

important to combine with the rendition of *private* justice to individuals the *public* object of giving to the rear line of the second concessions a course as uniform and as direct as might be. Had the rear of the second concessions been, in every case, at the precise distance of *eighty arpents* from the front, it would have exhibited a boundary to the public lands far more irregular than a line exactly parallel with the intended shore of the river would have done; because the lateral or long lines run by Greely were not parallel with each other, and often made acute or obtuse angles with the shore. To establish, then, a rear line more corresponding with the general course of the river, more nearly approaching a straight line, would enable the commissioners to render more perfect justice to individuals, while at the same time it made incomparably fewer unsalable fractions of public lands. It rendered the boundaries of private right more certainly ascertainable at any distance of time, and established a more advantageous, seemly, and convenient boundary for the public domain. That course was therefore pursued; and in order to leave less to the hazard of accident, or to the possible caprice of surveyors, the board solicited the surveyor general to depute some suitable person to run the lines, while the commissioners should still retain some control of the subject; and feeling confident that by such means they had better combined the attainment of individual justice with a considerable public benefit, they have not ceased to flatter themselves with the hope that both the motives and the results of their proceedings in this particular will receive the approbation of the government.

A detailed inspection of the commissioners will exhibit some uncertainty in the indemnification of the persons entitled to second concessions. Relatively to that matter, the undersigned beg leave to remark that, in the transfers which have been made of old French farms upon the Detroit since the emanation of patents, it has rarely occurred that any specific provision has been made for the eventual acquisition of the second concessions.

Among a people too much accustomed to consider pedal possession as the *best*, if not the only, evidence of right, it might have been expected that no provision should be made for contingent prolongations of their farms. Few, indeed, were those cases where such transfers have been made, in which a regular claim of title was exhibited for the front. Little difficulty was felt as to the propriety of confirming to the *bona fide* proprietor of the front, where *he could be identified*, the right to the second concession. These concessions were granted by Congress, it is presumed, because an inchoate claim had always before been set up for them by the owners of the front, because they were considered, and justly, to be necessary to the proper enjoyment and cultivation of the fronts, for the fronts of forty arpents had, in general, many years ago, been entirely stripped of wood and timber trees; the right to the rear was therefore considered by the commissioners as *incident* to the property of the front, and it has uniformly been accorded to the owner of the entire front farm, where he could be identified, unless when, in sales of the front, the right to the second concession was expressly retained. But seeing the difficulty of ascertaining the real and *bona fide* ownership of the fronts, it has been resolved to insert in the body of many of the specific decisions a clause purporting that the claimant should hold for the use of the *bona fide* owner of the front farm; and, lest injustice should be done by some casual omission of the clause, the undersigned explicitly declare that, throughout all their decisions, it has been uniformly intended that all their grants or confirmations should be understood as containing a reservation of all equitable rights in favor of all persons having any *bona fide* interest in all or any of the subjects of grant or confirmation acted upon by the commissioners.

It may be proper also to submit, that some difficulty was experienced in determining to what geographical point the principle of the second concessions should be extended. There are not wanting strong reasons to conclude that the whole extent of the water-course connecting Lakes Erie and Huron was anciently called by the French the "Detroit." Lake St. Clair, which intervenes, is small and shallow; it is but a circumscribed expansion of the connecting waters. It may be further remarked, that whatever reasons influence the government to grant the right to second concessions to the farms below that lake seem to apply with almost equal force to those on its borders. The commissioners devoted some consideration to this topic, but finally concluded to receive only such applications for the second concessions as were below Wind Mill Point, so called; for, although the "river Detroit" might with equal propriety be considered to extend further up, yet in most modern maps, and especially at the office of the surveyor general, the water-course seems there to lose its name, and to become designated by the name of "Lake St. Clair." Although the conclusion of the commissioners in this respect was rather reluctantly adopted, yet it was attended by the satisfactory reflection that if, in the opinion of the government, expediency and equal justice required it, the principle could, with but little inconvenience, be extended.

Some difference of opinion existed among the commissioners upon the question whether the principle of second concessions should apply to islands. Such claims so circumstanced as were presented the board were enabled, however, to decide upon other grounds, and without *necessarily* involving a decision of that question.

A different question arose, which it became necessary to decide. It was, whether, in order to accord a second concession, it was competent to pass a navigable water. The river Rouge, which empties into the Detroit a short distance below the city, is navigable for sloops and small vessels some miles up from its mouth; it puts into the river Detroit obliquely. A second concession was claimed by the proprietors, of about five hundred acres, upon a peninsula below its junction with the straits, and although serious doubts were entertained on the point, yet a majority of the board were of the opinion that the claim was sustainable, and the concession was granted.

Although, in the prosecution of their labors on this branch of their duties, many difficulties were presented and doubts were entertained, yet it is not recollected that any other than those alluded to occurred of sufficient magnitude to render it indispensable that they should be specifically submitted to the government in this general view which the commissioners have the honor to present.

All which is very respectfully, and with deference, submitted.

WILLIAM WOODBRIDGE,
J. KEARSLEY,
Commissioners.