Febr. 15, 1961

Dear Brig,

Enclosed please find a copy of the letter just received from the White House.

Also the reposrt on the legal background of the Province Lands, which may help you, when contacting Mr. Udall.

Jeanne

LEGISLATIVE RESEARCH COUNCIL

REPORT ON

LEGAL BACKGROUND OF THE "PROVINCE LANDS" AT PROVINCETOWN, MASSACHUSETTS

Prepared by the
Legislative Research Bureau
State House, Boston, Mass.
January 4, 1961

The Commonwealth of Massachusetts

LEGISLATIVE RESEARCH COUNCIL
LEGISLATIVE RESEARCH BUREAU
ROOM 30, STATE HOUSE, BOSTON 33, MASS.
TELEPHONE CAPITOL 7-4600, EXT. 707

Members of Council
Sen. JOHN E. POWERS of Suffolk, *Chairman*
President of Senate
Sen. NEWLAND H. HOLMES of Norfolk and Plymouth
Rep. JOHN T. TYNAN of Boston, *Vice-Chairman*
Rep. JOHN W. COSTELLO of Boston
Rep. FRANK S. GILES of Methuen
Minority Leader of House of Representatives
Rep. WALTER F. HURLBURT of Greenfield

Legislative Research Bureau
HERMAN C. LOEFFLER, *Director*
SAMUEL BROWN, *Assistant Director*

Senator Edward C. Stone
P.O. Box H
Barnstable, Mass.

Dear Senator Stone:

In accordance with your request we submit herewith a brief report tracing legal developments with respect to the "Province Lands" at Provincetown, Massachusetts.

The preparation of the document was the primary responsibility of Robert D. Webb of the Bureau staff.

Please let us know if we can be of any further assistance.

Sincerely yours,

Herman C. Loeffler, Director
Legislative Research Bureau

LEGAL BACKGROUND OF THE PROVINCE LANDS AT PROVINCETOWN, MASSACHUSETTS

The "Province Lands" of Massachusetts embrace a tract of state-owned property lying at the northern tip of the Cape Cod pennisula. This tract was acquired by the Province of Massachusetts Bay in 1692, when the Plymouth Colony and its possessions were merged with the provincial government. Previously, the Province Lands had been purchased by the Plymouth Colony from the Indians around 1650, prior to which the colony had general domain over all such lands by virtue of a royal patent granted in 1630. This review of the Province Lands therefore begins with the period of the Plymouth Colony.

The Plymouth Colony

The Northern Virginia Company failed in its first attempt to effect a settlement in the New England region when its small colony at the mouth of the Kennebec River in 1607 was abandoned the next year. However the feeling persisted among English investors that profits would be forthcoming from fisheries in that area. Hence, in 1620, a group of "Adventurers"petitioned the British Crown for a new charter to the region, in which they were to exercise a fishing monopoly.

This charter described the new corporation as "The Council established at Plymouth in the County of Devon for the planting, ruling, ordering and governing of New-England in America," commonly called the Council for New England. The Council was granted jurisdiction over that portion of the American continent lying between latitudes 40 and 48 N., roughly between Philadelphia and the Gaspe pennisula in Canada, and from sea to sea. In turn, the corporation was authorized to grant patents to those who proposed to settle this region.

While the Council's petition for a fishing monopoly was being considered, the Virginia Company granted a patent, in February, 1620, to John Peirce on

behalf of the Pilgrims, who were then making preparations to go to America. The Pilgrims departed and were nearing the shores of America before the Council's petition for a charter was finally approved in late 1620, without the fishing monopoly.

A jurisdictional problem confronted the Pilgrims upon their arrival at Cape Cod. Several men aboard the Mayflower who had been recruited from London did not join the Pilgrims as colonists, under the terms of the Virginia Company's patent; they refused to submit to the governing powers of that company. With mutiny threatened, the Separatists and these others drafted a compact to serve as their form of government. The compact pledged the signatories to combine "into a civil body politic to enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and offices -- as shall be thought most convenient for the general good of society."

When the Council acquired its charter to this region, the Pilgrims had to obtain a new patent, this time from the Council. This instrument was obtained in 1621, again through John Peirce. The patent conveyed to Peirce and his associates 100 acres of uninhabited place, per colonist, with liberty to fish and truck, plus 1,500 acres extra for each so-called Adventurer. In addition it was promised that within seven years the patent would be replaced by one with definite bounds and theright of self-government. In the meantime, all laws and ordinances by the "Associates, Undertakers and Planters" were to be legal.

Thus, Peirce took out two patents for the Pilgrims, the first from the Virginia Company in 1620 and the second from the Council for New England in 1621. In 1630, the Warwick Patent, so-called because the Earl of Warwick was titular president of the Council, granted the entire territory to "William Bradford, his heirs, associates and assigns." Bradford promptly took in the "Old Comers," who were the earlier settlers and who had been regarded as proprietors of the land

under the Peirce patent. These "Old Comers" could have become sole proprietors of the soil; but they regarded themselves as trustees for the community. The colony, under Bradford, then granted parts of its domain to the several sub-colonies or plantations but it never relinquished the northern end of Cape Cod.

Strenuous efforts were made by the settlers to obtain a secure definition of their political powers, but they were unsuccessful and the Mayflower Compact remained the constitution of the Colony. As late as 1636, the authority of the General Court of the Colony was based on (a) the Compact, (b) a peace treaty with the Indians, (c) a land grant from the Indians, and (d) two patents. No charter was granted throughout the life of the colony, and when the colony was amalgamated with Massachusetts Bay in 1692, the chief foundations of government were the Mayflower Compact and the Warwick Patent.

When the Pilgrims first landed at what is now Provincetown they sent an exploratory party through the present Province Lands, but those lands did not figure in the development of the oolony. Instead, the original settlement at Plymouth. first expanded northward to Scituate (1633) and Duxbury (1635), then southward to Sandwich (1637), Yarmouth (1638), and Barnstable (1639), and finally, westward, inland, to Taunton (1639). However, individual planters from Plymouth also settled in the earlier years in Weymouth (1622), Hull (1624), and Braintree (1625). By 1639, the colony's expansion required the first general representative assembly in Plymouth.

In 1650, the Plymouth General Court ordered the Governor of Plymouth to purchase the tip end of the cape from the Indians for the use of the colony. The first known deed of the Provina Lands has disappeared but appears to be one that is mentioned in a later, confirmatory deed. The latter deed is preserved by the State Secretary. The original deed was given by an Indian named Samson to a Thomas Prence in 1654, "or some time before that date," "for the said Coloneys use." These lands were "assigned for the Collonies use for ffishing Improvements."

In 1679, the confirmatory deed of these lands was given by Samson and two other Indians called Peter and Joshua. This deed was made to John Freeman who was then one of the Assistants of the Colony "in behalf of the Government and Collonie of New Plymouth aforesaid." It states that the (Province) lands described therein were received by Freeman,

> "To have and to hold to the onely proper use and behalf of the said Gouerment and Collonie, theire heires successors and assignes foreuer...
>
> "To haue and to hold all the said lands and other the said bargained prmises with theire appurtenances unto the said John ffreeman Gouerment and Collonies of New Plymouth aforesaid theire heires successors and assignees foreur unto the onely proper use and behoof of them the said John ffreeman."

The Massachusetts Bay Colony

There follows the period of Colonial organization and rule. In 1692 the Province of Massachusetts Bay acquired full possession of Plymouth Colony, and it is believed that during this period the lands at the end of the cape for the first time came to be known as the Province Lands. The general laws of each colony (Maine also was joined to Massachusetts Bay) did not become common to all because the act of 1692 provided that all the local laws, made by...the late government of New Plymouth, not repugnant, etc., shall continue in force, for the respective places for which they were made and used (Ancient Charters 213,219).

In 1714, it was enacted that "henceforth all the province lands on the said cape be a precinct or district..." In 1727, the precinct of Cape Cod petitioned the General Court to make the precinct a town, whereupon the General Court voted an act of incorporation but on condition that "the right of this province to said land...is to be in no wise prejudiced." (Province Laws of 1727, c.11.)

The Commonwealth of Massachusetts

When the Province of Massachusetts Bay was succeeded by the government of the Commonwealth of Massachusetts, those lands which had been expressly reserved to the province became the property of the Commonwealth government. The new Constitution of Massachusetts provided in the following terms that the province laws not contrary to the Constitution were to continue in full force under the new government.

> "All the laws which have heretofore been adopted, used and approved in the Province, Colony or State of Massachusetts Bay, and usually practiced on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution." (Part II, Chapter VI, Article VI.)

In 1838 the Massachusetts Senate adopted an order asking the Attorney-General to inquire into the title of the Commonwealth to the province lands in the town of Provincetown and to determine whether its right in any portion thereof had been lost or impaired by the undisputed occupancy of that land by any of the inhabitants of said town. The opinion of the Attorney-General concluded that "the original title of the Commonwealth to these lands is perfect; That neither the Province nor the Commonwealth has done anything to impair this title; That the title has not been lost or impaired by the undisputed occupancy of any of the inhabitants of said town." (For full opinion, see Senate, No. 43 of 1838 which is reprinted as an appendix to this memorandum.)

In the same year, 1838, the General Court enacted a statute for the preservation of the Province Lands in the town of Provincetown. (Acts of 1838, c. 151.) In brief, this law prohibited the wilful destruction of beach grass, bushes and pines; required the written consent of a town committee for use of the lands as pasturage; and provided penalties for violation thereof.

There is no record or indication of any abandonment or modification of the title of the Province or Commonwealth to these lands through the middle of the 19th century. Nevertheless, the Commonwealth moved to reinforce its title in 1854 by enactment of the following statutory provision in that year. Note particularly the second paragraph.

> "The title of the Commonwealth, as owner in fee to all the province land within the town of Provincetown, is hereby asserted and declared, and no adverse possession or occupation thereof by any individual, company or corporation for any period of time shall be sufficient to defeat or divert the title of the Commonwealth.
>
> "The provisions of the 12th section of the Revised Statutes, Chapter 119, shall not be held to apply to any of the province lands in said town of Provincetown." (Acts of 1854, c.261,ss.8,9.)

The 12th section of c. 119 of the Revised Statute, referred to in the above quoted law, provides for the acquisition of title to land by undisputed possession or occupation for a term of 20 years; thus, these province lands are expressly excepted from its application. This section had been the subject of considerable discussion in the Attorney General's opinion of 1838. With the enactment of the 1854 statute, which strengthened the state's claim to the Province lands, the 1838 law was repealed.

In 1892 the General Court passed a law for the improvement of the lands belonging to the Commonwealth at Provincetown. That law directed the Trustees of Public Reservations to make maps and plans of the lands and to report to the next General Court. On the basis of the subsequent report, the General Court enacted a law in 1893 providing for the care and supervision of the Province Lands (c. 470).

Under the terms of the latter 1893 statute, the board of harbor and land commissioners assumed responsibility for the "general care and supervision of province lands in Provincetown lying..." within an area prescribed in the statute.

Those province lands lying east and south of the described area which included the inhabited part of the town of Provincetown were then excluded from the reserved tract, and previous claims by the Province and the Commonwealth to the ownership in fee of those lands were released. The act also provided that the excluded portions of the Province Lands were not to be subject to those statutory provisions which prevented acquisition of title after 20 years of adverse possession. The effect of this 1893 statute is described as follows in the annual report of the Board of Harbor and Land Commissioners of the following year:

> "The effect of the (1893) statute is that private ownership remains impossible in the reserved portion of the Province Lands lying north and west of the line established and that all the lands in this portion belong in fee to the Commonwealth and can be used and occupied only by its permission, and subject to such regulations as this Board shall from time to time establish. Said reserved portion, although belonging to the Commonwealth, forms a part of the township of Provincetown, as incorporated by Chapter 11 of the Province Laws of 1727, and is subject to its jurisdiction. The released portion of said land is about 955 acres and includes the whole inhabited part of the town of Provincetown, there being about 5,000 inhabitants."

With the reorganization of the executive branch of the state government of Massachusetts in 1919 (c. 350), the Department of Public Works was given responsibility over public lands and the supervision of the Province Lands was delegated to its Division of Waterways and Public Lands. When a separate Division of Waterways was established by law in 1938 in the Department of Public Works, the supervision of the Province lands was placed in that division.(c.407). Subsequently, a Division of Public Beaches was created in 1953 (c.666) in the Department of Public Works, whereupon authority over the Province lands was transferred to that new division. This new Division of Public Beaches was abolished in 1958 (c.640), and its responsibilities were given to the Division of Waterways, which currently is charged with care and supervision of the Province Lands.

Public Policies Applicable to the Province Lands

It has been mentioned that in the early colonial period the Province Lands were specifically reserved by the colonial government as a fishing ground. Later, the territory was set apart as a fishing-right to be held in common by the people of the province. A long succession of grants and regulations for this fishing ground consistently asserted the colony's title thereto. As the state's population has grown and as recreational areas have become fewer and more valuable for private development, it was inevitable that the use of public reservations such as the Province Lands would become the subject of both public and private discussion. The preservation of these lands for public purposes has long been of very great interest to all individuals and groups who are devoted to the preservation of the public domain.

As early as 1825, a report of a special commission disclosed that the former highlands of the cape, once covered with trees and bushes, had been converted to a wasteland of sand due to unrestricted removal of trees and other vegetation. Over succeeding years, appeals to the federal government resulted in expenditures of money for the restoration of the area.

In 1891 the recently established Trustees of Public Reservations engaged the services of a natural resources consultant to study and report on the condition of the Province Lands. The consultant's subsequent report urged proper care and development of the unoccupied portion of the Province Lands in the following terms:

> "...There is much talk of various schemes of real estate men for use and improvement of this state property as a means of attracting summer visitors and revenue for the village; but the first thing for the people of the state to consider is the need of proper care for the property of the Commonwealth, and the adoption of an efficient system of treatment for the reclamation of the desert area and the preservation of the extensive wooded region..."

This report led the standing committee of the Trustees to petition the General Court of 1892 for better management of the state's domain. The General Court thereupon directed the Trustees to investigate the lands and to report its findings in 1893. Their report (House, No. 339 of 1893) contained a comprehensive review of developments related to the Province Lands, showing that the "long series of enactments intended to preserve the province lands and Cape Cod harbor has not accomplished the purpose..." -- the report continued:

> "...Half of the province land is already a treeless waste... winds have made great havoc. Wooded knolls have been cut in two, ponds filled up, and such woodland buried...salt creeks have been wholly filled up, and former sand ridges levelled...
>
> "...(the) interests (of Provincetown) as a summer resort as well as its continued existence as a town depend alike upon the preservation of the remaining verdure of the province lands."

The Trustees concluded their report with a recommendation that the appointment of a superintendant to oversee the Province Lands should rest with the Board of Harbor and Land Commissioners which had adequate authority to provide proper care of the region. As indicated above, this assignment was made in 1893. The Board's annual report of the following year then observed that the reserved portion of the Province Lands "could be made a very beautiful place for summer recreation, differing in character from any park in the world, the color effects of the sand, water and foliage being most picturesque and attractive." (Public Doc. 11, p. 38.)

Only a decade ago, the most recent study of the Province Lands was made by the joint committee on conservation of the General Court, which reported that:

> "...very poor public relations exist between the management and supervision of the Province Lands and the local authorities... it is now generally not known where the authority of the state begins and where that of the local authorities enters into the picture in the police and fire protection and general use of the facilities of the Province Lands.

> "...The Province Lands constitute a very valuable asset to the Commonwealth as a whole in attracting summer visitors within our State and in furnishing wholesome recreation to a large group of own citizens...
>
> "These lands are unique and unlike anything else which exists within our Commonwealth, and, as the proprietorship is invested in the Commonwealth, it is obviously our responsibility to see that they are properly supervised, developed and maintained." (House, No. 2191 of 1950.)

The committee recommended that if the Department of Public Works failed to rectify undesirable conditions within the Province Lands, consideration should be given to transfer of the supervision of these lands to another state agency.

In the recently ended session, a special commission was established to study a 1960 legislative proposal (House, No. 3290) to convey a portion of the Province Lands to the town of Provincetown (Resolves, c. 123). The report, due in late December, was not filed within the prescribed period.

Judicial Views on Ownership of Public Lands

Various decisions in the Massachusetts Reports shed additional light on the ownership and control of public lands during the colonial period. One of these decisions, written in 1906, is that by Chief Justice Knowlton (In Attorney-General v. Herrick, 190 Mass. 307). Discussing the relationship of towns to the local land before royal grants were made during the early colonial period, the Chief Justice wrote:

> "They (the towns) were undoubtedly authorized, expressly or by implication, to represent all public interests, to a large degree, in local matters, subject to the direction and control of the Colony. They were in possession of the land within their recognized boundaries, with authority to appropriate it to individual settlers, and to manage for the general good that which was left in common. But, until it was appropriated, they had no title which they could set up against the general rights of the Colony. In their distribution of land and in the management of that which remained public, they exercised authority which originally belonged to the Colony alone, and in the absence of a grant, they acted as representatives of the central power and ownership. In Commonwealth v. Roxbury, 9 Gray, 451, 500, Chief Justice Shaw said, 'Even an act of incorporation, without an express grant of the lands within it, would not, in our judgment, effect a transfer of the public lands. Such an act, with

limited bounds, would pass municipal jurisdiction, but not soil.' so on page 501, 'All the early acts fixing boundaries between towns...have no tendency to prove or disprove title; they affect the question of jurisdiction only...'

And later, quoting from Boston v. Richardson, 13 Allen, 146, 150:

"...'It appears...by the records of the (Massachusetts Bay) colony that the rights and powers of the towns in lands within their limits were considered as subordinate to the paramount power of the general court at its discretion to grant lands in any town, not already granted to individuals...' So in Lynn v. Nahant, 113 Mass. 433,448, we find these words: 'The lands within the limits of a town, which had not been granted by the government of the Colony either to the town or to individuals, were not held by the town as its absolute property, as a private person might hold them, but, by virtue of its establishment and existence as a municipal corporation, for public uses, with power by vote of the freemen of the town to divide them among its inhabitants, yet subject to the paramount authority of the General Court, which reserved and habitually exercised the power to grant at its discretion lands so held by the town.'

"...Under the enactment of the General Court quoted above from Boston v. Richardson, towns, in the absence of a grant, had nothing but a delegated authority which the General Court might at any time terminate. The general government was the natural owner and controller of property held for the public, and as the towns had no absolute title, on the adoption of the ordinance of 1641-1647 the original title of the Colony remained perfect, with no right in the towns any longer to interfere with it."

APPENDIX A

SENATE, NO. 43 OF 1838. ATTORNEY GENERAL'S OPINION ON THE COMMONWEALTH'S TITLE TO THE PROVINCE LANDS IN THE TOWN OF PROVINCETOWN

By Senate Order of Feb. 20, 1838, the Attorney General was asked to inquire into the title of the Commonwealth to the so-called Province Lands in the town of Provincetown -- and whether its right in any portion thereof is lost or impaired by the undisputed occupancy of any of the inhabitants of said town. His opinion is quoted in full below.

OPINION:

The Province Lands, so-called, in the town of Provincetown, are part of the public domain granted by charter to the Province. At the dissolution of the Provincial government they passed, with all other public property, to the Commonwealth. The title is of equal validity with that by which the Commonwealth holds its domains in the state of Maine.

Neither the Province nor Commonwealth ever voluntarily parted with its title to the lands in Provincetown. The erection of a precinct there in 1714, the incorporation of a township for municipal government in 1727, and an act of 1730 regulating the choice of town officers, are the most material acts of the government having reference to this property.

These acts do not purport to make any alienation of the soil. On the contrary, the act of 1727 recognizes the existence of the Province title, and provides that it shall in no wise be prejudiced thereby.

By the law of the Province and of the Commonwealth, until a recent period, the title of the Government to the public domain could not be affected by any thing but its own voluntary act. It was not liable to be impaired by the laches or neglect of the government itself, or by the intrusion, trespass or wrongful act of any intruders. Nobody could acquire a title against the government by any kind of possession, for any length of time. Its right was not barred by the statute of limitations. It could convey a good title, while the soil was in the actual occupation of an intruder. It could never be ousted of the legal possession, or disseized or dispossessed.* Of course, whenever a person was in the occupation of the public land without the express grant of the proper authority, an action at law might at any time be successfully maintained against him, by force of which he would be evicted.

---

*Stoughton & al. v. Baker & al. 4 M.T.R. 528 (1808) Ward v. Bartholemew 6 Pick. 413 (1828).

SENATE NO. 43 of 1838 (cont'd)

The Revised Statutes, chapter 119, section 12 has made an important alteration in suits to be brought by the Commonwealth for the recovery of the possession of its lands from persons holding them without legal title.

It is therein provided, that no suit for the recovery of any lands, shall be commenced by or in behalf of the Commonwealth, unless within twenty years after the right or title of the Commonwealth thereto first accrued, or within twenty years after the Commonwealth or those from or through whom they claim, shall have been seized or possessed of the premises.

The greater part of the province lands in Provincetown, of any considerable value, are in the undisputed occupancy of the inhabitants, and have been enjoyed and possessed by them and their ancestors for more than twenty years. Unless voluntarily relinquished, these lands could be re reclaimed for the Commonwealth only by suit at law; and if by such occupancy the Commonwealth has not been seized or possessed for the required term of twenty years now last past, the suit is prohibited and the title is lost.

The true meaning of the limitation imposed on the Commonwealth's right of action, by the Revised Statutes, must be determined by correctly estimating the strictly technical meaning of the term "seized," and the term "possessed," which are therein used in their technical sense.

The owner of real estate, when he first acquires a title, is said to be seized and possessed in the language of the law, and so continues until an adverse possession is taken in dereliction of his title; and if this is done against his consent by some unlawful intruder, he is then said to be dispossessed and disseized.

But, until the passing of the Revised Statutes, no act of any kind, by whomsoever or whenever done, could amount to a disseizen, dispossession or ouster of the Commonwealth; -- the public right being privileged in this respect over and beyond all private rights in similar circumstances. If the Revised Statutes, by limiting a suit in behalf of the Commonwealth till twenty years after the Commonwealth shall have been seized or possessed, impliedly enact, that the Commonwealth, like any private citizen, may be disseized or dispossessed, - which is supposed to be the true construction,-- then the Revised Statutes for the first time, make this innovation on the ancient law. It follows of course, that as the Commonwealth could not be disseized until the passing of the Revised Statutes, suits in behalf of the Commonwealth on its own seizin are not barred until twenty years from that period, and therefore may now be legally instituted and maintained.

If this were otherwise, it would not follow that the Commonwealth's title is lost or impaired by the occupancy of the inhabitants under the circumstances of their original occupancy and subsequent residence.

The original settlers went upon the premises with a full knowledge

SENATE NO. 43 of 1838 (cont'd)

of the Province title, and with a consent to it. The claim of the government was made known and admitted in the act organizing their town. It is not known that any dissatisfaction ever existed among them in regard to it. As they were occupants without purchase, and tenants without rent, it is hardly possible that they could have desired easier terms of settlement. The succeeding inhabitants had the same means of information. This kind of occupancy was, therefore, in no respect a disparagement of the title in the public to the soil, and would not, even in case of a private owner, be a disseizin or ouster.

To constitute a disseizin in any case, the disseizor must have the actual exclusive possession of the land, claiming to hold it against him who was seized, or he must actually turn him out of possession.*

It is well known that no such claim has been generally made or pretended, -- nor in any case until within a very short period.

Disputes have arisen among the occupants, as to the quantity of land that an individual might appropriate, and the evidence by which his particular appropriation could be made certain. One of these, at least, has been carried into the supreme court.** But as priority of occupancy constitutes a good title among themselves, and is the only title under which any of them could claim, these disputes could be settled, and in the case referred to were settled, without in any degree impairing or affecting the Commonwealth's interest.

But if an adverse possession should be set up for twenty years in derogation of the public right, it could be maintained only by such occupant for himself, and in reference to his own lot, on such evidence as, in his particular case, would show that he, as a disseizor of the public, had acquired a title against the Commonwealth by lapse of time.

When a disseizor claims to be seized by his entry and occupancy, his seizin cannot extend further than his exclusive occupancy, and the acts of a wrong-doer must be construed strictly, when he claims a benefit from his own wrong.

---

*Proprietors of the Kennebec Purchase v. Springer, 4 Mass. T.R. 416
**Cook v. Rider. S.J.C., Barnstable, 1834

It is not easy to anticipate what might be pretended or proved on a trial, if one should be instituted, but the known circumstances of the case authorize a belief that no successful defence could be made to the Commonwealth's claim.

On the whole, I am of the opinion, that the original title of the Commonwealth to these lands is perfect;

That neither the Province nor the Commonwealth has done anything to impair this title;

That the title has not been lost or impaired by the undisputed occupancy of any of the inhabitants of said town.

Respectfully submitted,

JAMES T. AUSTIN,

Attorney General

26 Feb. 1838