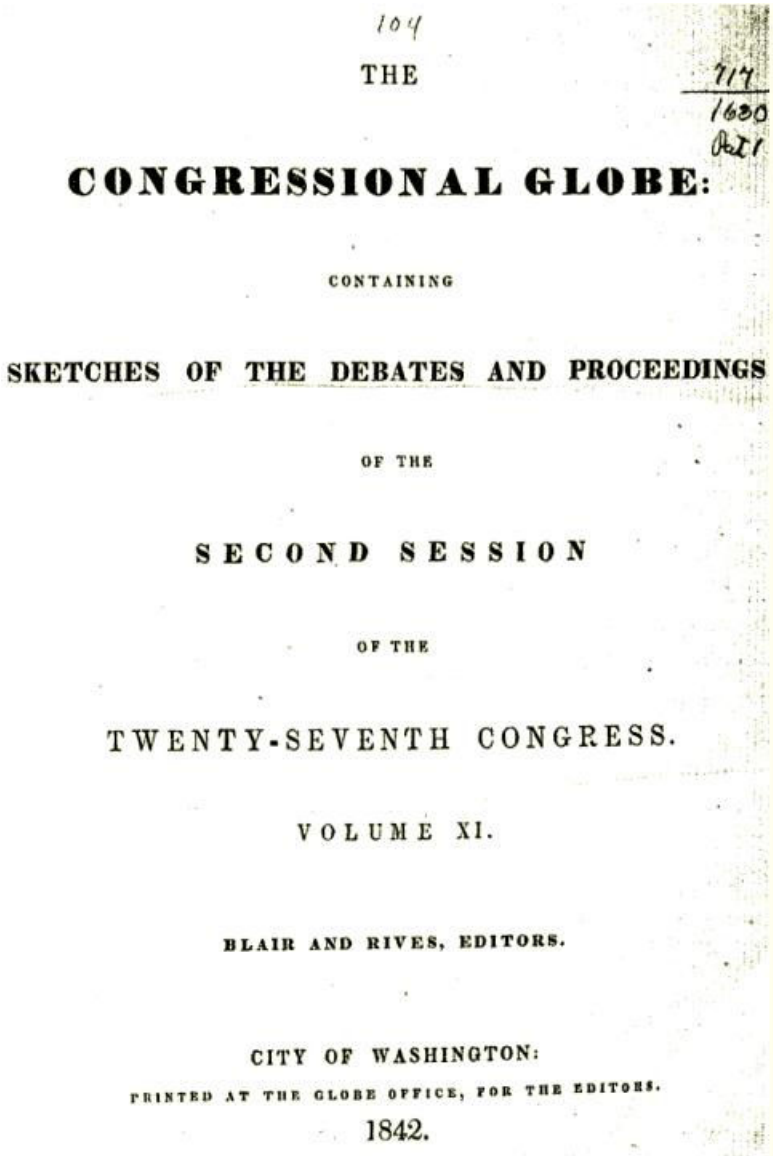

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THE

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CONGRESSIONAL GLOBE:

CONTAINING

SKETCHES OF THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION

OF THE

TWENTY-SEVENTH CONGRESS.

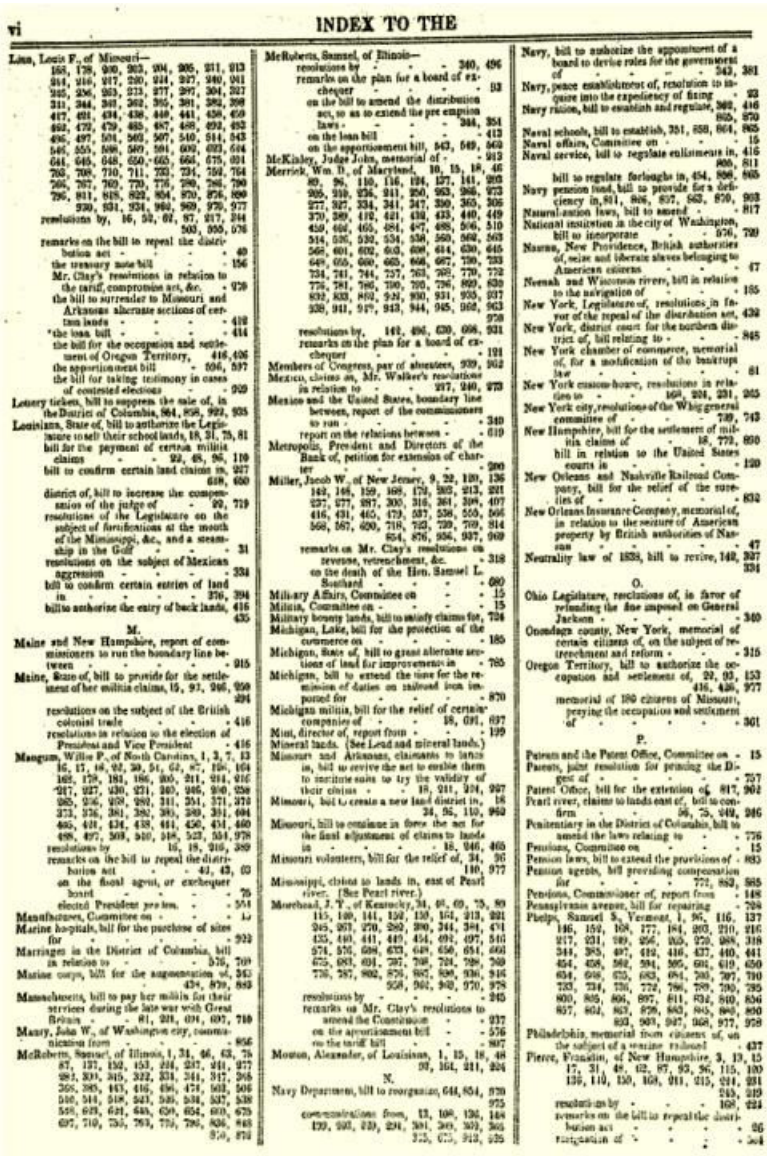
VOLUME XI.

BLAIR AND RIVES, EDITORS.

CITY OF WASHINGTON:

PRINTED AT THE GLOBE OFFICE, FOR THE EDITORS.

1842.



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Congress 27-2. 1842 June 4. Senate Bill 270 (Private).
Authorize adjustment of New Orleans Municipality 1 in US Circuit Court.
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28th CONGRESS, 1st SESSION. **S. 45.** [Public.]

IN SENATE OF THE UNITED STATES.

JANUARY 15, 1844.

Agreeably to notice, Mr. BREESE asked and obtained leave to bring in the following bill; which was read twice, and referred to the Committee on Public Lands.

MARCH 11, 1844.

Reported without amendment.

A BILL

Declaring the assent of Congress to the State of Illinois to impose a tax upon all lands hereafter sold by the United States, in that State, from and after the time of such sale.

Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled, That so much of the act of Congress entitled "An act to enable the people of the Illinois Territory to form a constitution and a State Government, and for the admission of such State into the Union on an equal footing with the original States, passed the eighteenth of April, one thousand eight hundred and eighteen," and of the compact between the United States and said State of Illinois, as provides for an exemption from the imposition of taxes by said State, for the period of five years from and after the day of sale of each and every tract of land sold by the United States, in said State of Illinois, be, and the same is hereby, repealed and vacated, as to all future sales of land made by the United States, in said State; and the United

States of America in Congress assembled do hereby declare their assent, that the said State of Illinois may impose taxes upon all lands sold by the United States in said State, from and after the day of sale: *Provided*, That the assent hereby given shall in no wise impair that provision of the act and compact aforesaid, which declares that all lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein.

Congress 28-1. 1844 January 15. Senate Bill 45 (Public).
Assent of Congress to Illinois to impose tax on public land from date of sale.
Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois

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JOURNAL

OF THE

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36215
Part 1

SENATE OF THE UNITED STATES

OF AMERICA,

BEING THE

FIRST SESSION OF THE TWENTY-EIGHTH CONGRESS,

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 4, 1843,

AND IN THE SIXTY-EIGHTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

WASHINGTON:
PRINTED BY GALES AND SEATON.
1843.

Congress 28-1. 1844 January 15. Senate Bill 45 (Public).
Assent of Congress to Illinois to impose tax on public land from date of sale.
Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois

SENATE BILLS—Continued.

Number.	Title.	Received from the Senate.	Proceedings in Committee of the Whole, and in the House.	Passed H. R.	Other proceedings.	Approved.
37	An act to repeal the act entitled "An act to amend the act of the 10th of March, 1838, entitled 'An act to change the time of holding the circuit and district courts in the district of Ohio.'"	440	144, 552, 613, 614 616, 617	618	643, 662, 681	697
41	An act to authorize a survey of the mouth of the Red river, and for other purposes.	413	439, 534, 839			
44	An act for the relief of George Davenport, of Rock Island, in the State of Illinois.	440	444, 542, 644, 653	653	681, 714	733
45	An act declaring the assent of Congress to the State of Illinois to impose a tax upon all lands hereafter sold by the United States in that State, from and after the time of such sale.	980	1010, 1026, 1042 1043, 1044			
46	An act making compensation to pension agents.	440	444			
47	An act for the relief of Benj. Murphy -	448	448, 546, 1166	1166	1169	1174
49	An act to authorize the Secretary of the Treasury to make an arrangement or compromise with any of the sureties on bonds given to the United States by Samuel Swartwout, late collector of the customs for the port of New York.	486	501, 573			
50	An act for the relief of Mark Simpson -	1025	1117			
51	An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department.	859	869, 1086			
52	An act requiring one of the judges of the circuit court for the District of Columbia, hereafter to reside in Alexandria.	486	502, 543	543	579, 730	780
53	An act to incorporate Georgetown College, in the District of Columbia.	486	502, 780, 912	998	1009	1092
55	An act directing the disposition of certain unclaimed goods, wares, or merchandise, seized for being illegally imported into the United States.	486	502, 647	647	681, 714	733
56	An act to afford relief to certain contractors with the Government.	539	544, 763, 980			
58	An act for the relief of William De Peyster and Henry N. Cruger.	539	544, 973, 998 1166	1166	1169	1174
59	An act to repeal so much of the act approved August 23, 1842, as requires the second regiment of dragoons to be converted into a regiment of riflemen after March 4, 1843.	539	544, 546, 631 681, 682	682	700, 730	780
60	An act for the relief of Daniel G. Skinner	539	544, 647, 973	998	1009	1092
62	An act for the relief of F. A. Kerr -	582	612, 871, 1166	1166	1170, 1172	1174
64	An act for the relief of James McIntosh, a commander in the navy of the United States.	697	737, 871			
65	An act changing the time of holding the courts at Clarksburg and Wheeling in the western district of Virginia, and of the circuit court of the United States for the district of Arkansas.	373	409	410	421, 518	*

* Approved March 4, 1844.

SENATE BILLS—Continued.

Number.	Title.	Received from the Senate.	Proceedings in Committee of the Whole, and in the House.	Passed H. R.	Other proceedings.	Approved.
31	An act declaring the assent of Congress to the State of Illinois to impose a tax upon all lands hereafter sold by the United States in that State, from and after the time of such sale.	177	201			
34	An act for the relief of Gideon Batchelder and others.	131	142, 151, 344, 349	350	357, 376	377
35	An act to authorize the Secretary of the Treasury to make an arrangement or compromise with any of the sureties on bonds given to the United States by Samuel Swartwout, late collector of the customs for the port of New York.	140	147, 186, 346, 350 351, 353, 403, 404			
36	An act extending the jurisdiction of the district courts to certain cases upon the lakes and navigable waters connecting the same.	448	451, 466	466	478, 483	537
37	An act for the relief of Asa Andrews -	220	254, 340			
39	An act to organize a new land district in the southern part of the State of Arkansas.	243	254, 388	389	412, 429	429
40	An act for renewing certain naval pensions for the term of five years.	220	254, 280, 544	546	550, 553	576
41	An act for the relief of William Rich -	156	162, 194			
42	An act for the relief of J. McFarlane -	131	142, 151, 344	350	357, 376	377
43	An act to regulate the appointments and promotions of officers in the United States revenue service.	243	254, 276, 463, 548			
44	An act providing for the appointment and regulating the pay of engineers and assistant engineers in the revenue service.	178	201, 465			
46	An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privilege, and for the prevention of frauds on the revenues of the Post Office Department.	351	378, 381, 451 to 460, 473, 476, 477 478, 479, 480, 481	480	536, 537, 546 547, 576	
48	An act to relinquish the reversionary interest of the United States in a certain Indian reservation in the State of Alabama.	178	201			
49	An act for the relief of the heirs of William Fisher.	220	254, 389			
52	An act for the relief of Joshua Shaw -	249	254, 390			
53	An act to quiet the titles of certain lots of land in the towns of Perrysburg and Croghansville, in the State of Ohio.	301	326, 339	339	357, 377, 429	429
54	An act granting a pension to George Whitten.	178	201, 281, 345	350	357, 376	377
55	An act making compensation to pension agents.	243	254, 341			
56	An act to amend an act entitled "An act to carry into effect, in the States of Alabama and Mississippi, the existing compacts with those States with regard to the five per cent. fund and the school reservations."	448	450, 451	451	473	557
57	An act for the relief of Wm. C. Easton -	243	254, 390			
58	An act for the relief of Thomas Smith -	243	254, 465			

Congress 28-1. 1844 January 15. Senate Bill 45 (Public).
Assent of Congress to Illinois to impose tax on public land from date of sale.
Nobert Plating (north façade), 1613 W. Carroll, Chicago, Illinois

Public Lands document 0268
1818 January 13
15th Congress 1st Session

Rep. Robertson reporting for the US House of Representatives committee on Public Lands on an Application for an extension of credit.

(A group of emigrants from Switzerland wanted to buy 12 townships at $2/acre, payment due 14 years after purchase.)

The committee are entirely disposed to consider the Swiss emigrants, and all others, when they become citizens, as entitled to all the rights of the native born citizens of the United States, but they can go no further. The committee, within a few days past, recommended the rejection of a similar application signed by many hundreds of the inhabitants of several of the States; they cannot, in justice recommend a different course on the present occasion.

Public Lands document 0312
1820 March 3
16th Congress 1st Session

Rep. Anderson reporting for the US House of Representatives committee on Public Lands on an Application for the purchase of land on terms different from those established by law.

The establishment of a community of foreigners within our country, secluded by their habits, manners, and language, from an intimate association with the great body of our citizens, cannot be an event so desirable as to justify a departure from the general law.

(continued on next slide)

PL 0312 (continued)

An unrestrained intercourse with the body of the American yeomanry affords to the emigrant the best, and probably the only means of acquiring an accurate knowledge of our laws and institutions, a knowledge which is not only necessary to give him the full enjoyment of his situation - but is necessary to render him a valuable citizen to the commonwealth.

PL 0312 (continued)

It is believed that if a large settlement was formed, exclusively of foreign families, to most of whom our language would, of course, be unknown, that many years would elapse before that general intercourse would take place beyond the boundaries of their own community, which would be essential to give them full possession of American principles and character -

- and it is by no means certain that time would, in such cases, ever have the effect of entirely destroying their foreign character.

DOCUMENTS,

LEGISLATIVE AND EXECUTIVE,

OF THE

Congress of the United States,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE FIRST SESSION OF THE FIRST CONGRESS TO THE FIRST SESSION OF THE TWENTY-THIRD CONGRESS:

MARCH 4, 1789, TO JUNE 15, 1834.

SELECTED AND EDITED,
UNDER THE AUTHORITY OF THE SENATE OF THE UNITED STATES,
BY WALTER LOWRIE,
SECRETARY OF THE SENATE.

VOLUME III.

FROM DECEMBER 22, 1815, TO MAY 26, 1824.

WASHINGTON:
PRINTED BY DUFF GREEN.
1834.

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REPORTS OF COMMITTEES—Continued.

MEMORIALS, AND OTHER MISCELLANEOUS PAPERS.

15th Congress. **No. 267.** 1st Session.

APPLICATION TO SELL SCHOOL LANDS.

COMMUNICATED TO THE SENATE JANUARY 12, 1818.

Mr. Morrow, from the Committee on the Public Lands, to whom was referred the petition of the Trustees for the Vincennes University, reported:

That, by an act of Congress passed on the 26th of March, 1804, "for the disposal of the public lands in the Indiana Territory," an entire township of six miles square was reserved in the district of Vincennes "for the use of a seminary of learning;" and that, by an act of the Legislature of the Indiana Territory, passed on the 29th of November, 1806, for establishing a University at Vincennes, the trustees appointed for the seminary were authorized to sell four thousand acres of the said township for the purpose of putting the institution into immediate operation. The proceeds of this sale were applied to the erection of a building suitable for a public school. The trustees were also authorized to rent out or lease the remaining part of the township for the use of the said university. It appears, however, that, from causes incidental to a new country, where the price of land is low, and the quantity for settlement disproportioned to the population, that the trustees have not been able to make any advantageous disposition of the lands by granting leases, nor to derive effective resource from rents for the support of the seminary, and that the unfavorable prospect of their unproductiveness for years to come, when disposed of in that way, has induced the trustees for the present to abandon the measure.

But in order to derive from these lands an active fund for rendering the institution respectable, and immediately advantageous to the country, the trustees have, by their petition, recommended to Congress the propriety of authorizing the sale of the lands, and vesting the proceeds of the sale in the stock of such bank or banks as may be designated for the purpose, and of vesting the dividends arising in the trustees, for the use of the Vincennes University.

The committee cannot doubt that the sale of the lands and investment of the proceeds in the manner proposed, would produce immediate aid, and, for several years to come, a more effective fund for the support of the institution, than what can be derived from the lands when let on rent or by lease; nor would they express an opinion that it would be improper when these lands shall have acquired their real value, from the increase of population and advanced improvement on the adjacent county, to dispose of them in the manner proposed by the trustees.

Indeed, several considerations would appear to recommend the eventual adoption of such a measure. A moneyed capital, as it is the most manageable fund, must have a preference for the endowment of a seminary over that of rents drawn from land, which is too precarious in its nature to be depended on for the purpose.

It is also a consideration of some importance, in a political point of view, whether the reservation of title in Government to such considerable tracts of lands, to be let on rent by the agents of a corporation, and to be settled and cultivated by tenants in some measure dependant on those agents, would, in practice, operate to the advantage of civil liberty. To assure the agricultural class of the community the independent and free exercise of the privileges of citizens, it is necessary they should hold, in absolute right, the soil which they cultivate. But, on a view of the whole case, it would appear to the committee that, to authorize a sale of the lands at present, before they have acquired their proper value, would be to sacrifice to present advantage the future prospects of the institution. It is worthy of inquiry whether the object in view would justify the sacrifice, or indeed whether it be at all attainable at present. The object is to render the institution immediately "respectable and advantageous." Did this depend alone on the appropriation of funds, it might in some measure be realized; but it is conceived that all establishments of the kind, formed for the higher branches of literature, must depend for their advances and maturity on the progress of society, the state of common schools for preparatory education, and the population, wealth, and state of improvement in the country in which they are situated. And it is not probable that in a country so recently settled, the means would be afforded to keep in respectable standing an institution such as is contemplated, even after, by an anticipation of its fund, it had been forced into a premature existence. The following resolution is respectfully submitted:

Resolved, That the petitioners have leave to withdraw their petition.

15th Congress. **No. 268.** 1st Session.

APPLICATION FOR AN EXTENSION OF CREDIT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 13, 1818.

Mr. Robertson made the following report:

The Committee on the Public Lands, to whom was referred the petition of sundry emigrants from Switzerland, have had the same under consideration, and report:

That the petitioners ask permission of the Government to become the purchasers of twelve townships of land, at the price of two dollars per acre, payable in fourteen years after the grant. The committee are entirely disposed to consider the Swiss emigrants, and all others, when they become citizens, as entitled to all the rights of the native born citizens of the United States; but they can go no further: they cannot view them as authorized to expect peculiar favors and indulgences. The committee, within a few days past, recommended the rejection of a similar application signed by many hundreds of the inhabitants of several of the States of the Union: they cannot, in justice, recommend a different course on the present occasion. They therefore respectfully submit the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

16th Congress. **No. 312.** 1st Session.

APPLICATION FOR THE PURCHASE OF LAND ON TERMS DIFFERENT FROM THOSE ESTABLISHED BY LAW.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 3, 1820.

Mr. Anderson made the following report:

The Committee on the Public Lands, to whom was referred the petition of Charles Henry Du Pasquier and others, praying, on behalf of themselves and other Swiss emigrants, that Congress would authorize them to purchase a tract of the public land lying on the west side of the Mississippi, and between the 30th and 37th degree of north latitude, sufficient for the settlement of three or four thousand families, on terms more favorable than the general law would permit them, have had the same under consideration, and report:

That the question presented to the consideration of the House involves the expediency of selling the public lands to foreigners on terms more indulgent than those which regulate the sales to native citizens. This committee is very sensible that the mildness of our Government, its wise and wholesome laws, have produced an emigration to its shores which has gone far to increase the collective talents and industry of the nation. Some of our most distinguished citizens, as well as industrious and ingenious mechanics, are among those who have made this country their own by adoption. But it is thought that, while we highly appreciate these benefits, we should not change the operation of the general laws of the country to produce the effect. So long as the freedom of our institutions is preserved, and wholesome laws are permitted to have their ordinary effect, the inducements which heretofore have had their influence will still be sufficiently strong to produce the desired emigration. It cannot be conceded that special provisions, excepting foreigners, however meritorious, from the operation of general laws, and giving to them advantages which are denied to the citizens, can be founded in good policy. It is a peculiarity eminently honorable to our country, that the native of Europe possesses, in the acquisition of the soil here, the same advantages which an American citizen does; to give him more, would produce a distinction not only invidious, but most unjust. When the law is now equally open to both, it would, indeed, be a perverted use of charity to give to the stranger a facility which we deny to the citizen.

It is probable that during the present session of Congress, the mode of selling the public lands will be so far altered as to demand a cash payment of each purchaser. Every reason which could influence Congress to make that change, would forbid this committee from proposing to sell a large quantity on a credit still more distant than the present laws contemplate. If the public interests should be thought to require a system still more rigorous than the one which now prevails, and this too against the petitions of a great number of your citizens, and the memorials of the Legislatures of several of the southern and western States, it would, indeed, be an assumption of high responsibility on the part of this committee, to recommend, in obedience to the prayer of the present petitioners, that indulgence to them which the expected bill will deny to your own citizens.

The establishment of a community of foreigners within our country, secluded by their habits, manners, and language, from an intimate association with the great body of our citizens, cannot be an event so desirable as to justify a departure from the general law. An unrestrained intercourse with the body of the American yeomanry, affords to the emigrant the best, and probably the only means of acquiring an accurate knowledge of our laws and institutions; a knowledge which is not only necessary to give to him the full enjoyment of his situation, but is necessary to render him a valuable citizen to the commonwealth. It is believed that if a large settlement was formed, exclusively of foreign families, to most of whom our language would, of course, be unknown, that many years would elapse before that general intercourse would take place beyond the boundaries of their own community, which would be essential to give them full possession of American principles and character; and it is by no means certain that time would, in such cases, ever have the effect of entirely destroying their foreign character. While, then, this committee rejoices in every opportunity of communicating the blessings of their country to their European brethren, they believe that it can be safely done only when they enjoy them by indiscriminate association.

The petitioners have, many of them, been heretofore engaged in manufactures; and they rely for much of the support which they expect to receive, upon the stock manufacturing skill and industry which they promise to introduce. They have exhibited before the committee some beautiful and very satisfactory specimens of their ingenuity and skill, particularly in silk and cotton goods. Your committee felt the full force of this appeal, and very frankly state that, if any petition of a similar character can be acceptable to the House, this deserves to be so. Without referring to the known character of the Swiss peasantry, a settlement in the State of Indiana, of emigrants from Switzerland, gives strong evidence that a colony established under the auspices of the present petitioners would be characterized by industry and unoffending submission to the laws. They reisist the application, however, on the grounds they have stated. The terms of sale held out by the present laws are of the most indulgent kind; and, if the public interests should ever justify a still farther relaxation, it is confidently believed that it should be in favor of American citizens.

In answer to that part of the petition which declares that one of the principal objects is "the domestic manufacture of cotton, wool, flax, and silk," this committee will only say, that it may well be considered how far it would comport with sound policy to give a premium for the introduction of manufactures at the moment when, by the almost unanimous declaration of our manufacturers, it is said that they cannot live without farther protection.

Your committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

16th Congress. **No. 313.** 1st Session.

AMOUNT OF THE TWO PER CENT. FUND IN OHIO, INDIANA, AND ILLINOIS.

COMMUNICATED TO THE SENATE MARCH 9, 1820.

Treasury Department, *8th March*, 1820.

Sir: In obedience to a resolution of the Senate of the 1st instant, I have the honor to submit the enclosed statement of the amount of the two per cent. fund arising from the sale of public lands in the States of Ohio, Indiana, and Illinois, to the 30th of September, 1819.

I remain, with respect, your most obedient servant,

WM. H. CRAWFORD.

Hon. John Gaillard, *President pro tem. of the Senate.*

BY AUTHORITY OF CONGRESS.

THE

Public Statutes at Large

OF THE

UNITED STATES OF AMERICA,

FROM THE

ORGANIZATION OF THE GOVERNMENT IN 1789, TO MARCH 3, 1845.

ARRANGED IN CHRONOLOGICAL ORDER.

WITH

REFERENCES TO THE MATTER OF EACH ACT AND TO THE SUBSEQUENT ACTS ON THE SAME SUBJECT,

AND

COPIOUS NOTES OF THE DECISIONS

OF THE

Courts of the United States

CONSTRUING THOSE ACTS, AND UPON THE SUBJECTS OF THE LAWS.

WITH AN

INDEX TO THE CONTENTS OF EACH VOLUME,

AND A

FULL GENERAL INDEX TO THE WHOLE WORK, IN THE CONCLUDING VOLUME.

TOGETHER WITH

The Declaration of Independence, the Articles of Confederation, and the Constitution of the United States;

AND ALSO,

TABLES, IN THE LAST VOLUME, CONTAINING LISTS OF THE ACTS RELATING TO THE JUDICIARY, IMPOSTS AND TONNAGE, THE PUBLIC LANDS, ETC.

EDITED BY

RICHARD PETERS, ESQ.,

COUNSELLOR AT LAW.

VOL. IV.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
1846.

STATUTE I.

May 13, 1826.

CHAP. XI.—*An Act to authorize a subscription for stock, on the part of the United States, in the Louisville and Portland Canal Company.*

Secretary of the Treasury to subscribe for, in the name of the United States, 1000 shares of the capital stock of the Louisville and Portland Canal Company.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to subscribe for, or purchase, in the name, and for the use of the United States, not exceeding one thousand shares of the capital stock of the Louisville and Portland Canal Company, and to pay for the same, at such times, and in such proportions, as may be required of, and paid by other stockholders of said company, out of any money in the treasury not otherwise appropriated:

Proviso.

Provided, Said shares can be procured for a sum not exceeding one hundred dollars each.

Secretary of the Treasury to vote for the president, &c., of said company.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury shall vote for president and directors of said company, according to such number of shares, and shall receive, upon the said stock, the proportion of the tolls which shall, from time to time, be due to the United States, for the shares aforesaid.

APPROVED, May 13, 1826.

STATUTE I.

May 18, 1826.

CHAP. LXV.—*An Act for the subscription of stock in the Dismal Swamp Canal Company.*

Secretary of the Treasury to subscribe, for 600 shares of the capital stock of the Dismal Swamp Canal.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to subscribe, in the name and for the use of the United States, for six hundred shares of the capital stock of the Dismal Swamp Canal, and to pay for the same, at such times, and in such proportions, as may be required by the existing rules and regulations of the said company.

SEC. 2. *And be it further enacted, by the authority aforesaid*, That the Secretary of the Treasury shall vote for the president and directors of said company, according to said number of shares, and shall receive, upon said stock, the proportions of tolls and emoluments which shall, from time to time, become due to the United States, on the shares of stock aforesaid.

This act not to go into effect until the board of engineers shall examine said canal, and make a report, in writing, to the Secretary of War.

SEC. 3. *And be it further enacted*, That this act shall not go into effect until the United States' board of engineers shall examine said canal, and make a report, in writing, to the Secretary of War, that, in their opinion, the plan on which the canal is to be executed, will answer, as far as circumstances will permit, as a part of the chain of canals contemplated along the Atlantic Coast, and that in their opinion, the sum hereby authorized to be subscribed for will be sufficient to finish the canal according to said plan: *And it is further provided*, That to carry this act into effect, the sum of one hundred and fifty thousand dollars is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated.

150,000 dollars appropriated to carry this act into effect.

The money subscribed on behalf of the United States to be actually expended wholly in the completion of the canal.

SEC. 4. *And be it further enacted*, That the money subscribed on behalf of the United States shall be actually expended in the completion of the canal, and not in the payment of any debt or debts now owing by the company; and it shall be the duty of the Secretary of the Treasury, before the payment of any part of the money subscribed on behalf of the United States, to adopt such measures as shall insure the application of the same to the completion of the said canal, according to the plan proposed, and to no other purpose whatsoever.

APPROVED, May 18, 1826.

STATUTE II.

March 2, 1827.

CHAP. LI.—*An Act to grant a quantity of land to the state of Illinois, for the purpose of aiding in opening a canal to connect the waters of the Illinois river with those of Lake Michigan.* (a)

A certain quantity of land to be allowed for opening a canal to unite the waters of the Illinois river with those of Lake Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the state of Illinois, for the purpose of aiding the said state in opening a canal to unite the waters of the Illinois river with those of Lake Michigan, a quantity of land equal to one half of five sections in width, on each side of said canal, and reserving each alternate section to the United States, to be selected by the commissioner of the land office, under the direction of the President of the United States, from one end of the said canal to the other; and the said lands shall be subject to the disposal of the legislature of the said state, for the purpose aforesaid, and no other:

Proviso.

Provided, That the said canal, when completed, shall be and forever remain, a public highway for the use of the government of the United States, free from any toll, or other charge, whatever, for any property of the United States, or persons in their service, passing through the same:

Proviso.

Provided, That said canal shall be commenced within five years, and completed in twenty years, or the state shall be bound to pay to the United States the amount of any lands previously sold, and that the title to purchasers under the state shall be valid.

Duty of the governor of the state, when the canal is located, &c.

SEC. 2. *And be it further enacted*, That, so soon as the route of the said canal shall be located and agreed on by the said state, it shall be the duty of the governor thereof, or such other person or persons as may have been, or shall hereafter be, authorized to superintend the construction of said canal, to examine and ascertain the particular sections to which the said state will be entitled, under the provisions of this act, and report the same to the Secretary of the Treasury of the United States.

Power given to the legislature.

SEC. 3. *And be it further enacted*, That the said state, under the authority of the legislature thereof, after the selection shall have been so made, shall have power to sell and convey the whole, or any part of the said land, and to give a title in fee simple therefor, to whomsoever shall purchase the whole, or any part thereof.

APPROVED, March 2, 1827.

(a) An act to authorize the state of Illinois to open a canal through the public lands to connect the Illinois river with Lake Michigan. March 30, 1822, ch. 14.

An act to amend an act entitled "An act to grant a quantity of land to the state of Illinois for the purpose of aiding in opening a canal to connect the waters of the Illinois river with those of Lake Michigan and to allow further time to the state of Ohio, for commencing the Miami canal from Dayton, to Lake Erie," March 2, 1833, ch. 87.

STATUTE II.

March 2, 1827.

CHAP. LVI.—*An Act to grant a certain quantity of land to the state of Indiana, for the purpose of aiding said state in opening a canal to connect the waters of the Wabash river with those of Lake Erie.* (a)

A certain quantity of land granted to said state, for opening a canal to unite, at navigable points, the waters of the Wabash river, with those of Lake Erie.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That there be, and hereby is, granted to the state of Indiana, for the purpose of aiding the said state in opening a canal to unite at navigable points the waters of the Wabash river with those of Lake Erie, a quantity of land equal to one half of five sections in width, on each side of said canal, and reserving each alternate section to the United States, to be selected by the commissioner of the land office, under the direction of the President of the United States, from one end thereof to the other; and the said lands shall be subject to the disposal of the legislature of said state, for the purpose aforesaid, and no other; *Provided*, That the said canal, when completed, shall be, and forever remain, a public highway for the use of the government of the United States, free from any toll, or other charge, whatever, for any property of the United States, or persons in their service passing through the same: *Provided*, That said canal shall be commenced within five years, and completed in twenty years, or the state shall be bound to pay to the United States the amount of any lands previously sold, and that the title to purchasers under the state shall be valid.

Proviso.

Proviso.

Duty of the governor of said state, when the canal is located, &c.

SEC. 2. *And be it further enacted*, That, so soon as the route of the said canal shall be located and agreed on by the said state, it shall be the duty of the governor thereof, or such other person or persons as may have been, or shall hereafter be, authorized to superintend the construction of said canal, to examine and ascertain the particular lands to which the said state will be entitled under the provisions of this act, and report the same to the Secretary of the Treasury of the United States.

Power given to the legislature to sell.

SEC. 3. *And be it further enacted*, That the said state, under the authority of the legislature thereof, after the selection shall have been so made, shall have power to sell and convey the whole, or any part of the said land, and to give a title, in fee simple, therefor, to whomsoever shall purchase the whole or any part thereof.

APPROVED, March 2, 1827.

(a) An act granting certain lands in the state of Indiana, the better to enable the said state to extend and complete the Wabash and Erie canal, from Terre Haute to the Ohio river, March 3, 1845, ch. 42.

DOCUMENTS

OF THE

CONGRESS OF THE UNITED STATES,

IN RELATION TO

THE PUBLIC LANDS,

FROM THE

FIRST SESSION OF THE TWENTIETH TO THE SECOND SESSION OF THE TWENTIETH CONGRESS, INCLUSIVE:

COMMENCING DECEMBER 3, 1827, AND ENDING MARCH 3, 1839.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JOHN W. FORNEY, CLERK OF THE HOUSE OF REPRESENTATIVES.

VOLUME V.

WASHINGTON:
PUBLISHED BY GALES & SEATON.
1860.

20TH CONGRESS.] No. 710. [2D SESSION.

APPLICATION OF CITIZENS OF MICHIGAN FOR LAND FOR A POOR-HOUSE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 5, 1839.

Mr. HUNT, from the Committee on the Public Lands, to whom was referred the petition of certain citizens of the Territory of Michigan, praying for the grant of a township of land for the erection of a poor-house, and for the deposit of such paupers as have gained no settlements in the several towns and counties of said Territory, reported:

Pauperism is an evil which has ever existed in the best regulated governments and the most flourishing communities. As it cannot be avoided, all civilized nations have made some public provision for the maintenance of those who, from their age or infirmity, are unable to support themselves.

In this country the support of the poor, excepting those who have become invalids in the public service, is not a subject of national legislation, but is under the provision of the State laws and municipal regulations. Hence it is that State and local taxes for the maintenance of the poor are as common as those for the support of State governments or the more limited jurisdictions and concerns.

Appropriations of the public lands have not unfrequently been made for the promotion of education and the construction of roads and canals; but these are objects of public importance, and in which the nation itself has an interest and concern. The maintenance of the poor has ever been regarded as a duty of a private and local character, and for which each State, county, or town is liable for its own particular share.

It is true that, from local situations or peculiar circumstances, some sections of the country may be more encumbered with the indigent than others. Such inequalities are, however, generally transient and fluctuating; but when they are of a more permanent nature, other causes most commonly exist, as the disbursement of public money, the resort of travel, the thoroughfare of business, the facilities to wealth, and other advantages sufficient to counterbalance the ostensible disparity of the burdened.

The petition represents that two-thirds of the paupers are either emigrants from other States or discharged soldiers and seamen, or the widows and orphans of such from the United States army and navy, and a great share of the other third are foreigners. From these facts the petitioners infer the justice and equality of a claim upon the general government for assistance and relief, and pray for the grant of a township of land in the Territory of Michigan for the purpose of erecting a poor-house in the county of Wayne, and for supporting the above description of paupers.

The committee, however, are not aware of any such great peculiarity in the above description of paupers, or in the excess of their number, as should entitle the Territory of Michigan to the peculiar bounty of government, and recommend the following resolution:

Resolved, That the prayer of the above petition be not granted.

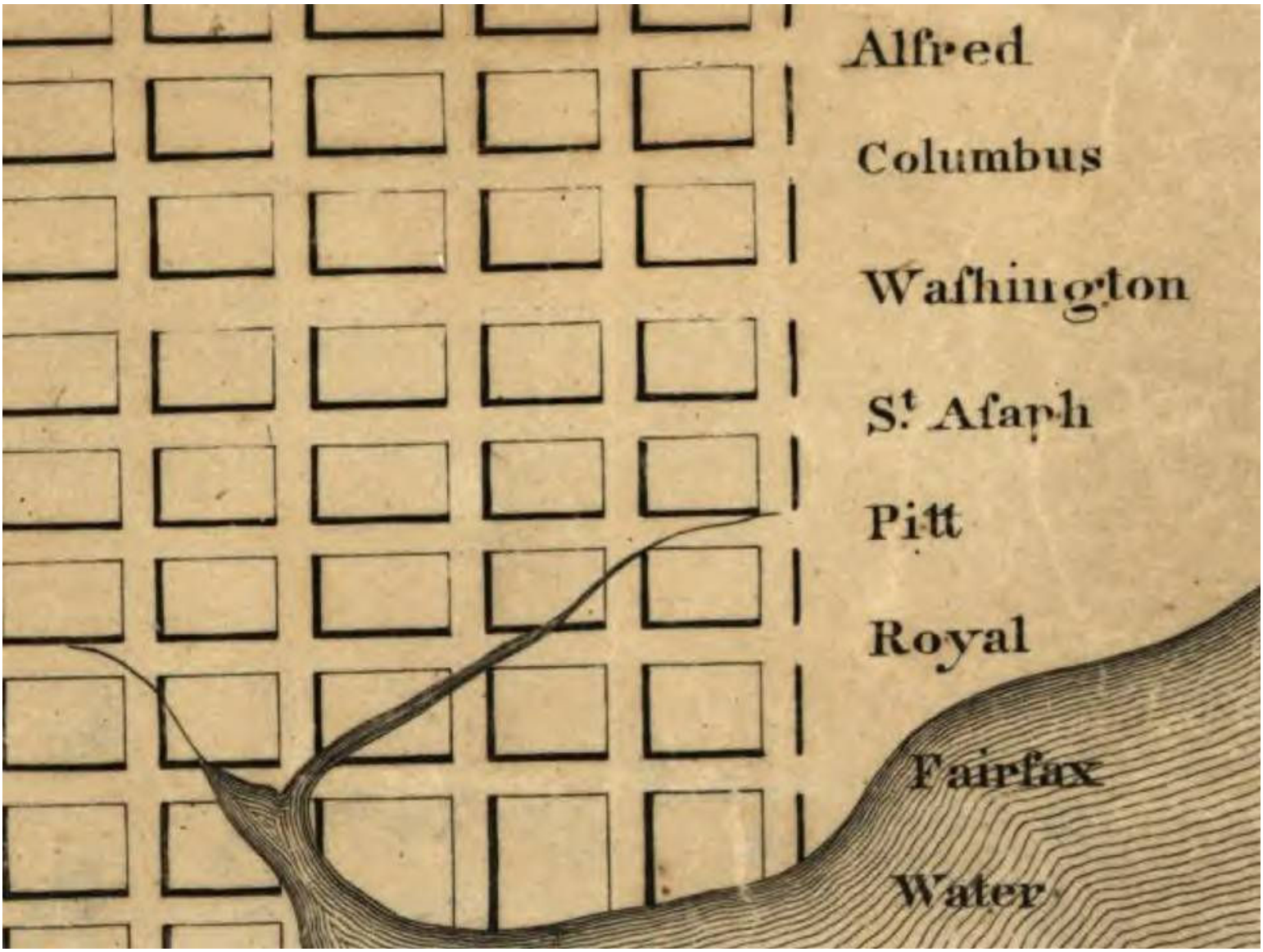

A Plan of Alexandria now Belhaven
Royal Street
Fairfax Street
Water Street
Potomack River
Maryland

Gilpin, George. Plan of the town of Alexandria in the District of Columbia. Alexandria: I. Thomas (1798). (Thomas Clarke, New York, engraver.)

Authorship attributed to George Gilpin in P.L. Phillips' A list of maps of America.

Reference: Phillips. Maps of America, p. 97
Reference: Stephenson. Cartography of northern Virginia, pl. 21

No. 768, Peter Force map collection. Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA. g3884a ct001432 http://hdl.loc.gov/loc.gmd/g3884a.ct001432. G3884.A3 1798 .G5 Vault



Detail. Gilpin, George. Plan of the town of Alexandria in the District of Columbia. Alexandria: I. Thomas (1798). (Thomas Clarke, New York, engraver.)

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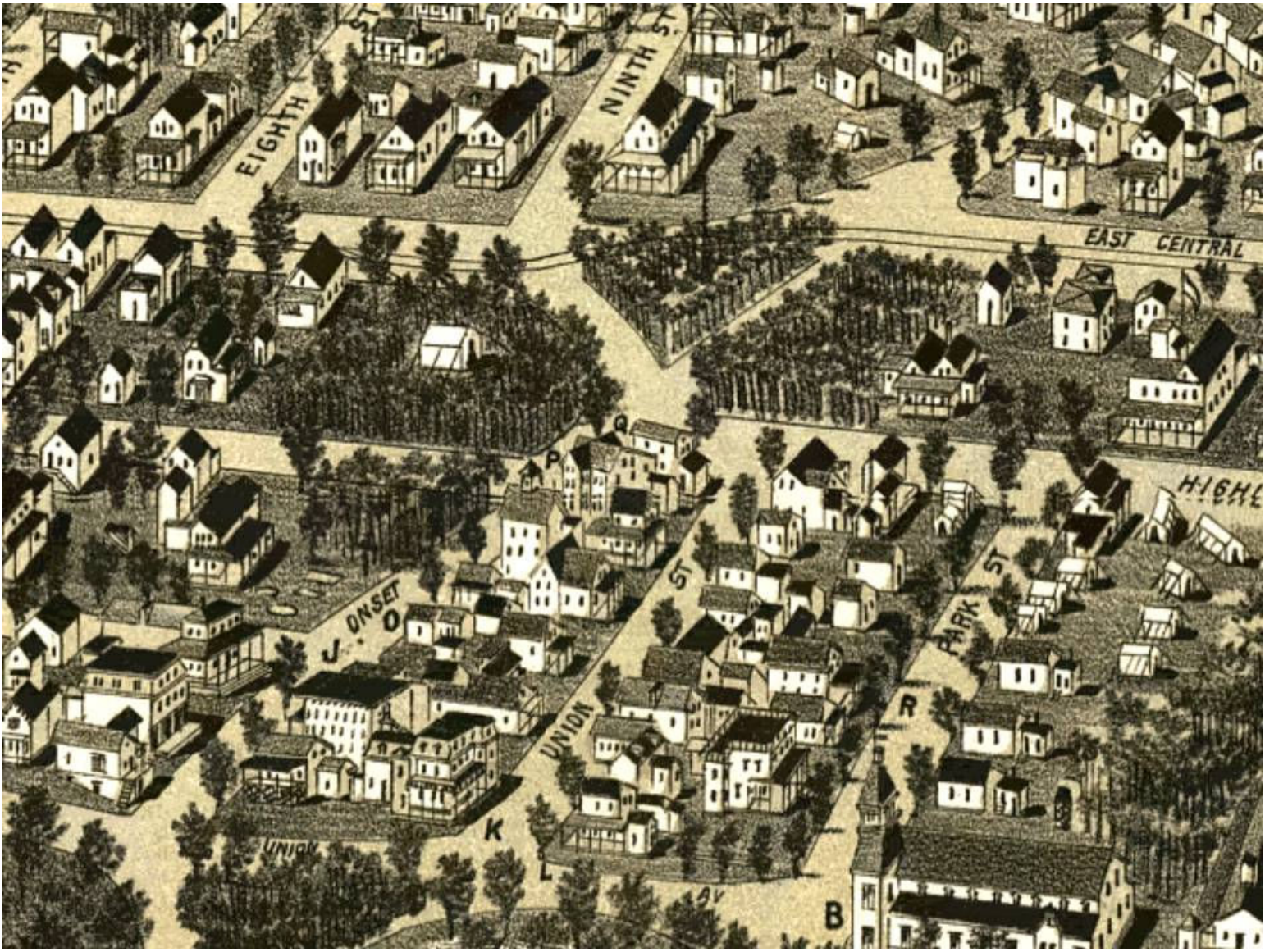
Onset Bay Grove, Wareham, Mass. Boston: Walker, Oscar W. (1885). George H. Walker & Co. (lithographers).

Reference: LC Panoramic maps (2nd ed.), 327

Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA. g3764w pm003270
http://hdl.loc.gov/loc.gmd/g3764w.pm003270. G3764.W272A3 1885 .W3



Detail. Onset Bay Grove, Wareham, Mass. Boston: Walker, Oscar W. (1885). George H. Walker & Co. (lithographers).

Reference: LC Panoramic maps (2nd ed.), 327

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http://hdl.loc.gov/loc.gmd/g3764w.pm003270. G3764.W272A3 1885 .W3

Zakrzewski, Alex (artist). from Eddy, William M. (surveyor). Official map of San Francisco. Compiled from the field notes of the official re-survey made by Wm. M. Eddy, surveyor of the town of San Francisco. San Francisco: F. Michelin (lithographer) (1849). Copyright 337 Henry Reed (1849) (1850 February 12).

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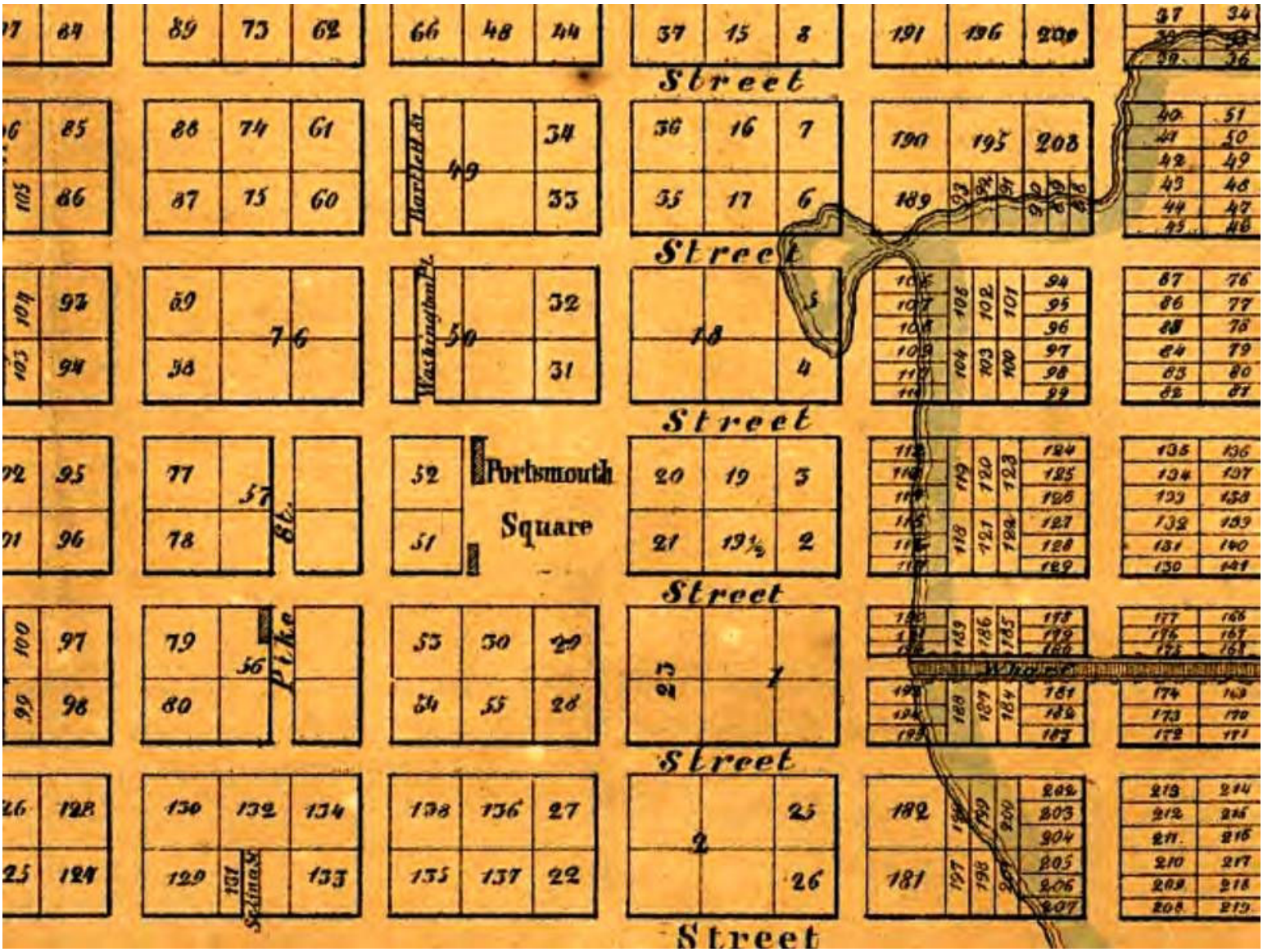

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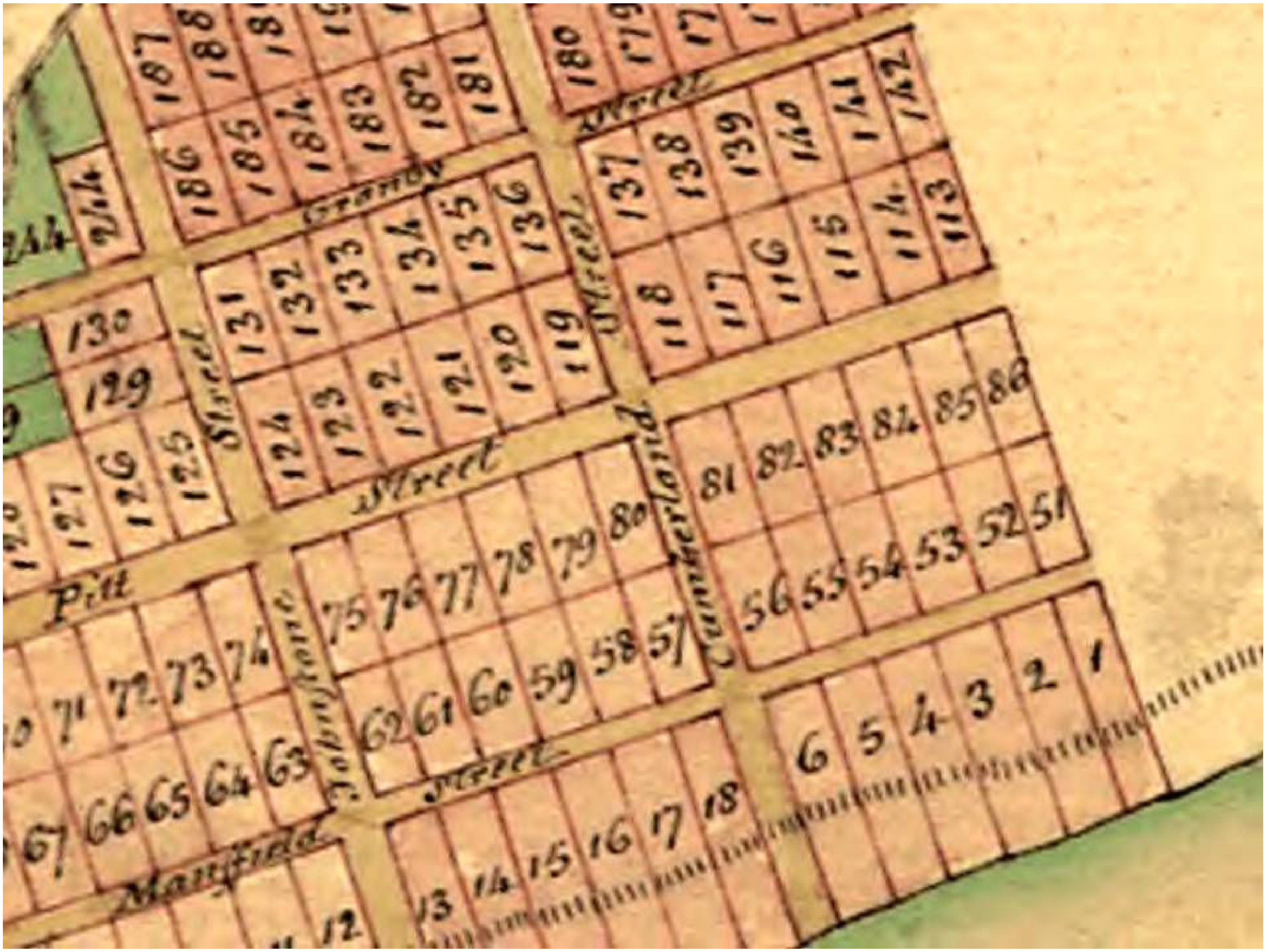
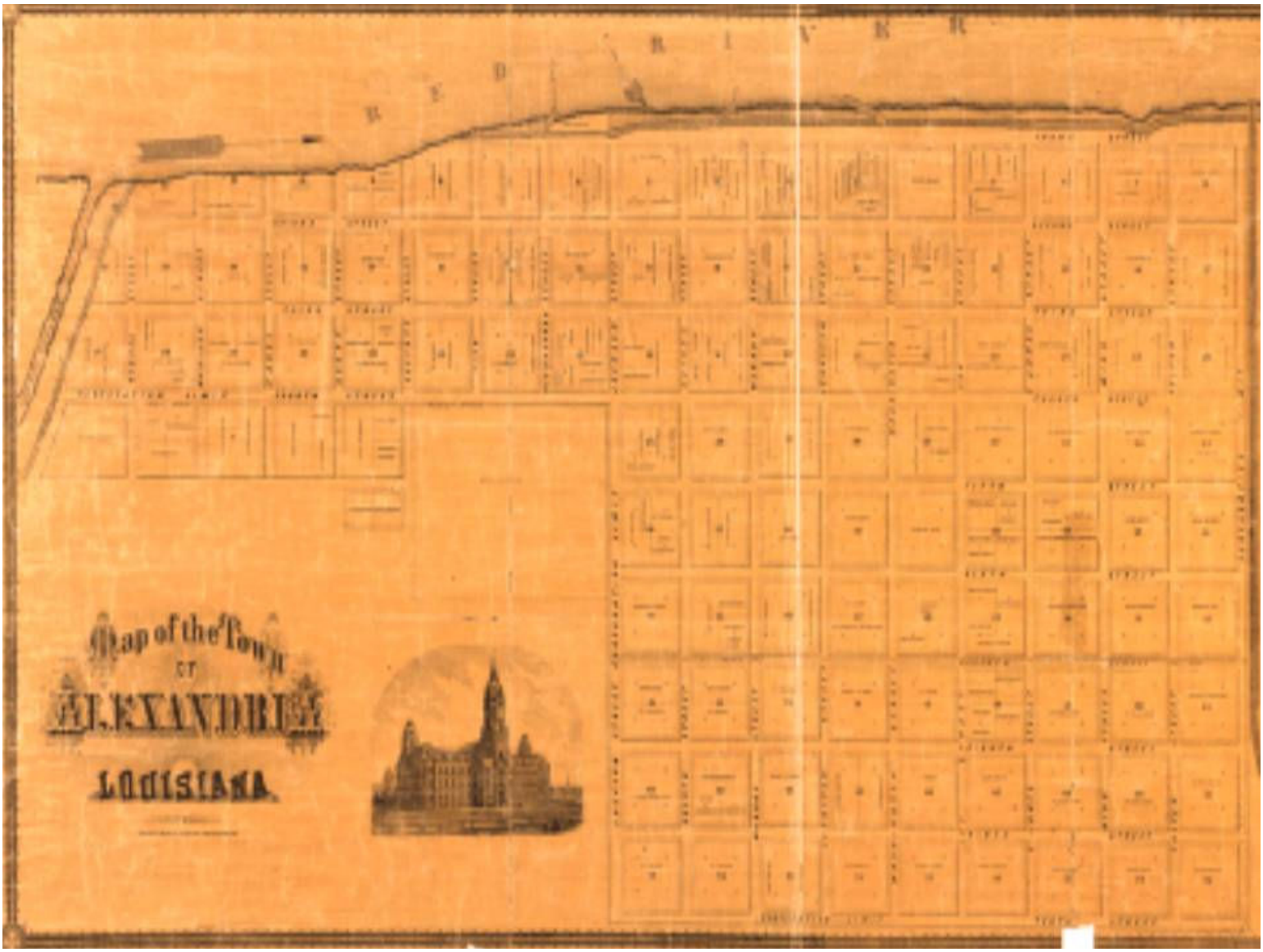


Detail. A Plan of the town of Pensacola, 1767.

Reference: LC Maps of North America, 1750-1789, 1657
Reference: LC Luso-Hispanic World, 893

No. 44 Faden map collection. Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA. g3934p ar165700 http://hdl.loc.gov/loc.gmd/g3934p.ar165700. G3934.P4 1767 .P5 Faden 44



Detail. Bringhurst, R.W. (C.E.) (1872 March 25). Map of the town of Alexandria, Louisiana. Indianapolis (IN): Braden & Burford (lithographers) (1872).

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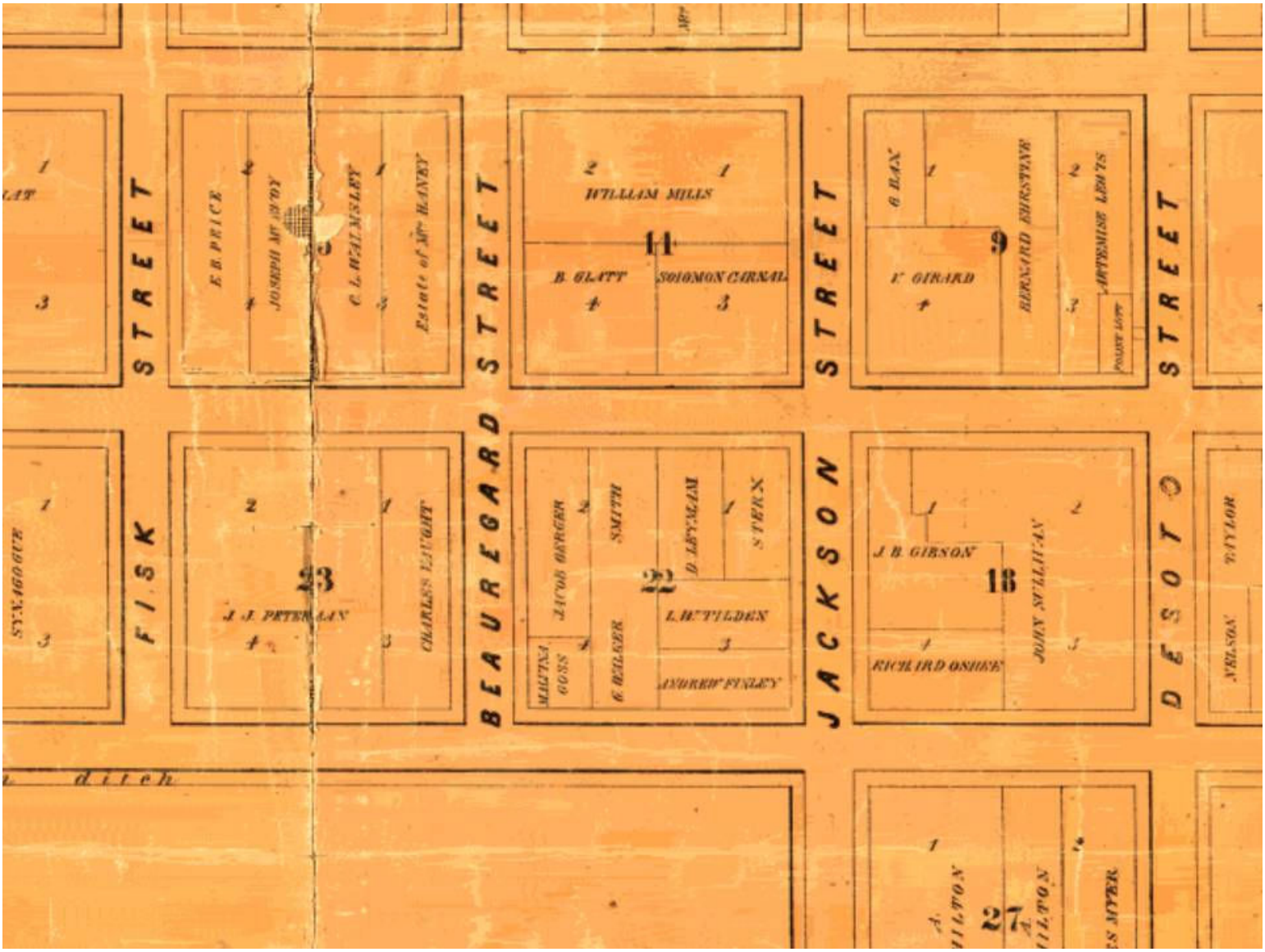

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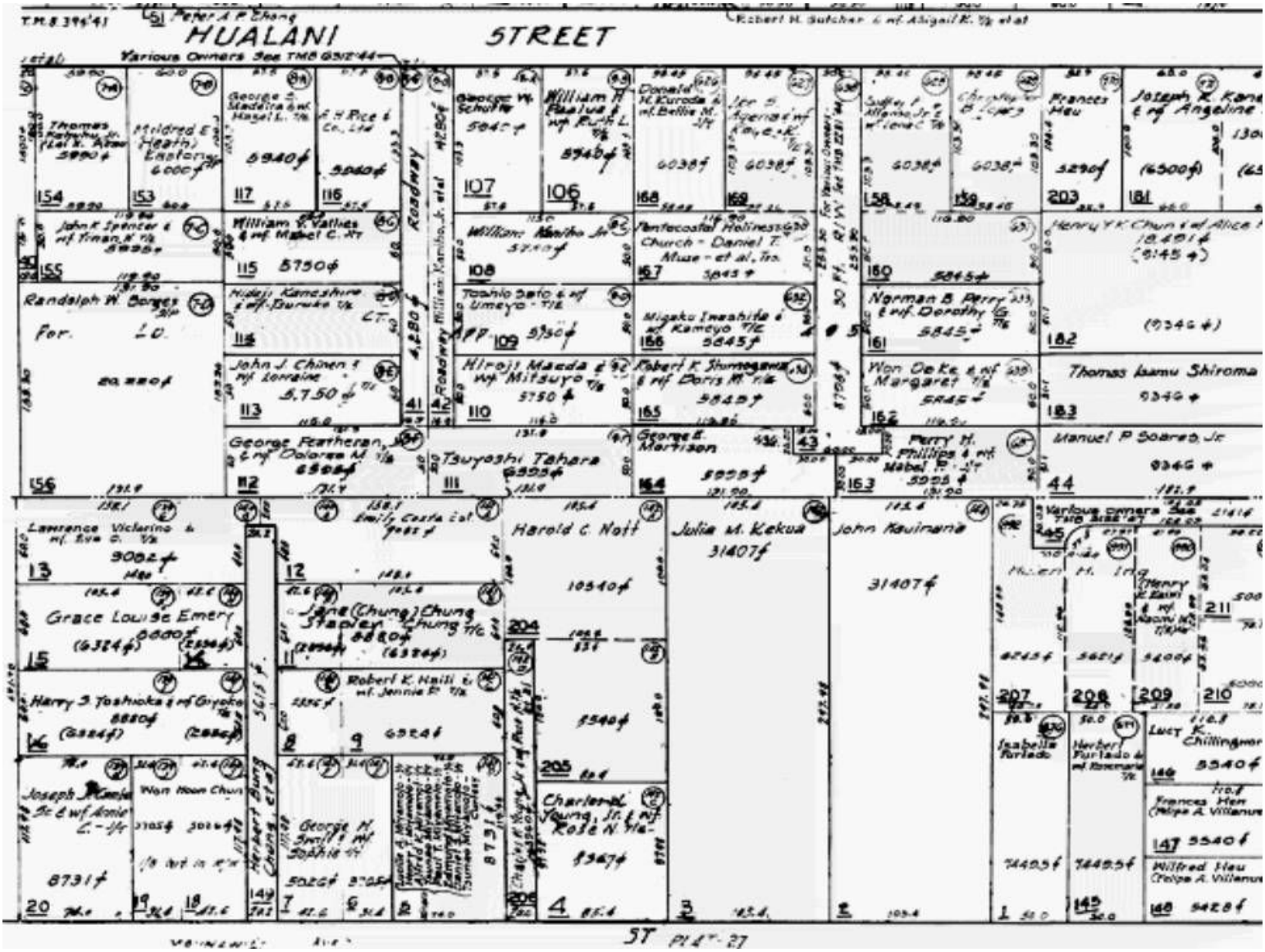

Taxation Maps Bureau, Territory of Hawaii. Honolulu Tax Map (first division, zone 4, section 3, plat 28, sheet 228). (193-).

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PUBLICATIONS

OF THE

NATIONAL MUNICIPAL LEAGUE

PAMPHLET NO. 7

A Municipal Program

BY

HORACE E. DEMING

OF NEW YORK, CHAIRMAN OF THE COMMITTEE ON MUNICIPAL PROGRAM OF THE NATIONAL MUNICIPAL LEAGUE

1901

A MUNICIPAL PROGRAM.[1]

In January, 1894, a Conference for Good City Government, held in Philadelphia, was attended by a goodly number of representative men, mainly from the Eastern states. Out of this Philadelphia Conference grew the National Municipal League, organized in New York City in May, 1894, and embracing in its affiliated membership the leading municipal reform organizations and, in its associate membership, students of municipal government throughout the United States. From 1894 to 1897 the League gathered information as to actual municipal conditions in typical American cities in every part of the country, from Boston to San Francisco, and from Chicago to New Orleans. From these cities of every class, whether a huge cosmopolitan city like New York, a small city of homogeneous population like Indianapolis, a bustling manufacturing city like Pittsburg, whether one of the older cities like Baltimore or Albany, or one of recent growth like Portland, Oregon, came the report that the local government was unsatisfactory, extravagant, inefficient and all too frequently that it was corrupt. It was plain that, tested by any standard of what such a government ought to be, city government was a failure in the United States.

This showing was appalling, and the League at its meeting in Louisville, in May, 1897, appointed a committee "to report on the feasibility of a Municipal Program, which will embody the essential principles that must underlie successful municipal government, and which shall also set forth a working plan or system consistent with American industrial and political conditions for putting such principles into practical operation." The committee made a preliminary report at the Indianapolis meeting of the League in 1898,

[1] *A Municipal Program.* Report of a Committee of the National Municipal League. Pp. 546. Price, $1.00. The Macmillan Company.

and its final report at the Columbus meeting in November, 1899, when the League unanimously adopted the recommendations of the committee. This final report, published by the Macmillan Company under the title "A Municipal Program," is the subject of this paper.

The historical origin of American municipal government is in the chartered boroughs or municipal corporations of the Colonial period, when charters were granted by the provincial governors. The powers of the local government and its methods of administration were enumerated in the charter. Usually the governor appointed the mayor, who, however, had no special charter powers of great importance. From time to time the Colonial Assemblies granted additional powers for special purposes; and, since the municipality had no authority to levy a tax, whenever it wished to enter upon any undertaking involving taxation, it was forced to apply to the Colonial Assembly for the special authority. Toward the end of the Colonial period there were no municipal charters from the provincial governors, and the Colonial Assembly had come more and more to be regarded as the proper authority to control the local administration, not, however, so as to interfere with the powers already contained in the charter.

After the Revolution, municipal charters were simply legislative statutes and, as such, subject to change by later legislative statutes; and the charters granted by the provincial governors in Colonial times were now regarded as equally subject to the power of the state legislature. As the cities grew in number and population, this supremacy of the legislature continued. The legislature decided whether an additional power should be given to the municipality, or an old one taken away or modified, or a completely new schedule of powers should be granted. The legislature also decided what should be the scheme of city governmental organization to exercise the powers granted and altered the scheme whenever it saw fit.

The powers granted to cities, however, in Colonial times and for many years after the Revolution, were few in number. The public affairs of cities were on the whole matters of petty housekeeping, not calculated to arouse great public interest. A very small proportion of the population of the whole country lived in cities. As late as 1810 the public expenditures of New York City, with a population of 100,000, were only $100,000. "In 1820 there were but thirteen towns in the United States with 8,000 population, and their combined population was less than five per cent of the entire population of the country." There was little, if anything, to create local political parties, *i. e.*, parties divided upon local questions. The active political interests of the citizens were centred in national questions, and contests for local office were a part of the strife in national politics, local appointive office early becoming the spoils of partisan politics. New York's mayor, for instance, at that time appointive, was changed nine times between 1801 and 1823, as often, that is, as the Council of Appointment changed its political complexion; in the Colonial period, although the mayor's nominal term was one year, he frequently retained the office for ten years.

By 1850 there were eighty-five towns in the United States with populations of 18,000 and upwards, and their combined population was approximately 3,000,000, about 12½ per cent of the population of the country. New York City then had a population of 500,000, Philadelphia 400,000, Boston and Baltimore 200,000 each. During this period of growth the cities were of necessity undertaking additional functions and, since the state legislatures were the source of municipal powers and legislative statutes were the means of granting them and regulating their exercise, special and local acts of state legislatures became increasingly frequent. The Ohio Legislature, in its session of 1849-50, passed 545 such acts.

Already, in 1850, the forces were clearly visible which

were massing population in centres of trade and manufacture; and, even then, discerning men could have foreseen the evil consequences of continuing the temporizing and little-considered methods of meeting the growing needs of municipalities. Only a few years earlier in England, when the city problem began to be of importance, there was, first, a careful investigation of the facts, and then, in 1835, a general Municipal Corporations Act passed by Parliament, so sound in its principles and so adjusted to the varying local needs of cities large and small throughout the kingdom, that, with comparatively unimportant changes, it has remained the fundamental law to this day under which the British cities have developed models of progressive and efficient municipal government adapted alike to their political traditions and their local needs. In this country, at the very time when there was most need of similar provision and wise preparation, almost the entire public political interest was necessarily centered in national questions. In the intensely exciting decade before the Civil War, during the war itself and during the years of reconstruction, the cities were left to grow and multiply without any well thought out plan for their government, with indeed scarcely any consideration of the principles which should underlie healthy and efficient municipal development. The struggle for national life and the ever-increasing effort of the people to become effective and direct participants in the control of national affairs, in spite of the obstacles imposed by the rigid framework of constitutional checks and balances, were the most marked political factors in the political growth of the country down to the close of the reconstruction period. The Civil War and Reconstruction settled the question of national life. That public attention should then begin to be directed more effectively to questions of local government was inevitable. It was equally inevitable that the same line of political development which tended to give the people a more direct and effective control in the public affairs of the nation should

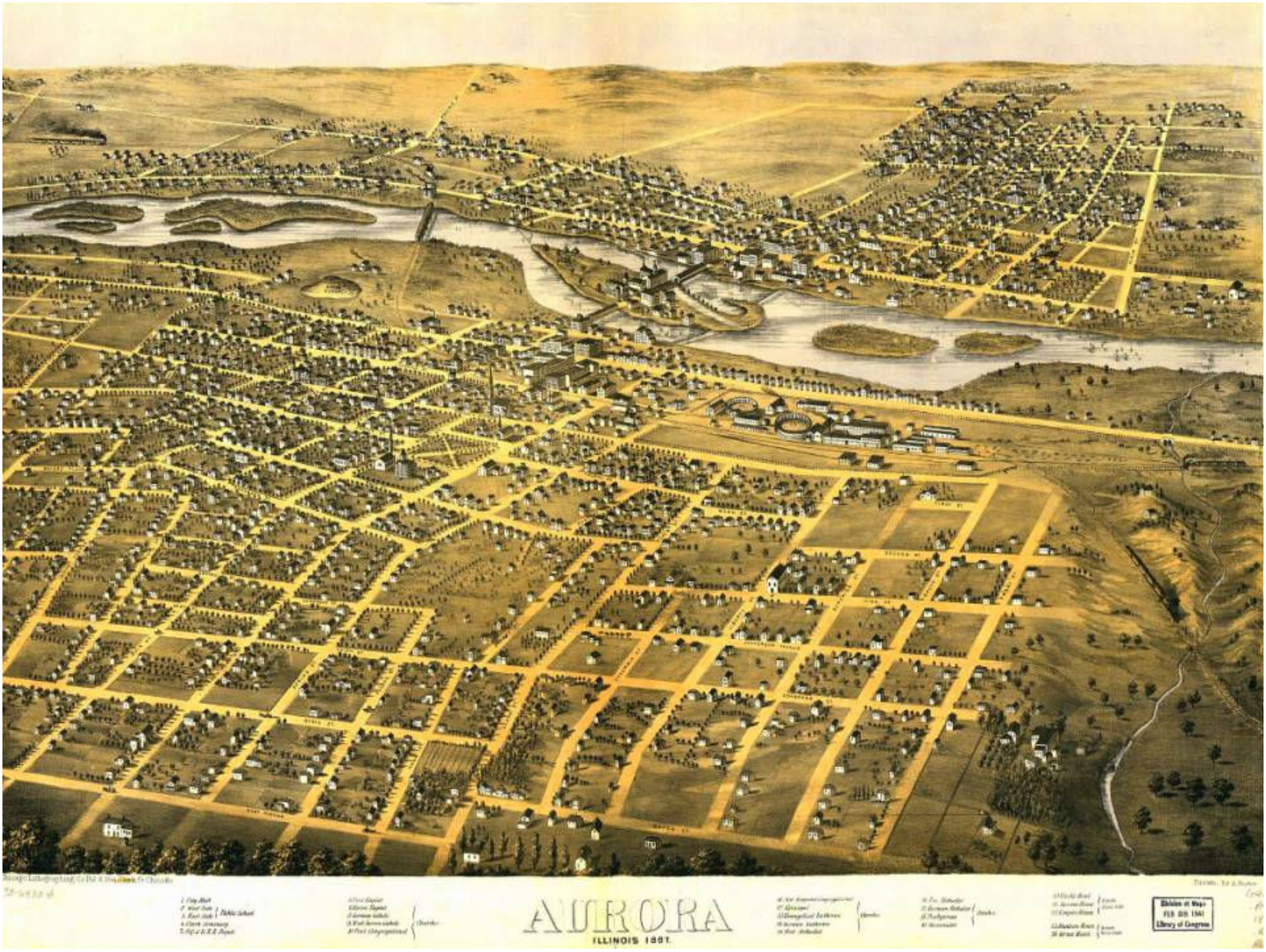
now and for similar reasons begin to manifest itself in the field of local government. During the last two decades the efforts to improve municipal government have been directed more and more plainly toward securing effective responsibility to the people of the locality on the part of those charged with the satisfaction of their local needs or the control of their local public affairs.

In a country like ours, permeated with the democratic spirit, the problem of securing honest, progressive, efficient government is at bottom essentially the same whether considered as a national question or as one relating to a single city like Columbus or Philadelphia. In both cases, the first requisite is that the government shall be the product of and conform to the will of the governed when that will is deliberately expressed; shall be evolved from and responsible to the people it governs, not imposed by some outside authority. No other government can be good government according to the American democratic ideal, and the struggle to attain the realization of that ideal is the most potent and most permanent factor in our political development.

It is because until the closing years of the nineteenth century but slight public attention had been directed in this country to municipal government, and because the people, absorbed in other public questions, had left the cities to increase in population and multiply in number while applying only haphazard, makeshift and temporizing governmental methods to local public affairs, that we have a "Municipal Problem." The failure of city government in the United States has not been a failure of democracy. The brief outline we have given of our municipal history has shown, and a more detailed and thorough examination would but emphasize, the truth of the statement, that from the beginning there has not been a single city with a government based upon fundamental democratic principles and adequately equipped to apply those principles in the practical conduct of its public business. There has been in the popular mind no

concept of a city as government. No city has had adequate power of local government. Every city has been obliged to apply to some outside authority for grant of power to meet local needs. Taking New York as an example, even so recently as in 1870, its annual tax levy was laid by the state legislature. Even now, by far the largest portion of its huge annual budget, amounting to almost, if not quite, $100,000,000, to be raised by local taxation, consists of expenses under mandatory acts of the state legislature; and to these must be added many millions more spent annually, the proceeds of bonds issued under legislative orders and to be paid by taxes upon city property. Whatever else such a city government may be, it is not a government of the city by its citizens or responsible to them. Its charter is a congeries of session laws covering hundreds of pages, changed in many respects, and attempted to be changed in many more, at every session of the legislature. New York but typifies upon a larger scale the conditions of city government generally.

To the superficial observer this condition sometimes indicates that political traditions in this country are against the application of democratic principles to the conduct of city affairs. A deeper insight and wider knowledge disclose a constant and growing popular unrest and discontent at the failure to apply these principles and a continual effort on the part of the cities to assert their rights to independence and to attain an assured and definite position in our governmental system. For now nearly half a century, that is, practically ever since cities began on account of their growing population and needs to assume much importance, there has been a slow but sure awakening to the fact that the city in the United States has been made the victim of forces which did not express the will of the people of the city, and that the means for expressing or enforcing that will as to matters of local public policy have been very imperfect, or practically non-existent.



Ruger, A. (artist). Aurora, Illinois. Chicago: Chicago Lithographing Co. Interactive map online.

Perspective map not drawn to scale.
Bird's-eye view.

Reference: LC Panoramic maps (2nd ed.), 136

Ruger map collection ; no. 5.
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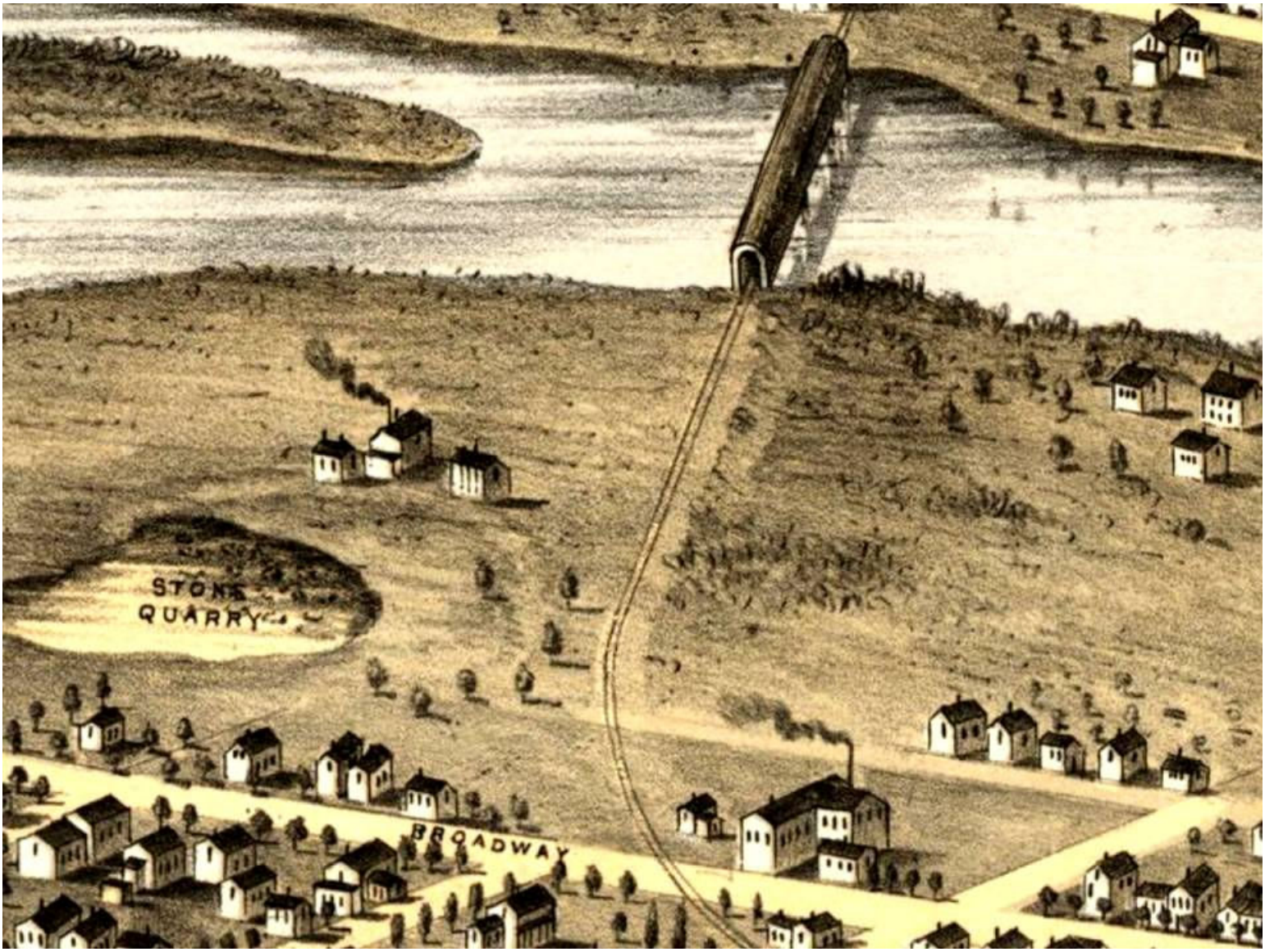

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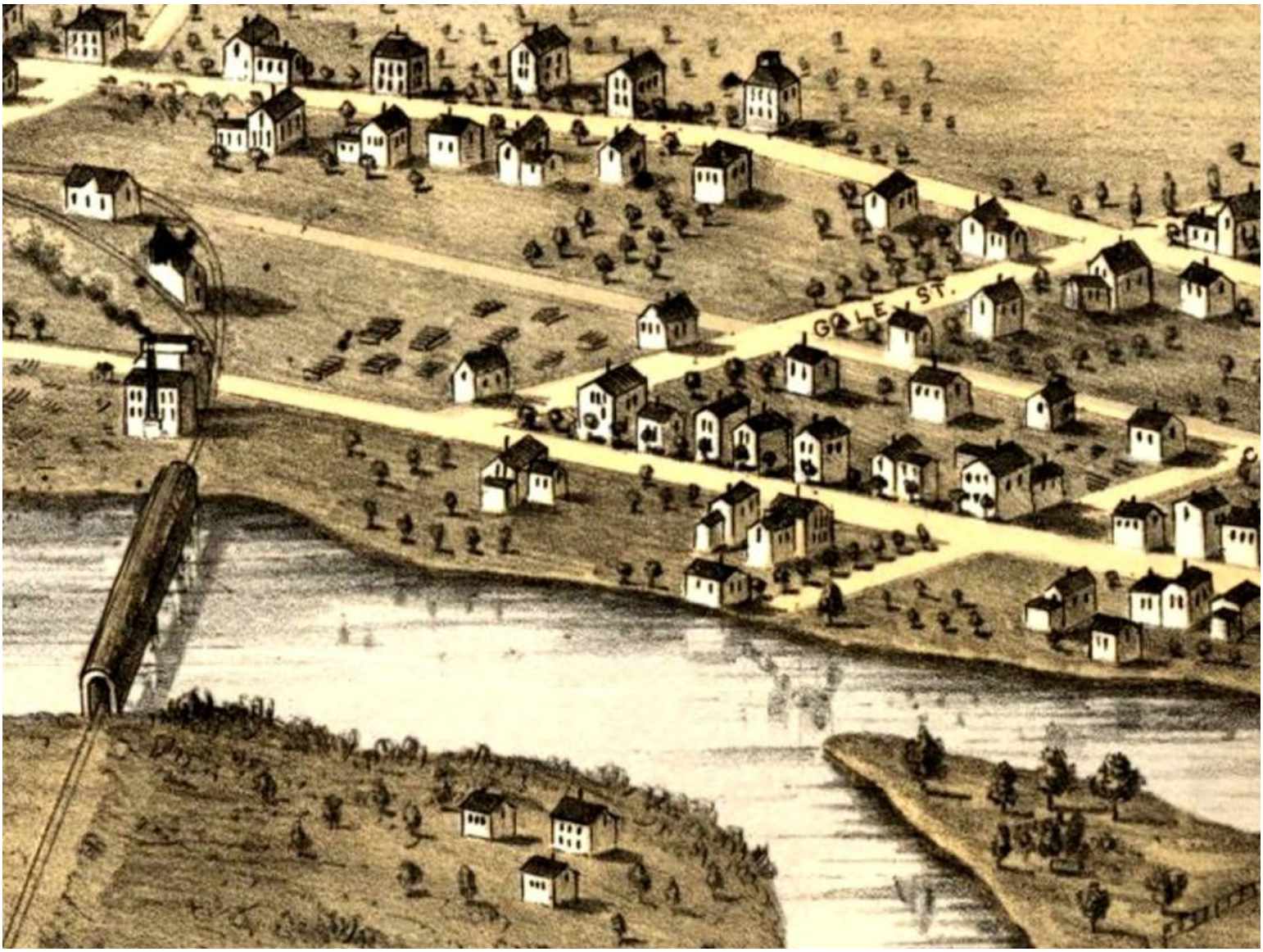

Ruger, A. (artist). Aurora, Illinois. Chicago: Chicago Lithographing Co. Interactive map online.

Perspective map not drawn to scale.
Bird's-eye view.

Reference: LC Panoramic maps (2nd ed.), 136

Ruger map collection ; no. 5.
Call # G4104.A9A3 1867 .R8 Rug 5
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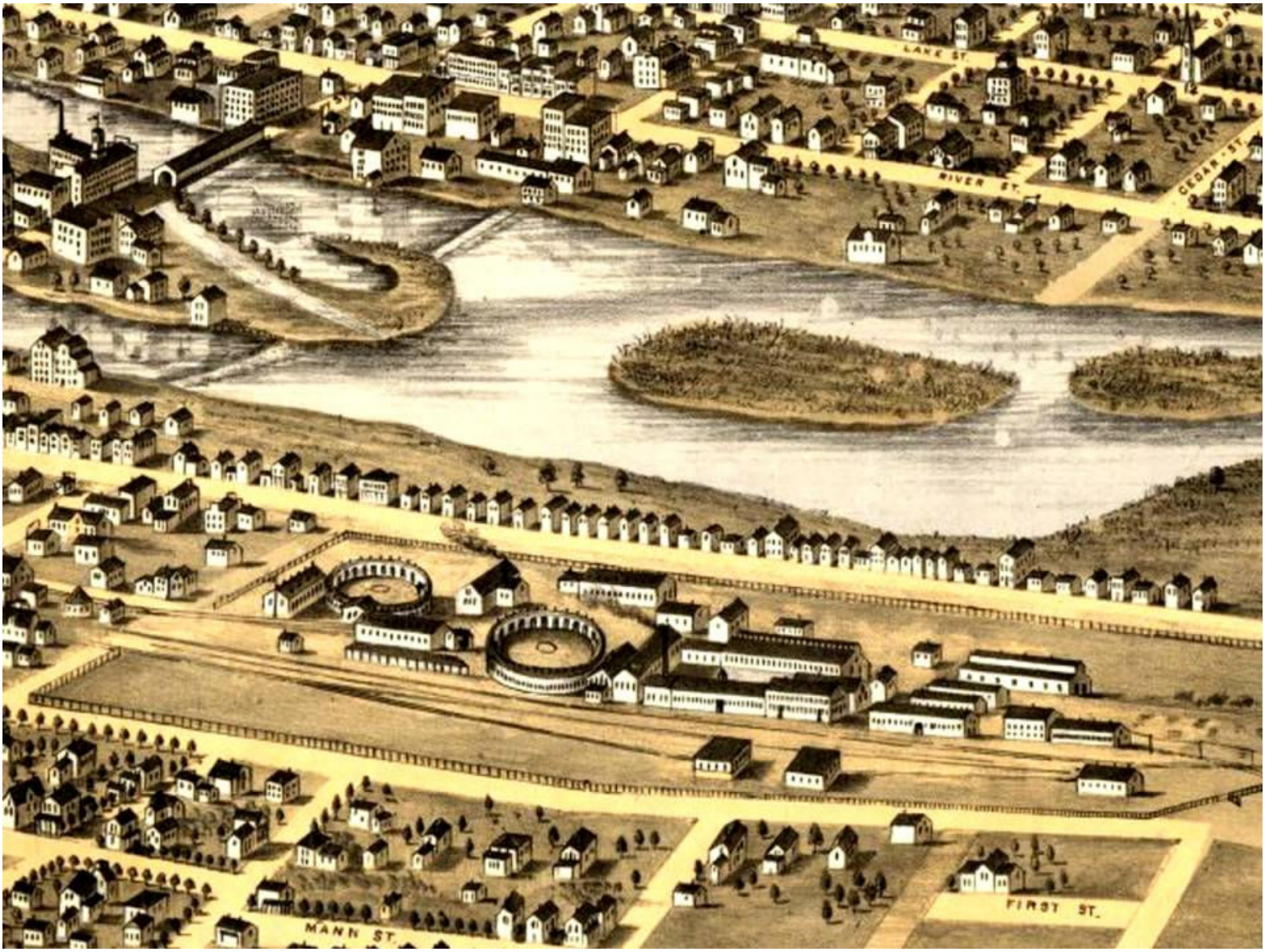

Ruger, A. (artist). Aurora, Illinois. Chicago: Chicago Lithographing Co. Interactive map online.

Perspective map not drawn to scale.
Bird's-eye view.

Reference: LC Panoramic maps (2nd ed.), 136

Ruger map collection ; no. 5.
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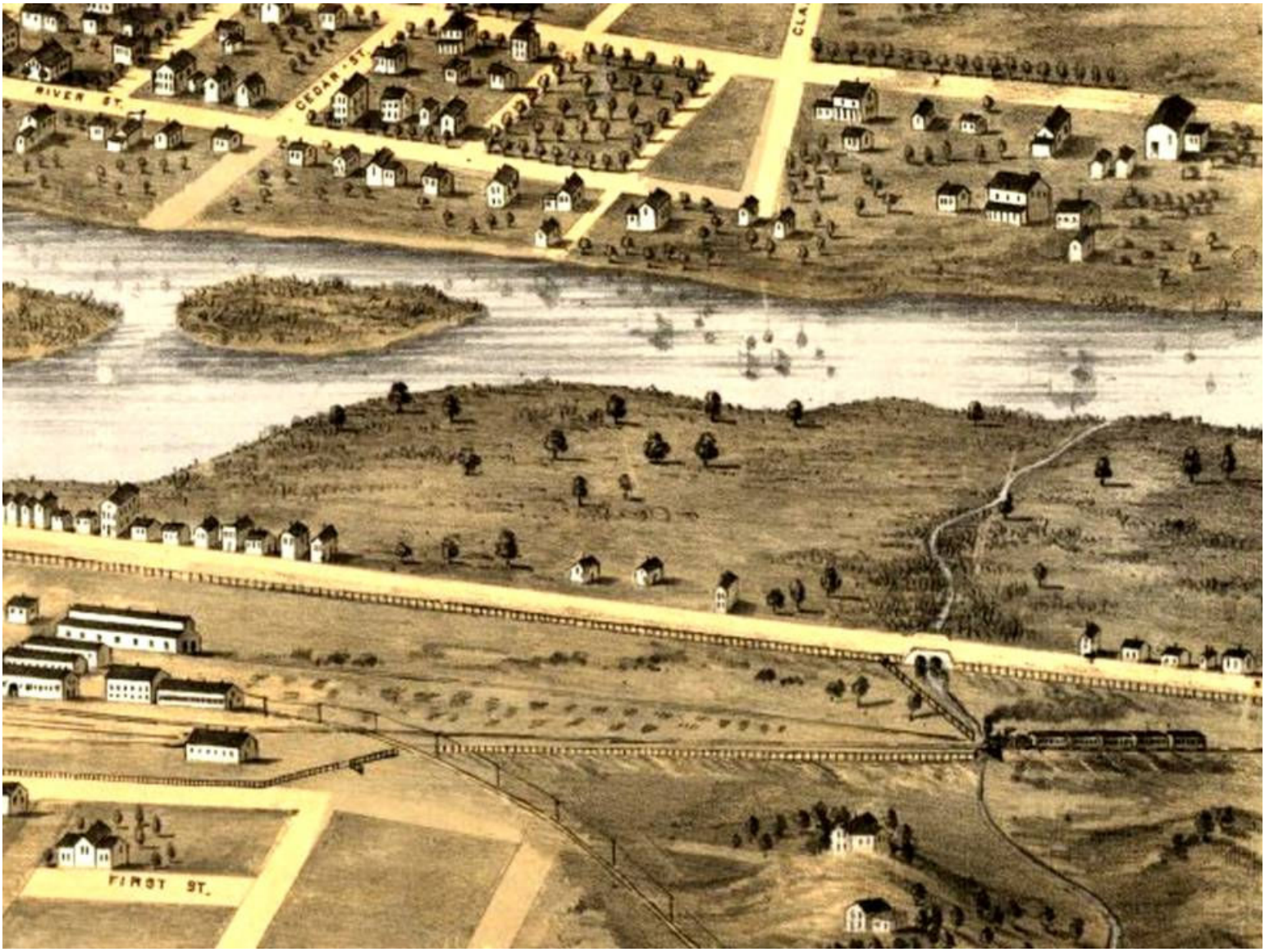

Ruger, A. (artist). Aurora, Illinois. Chicago: Chicago Lithographing Co. Interactive map online.

Perspective map not drawn to scale.
Bird's-eye view.

Reference: LC Panoramic maps (2nd ed.), 136

Ruger map collection ; no. 5.
Call # G4104.A9A3 1867 .R8 Rug 5
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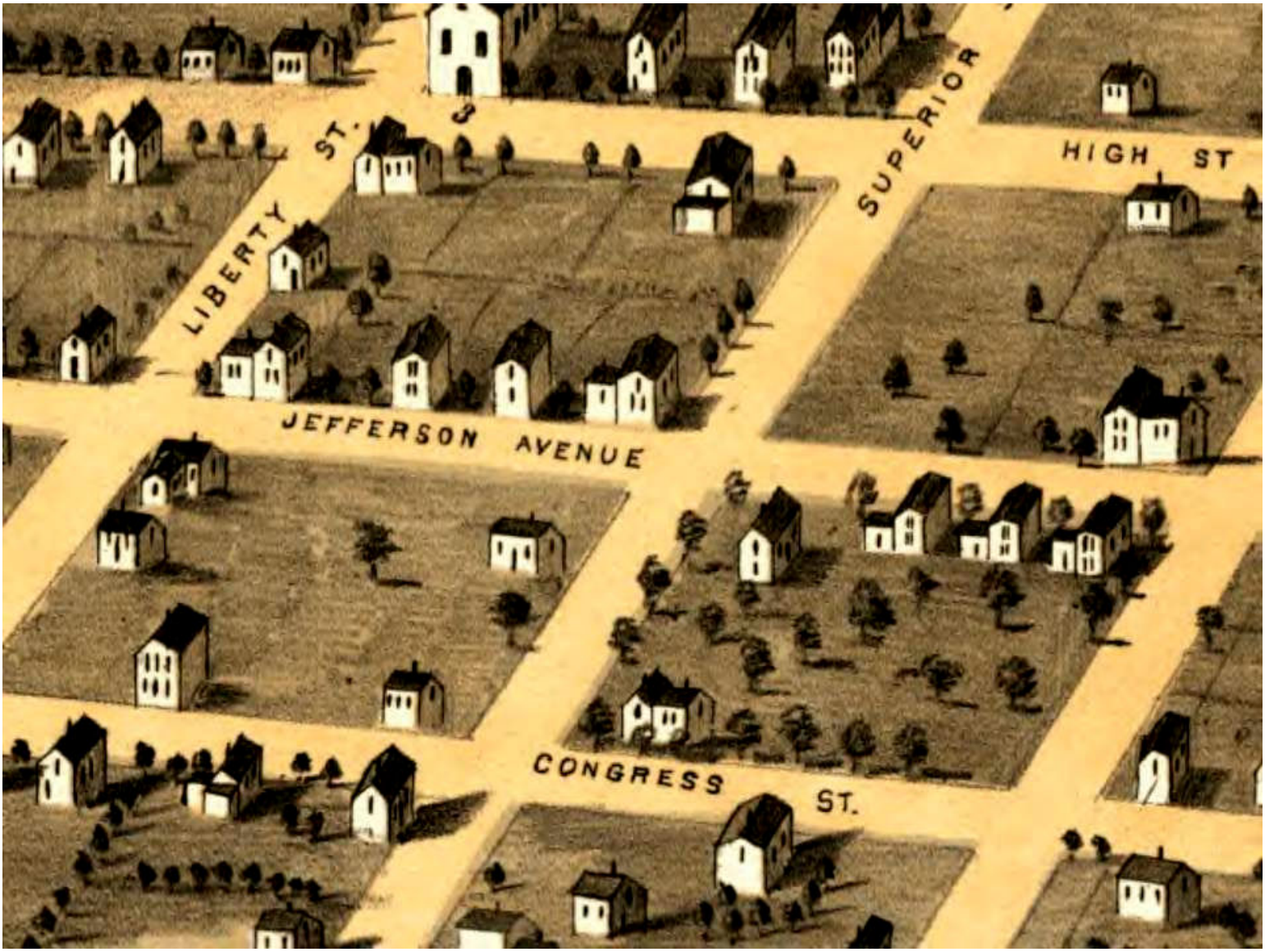

Ruger, A. (artist). Aurora, Illinois. Chicago: Chicago Lithographing Co. Interactive map online.

Perspective map not drawn to scale.
Bird's-eye view.

Reference: LC Panoramic maps (2nd ed.), 136

Ruger map collection ; no. 5.
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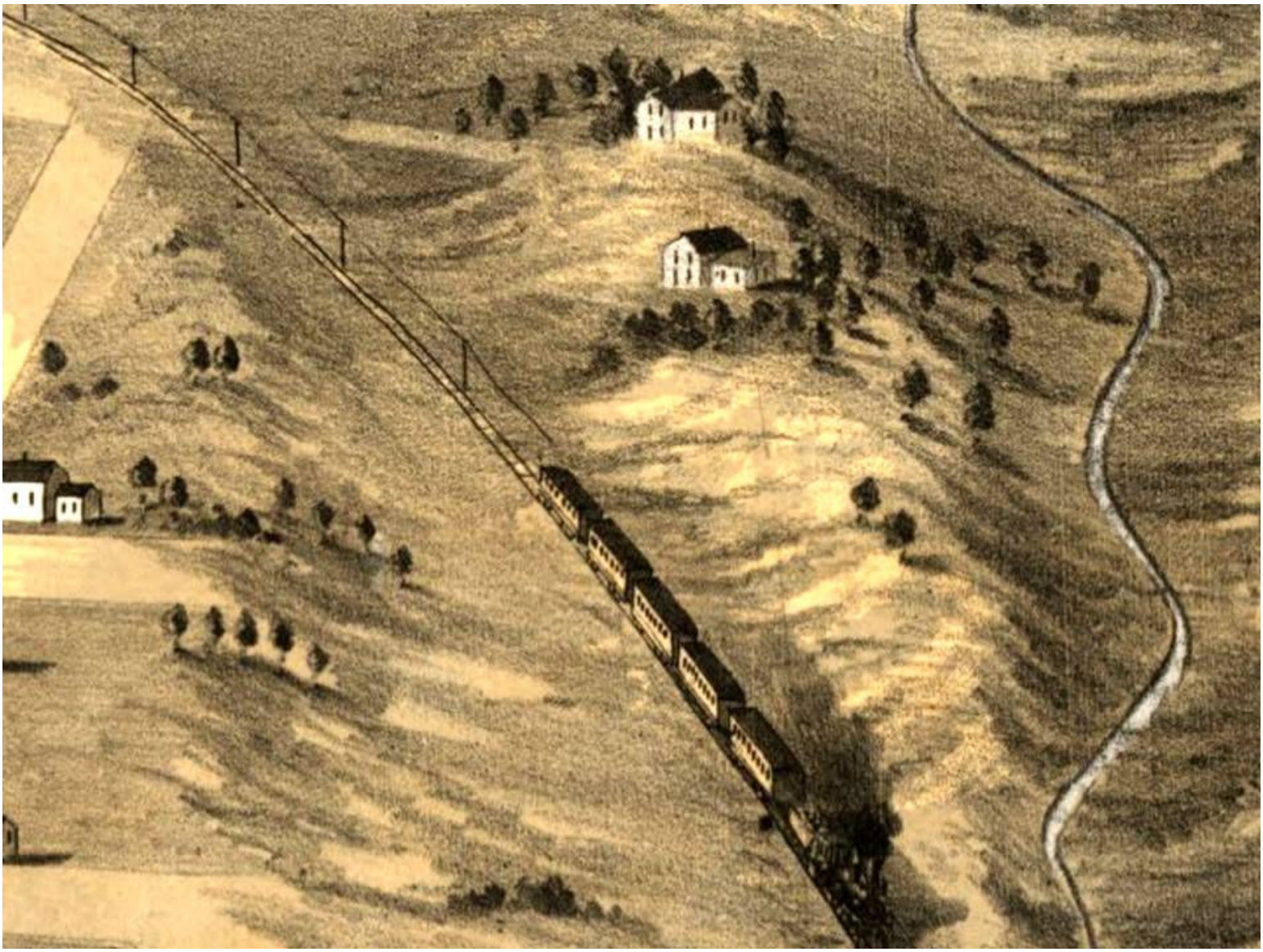

Ruger, A. (artist). Aurora, Illinois. Chicago: Chicago Lithographing Co. Interactive map online.

Perspective map not drawn to scale.
Bird's-eye view.

Reference: LC Panoramic maps (2nd ed.), 136

Ruger map collection ; no. 5.
Call # G4104.A9A3 1867 .R8 Rug 5
Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA
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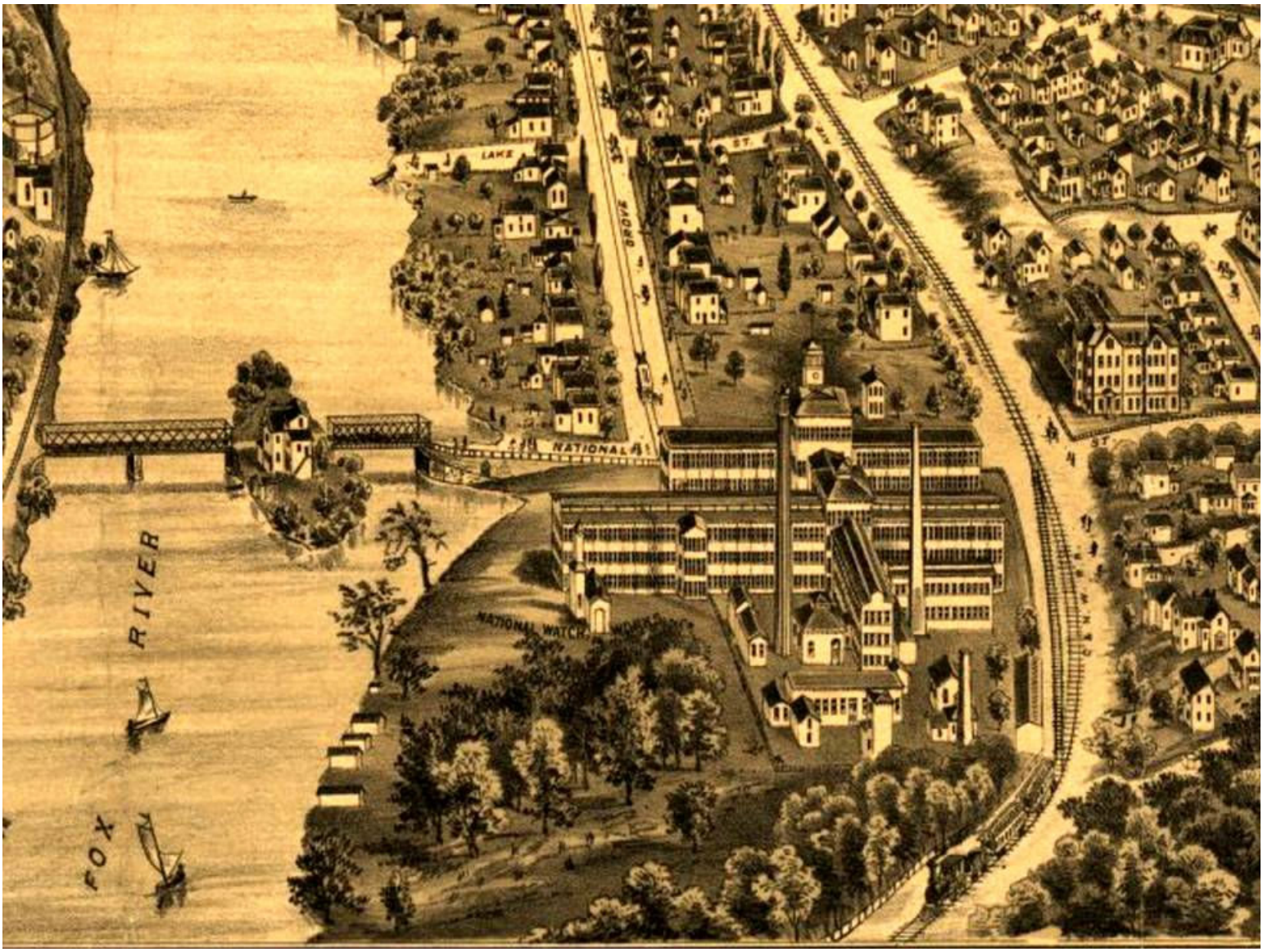
Upham, A.B. (artist). Elgin, Kane Co., Illinois. Chicago: Shober & Carqueville (1880). Interactive map online.

Perspective map not drawn to scale.
Bird's-eye-view.

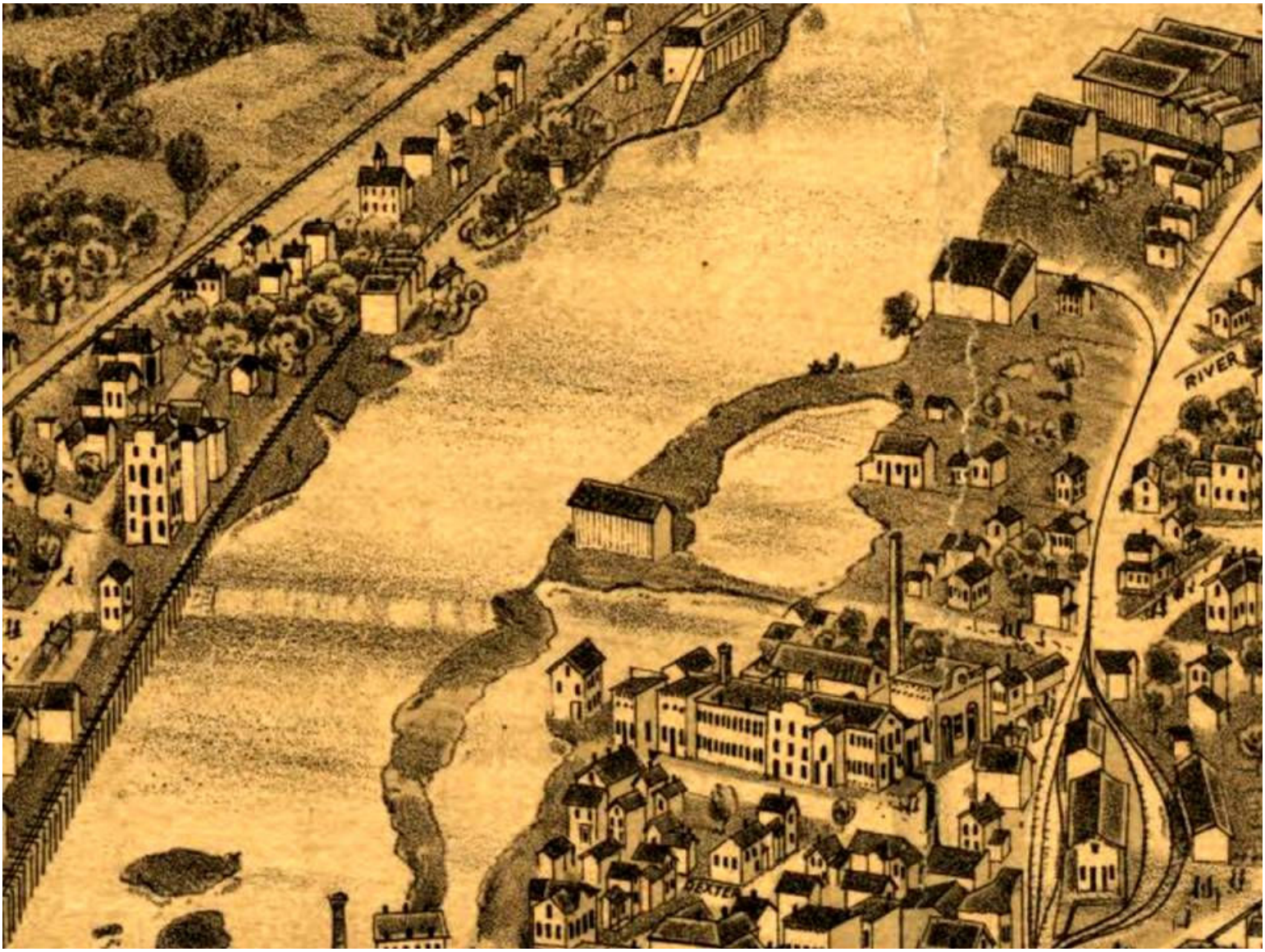
Reference: LC Panoramic maps (2nd ed.), 159



Upham, A.B. (artist). Elgin, Kane Co., Illinois. Chicago: Shober & Carqueville (1880). Interactive map online.

Perspective map not drawn to scale.
Bird's-eye-view.

Reference: LC Panoramic maps (2nd ed.), 159



Upham, A.B. (artist). Elgin, Kane Co., Illinois. Chicago: Shober & Carqueville (1880). Interactive map online.

Perspective map not drawn to scale.
Bird's-eye-view.

Reference: LC Panoramic maps (2nd ed.), 159

Call #G4104.E5A3 1880 .U6
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Upham, A.B. (artist). Elgin, Kane Co., Illinois. Chicago: Shober & Carqueville (1880). Interactive map online.

Perspective map not drawn to scale.
Bird's-eye-view.

Reference: LC Panoramic maps (2nd ed.), 159

Call #G4104.E5A3 1880 .U6
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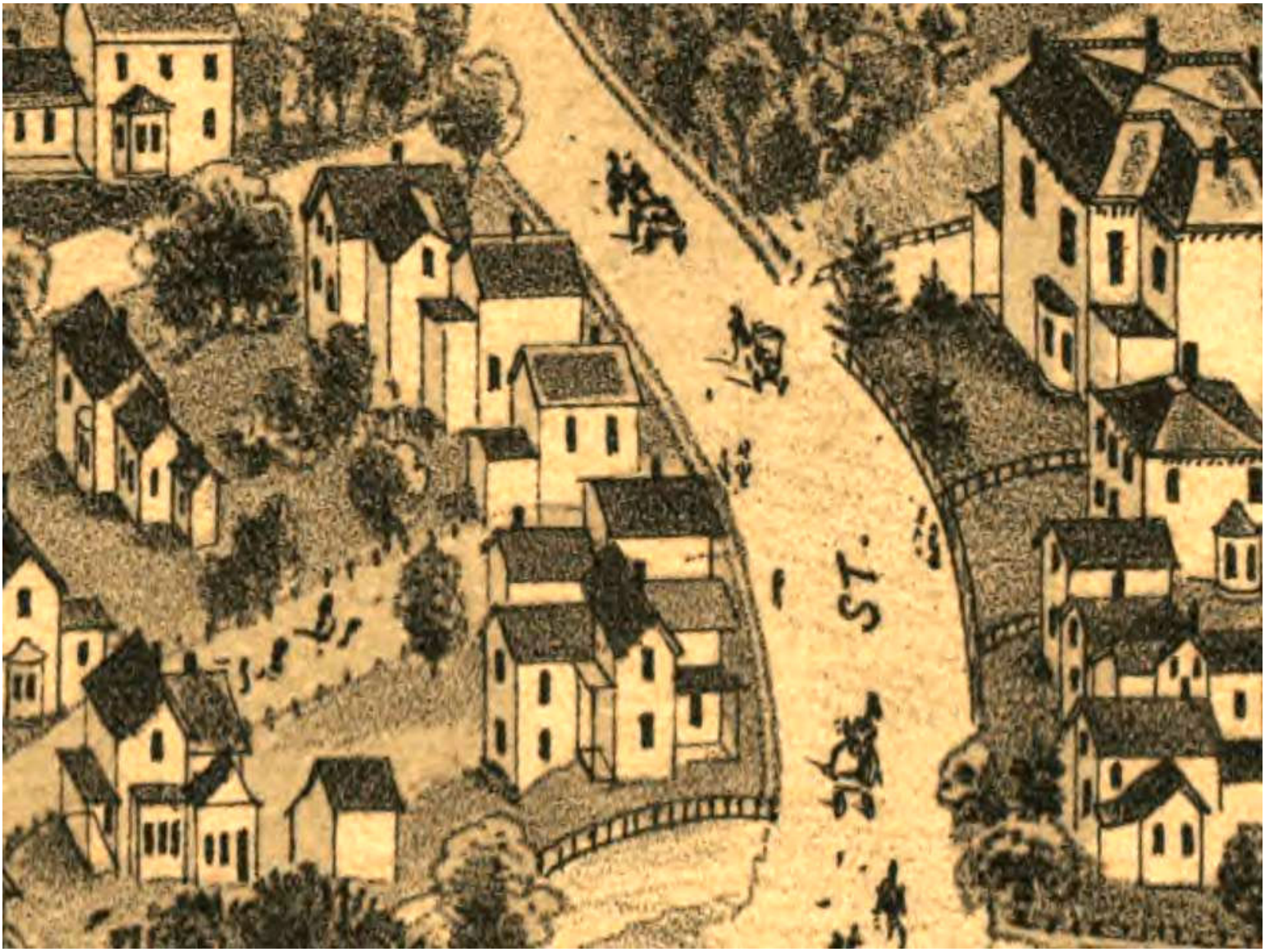

Upham, A.B. (artist). Elgin, Kane Co., Illinois. Chicago: Shober & Carqueville (1880). Interactive map online.

Perspective map not drawn to scale.
Bird's-eye-view.

Reference: LC Panoramic maps (2nd ed.), 159

Call #G4104.E5A3 1880 .U6
Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA
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Smith, J.W. (artist). Birds eye view of Mattoon, Illinois. Chicago: Shober & Carqueville (1884). Interactive map online.

Perspective map not drawn to scale.

Reference: LC Panoramic maps (2nd ed.), 167.1

Call # G4104.M4A3 1884 .S5 Vault
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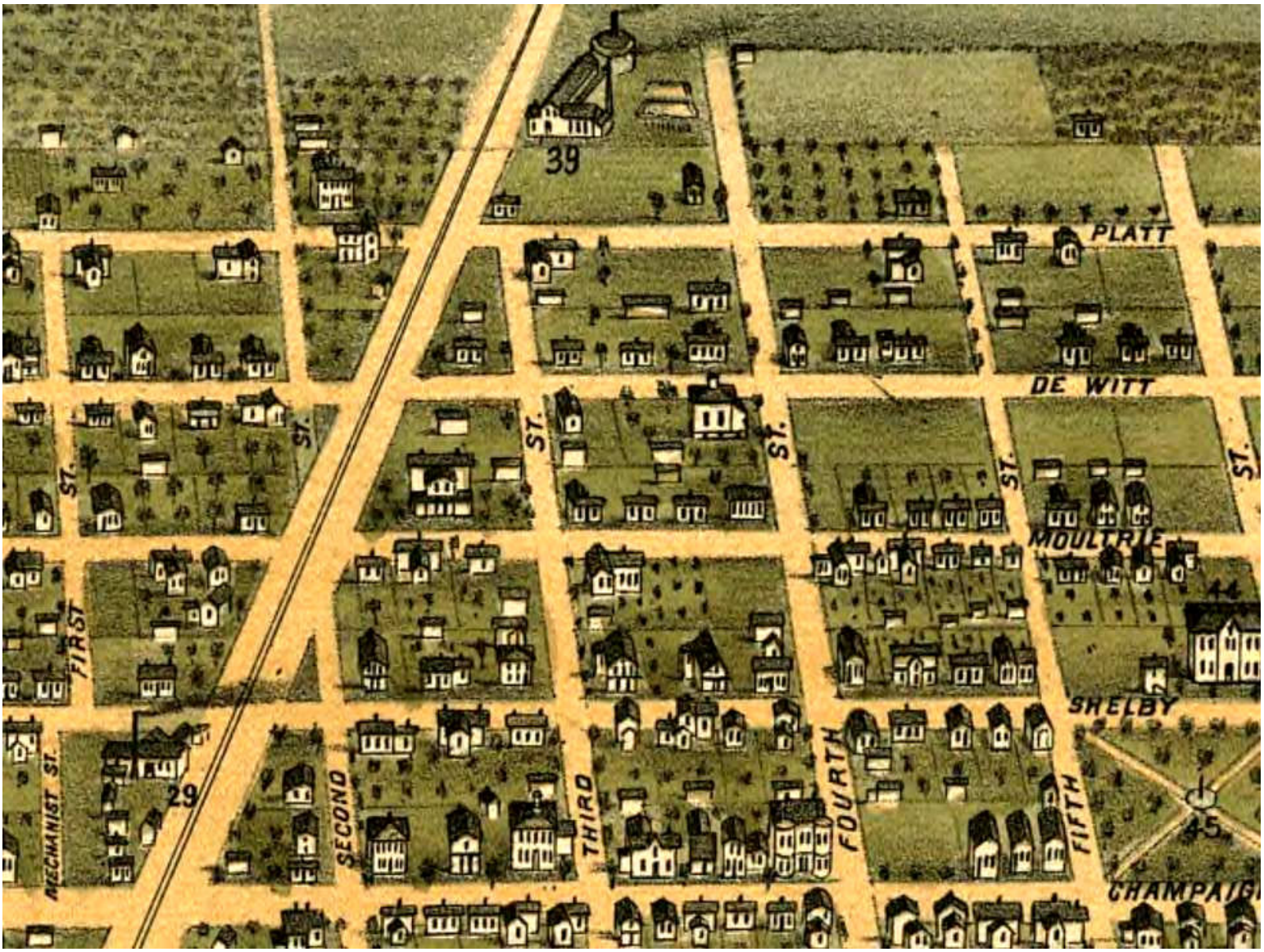

Smith, J.W. (artist). Birds eye view of Mattoon, Illinois. Chicago: Shober & Carqueville (1884). Interactive map online.

Perspective map not drawn to scale.

Reference: LC Panoramic maps (2nd ed.), 167.1

Call # G4104.M4A3 1884 .S5 Vault
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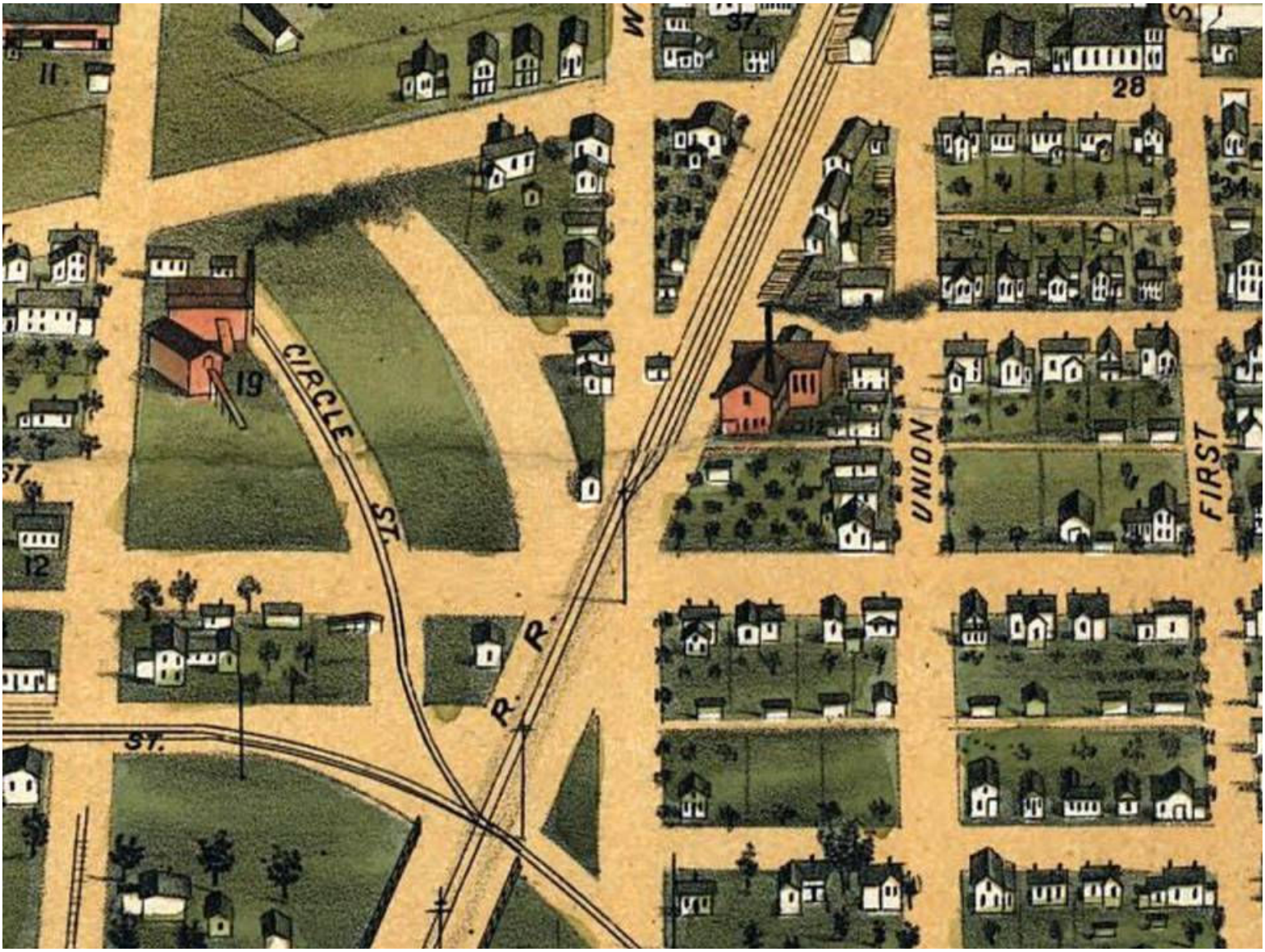

Smith, J.W. (artist). Birds eye view of Mattoon, Illinois. Chicago: Shober & Carqueville (1884). Interactive map online.

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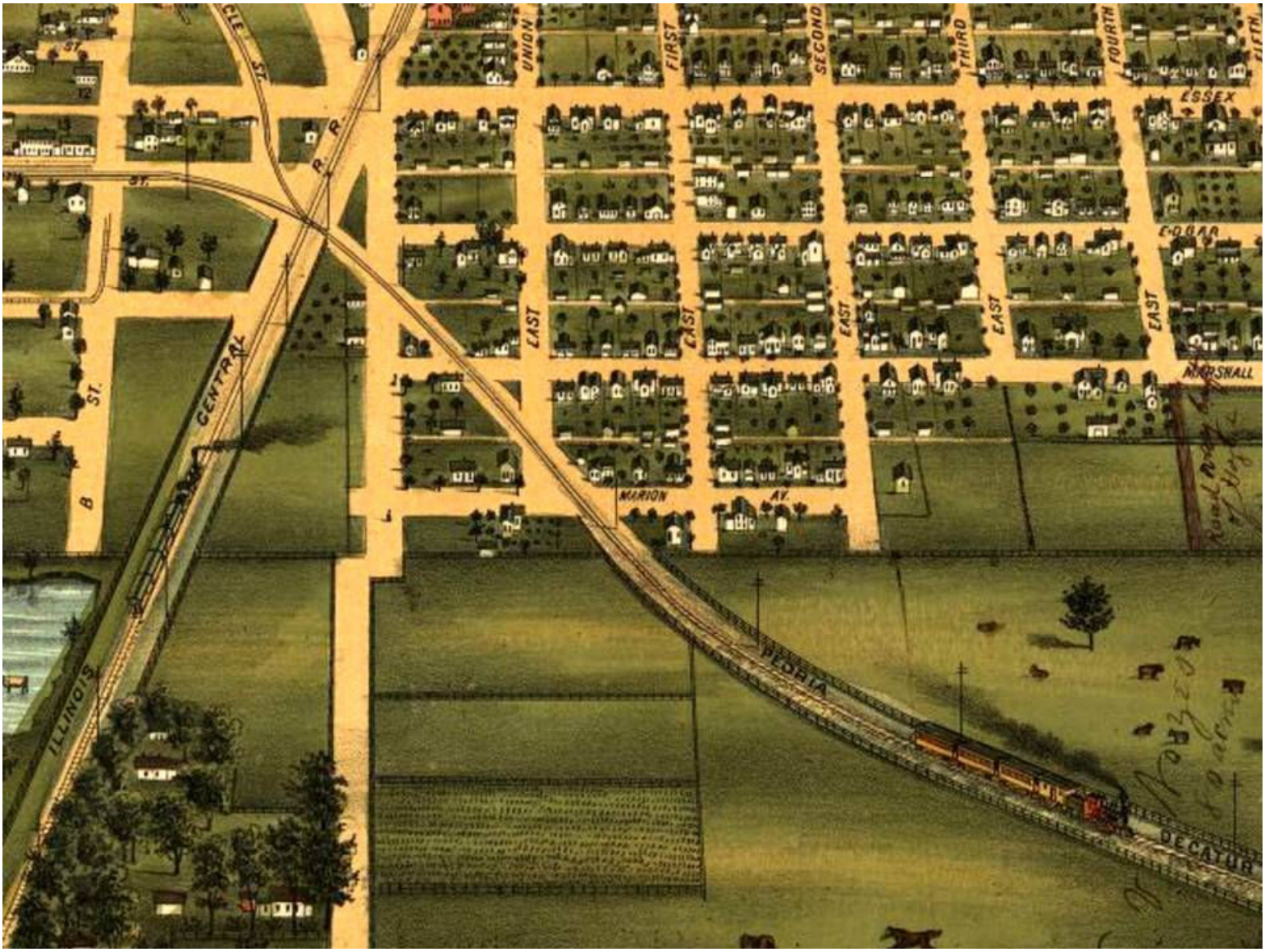

Smith, J.W. (artist). Birds eye view of Mattoon, Illinois. Chicago: Shober & Carqueville (1884). Interactive map online.

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Reference: LC Panoramic maps (2nd ed.), 167.1

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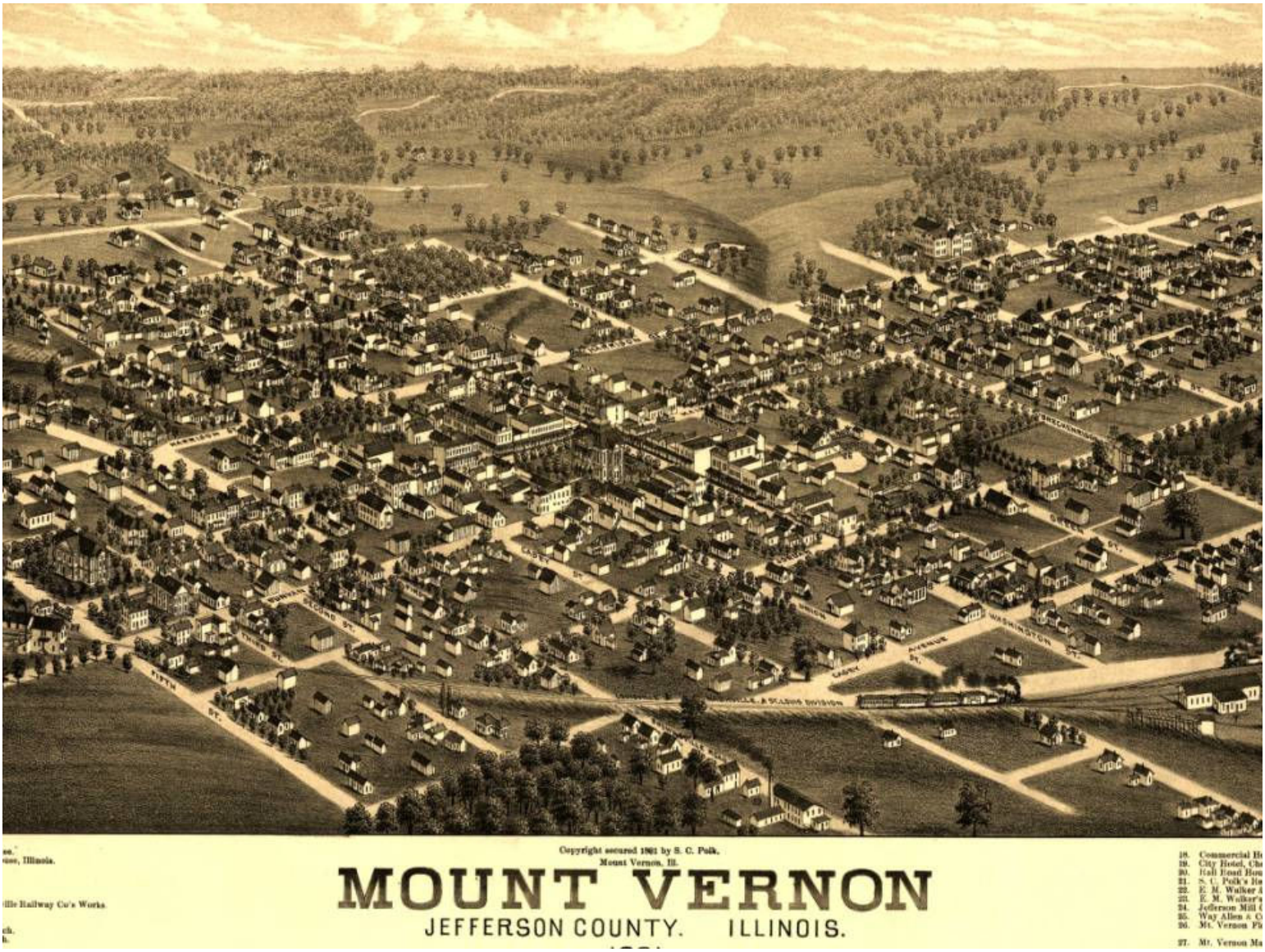

Brosius, H. Mount Vernon, Jefferson County, Illinois 1881, birdseye view. Mount Vernon (IL): S.C. Polk (1881). Beck & Pauli (lithographers). Madison (WI): J.J. Stoner (publisher) (1881).

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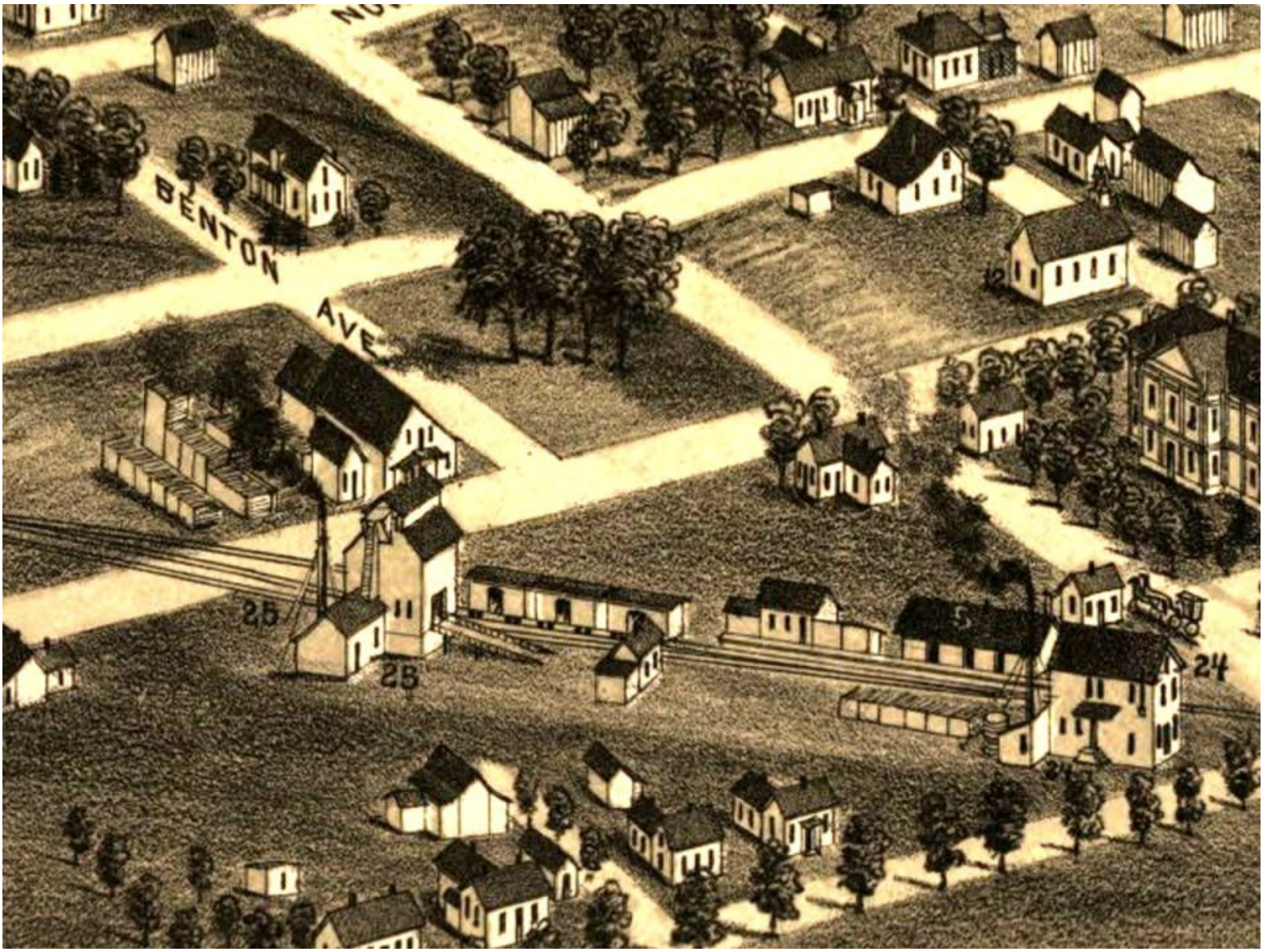

Brosius, H. Mount Vernon, Jefferson County, Illinois 1881, birdseye view. Mount Vernon (IL): S.C. Polk (1881). Beck & Pauli (lithographers). Madison (WI): J.J. Stoner (publisher) (1881).

Call #G4104.M9A3 1881 .B7.
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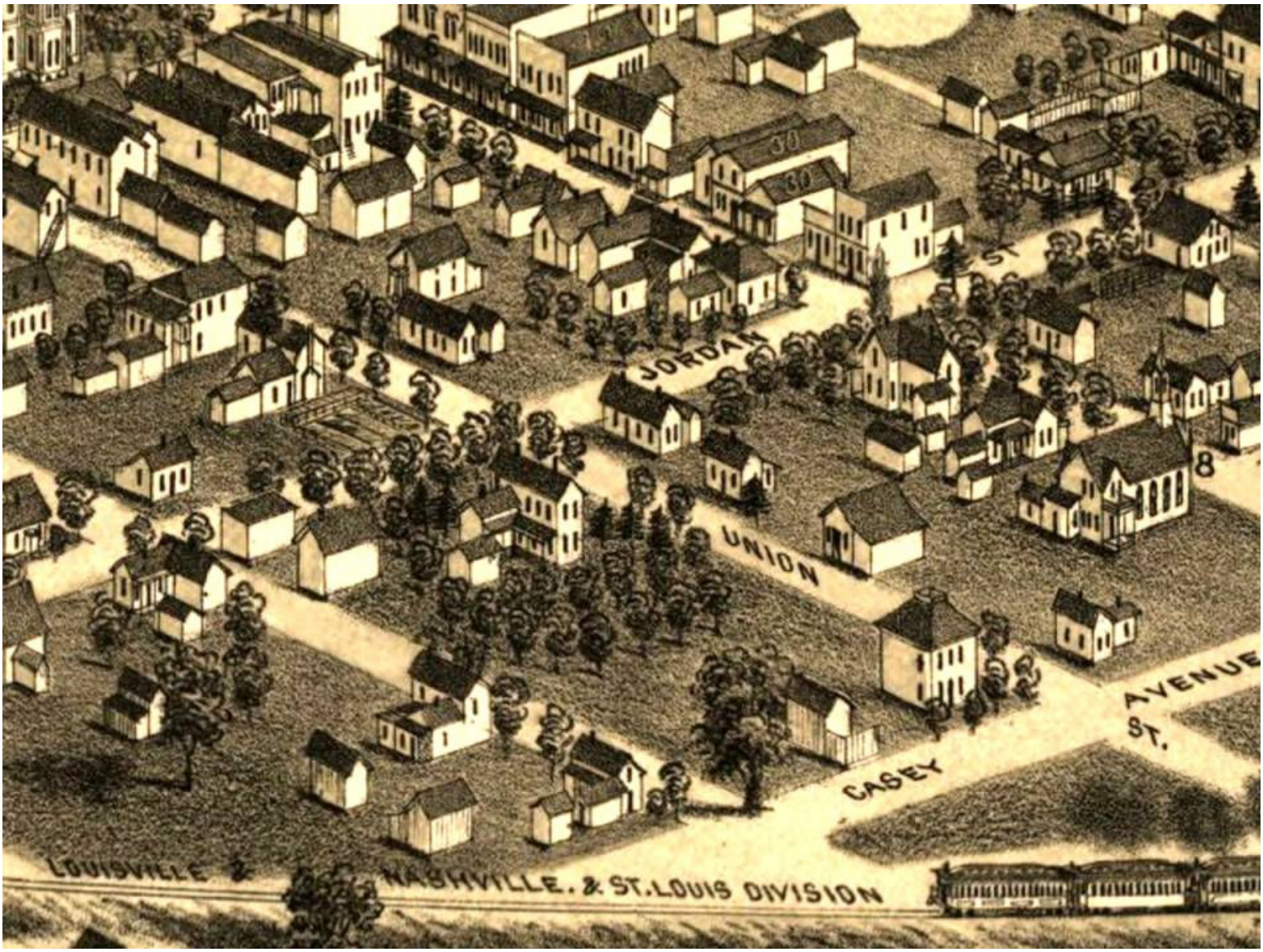

Brosius, H. Mount Vernon, Jefferson County, Illinois 1881, birdseye view. Mount Vernon (IL): S.C. Polk (1881). Beck & Pauli (lithographers). Madison (WI): J.J. Stoner (publisher) (1881).

Call #G4104.M9A3 1881 .B7.
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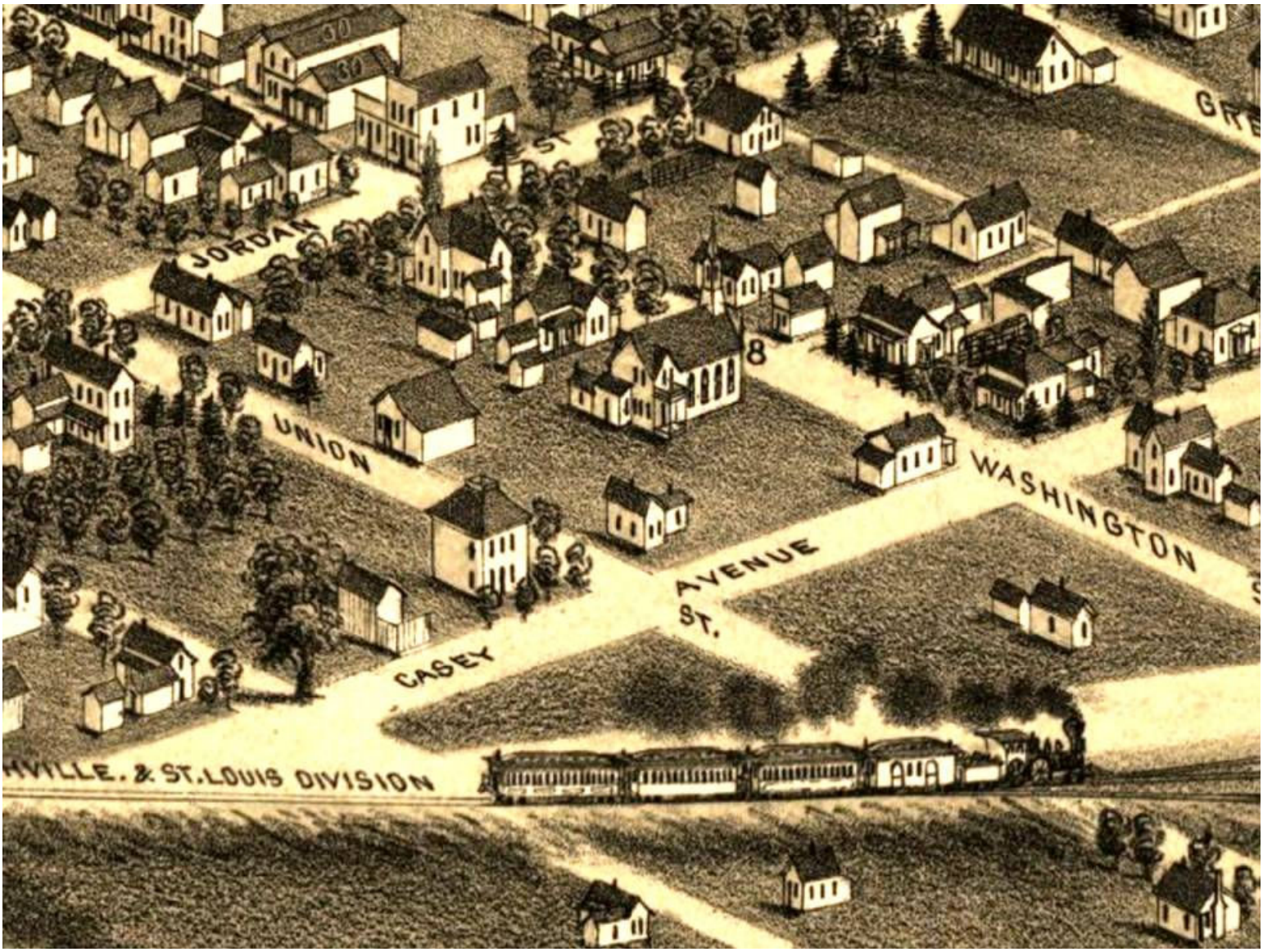

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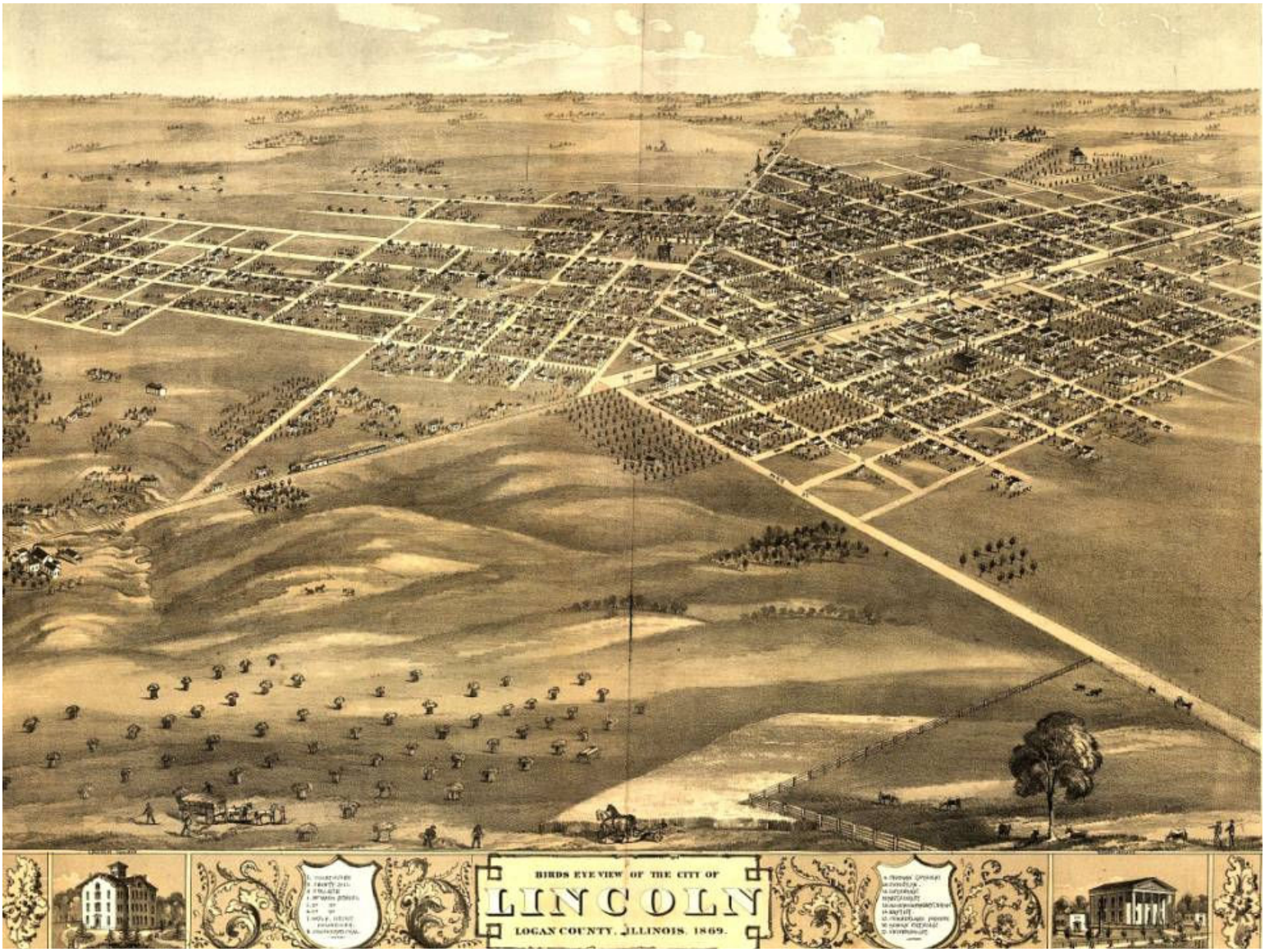

Ruger, A. Birds eye view of the city of Lincoln, Logan County, Illinois 1869. Merchants Lithographing Co. Madison (WI): Ruger & Stoner (1869).

Call #G4104.L6A3 1869 .R8 Rug 21.
Library of Congress Geography and Map Division Washington, D.C. 20540-4650 USA
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Ruger, A. Birds eye view of the city of Lincoln, Logan County, Illinois 1869. Merchants Lithographing Co. Madison (WI): Ruger & Stoner (1869).

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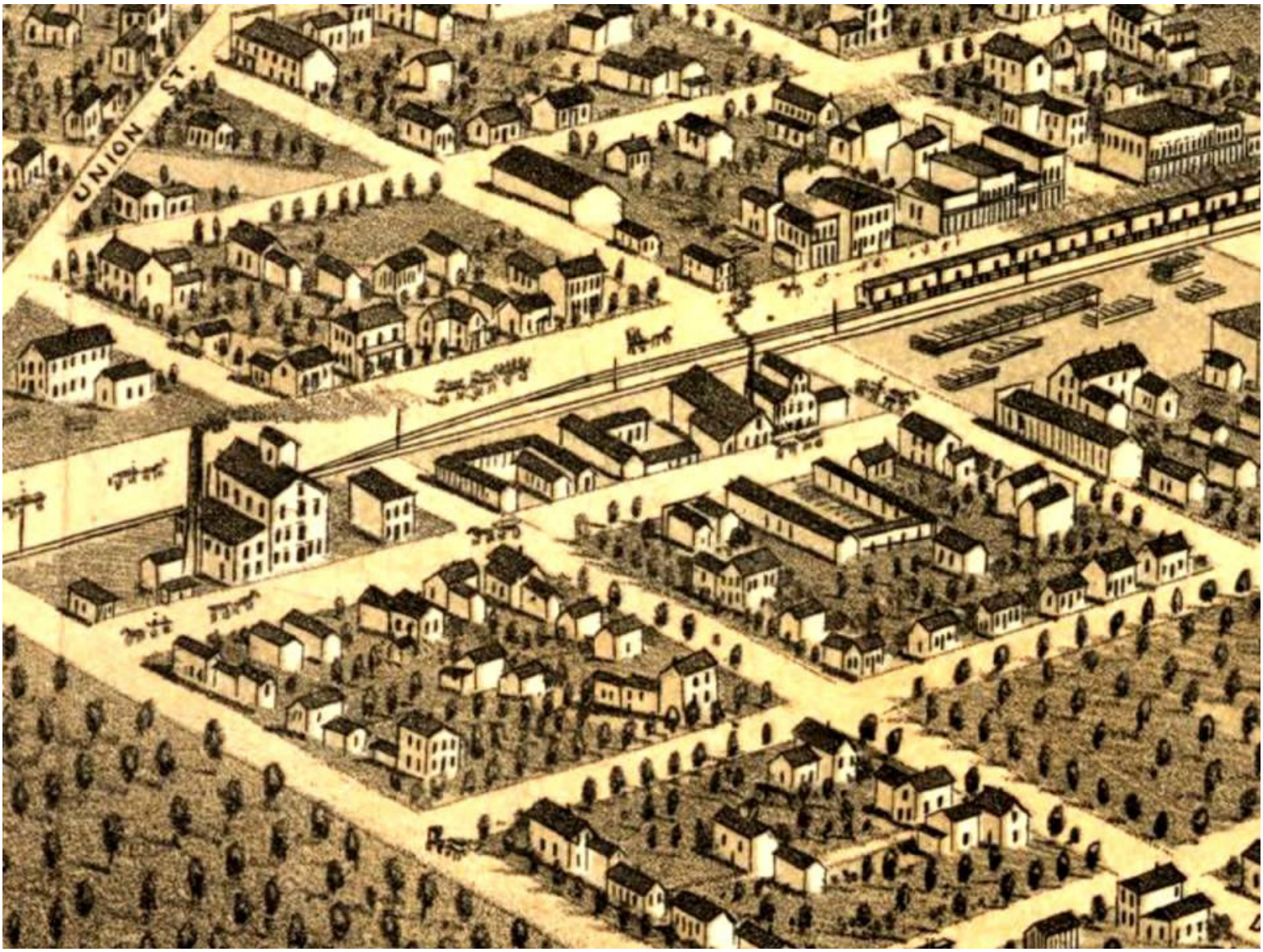

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Call #G4104.L6A3 1869 .R8 Rug 21.
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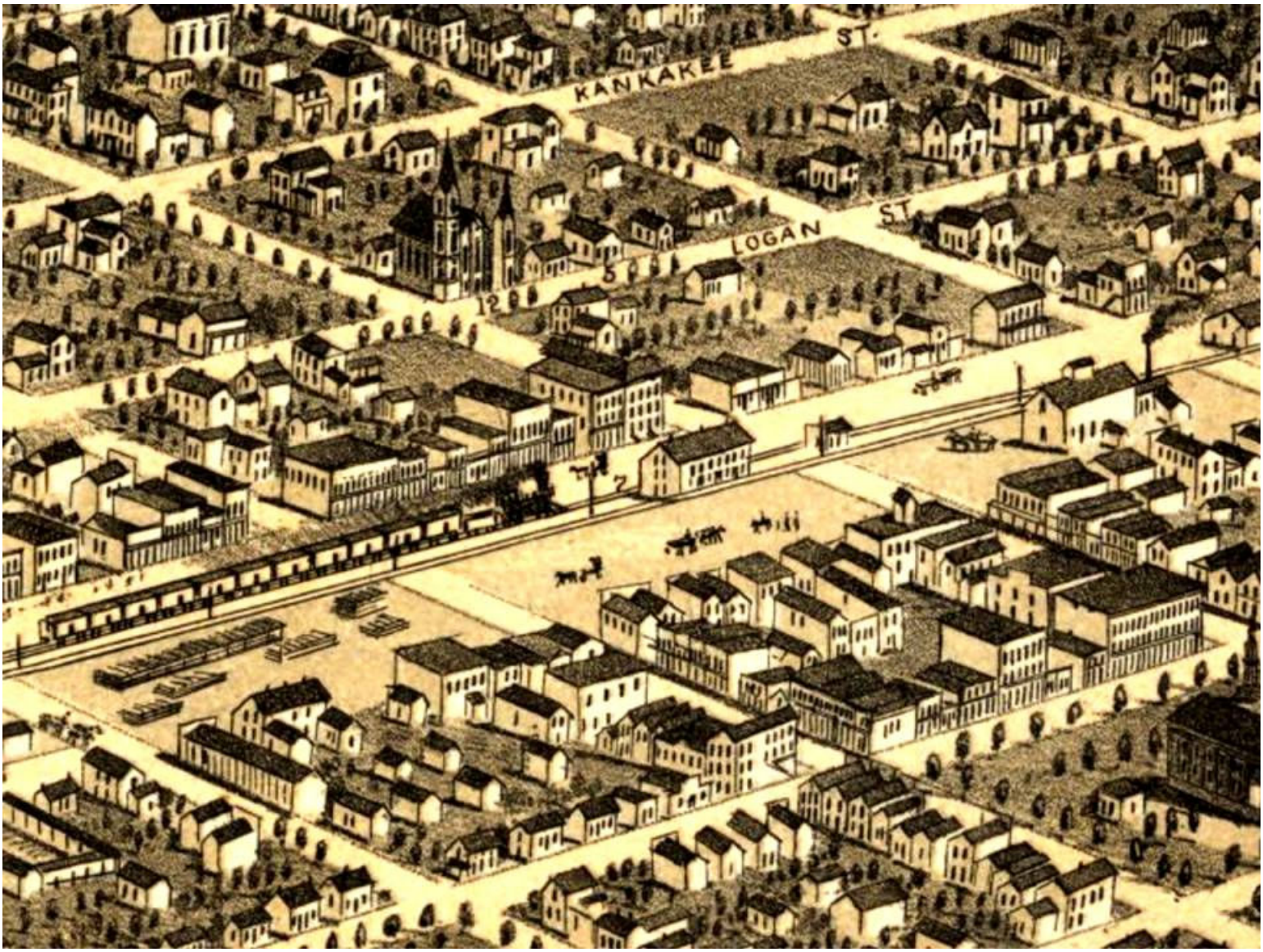

Ruger, A. Birds eye view of the city of Lincoln, Logan County, Illinois 1869. Merchants Lithographing Co. Madison (WI): Ruger & Stoner (1869).

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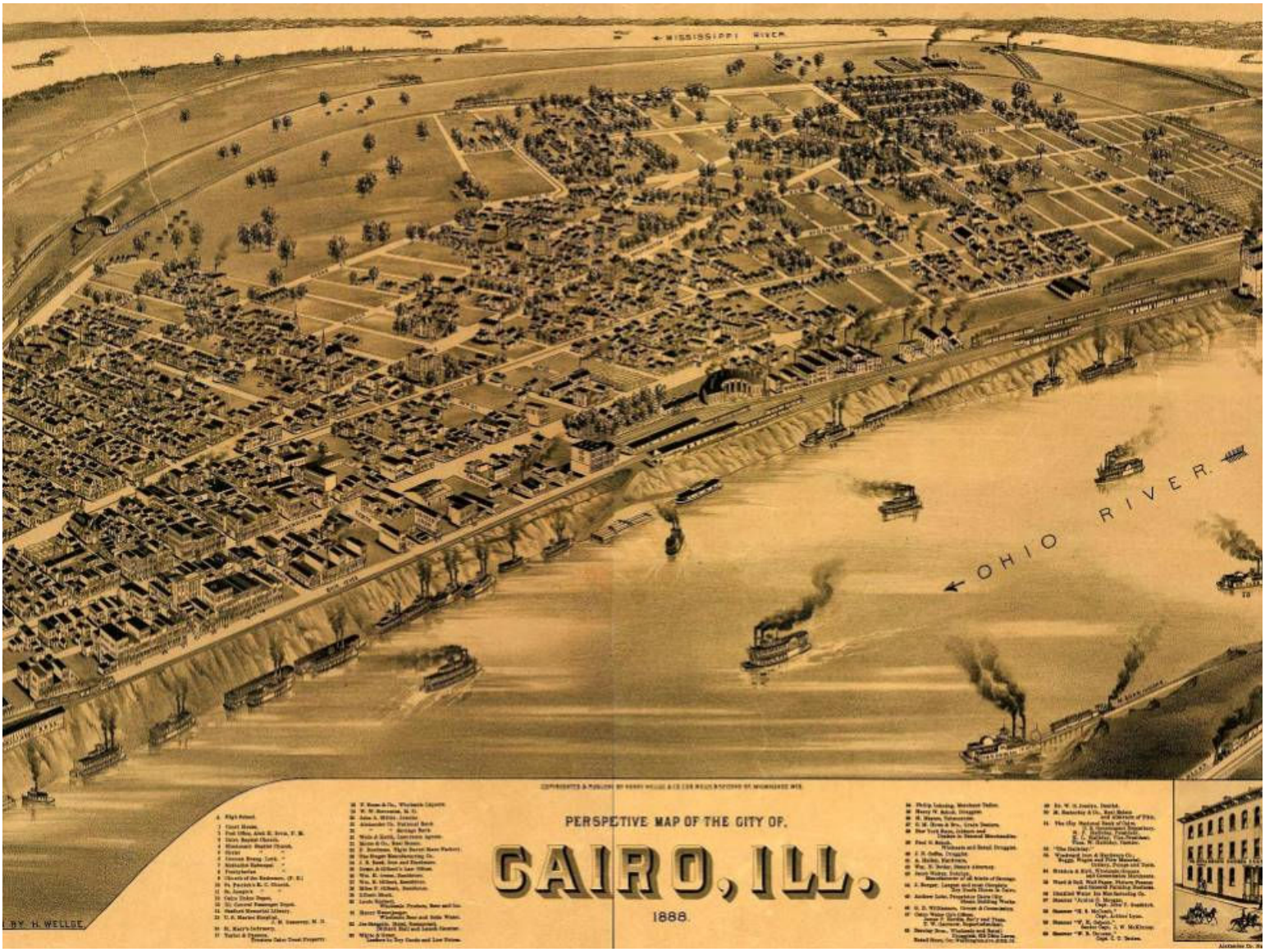

Wellge, Henry (cartographer). Perspective map of the city of Cairo, Ill. 1888, birdseye view. Milwaukee (WI) Henry Wellge & Co. (1888). Beck & Pauli (lithographers).

Reference: LC Panoramic maps (2nd ed.), 142

Call #G4104.C15A3 1888 .W4.
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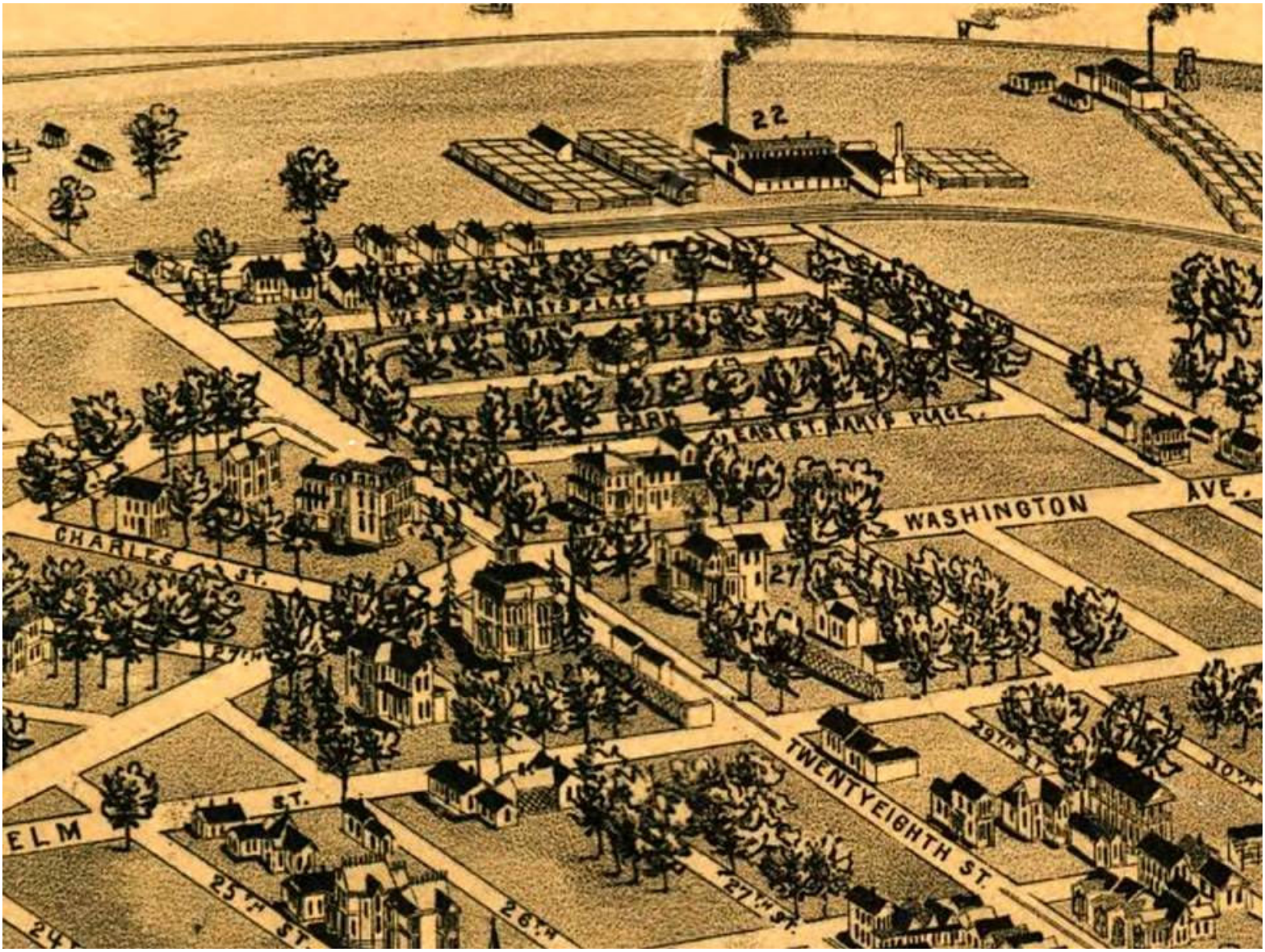

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Reference: LC Panoramic maps (2nd ed.), 142

Call #G4104.C15A3 1888 .W4.
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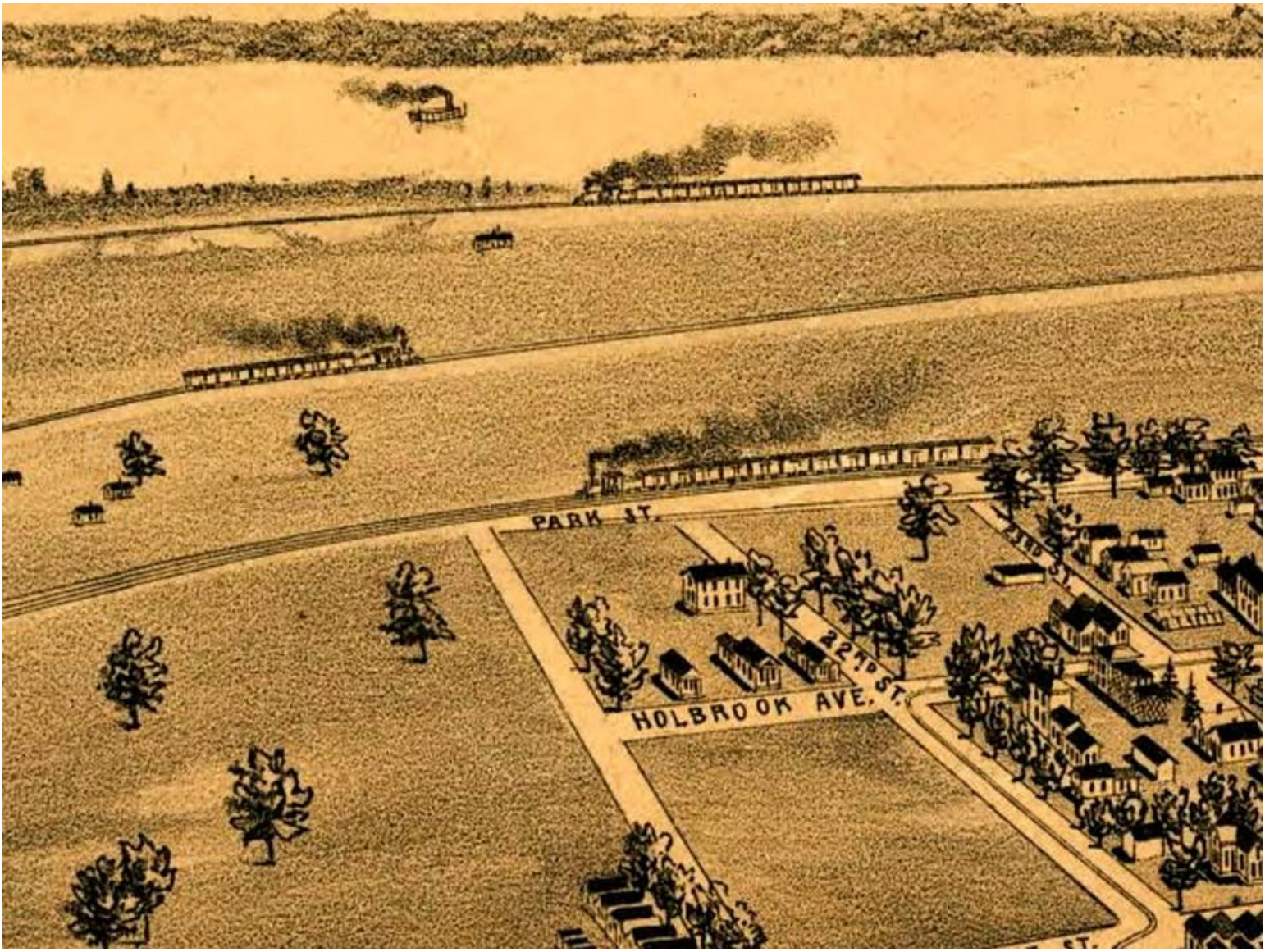

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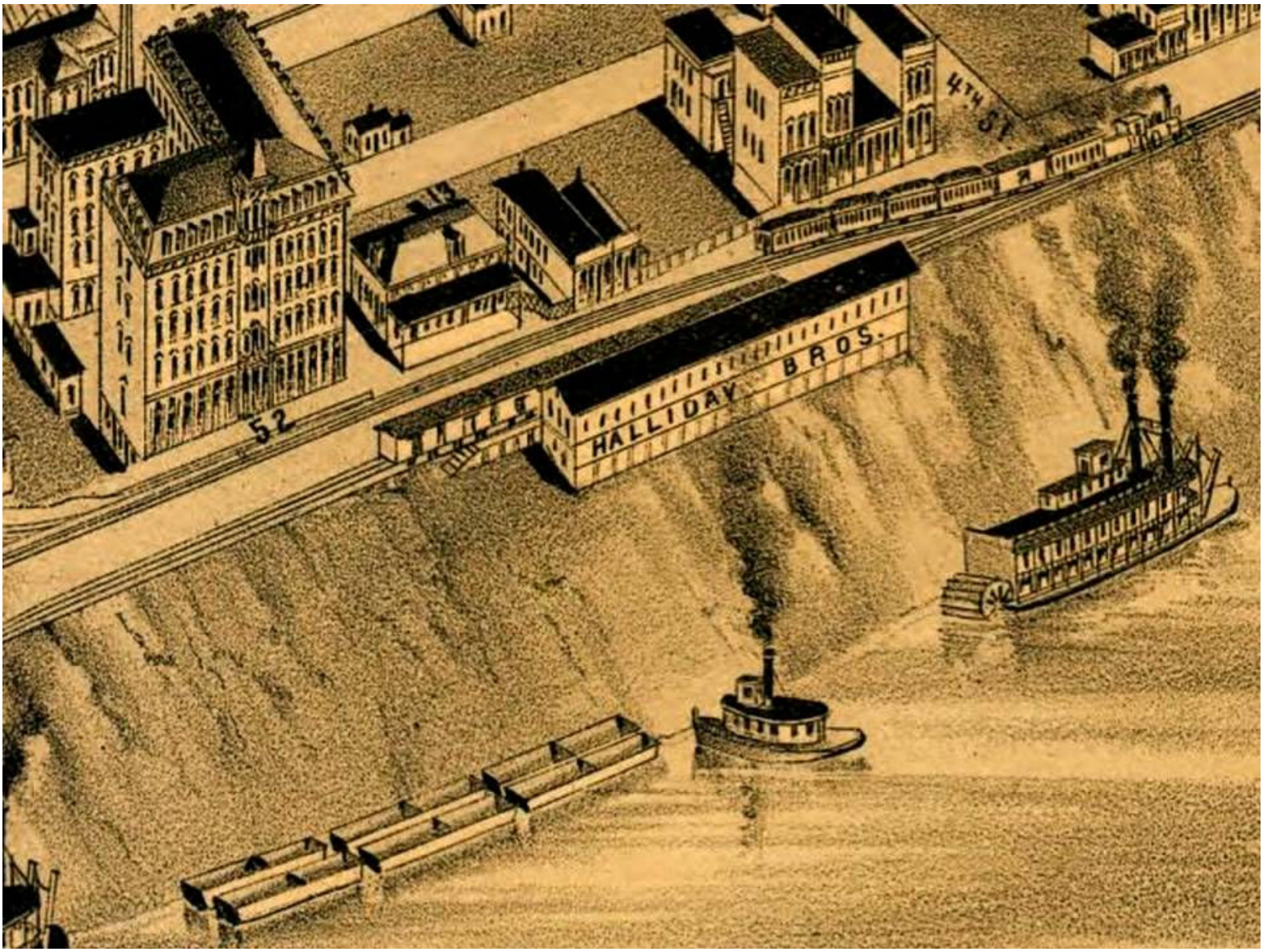

Wellge, Henry (cartographer). Perspective map of the city of Cairo, Ill. 1888, birdseye view. Milwaukee (WI) Henry Wellge & Co. (1888). Beck & Pauli (lithographers).

Reference: LC Panoramic maps (2nd ed.), 142

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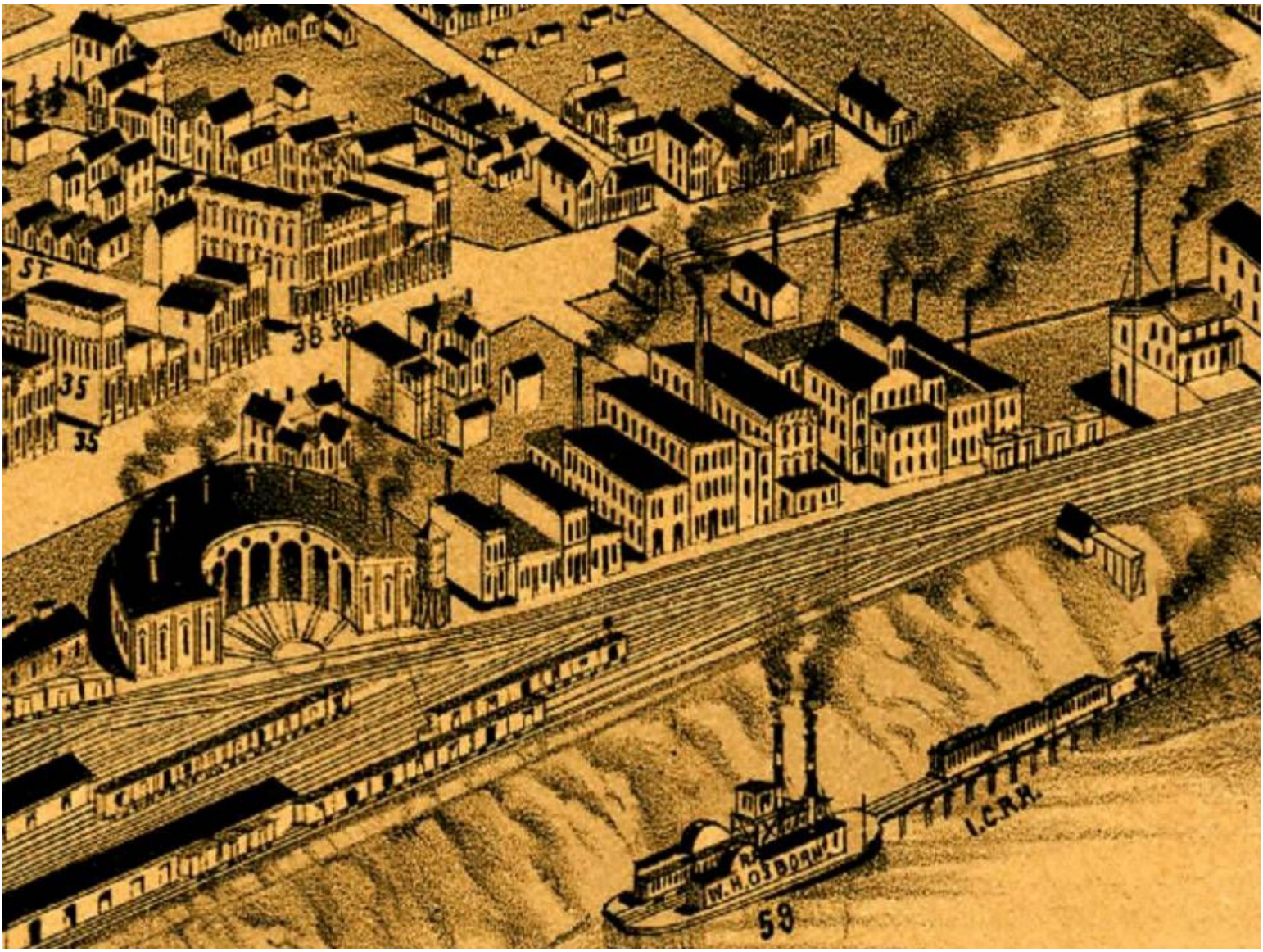

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Reference: LC Panoramic maps (2nd ed.), 142

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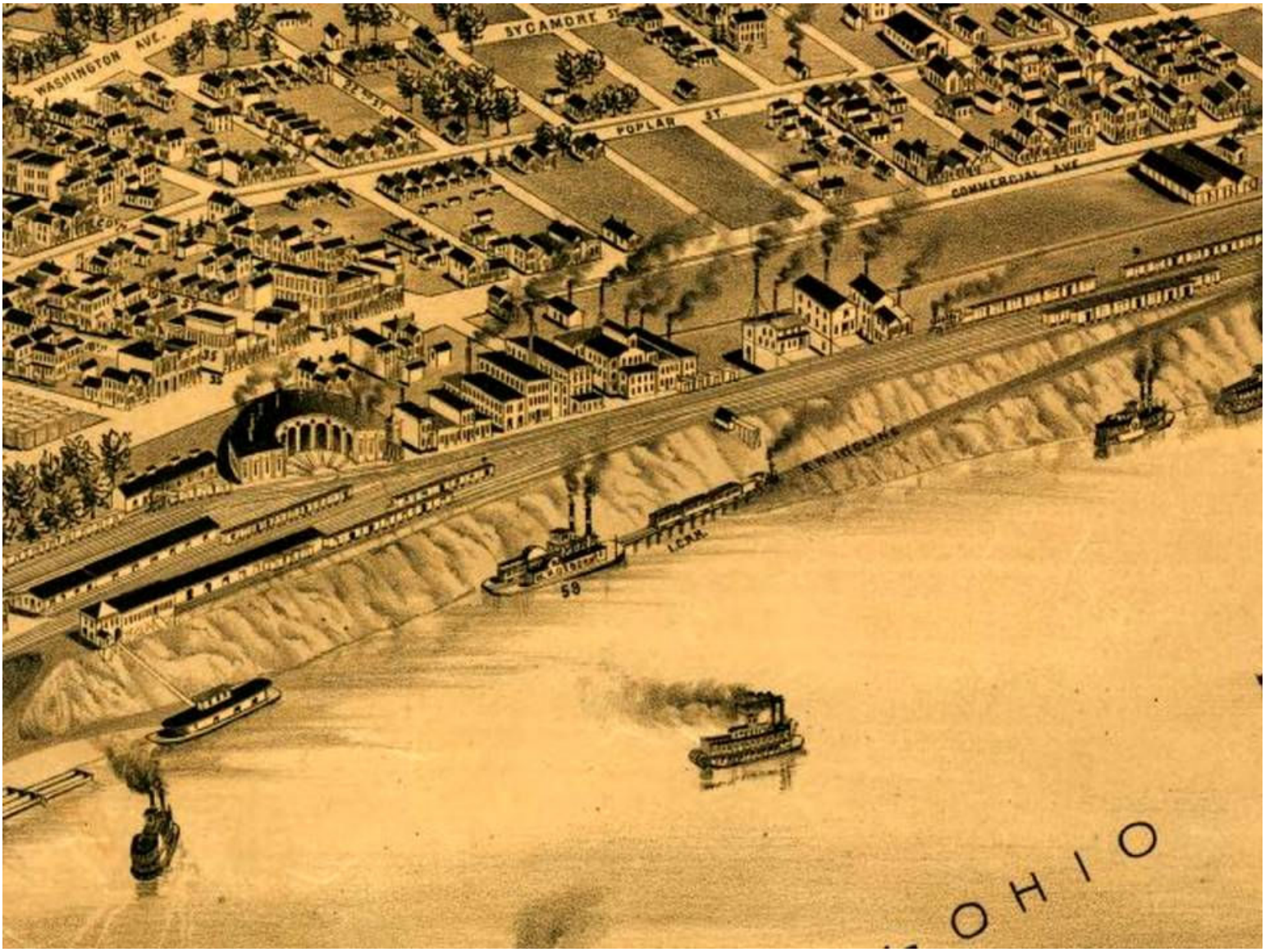

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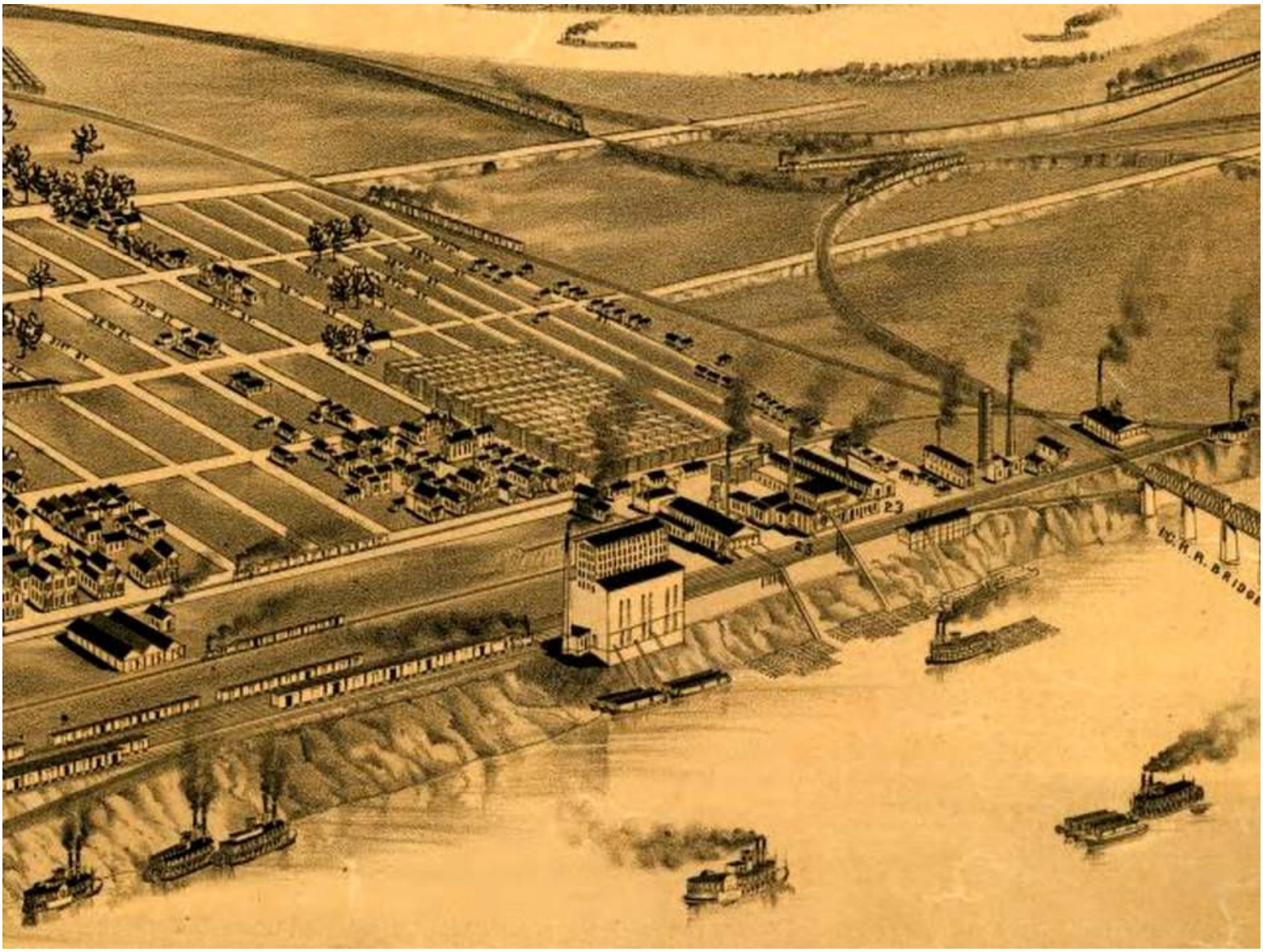

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