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Letter from the Secretary of the Treasury, transmitting a communication from the Commissioner of the General Land Office, and accompanying papers, in answer to a resolution of the House of Representatives of the 31st of July, 1848, on the subject of a tract of land on the north side of the road between Prairie du Rocher and Kaskaskia, in the State of Illinois

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Ex. Doc. No. 8.

HOUSE OF REPRESENTATIVES.

A TRACT OF LAND IN ILLINOIS.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A communication from the Commissioner of the General Land Office, and accompanying papers, in answer to a resolution of the House of Representatives of the 31st of July, 1848, on the subject of a tract of land on the north side of the road between Prairie du Rocher and Kaskaskia, in the State of Illinois.

DECEMBER 11, 1848.

Laid upon the table, and ordered to be printed.

TREASURY DEPARTMENT, December 8, 1848.

SIR: I have the honor herewith to submit a communication from the Commissioner of the General Land Office, under date of the 2d instant, and accompanying papers, in answer to a resolution adopted by the House of Representatives on the 31st of July last, directing the Secretary of the Treasury to report to that House, at the commencement of the present session of Congress, any information he may possess in relation to a tract of land situated on the north side of the road between Prairie du Rocher and Kaskaskia, in the State of Illinois, and any information he can communicate in relation to the patent for said tract of land, issued by General Arthur St. Clair, whilst acting as governor of the northwestern territory, on the 12th day of August, A. D. 1800, to John Edgar and John Murray St. Clair, &c.

I have the honor to be, very respectfully, your obedient servant,
R. J. WALKER,
Secretary of the Treasury.

HON. R. C. WINTHROP,
Speaker of the House of Representatives.

GENERAL LAND OFFICE,
December 2, 1848.

SIR: On the 31st of July last, the following resolution was adopted by the House of Representatives, to wit:

"Resolved, That the Secretary of the Treasury be directed to report to this House, at the commencement of the next session of Congress; any information he may possess in relation to a tract of land situated on the north side of the road between Prairie du Rocher and Kaskaskia, in the State of Illinois; and any information he can communicate in relation to the patent for said tract of land, issued by General Arthur St. Clair, whilst acting as governor of the northwestern territory, on the 12th day of August, A. D. 1800, to John Edgar and John Murray St. Clair, in the Kaskaskia land district, amounting, as was originally supposed, to 13,986 acres of land; whether any patents were issued by said Arthur St. Clair subsequent to the 4th day of July, 1800, which were acknowledged to be valid, and whether the acts of said Arthur St. Clair, as governor as aforesaid, since the 4th July, 1800, were acknowledged as valid; and up to what period he continued to perform the duties and exercise the powers of governor as aforesaid. And that he be, and is hereby, requested to communicate to this House, at the commencement of the next session, all the information in his possession in relation to the grant of land made by Lieutenant Colonel John Wilkins, on the 12th April, A. D. 1769, as governor and commandant of the Illinois country, under the authority of the British crown, to Boynton, Wharton, and Morgan, and which is now alleged to be vested in said John Edgar and John Murray St. Clair, and their assignees; and such other matters as he may deem material to be 'communicated in relation to the said grant.'"

On the subject of this resolution, I have the honor to transmit herewith the following documents:

1. A copy of a report, dated October 9th, 1848, from the surveyor general at St. Louis, Missouri, with copies of the papers accompanying the same, as therein described, viz:

A (1st) being a copy from a certain volume in the surveyor general's office, containing a statement dated June 7th, 1809, and signed by "Michl. Jones, Commissioner," in relation to claim No. 2,208, of 13,986 acres, "granted by the British Lieutenant Colonel Wilkins, to Boynton, Wharton and Morgan," in which statement it is represented that "this survey as described in the patent, having been very vaguely made, the meanders of the river not being ascertained, the board requested Mr. Rector to resurvey this tract in order to enable the commissioners to give the government correct information of the extent of the grant, and confirmation of the governor."

B (1st).—A copy of "Survey No. 351; claim No. 2,208, (23,900 acres,) surveyed for John Edgar and John Murray St. Clair, who claim in right of Richard Winston, who was assignee of Boynton, Wharton and Morgan, which (was) granted to them by Lieutenant Colonel Wilkins, commandant for the British, in the Illinois country."

Field notes without date, but survey supposed by surveyor general to be that made at the request of the commissioners.

C (1st.)—Copy of the transcript in the case No. 2,208, (1968.)

D (1st.)—Copy of the plat of said survey, No. 351, on which are also represented the adjacent public and private surveys. See explanations of the surveyor general as to this plat, under the head "No. 4, D," in the aforesaid report.

2. A copy of a report dated 16th October, 1848, from the register and receiver at Kaskaskia, Illinois, embracing a transcript of the record of the patent, dated 12th August, 1800, from A. Sinclair, as "governor of the territory of the United States northwest of the Ohio," to John Edgar and John Murray St. Clair; also a copy of a receipt representing the delivery of the patent by the register on the 30th of November, 1841, and other and further information on the subject of the resolution.

As connected with the said report, I also send herewith the following :

The paper "marked A," (2d,) which accompanied said report of 16th October, 1848, being a transcript of the proclamation of Colonel John Wilkins, in the French language.

A transcript of paper marked B (2d,) being a copy of the "decision of the board of commissioners for the district of Kaskaskia on claim (as entered in their records) No. 2,208."

Transcript of paper C (2d,) being a return, or statement with a plat, by Daniel McCann, surveyor, representing that "in pursuance of a warrant from his excellency Arthur St. Clair, governor of the territory northwest of the Ohio," he (the said McCann) "surveyed, on the ninth day of July, one thousand eight hundred, the above tract of land, containing thirteen thousand nine hundred and eighty-six acres, for John Edgar, as assignee of Richard Winston, situate," &c., with a note stating that the "undivided half of the above tract of land was sold by Mr. Edgar to John Murray St. Clair, and conveyed to him," &c.

3. A copy of a transcript received from the State Department, of the commissioner, dated 13th May, 1800, from the President of the United States, appointing "*William H. Harrison*, of the north-western territory," as "governor in and over the *Indiana territory*."

In regard to the *first* part of the aforesaid resolution, which calls for any information the secretary "may possess in relation to a tract of land situated on the north side of the road between Prairie du Rocher and Kaskaskia, in the State of Illinois, I respectfully refer to *paper C* (2d), representing a survey by McCann, as having been made on the 9th July, 1800, of the tract as containing 13,986 acres, and to *paper B* (1st), and *paper D* (1st,) as representing the survey No. 351 made by N. Rector, deputy surveyor, supposed to be that made pursuant to the request of the Kaskaskia commissioners, and which two last mentioned papers show the locality of the land, and the area to be 23,900 acres.

The *second* part of the resolution calls for any information the secretary "can communicate in relation to the patent for said tract

of land, issued by General Arthur St. Clair whilst acting as governor of the northwestern territory, on the 12th day of August, A. D. 1800, to John Edgar and John Murray St. Clair, in the Kaskaskia land district, amounting, as originally supposed, to 13,986 acres of land.

Upon this point, I beg leave to refer to the transcript 2d, herewith, of the report, dated 16th October, 1848, from the register and receiver at Kaskaskia, Illinois, which embraces a copy of the patent, dated 12th August, 1800, which was issued by A. Sinclair, as governor of the territory northwest of the Ohio, to John Edgar and John Murray St. Clair, and shows when and to whom it was delivered.

Also, to *paper B*, (2d,) herewith, being a copy of a transcript which accompanied said report, dated 16th October, 1848, from the register and receiver at Kaskaskia, which transcript, dated January 5, 1811, indicates the rejection of the claim, and is referred to by the register and receiver as appearing "to be the filing of the claim by Edgar and St. Clair with the commissioners."

A printed copy of the patent may also be found in volume 2d State Papers, Public Lands, printed by D. Green, pages 178, 179; and in relation to said patent, I refer to the statement of the commissioners in their report, dated 24th February, 1810, as printed under "claim No. 2,208," in said second volume State Papers, page 177, and to their report of January 4, 1813, same volume, page 188, under "No. 2,208," in which the following is stated in the last paragraph:

"It is only necessary further to remark, that the patent was issued after the powers of Governor St. Clair had ceased to exist in the Indiana territory; and from a view of all the facts, the commissioners are of opinion that the grant was a speculative one, the patent a nullity, and that this claim is founded neither in law nor equity, and, therefore, ought not to be confirmed."

The *third* part of the resolution calls for a report as to "whether any patents were issued by said Arthur St. Clair subsequent to the 4th day of July, 1800, which were acknowledged to be valid; and whether the acts of said Arthur St. Clair, as governor as aforesaid, since the 4th of July, 1800, were acknowledged as valid; and up to what period he continued to perform the duties and exercise the powers of governor as aforesaid."

In regard to this, I have to refer to the statement in the report, copy herewith, dated 16th October last, from the register and receiver at Kaskaskia, in which it is represented that upon examination they "found an original patent from 'Arthur St. Clair, governor of the territory northwest of the Ohio,' under the hand of St. Clair, and sealed with the territorial seal"—that "this patent is for 5,968 acres and 137 perches of land; was issued to John Edgar and Arthur St. Clair the younger, described as attorney general of the territory"—that "the patent bears date on the 13th day of August, A. D. 1808," &c. This case is designated as "claim No. 2,209," in the report dated 24th February, 1810, of the Kaskaskia commissioners, State Papers, D. Green, vol. 2, page 177, and is also

entered as No. 2,209, in their report dated *January 4, 1813*, same volume State Papers, page 186.

In their said report of *January 4, 1813*, referring to the patent in this particular case as dated *13th August, 1800*, they state that, "although the patent appears to have issued to the said claimants after Governor St. Clair's powers had ceased over the Indiana territory, in which this land is situated; yet it is believed that the confirmation and order of survey issued while Indiana was attached to and formed a part of the northwestern territory," &c. See residue of said report, in which they concluded, after an examination of the matter, that they did "not feel themselves justified in approving of or recommending the confirmation of a claim of such magnitude upon such imperfect evidence"—and, therefore, with their statement of facts, submitted the matter to Congress; but said claim appears to have been treated by this office as confirmed by the act of *16th April, 1814*, entitled "An act confirming certain claims to land in the Illinois territory, and providing for their location," as falling within a category alluded to in the first section of that act.

In connexion with the subject matter of this third part of the resolution, I have also to refer to the act of Congress, approved *May 7th, 1800*, entitled "An act to divide the territory of the United States, northwest of the Ohio, into two separate governments." This act divides the northwestern territory, and, from and after the *4th July, 1800*, creates out of part of it the "Indiana territory," within the limits of which, as prescribed by that act, the large claim falls, which is the main subject of the resolution. The 3d section of that act provides that the officers for the said territory, (referring to the *Indiana*), "who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance" of *13th July, 1787*; and laws of the United States "have been provided and established for similar officers in the territory of the United States northwest of the river Ohio," &c.; and the 5th section of the act declares that nothing in the said act contained shall be construed so as in any manner to affect the government now in force in the territory northwest of the Ohio river," further than to prohibit the exercise "thereof within the Indiana territory, from and after the aforesaid fourth day of July next," [1800,] provided, &c. From the transcript, herewith, paper 3d, of Governor Harrison's commission, dated *13th May, 1800*, it will be seen that he was appointed to be governor of the "Indiana territory," and under that commission, and the aforesaid act of *7th May, 1800*, it would seem to follow that his functions would legally commence, and be exercised within the "Indiana territory" from and after the *4th July, 1800*, and, in view of the terms of the 5th section of the act, to the exclusion of the exercise of authority there by the northwestern territorial officers. In relation to this branch of the call, I also transmit herewith a copy (4th) of a letter, dated at Cincinnati, *23d*

February, 1802, from A. St. Clair to John Edgar, esq., in which is the following: "The patents you wished have been made out for some time, though I hesitated a good deal; but after consulting gentlemen of the law, whose opinion it was that, notwithstanding the division of the territory, the right to make patents was still in the governor of the northwestern one, they were executed. But lest it make some difficulty with Mr. Harrison, it will be best for you not to take any notice of the time when they were signed. You will find enclosed two for you and John, one for you and Arthur, and one in your own name," &c.

This copy was taken by me many years ago, and before my official incumbency, from an original letter then in my possession.

I am unadvised as to the precise period up to which Governor St. Clair exercised the powers of governor.

The *fourth*, and remaining part of the resolution, calls for all the information, in the Secretary's "possession, in relation to the grant of land made" by "Lieutenant Colonel John Wilkins, on the 12th April, A. D. 1769, as governor and commandant of the Illinois country, under the authority of the British crown, to Boynton, Wharton, and Morgan, and which is now alleged to be vested in said John Edgar and John Murray St. Clair, and their assignees," &c.

In the paper A, (2d,) herewith, in the French, which is a copy of a proclamation, dated February 5, 1769, of Lieutenant Colonel Wilkins, commandant, a call is made for the registration of titles, and authority is claimed by him to establish communities, or corporations, to give concessions, and confirm all titles, &c.

A copy of the grant, dated 12th April, 1769, which was made by Colonel Wilkins, is printed on pages 178 and 179 of the 2d volume of State Papers, (D. Green,) and, in the last paragraph of that grant, it is declared "to be void if disapproved of by his majesty or the commander-in-chief," &c.; and on page 180, of that volume, is found an agreement, dated 25th June, 1769, in which the aforesaid grant, and others, are specified, and it is represented that the aforesaid Wilkins, "the better to promote the said service," had "agreed to be interested one-sixth part therein," &c.; and under that agreement, on the same page, is the following statement:

"For form's sake, I have registered the above; but the grants therein alluded to are null and void until confirmed by the general's approbation, as they were given on these conditions only, and can be of no effect until such approbation arrives; and was granted for the good purposes then represented to me.

"J. WILKINS,

"Lieut. Col., com'ding for his Majesty in the Illinois country."

As connected with the subject of this grant, we find on pages 179 and 180, of the 2d volume of State papers, an "extract from a proclamation of the king of Great Britain, dated October 7, 1763," and on pages 180 and 181, the proclamations of General Gage of the 8th April, 1772, and of the 30th December, 1864, and of his communication of the 2d April, 1773, to inhabitants settled at Post

Vincennes. On referring to the "general report," dated 24th February, 1810, of the Kaskaskia commissioners, State Papers, vol. 2, page 102, the following is dated under the head "1 of ancient grants:" "The commissioners are satisfied that no grants, made during the continuance of the British government in this country, either by its officers or by the Indian tribes, were either authorized or sanctioned by it;" that "the known regulations of the British government, the proclamation of General Gage of 1773, and that of the king of Great Britain of the 7th October, 1763, are, we think, decisive on this point;" and in their report, dated February 24, 1810, State Papers, vol. 2, page 176, "on claims to land within the district of Kaskaskia, which have been confirmed by the governor of the territory," will be found their comments upon the "confirmations" by Governor St. Clair, with a "specimen" of them on pages 177 and 178.

And in the report of those commissioners, dated December 31, 1810, State Papers, D. Green, vol. 2, page 208, (see also paper 1, B 2nd, herewith,) after referring to the claim as presented, they state the circumstances of the case as follows:

First. The said concession from Wilkins was a conditional one, bottomed on the approbation of the British king, or his commander-in-chief in America, which it has never received.

Secondly. It was a concession made without any authority whatever, (for a proof of these two facts, the board refer to a copy of the said concession, which will be found among their documents, annexed to their report of last year on governors' confirmations; also to General Gage's proclamation, and to that of the British king, in possession of the Treasury Department.

Thirdly. The said concession was, on the part of Wilkins, a speculating concession, who was to be equally interested with the other partners; this is seen by reference to the documents aforesaid.

Fourthly. Previously to the execution of the pretended patent, Edgar conveyed, by deed, to the said John Murray St. Clair, (a son of said governor,) one moiety of this property claimed.

Fifthly. The said paper, purporting to be a patent, has never been, as was usual, countersigned by the secretary of the north-western territory; this instrument, although calling only for 13,986 acres, is made to cover nearly 30,000 acres. "Under these circumstances, if this instrument is to be taken as a governor's patent, and if this board be possessed of authority to express an opinion on this subject, they do not hesitate to express one, that the governor has transcended his powers; that the grant has been improperly obtained, and is of no validity." But the commissioners are disposed to consider an instrument, which is yet in an unfinished state, (not having been countersigned by the secretary,) as not having been issued; that, although the governor may have been unwarily led to give it incipience, yet that, on further consideration, he has not thought fit to complete it by passing it through the customary forms; that, in this inchoate state, it has fallen into the hands of the present claimants, who have adduced it in support of

their title; and as this claim is, in the opinion of the commissioners, founded neither in law nor justice, they do reject it accordingly."

It appears, then, that the old board of Kaskaskia commissioners held the British patent, as granted by Lieutenant Colonel Wilkins on the 12th April, 1769, to be invalid, it not being shown to have been approved, when, without such approval, it was "null and void," according to Colonel Wilkins's own statement, (2d vol., State Papers, page 180,) and as to the patent from governor St. Clair which calls for 13,986 acres, when, according to Rector's survey, the tract contains 23,900, (see his certificate in said 2d vol., page 209,) the board further held that in issuing the said patent, which bears date 12th August, 1800, and is not countersigned by the secretary, the governor transcended his powers.

The foregoing, with the references, and accompanying papers, it is believed, contain all the material information in the possession of this office which is pertinent to the requirements of the resolutions.

With great respect, your obedient servant,

RICHARD M. YOUNG,
Commissioner.

HON. ROBERT J. WALKER,
Secretary of the Treasury.

C.

SURVEYOR'S OFFICE,
St. Louis, October 9, 1848.

SIR: In due time I received your communication of the 7th ult. accompanied by "a copy of a resolution adopted on the 31st of July last, by the House of Representatives, calling upon the Secretary of the Treasury to report at the commencement of the next session of Congress, in relation to a certain tract of land, situated on the north side of the road between Prairie du Rocher and Kaskaskia, in the State of Illinois, &c." In relation to this business I herewith enclose the following described documents, viz:

1. A.—A copy from pages 232 and 233, of a volume on file in this office, entitled: "Transcript of Confirmations, Private Claims, Illinois." The original is dated June 7, 1809, and signed "Michl. Jones, Commissioner." This paper is in relation to claim No. 2208, of 13,986 acres, granted by the British Lieutenant Colonel Wilkins, to Boynton, Wharton, and Morgan, it being the same referred to in the above mentioned resolution of the House of Representatives, and in which Mr. Jones states, that "this survey, as described in the patent, having been vaguely made, the meanders of the river not being ascertained, the board requested Mr. Rector to re-survey the tract in order to enable the commissioners to give the government correct information of the extent of the grant, and confirmation of the governor."

2. B.—On the first page of this document is a copy of the field notes of survey No. 351, of the aforesaid claim as executed by "N.

Rector, D. S.," and on the third page is a plat, constructed according to said notes. The field notes are without date, but it is supposed that the survey was made at the request of the commissioners, as above stated.

3. C.—A copy from page 243 of the aforesaid Transcript of Confirmations, by which it appears that the commissioners rejected the claim in question. The original document is not signed; it is endorsed "List of Claims confirmed by the governor, but unsupported before the late board of revision."

4. D.—A plat of the aforesaid survey No. 351, on which are also represented the adjacent public and private surveys. I cannot vouch for the accuracy of this plat, as the only connexions made by Mr. Rector with the adjacent surveys, are as follows: See plat on the paper marked B, viz: with the corners A & B, and the line from C to D.

I have to remark that no plat of the survey could be found in this office, prior to the making out of these herewith transmitted; nor has any part of the survey been laid down on the township plats, with the exception of a dotted line on the plat of township 4 south, range 8 west, of the third principal meridian, representing that part of the northwest boundary, which runs from A to B on the plat D. It was from the said dotted line that the direction of the northwest boundary was obtained, and the southeast boundary made to run parallel thereto at the proper distance from the northwest boundary.

The foregoing, and the information given on pages 114, 177, 178, 179, 180, 181, and 188, of vol. ii, American State Papers, printed by Duff Green, and referred to by you, is all in relation to this business, to be found in this office.

Very respectfully, your obedient servant,

F. R. CONWAY,
Surveyor General,

To RICHARD M. YOUNG, Esq.,
Commissioner of the General Land Office,
Washington City.

A.

No. 2,208.—13,986 acres of land claimed by John Edgar and John Murray St. Clair, by patent granted by Governor St. Clair, dated the 12th day of August, 1800, as having been granted by Lieutenant Colonel Wilkins, commandant, to Boynton, Wharton and Morgan, and as having been conveyed by the said Morgan the 6th day of March, 1774, to Richard Winston, and as his property sold on an execution and judgment against him in the court of Randolph county, and purchased by said John Edgar, who afterwards, to wit, on the 11th day of June, 1790, sold and conveyed an equal and undivided half of the same to the said John Murray St. Clair, which said tract of land is in the said patent described as follows,

to wit: Beginning at a walnut tree, on the Kaskaskia river, and thence south 30° west, 2,960 perches to a stone; thence south 6° east, 888 perches to a stone; thence north 30° east, 2,080 perches to a hickory, on the bank of the Kaskaskia river; thence northwest and west the different courses of the said river to the place of beginning; having the ledge of rocks on the southeast, the Kaskaskia river on the northwest, and joining Nicholas Jarrot on the southwest, containing 13,986 acres.

REMARKS.—This grant by Wilkins, as exhibited by George Morgan, (who also claims this tract, see claim No. 1,594,) represents this tract as beginning at the foot of rocks, on the west side of a large run, and on the west side of a wood, between prairie Du Rocher and the Grand prairie, (which is parallel to the French inhabitants,) and running from the foot of the rocks aforesaid eastward across the run at the foot, and parallel to a ridge of rocks and hills which divide the upper from the lower ground, to a large run or gully which issues from the hills on the north side of the Grand prairie, and at about half the distance of the road through it, from west to east; thence up the said gully north 30° east, to the main branch of the Kaskaskia river; thence up the several courses of the said river until met by a right line drawn from the place of beginning, running north 30° east, to said river; thence south 30° west, to said rock, the place of beginning. This grant bears date the 12th of April, 1769. This survey, as described in the patent, having been very vaguely made, the meanders of the river not being ascertained, the board requested Mr. Rector to re-survey this tract, in order to enable the commissioners to give the government correct information of the extent of the grant, and confirmation of the governor.

MICH. JONES,
Commissioner.

KASKASKIA; June 7, 1809.

SURVEYOR'S OFFICE,
St. Louis, October 6, 1848.

I certify that the foregoing is correctly copied from pages 232 and 233 of a volume, on file in this office, entitled, "Transcript of confirmations, private claims, Illinois."

F. R. CONWAY,
*Surveyor of the public lands in the States of
Illinois and Missouri.*

B.

Survey No. 351, claim No. 2,208, (23,900 acres.)

Surveyed for John Edgar and John Murray St. Clair, who claim in right of Richard Winston, who was assignee of Boynton, Whar-

ton & Morgan, which (was) granted to them by Lieutenant Colonel Wilkins, commandant for the British in the Illinois country—beginning at a black walnut 30 inches in diameter, on the lower bank or drain, above Michael Smith's house, about midway (on) the Grand prairie from east to west, from which a white oak 33 inches in diameter bears north 50° east, 62 links, and a red oak 33 inches in diameter, bears south 70° west, 104 links, and from which the post on the bank of the Mississippi corner to fractional townships No. 6 and 6 south of the base line, ranges No. 8 and 9 west of the meridian of the mouth of Ohio, bears south 20° west, 792 poles distant; thence north $30^{\circ} 30'$ east, 3,488 poles, to a post on the bank of the Kaskaskia river, from which a white oak 20 inches in diameter bears north 14° west, 37 links, and a black oak 24 inches in diameter bears south 29° east, 97 links; thence up the Kaskaskia river, with the meanders thereof, and binding thereon, north 28° west, 158 poles; north 12° west, 14 poles; north 17° west, 22 poles; north 60° east, 45 poles; south 65° east, 35 poles; south 32° east, 28 poles; south 70° east, 16 poles; north 45° east, 52 poles; north 5° west, 22 poles; west 66 poles; north 48° west, 230 poles; north 12° west, 34 poles; north 30° east, 30 poles; south 80° east, 114 poles; south 57° east, 40 poles; north 78° east, 52 poles; north 48° east 16, poles; north 26° east, 40 poles; north 7° west, 30 poles; north 29° west, 62 poles; north 66° west, 84 poles; west 85 poles; north 52 west, 39 poles; north 78° west, 42 poles; north 45° west, 80 poles; north 14° east, 89 poles; north 8° west, 14 poles; north 26° west, 63 poles; north 44° west, 128 poles; north 35° west, 82 poles; north 16 west, 50 poles; north 23° west, 73 poles; north 5° east, 36 poles; north 40° east, 40 poles; north 70° east, 26 poles; north 89° east, 108 poles; north 78° east, 25 poles; north 87° east, 40 poles; north 58° east, 38 poles; north 16° east, 14 poles; north 15° west, 85 poles; north 59° west, 62 poles; north 64° west, 34 poles; north 76° west, 34 poles; north 35° west, 81 poles; north 49° west, 68 poles, to a white oak 6 inches in diameter, on the bank of the river, from which a white oak 14 inches in diameter bears south 10° , east 52 links; thence south $30^{\circ} 30'$, west 4,642 poles, to the foot of the point of rocks in the common field of Prairie du Rocher, above the brook, from which the post corner to Louis Pellet's survey No. 5, and Joseph and Ambrose Vasseur's survey No. 4, bears south $64\frac{1}{2}^{\circ}$ east, 56 links; thence south $64\frac{1}{2}^{\circ}$ east, (at 36 poles the brook) 58 poles, to the point of rocks below the brook; thence, with the foot of the rocks and hill, binding therewith, south $68\frac{1}{2}^{\circ}$ east, $95\frac{1}{2}$ poles, to the lower corner of Jean B. Barbeau's survey No. 1; thence south 73° east, 49 poles; south 75° east, 262 poles; north 62° east, 14 poles; south 78° east, 16 poles; north 85° east, 28 poles; south 52° east, 96 poles; south $59\frac{1}{2}^{\circ}$ east, 146 poles; south 65° east, 64 poles; south 61° east, 129 poles; south 87° east, 72 poles; south 75° east, 14 poles, to the beginning.

N. RECTOR, D. S.

SURVEYOR'S OFFICE,
St. Louis, October 6, 1848.

The foregoing notes are correctly copied from page 210, volume 430, of Illinois field notes, on file in this office.

F. R. CONWAY,
*Surveyor of the public lands in the
States of Illinois and Missouri.*

— — —
C.

Ancient British grants rejected by the board of revision.

No. 2208 (1968) John Edgar and John Murray St. Clair, in right of British grant—13,986 acres.

SURVEYOR'S OFFICE,
St. Louis, October 6, 1848.

I certify that the above is correctly copied from page 243 of a volume on file in this office, entitled "Transcript of confirmations, private claims—Illinois."

F. R. CONWAY,
*Surveyor of the public lands in the
States of Illinois and Missouri.*

— — —
UNITED STATES LAND OFFICE,
Kaskaskia, Illinois, October 16, 1848.

SIR: Your communication to this office, under date of the 17th September, enclosing a resolution of the House of Representatives, and asking information from the records of this office, touching the claim (No. 2208) which was patented by Governor Arthur St. Clair to John Edgar and John Murray St. Clair, by patent dated the 12th August, A. D. 1800, and desiring us to send you all the information in relation to it that our office furnishes, we have the honor to report, in answer to your inquiry, that we have carefully examined the files of this office and find a copy of the patent alluded to by you, which is in the following words:

Hon. R. M. YOUNG.

TERRITORY OF THE UNITED STATES, }
Northwest of Ohio, } ss.

Arthur St. Clair, governor of the territory of the United States northwest of the Ohio, to all persons who shall see this present, greeting:

Be it known, that in pursuance of the acts of Congress of the 20th June, the 28th August, in the year of our Lord 1788, and the instructions to the governor of the said territory of the 29th August in the same year, to inquire into the titles and possessions of the French and Canadian inhabitants and other settlers in the Illinois country, and at Vincennes on the Wabash, the claims which have been presented have been duly examined, and John Edgar, esquire, of the county of Randolph, and John Murray St. Clair, of Westmoreland county in Pennsylvania, gentlemen, lay claim to two certain tracts or parcels of land now lying and being in the county of Randolph, and bounded in the manner following, to wit:

Beginning at a walnut tree on Kaskaskia creek, and running from thence south thirty degrees west, two thousand nine hundred and sixty perches to a stone, thence south sixty degrees, east eight hundred and eighty-eight perches to a stone, thence north thirty degrees east, two thousand and eighty perches to a hickory on the bank of the Kaskaskia, thence northwest and with the different meanders of the cree to the place of beginning; having the ledge of rocks on the southeast, the Kaskaskia creek on the northwest, and joining *Nicholas Jarrot* on the southwest, and containing thirteen thousand nine hundred and thirty-six acres, to which, for any thing that appears to the contrary, they are rightfully entitled, having been granted by *Lieutenant Colonel Wilkins*, commandant for British in the Illinois country, to *Boynton, Wharton and Morgan*, and transferred by *George Morgan*, agent for *Boynton, Wharton and Morgan*, on the 6th day of March, 1774, to *Richard Winston*, and sold at public sale as the property of him, the said *Richard Winston*, by order of the court of Kaskaskia, to satisfy a judgment against him in the said court, and purchased by the said *John Edgar*, and transferred to him as the highest bidder, by the proper officer; and afterwards, to wit, on the eleventh day of June, in the year of our Lord one thousand seven hundred and ninety-one, one equal and undivided half of the same was sold by the said *John Edgar* to *John Murray St. Clair* aforesaid, and conveyed to him, his heirs and assigns, by deed of bargain and sale. Now to the end that the said *John Edgar* and *John Murray St. Clair*, may be forever quieted in the possession of the same, I do, by virtue of the acts and instructions of Congress before mentioned, confirm unto the said *John Edgar* and *John Murray St. Clair*, their heirs and assigns, as tenants in common, the above described tract or parcel of land, containing thirteen thousand nine hundred and eighty-six acres, together with all and singular the appurtenances whatever, the said described tract of land with the appurtenances, to them the said *John Edgar* and *John Murray St. Clair*, and to their heirs and assigns as tenants in common forever. Saving, however, to all and every person or persons their rights to the same or any part thereof, founded in law or equity, prior to those on which the claim of the said *Edgar* and *St. Clair* are founded.

“In testimony whereof I have caused the seal of the territory to be affixed hereunto, at Cincinnati, in the county of Hamilton, on

the twelfth day of August, one thousand eight hundred, and in the twenty-fifth year of the independence of the United States.

A. ST. CLAIR.

A true copy—attest:

J. FINNY, *Deputy Clerk.*

The original patent appears to have been withdrawn from the files of this office, as is evidenced by the following receipt on file, to wit:

“By virtue of a deed from John Murray St. Clair to Robert Graham, conveying to him certain lands in the county of Randolph and State of Illinois, under date of 24th October, A. D. 1836, and certain letters of administration granted by the court of probate of Randolph county to John Murray Morrison, on the estate of John Edgar, deceased, on the first day of October, A. D. 1841, the register of the land office at Kaskaskia has this day delivered to the said Robert Graham, grantee of said John M. St. Clair, as aforesaid, and to John Murray Morrison, administrator of the estate of John Edgar, deceased, as aforesaid, the original deed or patent of confirmation, made by Arthur St. Clair, acting governor of the Northwestern Territory, of certain lands lying within the county of Randolph, to John M. St. Clair and John Edgar, as tenants in common thereof.

“The receipt of which patent of confirmation is hereby acknowledged, this 30th day of November, A. D. 1841.

“ROBT. GRAHAM.

“JOHN MURRAY MORRISON,

“*Administrator of J. Edgar.*”

A copy of the deed from John Murray St. Clair to Robert Graham, and a certified copy of the letters of administration upon Edgar's estate to John M. Morrison, are also on file in this office.

To allow the owners of lands to withdraw the title papers filed by them, which have been recorded by the commissioners, appears to have been the practice in this office, as is evidenced by receipts on file for title papers from 1807 to this time.

The patent withdrawn, as above stated, appears to have been recorded in book A, pages 392 and 393, and the record is in exact conformity with the copy herewith sent you, and was recorded on the 31st December, A. D. 1804, as appears by said record.

In answer to your second inquiry, “whether any patents issued by Governor St. Clair, as governor of the territory, subsequent to the 4th July, 1800, have been acknowledged to be valid,” and requesting us to “specify the cases, &c., &c.,” we have examined the mass of papers still in this office, which were before the board of commissioners for revising governors' confirmations at Kaskaskia, until we found an original patent from “Arthur St. Clair, governor of the territory northwest of the Ohio,” under the hand of St. Clair, and sealed with the territorial seal. This patent is for 5,968 acres and 137 perches of land; was issued to John Edgar and

Arthur St. Clair, the younger, described as attorney general of the territory. The patent bears date on the 13th day of August, A. D. 1800. Upon the back of this patent we find the following entry, in the hand-writing of Michael Jones, then register: "New patent, issued to John Edgar and Arthur St. Clair;" from which, we infer that this patent was valid. Upon an examination of the plats in this office we find in townships two and three, south of ranges seven and eight, west, the survey and claim of John Edgar and Arthur St. Clair for 5,986 acres and 137 poles of land, numbered, plotted, and reserved from sale, as survey No. 607, and claim No. 2,209. We cannot find from any evidence in this office that a new patent ever issued for this last mentioned tract, but conclude that it did, from the fact that the governor's patent was surrendered, and that the plots show the land to have been reserved from sale, &c.

We are asked also to furnish all the information we can procure from the records of this office relative to the grant of land made by Lieutenant Colonel John Wilkins, on the 12th of April, 1769, &c., &c., to Boynton, Wharton and Morgan.

The enclosed paper, marked A, is taken from a copy certified under the official seal of the recorder of Randolph county, of the proclamation of Colonel John Wilkins. From the report of the commissioners upon this claim, which is numbered 2,208, it appears that the first board of commissioners enclosed all the papers touching this claim to the department, and there is no evidence on file in this office showing either the grant or the intermediate conveyances to Edgar. We find on file in this office, a paper of which the enclosed, marked B, is a correct copy, which appears to be the filing of the claim by Edgar and St. Clair with the commissioners. We find an original survey of this tract made by Daniel McCann in pursuance of a warrant from Arthur St. Clair, governor of the northwest territory, dated the 19th day of July, 1800, which is in the words, marks, and figures as described in the enclosed paper, marked C.

The above is all the information this office affords touching the claims of Edgar and St. Clair, and the questions asked in your letter of the 7th September, and we are not aware that any of the offices of this State possess any additional or other evidence, unless it is contained in the recorder's office of this county.

Very respectfully, your obedient servants,
 JACOB FEAMAN, *Register.*
 J. A. LANGLOIS, *Receiver.*

PROCLAMATION.

Par Monsier Jean Wilkins, Lieut. Colonel du dixhuitieme regiment d'infanterie de la majesté Britannique autrement roiate Irlandois, gouverneur et commandant du pais des Illinois, &c.

Vu que j'ai rendu une ordonnance datee du 21m November, 1768,

dans laquelle entre autres choses, j'ai fait sentir la necessité de faire en registrer au secretariat tous les titres et actes generalement quelqueconques, concernant tous les biens fonds occupés dans ce pais pour plus grande sureté des habitants, et pour observer et confirmer les dits titres, aiant commandé que cela se fit dans ce dessein salutaire. Personne n'a cependant eut egard a un ordre si necessaire, et lorsqu'on examinerait les titres de leurs biens legalement confisqués au profit du rio cette négligence pourroit avoir des suites facheuses, tant pour les proprietaires actuelles des terres, des maisons, &c., que pour ceux qui pourraient a l'avenir posseder les dits biens dans l'état irregulier ou se trouvent a present les dits titres.

A ces cause j'ordonne et enjoins encore une fois qu'on le fasse et que les dits titres soient durement examinés de façon que tous ceux qu'il y a de defectueuses dans les dits titres et qui pourroit etre legalment rectifié pussent etre supplie pour le bien des habitants de ce pais, en s'adressant au Sieur. Guillaume Muray qui ferat une etat convenable du contenu de leurs titres pour metres presenté enfin de faire en registrer le dit etat faute de quoi les dites terres et maisons seront presenté jusque a ce que le rio ait faite connoitre son intention a ce sujet pour le service des habitants qui de tems a autre viendront s'établir dans ce pais, je fais semblablement, savoir au public pour sa satisfaction qu'en vertu des ordres que j'ai reçu de son excellence Monsieur le General Gage, suivant les derniers instructions qui lui ont ete envoyees d'Angleterre que j'ai plein pouvoir et autorite pour etablir des communautes, donner des concessions et confirmer tous les titres de quelque es pece et denomination generalement quelqu'on que, de la maniere qui me paroitra le plus convenable et le plus presidente pour procurer l'avantage des habitants et sagement gouverner ce pais, je defende aussi a toutes personnes de sortir de ce pais, sans avoir premierement fait duement connoitre ses titres de tous les biens fonds que les dits titres reclament, dans ce pais, enfin qu'en cas de desobeissance les dits biens fonds que les dits personnes possèdent actuellement ou qu'elles reclament soit prises pour l'usage et le profit du rio.

En outre je defends a qui que ce soit de deplacer de truire ou emporter les materiaux des maisons a present sur pié, non plus que les entouragés qui se trouvent dans se pais a moins que je ne leurs en aie au parravant accordé la permission.

Donné a Font de Chartres, signé de ma main et scellé de mes armes le 5m Fevrier, 1769.

JNO. WILKINS, *Commandant*, [SEAL.]

Par ordre de Monsieur le Gouverner et Commandant,
J. RUMSEY, *Secrétaire*.

Endorsed on said proclamation, to wit:

Lieutenant Chapman will be pleased to direct that the within proclamation may be made public at Kaskaskia in the usual manner.

JNO. WILKINS.

F. CHARTERS, *February 10, 1769.*

ILLINOIS TERRITORY, }
 Randolph county, } ss.

I, William Arundel, do hereby certify that this and the two foregoing pages is a true copy of the original on file in my office.

In witness, I have set my hand and affixed the seal of said office
 [L. s.] at Kaskaskia, this ninth day of November, in the year of
 our Lord one thousand eight hundred and nine.

WILLIAM ARUNDEL, *Recorder.*

Copy from the records in the Department of State.

John Adams, President of the United States of America. To all who shall see these presents, greeting: Know ye, that reposing special trust and confidence in the patriotism, integrity and abilities of *William H. Harrison*, of the northwestern territory, I have nominated and, by and with the advice and consent of the Senate, do appoint him *Governor* in and over the *Indiana territory*; and do authorize and empower him to execute and fulfil the duties of that office according to law; and to have and to hold the said office, with all the powers, privileges and emoluments to the same of right appertaining, for the term of *three years* from the *day of the date hereof*, unless the President of the United States for the time being shall be pleased sooner to revoke and determine this commission.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Philadelphia, the 13th day of May, A. D. 1800, and of the independence of the United States of America, the twenty-fourth.

JOHN ADAMS.

BY THE PRESIDENT:

CHARLES LEE,

now executing the office of Secretary of State.

Copy of a letter from General Arthur St. Clair to General John Edgar, of Kaskaskia, Illinois.

CINCINNATI, February 23, 1802.

DEAR SIR: I am ashamed to acknowledge that I have received several letters from you, and returned one only, which from the tenor of your last, it would seem did not reach you. It would take up too much time to assign the reason for my silence. Suffice it to say, that I assure you it did not proceed from neglect, or the least diminution of the friendship with which I have always regarded you. The patents you wished have been made out for some time; though I hesitated a good deal; but after consulting a gentlemen of

the law, whose opinion it was that, notwithstanding the division of the territory, the right to make patents was still in the governor of the northwestern one, they were executed. But least it make some difficulty with Mr. Harrison, it will be best for you not to take any notice of the time when they were signed. You will find enclosed two for you and John, one for you and Arthur, and one in your own name.

We are all in good health, as I hope this will find you and Mrs. Edgar, and your friends. The attorney general took himself a wife about four weeks ago. I wish your letter requesting your papers to be sent by Mr. McIntosh had arrived before he left this. He wished to have carried them to you, but I would not give them to him. They are all safe, and will be delivered to any person you please to direct.

I am, with great regard, sir, your obedient servant,

AR. ST. CLAIR.

JOHN EDGAR, Esq.

I should be glad to hear what Mr. Wilson is doing, and I request you to give him my compliments.

Decision of the board of commissioners, for the district of Kaskaskia, on claim (as entered in their records) No. 2,208.

This is a claim set up by John Edgar and John Murray St. Clair, for 13,986 acres of land, grounded on a concession made in the year 1769, by John Wilkins, styling himself lieutenant colonel of his Majesty's 18th Royal Irish regiment, and commandant in the Illinois to a company, then trading in the country, under the firm of Boynton, Wharton & Morgan; from it descended, it seems, to said Edgar.

In support of this claim, a paper is adduced purporting to be a patent to the present claimants for this land, from Arthur St. Clair, governor of the northwestern territory. The circumstances of this case are as follows:

1st. The said concession from Wilkins was a conditional one, bottomed upon the approbation of the British king, or his commander-in-chief in America, which it has never received.

2d. It was a concession made without any authority whatever. (For proof of these two facts, the board refer to a copy of said concession, which will be found among their documents, annexed to their report of last year, on governors' confirmations, pages 11, 12, 13, 14; to General Gage's proclamation, pages 19, 20, 21; and to that of the British king in the possession of the Treasury Department.)

3d. The said concession was on the part of Wilkins, a speculative concession, who was to be equally interested with the other partners. This is seen by reference to pages 24 and 25 of the documents aforesaid.

4th. Previously to the execution of the pretended patent, Edgar conveyed by deed to said John M. St. Clair, (a son of said governor,) one moiety of this property claimed.

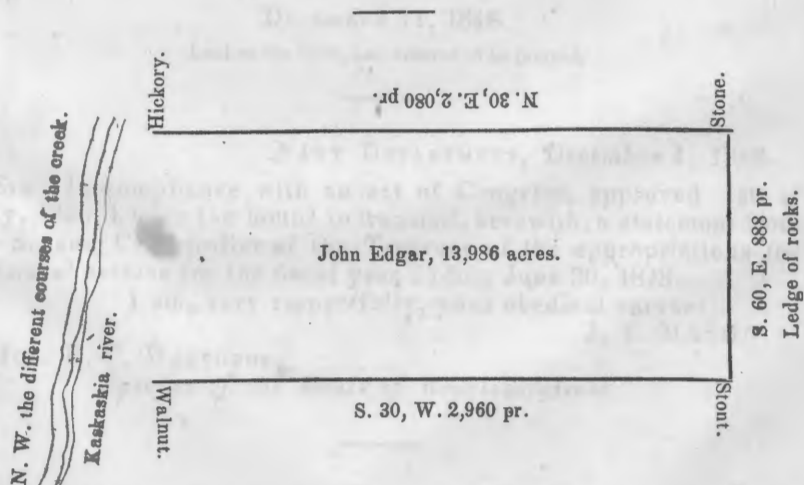
5th. The said paper, purporting to be a patent, has never been, as was usual, countersigned by the secretary of the northwestern territory, and which is dated the 12th August, 1800, after the powers of Governor St. Clair had ceased to exist in the Indiana territory. (See a copy of this in pages 15, 16, 17, of the document, annexed to our former report.)

6th. This instrument, although calling only for 13,986 acres, is made to cover nearly thirty thousand acres.

Under these circumstances, if the instrument is to be taken as a governor's patent, and if this board be possessed of authority to express an opinion on this subject, they do not hesitate to express one, that the governor has transcended his powers; that the grant has been improperly obtained, and is of no validity.

But the commissioners are disposed to consider an instrument which is yet in an unfinished state, (not having been countersigned by the secretary,) as not having been issued; that although the governor may have been invariably led to give it inception, yet that, on further consideration, he has not thought fit to complete it, by passing it through the customary forms; that, in this inchoate state, it has fallen into the hands of the present claimants, who have adduced it in support of their titles; and as this claim is, in opinion of the commissioners, founded neither in law nor justice, they do reject it accordingly.

JANUARY 5, 1811.



In pursuance of a warrant from his excellency Arthur St. Clair, governor of the territory northwest of the Ohio, I surveyed, on the ninth day of July, one thousand eight hundred, the above tract of land, containing thirteen thousand nine hundred and eighty-six acres, for John Edgar, as assignee of Richard Winston, situate in

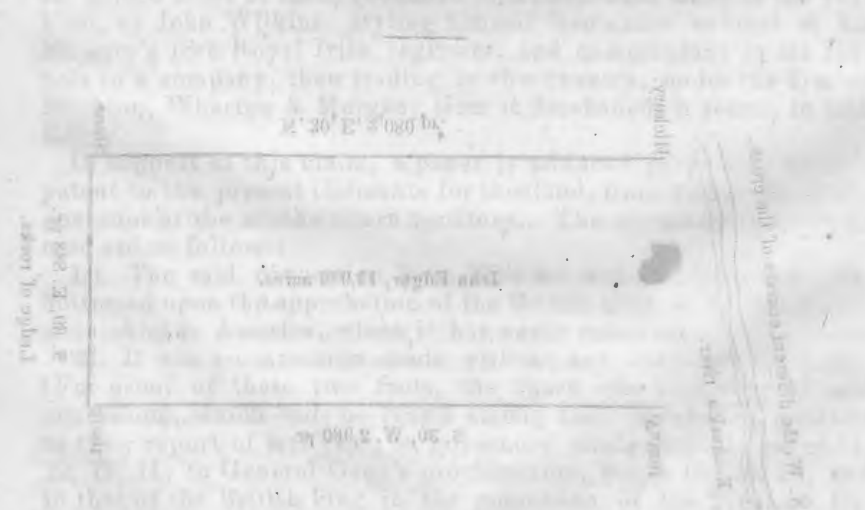
the hills in the county of Randolph, adjoining the ledge of rocks on the southeast, and by the Kaskaskia creek on the northwest, and by lands of Nicholas Jarrot on the southwest.

DANIEL McCANN, Surveyor.

N. B. The undivided half of the above tract of land was sold by Mr. Edgar to John Murry St. Clair, and conveyed to him by deed of bargain and sale on the 11th day June, 1790. Recorded in the county of St. Clair, in book A, folio 6, by William St. Clair, recorder. The whole bought by John Edgar, at public sale ordered by the court of Kaskaskia, as the property of Richard Winston, deceased.

Under these circumstances, if the instrument is to be considered a conveyance, it is the duty of the surveyor to express an opinion on this subject, they do not hesitate to express one, that the Governor has transcribed his power; that the grant has been properly obtained, and is of no validity. But the commissioners are disposed to consider an instrument which is yet in an unfinished state (not having been countersigned by the secretary), as not having been made; that although the Governor may have been authorized to give it effect, yet that on further consideration, he has not thought fit to complete it by passing it through the ordinary forms; that in this instance, it has fallen into the hands of the present claimants, who have advanced it in support of their title; and as this claim is, in opinion of the commissioners, founded neither in law nor justice, they do reject it accordingly.

JARROTT, 1811.



In presence of a warrant from his excellency Arthur St. Clair, Governor of the territory northwest of the Ohio, I surveyed on the 11th day of July, one thousand eight hundred and eighty-six land containing therein located and numbered and eighty-six acres, for John Edgar, as assignee of Richard Winston, deceased in