Bumpkins and Bostonnais: Detroit, 1805-1812

Jeffrey Robert Pollock

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A Thesis

Entitled

Bumpkins and Bostonnais: Detroit, 1805-1812

By

Jeffrey Robert Pollock

Submitted to the Graduate Faculty as partial fulfillment of the requirements for

the Master of Arts Degree in History

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The University of Toledo

December 2013
An Abstract

Of

Bumpkins and Bostonnais: Detroit, 1805-1812

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This work focuses on Detroit from 1805 to 1812, with a focus on the changes brought about by the advent of the Michigan Territory and the reaction to those changes by the predominantly French-speaking citizens of the town. This work relies on previously underutilized petitions and memorials drafted and circulated by the francophone citizens of Detroit to argue that these citizens had a real and profound interest in the political and legal future of their town, contrary to what past historians have written. The thesis is organized into three chapters. The first gives a brief history of Detroit from its founding in 1701 until the start of the Territory of Michigan in 1805. The second examines the conflicting desires of the local population and the new administration in rebuilding the towns following its destruction by fire in June 1805, in particular the issues involving land title, locations of new lots, and the enclosure of Detroit’s commons. The third chapter examines controversies surrounding the “Americanization” of the legal system in Detroit and the desire of the French-speaking population to have a system more in keeping with their traditional practices.
For Winter. Without your love and support this would have been impossible.
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Introduction

The following study focuses on the city of Detroit from 1805 until 1812. This period was bookended by dual disasters: first, a devastating fire that destroyed nearly the entire town, and the second, the War of 1812 which saw Detroit at the center of a several campaigns and the scene of a humiliating defeat for the United States. The period between these calamities has often been overlooked or glossed over by historians, who have seen these seven years as little more than a lead up to war, rather than a transitional period in the city’s history and a unique chapter in the territorial expansion of the United States in the early nineteenth century.

The process of the United States establishing sovereignty and the response from the French-speaking community to that process has been left by the wayside by scholars. This scholarly neglect has overlooked the attempt by the French population of Detroit to find accommodation within the United States, as citizens. That this attempt was disregarded or ignored by the United States government at all levels, demonstrated an inflexibility that came with expansion of the young nation. While such inflexibility typically exhibited itself in dealing with Native Americans, in Detroit the largely interior-born and French-speaking population were the ones subjected to an imposed system.¹
Accessing the views of the francophone population of Detroit has not been easy. They left few written sources of their own, a fact owing much to high levels of illiteracy in the population. The British and Americans who did leave such records were often filled with the prejudices common in the day, whether they were based on ethnic, cultural, or religious grounds. The records of these British and especially American officials, traders and travelers have been the primary supply of documentation for the town and its population.

There is, however, a large and remarkably neglected set of documents that has up until now been dealt with partially: the petitions and memorials circulated and sent by the predominantly francophone citizens of Detroit to those who held power over them, either on a territorial or federal level. In this work I examine these petitions sent from 1805 until 1812 as a corpus. I believe this viewpoint allows for a more complete glimpse into the concerns and priorities of the French-speaking population of Detroit as their town was being rebuilt and their laws rewritten by the new government of the Michigan Territory. In this fashion this study strives to correct the omissions of past historians who have failed to take note not only of the petitions but of Detroit’s French-speaking population entirely.  

The reasons for this historical oversight are varied. The most obvious was that Detroit, and communities like it across the Midwest, did not fit in with a narrative of Anglo-Saxon domination and expansion. The history of Detroit’s French-speaking population—or Saint Louis, or Vincennes— was of an outlier, not fitting into simple narratives of a march of progress.
The works of Francis Parkman, one of the most read and well known of the nineteenth century’s historians, embodied this exclusionary phenomenon, and set the tone for what was to follow well into the twentieth century. For Parkman the French Empire faced an implacable foe in their British and colonial adversaries. France’s endeavor in North America was doomed by the French and Indian War, and their failure seemed to be foretold before the conflict ever started. The francophone settlers who fell under British control were destined to disappear just as the empire that had planted them in their far-flung outposts.³

As one modern-day commentator wrote, Parkman strove to define the difference between “progress and reaction,” or more grandly between “good and evil.”⁴ Parkman’s tale therefore displayed the French settlers as necessarily backward, with little hope of enduring the tidal wave of British and later American westward movement. Worse, the French offended Parkman’s racial sensibilities by willingly intermarrying and living with the Native American “savages,” an activity that also played into their demise and disappearance as anything more than names on a landscape.⁵

The treatment of Pontiac’s Rebellion (1760-1763) has remained one of the few events in Detroit’s history that has produced any significant amount of scholarship, and much of this is due to Parkman’s riveting narrative of intrigue, violence, and the eventual victory of the “good guys.” Pontiac’s activities were centered around Detroit, and so naturally the town drew Parkman’s attention. In Parkman’s *History of the Conspiracy of Pontiac*, the rebellion’s namesake and the French townsmen of Detroit are part of the same scheme, conspiring like the assassins of Caesar to restore the rightful rulers to the
Only recently when the value and importance of Native American history was realized was this old tale replaced with a more nuanced, comprehensive approach.

The French and Detroit disappeared from 1763 until the Louisiana Purchase and the addition of New Orleans. Even the Frenchmen of Saint Louis were given short shrift, barely a footnote to the glorious expedition of Lewis and Clark, important only for the pirate Jean Lafitte and his guns at the Battle of New Orleans. Often only the names they lent to the landscape were left to remember their presence.

Even the few studies that centered on the French of what became the West of the United States seemed to insinuate that the French who lived there simply disappeared. The Upper Mississippi Valley, a region that offered a variety of exploratory and trade route topics epitomized these phenomena. Despite having a predominantly French-speaking population, most scholars ended their coverage with the close the American Revolution, the expedition of George Rogers Clark to Vincennes, or the passage of the Northwest Ordinance of 1787. Occasionally works would reach into the nineteenth century, but the Louisiana Purchase signified the death knell of the French being active players in the course of the American experience.

The scholarly confinement of the study of French speakers in what was to become the United States to the Mississippi Valley did not prevent studies of Detroit. These studies honed in on the period preceding the advent of territorial government, and their focus was more on the triumph of new regimes rather than the residents of Detroit. Nelson Vance Russell’s *The British Regime in Michigan and the Old Northwest, 1760-1796* (1939) spotlighted the British administrators and the ascendant fur trade merchants more than the French populace, and when the latter were mentioned it was as a vain lazy
set of people. In Russell’s view most of the French (with perhaps the priests and the wealthiest excepted) were “careless, indolent, pleasure-seeking, spending their time and earnings in drinking and gambling.” F. Clever Bald’s *Detroit’s First American Decade, 1796 to 1805* (1948) examined the local population in a little more depth, but still his focus remained on the administration of the military and the personalities of the officers at Detroit. When Bald addressed the French they remained a one dimensional mass, who were unfit or unwilling to engage in self government, focused more on drinking and pleasure seeking.⁹

Bald and Russell’s depiction followed in the vein of previous local historians, who concentrated on Detroit or Michigan more generally. Oftentimes the history of Detroit from 1805 until 1812 received scant mention, and if it did, it was for the fire that destroyed the city, followed by the brilliant redesign of the town by Judge Augustus Woodward. The French citizens of the town were portrayed as willingly following the lead of Woodward, agreeing that his plan was far better than their old city. The occasional mention of the “Woodward Code” focused on these laws as wise in forethought and a great benefit to society. Once again these laws were supposedly readily accepted by the French-speaking population, without dispute and with apparent appreciation.¹⁰

Two historians exemplify this phenomenon, Silas Farmer and C.M. Burton. These writers of the late nineteenth and early twentieth centuries, whom Bald and Russell used throughout their own histories, penned massive, multi-volume and often elaborately detailed accounts of Detroit’s history. Farmer’s account revolved around the period of statehood beginning in 1837. His work had a thematic approach which depicted the
French-speaking population of Detroit through “apathy or consent” relinquishing control of the town and territory to the hands of the governors and judges. However, Farmer did acknowledge that Detroit was not always tranquil. While Farmer took note of later protests submitted to the Michigan legislature by the citizens of Detroit in the 1820s (who by this time had become a much more English-speaking population), he did not take note of the protests made in the early years of Michigan’s existence.\textsuperscript{11}

Farmer’s two volume history of the city, originally published in 1884, was surpassed in scope and length by C.M. Burton’s five volume work \textit{The City of Detroit, Michigan, 1701-1922}, published in 1922. Burton was unquestionably the father of Detroit history, and his research on Detroit has remained a necessary foundation for any work on topics concerning Detroit’s early times.\textsuperscript{12} While Burton’s over-arching project of preserving and writing the story of Detroit was of inestimable value, his treatment of the French under the administration of the United States was close to caricature. The period before the beginning of the territorial government ended with the city’s “public morality at low ebb,” with no discernible civil law and drunken riotous behavior commonplace, most scandalously on the Sabbath day which all too commonly featured horse races and brawls. The cure for this social malady was the arrival of the governor and judges, who administered a healthy dose of law and order.\textsuperscript{13}

Scholarly treatment of the Michigan Territory inherited the combined weight of the past historians’ depictions, oversights, and stereotypical portrayals. Emblematic of this inheritance was Alec Gilpin’s \textit{The Territory of Michigan, 1805-1837} (1970). Gilpin gave the entire history of Michigan until 1812 a scant fifty-seven pages, with much of this dedicated to the biographies of territorial officials like Woodward and Governor
William Hull, and to the bank scandal of 1806. People other than Hull, Woodward or anyone else without a government title struggled to enter onto his pages as anything more than an aside.\textsuperscript{14}

Frank B. Woodford’s 1953 biography of Augustus Woodward is the best history of the period. While certainly biased in favor of the judge and his actions, Woodford’s work stood apart from the larger histories in its detail and coverage. It at least delved into some of the controversies of the town and offered a portrait, even if a biased one, which the actions of Michigan’s administration did not occur in a vacuum and the French speakers of the town did in fact exist. Still, francophones were portrayed as a passive community, considering the future of their town as a tertiary concern behind socializing and frolicking. In Woodford’s paternalistic view, the “homespun culture” of Detroit produced a people “always ready for a frolic when the fiddles were tuned and the peach brandy or cider were set out.”\textsuperscript{15} Cider, song and merriment were the primary concerns of the \textit{habitants} of Detroit, with little care for the more serious affairs of the world.

This depiction of the people of Detroit, in particular its French-speaking population, remained in force throughout much of the second half of the twentieth century. As historians began to explore the complexities of both the Great Lakes region and the Ohio River Valley to the south, moving from the local and parochial to the regional, Detroit remained a place beyond the scope of most works. The Frenchmen in the region were covered in a variety of forms, as both traders and soldiers, but the former dominated the pages of many valuable and thought-provoking books.\textsuperscript{16} Much of the focus then was on the colonial French institutions, revolving around trade, treaty, and
tactics of soldiers, traders, and the odd missionary, with only the occasional stereotypical reference to the drinking, and frolicking habitant.

Beyond the Church and the military the French endeavor relied upon the métis, people who because of a dual French and Native American heritage could travel in both worlds and rely on bonds of both kinship and business to carry them through. The scholarship covering these persons of dual identity tended to focus on the Native American aspect of their lives: how well they adapted and blended with the world that was not French. In turn, the relationships forged with Native Americans by and for the fur trade drew the special attention of scholars. The métis were largely outside the bounds of the official institutions of New France, Britain or the United States, and only loosely tied to the Catholic Church. 17 Quizzically then, the coverage of the francophone world of the Great Lakes has focused on institutions, the military, the officially established fur trade, and the church, or on those who were virtually without formal institutions.

What of those in the Great Lakes whose world was shaped and influenced by institutions but who were not employed by them? Those who surrounded military posts, supplied fur traders, and lived ordinary have been excluded from the work done on those institutions. Likewise they have escaped the attention of authors focused on Frenchmen who seemed to identify more with Native Americans than with their French identity. Taken together there has been little “middle ground” in the scholarship of either social or institutional history; rather, the focus has been those either controlling the French colonial system (or the administrations that followed), or those who seemingly replaced their culture with that of their Native American kith and kin. 18
Yet other regions with similar dynamics attracted the attention of historians. Like the French Great Lakes, the Spanish borderlands of Herbert Bolton experienced transitions of sovereignty and scarce settlements dominated by soldiers and missionaries. Here too, the study of the region emphasized the institutional apparatus, though at the behest of the crown of Spain rather than France. Like the study of the French in the United States, Bolton and his disciples for a long period avoided the study of Mexicans, mestizos, or the other mixed collection of peoples that lived from Florida to California, focusing instead on the official narratives that emerged from their copious translation and gathering of documents.\(^\text{19}\)

The transition away from the study of institutions came in the early 1990s as scholars began to examine the lives of common people, their relationships among themselves and between them and their Native American neighbors. At a cursory glance such works can be seen to flow in the same vein as métis studies that developed at the same time and progressed with similar examinations of gender, power, and identity.\(^\text{20}\) However, the study of Spanish borderlands has exceeded and surpassed the study of the French in the Great Lakes in one key area: the emphasis on common people and their negotiation with the institutions and practices superimposed upon them.

The Spanish borderlands offers an interesting comparison, if not a parallel, to the historical treatment of the French in the Great Lakes, and Detroit specifically. In the latter case rather than beginning with a narrative that examined the people of New France—who would later become British subjects and then American citizens—as a dominant force, they were simply seen as would-be Indians or a people who had no history worth writing that could be divorced from the history of their native allies and
kinsmen, or the official institutions that existed around them. The borderland that did exist in the Great Lakes was one that was utilized by Native Americans to continue their existence by playing the European nations off one another, and by utilizing new relationships that they fostered through trade and marriage. The area around Detroit featured as a meeting place, but it was from the Native perspective that Detroit assumed an importance, as the *entrepôt* of the interior. In the borderlands that have been passed down through the pages of excellent, if proscriptively focused, works, the world was a native one.21

This lack of a place for the French of the Great Lakes as *French* (or at least culturally identified as French) has not translated to the other regions studied as borderlands by scholars.22 The Lower Mississippi in particular has attracted the attention of historians who, seeing a lasting and enduring “Frenchness,” have given that region a far different treatment than that received by Detroit and its immediate area. The study of the francophone population can be linked to the study of the Spanish borderlands both by geographic proximity and to the period of Spanish colonial control of the area in the latter half of the eighteenth century and into the early years of the nineteenth. While the decades of Spanish rule attracted scholarly attention, the staying power and prominence of the French population held that attention into the American assumption of sovereignty over the region. With New Orleans acting as a jumping off point, French-speaking people (along with their ways) spread throughout the region and acted as power brokers in the future states of Louisiana, western Alabama, Arkansas, and portions of east Texas. Through trade, land sales, and political influence, the French-speakers in this
region have been seen as exercising an influence among natives and fellow Europeans that francophone Detroit has never been given.\textsuperscript{23}

As historians gave other regions a reexamination, so too did they reconsider the expansion of the United States in the Northwest Territory. Ohio, the first state carved from this territory, has garnered particular attention. Here the American enterprise first expanded into new territory following the defeat of the land’s old owners in some the most brutal fighting seen before the Civil War. In Ohio historians saw an opportunity to explain the growing pains of a nation where the rights and desires of squatters, soldiers, settlers, and politicians seemed to come together and collide to produce a tumultuous history. It was a prime example of the expanding state and an expanding people, opposed by the Native American inhabitants of the region. Rather than relying on the simple past narrative of expansion, historians portrayed Ohio as a world of conflicting desires, imperialistic actions, and brutality.\textsuperscript{24}

Indiana, too, has recently seen a reexamination from historians. Traditionally the focus of historians considering Indiana had centered on the period following the statehood and the massive influx of settlers and farmers. Indiana, unlike Ohio, had significant populations of both French-speaking land owners and slaves. As the epicenter of Tecumseh’s resistance movement before the War of 1812, the study of this territory added a level of complexity to the history of American expansion that has not been repeated in Michigan and Detroit. Here too historians have shifted the narrative away from simple expansion to a more multifaceted portrayal of a complex and often highly negotiated occurrence.\textsuperscript{25}
Still in both Ohio and Indiana, more traditional systems of American establishment, as well as their traditional settlement patterns (from east to west), attracted historians. While Michigan was left out of the coverage, historians did include modern-day Missouri and Illinois, and like places further east, these states came under a renewed examination, beginning in the 1990s. Spurred on by the bicentennial of the Lewis and Clark expedition, and using the connected world created by scholars of the métis in the Great Lakes and the American West, scholars began to examine French traders and French communities, in particular Saint Louis. Saint Louis attracted scholars for a number of reasons—its location as a jumping-off point for further settlement and exploration, as well as its established reputation for fur trade wealth. For the purposes of scholars studying the French inhabitants of the region, the area was seen as a cultural and economic hub, where the situation provided a case study to examine the interaction between established francophone communities and the United States, the American government and American settlers. Slowly these studies began to recognize that the French of Saint Louis and the surrounding region endured, both demographically and as an influential ethnic and cultural force beyond the establishment of American sovereignty.\textsuperscript{26}

The most recent addition to this coverage was Jay Gitlin’s \textit{The Bourgeois Frontier: French Towns, French Traders, and American Expansion} (2010). Gitlin argued that contrary to much of the scholarship that came before his work the “French West” or the “French Crescent” (a corridor of francophone settlement stretching from New Orleans, through Saint Louis and the Illinois Country to Detroit) was the scene of multiple types and styles of adjustment by French-speaking populations to the imposition
of United States sovereignty in the early nineteenth century. Gitlin focused much of his work on Saint Louis and the Chouteaus, a wealthy fur trade family, and those like them. This focus on the wealthy, who often bought influence in new governments or in the case of New Orleans, were numerous and savvy enough to bend the law to their own needs, left large segments of the population ignored. Furthermore his treatment of Detroit, a prominent place in the French West, was significantly lacking, with the spotlight on the apparent lack of objections to “Americanization” occupying most of his focus. Gitlin even went so far as to say “once Detroit came under American rule . . . French legal traditions gave way to American norms, apparently without protest from French citizens.”

Even in works featuring the French speakers who had so long been ignored, Detroit remained on the periphery. Unlike the borderlands of Spain, Detroit and its surrounding region did not have a scholar originate a field around the study of the French in the Great Lakes as Bolton did for his topic of choice. Further the town seemed to escape the cultural negotiation of the métis world, and it lay beyond the geographic settlement patterns of Ohio and Indiana —while it was intertwined with the history of both Native Americans and the world further west along the Mississippi it was not seen as having a direct influence upon them. Only when in conflict, like during Pontiac’s Rebellion or at the beginning of the War of 1812 did Detroit feature prominently, and even here historians continued to focus on groups and individuals, not from the town itself. Tecumseh and Brock, Hull and Harrison and the men they commanded, featured prominently but less so the people who lived in the community.
A reexamination of the situation in Detroit and how its people saw their existence within the United States provides an example of a settler population incorporated into the nation, rather than spreading from its interior. The francophone population in Detroit desired to engage in the decision making process that would shape the future of the city, in both a physical and legal fashion. The design of their town, the implementation of laws, the decision as to who would live where within the town, and how laws would be interpreted were seen by these citizens as their rightful prerogative; not only did the citizens of Detroit have a voice, but they used it. That their voice was answered only by echoes owed much to their inability to purchase or influence the government in their favor, either with wealth or power, as those examined by Gitlin in Saint Louis or New Orleans were.

The French-speaking citizens of Detroit, of all social strata, were advocating for an incorporation of themselves, and their way of life, on their own terms. Fundamental changes in the way of life that had developed for more than a century were not seen by francophone Detroiter as necessary to become American. Their practices, laws, and lifestyles were not incompatible with their new nation, and in their minds should therefore be safeguarded from destruction.

Francophone citizens expressed their desires in the memorials and petitions sent to the judges and governor appointed to run their territory, and those that appointed them, the Congress and President of the United States. These complaints, grievances, and feelings of outrage were communicated in a language of citizenship, one concerned with taxes, and procedure, but more importantly their rights as Americans.
The desire to engage in a dialogue was not reciprocated by the Territorial Government of Michigan, largely under the control of Governor William Hull and Judge Augustus Woodward. In consequence the French-speaking citizens appealed to Congress, the President, and even individual statesmen to assist them in gaining this. Through their petitions, memorials, and letters of protest I argue that we see not only a willingness to engage in the governance of their town and themselves, but a desire to shape their own existence within the United States.

The French-speakers of Detroit sought accommodation, not revolution. They acknowledged and even celebrated that they were a part of the United States, but they wished to have a say in how their future in their town would proceed. Accommodations of their traditional practices had been made previously by both the British when they took over the town in 1763 and the Americans in 1796. While new officials made changes in these practices, they did not remove them wholesale as they did under territorial government, with the use of French law, or the coutume de Paris left intact, as had the continued use of the public commons around Detroit. It was this lack of dialogue, this lack of any negotiation that Detroiters were protesting. The petitions and memorials sent by them were an attempt at securing such a dialogue, one that was ultimately ignored by the United States.

This effort to be included in governance flies in the face of the old historiography and that of more recent works as well. The lack of acknowledgement for the protests and petitions put forward by French citizens springs from the traditional view that they were uninterested in government. However, another obstacle was the scattered nature of published remonstrations. Some were recorded in the forty-volume *Historical
Collections of the Michigan Pioneer and Historical Society over two decades from 1890s until 1910. These were spread across several volumes, many poorly indexed, and rarely together. Still others were published in the tenth volume of The Territorial Papers of the United States, with only a rare footnote indicating that other letters, memorials, and petitions existed elsewhere. My research approaches these protests bodily, as a steady stream of attempts to gain access to decision making in the town.

Detroit was no isolated settlement. While not identical to any other place be it a town, village or rural locality, the francophone Detroiters shared a similar language, cultural past, system of social norms, and legal system with much of the French West. As Darrett Rutman and Anita H. Ruttman suggest, “small places were not isolates, not chunks of humanity contentedly sitting apart from all other chunks.” While these towns, hamlets, and rural districts were “complex entities in of themselves,” they were also “parts of still larger social entities.”

Coupled with historians like Carl J. Ekberg, who demonstrated a shared style of agriculture including the use of commons, and Gitlin himself who demonstrated that the elites of the French-West had similar class based concerns, one can see how the interests and struggles of the citizens of Detroit should be seen as an example of the non-elite of francophone society attempting to deal with the introduction of American sovereignty over them.

In this work I examine two topics of the grievances of the people of Detroit, as well as the processes that prompted them. First, I inspect the rebuilding of the town following the near-total destruction caused by the fire of 1805 along with the design of Augustus Woodward. This new blueprint extinguished the commons of the town and fundamentally altered where people lived in Detroit. This attention was necessitated by
the number of petitions focused solely on the commons and by the inclusion of grievances over the redistribution of lots for homes under the plan drawn up by Judge Augustus Woodward.

Like other scholars I contend that these petitions are invaluable in determining the priorities and visions of the petitioners, here the population of Detroit, which was predominantly French-speaking during the early history of the Michigan Territory. Further by examining these petitions, I contend that a visible shift in attitudes can be discerned among the residents of Detroit: from feeling outside the United States (despite living under its sovereignty), to citizens willing to exercise their rights in defending what they thought to be vital in their lives. Moreover by studying these petitions, I argue that the French-speaking population of Detroit had an alternative view of what their American future was: a future that incorporated rather than dismissed their established social norms, practices, and customs in the arenas of land usage and law.\(^\text{31}\)

The second issue I focus is the method of the implementation and practice of the American legal system. Unlike other areas that were exposed to the federal judiciary in the early republic, the people of Detroit had no interest in seeing their traditional legal system discarded, nor did they have any way of seeking redress for perceived abuses. Moreover, unlike other areas of the United States, the French-speaking citizens of Detroit had no say in what laws were enacted in their town and territory. The laws imposed on them were put forward by a federally appointed judiciary in a confusing and hasty fashion, making it difficult for residents to comprehend the new legal system that replaced legal traditions in place since the founding of the town, and which had endured transitions to British and American systems in the past. The implementation of the new
system by bickering officials, and the threat to property—in particular slaves—made by it caused further dissatisfaction among an already disenchanted population.32

The thesis is organized into three chapters following this introduction, with an epilogue following these. In the second chapter I center my coverage around the nearly century long history of Detroit prior to the inauguration of the Michigan Territory. It details the circumstances of the town’s founding, the practices of the French-speaking population and traditions which were essential parts of life in the town. This work does not seek to enter the dialogue and disagreements regarding French settlements in the interior of New France (the western Great Lakes and northern Mississippi Valley excluding which pit the advocates of a rational, planned system, against those who claim the opposite, as the evidence for the initial planning of Detroit is inconclusive at best.33

The following chapters are laid out in similar fashion: I first examine the actions of the territorial government, followed by the reaction of the townspeople in a fashion resembling a dialogue, with each chapter being subdivided into two issues; commons and lots in Chapter Three, and implementation of laws and the practice of that law in the territory in Chapter Four. While this work does not claim that such a back and forth dialogue (between government and populace) existed, indeed quite the contrary, it strives to display the desires expressed by the petitioners, despite these never having been attained by them. The actions of Judge Woodward and Governor Hull, who operated in an atmosphere where they did not concern themselves with the necessities of the local population, and acted instead to replace what had existed with what they considered to be necessary to fashion Detroit into an American city, feature prominently in each chapter, along with their failure to consult the local population in any of their activities.
The first seven years of Michigan’s existence were tumultuous, but not violent. The ambition of the French-speaking inhabitants of Detroit was not the removal of United States sovereignty, but rather their inclusion in it with some regard for their practices and traditions. Far from lacking the capability or desire to engage in governance they sought to shape it in a fashion that would accommodate them or least acknowledge their desires.

Chapter 2

Beginnings

The French were the first Europeans to build at Detroit. The town and the river that eventually gained the moniker of Detroit derived that name from an adaptation of the French le détroit, which meant “the strait” or “the narrows.” The name indicated the strategic importance of Detroit: it lay at the point where the connection between the upper and lower Great Lakes tapered to less than half a mile. The swift running waters of the river offered access for travel in an easterly or westerly direction across the region.

Waterways were the easiest and often the only means of transporting goods and material in a land without roads. After the European arrival in North America, the fur trade became a valuable industry that motivated both Native Americans and Europeans to develop new forms of interaction, in new places and in an ever-expanding sphere of
harvest. The waters that became known as the Detroit River were vital for transportation and for the beaver living in the areas surrounding the lakes. The lands bordering this river were prime real estate in the fur trade.\textsuperscript{35}

In the late summer of 1701 Antoine De LaMothe Cadillac arrived at the location of Detroit, and soon after built several houses enclosed by a palisade. He named the place Fort Pontchartrain in honor of the French minister who oversaw the operations of New France. With all this in place, Cadillac set about attracting Native Americans to the post, for both trade and resettlement.\textsuperscript{36}

The attraction of trade and the relationships it fostered between the Native Americans and the French made Detroit a center for diplomacy as well. This diplomatic position as a significant meeting place only increased the importance of Detroit. Not only did it control trade routes and travel, but it also developed into one of the most important gathering places for meetings and conferences between the French and later the British, and the Huron/Wyandot, Potawatomi, Ottawa, Chippewa and other native peoples who would often travel great distances to meet with European officials at the town and to engage in trade.\textsuperscript{37}

From the start the fur trade at Detroit was linked by bonds of business and family to the merchants of Montreal. Many of the early French families who settled at Detroit came by way of Montreal, while the creditors and suppliers to the traders at the post continued to reside in that city further east. This relationship would remain in place under the British as well, with vital lines of credit especially emanating from Montreal. The ties that bound Detroit to Montreal were stronger even than national allegiances.\textsuperscript{38}
The relationship with Native Americans was also one based in business and family. Often European traders would marry into the tribes with which they did business. Whether these relationships were sustained in sentiment or profit, or both, they produced bonds and children that attached the various native communities to the denizens of Detroit. As much as anything else these connections with the Native Americans of the region were what made Detroit a strategic and economic hub in the region.

As the century progressed, the fur trade did not merely concern Detroit but fully dominated its economy. By the 1750s more than two thousand packs of furs came through the town, along with the trade goods pouring in from Europe, almost all via Montreal. Under the French and later the British most of the town was dedicated either directly to the trade, or to the industries that supported it. Blacksmiths, farmers who worked the surrounding lands, silversmiths, and a plethora of other occupations not directly involved in the fur trade devoted their labors and their products to supplying the traders going into the interior with goods and back to Montreal with furs.

The factors that made Detroit a hub for economic activity and an important strategic site within the Great Lakes region also turned it into a vital staging area. During the French and Indian War and the American Revolution, Detroit’s position was used to motivate Native Americans to fight for those who controlled the town, or to dispatch Native American forces on raids that often lasted weeks. Aside from Detroit’s important position on the lakes, its function as a staging area was the main reason why the various powers concerned themselves with the geographically distant outpost.

The People of Detroit, 1701-1796
For more than a half century, Detroit was under French control. From the modest beginnings under Cadillac, the town had grown to nearly six hundred persons, with more in the immediate area surrounding the post by the time the British took over in November 1760. Still a compact entity surrounded by a stockade, the town had expanded to include more than seventy houses. Its most prominent building was St. Anne’s Catholic Church, which dominated Detroit’s skyline, as befitted the only religious institution in town.\(^42\)

Until the arrival of the British in 1760, Detroit was French, in both language and allegiance.\(^43\) The town proper was neighbored by farms on either side of the Detroit River, which stretched ten miles north and south of the town. The people on these farms were very much involved in the social life in Detroit: they attended mass, went to market days, and participated in communal events. Slaves of both African and Native American origin resided in the town, but as a percentage of the total population, they were not heavily represented, never reaching a point higher than five percent of the total population.\(^44\)

Detroit’s economy, both before and after the British takeover, revolved around the fur trade and constituted its principal activity. The French residents in particular owed their existence and occupation to the fur trade. Broadly their occupations broke into three classes. On the lower economic scale were the boatmen and *engagés* who paddled the canoes and *bateaux*, transporting goods and furs from location to location for wages, which were often paid in the form of goods and supplies. Those of a higher standing were a broader group that included artisans (blacksmiths, silversmiths, tailors, and the town baker), clerks and pay masters, and those who owned small farms around the town.
In even higher standing than these men were those who owned larger farms and who had worked themselves into positions of local prominence in the fur trade.\textsuperscript{45}

These classes were not rigidly defined, and social position was not as set in stone as it was elsewhere in the New World. But, the coming of the British to Detroit in 1760 altered this situation. Their attempt to significantly alter the established system of European-Native American relations—by curtailing diplomatic gift giving and restricting the fur trade—which helped provoke Pontiac’s Rebellion, with Detroit serving as one of that conflict’s epicenters. Thereafter the British not only engaged in the traditional customs of their French predecessors, they mastered them. In particular the British continued the practices of forming strong bonds with Native Americans through marriage and they increased the investment devoted to developing the trade. This investment included the building of ships on the Upper Lakes, including several at or near Detroit, as well as developing an importance that extended to mercantile centers to the East.\textsuperscript{46} Following these adjustments the British became the dominant social elite of the region due to their adept embrace of local customs and business acumen.

Despite their lofty position, the British traders in Detroit did not separate themselves from the much-larger French-speaking population. In fact, most of the British traders married into French families in the area. John Askin for example, arguably the most powerful man at Detroit during the period, married the daughter of one French Detroit’s most prominent landowning families. Such marriages brought an even broader extension of connections, augmenting the ability of the British to trade and to influence the local political situation unlike any group of individuals had before.\textsuperscript{47}
British birth did not ensure membership in the elite stratum of Detroit society; many clerks and a few bureaucrats, especially from the Indian Department, made their way to the town as well. Thousands of Loyalists fleeing the American Revolution also came to the region, and settled what would become the Canadian side of the Detroit River in particular, and most of these would not ascend into the ranks of the elite. While this community across the Detroit River built itself up prior to the advent of United States control over Detroit, there was not a large numerical (less than one hundred permanent residents) influx of English speakers to the town of Detroit.\textsuperscript{48}

The willingness of English traders to engage in the French system was accompanied by another continuation of previous tradition which greatly diminished the occasion for conflict in the town. The use of the \textit{Coutume de Paris} in legal matters for French citizens of the town did much to allow for a peaceful coexistence at Detroit. French practices of inheritance, resolution of boundary disputes for farms and town lots, and debt repayment were all continued, unofficially at first and officially after the passage of the Quebec Act in 1774. English-speaking Detroiters could rely upon the British legal system, in particular Common Law, when they needed to press criminal matters.\textsuperscript{49}

Both French and British judges were appointed in Detroit, and they handled noncriminal cases and civil matters concerned with smaller sums. Higher courts at Montreal and Quebec handled criminal cases involving significant amounts of property or currency, but these too were tried in a dual system, where English law was practiced in criminal matters, and the \textit{coutume} was exercised in civil issues.\textsuperscript{50}
The legal continuity, from French to British control, was more important than the mere comfort of the French-speaking *habitants*. The fur trade was often a volatile business, with disaster looming constantly. A fluctuation in the market in Europe caused by war, or change in fashion, could destroy prices for furs; a storm could send loads of trade goods to the bottom of a lake or river; and sickness could carry off the prime income earner (or debtor) without warning. The smooth functioning of the legal system acted as a sort of insurance practice, providing a measure of security in a remote country.\(^{51}\)

The legal system offered another important factor for the residents of Detroit, an outlet for grievances to be addressed and redressed. British traders possessed the wealth of the town, and the British military were the ultimate enforcers of Crown dictates. The ability to turn to a familiar legal system, where local judges had the power to remedy misdeeds committed by the wealthier British minority, acted like a salve to the economic wounds of the French majority. This check on British advantages served to avoid disputes that could have ripped Detroit apart along lines of social, economic, and language difference if allowed to fester.\(^{52}\) This consideration and accommodation on the part of the British was not emulated by the government of the Territory of Michigan, with stark consequences for the francophone population of Detroit.

**Disputes and Resolutions**

The stability offered by the legal system did not mean Detroit remained free of disputes. War and rumors of war with or between the Native Americans in the region were a near-constant during the first century of the town’s existence. The various wars fought by British and French colonies to the east also affected the town, with
interruptions in trade being a significant consequence of any war. The strategic import
ance of Detroit ensured that it was always garrisoned by the militaries of its respective colonial overlords, and between these garrisons and the residents of the town lay the most recurring friction.

To be exact, the real disputes were between the townspeople and the commanders of the garrisons. French, and then British officers, occasionally took steps that had a negative impact on the town as a whole, significantly altering life for the French-speaking residents.

There were three particular instances before the advent of American control when commandants’ actions drew the ire of the people of the town. The first took place relatively early in Detroit’s history in October 1726. The French commandant Pierre Alphonse de Tonty, after being at Fort Pontchartrain for nearly a decade, moved to consolidate all economic activity related to trade under his personal authority. This included supplying foodstuffs, importing trade goods, and purchasing furs at the post. Tonty aimed to increase his personal profit, which was his only salary at the post, and to give preferential treatment to his cronies who were the only individuals granted trading licenses by the scheming commandant. Any who violated his prohibitions and dictates risked confiscation of their property and confinement in the post’s brig.\(^5\)

Tonty’s maneuvering in the arena of trade presaged two instances initiated or condoned by British commanders to enclose or sell the commons of Detroit. The first involved Belle Isle or the Isle aux Cochons (Hog Island to the British), an island in the Detroit River separated by less than half a mile of water from the town. Residents of the town, and farms close by, had used the island for grazing livestock, avoiding the expense
or hassle of fences and keeping out predators and thieves. In 1768 a half-pay British army officer, Lieutenant George McDougall, purchased the island not from the people of Detroit but from the Potawatomi village to the south of the town.  

There was another commons at Detroit, which stretched south and west of the town, just beyond the edge of habitation. This commons also provided a grazing area, particularly for dairy cows and horses needed on shorter notice than the cattle and pigs put on Hog Island, as well as a source of fuel for fires and for town social activities. In 1773 the commander of the garrison at Detroit, Major Henry Basset, moved to fence off this communal property for the exclusive use of the Crown troops stationed at Detroit.

In all three of these instances (under Tonty, McDougall, and Bassett), the townspeople responded by circulating petitions that were addressed and forwarded to the superiors of the men who had endeavored to deprive the town of access to their economic livelihoods and security. The French-speaking population put each petition forward as a request to uphold the rights they popularly held to belong to them. In each case the petitioners crossed the occupational and social spectrum of Detroit, reflecting the importance of trade and the commons to all of the residents at Detroit.

The petition of October 1726 submitted in response to Tonty’s move to restrict trade claimed that the reversal of Tonty’s policies was essential to not only the petitioners’ well being but their very survival. They had recently seen families depart Detroit, and without the restoration of their former rights and privileges, they saw a similar road ahead for themselves. They described their present situation as one of “extreme poverty,” a claim validated by the fact that many at Detroit paid their rent or taxes in furs acquired through small-scale trading. The petition concluded by stating
the need to engage in trade, for “without this, it will be impossible for them to live with their families in a place where they cannot expect assistance from any other quarter.”

In a demonstration of unified dissatisfaction with Tonty, which in turn illustrated the importance of the fur trade at Detroit, the signers of the petition cut across the lines of social division at Detroit. For several illiterate signers an “X” denoted their agreement, but there were also a dozen signatures. Of these twelve names ten can be clearly identified: five were merchants, two were artisans or involved in skilled professions, and three were listed either as “bargeman” or “voyageur.” Their petition, addressed to the intendant of New France, seemingly produced quick results, and less than six months later Tonty no longer commanded at Detroit. While this may not have been the only reason for Tonty’s dismissal, for the petitioners of Detroit there appeared to have been a real cause and effect: they petitioned and Tonty lost command.

The petition created in response to McDougall’s purchase of Hog Island (which had been approved by the local commander) was also addressed to a superior official, in this case “His Excellency, Mr. Guy Carleton, Governor of the Province of Quebec and Dependencies,” and it too hoped to reverse a local decision. This petition was drawn up in May 1769, and the signers protested not only the sale of the island but the restrictions that McDougall intended to place upon its use. No longer would the citizens of Detroit be allowed to put livestock on the island, and those who left their animals there would be subjected to fines.

The ninety signers of the petition bolstered their claim by outlining the history of the island and its use as a commons by the inhabitants of Detroit. Since Cadillac’s time it had been a “place to keep cattle” and the citizens had twice prevented its sale in the past,
including when the scheming Tonty had attempted to procure it but “a request of the public forced him to abandon it.” The petitioners reinforced their appeal to history and custom by reminding Carleton that they had long resided in the area, while McDougall was a “stranger come into this country.” They further appealed to Carleton as “faithful subjects of his Majesty,” and urged him to consider the hardship if they were “stript of their rights and privileges.”

In response to this petition either Carleton or Major Thomas Bruce, the commander at Detroit ordered that McDougall enter into arbitration with the townspeople under the supervision and judgment of Bruce and one his subordinates. On October 16, 1769 after the French presented their protestations (as laid out in the petition) the two British officers ruled in favor of McDougall. Whether this came as a surprise to the townspeople is not known, but in retrospect the conclusion seemed preordained: Bruce had been a messmate of McDougall before this dispute, and it would have been a shock for one brother officer to reverse himself at the expense of another.

Four years later a new British commander at Detroit, Major Henry Bassett, attempted to appropriate the remaining commons that bordered the edge of the town. Yet again the citizens of Detroit circulated a petition in protest. This petition, drawn up in April of 1773, outlined the pertinent history and again asserted the petitioners’ rights as both long-time residents and subjects of the British Crown to the use of the commons, which had also been established under Cadillac. The petition was addressed to General Gage, then commanding at Quebec.

British merchants, concerned that relations the local populace might become soured if they were stripped totally of their commons, hoped that Bassett could be
deterred from his project through back channels. They communicated their sentiments to General Frederick Haldimand, who had temporary command of the province while Gage was in England. He wrote to Bassett soon after receiving the petition from the French residents that no Crown funds were to be expended on the project, which Haldimand saw as “inadvisable,” especially because it seemed to be “a measure so disagreeable to the people.” While there may have been additional complexities behind this outcome, in the judgment of historian Nelson Vance Russell, “The people had saved their commons.”

Taken together, these three petitions left a legacy: francophone residents were able to have input on and even alter decisions made in Detroit for the French populace. In 1726 the petition had not only led to the reversal of potentially disastrous policies that threatened the very existence of the town, but it had contributed to Tonty being removed from command. The petition of 1769, while not successful, brought the British government into negotiation and at least offered a forum for the official airing of grievances for the French population. The final petition of 1773 had met with a better response and preserved the commons at Detroit.

The people of Detroit, then, had created a mechanism for their grievances to be heard which was effective in securing a response from governments in which they officially had little say. In each instance they appealed beyond the confines of their locality in order to influence the future of the town and their lives. These petitions were essentially economic in nature and aimed at access, both of which were considered by the French-speaking population of Detroit to be key to their survival. Since they had been able to influence the course of events, the people might turn to petitions again in the
future when decisions impacting their lives were made without their consultation or against their wishes.

Beyond Petitions: The Last Division at Detroit

The American Revolution (1775-1783) did not reach the town limits of Detroit, but its effects were felt by those who lived there. Whether they were accompanying raids against American frontier towns or marching bodily to disaster in the Illinois country, Detroit’s militia, composed primarily of Frenchmen, was active in the conflict. More important than any combat role was the preview of the division of the Detroit community between two nations: Great Britain and the United States.

In the early years of the war such a division was not evident, with both the French- and English-speaking communities involved in fighting the Americans. This changed after a failed expedition against George Rogers Clark in the Illinois country in the winter of 1778-1779, in which a contingent of militia raised at Detroit was captured alongside a smaller force of regulars from the town’s garrison. The subsequent parole of the militiamen seemed to ignite the pro-American feeling in the French populace, who now were considered “rebels to a man” by local British authorities. Whether this revolutionary awakening was motivated by their good treatment at the hands of the Americans, dissatisfaction with Crown rule, or a desire to be on the side of the future victors, the French of Detroit were now identified as being solidly in the American camp.65

Detroit, like other posts in the Great Lakes region, was intended to be surrendered to the Americans after the 1783 Treaty of Paris, but due to the strategic and economic importance of these posts (and the weakness of the new American nation) the British
retained possession for over a decade. The loyalties of the French-speaking population did not fail, however, a fact illustrated by Detroit’s only election while under the administration of the newly created province of Upper Canada (present-day Ontario). This election was held in 1792, and Detroit was the only polling place for Kent County. At stake was the selection of two delegates to the Assembly which would convene at Niagara for the purpose of drafting legislation for the province.\(^6\)

The candidates elected from Detroit represented the two camps that existed within the town. The pro-British faction, represented principally by the elite fur traders of the area, were strong supporters of David Smith, an army officer who had once been stationed at the post; the pro-American faction, composed primarily of the French-speaking population of Detroit and its immediate surroundings, had as their champion William Macomb. Macomb, a relatively recent immigrant to the region, was rumored to have been an American agent in the late war (which proved to be true), and was known to possess strong sympathies for the United States.\(^7\)

Aside from illustrating the continued division of the population at Detroit the election of 1792 was also a vivid demonstration of the ability of the local wealthy British merchants to acquire political influence. Smith, far removed at Fort Niagara, could not purchase the refreshments and food needed to entertain the voters, and conduct a successful campaign. He therefore turned to Detroit’s wealthiest merchant, John Askin, to procure all the necessary articles. In a letter written to Askin on August 14, 1792, a short time before election day, Smith requested that all the “gentlemen” of Detroit and the area around it be provided with transportation, rum, a dance, and a bonfire. All this Askin was able to do on credit, to the sum of two hundred thirty pounds in New York
currency. Smith repaid his monetary debt quickly, but repaid his debt to Askin by being the trader’s man in the Assembly. Throughout the Assembly’s term, Smith regularly updated Askin on projects that the merchant had expressed his approval of, while at the same time assuring Askin that he was his man in politics. While the French used petitions to gain a voice in politics, which required those in power to listen in order to be effective, the British traders like Askin simply bought their way in.

1796 and After

British rule in Detroit came to an end in July 1796. The American occupation of Detroit followed the defeat of the Native American Confederacy of the Ohio Valley at the Battle of Fallen Timbers (1794). In the resultant Treaty of Greenville of 1795, Native Peoples relinquished claims to lands around Detroit as well as much of Ohio and, parts of Indiana and Illinois, which paved the way for American settlement in the region. Equally as important was the Jay Treaty of 1794, where the British agreed to abandon control of the posts in the Great Lakes, including Detroit, by June 1796.

The Jay Treaty did more than change the ensign that was run up the flag pole every morning; it paved the way for an exodus of capital, synonymous with the British traders, out of Detroit. Article II of the treaty allowed any resident of the former British posts to remain subjects of the British Crown without any penalty, and without being forced to move, if such a declaration was made within one year of American occupation. At Detroit this guarantee of property allowed for many British subjects to retain their property and still live under British law, which was accomplished by shifting little over a mile away to the new town of Sandwich on the Canadian side of the river. This soon-to-be Canadian population was also guaranteed free trade and free movement between the
United States and British possessions. Nearly all of the British residents at Detroit made the move, and by 1802 most of the British traders—the owners of nearly three quarters of the property in the town, both real estate and merchandise—had left Detroit.\(^{70}\)

One catalyst for the traders’ move was the seeming lack of American interest in governing the town by anything other than martial law. Detroit was the principal town in Wayne County, and one of the largest towns in the Northwest Territory, yet no American governor or judge had visited Detroit and law was limited to the bayonet points of the local garrison. Two American garrison commanders imposed martial law to prevent the sale of alcohol to soldiers by local French tavern keepers and traders. In one extreme instance in 1798 the local commander went so far as to close the tavern of John Dodemead for refusing to comply with his order to stop selling liquor to the soldiers of the garrison. When the owner wrote protests to both territorial and federal government officials, the Secretary of War sent a package that contained but one item: the Articles of War. In essence the reply was a warning to the local inhabitants: comply or face the harsh penalties of military discipline.\(^{71}\)

Despite their exodus the British traders still controlled the local fur trade and the local economy. They were still the primary purchasers of goods, employers of men, builders of ships, and even landlords. Of the almost two hundred buildings at Detroit, including approximately one hundred and fifty houses, many were still owned by British subjects. The promissory notes that acted in the place of currency at the town were more often than not held by these merchants. Even the new contracts made to feed and supply the garrison at Detroit were held by John Askin, who also provided the same service for
the British troops at the Fort Amherstberg. A new nation may have ruled at Detroit, but the same old crowd held sway over the town’s business.

The citizens (mostly French but a handful of those born British) who remained in Detroit were those who chose to become American citizens. Despite this fact, the association between the Americans and the French-speaking population at Detroit was not one of extreme cordiality. The relationship bordered on surly at times, and the French commonly referred to the Americans as “Bostonnais,” a term that was akin to calling a northerner a Yankee. The Americans appeared to be rude, quarrelsome, and arrogant. Isaac Weld, an Irish traveler who passed through the region soon after the American occupation, related that the young French-speaking women were “au despair” at the departure of the British officers who were much more polite and refined than their replacements.

The Americans who came to the town were dismayed by their French neighbors whom they saw as lazy, inefficient, and ignorant. Solomon Sibley, a New Engander, lawyer, and one of the few non-military American arrivals, thought the French too negligent to make good farmers, too obtuse to learn otherwise, and too stubborn to reason with. Frederick Bates, a Virginia-born land commissioner and later judge, found the women unapproachable, and the men, even those of modest means, too haughty to befriend despite their ignorance. The French were, in a word, bumpkins.

Exacerbating this mutual disdain was the lack of familiarity between groups. Outside of the garrison, few Americans came to Detroit, making their manners and habits perpetually “foreign.” Americans were unfamiliar with the French customs, particularly their Catholic faith, which the Americans tolerated by necessity but distrusted and
ridiculed by habit.\textsuperscript{75} Although they lived underneath the same flag, there was little to unite the new arrivals and the older inhabitants.

Despite their tenuous and often strained relationship with the American arrivals, the French population of Detroit sought a greater inclusion within their new nation. From 1796, when Detroit actually became a part of the United States, until 1805, when the Michigan Territory was established, three petitions were circulated by the citizens of Detroit, each requesting a more responsive government and attachment to the rest of the nation.

There should have been no need for the citizens’ petitions; Detroit should have had an adequate mechanism for inclusion and responsive government. Wayne County, which encompassed all of Michigan and portions of other future states, had Detroit as its capital and apportioned two delegates to the Northwest Territory’s legislature. In 1798 and 1800 elections were held and representatives were duly dispatched, but given the poor transportation system and the great distances to first Cincinnati and then Chillicothe (capitals of the Northwest Territory), the delegates struggled to make it to the legislative sessions before they were adjourned. Later, in 1803, Detroit fell under the control of the Indiana Territory and lost its representation, since Indiana’s population was too small to have a legislature. Not until 1824, nineteen years after the establishment of the Michigan Territory, would citizens elect a legislature.

Ineffectual representation and pressing needs prompted the population of Detroit to draw up petitions, the first under the Americans being was composed in September 1800. This was written by the citizens of Detroit (almost exclusively French) and addressed to the United States Congress and had three requests. First was a request to
settle the disputes over land title that existed and to honor those titles in whatever form they existed. Second was a plea to assist the creation of both religious and educational institutions in Wayne County generally and Detroit more specifically. On this score the petitioners embraced the provisions of the Northwest Ordinance, Article Three specifically, to extend education beyond the very limited circumstances in Detroit and to at least assist the religious institutions of the town. The petitioners stated that “Religion and Morality being essentially necessary to the well being and support of free government, your petitioners earnestly request a township of lands may be appropriated in this county for the support of the Gospel and for erecting necessary buildings for the celebration of divine services.” This closely resembled the wording of Article Three: “Religion, morality, and knowledge, being necessary to good government and the happiness of mankind” as well as its promise that “schools and the means of education shall forever be encouraged.” This was an attempt by the local community to utilize what they saw as the “rights of Citizenship, under a Free Government.” To further enjoy these rights, and to feel more connected to the nation as a whole, the signers of the petition finally requested that a regular mail route be established to Detroit, as they were “wholly barred the enjoyment of this privilege common to the Citizens in all other parts of the Union.” Issued in both French and English, this petition had one hundred fifty signers, and cut across the social and economic spectrum, with the “X” of the illiterate listed along with the names of the learned parish priests, and humble voyageurs’ names mixed with those who owned their own warehouses and taverns.  

The next petition came in 1803 when Detroit was made a part of the Indiana territory. As noted, this inclusion not only stripped Detroit of its popular representation
but also moved the territorial capital to Vincennes, Indiana, even farther away than either of the Northwest Territory capitals. For the authors of the petition, this would ensure another period of neglect: under the Northwest Territory, no judge or territorial official had been to Detroit, and therefore no court above that of the Court of Common Pleas had convened for years. Such neglect not only made business at Detroit a risky proposition, functioning without the benefit of redress for debt and the official recognition of property transference, but also fostered a feeling that Detroit was lacking “peace and good order.” To remedy this situation the petition’s authors requested that Detroit be made the territorial capital and a governor be sent to the town. If this was done the authors felt “a regular administration of justice would be insured and the inhabitants of the county of Wayne would be truly protected in their person and property.”

Both of these petitions were seemingly ignored, and therefore the citizens of Detroit once again petitioned for a receptive and responsive government in 1804. This petition, created in February 1804 and addressed to Congress, was an exact copy of that created in 1803, with the omission of the request to be made the territorial capital of Indiana. It requested Detroit be included in a new territory, with its own courts and governor, ensuring that the town would no longer be neglected. This time the Senate approved the petition, and President Jefferson signed it on January 4, 1805, an act which effectively created the Michigan Territory, with Detroit as its capital. While the petition was not directly responsible for the creation of the territory, this owed more to the desire to make Indiana more manageable as it progressed to the second stage of territorial government.
The citizens of Detroit had gotten their wish, and they were on the eve of bringing government home to them. The largely French-speaking and Catholic population of Detroit, would soon be placed under its own government as part of the larger Michigan Territory. The tight packed streets of homes and warehouses, shops and sheds, that clung to the river bank and were bordered to the west by the commons were about to receive two new residents: Judge Augustus Woodward and Governor William Hull.

The arrival of the new government would change more than the territorial jurisdiction over Detroit. The next seven years would witness a struggle over the future of the town’s physical shape and layout, and how its residents would live within it. The residents of the town, mostly French-speaking, would once again use petitions to protest, this time as citizens of the United States. They felt their rights violated by a government that they saw as not taking their desires and needs into consideration when making decisions that would have a lasting impact on the way of life in the town. In order to alter this state of affairs and have their rights acknowledged, the population of Detroit turned once again to petitions.
Chapter 3

Fire, Town, and Commons

The morning of June 11, 1805, began as a day of celebration in Detroit. Many of the city’s inhabitants celebrated a jubilee mass at Saint Anne’s Catholic Church, in memory of Saint Herrebald whose day it was, while others prepared for the festivities that usually followed. There were horse races to plan and feasts to prepare. Many from the surrounding farms had also come into town, for the mass and its festivities as well as the opportunity to sell some of their produce later in the day. The potential for commerce could have doubled the number of citizens in the city to well over one thousand people.

Detroit’s narrow streets (barely twenty feet wide in some places), and packed wooden buildings were vulnerable to fire. The heat of early summer and the lack of rain in recent weeks had created a tinder box. All that was needed for disaster was a spark and a strong wind.

No one has ever been able to positively determine how the fire started. Some claimed the fire ignited when a careless baker’s assistant’s allowed a spark from his pipe to land amid some dry straw in a stable near the government store. Others who placed more stock in the legends of the town thought the blaze had been the product of the infamous Nain Rouge, or red dwarf. Legend held this misanthropic yet diminutive demon
had been an enemy of the town since the days of Antoine Laumet de La Mothe, Sieur de Cadillac; it had in the past been blamed for Cadillac’s bankruptcy and his trouble with the local Native peoples. According to rumor, the little red man was seen conjuring the flames as one more act of revenge against the long-dead French governor. Still others later reported to Governor William Hull that they believed that speculators in the lumber trade had deliberately set the town afire in order to profit from the sale of timber to the distressed inhabitants. Regardless of the cause, the fire spread quickly and with strength, carrying flames to every corner of the town. Some were able to get the fire engine from its shed, but rotted and clogged hoses, left unused for years, rendered it useless in combating the blaze. John Askin sent his sons and engagés across the river in the hope that they could save his storehouses and merchandise in Detroit, but they could do nothing. In less than an hour, the city of Detroit had been reduced to smoky rubble.

None were hurt seriously, and no one perished in the blaze. Yet while the citizens remained largely unharmed, their town was a near-total loss. A solitary stone warehouse retained its walls, but its roof was destroyed by the fire. Only the fort to the west and an old blockhouse to the south remained unharmed by the flames. For immediate relief, the citizens turned to their neighbors at nearby farms up and down the Detroit River, on both the American and British sides, as well as those situated on the banks of the River Rouge a few miles south of the city. A report to the U.S. Congress submitted by Governor Hull and Judge Augustus Woodward later in the year recorded that a few people built temporary shelters on the ruins of their former homes, but most had scattered around the vicinity by the time these territorial officials arrived a few weeks later. Given the interconnected nature of the community, particularly among the French population, the
pressing need for shelter and sustenance could be satisfied in the short term by living with neighbors and relatives in the surrounding area. The greater concern was voiced by the dispossessed citizens to Hull upon his arrival and printed in the *National Intelligencer* as part of its account of the conflagration: the fear that winter would catch a community still reeling from this calamity. 89 The town needed to be rebuilt, and soon.

Such quick work did not occur. In fact, the rebuilding of Detroit would be a contentious issue for the next several years. The wrangling over how the town would be rebuilt was not a negotiated process whereby the placement of streets, lots, and buildings was determined in a spirit of harmony. Instead the new territorial administration, which sought minimal input from the population of Detroit, dictated the rebuilding. Yet those disregarded townspeople were determined to have their concerns heard, if not by the territorial administration then by the United States government in Washington D.C. This effort to be heard was more than the mere whining of *habitants*; their goal was to have a hand in the shaping of their town and their future in it.

For the French-speaking population of Detroit, two distinct but connected issues were of the utmost importance. The first was the shape of the town: what would be preserved of the old and what would be changed to make way for the new. Central to this dispute was the future of the commons. The topic of earlier petitions under the British, the commons would once again be threatened, and once again the French-speaking populace protested its appropriation. In the eyes of the Americans who came to direct the new entity of Michigan, this commons was a waste of space. For the *habitants* of Detroit, it was a valuable resource, one that ameliorated the hardships and expense of
living at a remote outpost. Indeed, when times were hard, as they were following the fire of 1805, the commons was an important means of survival.

Land title and the distribution of lots were also vital concerns to the francophone population of Detroit, as demonstrated through their protests. The territorial government issued these “donation,” or new, lots to the residents of Detroit based upon a variety of factors, including their status before the fire relative to property ownership and patriarchal rank within their family. Another consideration taken into account was the validity of their title, but for the families of long residence in the town a title was a legal and cultural tangle. The issuance of donation lots, essential to Woodward’s grand plan for redesigning the city, would draw the ire of the local populace because it delayed the rebuilding of the town. Further, it stripped the townspeople of their ability to define, as they had for more than a century, their own community.

The dispute over the shape and composition of the town was expressed through what had become a traditional form of protest in Detroit, petitions. Now, however, the petitioners did not seek access to trade or inclusion. Instead, they claimed their rights as citizens within the United States.

A New Government and a New Hope

The Michigan Territory came into being on January 11, 1805, and was set to become an official entity on June 30. Officials, appointed by President Thomas Jefferson with congressional approval, were dispatched to arrive at or before that date in order to install the territorial government. Three judges and a territorial secretary served under a governor, and these judges with the governor acting as chief executive, constituted the territory’s legislature. This legislature created all the laws of the territory and the official
link to the federal government in Washington. Governor and judges alike were expected

The discord was not immediate. As Michigan’s administrators arrived from the
east, they were greeted by Frederick Bates, who had been head of the land office and was
now a judge by appointment, and a few residents who had lingered in the ruins. The first
to arrive was Judge Augustus Woodward on June 30, followed the next day by Governor
William Hull. Their arrival inspired hope that soon events would take a turn for the
better.92

As his first official action, Hull proclaimed on July 5 that “that for the execution
of process, criminal and civil, I do hereby constitute the Territory of Michigan into one
general District; and the parts of the Territory … I do hereby constitute one County; and
the townships heretofore laid out.” Following this act of territorial creation, Hull and
Woodward, with Bates in tow, set to the work of remaking Detroit. As Hull related in a letter to Secretary of State James Madison, in the aftermath of
the fire the people of Detroit had agreed (at least informally) to a plan to rebuild the town
without significant change. Rebuilding quickly, rather than any redesign was the
priority. This plan did not suit either Hull or Woodward. Addressing the small crowd
of residents, likely the same as that had gathered to greet the officials as they had arrived,
Hull moved “to convince the proprietors of the impropriety of their proceedings.” When
the people expressed concerns over the coming of winter before rebuilding could be
effected, Hull and Woodward “assured them that we would make it [rebuilding] a
primary object, and would make the best arrangements in our power for their
accommodation.”

Hull did not specify what he meant by “the best arrangements” possible, but he
did win over those to whom he spoke. The number present was not recorded, but in a
document drawn up more than two weeks later, on July 19, 1805, only twenty citizens
endorsed the plan the of the territorial officials. These twenty citizens represented
(through ownership or representation of the owners) thirty-two lots. By contrast an
inventory made by the townspeople thirteen days after the fire listed sixty-two lots and a
like number of proprietors prior to the fire, and even this was below the total number of
houses that were in Detroit, not to mention commercial properties and warehouses. The
twenty signatures that endorsed the agreement between the new government and the
“citizens” of Detroit represented but a fraction of the town’s population, at best a partial consent to a plan that would affect the future of every resident.

The new Detroit that the government officials had in mind, so easily accepted by twenty select residents, represented something substantially different from the town that had straddled the river for over a century. Woodward and other officials saw the Detroit commons as a relic, merely “an intervening waste” that stood in the way of remodeling the city. In his August 3 report to Secretary of State Madison, Governor Hull wrote that “the Citizens of Detroit had laid out a new town, nearly on a similar plan with the old one, and had included the common, which they pretend to claim in consequence of a grant from the French government, and having used it as a commons pasture, since the settlement of the country. Their title is at least doubtful.” Hull went on to explain that this commons would be used to rebuild the town, with former residents forced to exchange their plots for newly created ones under Woodward’s plan.

In an update to the federal government dated October 10, the territorial officials (Hull, Woodward, and Bates) further clarified the “error” of the citizens’ view of the commons. It was a “circumjacent ground, the bank of the river excepted,” and supposedly granted by the King of France long ago, but that record had been lost. The next line of the report rebuffed the claim: “It was either the property of the United States or at least such as individual claims did not pretend to cover.” In the view of the territorial officials, the commons was an illegitimate entity not because it did not exist but because it was not owned, or at least its ownership could not be proven, and therefore did not fit into their view of the future of the city.
Territorial officials also regarded as a remnant of the past the desire of the city’s inhabitants to remain close to the Detroit River, representing easy water access. In a letter written Secretary of War Henry Dearborn in March 1806, Woodward wrote that the citizens of the town, in particular the French, considered river access as “immensely important” and that property increased in value and prestige as one moved closer to the water. He considered it to be ridiculous, rivaled only by their attachment to the old town.¹⁰²

Woodward’s dismissal of the citizens’ attachment of the town’s layout and location betrayed both his lack of knowledge of the history of Detroit and of his own ambition to remake rather than rebuild Detroit. In fact there were many reasons to retain the waterfront orientation. Among the houses of the former town those that had been built nearest the river possessed the highest value. Other than any sentimental or monetary attachment to the location, there were practical benefits to living close to the river.¹⁰³ First, it was the primary source of water for the townspeople’s use. It was also the main artery of travel and trade; anyone wishing to travel outside easy walking distance would use the river since the roads of the district were either poor or nonexistent. As no bridge existed across the Detroit River, waterborne travel was necessary for anyone wishing to do any sort of business with the communities in Upper Canada, which were made up principally of former Detroit residents.¹⁰⁴

Interlude

At first the new government seemed to be acting in the best interests of Detroit’s citizenry. Augustus Woodward left for Washington on October 11, 1805, to lobby
Congress for funds for the town. Having practiced law at the capital from 1801 until his appointment as judge for Michigan, Woodward still had many contacts. Working these connections, as well as his friendship with President Jefferson and members of the cabinet, Woodward implored Congress to do all it could to “relieve the inhabitants from one of the most immediate distresses, occasioned by the calamitous conflagration.”

Woodward combined his appeal for mercy with a strategic argument that a strong Detroit was necessary if the region was to remain secure from the advances of Great Britain. Woodward claimed this nation had so effectively built up their side of the Detroit River that he stated before the House Committee on the Territory of Michigan that it was “completely adjusted” economically, and militarily since the British evacuation of Detroit nearly a decade since. These combined factors succeeded in persuading Congress to pass “An Act to Provide for the Adjustment of Titles of Land in the Town of Detroit and Territory of Michigan,” on April 21, 1806. Not only did this act issue rebuilding funds to the government of the territory, it also authorized the territorial government the power to reissue lots in Detroit to the victims of the fire. Further the act enabled the implementation of a new plan for the town of Detroit, one with new boundaries, lots and streets.

The plan along which Detroit was to be rebuilt was composed by Augustus Woodward, and was grand in its scope and scheme. Woodward had been interested in urban design since at least 1796 when he visited the town of Muskingum, Pennsylvania and drew a detailed sketch of the town’s layout by hand. Also among his papers was a copy of Charles L’Enfant’s plan of Washington, which he acquired after the two met during Woodward’s time in the capital.
Woodward derived his blueprint of Detroit from L’Enfant’s plan. The new Detroit was to be laid out in a large triangle with sides at 4,000 feet each, with streets radiating from squares like spokes on a wheel, and with intersecting streets running at intervals around the circle. The main streets would be 120 feet wide and the others sixty feet wide. What would come to be known as the “Woodward Plan” was the judge’s design for a Western gateway, intended to facilitate trade and travel from the settled East to the new lands of the West. Woodward’s goal was to transform Detroit from a town created by a people who (as he wrote to Secretary of War Dearborn in March 1806) had “no expectation of prosperity,” to one built for and by the “energies of American enterprise.” The latter statement, which he gave in an address to the citizens of Detroit in December 1806, was accompanied by his assurance that if such a process occurred, the “melancholy conflagration” would be “almost converted into a blessing.”

In an 1809 pamphlet, Woodward elaborated on that “blessing”: the expansion of the “western empire” of the United States and “its grand fabric of liberty.” The town he laid out, inspired by the nation’s capital, was to be the foundation of future expansion, a replica meant to allow for what he saw as the appropriate American future, where enterprise and prosperity would flourish. In his mind this prosperity was dependent upon a “facility of commerce” and a “people… analogous in their moral, religious, and political habits.” Any deviation from these shared values, views and priorities was an un-American practice.

The use of the commons at Detroit by its people displayed the opposite of Woodward’s stated American values. The communal use of property for wood-gathering and pasturage was a deliberate avoidance of commercial activity. By utilizing the
commons Detroit’s citizens were not only saving themselves the cost of these activities and resources, but they were also preventing this land from being utilized for profit. This practice, like the predominance of the French language among the people of Detroit, and their Catholic religion, was alien to Woodward, and to other like minded Americans, incompatible with the future he envisioned for Detroit. Yet, while religion and language may have been too hard to alter, the existence of the commons was not.

The Struggle for the Commons

Woodward had described his plan as fashioning “a compact and lively town” devoid of what he considered “intervening wastes.”113 The commons fell under this category because of its lack of development. Because being no individual’s property, it belonged to the territorial government. This owed to the fact that all lands not held in title were unclaimed, or had belonged to Native Americans who had already ceded the land immediately adjacent to Detroit in the treaties of the 1790s.

Not surprisingly, the French-speaking population of Detroit had a decidedly different view of the role of the commons and its future within the town. Contrary to Woodward’s opinion, the citizens of the town had aspirations of prosperity and the commons was a key part of that ambition. The commons provided pasturage for livestock, a free source of fuel for fires and any other resource that could be gleaned from its acreage.114 As Woodward began the physical process of laying out the town, surveying new lots on the commons, and expanding the town’s perimeter into the commons, the people took notice and protested their communal property being stripped from them.
The first sign of controversy over the Woodward Plan came in a letter written to President Jefferson on October 16, 1806, from an unnamed Detroit resident. This hinted that not all was well in Detroit. The plan was a tyrannical measure, and that the French-speaking population in particular saw the plan as a device to force them out of their town. Exacerbating the issue was Woodward’s refusal to receive input from anyone as he laid out his town.115

The disquiet among the French-speaking population would be reflected in later protests. Three petitions, drafted in 1807, 1808 and 1811, addressed the appropriation of the commons. These protests were focused on the economic impact and hardship that would occur if the commons were not preserved or restored to the use of the community.116

The petition from the citizens of Detroit written in 1807 was motivated primarily by the lack of progress in rebuilding, grievances against Hull and Woodward, and the seeming lack of interest by President Jefferson, or Congress in the town. The petition was addressed to the president, circulated in both French and English, and signed by more than three hundred residents of the town, with many an “X” denoting those who could not write. It contained twenty-nine grievances regarding Governor Hull and Judge Woodward, whom the petitioners sought to have removed from their posts. The petition stated that “the history of William Hull, and Augustus B. Woodward since they took upon themselves the Government of this Territory, is a history of repeated injuries, abuses and deceptions, all having a tendency to harass, distress and impoverish, if not absolutely to expel the present inhabitants.” These “injuries, abuses and deceptions” included the misuse of between five hundred and six hundred dollars, collected from
taxes to build water pumps on the commons which Woodward intended to facilitate expansion. The pumps were built where the citizens thought “no town will ever exist.” The taxes were “burthensome and unnecessary,” and were gathered and dispensed without the “consent” of the taxpayers. In effect Woodward and Hull, who were seen as the face and power of the territory’s government, were seen as forcing the populace to pay for the erasure of their own commons.¹¹⁷

The removal of the commons, especially by using taxes, was a factor in driving away “many poor but virtuous citizens… by their oppressive measures” and had rendered the economic stability of the community “insecure.”¹¹⁸ The petition of July, 1807 was but an initial salvo in the struggle to save the commons. It drew no response from the federal government.

The petitions of January 1808 and June 1811 were the true broadsides against appropriation and both were motivated by a silence regarding the commons issue from any level of government. They shared several characteristics. First was a description of the physical and geographic boundaries of that land, demonstrating that for the citizens of the town, the commons was a real entity, distinct from the rest of the surrounding area. Next came an assertion of the right of the populace to the commons, stretching back to the founding of the town. After this claim an emphasis on the hardships that would arise if the commons were extinguished was put forward. Finally, the petitioners protested the impracticality of expanding into the commons from the prospective of taxpaying citizens and offered an alternate view for the future of the town.¹¹⁹ While the wording and format of each petition differed, the message was the same: the commons was a distinct,
inherited resource which facilitated and eased necessary expense, and the signers did not wish to participate in its demise through their taxes.

The petition of 1808 described the “Domaine or Commons” as extending “one English half mile to the rear [or west] of the town” and bordered by farms to the north and south. The citizens of Detroit had always had “free and undisputed” use of this area, by which means almost every family supported “two or three cows and as many horses” and gathered their firewood. Without this ability, the petitioners stated that they would be unable to avoid a grinding poverty as “it were impossible to exist in the best of times to subsist with convenience [without the commons]: how much more so since the dreadful Conflagration, by which all of us were reduced to a low stage of poverty.”

The petitioners also offered a view of both the future of the town and implied that they, rather than an outsider, should control that future. Rather than spend their tax dollars stripping the local community of a necessary resource, which would require surveying and draining some swampy parts of the commons, the authors proposed that a courthouse or even a jail be built for the use of the town. They further requested that the plans to expand the town be modified to accommodate the commons, by selling lots around it. In their view this would preserve their commons and their right to use the land, while at the same time allowing for future expansion. The petitioners requested that the authority to sell lots, and to plot them, be taken from Governor Hull and Judge Woodward and placed under their control.

The petition of 1811 was even more forceful in its tone and advocacy for the future of the commons and the rights of the people to utilize it, perhaps because there had been no response to the previous petition. This new appeal was a direct protest against
the sale of lands on the commons, which had begun in 1809, and was written to the
“Honorable Judges and Governor of the Territory of Michigan” with a request to forward
it to Congress. In this petition the limits of the commons were extended, most likely
compensating for much of it having already been sold, to “two miles back [to the west]
from the Detroit River.”

In contrast to the petition of 1808, the authors of the 1811 petition focused much
more on the legal nuances of their argument. The petitioners reiterated that the commons
had been a resource and right “time out of mind enjoyed” by the inhabitants, but now the
emphasis was the period under American rule. First an act of 1796, issued by the
Northwest Territory guaranteed the people of Detroit their property (without specific
mention to the commons). Second, the Congress of the United States, had guaranteed at
least an equal exchange of lands for those which were changed under Woodward’s plan
in the passage of “An Act to Provide for the Adjustment of Titles of Land in the Town of
Detroit and Territory of Michigan.” The possession of the commons by the people was
unquestioned at the time of the arrival of the territorial officials, and therefore they
should be recognized as the rightful owners of the land in question. Because there had
been no agreement by the citizens at large to give the commons to the government, apart
from those required by the law of the Northwest Territory as “military reservations” for
the town’s garrison to use for their own sustenance, and because no equal amount of land
had been set aside in exchange for the commons, the petitioners viewed the sale as
“invalid in point of law,” which should therefore be reversed and the common returned to
them.
In short the people of Detroit stated that the commons was theirs long before Woodward and his plan, that neither he nor any government official had paid for the land, and therefore neither he, nor anyone else, had the right to sell it. While the citizens had no official documentation on their possession of the commons, although there were previous claims to such documents’ existence, they had their own practices, traditions and customs.\textsuperscript{124}

Because the removal of Detroit’s commons would create a hardship and thus endanger the well-being of the townspeople, the petitioners regarded the action as “violating through us the constitution of the United States.” They were using their “constitutional privilege to assemble and petition their Government for redress of grievances considering their rights invaded.” The taking of their communal property was a violation of their individual rights, as conferred by the Constitution, rights which they reminded the governors and judges were “greater than any you can confer.” Rather than divide and sell these lands, the town should expand up to and around its boundaries, allowing for a continual use of a “Public Commons.”\textsuperscript{125}

When taken together the protests of 1807, 1808 and 1811 regarding the appropriation of the commons demonstrated that the citizens of Detroit—and in particular the French-speaking population—were not only seeking redress for grievances but were offering a distinctive future vision for both the physical shape of the town and for the lives of its citizens. Rather than destroying a vital community resource, the petitioners sought an accommodation for that resource while at the same time allowing for expansion by building around it. While the expansion of the town limits would eventually be necessary, more pressing matters were seen as taking precedence, like the
building of a courthouse which like the common would benefit the community. Throughout this process the citizens asserted their right to responsive government as American citizens. The commons, seen to be a vital resource, could not be removed without hardship and this would not be done under good government.

The approach of these petitions was a marked departure from the previous petitions written under American sovereignty in 1800, 1803, and 1804. These had requested an inclusion, aimed at becoming a functioning part of or at the very least incorporated within, the fold of the United States. The petitions under the Michigan Territory expressed instead their status within the recognition of United States as citizens who were already a part of the country. This may seem at first to be a fine distinction, but the shift from asking for such basic services as a judge and a mail service, to demanding a voice within their government on the basis of the rights guaranteed to them by the nation from which they previously had felt alienated was no mere shift in style. The habitants of Detroit had moved from seeking the protection afforded to citizens elsewhere to demanding recognition of their own rights. This shift in language represented a shift in attitude. It displayed that they had moved from feeling as though they were outside the nation to a sense that they were a part of it and deserved the rights inherent in that belonging.

Regardless, those with whom they sought dialogue ignored the petitions or ordered them to “lie on the table,” or to be officially ignored. The alternative vision had no support in Washington, and certainly not at the territorial level. It went unheeded and unheard.

**Town Lots: Who Belonged Where**
While the struggle over the commons spoke to the future and shape of the town, the protests over the arrangement and distribution of lots within the plan was very much about who belonged in Detroit and in what capacity. Town lots had been a continuing concern for the population of Detroit. Citizens had petitioned before the establishment of the Michigan Territory to have their rights and properties affirmed to them, but little had been done on the matter. The Woodward Plan only exacerbated this problem since new lots needed to be assigned (what was called “donation”) to fit the new street grid. This was a lengthy process, and once again failed to include the input of the citizens. Woodward alone had the authority to assign lots—not only who would be given a new lot and when, but where their lots would be. This challenged the pre-existing status of the townspeople as well as their valuation of areas within the town. Like the struggle over the commons, the citizens of Detroit used petitions to protest what they saw as an abusive and corrupt practice which stripped them of any input into the structure of the town and where they lived in it.

The issue of proper title was a complicated one, mostly owing to the variety of forms of that title. Within the town, three principal types existed: those issued by the French crown or French officials, those that were drawn up locally as direct purchases from Native Americans, and those issued by the British in their thirty-five-year dominion over the town. The last was the least common and, because of the use of the English language in drawing up the documents, was the easiest to establish as legitimate. The titles issued by the French were slightly more complicated, given that these were often vague about location and they required official translation. The volume of these claims, at least two hundred, made the task of establishing their legitimacy daunting.
Indian title offered a more complex issue. Under the laws of the United States such title could be disregarded, as only Congress could approve purchase of Indian lands. In Woodward’s view, expressed in a brief letter written to the secretary of war on January 18, 1806, these deeds should be respected but put in a different category than those issued by the various governments. This category would have been lower than those with what he considered to be lawful title, but their title would not be invalidated altogether.  

In November 1806, Woodward and his fellow judge Fredrick Bates submitted a report to Congress describing the criteria for determining who would receive what donation lot in the town. The top two classes were for those who possessed valid title in the town and proven to be from legitimate (non-Indian) sources. First were “persons being heads of family, that is having been married, who resided in the town of Detroit, when it was burnt, and who were proprietors of houses, arranged in respective merit, as charitable objects of the donations, as nearly as they can be ascertained.” These would receive the most desirable lots, either on main thoroughfares or on prominent corners as Woodward envisioned them. The second class was “persons who were proprietors of houses, and who were not heads of families, or did not reside in the town when it was burnt.”

The third class was reserved for “Heads of families who were not proprietors,” while the fourth class consisted of “Persons who resided in the town, and who were neither proprietors of houses or heads of families.” These groups would receive the last lots, farthest away from the designated center of town where the courthouse and government buildings were to be built. Those possessing Indian title were placed in the same category as those with no title at all. These two classes were only one step above
those who possessed no future claim to title in the new town: foreigners (British subjects) and slaves.\textsuperscript{131}

While this redistributive system was problematic in itself, the formula for exchanging lots added to the consternation of the people. The first part of the formula required the citizens to give up their lots without knowing beforehand where their replacement lot would be located. Woodward had wished to see all titles relinquished soon after his arrival in the city, but he had to postpone this action until he could finalize his plan and come up with a way to exchange properties.\textsuperscript{132} Second, Woodward’s exchange model relied on a simple per-foot valuation of the former properties and took no account of the local value previously given to the land. This disregard for local custom and valuation made relocation difficult and the process of redistribution contentious.

In order for the Woodward Plan to take effect, the French system of measurement needed to be done away with. Accordingly, as a committee consisting of Peter Audrain (the local clerk), Judge Bates, and George Hoffman set to establishing and translating titles to determine which were legitimate, Woodward issued an act, on August 20, 1806, doing away with all French measurements in the territory and replacing them with American classifications. These included weights for bread and other foodstuffs, but more importantly for the design of the town, the traditional \textit{arpent} (equal to 180 French feet, and 192 English feet) and declaring that the English foot would now replace the French foot when measuring distance (the former being roughly two-thirds of an inch smaller).\textsuperscript{133} The new measurements put an American system in place for the construction of an American town, but at the expense of the traditional system used by the town’s
citizens. The change also confused the issue of how much land was actually owned by individuals.

Woodward’s desire to have uniform lots in the town also presented problems for those who owned smaller lots in the old Detroit because Woodward’s standard of 5,000 feet was too high, so the new recipients either had to pay the difference at fixed price per square foot or wait longer until new lots were distributed to rebuild. Given that much of the townspeople’s wealth had so recently been destroyed, the ability to purchase extra land was greatly restricted. If an individual’s holdings were more than 5,000 square feet than they would receive another lot, but not necessarily next to or close to the new lot.\textsuperscript{134}

The complicated and lengthy process was probably contributed to the popular protests. In July 1807, the date of the first petition, construction of homes had started only two months beforehand, and even then only for a few residents. Many were still without a designated donation lot, and still more were increasingly delayed by the governor’s refusal to allow any lumber for the town’s reconstruction to be taken from any lands he considered to be the government’s property. All this had not occurred while the governor’s house was built; moreover, many of the corner lots, considered to be the best in the town, were reserved for sale and not donation, inviting suspicion that Hull, and especially Woodward, were planning on profiting personally from their sale.\textsuperscript{135} Given such pressing conditions, this petition, which focused relatively little attention on the commons, dealt primarily with the pace of rebuilding and the French-speaking citizens’ displeasure with the plans.\textsuperscript{136}

The petition of July 1807, demanding the removal of Hull and Woodward, led off with the complaint that the two men “have deprived the inhabitants of Detroit, of the land
allowed them by act of Congress,” referring to continued postponement of granting
donation lots as proscribed by “An Act to Provide for the Adjustment of Titles of Land in
the Town of Detroit and Territory of Michigan.” This lack of action prompted the
residents to accuse the judges and governor of “unfeeling cruelty and barbarity” as it had
“denied the sufferers of the late conflagration” the opportunity of rebuilding for almost
two years after the fire. The reason for inaction and cruelty was ascribed to the
bureaucrats’ “egregious rapacity and selfishness” which had subjected the people to their
“speculative views.” The officials had demanded an “extortionate” amount of money for
any lands that needed to be purchased in order to come into compliance with
Woodward’s plan. The petitioners concluded that, “from their strange and unexampled
conduct the Government of the United States is Discredited,—the American character
disgraced.” Such activities not only violated the hopes for good government but also
“positively violated in some instances the constitution and laws of the United States, and
the rights of its citizens.”

A little more than three months later, in October 1807, the “Citizens of the
Territory” sent another petition. While these signatories claimed to speak for the whole
territory, the document was composed and signed in Detroit by people of the town or the
immediate area. The petitioners requested Congress to grant a more liberal land policy,
especially regarding the question of Indian title. Specifically, they asked that those who
had Indian title be regarded in the same light as those who had title issued by previous
imperial administrations—in particular, because they had occupied the property for
generations in many instances. They also requested that they be allowed to take wood
from a portion of the commons, for rebuilding their homes, as well as for fuel during the
winter months. If Hull’s prohibition on taking timber from government lands was continued, the petitioners claimed, it would “throw us into a State of want and Suffering, which could not be supported.” The citizens declared that with their homes gone they were “like bees forced to Swarm from their native hives, and there was no place to light on other where they are now found.”

In a rare departure from their usual inaction, Congress on April 25, 1808, decided to have a period of extended review to determine the legitimacy of those with Indian title and some titles, in particular for farms around the town, were recognized. However, this did little to help those who lived within Detroit, as they either received lots under the previous schedule, or did not have their situation rectified by Congress in time to alter their status in receiving a donation lot.

As time progressed, individuals received lots within the town, and rebuilding began. People acquired wood either by purchase, or more often, by flouting the prohibition on taking lumber from government lands. Still, the claims of many remained in limbo, as they had not been adjusted to fit within Woodward’s plan. The petition of 1808 concerning the commons made note of this continuing problem, and requested that the further assignment of lots be put under the control of the local population, just as they hoped the commons would. This change in oversight would alleviate the issue of many not being able to purchase the excess land required to receive a whole lot within the town, as the people could determine who needed what lot.

While the petition of 1811 protesting the sale of the commons did not explicitly mention land title, the issues of the communal title of the commons was also at stake. Throughout 1810 and 1811 most individuals received donation lots, but the process was still slow. To justify the retention of the commons, the inhabitants had used the principle
of longtime occupancy. The same principle could be employed by many who had Indian title. They argued that individual claims should be secured to their owners no matter what their provenance.\textsuperscript{141}

The demand by the petitioners to validate the town’s titles and to have the authority of distributing lots placed under their control was a move designed to enable the local population to define for themselves who the true residents of the town were, and where those residents could live within it. If this could not be accomplished, the citizens of Detroit sought administrators who would listen to them, or in other words anyone but Hull and Woodward. They also rejected the concept of one person making the determination of who the “deserving” residents were. This was an indication that the citizens knew who in fact was entitled to live where within their town, and how that apportionment would proceed.

Just as with the commons, the citizens of Detroit hoped to have a more fundamental role in rebuilding efforts. Who better to renew their town but themselves? That they were ignored and disregarded reflected inflexibility in the territorial government and a lack of influence available to the local inhabitants.
Chapter 4

Laws and Courts

Like the recreation of Detroit and the appropriation of the commons, the implementation of the legal system of the Michigan Territory by Augustus Woodward was a cause for protest by the French-speaking citizens. These citizens had an established system, one that they did not see as being at odds with the American system. As new laws were crafted and passed, courts established and decisions rendered, all in a language that was not their own, the French-speaking citizens of Detroit increasingly became dissatisfied with Judge Augustus Woodward and Governor William Hull, a displeasure that only increased by the feud the two officials engaged in.

This chapter argues that the French-speaking population of Detroit sought to have input into the legal system they were living under. The desire for this input was expressed through their petitions, which communicated their need to have their traditional legal code restored, and if new laws were passed that they be published in French and be composed in an approachable and understandable fashion. Further, they wished to have their courts operate in a reasonable and cost effective manner, which would not stretch the resources of the community. These expressions of discontent pointed to the responsibilities and privileges that Detroit’s French-speaking citizens thought citizens of the United States were obligated and owed to do.
The creation of Michigan Territory brought with it a new system of courts and judges to Detroit. This process brought new laws, new areas of jurisdiction, and new practices within the territory in an effort to craft an American legal system that relied on precedents from elsewhere in the nation rather than local practice and law. This endeavor was, like the new plan for Detroit, under the primary authorship of Augustus Woodward.

From the start the legal operations of the territory were not as they should have been as prescribed the Northwest Ordinance. Only two judges, Frederick Bates and Augustus Woodward, could be convinced to take up positions within the territory, leaving one post open. Other men, principally from Ohio, had declined the position, citing comfort in their employment (they were already judges) or health concerns over removing to a region well known for the “lake ague” or malaria.\textsuperscript{142}

Judges were responsible not only for the supreme court of the territory; they were additionally tasked with reviewing any new legislation to ensure that it conform to appropriate existing legal precedent. Yet they were also members of the territorial legislature that enacted and helped draft those same laws. In addition to these collective responsibilities, each judge sat at a district court in its quarterly sessions in order to ensure adherence to American law. These courts held jurisdiction for any local criminal infractions and for civil cases involving more than twenty dollars; anything under that amount was left to the court of common pleas.\textsuperscript{143}

When Congress drew up the borders of the Michigan Territory they created within it four districts: Detroit, which included the town and the area north to Lake St. Clair, and south to the Huron River; Erie, which included the settlement at Frenchtown and
stretched from the Huron River to the Ohio border; Michillimackinac, which included the settlements at the Mackinac Straits down to Saginaw Bay; and St. Clair, which centered on the region surrounding the lake of the same name, and stretched from the boundary of the district of Detroit up to Saginaw Bay. The districts of Detroit and Erie were particularly active since they were the most populated and because they were presided over by Judge Woodward.  

Woodward was the only judge to last more than a few years in the territory. Bates left in 1807, and subsequent judges held brief tenure or were ineffectual due to illness or excessive absence.

Woodward’s’s impact on the legal system would have been immense based solely on his courtroom duties, but his influence was magnified because he implemented a structure largely of his choosing. As a guide Woodward had the Northwest Ordinance of 1787 which gave a general outline for the administrators:

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 afterwards the Legislature shall have authority to alter them as they shall think fit.

Initially Woodward had no opposition from either Governor Hull or Judge Bates. Bates seemed to be interested only in getting out of Detroit, and Hull was preoccupied with military and Indian affairs, over which he exercised exclusive control. Congress had no real interest in the internal workings of Detroit or Michigan, as long as both ran smoothly and did not disturb the rest of the nation. There was no immediate possibility of
a General Assembly of popularly elected representatives, since the population was far too low to attain such a status.\textsuperscript{147}

Given Bates’ lack of interest, Hull’s preoccupation, and no real attention coming from Washington, Woodward was free to “adopt . . . such laws of the original States, criminal and civil as may be necessary and best suited to the circumstances of the district.” This instruction allowed for an extreme amount of latitude in the creation and the implementation of the new legal system, and Woodward took full advantage.

The judge arrived at Detroit on June 30, 1805. By July 9 he began issuing instructions and orders, through the agreement and auspices of the legislature, regarding the operation of the legal system in the territory. The changes that would spring from what because known as the “Woodward Code” were sweeping.\textsuperscript{148}

The laws that were enacted at Woodward’s instruction had their origins in different states, but the state of first resort was New York. The adoption of oaths from that state for Michigan had an especially widespread impact. The oaths of office for appointed officials copied those written and recited in New York; the justices of the peace, coroners, and every other conceivable position down to chimney inspector were now required to recite an oath penned in a distant state and for those in lesser positions, often in a foreign language.\textsuperscript{149} The laws of New York also guided marshals when making arrests or in seizures of property.\textsuperscript{150}

The laws of New York were commonly used, but they were not the exclusive source for laws in the territory. In a process unique in the early expansion of the United States, Woodward adopted a bewildering variety of laws and provisions from the existing states. Foreign nationals who held land in and around Detroit held equal privilege to their
property as the citizens of the United States, under a statute taken from Maryland.\textsuperscript{151} Marriages were secured under the practice of Massachusetts and Virginia.\textsuperscript{152} The ownership, rates, and locations of ferries were regulated under a precedent imported from Ohio.\textsuperscript{153} Public employees would be paid using guidelines from Pennsylvania and Massachusetts.\textsuperscript{154}

Like marriages and the paying of public employees, many laws were enacted taking parts or clauses from existing laws. This piecemeal adaptation was made all the more complicated by the multiple provisions, exemptions and exceptions contained in each law. Between July 9 and October 8, 1805 Woodward published thirty four-acts, all of them exclusively in English. This was the core of the “Woodward Code,” which solidified as the territory’s early legal system.\textsuperscript{155}

The laws were meant to replace any existing legal system in Detroit. In Woodward’s view, new precedents and laws were “necessary and best suited to the circumstances of the district.” The “ancient laws of the Kings of France… [and] the so called coutume de Paris” had “ensnared” the people into a state of “ignorance.”\textsuperscript{156} For Woodward, the laws practiced before his arrival had been ineffective, unscientific, and irrational, and the only solution was their complete removal.\textsuperscript{157}

The Northwest Ordinance, Woodward’s guiding document, was not as inflexible as the judge. Other than the open interpretation left by “such laws…as may be necessary,” the ordinance acknowledged that there was an existing structure in some towns elsewhere in recently incorporated lands. French towns in Indiana territory, “Kaskaskies [Kaskakia], St. Vincents [Vincennes], and the neighboring villages,” had previously agreed to be citizens of Virginia when they had surrendered to George Rogers
Clark during the American Revolution. By virtue of this agreement the citizens of this town were able to maintain “their laws and customs . . . relative to the descent and conveyance of property.”

Woodward’s reliance on his personal interpretation of the Northwest Ordinance was not unique. In the same year Governor William Henry Harrison in Indiana openly flouted the provision prohibiting the importation of slaves under the pretext that they had been born prior to the Ordinance’s passage. Harrison benefitted from his interpretation of the ordinance, as did the French inhabitants who owned slaves. By contrast, the interpretation of the Ordinance that Woodward took was not welcomed by most of the population.

In the middle of Woodward’s unique legal onslaught, Governor Hull gave an address intended to allay the apprehensions of the citizens of the territory, and particularly those of Detroit. Hull claimed that full protection to property and persons would be afforded to all who enjoyed the citizenship of the United States. The previously enacted decrees, laws, and guarantees enacted by the United States Congress prior to the inauguration of the territory ensured such protection, and now Michigan’s new territorial laws would be a “foundation… which will be of immense consequence not only to the People who inhabit the Territory, [and] to those who shall Succeed them to the latest period in time.” Hull further stated that “it is a fortunate circumstance for you, my fellow Citizens, that it is a government [that of the United States] of laws, and not of men.”

However, the population was ill at ease with the new laws proposed by Woodward, and supported by the governor and fellow judge Frederick Bates. This system was a foreign one quickly enacted, with no input from the local community. Further, it
took no notice of the legal practices that had existed in Detroit since its founding. In contrast to his distaste for the local French system, Woodward embraced English Common law which he claimed had been preserved by the Jay Treaty for Detroit specifically and had been preserved in the laws of the United States in general. It was therefore not the laws of Europe that he found distasteful, only those he considered to be crafted in a realm of “ignorance” like Ancien Régime France, a code that as a follower of Thomas Jefferson, who was in favor of that system’s destruction, he found to be repugnant.

The Conflict

Before the establishment of the Territory of Michigan the American legal system (its laws, courts, and judges) had made little impact upon the lives of the citizens of Detroit. This owed much to the distance separating Detroit and the various capitals of the territories it belonged to (Marietta, Chillicothe, or in the case of Indiana, Vincennes). As important as the distance was the neglect of governors and judges whose gaze did not extend to the banks of the Detroit River.

While criminal prosecutions were apparently rare in the town, the Court of Common Pleas was active in Detroit and in the whole of Wayne County, which was to become Michigan. This establishment, American in name only, closely resembled the British system of local magistrates and functioned in much the same way. In this court, cases involving small amounts of money, inheritance, and violations of town ordinances all came before the locally elected judges for adjudication. These courts were supposed to meet four times a year, but often they failed to meet either because of a lack of cases or to the absence of a judge. Debt collection proceedings in particular were a common
occurrence at the court, a problem exacerbated by the lack of hard currency in Detroit. \(^{163}\)

Most cases were for amounts of under one hundred dollars and often were for sums of
less than fifty. These were generally paid in kind, through either service or trade which
the debtor would pledge over a prescribed period of time. \(^{164}\)

This system was as quick as it was familiar. Its structure came from the *Coutume
de Paris*, or a form of French common law which had been the law of New France, and
under the British it had been used in civil cases involving French litigants. This system
required no juries and almost always rendered its decisions immediately. It was also
accessible: anyone could bring suit before a judge, and as there were no lawyers, costs
were curtailed. \(^{165}\)

Woodward’s system was new and complicated. The laws were in English and
therefore inaccessible to a vast majority of the French-speaking population. As this
population represented all but a handful of those living in Detroit, most could not read the
laws of the territory. The system seemed more costly and slower because of juries and
the practice of long deliberations by American judges. Overall, there was little to endear
the people to Woodward’s legal design. Certainly the French community in Detroit saw
no reason for their laws and practices to be so quickly discarded and replaced.

**Response to the Woodward**

The protests that the citizens of Detroit lodged against Woodward and his new
system focused on two primary topics: the way laws were enacted and the way they were
published. The former included both the method of adoption as well as what laws were
enacted, while the latter was concerned with the language barrier that prevented many of
the Detroit’s residents from reading the laws that had been put in place over them. Both
of these areas directly affected French-speaking Detroiter’s ability to participate in the future of their town by shaping the legal system they were to live under.

The first protest was drawn up by a committee (made up of three French Detroit residents) elected by the citizens who resided in Detroit and the immediate surrounding area on December 12, 1806. It was addressed to the territorial legislature, although these were the same men who had approved the establishment of the legal system. This petition requested that the former laws practiced be restored to common usage. The petitioners further resolved “that in the adoption of new laws, for the Territory, one whole law be adopted from one state only, at a time, and not in part, and of several states in one section as they are now.” The petitioners further claimed that they would appeal to U.S. Congress if no satisfaction was given to their demands.\textsuperscript{166}

No such satisfaction was forthcoming. In fact Woodward continued to adopt new laws, which prompted disgruntled Francophones to list many of the same grievances in the petition of July 1807. This petition, addressed to President Thomas Jefferson, requested the removal of Hull and Woodward, and listed four accusations that were directly related to the passage and enactment of new laws. The first such complaint was that Hull and Woodward had “early stripped us of the code of Laws to which we were accustomed, and left us without Laws, until supplied by their own.” The protest next was aimed at Woodward’s practice of taking parts of laws from various states and crafting them together to form a new territorial law, which the petitioners claimed “evaded or, entirely perverted” the meanings of the original laws and created a jumbled mess for the citizens to attempt to understand.\textsuperscript{167}
The other two protests were aimed at the types of laws enacted, rather than the process of implementation. Woodward, as crafter of the laws, had failed to put in place “Laws of immediate and pressing importance to the welfare of the territory,” despite “urgent representations” of the local community. These delays were occasioned by deliberations on matters of “trifling” importance (for example the regulations surrounding ferry placement), and by issuing and rescinding, and issuing again on these “trifling” matters. Their activities as “legislators” were “burlesque . . . an insult to the understanding of the good citizens of this territory” and “degrading to the American Nation.”

When taken together the petitions of December 1806 and July 1807 reveal that the citizens of Detroit saw their former laws and practices as being compatible with their status as citizens of the United States. Despite their protests, no fundamental changes were made to Woodward’s plan for the enactment and implementation of new laws in Detroit and the territory at large. The veneer of the system did change, however, as two new judges were appointed, John Griffin in late 1806 (arriving in late summer 1807), and James Witherell in 1808. Frederick Bates was dispatched to St. Louis to fill a vacant position on the bench there. Griffin and Witherell found an increasingly strained situation in the territory, since the population was growing tired of the lack of action in rebuilding the town and lack of response to their grievances. Meanwhile, Governor Hull and Judge Woodward were increasingly clashing over questions of authority. The recently established Detroit Bank on whose board both of them sat was involved in a slowly developing scandal surrounding the bank’s inability to pay its notes. The two also clashed over matters concerning militia. This revolved around laws that dealt with
calling up the militia, with Woodward claiming Hull held the force in the field too long.\textsuperscript{170}

Griffin, a man of perpetual sickness and no energy, spent most of his time seeking an appointment in another territory. He commonly sided with Woodward in the feud, while Witherell often took the part of Hull. These latter two even managed to replace large parts of the Woodward Code while its namesake was away from the territory (apparently out of spite), but they did so in the same fashion as Woodward had in drawing up the original laws: by taking parts of laws from states and combining them to fashion new ones. This action drove a deeper wedge between the governor and judge, but it also further aggravated the French citizens of Detroit.\textsuperscript{171}

The disputes spilled over into the administration of the legal system, as the citizens of Detroit noted in a September 1809 memorial addressed to President James Madison. This memorial sought the removal of Hull as governor for a variety of reasons: his continuous and inefficient use of the militia, his failure to deal effectively with Native Americans in the area, and his expensive plan to build a road to the Miami, roughly one hundred seventy three miles to the south. The final paragraph dealt exclusively with Hull’s misuse of the law. The memorialists wrote that Hull had begun enacting laws for his own private purposes and had begun concentrating all the authority of the territory under his control. As evidence, the authors pointed to the fact that no longer were laws issued on behalf of the governor and judges of Michigan, but rather appeared “with his name alone.” These laws were used to benefit himself and those loyal to him, or “screening his partisans from justice.”\textsuperscript{172} It is likely that the petitioners had in mind
Hull’s pardoning of his friend Major John Whipple for assault in September, 1808, without so much as a trial, an occurrence which had produced outrage in the town.\textsuperscript{173}

One remedy for the unfair implementation of justice seemed obvious. The citizens of Detroit authorized George McDougall, a man trusted by the French-speaking population as well as the few English speakers in the town who were not bureaucrats, to deliver an appeal to Congressman Peter Porter of New York in January 1810. They requested that Porter advocate in Congress for the laws of the Michigan Territory be published in French as a majority of the population spoke only that language. This received a positive response from Congress, but its implementation was delayed by the onset of the War of 1812. The publication of laws in French continued until 1827, when English became the dominant language.\textsuperscript{174}

The citizens of Detroit, in particular the francophone population, sought to have their needs and desires recognized in the creation and implementation of the law in their town and territory. They had an alternative vision for the legal future of the territory, one that incorporated rather than disposed of past practices.

Operations of the Courts in Detroit and Michigan Territory

While the way laws were crafted and implemented in the territory drew the ire of Detroit residents, so too did the operation of the courts and the decisions interpreting those laws. These two areas also became controversial, with the francophone population of Detroit seeing the actions of the new government, once again centered around Augustus Woodward, as being at odds with what was best for the territory.

Under the control of the United States courts were not commonly held in Detroit before the establishment of the Michigan Territory; the exception was the Court of
Common Pleas which took civil cases of under one hundred dollars. Local men who were viewed as influential in the community had formerly been selected by the territorial government to preside as judges over the Court of Common Pleas. Typically men of prestige and business in the town, they were supposed to adjudicate cases quickly, and under the *Coutume de Paris*. These courts had only convened every three months, and even then only when cases were brought.175

By comparison, court sessions convened under the Michigan Territory were far more frequent. Woodward mandated that the territorial Supreme Court meet every two months, regardless of whether there was a majority of judges (two out of three) present in the territory. Further, he insisted that the District Courts be held every three months without fail. The expenses for these courts, paid by the taxes of the people, were especially high in Detroit, as both the District Court and the Supreme Court held sessions there. Since there was no courthouse a tavern had to be rented.176

On top of the tax dollars spent for the courts, the citizens were also responsible for jury duty. A jury pool was summoned for each court in case they were required, or for any grand jury that needed to be assembled to proffer charges in any criminal matter. On the face of it, this would not seem to be such an inconvenience, but given that potential jurors in Detroit were limited to men possessing at least twenty dollars in property, and that courts could be convened up to ten times a year, this ensured that some eligible jurors would be called more than once in a year. As there was no restriction on the number of times a juror could be called, it was possible to be called up every time court was in session.177
The changes that came with the introduction of the United States legal system were not limited to the frequency of court sessions. French residents were also incensed that decisions were rendered without consulting local tradition and custom. Questions revolving around slavery provide a vivid example of the impact that the judicial system of the United States had on Detroit. Slavery had existed in the town since its founding, with first Native American and later African American slaves being owned by many families in the region. Native American slavery had been greatly reduced at Detroit at this time due to changes in trade practices and Native American warfare, and the number of African slaves was never large (about two dozen in this period), but for their owners, they were a powerful status symbol in the French community; ownership of a slave signified that one was free of the demands of menial labor. While a majority of the slaves in the region were owned by individuals of British extraction, several French-speaking families on both sides of the river owned human property in the opening decade of the nineteenth century. Two cases vividly demonstrated the contrast between American legal prerogative and local custom.

The first case, brought before the Michigan Supreme Court in September of 1807, was a suit brought by Harris Hickman on behalf of the Denison family of Detroit. The Denisons were slaves, owned by Catherine Tucker, a widow who had inherited them from her late husband. The Denisons were descended from slaves who had been in the region since the end of the American Revolution, and all had been born in and around Detroit. The family consisted of James and Lizette, husband and wife, and their children Scipio and Peter. The Denisons brought their case before the court under Upper
Canada’s Slave Law of 1793, which aimed to gradually end slavery by freeing slaves and their children when the former reached the age of twenty-five.\textsuperscript{180}

In a lengthy decision Woodward ruled that because of provisions in the Jay Treaty, which ensured the sanctity of all property then in the possession of citizens of the former British territory, the Denisons, save the youngest son Peter, were to remain in bondage. The law of Upper Canada no longer held any authority in the territory, so the statute did not in any way alter the legal standing of the family. Peter, born after the United States had taken official possession of the territory, was free by virtue of the fact that those born in the Northwest Territory could not be slaves.\textsuperscript{181}

If Woodward had limited himself to these facts of the case, then the decision would have been roundly applauded by the local community. However, his accompanying comments caused a stir among many in Detroit. Woodward stated, “The slave trade is unquestionably the greatest of the enormities which has been perpetrated by the human race. The existence at this day of an absolute and unqualified Slavery of the human Species in the United States of America is universally and justly considered their greatest reproach. The statesmen [of the United States], their agitators, the whole body of their people are advancing towards its extirpation.” Woodward went on to say that the sale of slaves, even within the territory, was now extinguished, and that the transference of human property was expressly prohibited. Hereafter, only their original owner or their immediate descendents could possess this peculiar kind of property.\textsuperscript{182}

To the local population the preservation of such property as both a symbol of status and as an economic resource was of paramount importance. For the French, slavery had existed since the very founding of the town. Although Woodward’s legal ruling
preserved the system for the present, some feared they would very soon be denied their property.\textsuperscript{183}

Less than one month later in October 1807, another case involving slavery came before Woodward and the Michigan Supreme Court. Four runaway slaves—the property of Richard Patterson and Matthew Eliot, both of Sandwich, Upper Canada—had taken shelter in Michigan, and their owners had hired Elijah Brush to sue for their return to their owners. Only two of these slaves were named in the complaint, Jane and Joseph belonging to Patterson; the two others were known to be in the territory.\textsuperscript{184}

Woodward ruled on the case on October 23, 1807. Both Elliot and Patterson crossed the Detroit River to hear the judge’s decision and hopefully secure their slaves. According to historian and Woodward biographer Frank Woodford, Elliot had been known as a cad among the laborers and voyageurs of the town, many of whom he had mistreated in the past. When his presence became known, a mob formed with the desire to “manhandle” the merchant and was only prevented from doing so by the pleadings of his attorney Brush, presumably because he had yet to be paid. Two days later a mob tarred and feathered one of Elliott’s employees after a brawl at a local tavern.\textsuperscript{185}

Despite the acknowledgement of Elliot’s poor reputation in Detroit, Woodford pointed to this as a sign of the local citizens’ feelings against slavery, rather than against the slave-owning rogue.\textsuperscript{186} The judge’s biographer hoped to show how Woodward was, at least on this issue, in step with the local population. In fact Woodward’s decision, that slaves could not and would not be returned across the border, appears to have been the opposite of local desire.\textsuperscript{187} Soon after, several slaves, including the Denison family, fled across the border to freedom. In response to these departures, the local slave-holding
population was alarmed seeing a valuable commodity placed at immediate risk because of the judge’s ruling. Over the next few years many slaves fled across the border in both directions (to Canada or to Michigan), as freedom was only a short journey by boat. Woodward’s decision had effectively signaled the end of slavery in the Michigan Territory.  

Under the French legal system practiced since Detroit’s founding the slaves would have most likely been returned, as property, or their owners would have been compensated with some alternative payment by either the slaves or by those who had aided them. Rather than viewing Woodward’s decision as a benevolent act, the citizens of Detroit seemed to view his rulings as endangering property of all sorts: if one set of property was denied to the owner simply by crossing an invisible point in the Detroit River what was stopping a plague of theft? Woodward’s actions, while on the right side of history, were decidedly in opposition to the desires of the local population, and a cause for them to further disagree with and distrust his legal system. Further, his judgment jeopardized property by allowing the removal of the same from one nation to another without penalty.  

Protesting Courts and Decisions  
The protests lodged by the francophone citizens of Detroit against the imposed American court system were, like those against the implementation and enactment of new laws, aimed at gaining a voice within the legal system and offering an alternative to the imposed plan they lived under. In the petition of December 1806 the petitioners first protested against the schedule of courts being held too frequently and about the heavy levy of taxes required to pay for the court sessions. The petitioners stated that there was
little reason to have a Supreme Court session more than once a year, and that the District Courts should be convened only when some “atrocious crimes had been committed,” not for mere civil suits. For these suits the Court of Common Pleas was the preferred mechanism for resolution, especially if their old laws were restored to the citizens of Detroit. Further, the French-speaking population of Detroit requested that individuals be required to serve on grand juries only once per year. If an individual were summoned more than once, it should only take place after all those on the rolls had been called, as this would prevent unnecessary hardship on those called too frequently.  

The petition of July 1807 also condemned the practice of holding so many Supreme Courts in a year as a policy that would ruin the territory. When people served on grand juries they were ill used by the judges, particularly by Woodward. More telling, this petition, composed months before Woodward’s decisions regarding slavery were made, already condemned that judge’s rulings as “uniformly . . . a mockery of Law and a prostitution of Justice.”

The feelings of the population about the ending of slavery, arguably Woodward’s most significant decision, were clearly expressed in the petition to James Madison requesting Hull’s removal as governor. His creation of an African American militia company, composed primarily of runaway slaves from Upper Canada, was an issue of serious consternation for the population of Detroit. They felt such a formation, among a people where slavery had “always existed,” was a grievous error that warranted the removal of the governor from his post.

These protests were more than mere complaints over the cost of courts or a desire to avoid jury duty. Instead they were claims on what the proper obligations of citizens of
the United States were, according to the people of Detroit. These claims were based largely on previous experience, under a legal system which had been removed in the early days of the territory, but one which they saw as still potentially viable within the United States. They were an expression of the civic duties that the citizens of Detroit felt they owed, and the limits of what they thought just to be demanded of citizens.

A Detroit Difference

Detroit, unlike other towns and cities with a principally French-speaking population, witnessed the quick removal of its legal system, and the citizens of that town had the least success in finding accommodation within the American legal system. Elsewhere in the French west, in the District of Louisiana and the Territory of Orleans, the United States government went about creating territorial governments at roughly the same time as their endeavor in Michigan. Unlike Michigan, French customs were at the very least acknowledged in these locales. The capital of the District of Louisiana, Saint Louis, was home to several prominent fur trading families and their wealth allowed them to advocate for and eventually guarantee the recognition of their land grants, which had been passed down through the *Coutume de Paris* and its provisions. Often they secured, through influence or coin, the assistance of important and influential American businessmen and politicians. ¹⁹⁴

The situation in Detroit differed significantly from that of Saint Louis in that the wealthiest of the city’s traders were of British extraction. Some, like John Askin, had moved across the border when the United States took control of the city. Those who stayed had little to gain by lobbying against the American system under which they now
resided. While they had previously utilized the laws and customs of their French neighbors, they just as easily utilized the American system to insure their business interests were preserved.195

In Orleans Territory, with New Orleans as its capital and center, the French-speaking population had even greater success in preserving French civil law. New Orleans had the advantage of having a steady stream of French-speaking émigrés which ensured that they outnumbered American immigration. When combined with the wealth of an established francophone community, this wave of immigrants produced a situation where the cooperation of American authorities was required in order to maintain control of the all-important port city. Between 1808 and 1825 the French civil code was written into the law of both the territory and later the state of Louisiana. 196

Detroit had no such steady stream of immigrants; their numbers remained relatively stagnant in comparison with a slowly but steadily growing American population in the territory, and an exploding population in the state of Ohio directly to the south. A stagnant population and a relatively limited amount of liquid capital prevented the French-speaking citizens of Detroit from securing their civil code in law. The francophone population of Detroit did not share the same influence as that of New Orleans or Saint Louis. This and Woodward’s speedy and relentless implementation of a foreign legal system signified the end for the Coutume de Paris as a valid legal system for Detroit and the Michigan Territory.
The protests of Detroit’s French-speaking population were cut short by the beginning of the War of 1812. Detroit’s regional importance and its position on the border between the United States and British controlled Upper Canada made it the focal point of the campaigns throughout the conflict. As armies marched back and forth, raids and foraging expeditions spread the path of destruction to an ever widening area until scarcely a farm in the region remained untouched by marauders from both sides.197

The fur trade had also come to a standstill during the war, and these combined calamities—agriculture and trade both being nearly destroyed—reduced the citizens of the town to desperate level of poverty. In 1815, just after the announcement of peace and the Treaty of Ghent, multiple reports were sent to Washington by army officers, government officials (including Woodward), and concerned citizens describing a population on the brink of starvation. This time Congress paid heed to the needs of the citizens of Detroit, and sent emergency supplies of blankets, cattle, and other staples to the town in order to ameliorate the suffering people.198

The administration of the Michigan Territory was also changed by the war. Governor Hull (who had been commissioned a Brigadier General in the United States Army) launched an offensive into Upper Canada on July 12, 1812. He advanced only to
Amherstburg before halting his troops. The time in Canada for Hull’s forces was uneventful, marked only by Hull’s bombastic proclamations of America’s conquering goodwill and a few skirmishes. When news arrived that Fort Mackinac had fallen to a surprise attack by British and Native American forces, Hull, fearing his flank was in imminent danger, beat a hasty retreat back to Detroit on August 3.199

Hull’s retreat was matched by an advance by Sir Isaac Brock of the British Army, who almost immediately set about besieging Detroit. Brock cleverly made his militia look like regulars by equipping them with old uniforms, and made his Native American allies appear to be more numerous than they actually were by parading them in full view of the fort and its garrison multiple times. Hull, tricked by these ruses, and fearful of a massacre at the hands of Native American warriors, surrendered on August 10 after only a few days of being under siege.200

Hull was subsequently court martialed for his actions and spared death only because of his exemplary record during the War for Independence, and Detroit came under British control once again. However, there was one Michigan Territorial figure who remained at the town throughout the occupation, Augustus Woodward. Throughout the period of British control, Woodward attempted to preserve and represent the interests of the United States, especially in alleviating the suffering of prisoners of war and those who had been dispossessed by the ravages of war. Despite being accused of collaboration with the enemy, Woodward earned a great deal of respect from the administration in Washington and even among the francophone population, who like Woodward endured the hardships brought about during the war.201
The United States regained control of Detroit in the fall of 1813, and with that reoccupation came a new governor, Lewis Cass. Cass was a much more genial and pragmatic man than Hull and got along well with Woodward and the local population, French and English speakers alike. Following the end of hostilities, in 1815, Cass officially began his duties as executive of the territory. Among his first actions upon reaching Detroit was to purchase the farm bordering the town to the north from a French family that found themselves in desperate straits following the war. His actions would be repeated by many new American arrivals who began immigrating to the territory, following a series of treaties with Native American tribes in the region in a two year span from 1817 until 1819.  

With the threat of war with Native Americans greatly reduced, and transportation to the Michigan Territory greatly eased by the increased number of roads and lake going vessels, new American settlers arrived in droves. Travel became even more frequent, speedy, and trouble-free with the opening of the Erie Canal in 1825, and this only increased the number of Americans coming to the territory. No such number of French speaking individuals came to the territory, and with only a few individual exceptions, the French-speaking population of Michigan began to be dwarfed by those speaking English.  

In Detroit this ever increasing American population began to slowly marginalize the French population. By 1827 laws were no longer printed in French as well as English, and by the mid-1830s even political propaganda ceased to be made for the francophone population. The wave of Yankee immigrants did much to break the francophone solidarity displayed by the memorials and petitions circulated by the French-
speaking population of Detroit in years past. No more petitions were drafted by the francophone citizens of the town, and their desire for a more approachable legal system based upon their own traditions never resurfaced. The French-speaking desire to have the commons restored was also never renewed, and even when the Woodward Plan for the town was set aside in favor of a simplified grid pattern in 1817, no appeal was made to restore the commons.

Judge Woodward remained in Michigan in his official capacity until 1824, when his appointment expired and he was dispatched to Florida to act as a territorial judge. The years following the War of 1812 were arguably his most successful. Despite his plan for Detroit being rejected for a far simpler system, his legacy was preserved by the main thoroughfare of Detroit, Woodward Avenue. Further he founded the University of Michigan in 1817 in Detroit, where it stayed until 1837 before moving to its current location in Ann Arbor.

Ironically, Woodward has largely been forgotten, as was the way of life he did so much to destroy. He, like many of the people who protested his actions, has only the names of streets to be remembered by in daily life. However, unlike those whose world he did so much to change, he was not written off by historians as passively accepting the world around him. Scholars (while few in number) remember Woodward as being an eccentric visionary. In contrast the francophone Detroiter who protested his actions for the better part of decade have been left out off the pages of history. Upon closer inspection there is no reason for this to be so.

NOTES
For an examination of the inflexibility of the American system as it expanded in the early years of the United States see Alan Taylor, *The Divided Ground: Indians Settlers, and the Northern Borderland of the United States* (New York: Alfred Knoof, 2006).

Scholarship on petitions is scant but David Zaret, in *Origins of Democratic Culture: Printing, Petitions and the Public Sphere In Early Modern England* (Princeton, N.J.: Princeton University Press, 2000), offers a thought provoking argument that printed petitions, as a form of public expression in the mid-seventeenth century helped to pave the way for later democratic developments in England, both among the populace at large and with elites like Locke. While it cannot yet be claimed that the act of petitioning alone was as instrumental in the formation of Detroit’s political culture, Zaret’s examinations of the varied motivations for petitioning in early modern England offer a thought provoking comparison in form, composition, and priority by petitioners. Perhaps more importantly, Zaret seeks to access the priorities of an underrepresented, and often illiterate English peasant population which utilized petitions. See Zaret, *Origins*, 217-262. For a petition by some of the “lowest sorts,” on the petition of 1642 from London to the House of Commons (224). On the importance of the commons for non-elites see E.P. Thompson, *Customs in Common* (London: New Press, 1993).

Perhaps the best example of the Frenchmen disappearing with New France can be found in *Montcalm and Wolfe: The French and Indian War* (Boston: 1884; Reprint, Dacapo, 2001). This volume was a piece of Parkman’s massive multi-volume history, *France and England in North America*.

C. Vann Woodward, foreword to *Montcalm and Wolfe*, xxvii.


While many works displayed this trend two of the broadest and most inclusive are essay collections edited by John Francis McDermott, which focus on a myriad of topics but only obliquely go beyond the advent of United States’ control in the region. John Francis McDermott, ed., *The French in the Mississippi Valley* (Urbana: University of Illinois Press, 1965); John Francis McDermott ed., *Frenchmen and French Ways in the Mississippi Valley* (Chicago: University of Chicago Press, 1969).

University of Michigan Press, 1948). This view contradicts the evidence provided by both authors within their own works. Both cover election processes where French speakers engage, and in relatively high numbers.

10 The most significant examples of these locally focused histories are: C.M. Burton, The City of Detroit, Michigan, 1701-1922 (Detroit: S.J. Clarke, 1922); Silas Farmer, History of Detroit and Wayne County and Early Michigan (Detroit: S. Farmer and Company, 1890); J.V. Campbell, Outlines of the Political History of Michigan (Detroit: Schober and Company, 1876); A.E. Perkins, The Political Geography of Detroit (Chicago: Chicago University Press, 1918).

11 Farmer, History of Detroit, 179-182.

12 Apart from his massive work on Detroit, Burton was a key figure in the organization and writing of the Michigan Historical Collections published by the Michigan Pioneer and Historical Society in forty volumes during the 1880s on through the 1910s. This collection (referred to in this work and numerous others as MHC) is without question the most extensive and valuable collection of documents, essays, letters and other primary source material ever published focused on Michigan’s history. Burton’s own efforts at gathering, preserving and using documents from Michigan’s past resulted in the creation of the Burton Historical Collection at the Main Branch of the Detroit Public Library, which is rivaled only by the Clements Library at the University of Michigan for its collection of documents dealing with state and regional history in the period before the twentieth century.

13 Burton, City of Detroit, 1 and 287-292.


16 From the Canadian side of the border in particular the coverage focused on the fur trade and several works demonstrated the complexity of the economy that was created in the Great Lakes. Two of the best examples are W.J. Eccles, The Canadian Frontier (Albuquerque: University of New Mexico Press, 1979) and the much more recent Claiborne A. Skinner, The Upper Country: The French Enterprise in the Colonial Great Lakes (Baltimore: The Johns Hopkins University Press, 2008).


18 While the métis culture referred to here was certainly a blended culture it is rarely presented as such. It is instead more focused on the developments that arose from adapting Native American cultural norms and practices.


20 Among many the best example of this is Ramon Gutteriez When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846 (Stanford, CA: Stanford University Press, 1991).

21 As evidence of this one need only examine the coverage of the borderlands studies about the Great Lakes region. Emblematic of this borderland as being seen as a Native American see the informative and influential article written by Stephen Aron and Jeremy Adelman referenced in note 19.

22 For an examination of how the French identity in the New World was not identical or in some cases similar to that found in France see Giles Paquet and Jean-Pierre Wallot, “Nouvelle France/


See for example Gitlin, *The Bourgeois Frontier*, 148-149.


Carl J. Eckberg, *French Roots*. While the common of Detroit was different in practice and in nature than that which Eckberg discusses for the Illinois country its importance to the French community was at a similar level of importance and necessity for the *habitants* of the town.


Slavery was made illegal in the territory that would become Michigan under the Northwest Ordinance of 1787, with one key exception: those slaves existing in a state of bondage in the lands covered by the ordinance would remain slaves. The Ordinance did not emancipate slavery, rather it ended the spread of the practice in the territories covered by the Ordinance. See, Woodford *Disciple*, 84-87.

For the parameters of this debate see John Francis McDermott, “Myths and Realities Concerning the Founding of St. Louis,” in *The French in the Mississippi Valley*, ed. John Francis McDermott, ed. (Chicago: University of Illinois Press, 1965), 3-16. While there has been some progression on this topic since the publication of this article it still remains an unanswered question as to whether there was a designed village concept around posts, or whether they sprang up in a less coordinated manner. The former
argument has not been sufficiently proven to be accepted as a viable concept, and therefore this work will not weigh in on the issue in any significant fashion.

The other route, from the Ottawa River through Lake Nippising and the French River on to Georgian Bay, was more arduous, and included many short portages.


On the relationship of Detroit to Montreal culturally as well as by kinship see, Gitlin, *The Bourgeois Frontier*, 6-10.

While much has been written on this relationship and this phenomenally complex system, the situation concerning Detroit specifically has often escaped study and scrutiny. A notable exception is Karen L. Marrero, “Founding Families: Power and Authority of Mixed French and Native Lineages in Eighteenth-Century Detroit,” Ph.D diss., (Yale University, 2011).


Ibid., 17, 71.

Ibid., 100-103.


Lieutenant Governor Hamilton, commander at Detroit, routinely refers to the refugees in Detroit in his official correspondence with Governor Carleton, and at one point asked if he could grant them lands to settle in the area surrounding Detroit. This was apparently not granted as permanent loyalist settlers around the town were rare. There were, however, many transitory appearances of Loyalists, some having come from as far away as New York. Just before his ill-fated counter offensive against Clark. Hamilton reported that he had as many as 5,000 persons under his supervision in the immediate vicinity of Detroit. This was most likely an exaggerated figure and included Native American tribes to whom he had made

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This system seemed to have worked even when disputes arose between the British and French. For a cursory examination of this see Russell, British Regime, 71-72.

For the Importance of law to those in the fur trade, in particular the French see, Gitlin, Bourgeois Frontier, 51, 58, 147-148.

Russell, British Regime, 71-72.

Alexis Lemoine, Alexis Lemoine Complains of Tonty, Quebec, October 31, 1721, in MHC, vol. 33: 676-677. Many of Tonty’s actions were protested against either by individuals or small groups prior to the creation of the petition of October 1726. See for example “Citizens of Detroit Accuse Tonty of Cruelty, 1721,” in MHC, vol. 33: 707-709. For the individual histories of these early prominent citizens and their families see Judy Jacobsen, Detroit River Connections (Baltimore: Clearfield, 1994). For a more intricate discussion of Tonty and the controversies which swirled around him, see C. M. Burton, “French Commandants in the Region of Detroit, 1701-1712,” in MHC, vol. 34: 313-317.


The payment of these contracts, and terms of the same were laid out by Cadillac. Stipulations of rent or tax were contained therein, see “Cadillac Grants Contracts to Detroit Citizens,” 1704-1707, in MHC, vol. 33: 373-382.


MHC, vol. 34: 40. Another theory behind Tonty’s dismissal was presented by Richard White who saw Tonty’s removal as a product of his inability to negotiate effectively with the Huron. See White, 178. Marquis de Beaumanois, Governor of New France at the time, in his correspondence appeared to be rather dismissive of the complaints the Huron, see MHC, vol. 34: 58-63.


Russell, British Regime, 111.

The years of 1777 and 1778 were particularly active years for raids emanating from Detroit. One such raid, emblematic of the way Detroit participated in the war, saw two Detroiter’s accompany a much larger force of Shawnee under chief Blackfish. This expedition captured what was Detroit’s most famous “visitor” during the time when it managed to surprise Daniel Boone and a party of men boiling salt near Boonesborough, the town founded by the famous woodsman in Kentucky. For a much more detailed account of the raid and its aftermath. See Robert Morgan, Boone: A Biography (Chapel Hill, NC: Algonquin Books, 2008), 216-240 and the correspondence of Lieutenant Governor Hamilton contained in MHC, vol. 9: 434-438. For a demonstration of Hamilton’s reliance on the French-speaking population of Detroit see the letters from Hamilton to Governor Carleton in MHC, vol. 9: 439-442. For Vincennes and after see Memoir of Clark,” 292; “Clark to Mason,” November 19, 1779 in Collections of the Illinois State Library, vol. 7: 146. “List of Prisoners of War Taken at Vincennes,” in Collections of the Illinois State Library, vol. 7:


69 Bald, *Detroit Decade*, 56.

70 Ibid.

71 Bald, *Detroit Decade*, 140-141.

72 Ibid., 81, 83.


75 See Bald, *Detroit Decade*, 139; Bates, Letter, May 5, 1799.


78 “Memorial to Congress,” MHC, vol. 8: 511-513.

79 For a summary of this petition see Bald, *Detroit Decade*, 232.

80 Woodford, *Disciple*, 4-7.

81 Ibid., 4. The number of inhabitants within the city at the time is unknown. Silas Farmer puts the number of heads of households in the city and the surrounding area at 525. This area appears to have included settlements at River Rouge, south of the town, along Lake St. Clair north of the town, and the various farms stretching in between. Heads of household represented roughly one-fifth of the total population of the region stretching back to the 1770s. Given this traditional ratio, the number in the Detroit region (on the American side exclusively) would appear to be around 2,500 persons exclusive of the town’s military garrison which numbered at roughly one hundred officers and men throughout the period until just prior to the commencement of the War of 1812. See Silas Farmer, *The History of Detroit and Michigan* (Detroit: Silas Farmer and Co., 1884), 334-335. The number of inhabitants in Detroit proper has been put at between 550 and 770 persons by most scholars. For the former see Yanik, *Defense of William Hull*, 12. For the latter see Frank B. Woodford and Albert Hyma, *Gabriel Richard: Frontier Ambassador* (Detroit: Wayne State University Press, 1958), 42.

82 Woodford, *Disciple*, 5. Woodford seems to have taken the consensus opinion from previous historians that attributed the fire to this location and to the pipe of a careless baker’s assistant. It is unclear where these historians developed the theory of the pipe ember, but the location of the fire’s ignition seems to have first been identified by Robert Munro in a letter to Indiana’s Governor William Henry Harrison written on June 14, 1805. This letter was printed in full in Farmer’s history of the city, first printed in 1884. It did not mention how the location of the fire was determined, nor did it mention how the blaze began. An article in the *National Intelligencer*, published on September 6, 1805, stated that “By what means the fire was kindled, whether by accident or by design, is uncertain- there are various conjectures but no decided opinion.” Nevertheless various historians of the city had by the 1920s endorsed the tale of the clumsy assistant and his pipe. Of these the account given by George B. Caitlin in his *The Story of
Detroit, published in 1923, is the most lively and entertaining. See George B. Caitlin, The Story of Detroit (Detroit: The Detroit Free Press, 1923), 115-119.


84 Governor Hull to Secretary Madison, Detroit, August 3, 1805, in MHC, Vol.31: 524.

85 Woodford, Disciple, 7; Bald, First American Decade, 87-88.

86 Woodford and Hyma, Frontier Ambassador, 43.

87 Munro to Harrison, Detroit, June 14, 1805, reprinted in Farmer, History of Detroit, 490; National Intelligencer, September 6, 1805.


89 Hull to Madison, August 3, 1805, TPUS, vol. 10: 524.

90 Gilpin, Territory of Michigan, 3-4.

91 Stages of territorial government: Initial stage (when the territory was created) where a governor and three appointed judges acted as legislature; Second Stage, five thousand free male citizens, a legislature was formed by popular elections held every two years; 60,000 persons, the territory could apply for statehood (as Ohio did in 1803). See “Northwest Ordinance, 1787”, Voices, 100-102.

92 Gilpin, Territory of Michigan, 4-6; Woodford, Disciple, 9-12.


95 Hull to Madison, August 3, 1805, TPUS, vol. 10: 524-525.


97 Agreement of Citizens of Detroit to Abide by the Proposed Real Estate Distribution, July 19, 1805, in MHC, 36: 116.

98 List of Real Estate Owners and Values at the Time of the Detroit Fire in 1805, in MHC, 36: 114.

99 Ibid.

100 Hull to Madison, August 3, 1805, TPUS, 10: 524-525.

101 Report of the Governor and Judges of Michigan Territory to Congress, Detroit, October 10, 1805, MHC, 10: 103-104.

102 Augustus Woodward to Secretary of War Dearborn, Detroit, March 5, 1806, Woodward Papers, Burton Historical Collection [hereafter BHC] (Detroit Public Library Main Branch, Detroit, Michigan).

103 It should be noted here that Detroit’s layout was not the same as that found in the farms surrounding the town, a system that has been commonly referred to as ribbon farms or long lots due to their narrow fronts, almost always abutting water, and their long, narrow lengths often stretching long distances away from the abutted waterway. While the arrangement of these farms was similar across French settled areas in North America (both New France and Louisiana), building and usage patterns within these long lots varied from region to region. While the farms that bordered Detroit did resemble those found elsewhere the town was not created in this fashion, rather it resembled a rectangle that ran parallel with the river not perpendicular. For a description of typical ribbon farms across French North America and their varied styles see Eckberg, French Roots, 3-22.

104 On water usage see George Heriot, Travels Through the Canadas (Philadelphia: M. Carey, 1813), 189 -193: on travel see Woodford, Disciple, 2-3; and Bald, First American Decade, 61-62.

105 Ibid., 41-45; Report of the Governor and Judges of Michigan to Congress, Detroit, October 10, 1805, Augustus Woodward Papers, BHC.

106 AB Woodward to John K. Jackson, Washington, 1-18-1806, Augustus Woodward Papers, BHC.


108 No record of exactly when the plan was drawn up exists. According C.M. Burton and Agnes Burton, it was not the plan composed in the days following the arrival of the governor and judges. According to
Woodward biographer Frank Woodford it was conceived during that immediate period and completed sometime later. See Burton and Burton, Governor and Judges, 6-7 and Woodford, Disciple, 39-41.

Augustus Woodward Miscellaneous Papers, 1796, Augustus Woodward Papers, BHC. Among his papers are a map and a hand drawn layout.

Diary, Woodward Papers, BHC (Detroit, Michigan). Frank Woodford claimed that the Washington plan was pasted on the inner cover of Woodward’s diary. At the time of this writing the map seems to have been dislodged and was mixed in among other documents. See Woodford, Disciple, 38.

Augustus Woodward to the Citizens, Detroit, December 3, 1806, Woodward Papers, BHC; Augustus Woodward to Secretary of War Dearborn, Washington DC, January 18, 1806, Woodward Papers, BHC.


Augustus Woodward to the Citizens, Detroit, December 3, 1806, Woodward Papers, BHC; Augustus Woodward to Secretary of War Dearborn, Washington DC, January 18, 1806, Woodward Papers, BHC.


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Carl J. Eckberg, French Roots, 14-17.

Anonymous to President Jefferson, Detroit, October 16, 1806, Woodward Papers, BHC.

Petition from Inhabitants of the Territory, Detroit, July, 1807, in TPUS, vol. 10: 115-122;


Ibid.

Memorial to Congress from Inhabitants of Detroit, Detroit, January 8, 1808 in TPUS, vol. 10:173-176;

Protest Against the Sale of Detroit Commons, 1811, in MHC, vol. 36: 236-238.

Ibid.

Protest Against the Sale of Detroit Commons, 1811, in MHC, vol. 36: 236-238.

Ibid.

The exact land area of the commons was always ill defined, and the official documentation for its existence was lost over time, most likely in the period following the French surrender of Detroit. See Hull to Madison, August 3, 1805, TPUS, 10: 524-525.

Ibid.

Ibid.

Petition to the Congress by the Inhabitants of Wayne County, Detroit, September 2, 1800, TPUS, vol. 3: 103-108; Memorial to Congress, Detroit, 1803, MHC, vol. 7: 511-512.

For the quagmire that the titles in Detroit presented see George Hoffman to the Secretary of the Treasury, Detroit, December 6, 1806 in TPUS, 10: 76-78.

Augustus Woodward to Secretary of War Dearborn, Washington DC, January 18, 1806, Woodward Papers, BHC.

Allotment of Lands After the Detroit Fire of 1805, Detroit, November 1806 in MHC, 31: 574-578.

Ibid.

Ibid.

Document Draft of 1805, Woodward Papers, BHC (Detroit, MI); Woodward to Dearborn, March 5, 1806, BHC.

Instructions of Justice Woodward to the Grand Jury, Detroit, August 20, 1806, Woodward Papers, BHC.

For an expression of such poverty see Memorial to Congress from Inhabitants of Detroit, Detroit, January 8, 1808 in TPUS, vol. 10:173-176.

This view was strengthened by the creation of the First Michigan Bank at roughly the same time, which was considered to be a move to enrich the Judges and Governor personally. See Woodford, Disciple, 56-59.

Petition from Inhabitants of the Territory, Detroit, July, 1807, in TPUS, vol. 10: 115-122.

Ibid.

Petition to the Congress by the Inhabitants of the Territory, Detroit, October 26, 1807 in TPUS, vol.10: 138-149.
Both Samuel Huntington and William Sprigg were among those offered the appointment, but they pointed to their already established positions as lawyers and jurists in Ohio as reason enough to beg off the “honor” of being a judge in the distant territory. Gilpin, Territory of Michigan, 9-10.

Woodford, Disciple, 77-78; Gilpin, Territory of Michigan, 1-10.

Woodford, Disciple 78-79.

Gilpin, Michigan, 7-9.


The Governor was not without legal experience. Hull studied at Yale for the legal profession but had done little in his life other than soldiering. He had passed the bar in his native Connecticut in 1775, but the Revolution put a hold on his courtroom ambitions. After the war he served as a judge in the Court of Common Pleas in Connecticut, and then a brief stint as a state senator until his appointment as governor. Bates had an uncertain amount legal training with a lawyer in his native Virginia for a brief period prior to his service with the army. See Gilpin, 5-9; Anthony J Yanik, In Defense of William Hull, 13-14.

Woodford, Disciple, 76-80; Laws of the Territory of Michigan, 1.

The reason why New York was selected as such a standard is unclear. Woodward never identifies it as a model system, nor did he ever mention why New York was featured so prominently in the “Woodward Code.” One can speculate that its preference for oaths was due to the Governor having been sworn into office at Albany by Vice President George Clinton. It is also possible that the laws of New York were preferred because George Clinton furnished Woodward with a copy of the laws of that state. This however fails to measure up to any solid argument as Woodward studied law in Virginia and had been admitted into the bar both in that state and the District of Columbia. Further Woodward also relied heavily on laws of Massachusetts in formulating his new legal regime, and later he relied heavily on the Northwest Ordinance which allowed him some discretion as to the preservation of former laws when they were not directly in contradiction with existing laws or where they were “as best suited to the circumstances of the district.” See Woodford, Disciple, 76-80; “Ordinance of 1787,” in Public Statutes, 50-51.


Ibid.; Woodford, Disciple, 79.

“Ordinance of 1787,” 50.

French-speaking settlers in the Illinois Country, of which Indiana was a part, had owned African slaves since the 1720s, and the number of slave holders increased under Governor Harrison. By 1810 there were at least two hundred thirty slaves in the Indiana Territory. While the number of African slaves in the Michigan territory never approached this number there were at least two or three dozen, mostly owned as families or individuals. The one possible exception to this rule was the Macomb Family on Grosse Isle, who as recently as 1796 had owned 36 slaves. However, following American takeover of the territory many slaves were freed, and still others were sold. See, Adam Jortner, Prophetstown, 81-84.
Ibid.

Woodford, *Disciple*, 79.

Bald, *Detroit Decade*, 158-159.

Ibid., 159-160.

Ibid.; An example of a typical proceeding was the case against Paul Bellair for the sum of seventy six dollars and two cents. See MHC, vol. 8: 494-495.

Joseph L. Peyser and Jose Antonio Brandao, eds., *Edge of Empire: Documents of Michillimackinac, 1671-1716* (Mackinac, MI: Mackinac State Parks Commission, 2008), xxxiv-xxxvi. For a typical application and decision see, ibid., 3-4.


Petition from Inhabitants of the Territory, Detroit, July, 1807, in TPUS, vol. 10: 115-122.

Ibid., 117-119.

Woodford, *Disciple*, 13, 59-68.


Memorial to President Madison, September, 1809 in MHC, vol. 8: 587-592.

Woodford, *Disciple*, 68-69.

Gitlin, *Bourgeois Frontier*, 148-149.

Bald, 159-160; an example of a typical proceeding was the case against Paul Bellair for the sum of seventy six dollars and two cents. See MHC, vol. 8: 494-495.


Ibid.

Several French families owned one or two slaves who were domestics, or farm laborers. Woodford, *Disciple*, 84-86; Gitlin, *Frontier*, 21-22, 44.

The supreme court did not meet in 1805 or in 1806. It would appear that this delay was prompted by Woodward’s absence from the territory and a lack of cases brought before the court up until that time. Woodford, *Disciple*, 86.

Ibid., 86-87.


Ibid., 512-518.


Ibid., *Disciple*, 88-90.

Ibid., 86-91.


Woodford, *Disciple*, 91.

For decisions on stolen property see Brandao, *Edge of Empire*, 3-5.

Anecdotal evidence also exist that at about this time Woodward’s courtship with a local French woman ended abruptly. Taken with the depictions of Weld and Sibley the approval of the general population was often indicated by the acceptability of courting between French-speaking women and those from other communities. See Woodford, 139.


“Petition from Inhabitants of the Territory, Detroit, July, 1807, in TPUS, vol. 10: 115-122

Memorial to President Madison, September, 1809 in MHC, vol. 8: 587-592.


Woodford, *Disciple*, 80; Gitlin, *Bourgeois Frontier*, 148-149.


Woodford, *Disciple*, 124.
198 Ibid., 125.
201 Woodford, *Disciple*, 111-114.
202 Ibid., 117-120.
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