

## THE TERRITORIAL PAPERS OF THE UNITED STATES<sup>1</sup>

THE generous allotment of space afforded in the program of the Society of American Archivists for a consideration of the problem of the publication of archives is an auspicious event. For more than half a century plans for the systematic reproduction of historical records pertaining to the growth of state and nation, along lines of modern editorial techniques, have been agitated, explored, and supported with varying degrees of success. This present recognition of the importance of the general subject is consequently more than encouraging; and the hope is expressed that this Society will contribute the weight of its growing influence in the propagation of the faith.

The task of converting public officials and legislative bodies, and trustees of private collections of manuscripts, to the need of adopting a program of systematic publication and of providing the means therefor has been very slow in this country. The plain truth is that the growth of a consistent policy has not kept pace with other aspects of our state and national development. Some progress, it must be acknowledged, has been achieved; and, perhaps, in the light of the facts that we are a very young nation, comparatively speaking, and that we have been afflicted every quarter of a century on the average by a war and perturbed all too frequently by political schism, it is possible to suggest that progress has been commendable.

As is well-known, but worth repeating for the record, documentary publication, insofar as it has evolved in the United States, has been effected along three different lines: by the separate states in the reproduction of their official records or the manuscripts in the keeping of their historical societies; by the United States in the publication of specific types of official federal documents; and by private enterprise in the presentation of the writings of an individual or of a corporation. At the same time we distinguish two sources of subsidy, namely, grants of public funds and private subvention.

Documentary historical publication has also followed one of three alternate plans in accordance with the character of the papers involved, the extent of funds available, and the purpose to be served.

<sup>1</sup> A paper read at the eighth annual meeting of the Society of American Archivists, Harrisburg, Pennsylvania, November 9, 1944.

The plan of printing an entire collection regardless of its contents represents a common practice, notably in the case of the papers of an individual. The program for the publication of the manuscripts of Thomas Jefferson, so ably presented on the present occasion by Dr. Boyd, is one example. Again, a period or an area, or a combination of both, has often been treated by reproducing every pertinent item from all available sources, wherever found. Instances of this type are found in some of the volumes of the *Illinois Historical Collections*, the *Indiana Historical Collections*, and the *New York Historical Society Collections*. A third alternative is what may be called the selective type, involving a choice of materials on a particular topic or phase of history, illustrated by the subject of this paper—*The Territorial Papers of the United States*.

The publication in question occupies a unique position in our American scheme of documentary historical publication. As already suggested, the publication of archives in the United States has been on the whole sporadic and piecemeal, no comprehensive edition of the archives of the nation comparable to the Rolls Series of Great Britain or the Monumenta of Germany having ever been undertaken and carried through to a conclusion. Yet since the days of the American Revolution such an enterprise has been envisioned by numerous persons, and in some instances actually commenced. There was the unfulfilled dream of Ebenezer Hazard in 1778, whose plan actually received the support of the Continental Congress. There was the uncompleted *State Papers* series by Thomas B. Wait, which belongs to the decade following the War of 1812. There was the abortive effort of Peter Force to complete his well-known *American Archives* during the middle period. And in the same golden age of American historiography there was the uncompleted *American State Papers*. The last mentioned monumental work, compiled by Gales and Seaton, was the nearest to the ideal of a comprehensive publication of the federal archives that has ever been projected. The thirty-eight folio volumes of that stately series remain after more than a century the only comprehensive printed source of information respecting the history of the United States from 1789 to 1832, and the value of that source is further enhanced by the fact that many of the originals on which the work was based have disappeared.

So important a beginning was made and so all inclusive was the

plan conceived by the compilers of the *American State Papers* series that as late as 1908 a committee of American historians, whose names demand the highest respect, recommended to the President and to the Congress of the United States that the enterprise which had been abandoned in 1861 be renewed. The report and recommendations of 1908 represent the most recent phase of the hope long held for an American Monumenta; but its recommendations were never acted upon. And so it was that the American Historical Association, through its committee on documentary historical publication, felt that until a better opportunity arose for the promotion of the larger object, it was the better expedient to encourage specific works of merit already under way and to seek means for the commencement of others. Consequently, the association strongly supported such documentary publications of the Department of State as the important *Foreign Relations* volumes and Hunter Miller's monumental edition of *Treaties and Other International Acts of the United States*, and, with the co-operation of the Mississippi Valley Historical Association and the state historical societies, sponsored the publication which is the subject of this paper.

In 1911 the Carnegie Institution of Washington published *A Calendar of Papers in Washington Archives relating to the Territories of the United States to 1873* compiled by Dr. David W. Parker. It was the first calendar of its kind that had appeared. Here, then, was something tangible which could be utilized as a basis and as an argument for the enactment of a law authorizing the publication of a particular series of historical documents, earmarked for the first time, which would furnish for scholars, teachers, and publicists materials enabling them to understand the evolution of the Union. The territories of the United States bore a relation to the federal government analogous in many respects to the relations of the American colonies to the British government. Consequently, the bulk of the official records pertaining to our territories was in the federal archives. The states that were once colonies of Great Britain had, of course, published their own colonial records, but the documents which disclosed the evolution of the American territories, involving a territorial, or colonial, policy on the part of the United States as well as the internal history of the individual territories, were on the whole a closed book and would remain so unless a program for their publication in some systematic order should be undertaken.

And so it turned out that in 1925 a law authorizing the compilation of the records in question by the Department of State was enacted, in which, be it noted, reference was made to Parker's *Calendar*. Under this act the initial work of collecting was commenced by Dr. Newton D. Mereness. But the law in question had not provided for the publication of the papers, and in 1929, through the joint efforts of the various historical associations and societies, a new law was enacted which included a provision for publication.

Having briefly disposed of the origin of the project and its place in American historiography, I turn to the principal theme of the discussion—an elucidation of the *modus operandi*. When work was begun in 1931 under the law of 1929 it was plain that the undertaking presented a much more complex problem than is usually encountered in editorial undertakings. It was evidently not possible to proceed with the publication *in extenso* of all pertinent documents. Both the quantity and the character of the materials were such as to preclude an exhaustive publication with the limited funds for that purpose at the disposal of the Department of State. To be sure, if, at the outset, there had been an assurance of continuing appropriations until the work was completed a different procedure might well have been adopted. Such a promise was not then in sight, however, and it was therefore necessary to devise some plan of selection which would be other than an indiscriminate one. A scheme must be adopted that would not only be economical, but also one that would meet the substantial needs of the professional public.

The adoption of an inflexible formula in defining the boundaries within which materials should be included or excluded from the edition was deemed unwise in view of the fact that the character of the documents varied considerably with respect to different territories. The preliminary survey had indicated that for some territories certain categories of documents were not only incomplete, but in some instances were almost entirely absent, while for others the same categories were approximately complete. Moreover, from territory to territory the problems encountered by settlers and by territorial officials, as reflected in the documents, differed sufficiently to warrant a shifting of emphasis as regards the materials that should be chosen for publication.

In order, therefore, to maintain a fairly equitable balance between the various volumes and to preserve at least a semblance of uni-

formity, and also to present what seemed to be the most useful collection, a number of controls were devised at the commencement of the work so that little would be left to chance or to editorial caprice.

The first and most tenacious of these controls has already been alluded to (it cannot be overemphasized), namely, a fiscal one. In this regard the editor has to remind himself continuously to exercise economy of space and time in order not to exceed what can be paid for, and at the same time to provide a work that will not need to be redone in the foreseeable future. This situation prescribes other controls.

The necessity was evident of limiting the edition in the main to materials found within the boundaries of the District of Columbia. There are, to be sure, relevant papers in every state that was once a territory, notably such records as those of the territorial supreme court and the journals of the territorial council and of the house of representatives; but these records never formed a part of the federal archives and are consequently not deemed a part of our task to publish. Copies of the territorial laws, however, did reach the office of the Secretary of State for regular submission to Congress and are found in varying quantities in the archives of the Department of State; they are therefore federal records. But since the laws in question have been previously printed by the various states we are relieved of that problem.

On the other hand, the original of the journal of the proceedings of the territorial governor, kept by the secretary, is also usually, though not always, found in the state archives. In accordance with federal law a certified transcript of this journal was dispatched every six months to the Secretary of State and under normal circumstances it should be found in the Department of State. It is not always present, and there are instances in which this most important record, which embodies lists of appointments, militia orders, and proclamations, cannot be found in any form. It is, however, a distinctly federal document and is held subject to publication wherever it may be discovered, if not already in print. In other words, a distinction is drawn between records that may be characterized as purely federal, to the extent that they stemmed from some act or instruction of the central government, and those which originated within the territory and which subsequently became a part of the state archives. The

general rule against seeking materials beyond the confines of the national capital is further modified when the following situation arises. An original letter signed and sent to a territorial official and preserved only in office copy form in Washington, is sometimes discovered in the archives of a state or in the collection of some historical society. It has been deemed essential to print from such an original, and conversely to reproduce from similar repositories copies of official letters of importance originally dispatched by territorial officials to Washington and now missing from the files. In general, however, the number of such items that have been chosen for publication are comparatively small.

Another canon of admissibility concerns those documents which have been subjected to previous publication under various auspices. The general rule is to exclude such published records, but again there are exceptions (as in law there is no rule without its exceptions), for example, the following highly relevant documents marred by defective printing, or which have appeared in editions no longer easily accessible are viewed as subject to republication. And a paper considered as essential to the completion of a series or to which frequent allusion is made in other documents included in a given volume, is reprinted without hesitation, even though it may have previously appeared in good and available form. Yet the sum of the papers republished in *The Territorial Papers* volumes is inconsequential. In a typical volume containing approximately eight hundred documents the number that have heretofore appeared in any printed form does not exceed a dozen or fifteen. In this connection, also, an effort is made to cite in footnotes on appropriate pages all printed sources with as much descriptive information as the need calls for and space permits.

Coming now to the heart of the problem, it was determined that the administration of the territory should be made the principal basis on which to predicate the contents of the series. Priority is, then, accorded to such papers as possess a relevancy to administration, a rule deemed tenable because the territory was plainly an administrative problem. Records relating to the management of the territories consequently become the central core of the work, and nearly every document selected for publication falls, directly or indirectly, within the framework of this principle. Furthermore, certain categories of papers which fit this description are afforded space for complete pub-



lication, with, of course, certain exception. Until 1873 the administration of the territories was in the general charge of the Department of State, and the department's files therefore contain a good many relevant documents, such as letters passing between the Secretary of State and the governors, though in some instances there are gaps which will probably never be filled. In any event, the aim is to reproduce all pertinent papers discovered in the files of the Department of State, exclusive of those previously printed in good and available form. Throughout this operation still another rule is applied, which further modifies the complete publication principle to the extent that a document which is purely cumulative in content and therefore supplying no additional information, may be rejected. In the selection of papers from other categories this same restraint also applies. But whenever such a document is omitted it is appropriately cited.

The rule of approximate completeness prescribed for one class of official papers is similarly extended to two other groups of documents. The letterbooks of the Postmaster General contain a broken and incomplete set of copies of letters sent pertaining to the establishment and operation of the postal system in each territory; the extension into the frontier of a means for the transmission of intelligence is so significant that no effort has been spared to cull and reproduce every pertinent source of this character. Again, memorials and petitions to Congress from the people and from the territorial legislature praying for changes in government and for other purposes, found principally in the files of the United States Senate and House of Representatives, are all included excepting the comparatively few that have been printed in other publications and excepting identical texts. But in the latter instance the names of all signers of duplicate petitions are reproduced. Scholars may therefore feel fairly assured that with regard to the three classes of documents thus described the coverage has been reasonably complete.

A higher degree of selection becomes inevitable, however, with respect to other groups of materials, and the choices are determined by the same criterion as in the instances noted above, namely, they are controlled through judging their relations to some phase of the administration of the territory. Since omniscience is hardly to be expected of any editor in such a situation, it is not unreasonable to assume that his judgment may occasionally be deflected when con-

fronted, as the series proceeds, by a growing multiplicity and variety of documents.

Viewed as coming directly under the general rule of inclusion are records pertaining to the adjudication of land titles and to the administration, survey, and sale of public lands after the extinguishment of Indian titles. The principal sources are in the General Land Office, now in the Department of the Interior, and in certain files in the Department of the Treasury. The papers are abundant; the hiatuses are few. Incoming and outgoing letters, together with the many other types of documents associated with the land business are too numerous for anything approaching complete publication. It is clear, of course, that volumes of the proportions designed, which must also embody other essential classes of materials, cannot supply the complete story of the land problem. Consequently, for each territory only such documents are elected for reproduction as are sufficient to enable the reader to sense the general pattern in the unfolding of the land issue, including the evolution of a land policy. Fortunately a good many land papers have been published in other works, and the selection of documents is with a view of supplementing those already in print. It is believed that the citations of both published and omitted papers will light the way for the student of the land question. The indexes and footnotes are designed in that connection to be of immediate service in facilitating the use of the documents, whether printed or unprinted, bearing on the issue in question. This land question occupied more of the attention of the officers and people of the territories than any other set of events, unless it was the problem of Indian relations, the papers of which pose a still more delicate and difficult procedure concerning selection.

Users of *The Territorial Papers* volumes published to date are aware that less relative emphasis has been placed upon papers illustrating Indian affairs than those which pertain to other aspects of territorial history. The principal explanation for this lesser relative emphasis is that Indian affairs transcended territorial boundaries; an Indian problem would have existed and there would have been documents relating to it if no territorial organizations had ever been established. Moreover, materials concerning the subject in question, as found in the archives of the Department of War and in the Office of Indian Affairs, in the Department of the Interior, are so enormous in quantity that a separate and different type of publication would be



required to provide an adequate documentary collection. Whatever records in this category are considered for publication are therefore subjected to careful scrutiny in order to exclude entirely any element of caprice in the execution of the task.

In this regard the defense of the territory, with which both the central and the territorial governments were vitally concerned, has been judged to possess a relationship to administration, at least in some of its ramifications. Furthermore, the territorial governor was also superintendent of those Indians who lived within his jurisdiction, and his two functions, as governor and as Indian superintendent, often became identified as one: events within one branch of his service frequently pertaining also to the other. The governor's militia powers as commander in chief of the territorial militia were plainly a part of his executive prerogative, and papers relating thereto in connection with the protection of the territory from Indian attacks must be viewed as relevant and they therefore fall within the rule of inclusion. The governor was also in nominal control of Indian agencies, and although the men who officered them were appointed from Washington, they reported to the governor as well as to their superiors in the federal government; and they were subject to the governor's instructions under certain conditions.

The governor was likewise drawn into close relations with the officials of other extraterritorial establishments, either through joint instructions to all territorial, Indian, and military officials, or by reason of the necessity of co-operation between himself and the heads of the various establishments mentioned. For example, there existed in each territory federal military posts under the direct administration of the Secretary of War, and there was frequent occasion for consultation by the governor not only with the Secretary of War but also with the commanders of the various posts and with the Indian agents on the problem of territorial defense. The creation from time to time of new Indian agencies and military posts was, moreover, a forecast of the beginning of white settlements over which the territory would have jurisdiction. This extension of settlement made it necessary to acquire title to Indian lands, in which respect the governor was usually either the negotiator or joint-negotiator; in any event papers which concern the acquirement of title to Indian lands possess an immediate interest. And it is this class of documents with which those relating to the public land system tend to dovetail. Although the

administration of the factory trading system, so long as it existed, was distinctly extraterritorial, the offices of factor and Indian agent were sometimes united, and at all times the factories, located at strategic points in the territory, were tangent at certain points with the political phases of Indian affairs.

It should be obvious that in the application of the procedures thus described, comparatively little has been left for random selection save for the fact that as between two equally relevant documents, where there is space but for one, the element of personal judgment is involved in the choice. It will be perceived also that the task in this first procedural stage differs widely from those which deal exclusively with the papers of a single individual.

With respect to other editorial techniques there are of course no choices: an editor is subject to universally accepted standards. In 1857 the British government authorized the publication of a series of volumes to be known as "Chronicles and Memorials of Great Britain and Ireland from the Invasion of the Romans to the Reign of Henry VIII," and at the same time the Master of the Rolls laid down certain principles for the guidance of the editors of the undertaking thus initiated. The most significant of the rules enunciated related to the care with which the records selected for publication were to be prepared: the documents were to be carefully collated with the original manuscripts, and with the best of the latter when several versions of a single document were present; and finally each document was to be prefaced by an account of the original manuscript, or manuscripts, utilized, together with an explanation of whatever chronological difficulties may have been encountered.

Thus was commenced the Rolls Series, which in time became the great example of meticulous and wise editing. It was not, of course, the earliest modern pattern, but it is cited in the present instance because of the clarity with which the mechanics of the task were prescribed. The basic principles of modern historical editing first introduced into Europe were not widely accepted in the United States, however, until well toward the end of the last century. Some twenty-seven years ago the late Dr. Worthington C. Ford, in speaking of historical editing of his generation, asserted: "To furnish the material in its full and unaltered shape—that is the achievement that has come to editorial methods in a generation."

In the present connection, the establishment of authentic textual

versions and the final procurement of an accurate typescript for the printer not infrequently present challenging problems which necessarily evoke the use of all the established canons of textual criticism. The general run of documents chosen for publication consist of autograph letters signed, letters signed, autograph documents signed (commissions, proclamations, orders, journals, petitions), documents signed, and, in the absence of such originals, drafts, office copies (letter books), copies signed, and copies of copies. It is usually not difficult to establish the genuineness of an autograph letter, for which there are several tests: calligraphy, authenticity of the signature, the name of the addressee on the cover, postmarks, if any, the author's knowledge of the subject matter discussed, endorsements, and the acknowledgment, if discovered. The principal harassment is the procurement of accurate typescripts of many of these originals due to the not infrequent illegibility of the handwriting. There are cases in which the editor and his assistants return repeatedly to the original, even after the type has been set, before a satisfactory reading has been established.

In the determination of the best copy to be selected there is rarely any choice, since most of the copies used are office copies found in letter books. Such copies often embody obvious clerical errors, but since they are the official records the only resort is to call attention in footnotes to the presence of specific errors. In the instance of a copy of a copy, however, it has not been deemed of any advantage to perpetuate for all time copyist's mistakes, such as the transposition of letters or words, which are clearly slips of the pen. In making this statement, it must be understood that textual emendation is not permitted in any other sense and is never undertaken in the case of an original or of an official copy. Occasionally there are found two or three variants of the same copy, in which event a number of considerations are taken into account. If one of the copies contains the authentic signature of the author of the original it is generally preferred. Otherwise the circumstances, if they can be ascertained, under which each copy was made are considered, as well as such elements as handwriting, type of paper used, chronology, *et cetera*. Differences in textual matter as between the different variants of the same document are duly noted in footnotes.

An unusually good example of the problem of establishing an authentic text is found in President Washington's famous letter to

Gov. Arthur St. Clair, of the Northwest Territory, of March 28, 1792, in reply to one from St. Clair dated two days previously which contained the latter's resignation as major general as a result of his defeat by the Indians on November 4, 1791. A draft of Washington's letter to St. Clair is found in the archives of the Department of State. Although this draft is in Washington's hand, collateral evidence disclosed that Secretary of War Knox and Secretary of State Jefferson had assisted in its composition and that St. Clair, then at the seat of government in Philadelphia, saw the letter in draft form. The text also reveals that it was the President's aim to cushion as far as possible St. Clair's fall as a military commander. But the draft contains a paragraph, following the signature, marked "Private" which accepts St. Clair's resignation and extends the good wishes of the President. This draft, including the postscript, was published by William H. Smith in his edition of *The St. Clair Papers*. But where was the original letter signed which went to St. Clair? The reading of other relevant correspondence led to the wish to locate that letter if possible; it was found in the Huntington Library. Much to our astonishment this original did not contain the postscript described as belonging to the signed draft found in the State Department, and which had received previous publication. Needless to say the original letter received by St. Clair was selected for our publication, with a footnote description of the draft and an account of its evolution. But no explanation of the discrepancy between the two versions of the letter is attempted, which suggests the further statement that throughout the work editorial interpretations of the text are rigidly excluded.

Then there is the occasional task of reconstructing the text of a document. A case in point is that of the executive register of the territory of Illinois which embodies the texts of commissions, proclamations, militia orders, and lists of appointments of civil officials and militia officers made from time to time by the governor. There are three manuscript versions of this document and one printed text. The first manuscript consists of the original notes of the territorial secretary which had been made from day to day. The second version is what may be called the finished product; it is a copy of the first, but is constructed along the usual formal lines of a journal and had been designed as the permanent record. The third manuscript text is an authenticated copy, based on the second version; it is in the archives

of the Department of State. But not all the installments of this copy of the register are now present. In 1901 the Illinois Historical Library published the register, basing its text upon the second manuscript. A check revealed that this printed text embodied so many errors both of commission and omission that it was deemed necessary to republish it in the volume on the territory of Illinois, now partially in proof.

A further comparison disclosed not only that the second manuscript text, that is, the formal record, was itself incomplete, but that it contained entries not found in the original draft. The State Department version, insofar as it is now available, conformed generally to the second text, while the printed one differed from all. Consequently it was determined to consolidate within the textual version recently prepared for publication, and now in type, all the data which the copyists failed to transfer into the formal record and to indicate in footnotes the various discrepancies discovered in the different versions. It may be added that this is not a new or unique experience in the execution of this work.

Since the commencement of the present management of the project in 1931 the distribution of the archival materials on which it is based has undergone an important metamorphosis. At the outset it was necessary to carry on researches in the archives of the Departments of State, Treasury, War, Interior, and Post Office, in the Senate Library, the Library of Congress, and the General Accounting Office, all rather widely scattered. But with the organization of the National Archives in 1934 there has been a fairly rapid removal of the papers to that great central repository, where they have been cleaned, repaired, and classified. At the present time the archives of State, Treasury, War, and Interior Departments, and the Senate files have been transferred. The Post Office Department has thus far retained its records, as has the General Accounting Office. And the papers of the House of Representatives are now all in the Library of Congress, as are the presidential papers and those of certain other public men who were concerned in various ways with the territories.

Such a transformation has greatly facilitated our work. Inevitably as the various removals have occurred and as some categories of papers have been reclassified, certain forms of citations have had to be changed. On the whole, however, this involves no great difficulty, either to the editor or to the scholar who makes use of the volumes.

The helpful assistance of trained archivists is now at the disposal of the editor at all times, which is of incalculable value.

The one great need yet to be supplied is the preparation by the National Archives of calendars, inventories, and other finding lists. For the present administration of *The Territorial Papers* volumes this need is perhaps not so demanding as it will be for a succeeding one since we are already familiar with the location and character of the sources, having learned the lesson the hard way. Consequently the hope is expressed that the time will not be far distant when the publication of both general and detailed inventories will be undertaken. It is understood that such a project is a part of the program of the National Archives staff and that it will be commenced as soon as the necessary funds may be obtained.

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