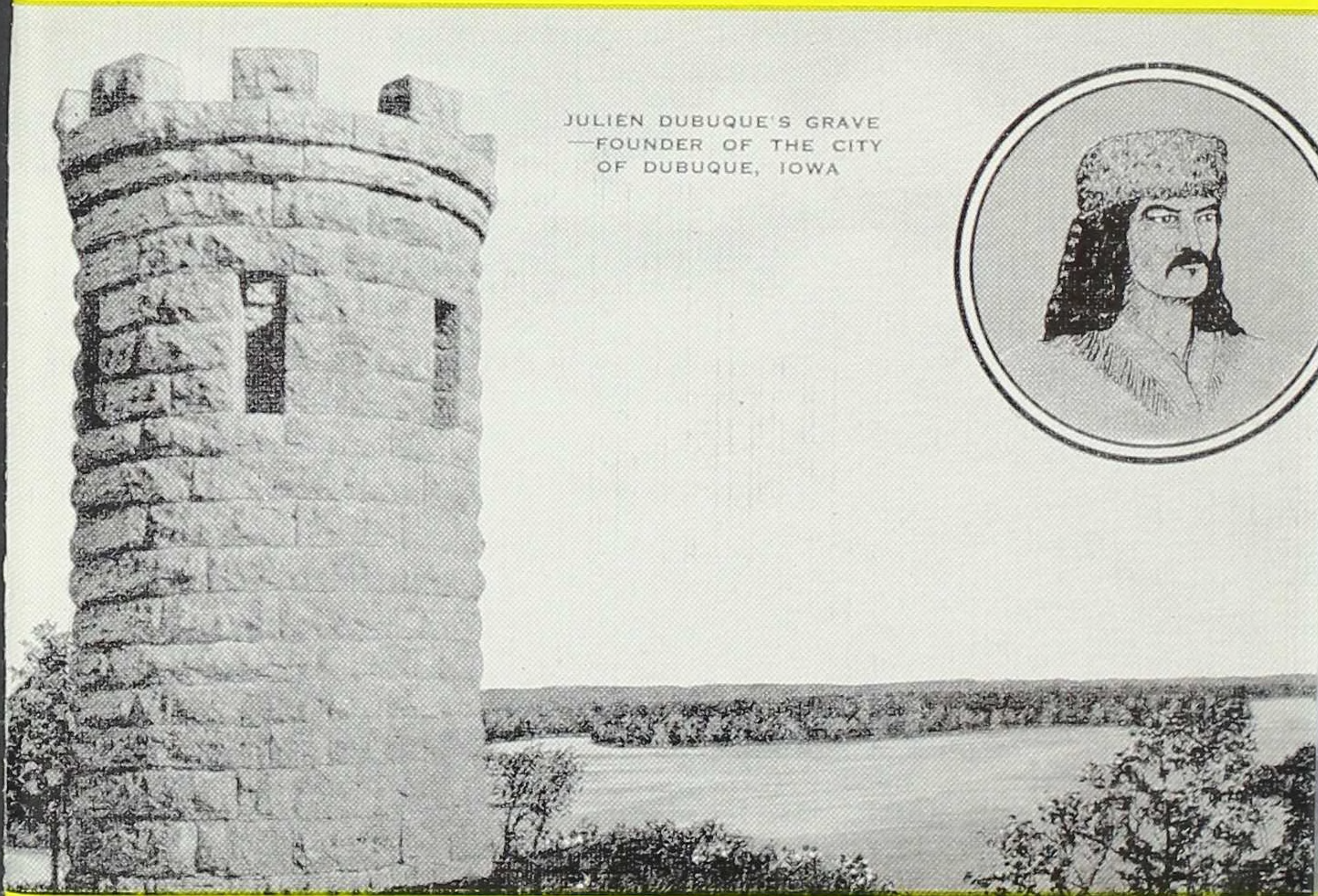


The **PALIMPSEST**



JULIEN DUBUQUE'S GRAVE
—FOUNDER OF THE CITY
OF DUBUQUE, IOWA

SPANISH LAND GRANTS IN IOWA

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Iowa under Spain

At the close of the French and Indian Wars, in 1763, the victorious British were forced to choose between Canada and the tiny sugar island of Guadaloupe. Canada was chosen. France also gave up all claim to the Ohio Valley and the land east of the Mississippi with the exception of the island on which New Orleans had been located in 1718. New Orleans and all the country west of the Mississippi, including the Iowa country, had been secretly ceded to Spain in 1762. Thus England and Spain stood face to face on opposite banks of the Mississippi.

Spain remained in technical possession of Iowa from 1762 to 1804 when Upper Louisiana was transferred to the United States following the Louisiana Purchase. From the start Spanish governors had difficulty in gaining the upper hand in New Orleans and the sparsely populated territory along the Lower Mississippi that had been settled solely by the French, who naturally despised their new rulers. North of the Missouri River, a hand-

ful of Frenchmen roamed the wilderness in search of furs and pelts.

It was four years after Spain acquired Louisiana west of the Mississippi before the first Spanish governor, Don Antonio de Ulloa, arrived in New Orleans. After two years of turmoil the French forcibly ejected Ulloa, sending that unhappy governor back to Spain. This incident called for sterner methods, and Spain promptly dispatched Don Alexander O'Reilly to quell the rebellion. O'Reilly arrived at New Orleans in 1769 with a large force of soldiers, shot or imprisoned the ring-leaders of the rebellion, and published twelve regulations which exhibited the policy of Spain regarding the disposition of the public domain by means of land grants. In 1770, his work completed, O'Reilly returned to Spain and was succeeded in the following thirty-three years by the following governors.

Don Luis de Unzaga	1770-1777
Don Bernardo de Galvez	1777-1784
Esteban Rodriguez Miro	1784-1791
Francisco Louis Hector (Baron de Carondelet)	1791-1797
Marquis de Cava Calvos	1797-1803
Don Juan Manuel de Salodi	

The names of these men are commemorated in numerous place names between New Orleans and St. Louis, and some (particularly that of Carondelet) are closely associated with Iowa history.

Although Spain gradually took a firm hold of the area between New Orleans and St. Louis, the land north of the Missouri was too remote to gain absolute control. For purposes of administration the Spanish had divided the Territory of Louisiana into districts which in 1803 were: the districts of New Madrid, Cape Girardeau, Ste. Genevieve, St. Louis, and St. Charles. The latter lay north of the Missouri River and included what is now Iowa, although settlement was confined largely to the Lower Missouri River area.

The total population of Upper Louisiana at the time of the Louisiana Purchase was about 10,000, with 1,500 slaves. The area had grown slowly during the Spanish regime but had doubled to 10,000 between 1800 and 1804, largely through the influx of Americans. The latter, doubtless, were more numerous than the French at the time of the Louisiana Purchase.

If settlement in Louisiana below the Missouri River was slow during the Spanish Period, it was virtually non-existent in the Iowa country. Only six names can readily be associated with the area — Jonathan Carver, Peter Pond, Jean Marie Cardinal, Julien Dubuque, Louis Honore Tesson, and Basil Giard. The first two were Connecticut Yankees who came west by way of the Great Lakes and Fox-Wisconsin rivers to Prairie du Chien and the Iowa country.

Prairie du Chien was a sleepy little French and

Indian town when Jonathan Carver arrived there in 1766. After traversing the vast wilderness expanse between the Great Lakes and the Mississippi, Carver was disposed to describe Prairie du Chien as "the great mart, where all the adjacent tribes, and even those who inhabit the most remote branches of the Mississippi, annually assemble about the latter end of May, bringing with them their furs to dispose of to the traders."

Carver's fur-trading companions encamped on a "small river" across the Mississippi from Prairie du Chien which the French called Le Jaun Riviere, or the Yellow River. Carver and two servants proceeded up the Mississippi, where he sojourned two winters in present-day Minnesota and the Lake Superior country. After three years in the wilderness, Carver went to London, England, where he published a book entitled *Travels Through the Interior Parts of North-America, in the Years 1766, 1767, and 1768*. This volume was translated into three languages (German, French, and Dutch) and went into many editions. More than thirty editions have been discovered. Despite such popularity, Carver died in penury and was buried in a pauper's ground until removed through the intercession of his wife and many English admirers.

A second Connecticut Yankee, Peter Pond, arrived at Prairie du Chien in 1773, three years before the outbreak of the American Revolution.

Although perhaps the poorest speller ever to describe Iowa, Pond has left an indelible record of his brief sojourn in Iowa. Prairie du Chien appeared to be a "Very Handsom" spot to Pond. "Hear the Botes from New Orleans Cum. They are navagated By thirtey Six men who row as maney oarse. Thay Bring in a Boate Sixtey Hogs-eats of Wine on one. . . . Besides Ham, Chese &C — all to trad with the french & Indans." After catching three gigantic catfish near present-day McGregor, Pond set out from Prairie du Chien with two traders for the St. Peters, or Minnesota River. Along the Mississippi they found plenty of "fat Gease and Duks with Venson — Bares Meat in abundans." After a winter in the wilderness in what is now Minnesota, Pond returned to Prairie du Chien whence he made his way back east by way of the Wisconsin, Fox-Green Bay route.

Although neither Carver nor Pond spent any time in Iowa, their written records were more colorful and complete than the four men who followed them and spent a longer time in Iowa. Spain seems to have restricted her interests to the region below the mouth of the Missouri River. She did consider locating a post (Fort Monbrun), apparently near the present site of Montrose in Lee County, but evidently it was never established. The cost in personnel and money was probably too great for Spain to undertake such a dubious venture, compared with the assured

wealth to be gained in Central and South America. Spanish cupidity would certainly have lured them to the Iowa country had the rewards been there.

The third man associated with the Dubuque area was Jean Marie Cardinal, a French Canadian fur trader. Legend has it that Cardinal was the first white man to settle at Prairie du Chien, probably about the time that the French and Indian wars began. While in the north woods, Cardinal killed two Englishmen during a quarrel and fled to southern Illinois in 1763. He lived at St. Philippe for a time but later moved to St. Louis. Cardinal ranged deep into the Upper Mississippi country and far up the valley of the Missouri. He appears to have stumbled on Nicholas Perrot's old mines around what is now Dubuque and determined to work the diggings. The outbreak of the American Revolution may have served as a spur to such activity.

Unfortunately, the British, to retaliate for the loss of Vincennes to George Rogers Clarke, determined to attack St. Louis. They captured an armed Spanish barge near the mouth of the Turkey River and pushed on to the lead mines. Cardinal and a few of his companions appear to have escaped, fleeing downstream to warn St. Louis inhabitants of the impending British attack. Jean Marie Cardinal lost his life in the defense of St.

T R A V E L S
T H R O U G H T H E
I N T E R I O R P A R T S
O F
N O R T H - A M E R I C A ,
I N T H E
Y E A R S 1766, 1767, and 1768.

B Y J. C A R V E R, E S Q.
C A P T A I N O F A C O M P A N Y O F P R O V I N C I A L
T R O O P S D U R I N G T H E L A T E
W A R W I T H F R A N C E.

I L L U S T R A T E D W I T H C O P P E R P L A T E S.

L O N D O N :
P R I N T E D F O R T H E A U T H O R ;
A n d S o l d b y J. W A L T E R, a t C h a r i n g - c r o s s , a n d
S. C R O W D E R, i n P a t e r - n o s t e r R o w.

M D C C L X X V I I I .

1778

Louis, probably the only Iowan to give his life in the cause of American independence.

It is a curious fact that none of the men associated with the Spanish period in Iowa were Spaniards. Carver and Pond, the two Connecticut Yankees, were still subjects of the British crown. Cardinal — and the three men destined to receive Spanish land grants, were all French Canadians. Spain thus held control over the Iowa country by extremely tenuous reins.

In conclusion, it should be pointed out that there were no permanent settlements in Iowa during the Spanish regime that carried over into the American period. There was some lead mining by both Cardinal and Julien Dubuque but relatively little fur trading. Nevertheless, the Spanish land grants, and the colorful personalities associated with them, are the most tangible evidence that the Spanish held Iowa for almost four decades. Their presence is also attested by the place names associated with the Spanish regime in Iowa history.

WILLIAM J. PETERSEN

Julien Dubuque

A light canoe skimmed swiftly down the Mississippi from Prairie du Chien. In it sat a lone French Canadian, skillfully plying his paddle. He was not a large man, but had the appearance of being able-bodied and alert. Neatly tucked away in the bow of his tiny craft was a bundle containing many presents of blankets, brilliantly colored cloth, combs, broaches, armbands, wristbands, earbobs, and many other trinkets. Some guns and scalping knives might also have been seen. Under his steady, powerful stroke, the light craft darted by the Turkey and Little Maquoketa rivers and on to the mouth of Catfish Creek. There stood the Fox Indian village of Kettle Chief with smoke curling lazily upward from the many lodges.

By the treaty of September 3, 1783, the victorious American colonies had acquired the land east of the Mississippi while Spain retained the lead mines and the territory west of the great river. Most of the Indians, who had been sent to guard the mines during the American Revolution, had returned to their homes. Only the Foxes remained under their leader Kettle Chief. Delighted with their surroundings and stimulated by the discovery of a rich lead mine, they determined to settle

permanently on Catfish Creek. They laid absolute claim to the entire mineral region west of the Mississippi and steadfastly refused to permit any white man to work the mines.

Still the Foxes did not feel unfriendly to this gay young Frenchman who had beached his canoe at their very door. The happy Indian children, tumbling about with their pets or imitating their elders in the hunt or at war, paused in their play to greet him. Even the busy squaws looked up from their work and smiled while the old men cast an approving eye after the friendly Frenchman as he entered Kettle Chief's lodge and deposited his presents. The Foxes called him *La Petite Nuit*, or Little Night, because of his swarthy complexion. His real name was Julien Dubuque.

Dubuque was born on the banks of the majestic St. Lawrence River on January 10, 1762. Of Norman descent, he sprang from several generations of hardy Canadian pioneers. Jean Dubuque, the first of his line to settle in New France, married Marie Hotot at Quebec in 1668. Their son Romain married Anne Pinel in 1693 and became the father of a boy, Augustin, in 1707. Julien Dubuque was the youngest of a family of thirteen who blessed the union of Augustin Dubuque and Marie Maillot. He was born at St. Pierre-les-Becquets, Nicolet County, in the district of Three Rivers.

Little is known of the early life of Julien Du-

buque. It is said he was well educated as a youth, having attended the parish school as well as classes at Sorel. Following his father's death in 1783, he settled at Prairie du Chien and soon made the acquaintance of Kettle Chief's band. Spurred by the possibility of wealth hidden in the hills about their village and possibly encouraged by Marie Anne Cardinal, Dubuque made "many voyages" to the Fox village on Catfish Creek. He lavished presents upon the Indians and appeared ever eager to serve them. Legend also associates his frequent visits to the village with a pretty Indian maiden, Potosa, shy but evidently responsive to the young man's wooing. The beautiful Potosa, it is said, finally became his wife. Little Night himself was adopted by the tribe.

Dubuque steadily ingratiated himself into the good will of the Foxes and on September 22, 1788, they granted him possession of the mines. The contract permitted Julien Dubuque "to work at the mine as long as he shall please, and to withdraw from it, without specifying any term to him; moreover, that they sell and abandon to him all the coast and the contents of the mine discovered by the wife of Peosta, so that no white man or Indian shall make any pretension to it without the consent of Mr. Julien Dubuque; and in case he shall find nothing within, he shall be free to search wherever he may think proper to do so, and to work peaceably without any one hurting him, or doing him

any prejudice in his labors. Thus we, chiefs and braves, by the voice of all our villages, have agreed with Julien Dubuque, selling and delivering to him" the privileges cited in the contract.

Jubilant over his success, Dubuque hastened to the lead mines with ten white laborers. He improved the land, cleared an extensive farm, and constructed upon it houses and a horse mill; he raised crops; he dug lead ore and smelted it in a furnace constructed for that purpose. His activity and enterprise were said to be varied and amazing. Moreover, he exercised such influence over the Indians on both sides of the Mississippi River that not only the Foxes but the Winnebagos as well habitually consulted him on matters of importance.

His ten white companions served as teamsters, smelters, storekeepers, woodsmen, boatmen, and overseers of the mines. The work was done entirely by the old Indians and squaws, the warriors and young men considering such labor to be beneath their dignity. The methods used at the diggings were of a primitive nature: the shovel and the hoe, the pickaxe and the crowbar were used, but no blasting was done. No shafts were sunk and the windlass and bucket were unknown. Drifts were run into the hills as far as possible and the mineral was then dragged out in baskets to the smelter where it was reduced to bars or pigs.

Not content with confining his activities to what is now Iowa, Dubuque appears to have sent his

prospectors to the east side of the Mississippi in the Fever River country. Indians were also employed in this capacity, and as soon as a discovery was reported Dubuque would send a Canadian or half-breed to prove the claim and sometimes work it. Usually, however, the Indians were allowed to dig out the ore and drag it to his trading house on the west side of the river. They piled their ore at the bottom of the shaft into tough deer-skins. These were hoisted to the surface or dragged up inclined planes by long thongs of hide. When mining became too complex for their simple tools the Indians abandoned their leads which were afterwards worked by white men with improved appliances and found to be the best in the region.

In the spring and fall Dubuque went to St. Louis with his lead and exchanged it for goods for his Indian trade. Two or three boats were required to convey the heavy freight and several of his Canadians were needed to man them. His arrival at St. Louis was the occasion of genuine rejoicing in that frontier community and he was cordially received by the leading citizens of the town.

Julien Dubuque was a man of striking appearance. According to James G. Soulard of Galena, who knew and conversed with him at St. Louis, Dubuque was a "man below the usual stature, of black hair and eyes, wiry and well built, capable of great endurance, and remarkably courteous and polite, with all the suavity and grace of the typical

Frenchman. To the ladies he was always the essence of politeness." His popularity and versatility was demonstrated at a ball given in his honor and attended by leading citizens of St. Louis. "At one point of the festivities," an eye witness observed, "Dubuque took a violin from one of the performers, and executed a dance to the strains of his own music, which was considered a great accomplishment, and was received with tremendous applause."

A significant characteristic of the enterprising Frenchman was his extreme caution in fortifying his claims to the mines that the Foxes had granted him permission to exploit. Late in September, 1788, he secured permission to erect markers or monuments at the confluence of the Little Maquoketa and the Têtes des Morts with the Mississippi. These were to serve as concrete evidence of the upper and lower boundaries of his domain. Eight years later he humbly petitioned Governor-General Carondelet for the confirmation of his title to the land:

Your excellency's very humble petitioner, named Julien Dubuque, having made a settlement on the frontiers of your government, in the midst of the Indian nations, who are the inhabitants of the country, has bought a tract of land from these Indians, with the mines it contains, and by his perseverance has surmounted all the obstacles, as expensive as they were dangerous, and, after many voyages, has come to be the peaceable possessor of a tract of land on the western bank of the Mississippi, to which [tract]

he has given the name of the "Mines of Spain," in memory of the government to which he belonged. As the place of settlement is but a point, and the different mines which he works are apart, and at a distance of more than three leagues from each other, the very humble petitioner prays your Excellence to have the goodness to assure him the quiet enjoyment of the mines and lands, that is to say, from the margin of the waters of the little river Maquankitois [Maquoketa] to the margin of the Mesquabysnonques [Tetes des Morts], which forms about seven leagues on the west bank of the Mississippi, by three leagues in depth, and to grant him the full proprietorship ["peaceable possession" is the proper translation of the original] thereof, which the very humble petitioner ventures to hope that your goodness will be pleased to grant him his request. I beseech that same goodness which makes the happiness of so many subjects, to pardon me my style, and be pleased to accept the pure simplicity of my heart in default of my eloquence. I pray Heaven, with all my power, that it preserve you, and that it load you with all its benefits; and I am, and shall be all my life, your Excellency's very humble, and very obedient, and very submissive servant.

J. Dubuque

What a consummate plea by the adroit Frenchman! Small wonder that Baron Carondelet, after being assured that affirmation did not entail any encroachment on the exclusive trading privileges which a robust young Irishman named Don Andrew Todd had in the Upper Mississippi Valley, granted the petition of this hard-working owner of the Mines of Spain. It was a princely tract which Julien Dubuque had gained. Even the trading re-

strictions were of small consequence, for Todd fell a victim of yellow fever and died late in 1796.

Dubuque quickly became familiar with all the superstitions and beliefs of the Fox Indians and apparently did not hesitate to practice weird tricks of magic and incantations upon them. It is said the Indians idolized him, placing greater faith in Little Night than in their own sorcerers and medicine men. The wily Frenchman claimed to be immune from the bite of poisonous snakes and handled them with perfect impunity.

One local tradition relates that on a certain occasion Dubuque got into a quarrel with the Indians who were not inclined to grant a request. Incensed at their stubborn refusal, Dubuque threatened to set Catfish Creek on fire. Still the Foxes remained obdurate. Little Night was nonplused and went to his cabin to find a way out of this quandary. That evening under cover of darkness a couple of Dubuque's white companions carried a dark object up Catfish Creek. Just above the bend that hid their actions from the village they halted and poured the contents of the barrel into the water. Dubuque, now in perfect control of himself, again called the Indians into council and repeated his demand. Still the Foxes sullenly refused. For a moment Little Night and his red brothers glared defiantly at each other. Then the Frenchman stooped, snatched a firebrand from the fire, and hurled it into Catfish Creek. In a twinkling the entire creek

burst into flames as the brand struck the surface of the stream and ignited the oil that floated by. Terrified at Little Night's cool announcement that he would burn their villages and even the Mississippi the Indians capitulated and granted every request.

Despite his energy, perseverance, and chicanery, Dubuque did not prosper. In some way he became heavily indebted to Auguste Chouteau, a wealthy merchant of St. Louis. Unable to meet his obligations Dubuque sold seven undivided sixteenths of all the Mines of Spain for \$10,848.60. This embraced a tract containing 72,324 arpents taken from the southern part of Dubuque's estate. Dubuque was to retain complete possession of the land during his lifetime when all the "works, furnaces, buildings, improvements," made by him were to come into the full and peaceful possession of Chouteau, his heirs and assigns. Following the transfer, a statement dated November 12, 1804, showed a balance of \$4,855.82 due to Dubuque, half of which was to be payable the following year in deer-skins, merchandise, taffeta, and the country's productions. The remainder was due in 1806 — four hundred dollars in deer-skins and the balance in "merchandise, taffetas, whiskey, etc."

A fortnight after Chouteau gained this concession, on November 3, 1804, William Henry Harrison, then Governor of the Territory of Indiana, signed a treaty with the Sauks and Foxes whereby the Indians agreed to give up all lands east of the

Mississippi and south of the Wisconsin. Appended to this treaty was an additional article declaring it must not be construed to "affect the claim of any individual or individuals who may have obtained grants of land from the Spanish government, and which are not included within the general boundary line laid down in this treaty, provided that such grant have at any time been made known to the said tribes and recognized by them."

Dubuque apparently enjoyed the peaceful possession of his claim throughout the remainder of the Spanish régime in Iowa. The retrocession of Louisiana to France in October, 1800, together with its sale by Napoleon to the United States in April, 1803, gave the Americans jurisdiction over the entire region west of the Mississippi.

Ever affable and polite, Dubuque was none the less adroitly evasive when silence was demanded. Thus, when Lieutenant Zebulon M. Pike arrived at the lead mines on September 1, 1805, he was "saluted with a field-piece, and received every mark of attention." But Dubuque was suspicious. Noticing that Pike was apparently ill, he persuaded the young lieutenant not to inspect the mines, since they were six miles distant and no horses could be provided. Pike reluctantly agreed and proposed instead a series of questions. Dubuque's answers, however, seemed "to carry with them the semblance of equivocation."

1. What is the date of your grant of the mines from the savages?
Ans. The copy of the grant is in Mr. Soulard's office at St. Louis.
2. What is the date of the confirmation by the Spaniards?
Ans. The same as to query first.
3. What is the extent of your grant?
Ans. The same as above.
4. What is the extent of the mines?
Ans. Twenty-eight or twenty-seven leagues long, and from one to three broad.
5. Lead made per annum?
Ans. From 20,000 to 40,000 pounds.
6. Quantity of lead per cwt. of mineral?
Ans. Seventy-five per cent.
7. Quantity of lead in pigs?
Ans. All we make, as we neither manufacture bar, sheet-lead, nor shot.
8. If mixed with any other mineral?
Ans. We have seen some copper, but having no person sufficiently acquainted with chemistry to make the experiment properly, cannot say as to the proportion it bears to the lead.

Fortune no longer seemed to smile on Julien Dubuque. Each year he encountered financial reverses and sank more deeply in debt. On June 3, 1807, he penned a letter from Prairie du Chien to the firm of Rochebleve and Porlier, two enterprising merchants at Mackinac, apologizing for the meager invoice of thirty-two packs of furs he was enclosing.

"Probably you will be astonished at so small returns this year," he wrote. "It is true, but consider

the circumstances which have caused this small result. For seeing the fine appearance of last autumn I arranged with 8 men to trap beaver on the Missourie. I had sent them An Outfit to make their entrance into the village and entrench it etc. When they had gone ten days journey or had camped ten times they met the Sioux of Des Moines river, and had a little Broil with them. They all gave up the enterprise and came to pass the winter opposite their village eating up their maize since they had no meat to eat. This spring they came to return to me what remained, their guns, traps and Kettles, and I refused to accept them only replying that the loss was total. I told them that these credits remained for another year, which they must make up. But this Misfortune makes me wish to give up trading and I will really quit it when affairs have become settled up.

"I pray you not to be apprehensive for the Balance that remains against me — it is true that I am on the wrong side of the account. But when I die I have funds that belong to me that will more than equal the balance that is owing you. For all the small debts that I owe you I would much prefer to pay in peltry than to draw on you for money."

But Dubuque's efforts to retrieve his fortune seemed to be hopeless. Already deeply involved with Auguste Chouteau, he found it increasingly difficult to meet his obligations. At the time of his death in 1810, Julien Dubuque was bankrupt.

When the Indians learned of the death of Little Night they were thunderstruck. For years he had been a brother to them. They sought his advice in time of danger and had implicit faith in him as a great medicine man. They exhibited the deepest grief at his loss. Indians came for miles around to attend his funeral, while chiefs and warriors vied with each other for the honor of carrying his remains to the grave. Tradition has pictured a sorrowful procession filing its way to the top of the high bluff on the north bank of Catfish Creek overlooking the mighty Mississippi. After a number of brilliant funeral orations the Indians chanted the death-song of a brave and returned mournfully to their village. Soon afterward his faithful French Canadians placed a cedar cross over his grave. On it they inscribed in French: "Julien Du Buque, Mineur de la mine d'Espagne, morait le 24 Mars, 1810 — age de 45½ annees."

WILLIAM J. PETERSEN

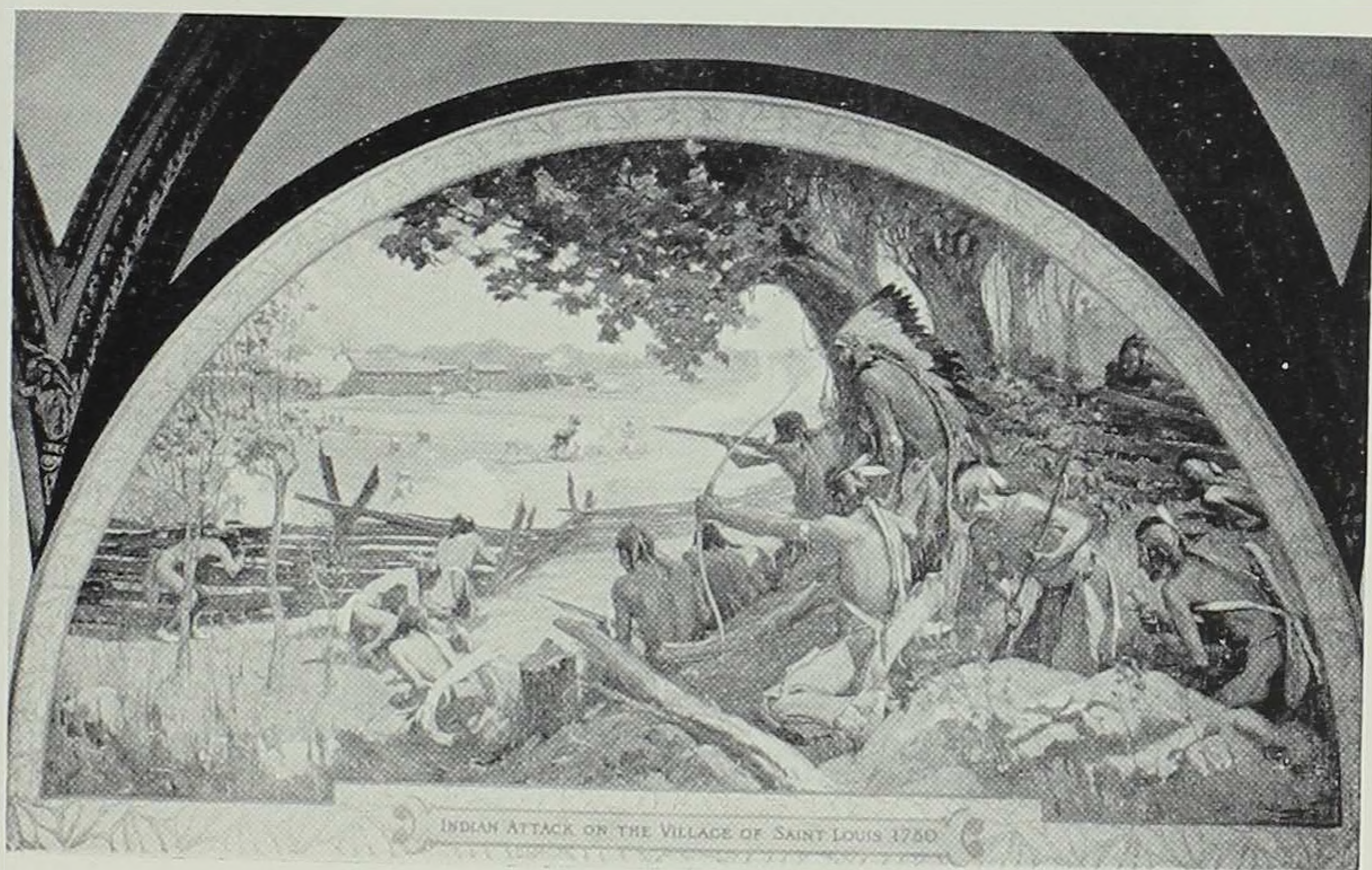
Chouteau *v.* Molony

The Fox village on Catfish Creek was in a tumult. Sixty white men had just arrived in a keelboat to take possession of the lead mines. Already these invaders had begun their digging and smelting. Rude buildings began to rise despite the red men's protest. Little Night had scarcely been laid in his grave when these noisy strangers appeared to disturb him.

The Foxes were assembling their warriors, intent on ousting the miners and demonstrating that white men, no matter how many, would not be allowed to work the mines of Julien Dubuque. Colonel John T. Smith contended that he had bought an interest in Little Night's mines from the Chouteaus. The Indians scouted the statement. Their chiefs wisely pointed out that their brother, Little Night, had merely received permission to work the mines and had not been granted an absolute title to the land. Finally, turning a deaf ear to all further arguments, the warriors set fire to the buildings and drove the intruders pellmell across the Mississippi.

For a score of years the Foxes defiantly and successfully warded off all attempts on the part of white men to work the mines. Observant travelers

And Fired the Shot Heard Round the World!



Courtesy State Historical Society of Missouri

Jean Marie Cardinal; Defense of St. Louis in 1780

Julien Dubuque--"Little Night"

Miner of the Mines of Spain

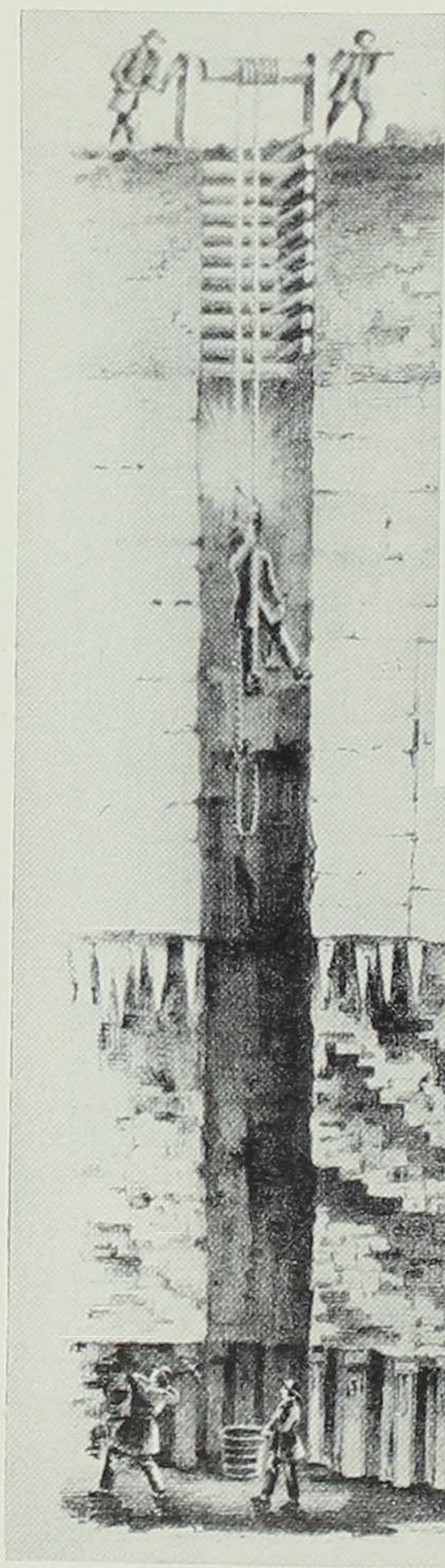


FOX INDIAN SQUAWS HEL JULIEN



HELP LIEN DUBUQUE MINE LEAD

This reproduction of a painting by James McBurney of Chicago originally hung in the Federal Bank and Trust Company of Dubuque but recently was removed to the Medical Associates offices on 12th and Main streets. Permission to reproduce the painting has been granted by John Rider Wallis of Dubuque, who was responsible for instigating the painting in the bank.



David Dale Owen
Lead Mining at Dubuque

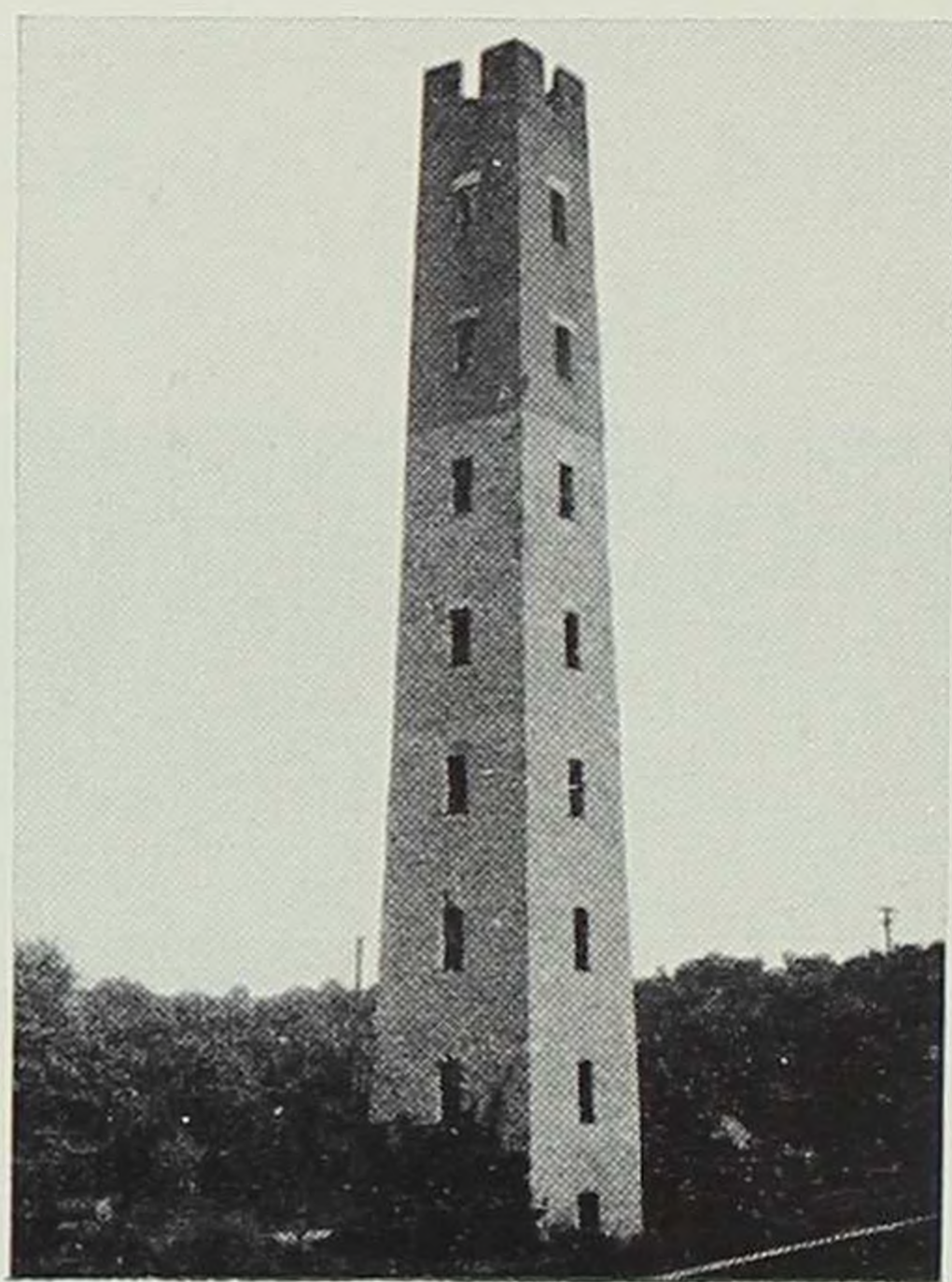


Photo by William J. Petersen

Dubuque Shot Tower

such as Major Stephen H. Long, Henry R. Schoolcraft, and Major Thomas Forsyth were in accord on the jealousy with which the Foxes guarded their mines. Indeed, in 1823 the Italian exile and judge, Giacomo Constantine Beltrami, had to resort to a bribe of influential whisky in order to obtain permission to visit the mines. Arriving on the steamboat *Virginia*, Beltrami found the Indians carrying on just enough mining to satisfy their needs in trade. They melted the lead into holes dug in the rock and reduced it to pigs in this manner. It was then carried across the river, for they would permit no white man to come to the mines to get lead. Beltrami was amazed to discover that Julien Dubuque's body was enclosed in a leaden chest in a wooden mausoleum situated on the top of a hill overlooking the Mississippi.

Meanwhile, the lead mines on the east bank of the Mississippi were being worked more and more extensively. In 1810 the Indians had melted 400,000 pounds of lead at Fever River, and in 1815 there were twenty rude Indian furnaces in the neighborhood of what was later to be the site of Galena. In 1816, the first flatboat cargo of lead to emanate from the Fever River mines was sent to St. Louis by George Davenport, and by 1821 it was not uncommon to see these unwieldy craft heavily laden with lead slowly making their way down the Mississippi. By 1830 Galena was a trading center with over a thousand inhabitants.

But the white men were not satisfied with being restricted to the east side of the Mississippi in Illinois. They cast longing glances at the west bank, but the big Indian village served as a reminder that they were not wanted. In 1829 James L. Langworthy was said to have crossed the Mississippi and explored the region near the site of Dubuque. Early in 1830 the Indians deserted their village and James and Lucius Langworthy crossed over and commenced mining. Others were not slow to follow and soon the number was sufficiently large to feel it incumbent on themselves to draw up a set of rules to govern the community.

On June 17, 1830, a prophetic event occurred near the mouth of Catfish Creek when a group of rugged miners met around an old cottonwood tree and drew up a set of rules to govern their mining operations. The meeting was organized in due form and the preliminary business disposed of, after which a committee drew up the following regulations:

We, a committee, having been chosen to draft certain rules and regulations, by which we, as miners, will be governed, and, having duly considered the subject, do unanimously agree that we will be governed by the regulations on the east side of the Mississippi River, with the following exceptions, to wit:

ARTICLE 1. — That each and every man shall hold two hundred yards square of ground by working said ground one day in six.

ART. 2. — We further agree, that there shall be chosen

by the majority of the miners present, a person who shall hold this article, and who shall grant letters of arbitration, on application being made, and that said letter [of] arbitration shall be obligatory on the parties concerned so applying.

Written by James L. Langworthy on a half-sheet of coarse unruled paper on the log around which the miners had gathered, this "Miners' Compact" was the first set of laws for the government of white men adopted on the soil of Iowa.

The land west of the Mississippi had not been opened to settlement, however, and troops drove the interlopers away. At the conclusion of the Black Hawk War in 1832, the miners who had been driven out during the summer of 1830 crossed the river and resumed operations on their former claims. But the land was not yet open to settlement, and Zachary Taylor soon arrived with a military force to expel them. Langworthy and most of the miners removed to an island near the west bank of the river where they built rude shacks and, surrounded by heaps of mineral, spent the remainder of the winter and the following spring, suffering many privations.

The treaty which closed the Black Hawk War and effected the purchase of a strip of land about fifty miles wide stretching westward from the Mississippi set the date of June 1, 1833, for the extinction of the Indian title to this part of the Iowa country. All of the land embraced within Du-

buque's Mines of Spain was included in the cession. Scores of settlers must have swarmed into Iowa on that day. The movement to the lead mines around Catfish Creek and northward to the Little Maquoketa was especially great and apparently no attention was paid to the possibility of their claims being illegal. Had not the Foxes clearly demonstrated their feelings in regard to the claims of Chouteau?

The settlement at Dubuque's Mines increased rapidly in population. Strategically located on the Mississippi, Dubuque had a distinct advantage over Galena which lay some miles up the Fever or Galena River. But the persistent manner in which the heirs of Chouteau presented their claims before Congress and carried the contest for possession of the old land grant from a lower to a higher court caused the settlers to become nervous and wonder if their titles to the land they occupied were really valid. For two decades the claim of the Chouteaus hung like a sword of Damocles over the lead mines. It can hardly be doubted that the natural growth of the region was retarded as long as this situation existed.

Finally, by mutual agreement the case was put into the form of a suit of ejectment against a farmer named Patrick Molony, who held his land under a patent from the government. Judge John J. Dyer of the United States District Court for Iowa rendered judgment in favor of Molony. The case

was then carried to the Supreme Court of the United States. Reverdy Johnson of Maryland together with able St. Louis attorneys represented Henry Chouteau. The settlers at Dubuque, through Patrick Molony, were represented by Attorney General Caleb Cushing and by Thomas S. Wilson and Platt Smith. In March, 1853, the judgment of the lower court was affirmed. When the news reached Dubuque there was general rejoicing — bells rang, bonfires were kindled, and citizens extended mutual congratulations to each other.

The major points in the decision as rendered by Justice J. M. Wayne of Georgia in the case of *Chouteau v. Molony* were clearly stated. Spanish law granted the Indians a right of occupancy but did not allow them to sell or part with any land except as provided by the laws of Spain. These laws and usages did not sanction such a grant as the one from Carondelet to Dubuque. The Foxes had merely sold Dubuque a permit to work the mines and restricted all others from making any pretension to it without the consent of Dubuque. It would be unreasonable to think the Indians had intended to sell their own village site — an act which was itself illegal according to Spanish law. Dubuque, in his petition to Carondelet, had asked for the "peaceable possession" of the mines and this was simply "granted as asked" with definite restrictions pertaining to the Indian trade. Thus, the

Spanish grant did not convey full title but only confirmed such rights as Dubuque had previously received from the Indians. No survey had been made nor had Dubuque obtained an order for one from Carondelet or his successor. Since this grant was not a complete title to land, making it private property, the Dubuque tract was automatically conveyed to the United States by the Louisiana Purchase on April 30, 1803. Chouteau was perfectly familiar with the documents and had simply engaged in speculation when he bought seven-sixteenths of the Mines of Spain. All he had acquired was Dubuque's right to "peaceful possession" which, so far as the Indians were concerned, Dubuque had no right to sell.

WILLIAM J. PETERSEN

Tesson's Apple Orchard

When the first settlers began to filter into southeastern Iowa during the early thirties of the last century, they were struck with wonder and amazement on finding, in the primeval forests skirting the banks of the Mississippi River, evidence of an earlier habitation of the white man. Near the head of the Des Moines Rapids in the Mississippi was an old apple orchard. Already the trees had reached maturity and many of them had fallen into decay; some had been toppled over by storms and second growth saplings were springing up about their roots.

Whence came these apple trees? Whose hand had planted and protected them against the encroachments of the more hardy varieties of native timber with which they were promiscuously intermingled? It was thought improbable that the Indians, owing to their roving and shiftless disposition, had ever engaged in horticultural pursuits. Evidently some white men must have preceded the early settlers in a futile attempt at colonization and permanent settlement in that locality.

The apple trees marked the site of the second Spanish Land Grant made to Louis Honoré Tesson, the son of a French-Canadian tailor who lived

in St. Louis. Like so many of his race, Tesson seems to have responded to the lure of the wild. He voyaged up and down the Mississippi, traded with the Indians, and made the acquaintance of other hardy adventurers engaged in the same occupation. Perhaps he knew Julien Dubuque and learned of land grants from him. In the course of his travels, Tesson probably spent some time at the large Sac Indian village at the head of the Des Moines Rapids on the Iowa side. Here he seems to have made friends among the Indians for if they did not prevail upon him to come and establish a trading post near by, they at least were not hostile to the project.

This site, situated on a beautiful level terrace of second bottom land, fertile and picturesque, probably appealed to Tesson. A high prominence at the rear afforded a magnificent view of the river for miles in either direction, while below was an excellent landing for boats. Being about midway between the Spanish mines (Dubuque) and the seat of government at St. Louis, the place gave abundant promise of being a splendid location for a trading post, both from the standpoint of the Indians and those who plied the river. Moreover, the position at the head of the rapids was strategic as the beginning and end of a long portage.

With these considerations in mind, Tesson approached the Spanish government where his proposal to establish a trading post was favorably

received. In the past, Spanish traders had not been particularly successful in competition with the British, and it may have been for this reason that the officials at St. Louis were willing to foster any enterprise that gave promise of promoting the interests of Spain in the New World. On March 30, 1799, Louis Honoré Tesson received permission from Zenon Trudeau, Lieutenant Governor of the province of Upper Louisiana, to make a settlement upon 7056 arpents of land. According to the terms of this permit, "Mr. Louis Honoré [Tesson] is permitted to settle" at the head of the Des Moines Rapids, "and having effected his establishment he will write to the Governor General to obtain the concession of a suitable area in order to validate said establishment, and at the same time to make him useful in the trade in peltries in that country, to watch the savages and to keep them in the fealty which they owe His Majesty." He was also placed under obligations to plant trees and sow seeds, to instruct the Indians in the art of agriculture, and to spread the tenets of the Catholic faith. His conduct in these respects was to "serve him as a recommendation to be favored by the Government in such a way as to let him have the benefit of whatever he may do to contribute to the increase of the commerce in which he is to participate."

In order to secure a clear title to his land through confirmation by the Governor General,

Tesson set about fulfilling the terms of the grant. Having purchased some supplies in St. Louis, largely on credit, and obtained about a hundred seedling apple trees of several varieties at St. Charles, he proceeded on his northward journey, transporting the small apple trees, it is said, on pack mules. His family may have accompanied him upon this trip, for it is recorded that he married Theresa Creely in 1788 and that a son bearing the name of Louis Honoré was born in St. Louis about 1790. Sometime in 1799 Tesson reached the site of his land grant. There he erected buildings, built some fences, cultivated a small patch, and planted his apple trees.

For a number of years he lived at the head of the rapids, fraternizing with the Indians, and trading in liquor, pelts, and baubles. Life on the very outskirts of civilization was probably not altogether monotonous. Julien Dubuque and other itinerant traders must have stopped on their way to St. Louis. There was plenty of excitement when the ice went out of the river, when the flood waters rose, and when the Indians went on the warpath. Living was easy. The river teemed with delectable fish, while game was abundant. Quail, prairie chickens, turkeys, and deer were commonplace. Wild strawberries, blackberries, and grapes varied the menu — the apple trees were probably too young to bear.

All of the circumstances pertaining to Tesson's

undertakings were not so rosy. He seems to have been lacking in tact and general business ability. At all events he incurred the enmity of some of the Indians and was no match for the shrewd British traders. His trading operations failed, and he fell deeper and deeper into debt at St. Louis. After four years of patience and forbearance on the part of his creditors, all of his property was attached. According to Spanish law and upon the authority of an order from the Lieutenant Governor of Upper Louisiana, P. A. Tablaux, acting as attorney for Joseph Robidoux, appeared unexpectedly before the door of Tesson's house on March 27, 1803, and there, accompanied by two witnesses and in the presence of Tesson, seized the property and gave notice that it would be sold in public at the door of the parish church in St. Louis for the benefit of the creditors. The auction occurred in customary form at "the conclusion of high mass, the people coming out in great number, after due notice given by the public crier of the town in a high and intelligible voice, on three successive Sundays, May 1, 8, 15, 1803." On the first Sunday only "twenty-five dollars was bid; on the second, thirty dollars; on the third, the last adjudication, one hundred dollars; and subsequently, one hundred and fifty dollars by Joseph Robidoux," Tesson's chief creditor. This offer was "repeated until twelve o'clock at noon; and the public retiring, the said Robidoux demanded a deed of his

bid. It was cried at one o'clock, at two o'clock, and at three o'clock, and no other persons presenting themselves, the said land and appurtenances were adjudged to him for the mentioned price of one hundred and fifty dollars, and having to receive this sum himself, he gave no security."

Robidoux, finding himself possessed of property for which he had no immediate need, permitted Tesson to remain on the tract for some time thereafter. It is not known whether Tesson was finally ejected from the land, or whether he left of his own accord. He was still in the vicinity in 1805 when Lieutenant Zebulon M. Pike explored the Mississippi River from St. Louis to its source. Pike began the ascent of the Des Moines Rapids in the Mississippi on the morning of August 20th. After passing the first shoal, they met Mr. Ewing who had come to assist in negotiating the rapids. He was accompanied by "a French interpreter, four chiefs and 15 men of the Sac nation, in their canoes, bearing a flag of the United States." The interpreter, Lieutenant Pike explained, was "Monsieur Louis Tisson," who had "calculated on going with me as my interpreter," and who "appeared much disappointed when I told him I had no instructions to that effect." He also promised to discover mines, "which no person knew but himself; but, as I conceive him much of a hypocrite, and possessing great gasconism, I am happy he was not chosen for my voyage."

On the death of Joseph Robidoux in 1809, the Tesson land, including all buildings and appurtenances thereto, was acquired by Thomas F. Riddick at an auction held on April 9, 1810. Riddick paid sixty-three dollars for the property — the highest and last bid. Nearly thirty years later the legality of this transaction was confirmed and Tesson's title acquired in 1799 was established by the United States government when a land patent was issued covering six hundred and forty acres of the tract. This was the first patent to Iowa land and established a title record that dates back to 1799 — the oldest in the State.

From the time when the property passed into the hands of Riddick in 1810, the thread of the story is lost until eleven years later, when Isaac R. Campbell explored the southern portion of the Iowa country and later mentioned in his memoirs that at that date Chief Cut Nose lived in a village at the head of the Des Moines Rapids, near the site of the old establishment of Louis Tesson. "Below the creek running into the river," he writes, "on the lower side of the Indian town, were the remains of a deserted trading house, around which was growing a number of apple trees." Tesson himself had dropped from sight altogether. At what time he forsook the environs of his hapless undertaking, where he went, what he did, and where he died are unknown facts.

J. P. Cruikshank says that his father, Alexander

Cruikshank, visited the old orchard in the summer of 1832. At that time about fifteen trees were bearing, though the fruit was of a very inferior quality. That the apples should be poor was not surprising, as it was obvious that the trees had been neglected for many, many years.

In the year 1834 the original Fort Des Moines was established by the United States government on the Tesson grant. The buildings of the fort were immediately adjacent to and north of the old apple orchard. At that time there were "many traces of a former settlement around the camp, the most prominent of which was the old orchard of apple-trees a short distance below. The orchard at that time contained some ten or fifteen trees in bearing condition. The fruit was very ordinary, being a common seedling. The Indians were in the habit of visiting the orchard, and gathering the fruit in its green state" so that none of it ever matured. There were also "remains of dirt, or adobe, chimneys visible in the same locality; which goes to prove that a settlement had existed there at some former period."

During the three years that the old fort was maintained, a number of men illustrious in the history of Iowa and the nation were there. The three companies of United States Dragoons, which constituted the garrison, were commanded by Stephen W. Kearny, famous western explorer. Albert M. Lea, in command of one of the companies that

made a thousand-mile march across the prairies of Iowa and Minnesota in 1835, published the first popular description of the Iowa country. Zachary Taylor and Jefferson Davis were stationed at Fort Crawford at the time Fort Des Moines was established and may have visited the dragoons down the river. In 1837 Lieutenant Robert E. Lee was sent by the War Department to survey the Des Moines Rapids of the Mississippi for the purpose of making recommendations toward the improvement of the navigation of the river.

During the same year, 1837, when Fort Des Moines was abandoned, the town of Montrose was laid out by D. W. Kilbourne on the site of the old apple orchard. Unfortunately for Kilbourne, however, he failed to secure a perfect title to the land before beginning his operations, and the heirs of Thomas F. Riddick brought suit against him for possession. During the trial Kilbourne attempted to discredit Tesson and his activities altogether, bringing as a witness, Red Bird, who claimed that he himself had planted the apple trees and that Tesson was an impostor and a "che-wal-is-ki" (a rascal), who had never bought an acre of land. Red Bird's story was in part substantiated by Black Hawk but the court upheld the Tesson title to the land, giving the Riddick heirs possession. The case eventually found its way to the Supreme Court of the United States which affirmed the decisions of the lower courts.

As the town of Montrose developed, the Rid-dick heirs disposed of their inheritance to various people. The old orchard site at last came into the possession of George B. Dennison who, in 1874, conveyed the plot to the town of Montrose, to be held in trust for the Old Settlers' Association. The intention at that time was to erect an ornamental iron fence around the premises and otherwise improve the appearance of the grounds, but these well-meant plans did not materialize, and only spasmodic efforts have since been made. None of the trees survive. The last one, according to the memory of the older residents of Montrose, died or disappeared nearly half a century ago.

In 1912 J. P. Cruikshank earnestly endeavored to rally sufficient interest to save the old orchard site from inundation by Lake Cooper, soon to be created by the completion of the Keokuk dam. It was impossible to inspire sufficient enthusiasm in the project, however, and during the second week of June, 1913, when the flood gates of the great dam were closed, the bleak, swirling waters of the Mississippi were transformed into a placid lake which slowly enveloped the greater portion of the historic spot.

BEN HUR WILSON

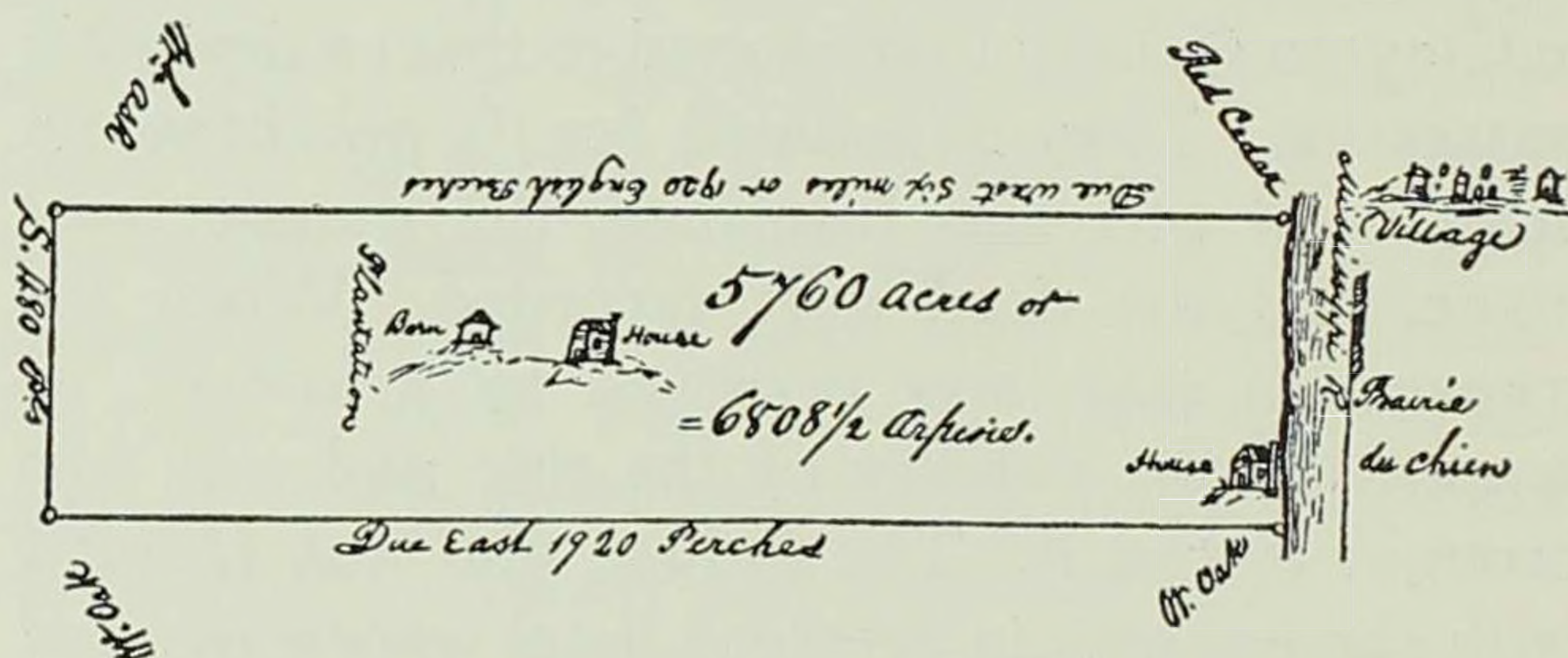
Basil Giard

Some years ago two young men from western Iowa found a farm crowning the Mississippi bluffs in Clayton County that seemed to them a desirable possession. They negotiated for its purchase; an abstract of title was furnished, the transfer was made, and the deed duly recorded. When the transaction was later reviewed by a lawyer, he questioned the validity of the title and suit was brought to test it. The judge, who was familiar with the findings in previous legal transactions of its kind, made the necessary explanations and dismissed the case.

The farm was a part of the old "Giard grant," one of the tracts lying within the boundaries of Iowa which were granted by the government of Spain to Frenchmen resident thereon. This grant was eventually recognized by the United States government as a legal transfer. Any freeholder who can trace a land title to Basil Giard is secure in the possession of his property.

Located on the west bank of the Mississippi River nearly opposite the original settlement at Prairie du Chien, the Giard grant contained 6808½ arpents by the French unit of measure, or approximately 5760 acres. Beginning at a red

cedar tree on the west bank of the river opposite Prairie du Chien, the northern boundary of the tract ran due west six miles to a white ash tree, thence the line ran south a mile and a half to a white oak tree, and from there due east to another white oak on the west bank of the Mississippi.

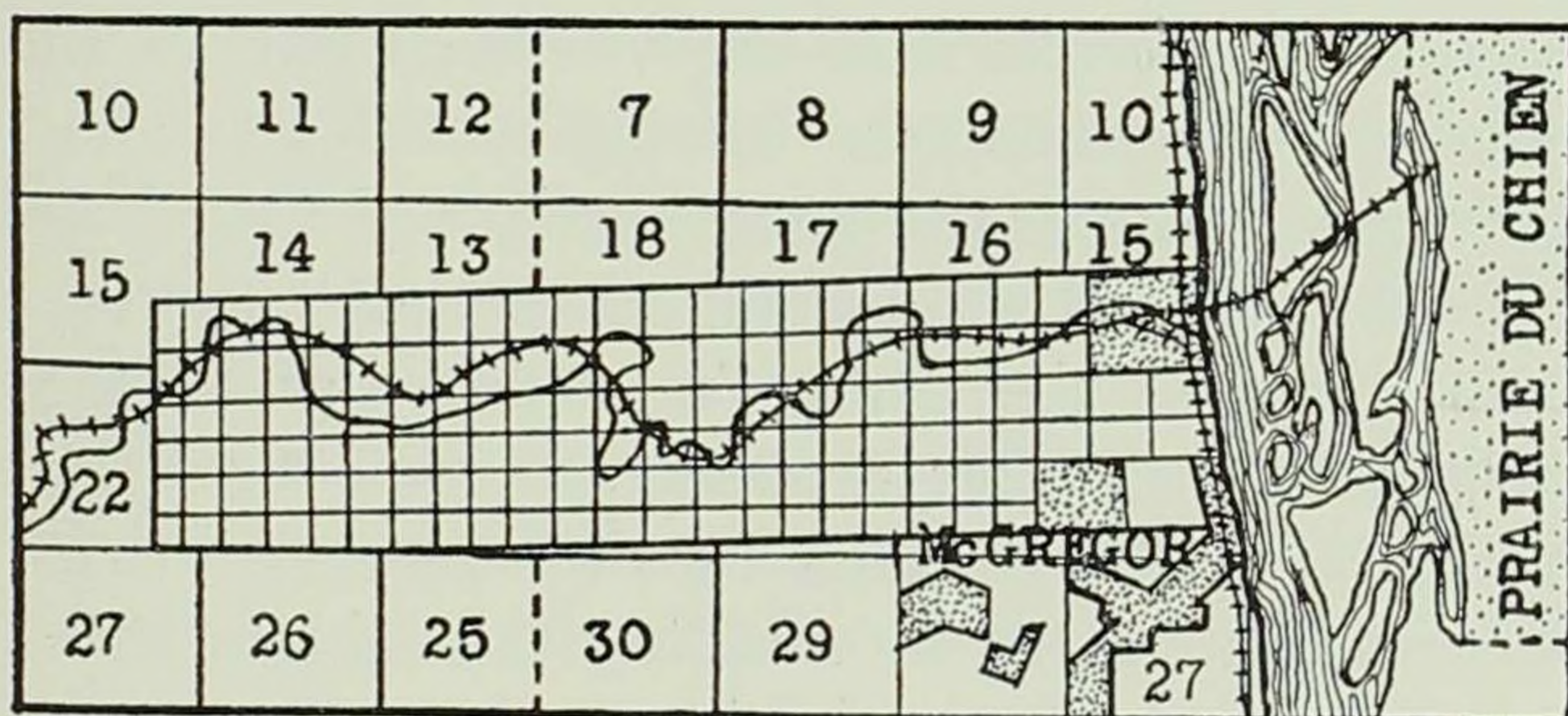


FACSIMILE OF THE PLAT OF THE GIARD TRACT
DRAWN BY THE SURVEYOR IN 1807

Besides an extensive farming community, the town of Marquette and part of McGregor are now included in this area.

Probably as early as 1779, Basil Giard was trading with the Indians and trappers at Prairie du Chien. In the course of time, perhaps in 1785, he began cultivating a few acres across the river, enclosed his crops with a brush fence, and eventually built a cabin. By 1796 his plantation "on a bayou, nearly opposite to Prairie du Chien," was occupied by a farmer who raised some corn and had some stock on the place. Four years later as much as fifty acres was said to be under cultivation. Dur-

ing all these years, Giard had not been disturbed in the possession of his "plantation" either by white men or Indians. According to local opinion, the land belonged to him by right of occupation and cultivation.



THE GIARD TRACT AND VICINITY

Nevertheless Giard had no legal title to his claim. To remedy that deficiency he petitioned the government of Upper Louisiana on October 15, 1800, for a land grant. "Bazil Giard, subject of his Catholic Majesty, has since fifteen years, occupied a tract of land, situated about half a league from the river Mississippi, and has constructed buildings thereon, and made considerable expenses to improve the said land," he declared. "The petitioner, who has a wife and three children, humbly asks for the said land, according to the privileges granted to the faithful subjects of his Catholic Majesty; and your petitioner, respectfully requests that you will inform yourself from

the Citizens of St. Louis as to his Conduct and Character, since he became a subject of the King of Spain; and he hopes that said information will be such as to justify you in Granting his demand."

A month later, Don Charles Dehault Delassus, "Lieutenant Colonel of the armies of H. C. M. and Lieutenant Governor of the Western Part of Illinois and dependencies," having received satisfactory reports as to the good conduct of Giard and his fidelity to the Spanish government, issued a concession of the claim "in order that he may peacefully enjoy his property, as well himself as his heirs, until he applies for the concession to my lord the Intendent by handing to us his petition, wherein he shall specify the number of arpens of land, he is settled upon, in order that a regular title may be furnished him, similar to all those which are granted in the name of H. C. M. to his faithful subjects."

Furthermore the Lieutenant Governor recommended that Giard "help with all means in his power, the travellers who should pass at his house, as he has done hitherto — and to preserve a good understanding between the Indian nations and our government, as well as to inform us with the greatest care of all the news which he shall gather, and which could affect the peace and property of our settlements."

In compliance with the governor's recommendation Giard apparently entered his claim to about

four and a half sections of land, including the site of his farm, for the grant specified an area of 6808 $\frac{1}{2}$ arpents. The exact location and shape of the tract seems to have been uncertain for a number of years. Not until May, 1807, was the grant surveyed and the plat recorded. Meanwhile Giard and his family continued to occupy the land.

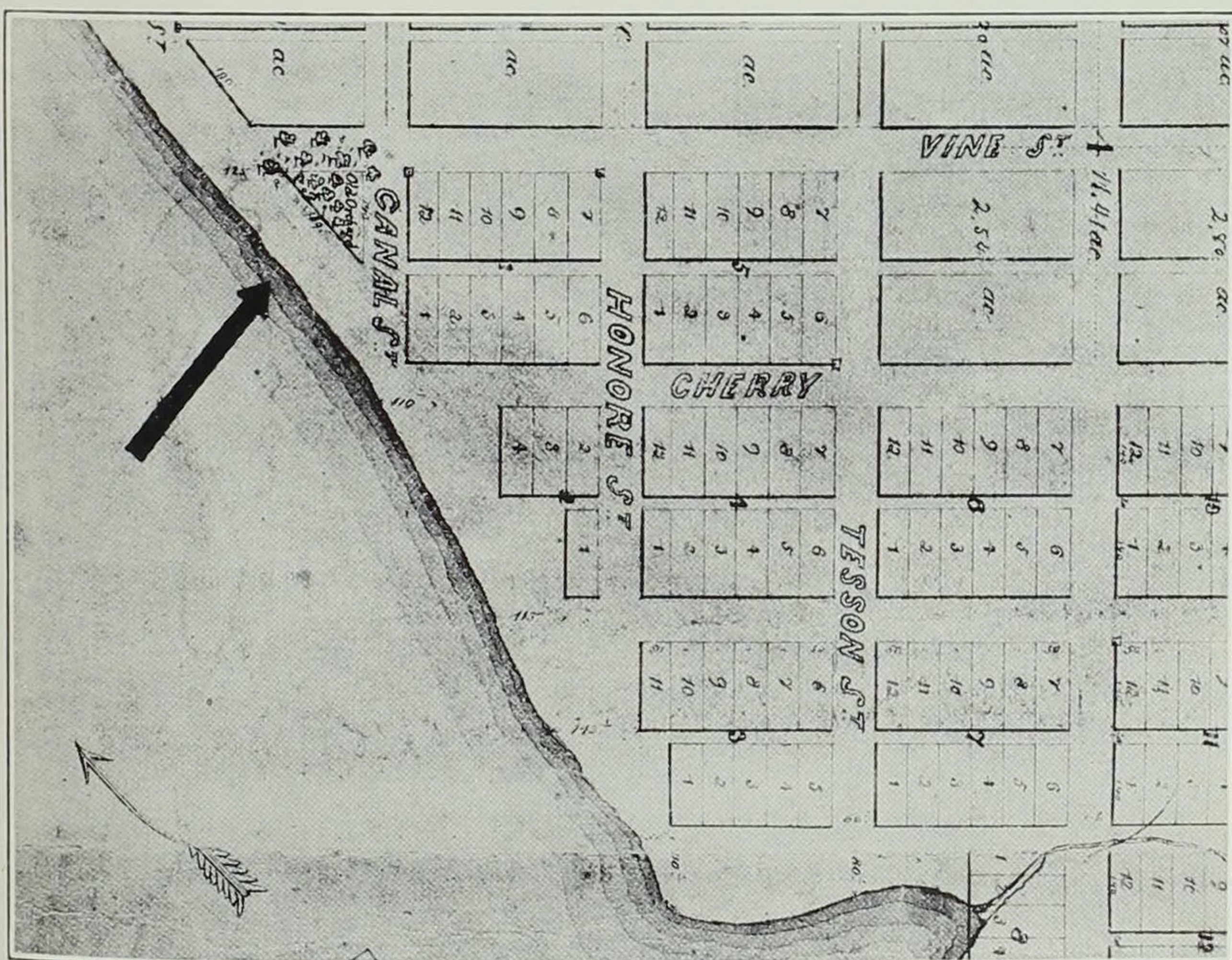
Even before the grant was consummated, Spain had retroceded Louisiana to France, but the treaty expressly provided that all titles to land legally held under Spanish grants were to be recognized by France. Three years later France sold Louisiana to the United States, and again the same covenant respecting the legality of Spanish land grants was made.

Shortly after the purchase of Louisiana, President Jefferson sent Lieutenant Zebulon M. Pike up the Mississippi River to explore the territory. In his journal, Pike mentions a little group of three houses on the western bank opposite Prairie du Chien. They were then occupied, probably by the Giard family. In 1808, however, the settlement was abandoned; Giard's application for confirmation of his title had been denied by the Recorder of Land Titles in 1807. Moreover, Giard wished to establish his claim to certain town lots in Prairie du Chien. So he moved to the French town and soon after blandly swore that it had been his legal residence for many years.

At his death, Basil Giard left three heirs, his

daughters Lizette and Mary, and a grandchild, Felicité Giard, daughter of Angelie Giard. In 1816 the Recorder of Land Titles at St. Louis recognized the validity of Giard's claim to his Spanish grant, and title was confirmed by an Act of Congress relating to Spanish grants in this territory. Meanwhile the family had scattered. Mary Giard married Tunis Bell, Lizette married Francis Chenevert, and Felicité married Paul Dussaume. In 1832 the Bells deeded an undivided one-half of the tract to James H. Lockwood, a prominent citizen of Prairie du Chien. When they realized later that Felicité was also an heir, this was changed to an undivided one-third. In 1836, the other two heirs deeded their shares to Lockwood and Thomas B. Burnett, in partnership. The deeds were all duly recorded. By that transaction the Spanish grant went out of possession of the Giard family.

IOLA B. QUIGLEY



The Tesson Apple Orchard Site

This Map is Reproduced from the Plat of Montrose Made by D. Baldwin in 1853 for the Heirs of Thomas F. Riddick.

SPANISH LAND GRANTS IN IOWA

