CHAPTER V.

THE ORDINANCE OF 1787. — NORTHWEST AND SOUTHWESTERN TERRITORIES.

GOVERNMENT OF THE TERRITORY OF THE UNITED STATES NORTHWEST OF THE RIVER OHIO.

CLAIM OF VIRGINIA AND NEW YORK TO THE LANDS THEREIN.

The entire territory east of the Mississippi River, north of the Ohio River, and west of the State of Pennsylvania, which had, prior to the Revolutionary War, been subject to the jurisdiction of the Province of Quebec, was claimed by the State of Virginia at and prior to March 1, 1784, the date of her first cession to the confederated government. She was in possession of the French settlements of Vincennes and Illinois, which she had occupied and defended during the Revolutionary War.

The first charter of Virginia (James I., April 10, 1606) extended along the sea-coast from the thirty-fourth degree to the forty-first degree of north latitude, but only fifty miles inland.

By the second charter for Virginia (James I., May 23, 1609) the limits of the colony were extended so as to embrace "the whole sea-coast, north and south, within two hundred miles of old Point Comfort, extending from sea to sea west and northwest, and also all the islands within one hundred miles along the coast of both seas of the precinct aforesaid," evidently meaning the Atlantic and Pacific Oceans.

The third charter, dated March 12, 1612, annexed to Virginia all the islands within 300 leagues of the coast. Those three charters were vacated by *quo warranto* before the 15th of July, 1624, on which day a commission issued for the government of Virginia, without making, however, any alteration in the boundaries established by the second charter. The colony was afterwards curtailed on the north by the grants to Lord Baltimore and to William Penn, and on the south by that to the proprietors of Carolina.

CLAIM OF NEW YORK CEDED.

New York, prior to the cession by Virginia, having conveyed to the United States, March 1, 1781, her claims to this territory, being titles derived from treaties and purchases from the Six Nations of Indians, the Congress of the Confederation passed the resolution for the government of the western territory, April 23, 1784. This left Connecticut and Massachusetts the only States that had or laid any claims to the territory north of the river Ohio and west of Pennsylvania. The cessions of those States to the United States, and the further confirmatory cession by Virginia in 1788, gave to the United States an indisputable title to the public lands within that territory as far west as the river Mississippi, which, by the treaty of Paris between George III. of Great Britain and the King of Spain, February 10, 1763, had been established as the boundary between the British possessions in America and the province of Louisiana.

ACTION OF THE CONGRESS OF THE CONFEDERATION ON THE NEW YORK AND VIRGINIA CESSIONS, 1784.

The territory ceded by Virginia to the United States, March 1, 1784, became the subject of legislation on the part of the Congress of the Confederation, beginning on the day of cession.

On the 1st of March, 1784, a committee, consisting of Mr. Jefferson, of Virginia, Mr. Chase, of Maryland, and Mr. Howell, of Rhode Island, submitted to Congress the following plan for the temporary government of the Western Territory:

The committee appointed to prepare a plan for the temporary government of the Western Territory have agreed to the following resolutions:

Resolved, That the Territory ceded or to be ceded by individual States to the United States, whensoever the same shall have been purchased of the Indian inhabitants and offered for sale by the United States, shall be formed into additional States, bounded in the following manner, as nearly as such cessions will admit; that is to say northwardly and southwardly by parallels of latitude, so that each State shall comprehend, from south to north, two degrees of latitude, beginning to count from the completion of thirty-one degrees north of the equator; but any territory northwardly of the 47th degree shall make part of the State next below. And eastwardly and westwardly they shall be bounded, those on the Mississippi, by that river on one side and the meridian of the lowest point of the rapids of the Ohio on the other; and those adjoining on the east, by the same meridian on their western side, and on their eastern by the meridian of the western cape of the mouth of the Great Kanawha. And the territory eastward of this last meridian, between the Ohio, Lake Erie and Pennsylvania, shall be one State.

That the settlers within the territory so to be purchased and offered for sale, shall, either on their own petition, or the order of Congress, receive authority from them, with appointments of time and place, for their free males, of full age, to meet together, for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of those States, so that such laws nevertheless shall be subject to alteration by their ordinary legislature, and to erect, subject to a like alteration, counties or townships for the election of members for their legislature.

That such temporary government shall only continue in force in any State until it shall have acquired 20,000 free inhabitants, when, giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves.

Provided, That both the temporary and permanent government be established on these principles as their basis:

1. That they shall forever remain a part of the United States of America.
2. That in their persons, property, and territory they shall be subject to the Government of the United States in Congress assembled, and to the Articles of Confederation in all those cases in which the original States shall be so subject.
3. That they shall be subject to pay a part of the federal debts contracted or to be contracted, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on other States.
4. That their respective governments shall be in republican forms, and shall admit no person to be a citizen who holds any hereditary title.
5. That after the year 1800 of the Christian era there shall be neither slavery nor involuntary servitude in any of the said States otherwise than in punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.

That whensoever any of the said States shall have of free inhabitants as many as shall then be in any one of the least numerous of the thirteen original States, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the said original States, after which the assent of two-thirds of the United States, in Congress assembled, shall be requisite in all those cases wherein, by the confederation, the assent of nine States is now required; provided the consent of nine States to such admission may be obtained according to the 11th of the Articles of Confederation. Until such admission by their delegates into Congress any of the said States, after the establishment of their temporary government, shall have authority to keep a sitting member in Congress, with a right of debating, but not voting.

That the territory northward of the 45th degree, that is to say, of the completion of 45 degrees from the equator, and extending to the Lake of the Woods, shall be called *Sylvania;* that of the territory under the 45th and 44th degrees, that which lies westward of Lake Michigan shall be called *Michigania;* and that which is eastward thereof within the peninsula formed by the lakes and waters of Michigan, Huron, St. Clair and Erie shall be called *Cherroncsus*, and shall include any part of the peninsula which

may extend above the 45th degree. Of the territory under the 43d and 45th degrees, that to the westward, through which the Assenippi or Rock River runs, shall be called *Assenisipia;* and that to the eastward, in which are the fountains of the Muskingum, the two Miamies of Ohio, the Wabash, the Illinois, the Miami of the Lake, and the Sandusky rivers, shall be called *Metropotamia.* Of the territory which lies under the 39th and 38th degrees, to which shall be added so much of the point of land within the fork of the Ohio and Mississippi as lies under the 37th degree, that to the westward within and adjacent to which are the confluences of the rivers Wabash, Shawnee, Tamsee, Ohio, Illinois, Mississippi, and Missouri shall be called *Polypotamia;* and that to the eastward farther up the Ohio, shall be called *Polisipia.*

This report was recommitted to the same committee on the 17th of March and a new one was submitted on the 22d of the same month. The second report agreed in substance with the first. The principal difference was the omission of the paragraph giving names to the States to be formed out of the Western Territory. It was taken up for consideration by Congress on the 19th of April, on which day, on the motion of Mr. Spaight, of North Carolina, the following clause was stricken out of the report:

That after the year 1800 of the Christian era there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in the punishment of crimes whereof the party shall have been duly convicted to have been personally guilty.

On the adoption of this proviso Maryland, Virginia, South Carolina voted "no." Massachusetts, Rhode Island, Connecticut, New Hampshire, New York, and Pennsylvania voted "aye." North Carolina was divided. Georgia, Delaware, and New Jersey were absent. Failing to receive a majority (seven) of the States for its retention, it failed.

The report was further considered and amended on the 20th and 21st. On the 23d it was agreed to (ten States voting "aye" and one "no"), without the clause prohibiting slavery and involuntary servitude after the year 1800. On the question to agree to the report, after the prohibitory clause was struck out, the yeas and nays were required by Mr. Beresford. The vote was:

Ayes—New Hampshire, Mr. Foster, Mr. Blanchard; Massachusetts, Mr. Gerry, Mr. Partridge; Rhode Island, Mr. Ellery, Mr. Howell; Connecticut, Mr. Sherman, Mr. Wadsworth; New York, Mr. Dewitt, Mr. Payne; New Jersey, Mr. Beatty, Mr. Dick; Pennsylvania, Mr. Mifflin, Mr. Montgomery, Mr. Hand; Maryland, Mr. Stone, Mr. Chase; Virginia, Mr. Jefferson, Mr. Mercer, Mr. Monroe; North Carolina, Mr. Williamson, Mr. Spaight.

Nays—South Carolina, Mr. Read, Mr. Beresford.

Absent—Delaware, Georgia.

RESOLUTIONS FOR THE GOVERNMENT OF THE WESTERN TERRITORY, PASSED APRIL 23, 1784.

Resolved, That so much of the territory ceded or to be ceded by individual States to the United States, as is already purchased or shall be purchased of the Indian inhabitants, and offered for sale by Congress, shall be divided into distinct States in the following manner, as nearly as such cessions will admit; that is to say, by parallels of latitude, so that each State shall comprehend from north to south two degrees of latitude, beginning to count from the completion of forty-five degrees north of the equator; and by meridians of longitude, one of which shall pass through the lowest point of the rapids of Ohio, and the other through the western cape of the mouth of the Great Kanhaway; but the territory eastward of this last meridian, between the Ohio, Lake Erie, and Pennsylvania, shall be one State, whatsoever may be its comprehension of latitude. That which may lie beyond the completion of the 45th degree, between the said meridians, shall make part of the State adjoining it on the south; and that part of the Ohio, which is between the same meridians, coinciding nearly with the parallel of 39 degrees, shall be substituted so far in lieu of that parallel as a boundary line.

That the settlers on any territory so purchased and offered for sale, shall, either on their own petition or on the order of Congress, receive authority from them, with appointments of time and place, for their free males of full age, within the limits of their State, to meet together, for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of the original States; so that such laws, nevertheless, shall be subject to alteration by their ordinary legislature; and to erect, subject to a like alteration, counties, townships, or other divisions, for the election of members for their legislature.

That when any such State shall have acquired twenty thousand free inhabitants, on

giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves: *Provided*, That both the temporary and permanent governments be established on these principles as their basis:

1. That they shall forever remain a part of this confederacy of the United States of America.

2. That they shall be subject to the Articles of Confederation in all those cases in which the original States shall be so subject, and to all the acts and ordinances of the United States in Congress assembled, conformable thereto.

3. That they, in no case, shall interfere with the primary disposal of the soil by the United States in Congress assembled, nor with the ordinances and regulations which Congress may find necessary for securing the title in such soil to the bona-fide purchasers.

4. That they shall be subject to pay a part of the federal debts contracted, or to be contracted, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States.

5. That no tax shall be imposed on lands the property of the United States.

6. That their respective governments shall be republican.

7. That the lands of non-resident proprietors shall, in no case, be taxed higher than those of residents within any new State, before the admission thereof to a vote by its delegates in Congress.

That whensoever any of the said States shall have, of free inhabitants, as many as shall then be in any one the least numerous of the thirteen original States, such State shall be admitted by its delegates into the Congress of the United States, on an equal footing with the said original States; provided the consent of so many States in Congress is first obtained as may, at the time, be competent to such admission. And in order to adapt the said Articles of Confederation to the state of Congress when its numbers shall be thus increased, it shall be proposed to the legislatures of the States, originally parties thereto, to require the assent of two-thirds of the United States in Congress assembled, in all those cases wherein, by the said articles, the assent of nine States is now required, which, being agreed to by them, shall be binding on the new States. Until such admission by their delegates into Congress, any of the said States, after the establishment of their temporary government, shall have authority to keep a member in Congress, with a right of debating, but not of voting.

That measures, not inconsistent with the principles of the confederation, and necessary for the preservation of peace and good order among the settlers in any of the said new States, until they shall assume a temporary government as aforesaid, may, from time to time, be taken by the United States in Congress assembled.

That the preceding articles shall be formed into a charter of compact; shall be duly executed by the President of the United States in Congress assembled, under his hand, and the seal of the United States; shall be promulgated; and shall stand as fundamental constitutions between the thirteen original States, and each of the several States now newly described, unalterable from and after the sale of any part of the territory of such State, pursuant to this resolve, but by the joint consent of the United States in Congress assembled, and of the particular State within which such alteration is proposed to be made.

Thus the substance of the report of Mr. Jefferson of a plan for the government of the Western Territory (without restrictions as to slavery) became a law, and remained so during 1784 to 1787, when these resolutions were repealed in terms by the passage of the ordinance for the government of the "Territory of the United States northwest of the river Ohio."

PRELIMINARY ACTION ON THE ORDINANCE OF 1787.

In Congress, March 16, 1785, a motion was made by Mr. King, seconded by Mr. Ellery, that the following proposition be committed:

That there shall be neither slavery nor involuntary servitude in any of the States described in the resolve of Congress of the 23d of April, 1784, otherwise than in the punishment of crimes, whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the Constitution between the thirteen original States, and each of the States described in the said resolve of the 23d of April, 1784.

The motion was, "that the following proposition be committed"—that is, committed to a committee of the whole House. It was a separate, independent proposition. The terms of it show that it was offered as an addition to the resolve of April 23, 1784, with the intention of restoring to that resolve a clause that had originally formed part of it.

Mr. King's motion to commit was agreed to; eight States (New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Maryland) voted in the affirmative, and three States (Virginia, North Carolina, and South Carolina) in the negative. Neither Delaware nor Georgia was represented.

After the commitment of this proposition, it was neither called up in Congress nor noticed by any of the committees who subsequently reported plans for the government of the Western Territory.

The subject was not laid over from this time till September, 1786. It is noticed as being before Congress on the 24th of March, the 10th of May, the 13th of July, and the 24th of August, of that year.

On the 24th of March, 1786, a report was made by the grand committee of the House, to whom had been referred a motion of Mr. Monroe upon the subject of the Western Territory.

On the 10th of May, 1786, a report was made by another committee, consisting of Mr. Monroe, of Virginia, Mr. Johnson, of Connecticut, Mr. King, of Massachusetts, Mr. Kean, of South Carolina, and Mr. Pinckney, of South Carolina, to whom a motion of Mr. Dane, for considering and reporting the form of a temporary government for the Western Territory, was referred. This report, after amendments, was recommitted on the 13th of July following.

On the 24th of August, 1786, the secretary of Congress was directed to inform the inhabitants of Kaskaskia "that Congress have under their consideration the plan of a temporary government for the said district, and that its adoption will be no longer protracted than the importance of the subject and a due regard to their interest may require."

On the 19th of September, 1786, a committee consisting of Mr. Johnson, of Connecticut, Mr. Pinckney, of South Carolina, Mr. Smith, of New York, Mr. Dane, of Massachusetts, and Mr. Henry, of Maryland, appointed to prepare a "plan of temporary government for such districts or new States as shall be laid out by the United States upon the principles of the acts of cession from individual States, and admitted into the confederacy," made a report, which was taken up for consideration on the 29th, and, after some discussion and several motions to amend, the further consideration was postponed.

On the 26th of April, 1787, the same committee (Mr. Johnson, Mr. Pinckney, Mr. Smith, Mr. Dane, and Mr. Henry) reported "An ordinance for the government of the Western Territory." It was read a second time, and amended on the 9th of May, when the next day was assigned for the third reading. On the 10th the order of the day for the third reading was called for by the State of Massachusetts, and was postponed. On the 9th and 10th of May, Massachusetts was represented by Mr. Gorham, Mr. King, and Mr. Dane. The proposition which, on Mr. King's motion, was "committed" on the 16th of March of the preceding year, was not in the ordinance as reported by the committee, nor was any motion made in the Congress to insert it as an amendment.

The following is a copy of the ordinance, as amended, and ordered to a third reading:

AN ORDINANCE for the government of the Western Territory.

It is hereby ordained by the United States, in Congress assembled, That there shall be appointed from time to time, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress.

There shall be appointed by Congress from time to time, a secretary, whose commission shall continue in force for four years, unless sooner revoked by Congress. It shall be his duty to keep and preserve the acts and laws passed by the general assembly, and public records of the district, and of the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress.

There shall also be appointed a court, to consist of three judges, any two of whom shall form a court, who shall have a common law jurisdiction, whose commissions shall continue in force during good behavior.

And to secure the rights of personal liberty and property to the inhabitants and others, purchasers in the said district, it is hereby ordained that the inhabitants of such districts shall always be entitled to the benefits of the act of *habeas corpus*, and of the trial by jury.

The governor and judges, or a majority of them, shall adopt, and publish in the district, such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time, which shall prevail in said district until the organization of the general assembly, unless disapproved by Congress; but afterwards the general assembly shall have authority to alter them as they shall think fit: *Provided, however*, That said assembly shall have no power to create perpetuities.

The governor for the time being shall be commander-in-chief of the militia, and appoint and commission all officers in the same below the rank of general officer. All officers of that rank shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers in each county or township, as he shall find necessary for the preservation of peace and good order in the same. After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

The governor shall, as soon as may be, proceed to lay out the district into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature, as soon as there shall be five thousand free male inhabitants of full age within the said district. Upon giving due proof thereof to the governor, they shall receive authority, with time and place to elect representatives from their counties or townships as aforesaid, to represent them in general assembly, provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature, provided that no person shall be eligible or qualified to act as a representative unless he shall be a citizen of one of the United States, or have resided within the district three years, and shall likewise hold, in his own right in fee-simple, two hundred acres of land within the same: *Provided, also*, That a freehold or life estate in fifty acres of land, in the said district, of a citizen of any of the United States, and two years' residence, if a foreigner, in addition shall be necessary to qualify a man as elector for said representatives.

The representatives thus elected shall serve for the term of two years; and in the case of the death of a representative or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve during the residue of the time.

The general assembly shall consist of the governor, a legislative council—to consist of five members, to be appointed by the United States, in Congress assembled, to continue in office during pleasure, any three of whom to be a quorum—and a house of representatives, who shall have a legislative authority, complete in all cases for the good government of said district: *Provided*, That no act of the said general assembly shall be construed to affect any lands the property of the United States: *And provided further*, That the lands of the non-resident proprietors shall in no instance be taxed higher than the lands of residents.

All bills shall originate indifferently either in the council or house of representatives, and having been passed by a majority in both houses, shall be referred to the governor for his assent, after obtaining which, they shall be complete and valid; but no bill or legislative act, whatever, shall be valid, or of any force, without his assent.

The governor shall have power to convene, prorogue, and dissolve the general assembly, when in his opinion it shall be expedient.

The said inhabitants or settlers shall be subject to pay a part of the Federal debts contracted, or to be contracted, and to bear a proportional share of the burdens of the government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States.

The governor, judges, legislative council, secretary, and such other officers as Congress shall at any time think proper to appoint in such district, shall take an oath or affirmation of fidelity; the governor before the President of Congress, and all other officers before the governor, prescribed on the 27th day of January, 1785, to the Secretary of War, *mutatis mutandis*.

Whensoever any of the said States shall have of free inhabitants as many as are equal in number to the one-thirteenth part of the citizens of the original States, to be computed from the last enumeration, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the said original

States, provided the consent of so many States in Congress is first obtained as may at that time be competent to such admission.

Resolved, That the resolutions of the 23d of April, 1784, be, and the same are hereby annulled and repealed.*

Such was the ordinance for the government of the Western Territory when it was ordered to a third reading on the 10th of May, 1787. It had then made no further progress in the development of those great principles for which it has since been distinguished as one of the greatest monuments of civil jurisprudence. It made no provision for the equal distribution of estates. It said nothing of extending the fundamental principles of civil and religious liberty; nothing of the rights of conscience, knowledge, or education. It did not contain the articles of compact which were to remain unaltered forever unless by common consent.

We now come to the time when these great principles were first brought forward.

On the 9th of July, 1787, ordinances were again referred. The committee now consisted of Mr. Carrington, of Virginia; Mr. Dane, of Massachusetts; Mr. R. H. Lee, of Virginia; Mr. Kean, of South Carolina; and Mr. Smith, of New York. Mr. Carrington, Mr. Lee, and Mr. Kean, the new members, were a majority.

This committee did not merely revise the ordinance; they prepared and reported the great Bill of Rights for the territory northwest of the Ohio.

The question is here presented, why was Mr. Carrington, a new member of the committee, placed at the head of it, to the exclusion of Mr. Dane and Mr. Smith, who had served previously? In the absence of positive evidence, there appears to be but one answer to this question: the opinions of all the members were known in Congress. In the course of debate new views had been presented which must have been received with general approbation. A majority of the committee were the advocates of these views, and the member by whom they were presented to the House was selected as the chairman. There is nothing improbable or out of the usual course in this. Indeed, the prompt action of the committee and of the Congress goes far to confirm it.

On the 11th of July (two days after the reference) Mr. Carrington reported the ordinance for the government of the territory of the United States northwest of the Ohio. This ordinance was read a second time on the 12th (and amended as stated below), and on the 13th it was read a third time, and passed by the unanimous vote of the eight States present in the Congress.

On the passage the yeas and nays (being required by Mr. Yates) were as follows:

Ayes—Massachusetts, Mr. Holten, Mr. Dane; New York, Mr. Smith, Mr. Harney, Mr. Yates; New Jersey, Mr. Clark, Mr. Schureman; Delaware, Mr. Kearney, Mr. Mitchell; Virginia, Mr. Grayson, Mr. R. H. Lee, Mr. Carrington; North Carolina, Mr. Blount, Mr. Hawkins; South Carolina, Mr. Kean, Mr. Huger; Georgia, Mr. Few, Mr. Pierce.

Nays—None.

Absent—New Hampshire, Rhode Island, Connecticut, Pennsylvania, Maryland.

It appears that in five days it was passed through all the forms of legislation—the reference, the action of the committee, the report, the three several readings, the discussion and amendment by Congress, and the final passage.

On the 12th of July (as above stated) Mr. Dane offered the following amendment, which was adopted as the sixth of the articles of the compact:

Article the sixth. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same, from whom labor or service is claimed in any of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

This had in part been presented by Mr. Jefferson in 1784, and again by Mr. King in 1785. In the proposition submitted by Mr. King in 1785 (which was never afterwards called up in Congress) there was no provision for reclaiming fugitives; and without

*The manuscript of this ordinance—with alterations marked on it while under consideration, just as it was amended at the President's table, among which the clause respecting slavery remains attached to it as an amendment in Mr. Dane's handwriting, in the exact words in which it now stands in the ordinance, is among the "Peter Force" archives.

such a provision it could not have been carried at all; besides, the clause, as it now exists in the ordinance, was proposed by Mr. Dane on the 12th of July, 1787, and carried by the unanimous vote of Congress when Mr. King was not present.

Mr. King was a member of the convention for framing the Federal Constitution. He was present and voted in the convention on the 12th of July, 1787. The whole of that day was occupied in settling the proportion of representation and direct taxation, which was then determined as it now stands in the Constitution, viz, "by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, *three-fifths of all other persons.*"

The Congress and the convention were both in session at the same time in Philadelphia; there was of course free intercourse and interchange of opinion between the members of the two bodies. To this may be attributed the adoption on the same day of the clause in the ordinance and the clause in the Constitution.*

ORDINANCE FOR THE GOVERNMENT OF THE TERRITORY OF THE UNITED STATES NORTHWEST OF THE RIVER OHIO.

In Congress of the Confederation, at Philadelphia, July 13, 1787, according to order, the ordinance for the government of the territory of the United States northwest of the river Ohio was read a third time, and passed, as follows:

AN ORDINANCE for the government of the territory of the United States northwest of the river Ohio.

Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child, in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parents' share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered, by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed, from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also

*Peter Force.

be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterward, the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided that, for every five hundred free male inhabitants, there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature; provided, that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same; provided also, that a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid: and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term: And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Con-

gress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the President of Congress, and all others officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest:

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

ART. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with, or affect, private contracts or engagements, bona fide, and without fraud, previously formed.

ART. 3. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. 4. The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of Government, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary, for securing the title in such soil, to the bona-fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ART. 5. There shall be formed in the said territory, not less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: the western State in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle States shall be bounded by the said direct line, the Wabash, from Post Vincents to the Ohio, by the

Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however*, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: *Provided*, The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ART. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed and declared null and void.

WILLIAM GRAYSON,
President.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of the sovereignty and Independence the twelfth.

CHARLES THOMSON,
Secretary.

REVIEW OF THE ORDINANCE OF 1787, AND CHANGE IN TENURES AND ESTATES THEREUNDER.

The ordinance of 1787 was the first general legislation by the Congress of the United States on the subject of real property. In it the leading features of feudalism are specifically repealed. Since the period of its passage the policy of the jurisprudence of the United States is not to encourage restraints upon the power of alienation of land. Free and unconditional alienation is now the rule of the National Government in the disposal of the public domain, and encouraged by all the States and Territories in land transfers.

The failure of the first aristocratic efforts at colonization upon the basis of feudalistic social organization now appears as an event giving decisive advantages to the development of freedom. Under the charter of King James I., the lands of the first and second colonies of Virginia were to be held by the mildest form of tenure, of free and common socage, which in many of the States of the Union has been transferred into allodial proprietorship, or freehold estate held in absolute individual right, and free from feudal tenure or obligation.

The usual tenure of the colonial grants, after Raleigh's first one, was free and common socage.

The common law of England as to passing title by deed for lands so held, and the provisions of the statute of frauds, were early invoked in some of the colonies, and voluntary alienations of title, after purchase from proprietary or proprietaries or from the Crown, were safely and legally guarded. There was in colonial times, in most of the colonies, safe tenure for lands. Overlapping or twice-issued grants, or grants several times over for the same lands to different proprietaries, frequently caused clash as to attornment for rents, but the individual titles usually were respected and protected.

Socage tenure denoted lands held by a fixed and determined service; not military, nor in the power of the lord paramount (or charter grantee), to whom rents might be due, to vary at his pleasure. The change in England, in relation to lands (3 Kent,

510, 511), from knight-service to tenure by socage, was obtained only after a long and bitter struggle, and was of vast social importance.

Most of the feudal incidents of tenure (which in the colonies were of mere form) were abolished in many of the States after the Revolution, and by the United States in the immortal ordinance of 1787, the most progressive and republican act ever performed by a nation in relation to the estates of her people. It made the individual absolutely independent of the State, and the entire owner of his or her home.

Becoming the guardian of the public domain, the Congress of the Confederation, by its system of holdings in the "ordinance," made the tenure of the land safe, and, by the order of disposition afterward adopted, made from the public domain thousands of free and happy homes.

After the Revolution in 1776 the lord paramount of all socage lands became the people of the State or States, and the quit-rents which were due for the King in colonial grants, and whom the people succeeded by the Revolution of 1776, were acted upon by legislatures and generally commuted; or where proprietary rights were purchased by the State, the State in selling, as in the case of unappropriated vacant crown lands lying within States, gave patents to purchasers at their land offices in fee.

All lands granted or patented before the Revolution, within the colonies, were held by socage tenure. After this came the allodial legislation by States and the National Government. (3 Kent, 512; note A.)

A patent, grant, or deed in fee, in the sense now used in this country, is an estate of inheritance in law belonging to the owner and transferable to his heirs. It may be continued forever. (4 Kent, 406.)

Fee-simple is a pure inheritance, clear of conditions or qualifications, with certain restrictions in law as to heirs. It is an estate of perpetuity, and carries with it and confers an unlimited power of alienation. No person is capable of having a greater estate or interest in land. (4 Kent, 406.)

In the first charter to Sir Walter Raleigh for colonization in America, granted by Elizabeth March 25, 1584, the right to him, his heirs or assigns, to dispose of lands in fee simple, according to the laws of England, was granted. Tenure by knight-service was a rule then in force in England. It was abolished by statute of 12 Charles II., after the restoration in England, and the tenure of land was for the most part thereafter turned into free and common socage, and everything oppressive in that tenure was abolished. This statute essentially ended the feudal system in England, although there are remaining some unimportant features in name in all socage tenures. (3 Kent, 509.) Homage was exacted in some of the colonial grants from the grantees to the Crown. It was defined by Littleton as "the most honorable and the most humble service of reverence that a frank tenant could make to his lord." (4 Kent, 511.)

All lands held by socage tenures would seem, in theory, to have been chargeable with the oath of fealty. And every tenant, whether in fee, for life, or for years, was by the English law obliged to render it when required, as being the indispensable service due to the lord of whom he held. (4 Kent, 511, 512.) Fealty was an oath of fidelity to the lord. It was the foundation and essence of the feudal association.

Littleton says: "When a freeholder doth fealty to his lord, he shall lay his right hand upon a book, and shall say, 'Know ye this, my lord, that I shall be faithful and true unto you, and faith to you shall bear for the lands which I claim to hold of you, and that I shall lawfully do to you the customs and services which I ought to do by the terms assigned. So help me God and his saints.'"

"The oath of fealty was the parent of the oath of allegiance, now exacted of subjects and officials by sovereigns," and of officials (and can be of citizens) in republics. (3 Kent, 511.)

The highest title to land in the United States is a Government grant, a patent either from the National Government or a State.

A Government grant for land has been, and is held to be, "a contract executed." (Fletcher *v.* Peck, 6 Cranch, 87.)

In the United States we have adopted a fundamental principle of the English law, derived from the maxims of the feudal tenure, that "the king [State] is the original proprietor or lord paramount of all the land in the kingdom, and the true and only source of title." It is a settled doctrine with us that all valid individual title to land within the United States is derived from grants from or under the authority of the governments of England, Sweden, Holland, France, Spain, Russia, Mexico, the chartered and crown colonies, or the Government of the United States and the several States of the Union. (3 Kent, 5; note A.) In all treaties defining boundaries, cessions, or purchases made by or to the United States by foreign nations or by States in the Union, or in anywise relating to the territory now within the United States, individual rights, grants, and land holdings are provided for, guarded, and confirmed either in the treaties or cessions, or by subsequent legislation by Congress.

Indian titles to lands within the limits of the United States are considered mere occupancy titles, the Government claiming the right to purchase (the fee being considered inchoate, but in the United States) by treaty; these treaties being confirmatory acts as to the fee. The lands are then added to the public domain for sale and disposition. (3 Kent.)

THE VITAL CHANGES IN LAND TENURES MADE BY THE ORDINANCE.

The second section of the ordinance of 1787 was vitally progressive.

It ordained and enacted "that the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to and be distributed among their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal part among them; and where there shall be no children or descendants, then in equal part to the next of kin in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall in no case be a distinction between kindred of the whole and half blood; saving, in all cases, to the widow of the intestate her third part of the real estate for life and one-third part of the personal estate; and this law, relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age) and attested by three witnesses; and real estate may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age in whom the estate may be, and attested by two witnesses, provided such will be duly proved and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrate's courts and registers shall be appointed for that purpose; and personal property may be tranferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskias, St. Vincent's, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them relative to the descent and conveyance of property."

"This statute struck the key-note of our liberal system of land law, not only in the States formed out of the public domain, but also in the older States. The doctrine of tenure is entirely exploded; it has no existence. Though the word may be used for the sake of convenience, the last vestige of feudal import has been torn from it. The individual title derived from the Government involves the entire transfer of the ownership of the soil. It is purely allodial, with all the incidents pertaining to that title, as substantial as in the infancy of Teutonic civilization. Following in the wake of this fundamental reform in our State land laws are several others which constitute appropriate corollaries. The statute of uses was never adopted in the public-land States, and hence the complex distinction between uses and trust has never embarrassed our jurisprudence. We have, however, adopted one of the methods of conveyance to

which that statute gave rise, to wit, the method of bargain and sale. Feoffments, fines, and recoveries are entirely dispensed with, as also livery of seisin and its consequences. A conveyance is completed by the execution and delivery of the deed; entailments and perpetuities are barred by the statute, which renders void all limitations beyond persons in being and their immediate issue, and which provides that an estate tail shall become a fee-simple in the heirs of the first grantee. All joint interests in land are reduced to tenancies in common. Joint tenancies never had an existence, and coparceners are now on a footing of tenants in common. Real actions, with their multitudinous technicalities, never had an existence in our western jurisprudence, though some of the fictions of this form of action were and are still tolerated in some localities, *e. g.*, the allowance of fictitious parties to a suit. Ejectment is now the universal remedy, being the only action for the recovery of lands. Action by ejectment is limited to twenty-one years, but refractory tenants may be more speedily dispossessed by the action for forcible entry and detainer. A dispossessed claimant may, at the option of the ejector, either pay for the land, or receive pay for the improvements. For waste the party is liable in simple damages, and no more. A tenant in dower forfeits the place wasted. In the older States we see evidences of the reflex benefits of the land legislation of our public-land States.

"The Pennsylvania supreme court (5 Rawle, 112) holds that "our property is allodial, and escheat takes place, not upon principles of tenure, but by force of our statutes to avoid the uncertainty and confusion inseparable from the recognition of a title founded in priority of occupancy." Chancellor Kent says that tenure to some extent pervades real property in the United States. The title is essentially allodial, yet designated by the feudal terms fee-simple and free and common socage. These technicalities mar the municipal jurisprudence of several States, though no vestige of feudal tenure remains, and ownership, free and independent, is the real character of individual title to the soil. By the statute of February 20, 1787, New York abolished all military tenures, transferring them into free and common socage and making all State grants entirely allodial.

"The revised statutes going into effect in 1830 abolished the last shadow of feudal tenure, and made allodial proprietorship the sole title to private land, and this property liable to forfeiture only by escheat.

"In other States these tenures have either been formally changed into allodial, or if they retain the technicalities of feudalism, the latter receive an allodial signification. An estate in fee-simple means one of inheritance, having lost its beneficiary or usufructuary character.

"It will be seen from the facts recited that the liberal principles embodied in our public-land policy have reconstructed to a great extent the legal basis of our social order by liberalizing the ideas of land ownership.

"The General Government set this glorious example, and the justice and expediency of its policy in this respect are now universally admitted."*

This great American Charter contains the basic propositions, as to land tenures of the laws of the United States and of most of the States of the Confederation, and became and is the foundation of the same statutes in all the public-land States and Territories. Under its care and provisions the Central and Western States and Territories of the Union, and the States in the territory south of the river Ohio, have grown from weak and straggling settlements to mighty Commonwealths and organizations containing more than 25,000,000 of people. The "ordinance" began with a wilderness. Its principles, embraced in existing laws, now govern in area and population the domain of an empire.

POLITICAL HISTORY AND ABSORPTION OF THE TERRITORY NORTHWEST OF THE RIVER OHIO.

Arthur St. Clair was appointed governor by the Congress February 1, 1788, and Winthrop Sargent secretary. August 7th, 1789, Congress, in view of the new method of

*Joseph S. Wilson, late Commissioner General Land Office.

appointment of officers as provided in the Constitution, passed an amendatory act to the Ordinance of 1787 providing for the nomination of officers for the Territory by the President, and their appointment by and with the advice and consent of the Senate. August 8, 1789, President Washington sent to the Senate the names of Arthur St. Clair for governor, Winthrop Sargent for secretary, and Samuel Holden Parsons, John Cleves Symmes, and William Barton for judges.

The first were re-appointments. They were all confirmed. President Washington, in this message, designated the country as "The Western Territory." The supreme court was established at Cincinnati (now Ohio, named by St. Clair in honor of the Society of the Cincinnati, he having been president of the branch society in Pennsylvania). St. Clair remained governor until November 22, 1802. Winthrop Sargent afterwards, in 1798, went to Mississippi as governor of that Territory. William Henry Harrison became secretary in 1797, representing it in Congress in 1799-1800, and he became governor of the Territory of Indiana in 1800.

THE TERRITORY DIVIDED—WESTERN PORTION BECOMES INDIANA TERRITORY.

May 7, 1800, Congress, upon petition, divided this Territory into two separate governments. Indiana Territory was created, with its capital at St. Vincennes and from that portion of the Northwest Territory west of a line beginning opposite the mouth of the Kentucky River in Kentucky, and running north to the Canada line.

EASTERN PORTION BECOMES THE STATE OF OHIO.

The eastern portion now became the "Territory Northwest of the river Ohio," with its capital at Chillicothe. This portion, Nov. 29, 1802, was admitted into the Union as the State of Ohio.

TERRITORY OF MICHIGAN.

Indiana Territory, the remainder after Ohio was admitted into the Union, was divided by act of Congress January 11, 1805, and the northern central portion formed into the Territory of Michigan. The original boundaries of Michigan as by this act defined were changed by acts of Congress of April 19, 1816, April 18, 1818, June 28, 1834, and April 20, 1836. The act of 1818 made the Mississippi River the western boundary of the Territory. The act of 1834 added to Michigan the lands between the Missouri and White Earth rivers on the west and the Mississippi River on the east. The southern line of Michigan was the northern line of the States of Ohio, Indiana, Illinois, and Missouri; its western line the Missouri and White Earth rivers to the British line; its eastern line was Lakes Huron and Erie.

Michigan was admitted into the Union, with reduced and fixed boundaries, January 26, 1837, after the Territory of Wisconsin had been formed from its western portion April 20, 1836, and afterward, May 29, 1848, admitted into the Union.

INDIANA AGAIN DIVIDED—ILLINOIS CREATED.

February 3, 1809, Indiana was again divided, and the Territory of Illinois, with its capital at Kaskaskia, was created from the part lying west of the Wabash River and to the Canada line, the western boundary of Michigan. The enabling act of Congress for Illinois, April 18, 1818, gave her present boundaries, reducing her great north and northwestern area, now lying in the States of Wisconsin, Michigan, and Minnesota. Illinois was admitted into the Union December 3, 1818.

The territory northwest of the river Ohio ceased to exist as a political division after the admission of the State of Ohio into the Union November 29, 1802, although in acts of Congress it was frequently referred to and its forms affixed by legislation to other political divisions.