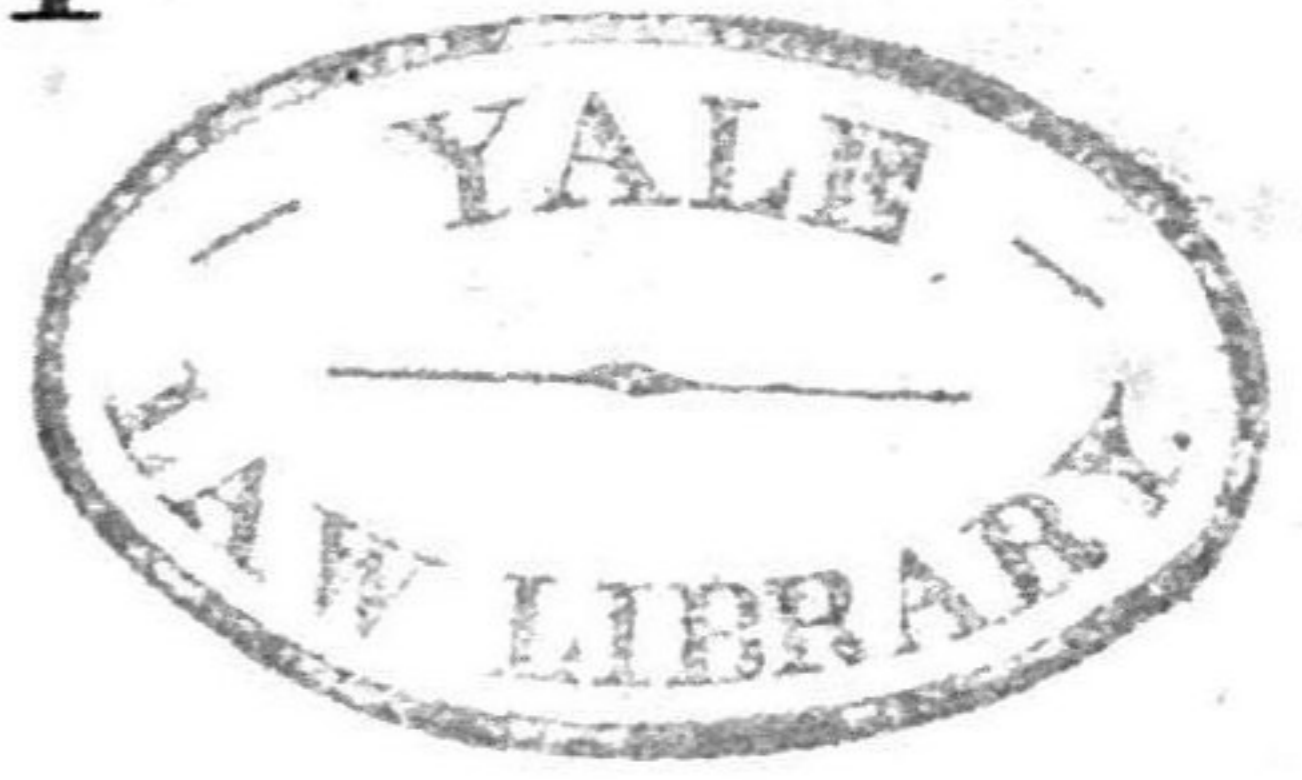


REPORT

OF THE



TRIAL OF JAMES H. PECK,

JUDGE OF THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MISSOURI,

BEFORE THE SENATE OF THE UNITED STATES,

ON AN

IMPEACHMENT

PREFERRED BY THE HOUSE OF REPRESENTATIVES AGAINST HIM

FOR

HIGH MISDEMEANORS IN OFFICE.

BY ARTHUR J. STANSBURY.

BOSTON:

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(B.)

ROYAL ORDINANCE.

I, THE KING, influenced by the paternal love which all my subjects, even the most distant, merit of me, and by that sincere desire which I have felt, ever since my elevation to the throne, to render uniform the government of the vast empires that God has entrusted to me, and to place my extensive dominions of the two Americas in proper order and defence, and to render them prosperous, have resolved, from the best information and mature reflection, to establish, in the kingdom of New Spain, Intendants of Army and Province; that, being provided with competent authority and salaries, they may govern the towns and inhabitants in peace, and with justice, as to what is confided to them by these regulations; may preserve their police, and secure the lawful claims of my Royal treasury, with the integrity, zeal, and vigilance, prescribed by the wise laws of the Indies, and the two Royal ordinances published by my august Father and Lord D. Felipe Quinto, and my beloved brother, D. Fernando the Sixth, on the fourth of July, one thousand seven hundred and eighteen, and the thirteenth of October, one thousand seven hundred and forty-nine; whose wise and just laws I wish to be faithfully observed by the Intendants of the said Kingdom, with the extensions and restrictions to be expressed in the Articles of this Ordinance and Regulation.

ARTICLE 1. That my Royal will may have its effect, fully and promptly, I order that Empire to be divided, for the present, into twelve Intendencies, exclusively of the Californias, and that, hereafter, the territory or limits of each Intendency, to bear the name of its capital city, shall be considered as one Province alone. In this capital the Intendant shall reside, and what are at present termed Provinces, shall be called Partidas, (Districts) and bear the names of the former. One of these Intendencies shall be the General Intendency of Army and Province, and shall be established in the capital of Mexico. The eleven others shall be of Province alone, and of which, one shall be established at the city of Puebla de los Angeles; another, at the town and station of New Vera Cruz; one at the city of Merida de Yucatan; at the city of Antequera de Oaxaca; at the city of Valladolid de Mechoacan; at the city of Santa Fe de Guanaxuato; at the city of San Louis Potosi; at the city of Guadalajara; at the city of Zacatecas; and one at the city of Durango; the other shall be that already established at the city of Auspe, and extends to the two Provinces of Sanora and Sinaloa. Each of the above Intendencies shall comprehend the jurisdictions, territories, and districts, allotted to them, respectively, at the end of these regulations, which shall be delivered to the new Intendants, whom I may appoint, with their corresponding commissions, (to be issued, for the present, by the office of State and of the General Despatch of the Indies.) I reserve to myself, to appoint, forever, and during my pleasure, to these offices, persons distinguished for their zeal, integrity, intelligence, and deportment, who will relieve me of my cares, by my committing to them the immediate government and protection of my people.

ART. 2. The viceroy of New Spain shall continue, with the full extent of the superior authority, and various powers conferred on him, by my Royal commission and instruction, and by the laws of the Indies, as the Governor and Captain General over that District. To these high offices is added that of President of the Audiencia and Chancery of the Metropolis of Mexico. But the superintendence and regulation of my Royal Treasury, in all its branches and revenue, is committed to the care, direction, and management, of the Intendency General of the Army and Treasury, to be established in the said Capital; and the other Intendencies of Province, which I order by these Regulations to be created, shall be subordinate to it.

ART. 6. *Of the Junta Superior.*—This Junta shall meet once or twice every week, on the days and at the hours which the Superintendant shall appoint, according to his own important occupations, and those of the other Vocals, (Members,) but, if any urgent occasion happen, he shall have power to convene extraordinary Juntas. But all these shall be governed by the present Regulations, and the Orders which I shall furnish in future, for rendering uniform, as far as possible, in the Provinces of the said Empire, the government of, and administration of justice in, matters relating to my Royal Treasury, and to War.

This Superior Junta shall not only have exclusive jurisdiction of these two branches or objects, but of the public property, and revenue, and community, goods of the towns; for the management and judicial superintendence of which, I confer on this Junta what jurisdiction and powers may be necessary, to the absolute exclusion of all my tribunals, and it shall be subordinate to my royal person alone, through the Office of the Universal

Despatch of the Indies. The cases which arise under the ordinary Royal jurisdiction, and those of Police and Government, in appeal from the Intendants, their Sub-delegates, and other common judges, shall remain subject to the Audiencia of the District in which they may occur, as they are by the laws of the Indies.

7. The political Governments of Puebla de los Angeles, of Nueva Vizcaya, Sonora, and Sinaloa, the offices of Corregidor, for Mexico and Antequera de Oaxaca, that of Vera Cruz to be created, and the offices of Superior Alcalde or Corregidor for Valladolid, Guanaxuato, San Luis Potosi, and Zacatecas, shall be respectively united with the Intendencies which I establish in said Capitals and their provinces, and the emoluments at present enjoyed by them who hold the said offices, shall cease, and the President Regent of the Audiencia of Guadalaxara, shall, for the present, govern that Intendency. And I command that the Intendants have in charge the four branches or subjects of Justice, Police, Treasury, and War, giving them, for this purpose, as I do, all the necessary jurisdiction and powers. These Intendencies shall be subordinate and dependent, in regard to the two first branches; those of Arispe and Denango, on the Commandant General of their provinces, the other ten on the Vice Roy, and all of them shall be subordinate to the Territorial Audiencias, according to the distinction of commands, the nature of the cases and objects of their cognizance, and conformably with the collected laws of the Indies, as will be explained in the body of this ordinance; for it is my Royal intention that the jurisdictions established therein, shall not all concur in one person, by confounding or changing, or by implication. These regulations are principally intended to prevent the frequent difficulties and questions of jurisdiction that would arise between Governors, Corregidores, or Superior Alcaldes, if these ancient offices should remain distinct, in the capitals and provinces where the new ones are now established.

81. The Intendants shall also be the exclusive judges of the causes and questions that may arise in the district of their provinces, about the sale, composition, and grant of Royal lands, and of seignory, it being required of their possessors and of those who pretend to new grants of them, to produce their rights and institute their claims before the same Intendants, so that these matters being legally prepared in conjunction with a promoter of my Royal Treasury, whom they may appoint, may be decided upon, the opinion of their ordinary Assessors being heard, and they may admit appeals to the Superior Junta de Hacienda; or, if the parties interested do not appeal, they shall communicate to it the original proceedings for its information when they shall judge these proceedings ready for the issuing of the warrant. Being seen by the Junta, they shall be returned, and the warrant issued, unless some difficulty occur; and then, before executing it, the measures found to be neglected by the Junta shall be observed. The proper confirmations shall, in consequence, be furnished by the same Superior Junta, in due time, which shall proceed in the case, as also the Intendants, their sub-delegates and others, in conformity with the royal regulation of the 15th of October, 1754, as far as it may not be opposed to the requirements of the latter, without losing sight of the wise dispositions of the laws cited therein, and of the 9th title 12, lib. 4.

No. 10.—(Belongs to article 81.)

Royal Regulation of October 15, 1754.

Experience having proved the inconveniences that arise to my subjects of the Kingdoms of the Indies, from the decree issued by Royal order of the 24th of November, 1735, that those who would enter upon the Royal possessions of those dominions, should necessarily apply to my Royal person, to obtain their confirmation within the time assigned, under the penalty of losing them, in case of their failure to do so; and many persons having failed to avail themselves of this benefit, from their inability to sustain the expense of an application to this Court to obtain the confirmation of what they compromised for or purchased, it being of small amount, or some few caballerias, (lots) and those who may apply, from their purchases being of greater value, are at great expense, on account of the testimony they must present, the transmission of money, the appointment of agents, and other necessary expenses, that usually exceed the principal sum paid for the composition or purchase of these Royal lands before the Sub-delegates; and as a consequence of this, much land is left uncultivated, which might support the provinces in which they are, by being cultivated and grazing cattle; and it is another result that persons occupy lands illegally, through defect of title, without properly cultivating them, for fear of being denounced and prosecuted for it, and my Royal Treasury also suffering, both in the amount of sales of these lands, and in the consequent neglect of agriculture and tending of cattle: I have therefore resolved, that, in the grants, sales, and compromises of Royal cultivated and uncultivated lands now made, or which shall hereafter be made, the provisions of the regulation shall be faithfully observed and executed.

I. That, from the date of this my Royal Order, the power of appointing Sub-delegate Judges to sell and compromise for the lands and uncultivated parts of the said Dominions, shall belong, thereafter, exclusively to the Vice Roys and Presidents of my Royal Audiencias of those Kingdoms, who shall send them their appointment or commission with an authentic copy of this regulation. The said Vice Roys and Presidents shall be obliged to give immediate notice to the Secretary of State and Universal Despatch of the Indies, of the Ministers whom they shall make Sub-delegates in their respective districts, and places where they have been usually appointed, or where it may seem necessary to appoint new ones for his approbation. Those at present exercising this commission, shall continue. These, and those whom the said Vice Roys and Presidents shall hereafter appoint, may sub-delegate their commissions to others, for the distant parts and provinces of their stations, as was previously done. By virtue of this law, my Council of the Indies, and its Ministers, are excluded from the superintendence and management of this branch of the Royal Hacienda.

II. The Judges and officers, to whom jurisdiction for the sale and composition of the Royal lands (Realengos,) may be sub-delegated, shall proceed with mildness, gentleness, and moderation, with verbal and not judicial proceedings, in the case of those lands which the Indians shall have possessed, and of others when required, especially for their labor, tillage, and tending of cattle.

But, in regard to the lands of community, and those granted to the towns for pasturage and commons, no change shall be made; the towns shall still be maintained in the possession of them; and those that may have seized, shall be restored to them, and their extent enlarged according to the wants of the population; nor shall severe strictness be used towards those already in possession of Spaniards, or persons of other nations, and in regard to all the requirements of laws 14, 15, 17, 18, and 19, title 12, lib. 4, of the Recopilacion de Indias, shall be observed.

III. The present regulations, and the appointment which shall be issued in the form prescribed in the first section, being received by the principal Sub-delegates, they shall furnish on their part General Orders to the Justices of the Capitals and chief places of their respective districts, commanding them to be published therein, in the manner usual with other General Orders issued by Vice Roys, Presidents, and Audiencias, relating to my service, so that every and all persons who shall have possessed Royal lands, whether settled, cultivated, tilled, or not, from the year 1700, till the day of the publication of said order, may prove, before the Sub-delegate, by themselves, their correspondents, or attorneys, the titles and patents in virtue of which they hold their land. For this exhibition an adequate time shall be fixed, proportioned to the distances; and notice shall be given, that they shall be deprived of, and ejected from, such lands, and grants of them made to other persons, if they fail to exhibit their warrants, within the limited time, without just and proper cause.

IV. If it shall appear from the warrants or writings so presented, or from other legal authority, that these persons are in possession of such Royal lands, by virtue of a sale or composition, made by the Sub-delegates so empowered, before the said year 1700, although these acts may not have been confirmed by my Royal Person, nor by the Vice Roys and Presidents, they shall still be suffered to retain free and quiet possession of them, without being caused the least molestation, or deprived of any rights by these orders, conformably with the 15th law, title 12, lib. 4, of the Recopilacion de Indias, already cited.

On these warrants, it shall be noted, that the persons have complied with the obligation of exhibiting them, so that they may not, in future, be disturbed in, or sued for their Royal lands, they nor their successors. If persons have not warrants, their proof of long possession shall be held as a title by prescription. If they shall not have tilled or cultivated these lands, the term of three months, prescribed by the 11th law of the said title and book, shall be allowed them, or whatever time may be thought sufficient for this purpose; and notice shall be given them, that, if they fail to cultivate the lands, they shall be granted to those who shall lodge information thereof, under the same condition of cultivating them.

V. The possessors of lands sold, or compromised for, by the respective Sub-delegates, from the said year 1700, to the present time, shall not be molested, disturbed, nor informed against, now, nor at any time, if it shall appear that they have been confirmed by my Royal person, or by the Vice Roys and Presidents of the respective districts, while in office; but those who shall have held their lands without this necessary requisite, shall apply for their confirmation to the Audiencias of their district, and to the other officers on whom this power is confirmed by the present regulation. These authorities having examined the proceedings of the Sub-delegates, in ascertaining the quantity and the

value of the lands in question, and the patent that may have been issued for them, shall determine whether sale or composition was made without fraud or collusion, and at reasonable prices. This shall be done with the judgment and advice of the Fiscals; after considering every circumstance and the price of the sale or composition, and the respective dues of * Medianata, appearing to have been paid in to the Royal Treasury, and the King's money being again paid in the amount that may seem proper, the confirmation of the patents of the possessors of these lands shall be given in my Royal name, by which their property and claim in the said lands shall be rendered legal, as well as in the waters and uncultivated parts, and they and their successors, general and particular shall not be molested therein.

VI. If, by the proceedings that should have been used for the sales and compositions unconfirmed since the year 1700, it shall appear, that these Royal lands have not been surveyed nor valued, as is understood to be the case in some provinces, the confirmation shall be withheld until this be executed; and the King's money shall be regulated by the increased value of the lands, as determined by the survey and valuation, which money must precede the confirmation.

VII. There shall also be contained, in the general orders to be issued, as before said by the Sub-delegates, to the Justices of the chief towns and places of their district, a clause that those who shall have exceeded the limits of the purchase or composition, adding thereto, and entering upon more land than was granted, whether the principal part be confirmed or not, shall necessarily apply to them for the composition of these lands, so that, after a survey and valuation of them, the patents and confirmation of them may be issued.

Notice shall also be given, that the lands so occupied shall be adjudged, in a moderate quantity to those who shall inform of them, and that the Royal lands occupied without title shall be adjudged to be the property of the King, if, within the time appointed, the intruding possessors shall not discover them, and treat for their composition and confirmation. This shall be observed and fulfilled, without exception of persons or communities, of what state or description they may be.

VIII. A proper reward shall be given to those who shall inform of lands, grounds, places, waters, and of uncultivated and desert lands, and shall be allowed a moderate portion of those of which they shall have informed, as being occupied without title. This shall also be included in the public notice which the Sub-delegates to be appointed shall cause to be published in their respective districts.

IX. The Audiencias shall issue the confirmations by Provinces, and in my Royal name, after an examination by the Fiscal, as before said, without greater judicial expense to the parties than what is required by the regulated prices for such act. For this purpose, they shall collect from the Sub-delegates of their district the proceedings that have taken place in the sale or composition of that for which confirmation shall be required. With these, and in proportion to the estimated value of the lands, and considering at the same time the benefit which it was my pleasure to grant to those my subjects, by relieving them from the expense of applying to my Royal person, they shall determine the sum to be paid me for this new favor.

X. To avoid costs and delay in this business, which would happen, if, after the patents have been issued by the Sub-delegates, the Audiencias should determine upon new surveys, or valuations, or other measures, the Sub-delegates shall report to the respective Audiencias the original proceedings upon each matter. These they shall consider as finished and prepared for the issuing of the patents, and after being examined by the Audiencias, and the opinion of their Fiscals being received, they shall be returned, and, if no objection is made, the warrants be issued, or the measures used, that shall be dictated as previously necessary, and in this way shall be facilitated the prompt issue of the Royal confirmations, without a duplication of new patent.

XI. These Audiencias shall be a court of appeal for trying the decisions and sentences of the Sub-delegates pronounced by them in any suit about the sale or composition of Royal lands, the information lodged concerning them and their survey and valuation. By this provision the expensive recourse to the Council will be avoided, and the necessity will no longer exist of abandoning claims, which some persons have been obliged to do from their inability to sustain the consequent expense of the recourse.

XII. In the distant Provinces of the Audiencias, or where sea intervenes, as Caracas, Havana, Carthagena, Buenos Ayres, Panama, Yucatan, Cumana, Margarita, Puerto Rico, and in others of like situation, confirmations shall be issued by their Governors, with the advice of the *Oficiales Reales*, (King's Fiscal Ministers,) and of the Lieuten-

* First fruits of the half year.

ant General Letrado, where he may be stationed. The same officers shall also determine the appeals from the Sub-delegates, who shall have been, or shall be appointed in each one of the said Provinces and Islands, without recourse being had to the Audiencia or Chancery of the District, unless the two decisions be at variance, and, then, this is to be officially, and by way of consultation, to avoid the expenses of appeal. Wherever there shall be two *Oficiales Reales*, the younger in office shall be the Advocate of the Royal Treasury in these causes, and the elder, the Associate Judge of the Governor, using the aid of counsel, where there is no Auditor or Lieutenant Governor, and, if the question is a point of law, by applying to any lawyer within or out of the district. And where there shall be but one *Oficial Real*, any intelligent person of the place may be appointed as the Advocate of the Royal Treasury. It shall also be the duty of the Governors, with their Associate Judges, to examine concerning the compositions of the Sub-delegates as provided in respect to the Audiencias.

XIII. The money arising from the sales and compositions of each Audience and District, and from the King's money paid for confirmations, shall be deposited in the proper office, and an account kept of them in a separate book; and the Audiencias and Presidents thereof, the Governors and *Oficiales Reales* of the Districts shall furnish me an account, through my Secretary of Despatch of the Indies, of what this branch of the Royal revenue may have produced in each year, so that, upon their information, I may be able to make the proper disposition of this revenue.

XIV. The Sub-delegates who may be appointed for the administration of this business, shall not exact any fees from the parties for what services they may have rendered; I therefore assign to each one, by way of gratuity, two per centum on the amount of their sales and compositions, as was allowed by the Council, in their regulation of the year 1696; and the Clerks, alone, before whom the proceedings, shall receive the regular fees, which shall be certified at the end of the records. In case of a violation of this rule, the respective Audiencias and the Governors shall proceed against them.

I will that all the provisions of this regulation be strictly and punctually observed by my Vice Roys, Audiencias, Presidents, and Governors of all my Dominions of the Indies, and by the Sub-delegates and other persons whom its observance does, or may concern, and that it be not violated for any cause or pretext, as it is proper for my service, and the good of those subjects. And I command, that notice be taken of this regulation by the General Accounting Office of the Council of the Indies, by the Audiencias and Chanceries, Governments and Cities, by the Tribunals and Accounting Offices of the Royal Treasury, by their recording it, and by all other offices whom it may concern, so that it may be understood and faithfully observed by all.

I, THE KING.

Given at San Lorenzo el Real, October 15, 1754.

DON JULIAN DE ARRIAGA.

NOTE.—This Royal Ordinance is recognized by the King of Spain, June 5th, 1814, as applicable to Florida.—See Post.

By the regulations of Morales, No. 3, of Chap. 5, in Appendix, it will be seen that the above Royal Ordinance was extended to the Provinces of Louisiana and West Florida, on the 24th August, 1770, to be exercised by the Civil and Military Government; and by the decree of 22d October, 1798, was conferred on the Intendant.

(F.)

REGULATIONS FOR THE GRANTING OF LAND UNDER THE SPANISH GOVERNMENT OF LOUISIANA, AND MR. GALLATIN'S INSTRUCTIONS TO THE LAND COMMISSIONERS IN LOUISIANA AND MISSOURI.

No. 1. *Don Alexander O'Reilly, Commander of Benfayon, of the order of Alcantara, Inspector General of Infantry, appointed, by special commission, Governor and Captain General of this Province of Louisiana.*

Divers complaints and petitions which have been addressed to us by the inhabitants of Opelousas, and Attakapas, Nachitoches, and other places of this province, joined to the knowledge we have acquired of the local concerns, culture, and means, of the inhabitants, by the visit which we have lately made to the Cote des Allemands, Cote des Accadions, Hyberville, and La Pointe Coupee, with the examination we have made of the report of the inhabitants assembled, by our order in each district, having convinced us that the tranquillity of the said inhabitants, and the progress of culture required a new

regulation, which would fix the extent of the grants of lands which shall hereafter be made, as well as the enclosures, cleared lands, roads, and bridges, which the inhabitants are bound to keep in repair, and to point out the damage by cattle, for which the proprietors shall be responsible: for these causes, and having nothing in view but the public good and the happiness of every inhabitant, after having advised with persons well informed in these matters, we have regulated all those objects in the following articles:

1. There shall be granted to each newly arrived family who may wish to establish themselves on the borders of the river, six or eight arpens in front, (according to the means of the cultivator,) by forty arpens in depth, in order that they may have the benefit of the cypress wood; which is as necessary as useful, to the inhabitants.

2. The grantees established on the borders of the river, shall be held bound to make, within the three first years of possession, mounds sufficient for the preservation of the land, and the ditches necessary to carry off the water. They shall, besides, keep the roads in good repair, of the width of at least forty feet between the inner ditch, which runs along the mound, and the barrier; with bridges of twelve feet over the ditches which may cross the roads. The said grantees shall be held bound, within the said term of three years' possession, to clear the whole front of their land to the depth of two arpens; and, in default of fulfilling these conditions, their land shall revert to the King's domain, and be granted anew; and the Judge of each place shall be responsible to the Governor for the superintendence of this object.

3. The said grants can neither be sold, nor aliened by the proprietors, until after three years of possession, and until the abovementioned conditions shall have been entirely fulfilled. To guard against every evasion in this respect, the sales of the said lands cannot be made without a written permission from the Governor General, who will not grant it until, on strict inquiry, it shall be found that the conditions above explained have been duly executed.

4. The points formed by the lands on the Mississippi river, leaving, in some places, but little depth, there may be granted, in these cases, twelve arpens of front; and, on a supposition that these points should not be applied for by any inhabitant, they shall be distributed to the settlers nearest thereto, in order that the communication of the roads may not be interrupted.

5. If a tract belonging to minors should remain uncleared, and the mounds and roads should not be kept in repair, the Judge of the quarter shall inquire into the cause thereof. If attributable to the guardians, he shall oblige him to conform promptly to this regulation; but, if arising from want of means in the minors, the Judge, after having, by a verbal process, attained proof thereof, shall report the same to the Governor General, to the end that the said land may be sold for the benefit of the minors, (a special favor, granted to minors, only;) but, if no purchaser shall, within six months, be found, the said land shall be conceded gratis.

6. Every inhabitant shall be held bound to enclose, within three years, the whole front of his land which shall be cleared; and, for the remainder of his enclosure, he will agree with his neighbors, in proportion to his cleared land and his means.

7. Cattle shall be permitted to go at large from the eleventh of November to the fifteenth of March, of the year following; and, at all other times, the proprietors shall be responsible for the damage that his cattle may have done to his neighbors. He who may have suffered the damage, shall complain to the Judge of the district; who, after having satisfied himself of the truth thereof, shall name experienced men to estimate the value of the same, and shall then order remuneration without delay.

8. No grant in the Opelousas, Attakapas, and Nachitoches, shall exceed one league in front by one league in depth; but when the land granted shall not have that depth, a league and a half in front by half a league in depth may be granted.

9. To obtain, in the Opelousas, Attakapas, and Nachitoches, a grant of forty-two arpens in front by forty-two arpens in depth, the applicant must make appear that he is possessor of one hundred head of tame cattle, some horses, and sheep, and two slaves to look after them; a proportion which shall always be observed for the grants to be made of greater extent than that declared in the preceding article.

10. All cattle shall be branded by the proprietors; and those who shall not have branded them at the age of eighteen months, cannot thereafter claim a property therein.

11. Nothing being more injurious to the inhabitants than strayed cattle, without the destruction of which tame cattle cannot increase, and the inhabitants will continue to labor under those evils of which they have often complained to us; and considering that the province is, at present, infested by strayed cattle, we allow to the proprietors, until the first day of July of the next year, one thousand seven hundred and seventy-one, and

no longer, to collect and kill, to their use, the said strayed cattle; after which time they shall be considered wild, and may be killed by any person whomsoever; and no one shall oppose himself thereto, or lay claim to a property therein.

12. All grants shall be made, in the name of the King, by the Governor General of the province; who will, at the same time, appoint a Surveyor to fix the bounds thereof, both in front and depth, in presence of the Judge ordinary of the district, and of two adjoining settlers, who shall be present at the survey. The abovementioned four persons shall sign the verbal process which shall be made thereof, and the Surveyor shall make three copies of the same; 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.

In pursuance of the powers which our Lord, the King, (whom God preserve,) has been pleased to confide to us, by his patent, issued at Aranjues, the 16th of April, 1769, to establish in the military, the police, and in the administration of justice and his finances such regulations as should be conducive to his service and the happiness of his subjects in this colony; with the reserve of his Majesty's good pleasure, we order and command the Governor, Judges, Cabildo, and all the inhabitants of this province, to perform punctually all that is required by this regulation.

Given at New Orleans, the 18th of February, 1770.

SPANISH REGULATIONS FOR THE ALLOTMENT OF LANDS.

No. 2. *Instructions of Governor Gayoso for the administration of the posts, and distribution of lands.*

Instructions to be observed by the Commandants of the posts in this province, for the admission of new settlers:

1. If the new settler comes from another post in the province, where he has obtained a grant of land, no other grant shall be made to him; and if he undertakes to fix himself down, he must buy lands, or produce my special permission for the grant; and in order to determine whether he has before obtained land or not, the Commandant of the posts from which he goes, shall express it in his passport.

2. If the new settler is a stranger, and is not a farmer, nor married, nor has property in negroes, merchandise, or money, he shall have no right to solicit a grant of lands, until he has remained four years, conducting himself well, in some honest and useful occupation.

3. Artizans shall be fully protected, but no land shall be granted to them until they have acquired property, and have lived three years in the exercise of their art or profession.

4. To no unmarried emigrant, who has not a trade or profession, shall lands be granted, till after the expiration of four years, and then only on his showing that he has been, without interruption, honestly employed in the cultivation of the earth, without which necessary circumstance he shall not be entitled to a grant.

5. If any person, as described in the last article, after having lived in the country two years, shall obtain a recommendation from a farmer of honesty, who shall be willing, from his industry and application, to give him his daughter in marriage, as soon as the marriage is accomplished in due form, he shall be entitled to receive a grant of land, agreeably to the terms contained in this instruction.

6. The privilege of enjoying liberty of conscience is not to extend beyond the first generation. The children of those who enjoy it, must positively be Catholics. Those who will not conform to this rule are not to be admitted; but are to be sent back out of the province immediately, even though they possess much property.

7. In the Illinois, none shall be admitted but Catholics of the classes of farmers and artizans. They must also possess some property, and must not have served in any public character in the country from whence they come. The provisions of the preceding article shall be explained to the emigrants already established in the province, who are not Catholics, and shall be observed by them; the not having done it until this time being an omission, and contrary to the orders of his Majesty, which required it from the beginning.

8. The commandants will take particular care that no Protestant preacher, or one of any sect other than the Catholic, shall introduce himself into the province. The least neglect in this respect, will be a subject of great reprehension.

9. To every new settler, answering the foregoing description, and married, there shall be granted two hundred arpens of land; fifty arpens shall be added for every child he shall bring with him.

10. To every emigrant, possessing property, and uniting the circumstances before mentioned, who shall arrive with an intention to establish himself, there shall be granted two hundred arpens of land; and, in addition, twenty arpens for every negro that he shall bring: provided, however, that the grant shall never exceed eight hundred arpens to one proprietor. If he has such a number of negroes, as would entitle him, at the above rate, to a larger grant, he will also possess the means of purchasing more than that quantity of land if he wants it; and it is necessary, by all possible means, to prevent speculations in lands.

11. No lands shall be granted to traders; as they live in the towns, they do not want them.

12. Immediately on the arrival of a new settler, the oath of fidelity shall be required of him. If he is married, he shall prove that the wife whom he brings with him is his lawful wife. If he has goods, or personal property, they shall both declare what part of them belongs to the portion of the wife, and whether any part belongs to any person who is absent; giving them to understand that if the contrary of what they assert is proved, the lands which are granted to them shall be taken back, with all the improvements they may have made upon them.

13. At the time when they take the oath, the above particulars are to be attended to; and no lands are to be granted for any negroes which are not proved to be lawfully and wholly the property of the emigrant; nor for the wife whom he brings with him, unless she is proved to be his lawful wife. In default of making such proofs, he is to be taken as coming within the description given in the second article.

14. The new settler to whom lands have been granted, shall lose them without recovery, if, in the term of one year, he shall not begin to establish himself upon them; or if, in the third year, he shall not have put under labor ten arpens in every hundred.

15. He shall not possess the right to sell his lands until he shall have produced three crops, on the tenth part of his lands, which shall be well cultivated; but, in case of death, he may leave them to his lawful heir, if he has a resident in the country. If he has no heir in the country, they shall, in no event, go to an heir who is not of the country, unless such heir shall resolve to come and reside in it, conformably to the established conditions.

16. Debts contracted out of the Province cannot be paid with the produce of lands thus granted, if there are debts due in the Province, until after five harvests have been gathered. If, for bad conduct, it shall become necessary to eject the settler from the country before he shall have made the three crops necessary to give him the dominion of the soil, and the right to dispose of it, the lands shall then again become united to the domain of the King; and, in the same state, shall be granted alternately to the young man and to the young woman, residing within one league of the land which shall thus become vacant, who, by their good conduct, shall best deserve such a gift. The question, who is entitled to this preference, shall be decided in an assembly of the most considerable People, headed by the Commandant; which decision they shall make without any expense. They shall only consult me in the case, making known the circumstances for my approbation; and shall, without delay, put the deserving person in possession.

17. The forms established by my predecessors, in which to petition for lands, shall be followed, under the conditions expressed in this order, with the difference only that, when the quantity of land amounts to, or exceeds, three hundred arpens, the fees to the Secretary must be paid.

18. It shall not be permitted to any new settler to form an establishment at a distance from other settlers. The grants of lands must be so made as not to have pieces of vacant ground between one and another; since this would offer a greater exposure to the attacks of the Indians, and renders more difficult the administration of justice, and the regulation of the police, so necessary in all societies, and more particularly in new settlements.

MANUEL GAYOSO DE LEMOS.

New Orleans, 9th September, 1797.