

No. 13161

Supreme Court of Illinois

Tracy et al

vs.

City of Chicago

71641  7

STATE OF

SUPREME COURT,

Third Grand Division.

No. 122.

Tracy
vs

City of Chicago

POSTAL TELEGRAPH-CABLE COMPANY IN CONNECTION WITH THE COMMERCIAL CABLE COMPANY.



16.

JOHN W. MACKAY, President.
J. O. STEVENS, Sec'y. WM. H. BAKER, V. P. & G. M.

JOHN W. MACKAY, President.
ALBERT BECK, Sec'y. GEO. G. WARD, V. P. & G. M.



TELEGRAM

The Postal Telegraph-Cable Company transmits and delivers this message subject to the terms and conditions printed on the back of this blank.

Received at

2 EX AY Je 30 paif
Chgo, llls, 1-2-3
A S Snow,

(WHERE ANY REPLY SHOULD BE SENT.)

Asst Cler Supm Crt., Springfield

Send my by express care of Padeloup immediately record Tracy
vs city Chicago You also mail to All persons bills of costs where
no petition for reseving is filed, eureka.

Christopher mamer.

1-05pm

POSTAL TELEGRAPH-CABLE COMPANY.

This Company transmits and delivers the within message subject to the following
TERMS AND CONDITIONS.

To guard against mistakes or delays, the sender of a message should order it **REPEATED**; that is, telegraphed back to the originating office for comparison. For this, one-half the regular rate is charged in addition. It is agreed between the sender of the message written on the face hereof and the Postal Telegraph-Cable Company, that said Company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery, of any **UNREPEATED** message, beyond the amount received for sending the same; nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any **REPEATED** message beyond fifty times the sum received for sending the same, unless specially insured, nor in any case for delays arising from unavoidable interruption in the working of its lines, or for errors in cipher or obscure messages. And this Company is hereby made the agent of the sender, without liability, to forward any message over the lines of any other Company when necessary to reach its destination.

Correctness in the transmission of messages to any point on the lines of the Company can be **INSURED** by contract in writing, stating agreed amount of risk, and payment of premium thereon, at the following rates, in addition to the usual charge for repeated messages, viz: one per cent. for any distance not exceeding 1,000 miles, and two per cent. for any greater distance.

No responsibility regarding messages attaches to this Company until the same are presented and accepted at one of its transmitting offices; and if a message is sent to such office by one of this Company's messengers, he acts for that purpose as the agent of the sender.

Messages will be delivered free within the established free delivery limits of the terminal office. For delivery at a greater distance a special charge will be made to cover the cost of such delivery.

This Company will not be liable for damages or statutory penalties in any case where the claim is not presented in writing within sixty days after the message is filed with the Company for transmission.

This is an **UNREPEATED** Message and is delivered by request of the sender under the conditions named above. Errors can be guarded against only by repeating a message back to the sending station for comparison.

No employee of this Company is authorized to vary the foregoing.

WILLIAM H. BAKER,
 V. P. and Gen'l Manager.

JOHN O. STEVENS,
 Secretary.

JOHN W. MACKAY,
 President.



122

SUPREME COURT OF ILLINOIS, THIRD GRAND DIVISION.

APRIL TERM, 1860.

F. BRONSON et al.

ads.

S. E. TRACY et al.

} *Error to the Cook Circuit Court.*

POINTS AND AUTHORITIES FOR DEFENDANTS.

WALTER B. SCATES,

Of Counsel for Defendants.

Filed May 2, 1860
L. Leland
clerk

SUPREME COURT OF ILLINOIS, THIRD GRAND DIVISION.

APRIL TERM, 1860.

F. BRONSON et al.	}	<i>Error to the Cook Circuit Court.</i>
ads. S. E. TRACY et al.		

POINTS AND AUTHORITIES FOR DEFENDANTS.

By the original plat of Chicago, West Water street, from Lake to Fulton, was bounded by the river, or by a common landing on the river. Defendant Bronson owned all the lots in Block 22 except lot 8, owned by E. W. Tracy. That block fronted upon this part of the street and was bounded by it.

Whatever may have been the claims, opinions, or expectations of the lot-owners fronting on this street as to the common or landing lying between the street and the river, if any there were, yet in fact and in law there was no shadow of a pretence of claim or title to it.

The subsequent adjustment of this claim, by allowing long leases in some places and by laying off another tier of water lots in other places, and the allowance of a pre-emption to the lot-holder behind it, did not give such rear lot-owner any right or title to dictate the lines bounding these new lots. The idea of controlling the mapping and laying off the common into lots by lines or boundaries, at right angles to the water-line, is a novel one in its application to this plat of ground.

The right of interference and control is based upon the assumption of a legal or equitable title, and acting upon this assumption, it is secondly assumed, that the piece or plat thus to be platted into town lots is like an accretion, and to be governed by the

principle applicable to accretions; and *thirdly*, it is further assumed, that where the lines of riparians strike the accretion at an acute angle to the *course* of the boundary waters, that the law will change the direction of such line, and run through and divide the accretion by a line run at right angles to the boundary water-line, or course of the stream opposite.

Now, neither of these assumptions is true in law.

Now, in the the first place, the plaintiffs show neither a legal or equitable title.

There is a distinction between streets in cities and towns in this State, and common highways. Town lots are bounded by the lot lines, and not by the centre of the contiguous street. So, a conveyance of a lot by its appropriate numbers or other description, would not carry it to the centre of the street, whereas the fee in the public roads remains in the owner of the land over which the highway passes; and when a conveyance is made calling for a highway generally as a boundary, it would extend to the centre of the highway, as it would to the thread of the current when bounded by a stream.

But the settled rule in relation to streets in recorded plats, vests the fee in the public.

Canal Trustees vs. Haven et al., 11 Ills. 554.

This case is conclusive to show that the plaintiffs were not riparians by virtue of their ownership of Lot 8, which was bounded on the East by W. Water street.

No action would lie at their suit for trespassing, or occupancy of the street in front of this lot. Their only remedy would be by indictment for obstructing it.

Hunter vs. Middleton, 13 Ills. 54.

Manly vs. Gibson, 13 Ills. 312.

This rule, then, is conclusive upon this point. Nor can plaintiffs avoid or open this rule by such parol evidence as they have offered. Neither Mr. Hubbard nor any one else can be allowed to engraft the title of the street and a large common to the boundary of a town lot, so as to make either an equitable or legal title pass by the sale and conveyance of a public officer. Parol evidence is not admissible for any such purpose; and beside the title and ownership was not in the Canal Trustees or Canal Commissioners. Their declarations or admissions cannot be received to pass more than the deed calls for, nor, unless to show a fraud to avoid the sale, could they be admitted at all.

But in no possibility can these declarations be received to pass a title to the common or public wharf or landing on the opposite side of the street,

This assumption, therefore, is wholly without foundation of any equitable or legal claim or title.

Secondly, the law of accretions has no application to this common. This is not an accretion. There is no principle of law regulating the manner or direction in which boundary lines shall approach streams, lakes, or oceans. In laying off boundaries through lands adjoining the water, the owner is at perfect liberty to run his lines and make his divisions, as in dividing lands not so bounded. The rule laid down in Massachusetts was laid down upon the special facts and circumstances, and was intended to adapt itself to them in that case, and which was treated as a *quasi* or *semi*-accretion case.

The rule was an artificial one, and not applicable to all cases.

This presents the *third* assumption, that the lines dividing the common or public landing or wharf, into private lots, can only be run at right angles to the course of the boundary water.

The rule supposed and contended for as an *extension* of a boundary line over contiguous lands, might be admitted for the argument, and still I will show that it has no sort of application to the lands in question.

This is not an accretion, and cannot be disposed of upon principles applicable to accretions. It is not *contiguous*. It was originally separated by West Water street—if not a part of it—and is still separated from it by new West Water street.

The city deemed it to be for the public good to lay off lots on the common bounding on the river, and dispose of them. The common was too narrow to form a good business lot. Now, as lot-holders on the west side of the street and fronting on it had purchased with the view to the convenience and privilege of this common in front affording them free access to the river, and as a replanning of West Water street farther back partly over their lots would afford depth to make good lots, it was arranged so to plat it, with the right of these lot-holders to a pre-emption to the front of wharf lots. There was no agreement or obligation to run lines in one direction or another.

The city did so plat it as to make the lines of these new lots, as an extension of the old lot lines, direct to the river. By this plan the new lots cover the whole plat of ground to be laid off, and at the same time give full complement to each new lot.

Whereas, if the new lots were formed by lines turned at right angles to the course of the river, there would be left out a triangle fronting some 80 or 90 feet on the river, and from W. Water street to the river along lake. And again, as a result of this mode of platting, the lower lot lying on Fulton street would be reduced to a very small little triangle, nearly worthless, unless its complement should be taken out of

Fulton street, or a like oblique direction be given to the extension of Fulton street to the river.

The artificial rule for dividing alluvions laid down in *Inhabitants of Deerfield vs. Arms*, 17 Pick. R. 41, would, if applied here, only settle the rule as to the proportion or quantity to set off to each owner, but would not give any direction as to the line by which that portion or quantity would be included.

The rule laid down for dividing the adjacent salt marsh in *Rust vs. Boston Mill Corporation*, 6 Pick. 165, would not apply, because that was to divide a cove, or circular area, and its division governed by an ordinance in 1641 of the town of Boston.

So in *Emmerson vs. Taylor*, 9 Greenlf. R. 44, the piece of ground to be divided was not susceptible of a division by straight line extensions of boundary, and an artificial rule adapted to the shape of the land and of the lands abutting on, was adopted.

The report in this case, pages 44-5, sets forth a plat illustrating the rule adopted.

The Supreme Court of Vermont, in *Newton vs. Eddy*, 23 Verm't R. 319, laid down a rule for a shifting line for the division of accretions. Thus, where two proprietors join at a monument on the bank and both are bounded by the stream, as that is the thread of the current, a direct line is drawn from the point on the shore to the nearest point in the centre of the current, and when, by change of the river's course and alluvion, that point had been changed from East to North from the shore point, the Court held the alluvion should be divided by a line from the shore point north to the centre of the stream.

The general rule laid down in all these cases, is a rule of *proportion*—that is, to give of accretions, or of the bed of the stream, a part in proportion to his front upon the stream.

The lines have been, accordingly, varied in their direction from the terminating upland line, so as to divide in their respective proportionate fronts, according to the shape of the accretion or river-bed.

But in the last mentioned case the *nearest* point in the centre of the stream, which would always be that point in it at right angles to its course opposite the shore point, was selected as controlling the direction of the line from the shore point. Now the *nearest* point in the current, from a stationary shore point, being a shifting point, would not always give as a result an equal division in *proportion* to the shore front.

Now in *Knight vs. Wilder*, 2 Cush. R. 203-7, and in *Sparhawk vs. Bullard*, 1 Metcalf. R. 195, 106, the Court held that the line should be drawn from the shore point to the centre of the stream at right angles to the course of the stream.

Giving the line such a direction in this case, does not appear to have been influenced by any consideration of effecting an equal division of an accretion, or of a part of the bed of the stream.

But the rule adopted and applied in every case where an equal division required it, has been varied and so modified as to accomplish that end.

Taking it for granted, for the purposes of this argument, that it may be modified so as to work out an equal division of the land according to their proportion of the front, then the Court would adopt the rule laid down in *Rush vs. Boston Mill Corporation*, 6 Pick. 165, and in *Emmerson vs. Taylor*, 9 Greenlf. R. 44, and the direction of the line would depend upon and be subordinate to that end.

To accomplish that object in this case, it is absolutely essential to run the new lot lines as a direct extension of the old lot lines in a direct line to the river.

To turn them at right angles to the course of the stream in this case, would cut off the last new lot in the new block, because it could not be turned into and occupy the street for quantity.

The cases of *Call vs. Carroll*, 40 Maine R. 31, and *Gray vs. Deluce et al.*, 6 Cush. R. 9, simply follow the rule laid down in *Emmerson vs. Taylor*, 9 Greenlf. R. 42, and all of them, as well the cases of like decision in Massachusetts, are predicated expressly upon the legislative provision of the Colonial ordinance of 1641. Where a statute prescribes a rule, no general principle applicable to other States is deducible therefrom.

These decisions may not be drawn into general precedent. Yet we have no objection to the rule, as it is an equitable one, under which every one would get his proportionate share of an accretion and of the river bed.

But the great difference between all those cases and the case at bar is, that there the rules were adopted with a view to divide *accretions*, and *salt marshes* in the nature of accretions, and to adjust the claims of contiguous riparians to the river bed from the shore to the thread of the current; whereas, in the case at bar, there is no sort of pretence of a former ownership of the land to be divided into lots. Here the parties admit that the ground to be laid off into lots now either belongs to the public as a landing or common, or it belongs to the city.

This last was to be adjudicated and shown to exist as a condition upon which the payment was to depend. When so adjudged to be in the city, then the right of pre-emption is given to proprietors of lots fronting on W. Water street, in consideration of their giving up part of their lots to form a new street upon, and not in consideration of any prior claim of title, equitable or otherwise. This right of pre-emption, as before remarked, does not give or include in it any right of interference as to the platting off the lines of the new lots to be made.

So then there is no parallel case for the application of the law for dividing accretions, or river beds, or flats, or marshes. But it is a case of simple agreement, and if the agreement for the pre-emption and purchase does not control the right and power in platting off the new lot-lines, then there is no case in the bill either in law or equity, and the bill was properly dismissed.

WALTER B. SCATES,

of Counsel for Defendant's,

State of Illinois }
DeKalb County } Sec-

The People of the State of Illinois
to all whom these Presents shall come Greeting:
Know Ye That Whereas Ethan A Durham
late of the County of DeKalb and State of
Illinois, died intestate, as it is said, on or
about the first day of October A D 1859
having at the time of his decease personal
property in this State, which may be lost
destroyed or diminished in value if speedy
care be not taken of the same; to the
end, therefore, that said property may
be collected and preserved, for those who
shall appear to have a legal right or
interest therein, we do hereby appoint
Harriet C. Durham & Rollin C. Mathey of the
County of DeKalb and State of Illinois
Administrators of all and singular the
goods and chattels, rights and credits
which were of the said Ethan A. Durham
at the time of his decease; with
full power and authority to secure
and collect the said property and debts
wheresoever the same may be
found in this State and
in general to do and
perform all other acts

which now are or hereafter may be
required of them by law

Witness. Aaron K Stiles Clerk of the
County Court, in and for said County
of DeKalb at his office in Sycamore
this 16th day of November A.D. 1859
and the Probate Seal of said Court
hereunto affixed

Aaron K Stiles

Clerk of the County Court.

State of Illinois

DeKalb County

I Aaron K Stiles Clerk
of the County Court in and for
said County and State aforesaid do hereby
certify that the foregoing is a true copy of
the letters of administration granted by said
Court to said Harriet E. Durham and
John C. Maltby on the Estate of Ethan
A. Durham Deceased and that said
letters are now in full force.

In testimony whereof I have
hereunto set my hand and official
seal this 25th day of April 1860

Aaron K. Stiles
Clerk



Seal

Letter of Adam
Punham

Filds Apl. 27. 1860
L. Island
Ch.

In the Supreme Court of the State of Illinois.

Sarah Elizabeth Tracy Elisha
Tracy, William R. Tracy, Mary
H. Mc Dowell, Conrad H. Mc
Dowell, Lucy H. Smith, Albert
Smith, Charlotte Isabella Eaton
E Winslow Williams Elizabeth
J. Huntington & John J. Huntington
Heirs of Elisha W. Tracy deceased

vs

The City of Chicago, Frederick
Bronson Ex'r & Assignee of Arthur Bronson
deceased Allen Robbins & Thomas M. Avery

The Clerk of said Court
will issue a writ of error to the Cook Cir
cuit Court upon a demurrer
therein in favor of the defendants at
the March Term thereof A.D. 1860 - in a
case where the above named Sarah
Elizabeth Tracy & others are complainants
and the City of Chicago & others are defendants
on behalf of said complainants. ~~Left~~
~~is~~ Sarah Elizabeth Tracy & Elisha
Tracy Plaintiffs in error & The City of
Chicago & others Defendants in error &
Sci. fa. to Cook Co. C McKimith &

W. J. Briggs April 16 1860

Sup Court

Sarah Elizabeth Mann

12 [✓] ital

The City of Chicago
ital

Principles

Filed March 30. 1860
L. Leland
Clerk

13161

Beckwith Bangs
for Pp. in

In the Supreme Court

Tracy et al

vs

City et al

Error to Cook

Points of Diff in Error

The Owners of lands on West Water Street and the other Streets laid out on the Margin of Chicago River and its branches by reason of their ownership of the lots on such Streets, fronting on the Street & River claimed to have the right to occupy so much of the land across the Street in front of their respective lots on the Margin of the Stream as was necessary for the erection of Wharves.

In pursuance of such claim Tracy occupied the land in controversy in this Suit.

These claims were called Wharfing privileges and it is immaterial so far as this Suit is concerned to determine whether the claim was rightful or wrongful both Bronson & Tracy made it. And the City admitted the validity of the claim by

the ordinances set out in the bill. They were passed to widen the river, Change the location of the Street, and "to Convey to the respective persons owning lots in the blocks mentioned in it the premises in front of their respective lots in exchange for the lands taken for the New Street" thereby giving them a fee when they merely had or claimed to have an Easement.

The question presented in this Case is "What land lies in front of Lot 8, in Block twenty two - & of which Tracy as the owner of said lot is entitled to a conveyance?" He is as such owner having paid the \$600. to the City Treasurer & consented to the laying out the New Street entitled to a conveyance by the Metes and bounds given in the Ordinance and the City without his consent. Cannot change the phraseology convey lands by other metes & bounds & claim that it means the same thing.

By the term "front" as here used is meant a definite quantity of land not extending beyond but to the river, that is conceded on all sides, but

the controversy is
where shall the side lines be and
consequently the width of that front on
the river - and its position there - ~~is~~
~~the controversy.~~

Tracy before this ordinance was
passed claimed and was in the occu-
pation of a quantity of land on the river
in front of his lot, at right angles
with the course of the stream and the
line of his lot on the river - and
claimed it because the owners of lots
on the street had the right to occupy
the land in front of their lots on
the margin of the river for wharfing
privileges and as incident to this to
erect warehouses on such wharves
as part of them. He claiming such
to be his rights it is proposed to va-
cate the old street, widen the river,
lay out a new street occupying nearly
all of his old lot and to give him a
conveyance of the lands in front
of his lot of a certain width in lieu
of that part of his lot covered by the
new street to which proposition he
acceded. Is it a fair deduction
from this that he intended to give
up the land in front of his lot and

take land lying "directly East"

For this is the alternative presented to us by the defence - we claim that the words "in front of" meant just the same after as before the passage of the ordinance they claim that it afterwards meant "directly East" Examine their deed; the City assumes to convey to Bomson not the land "in front of" but that which lies "directly East" of his lots and the words "in front of" are nowhere used in the description.

The proposition was one: to change the width of the river and relocate the Street (not to vary or change the width of the respective fronts that parties had on the river) - That is not necessary to carry into effect the proposition. To re-state the matter -

Gracy & Bomson own adjoining plots fronting upon the Street & River -

They claim to be entitled to use wharfing privileges and are in the actual use of them - The City proposes to change the locality of the Street taking part or all of their property for that purpose to vacate the

Old Street to widen the river and then
to convey to them the same front on
the river ^{as they had} before only limiting its depth
from River to Street. Does this
justify a conveyance of land
"directly East" - Why change the
phraseology, the change itself calls
upon them to show that it means the
same identical thing. If it does not
then it is wrong; if it does there is
no necessity for the change. But does
it mean the same thing - The front
of this lot is that space of ground
which lies before a line having a
North West and South Easterly course
North 51° West. it is then a North
East front land directly North East
of it is ^{so far as it may be necessary to extend that front} in front of it. The boundary
line as between him & the proprie-
tor of lot 5. is the line projected at
right angles to that ^{front} line. The
land directly East of it is not in
front of it. it may be in part but
cannot be of the whole.

The great point in the Argument of the
defendant is that we get more front actually
upon the river than the other lots do - but that
is the result of our more favorable locality

our lot is situated at the bend of the river -
the Curve belongs to some body and as it
extends itself it gives more and to those who
are situated opposite to it than those who are
situated upon a straight line beyond - again
the river at the other end of this block curves
back again - & the lot owner therein loses
in consequence - but a loss that is the
result of his position, his lot is so situated
that he is cut off from as extensive a front
on the river as we have got - and now
the Counsel claims that instead of giving
each man the front of his lot on the river
according to the agreement more or less growing
out of his position an equitable division
shall be made so as to give each not his
front but the land directly East of his lot
North & South. This might do if the parties
agreed to it or if the block had all of it been
owned by one individual & he was plating
it to suit himself - But how can the party
claim an equitable division - reconstructing
the front of the lots - under the facts in
this case - If the parties meant this why
did they not so express it - Instead of using
the term "front of the lot" they should have
said "the lands on the Margin of the River
between the Street & the Dock line shall

be divided among the owners of the lots
in said block in proportion to the
width of their said lots North & South
respectively."

122
Supreme Court

Tracy & al
vs

Brown & al

Off Chief - a.

Filed May 10, 1860
L. Island
Ct.

W. J. Briggs
for off p.

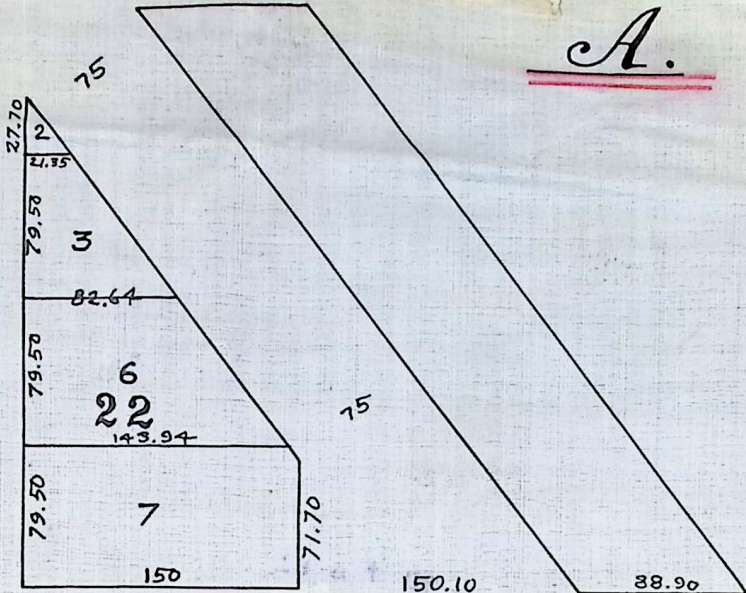
PLAT.
OF PART OF ORIG. TOWN OF



FULTON

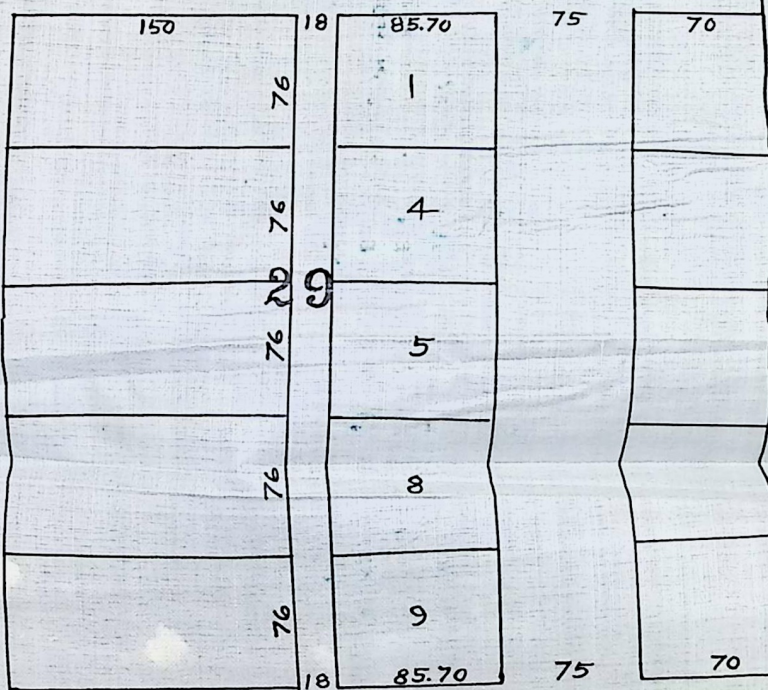
ST.

A.



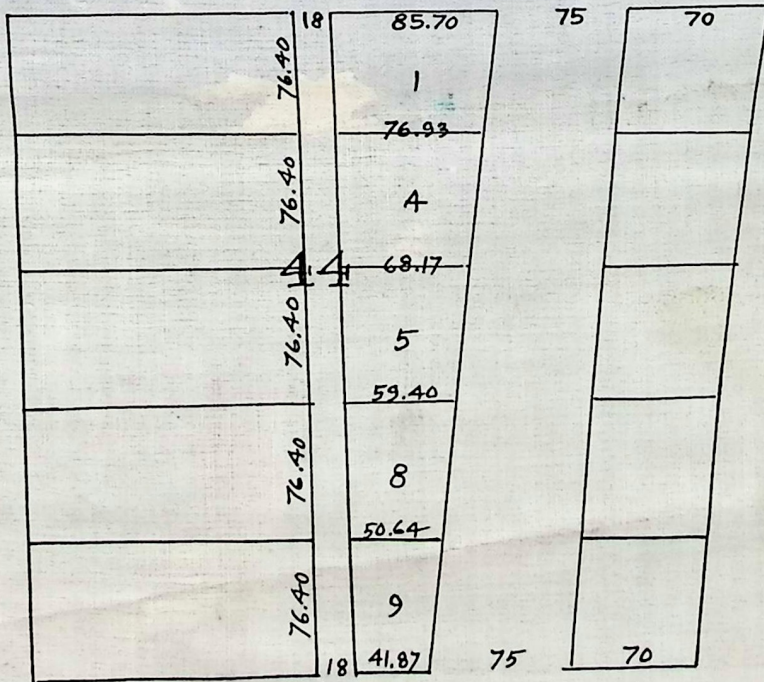
LAKE

ST.



RANDOLPH

ST.



WASHINGTON

ST.

Exhibit B.

MAP OF WATER LOTS

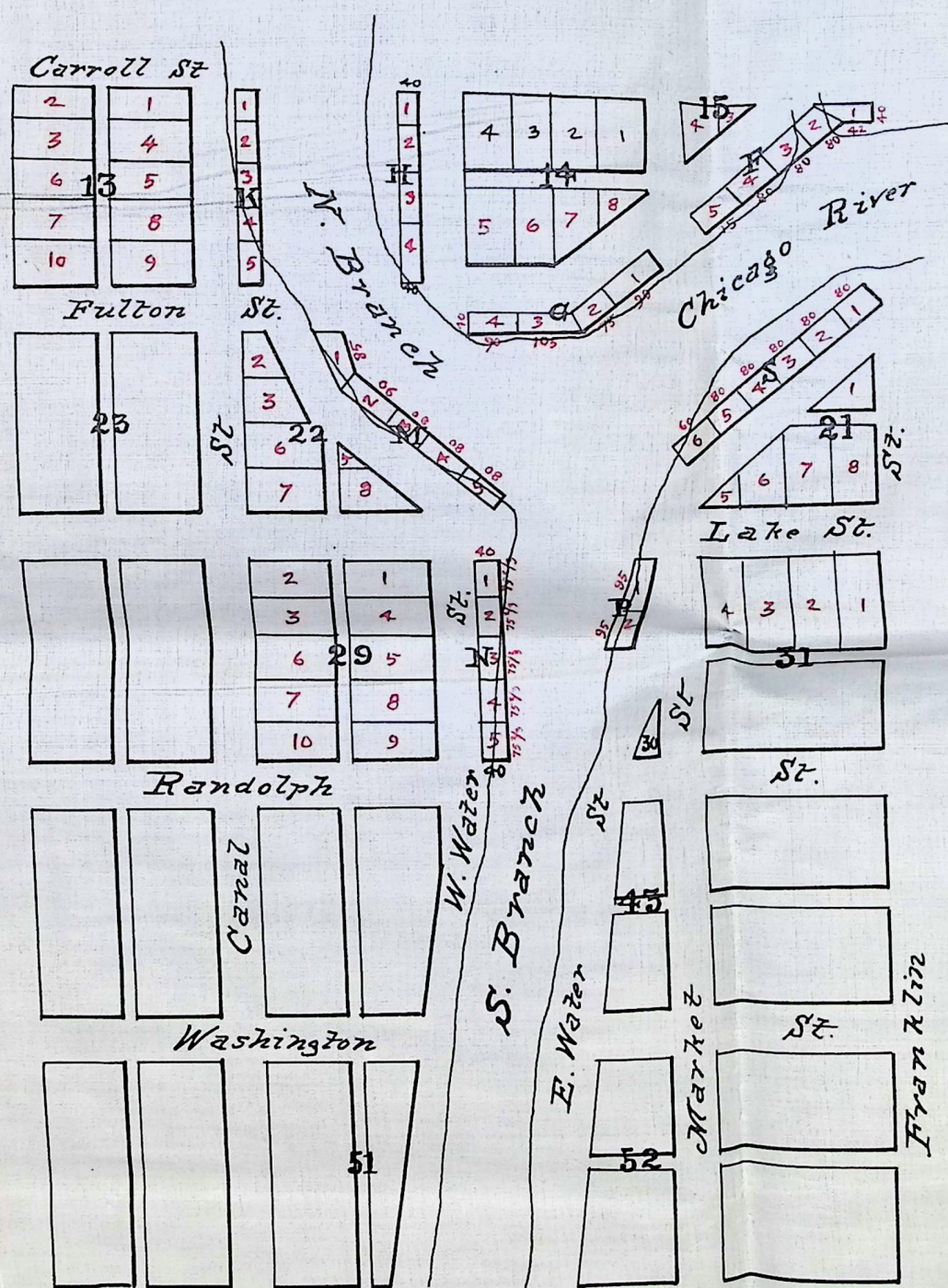


Exhibit C. BL'K 22 in the Original Town of Chicago.

Scale 40 feet = 1 inch

N.B. Black lines show the Block as laid out for Act of Council entitled "Proposition for disposing of Wharfing Privileges of W. Water St. adopted Jan'y 29. 1849.

Red lines are parts of the original Block 22 thereby vacated, found in Cook County Records

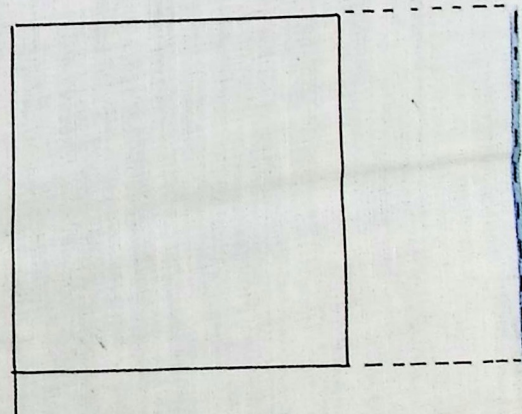
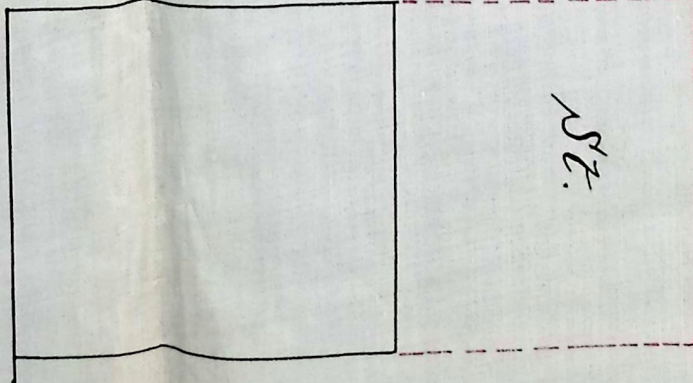
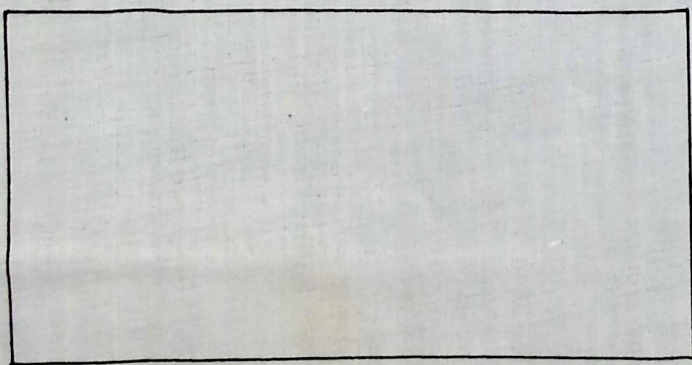
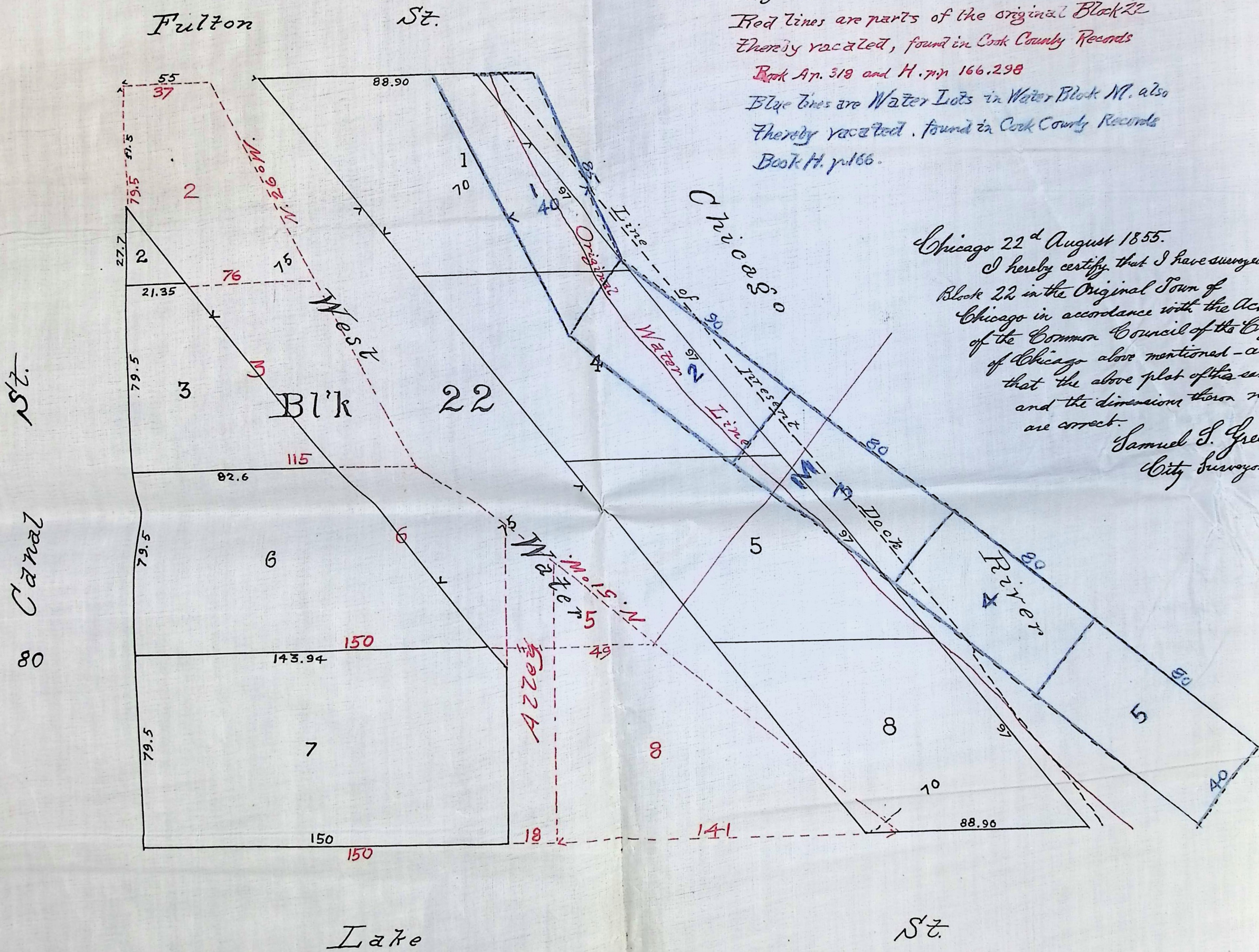
Book A. p. 318 and H. p. 166. 298

Blue lines are Water Lots in Water Block No. also thereby vacated, found in Cook County Records Book H. p. 166.

Chicago 22^d August 1855.

I hereby certify, that I have surveyed Block 22 in the Original Town of Chicago in accordance with the Act of the Common Council of the City of Chicago above mentioned - also that the above plot of this same and the dimensions thereon noted are correct.

Samuel S. Greeley
City Surveyor.



In the Supreme Court.

Sarah Elizabeth Tracy
et al. the widow & heirs
of Elisha W. Tracy deceased
vs

The city of Chicag. Endrick
Brouson Admrs of Arthur Brouson
deceased. Allert Robbins &
Thomas M. Avery

April Term 1860

Error to Cook
Circuit Court

And now come

the Plaintiffs in error by C. Beckwith
& W. J. Pinyop their attorneys & say
that in the record proceedings & decree
aforesaid there is manifest & material
error appearing of record in this that
the Court below rendered a decree
dismissing the said complaint
Bill of Complaint. Whereas the
decree should have been for the Affs in
error granting them such relief as
upon the case appears & proves they
are entitled to -

Wherefore they pray that the
said decree may be reversed &
they restored to

C Beckwith

W. J. Pinyop

And the said defendants say there
is no man in the said action, &c.

Scates McAllister & Jewett
of Counsel for Defts

Wm. E. Jewett
Attorney & Counselor

Filed April 24 1880
L. L. Jewett
Clerk

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, before the Honorable George M. Mearns Judge of the Seventh Judicial Circuit of the State of Illinois, and Sole Presiding Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof begun and held at the Court House in the City of Chicago, in said County, on the fourth Monday, (being the nineteenth day) of March in the year of our Lord one thousand eight hundred and Sixty and of the Independence of the said United States the Eighty-fourth

Present, Honorable George Mearns Judge of the 7th Judicial Circuit of the State of Illinois.

Charles Haven States Attorney.

John Gray Sheriff of Cook County.

Attest, Wm S. Church Clerk.

Be it Remembered that heretofore, to wit, on the 9th day of November in the year of our Lord one thousand eight hundred and fifty five. Elisha W. Tracy, by his Solicitors, filed in the office of the Clerk of said Court the certain Bill of Complaint, with Exhibits attached in the words and figures following, to wit:

Bill of Complaint.

STATE OF ILLINOIS, }
 COOK COUNTY, } SC.

To the Honorable GEORGE MANIERRE, Judge of the Seventh Judicial Circuit of said State, in Chancery Sitting, at and within the County aforesaid.

Humbly complaining sheweth unto your Honor, your orator, Elisha W. Tracy, a resident of the city of Chicago, in the county and state aforesaid, that on and prior to the 29th day of January, A. D. 1849, your orator was seized in his own demesne as of fee of a certain parcel of land in the city of Chicago, in the said County of Cook, known and designated on the original plat of said city, as lot numbered eight, (8), in block numbered twenty-two, (22), and was in the peaceable possession and enjoyment of the same, that he is still seized of said parcel of land, except so far as said seizin may be affected as to a part of said lot by the facts hereinafter mentioned, and is still seized thereof, subject to the easements hereinafter mentioned, and that his possession has ever since been according to his legal seizin. That the unknown devisees of Arthur Bronson, deceased, who died testate in the State of New York, were on the said 29th day of January, A. D. 1849, seized in their own demesne as of fee of a certain other parcel of land, known and designated as lot numbered five, (5), in block numbered twenty-two, (22), on the original plat of the now city of Chicago; that the said devisees are still seized of the said parcel of land, except so far as said seizin may be affected by the facts hereinafter mentioned, and that their possession has been co-extensive with their said seizin, ever since. That the said lots of your orator and of the devisees of the said Bronson adjoined upon and abutted each other. That both of said lots were on the said 29th day of January aforesaid, situate on the west side of the Chicago River, and bounded eastwardly by the west line of West Water street in the said city of Chicago. That the bounds and dimensions of your orator's said lot, according to the original plat aforesaid, were as follows: the south line of said lot was bounded by Lake street, and the length of said line was one hundred and forty-one, (141), feet, the east line of said lot was the west line of West Water street, and the length of said line was one hundred and twenty-one (121), feet, the north line of said lot was the south line of said lot number five, [5], belonging to the devisees of the said Bronson, and the length of the said line was forty-nine, (49), feet, and the west line of said lot number eight, [8], was the east line of an eighteen, (18), feet alley running from Lake to West Water street, and the length of the west line of said lot was seventy-six-and-a-half, ($76\frac{1}{2}$), feet. That the bounds and dimensions of the said lot number five, (5), according to the original plat aforesaid, were as follows, to wit: the said lot was of a triangular form; the Easterly line of said lot was the West line of West Water street, and the length of said line was sixty, (60), feet, the west line of said lot five, [5], was bounded by the alley aforesaid, and was of the length of feet, the south line of said lot five, [5], was the north line of said lot numbered eight, (8), and of the length of forty-nine, (49), feet, which said bounds and dimensions of the said lots numbered eight, (8), and five, (5), will more fully and at large appear by reference to a certified copy of the said original plat which is hereunto annexed as an exhibit marked (A), and which your orator makes part of this his bill, and craves leave to refer to the same upon the hearing of this cause for greater certainty. And your orator further shows unto your honor, that on the said 29th day of January, 1849, the city of Chicago, a municipal body corporate and politic, of this state, embracing within its limits the parcels of land aforesaid, and having full power by her charter to vacate old, and open new streets, for the convenience of the inhabitants of said city, being desirous of vacating the aforesaid West Water street, and laying out and establishing another highway in lieu thereof to be called and known as "West Water street," duly passed an ordinance, entitled a proposition, vacating said old, and establishing said new West Water street, on the conditions in said ordinance specified, which said ordinance was in the words and figures following, to wit:

"Proposition for disposing of the Wharfing Privileges on West Water Street.

1sr. The City will cause to be dredged to the depth of eleven feet below low water mark so much of the west bank of the South Branch of the Chicago River as lies east of a direct line drawn from a point one hundred and twenty-two and thirty-five one hundredths feet, (122 35-100), east of the south-west corner of lot 9, in block 51, in the Original Town of Chicago, to a point two hundred and thirty feet and and seventy one hundredths of a foot, (230 70-100), east of the north west corner of lot one, (1), in block forty-four, (44), in the said Original Town of Chicago, and thence north to a point two hundred and thirty feet and seventy one hundredths of a foot, (230 70-100), east from the north west corner of lot one (1) in block twenty-nine, (29) in said Original Town of Chicago, thence to a point two hundred and thirty-nine, (239), feet east of the southeast corner of lot seven, [7], in said block twenty-two, [22], thence to a point one hundred and forty-three feet and nine-tenths of a foot, [143 9-10], east of the northwest corner of lot two, [2], in said block twenty-two, [22], said east line to be so drawn that the same shall be seventy, [70], feet at right angles from the east line of the new street hereinafter mentioned, and is laid down upon the accompanying Diagram marked Diagram of proposed excavation on West Side.

2d. The city will lay out a new street, extending from Madison street to Fulton street, seventy-five, (75), feet in width, in such a manner that the east line of said new street shall commence on Madison street at a point eighty, (80), feet east of the southeast corner of lot ten, (10), in block fifty-one, (51), in said Original Town, and thence run in a direct line to a point one hundred and sixty feet and seventy one hundredths, (160 70-100), of a foot east of the northwest corner of lot one, (1), in block forty-four, [44], in said Original Town, thence north to a point in the south line of lot nine, [9], in block twenty nine, [29], one hundred and sixty feet and seventy one hundredths of a foot, [160 70-100], east of the southwest corner of said lot nine, [9], in block twenty nine, [29], thence north in a direct line to a point one hundred and sixty feet and seventy one hundredths of a foot, [160 70-100], east of the northwest corner of lot one, [1], in block twenty-nine, [29], thence northwesterly in a direct line to a point one hundred and fifty feet and one tenth of a foot, [150 1-10], east of the southeast corner of said lot seven, [7], in said block twenty-two, [22], thence northwesterly in a direct line to a point fifty-five, [55], feet east of the northwest corner of lot two, [2], in block twenty-two, [22], in said Original Town, and seventy, [70], feet, at right angles, distant from the water line first herein mentioned; including in said street, also, all of the land in block fifty-one, [51], west of the said east line, and between it and the west line of the alley dividing said block, and also including in said street all of that part of lot eight, [8], in block twenty-two, [22], which lies west of the said east line of said new street.

3d. The city will discontinue so much of West Water street as lies between the east line of said new street and the river, and will convey to the respective persons owning lots in said blocks the premises in front of their respective lots in exchange for the land taken for the new street, the owners of said lots paying or securing to the city in manner required in the proposition for the adjustment of the Wharfing Privileges on the south side of the Chicago River, sixty, [60], per cent. of the following sums, and securing in a manner to be approved by the Mayor of said city, the other forty, [40], per cent to be paid when required by said city to pay for the dredging aforesaid, to wit:

For Lot 9, in Block fifty-one, [51]	-----	\$1,000
" 8, " "	-----	1,000
" 5, " "	-----	900
" 4, " "	-----	800
" 1, " "	-----	600
" 2, " "	-----	400
" 3, " "	-----	600
" 6, " "	-----	600
" 7, " "	-----	600
" 10, " "	-----	250

For Lot 9, in Block forty-four, [44]	1,600
“ 8, “ “	1,600
“ 5, “ “	1,800
“ 4, “ “	2,000
“ 1, “ “	2,500
“ 9, “ twenty-nine[29]	2,250
“ 8, “ “	2,250
“ 5, “ “	2,250
“ 4, “ “	2,250
“ 1, “ “	2,500
“ 8, “ twenty-two[22]	600
“ 7, “ “	500
“ 5, “ “	1,000
“ 6, “ “	1,125
“ 3, “ “	1,200
“ 2, “ “	1,200 ”

And the Common Council of said city did on the fifth day of March, in the year one thousand eight hundred and forty-nine, so amend by ordinance said proposition that lot one, [1], in block forty-four, [44], should pay twenty-two hundred and fifty dollars, [\$2,250], and that lot one, [1], in block twenty-nine, [29], should pay twenty-two hundred and fifty [\$2,250] dollars. And afterwards, on or about April 30th, 1849, for the purpose of enabling said city to carry into effect said proposition, the said city passed an ordinance of which the following is a full and correct copy, to wit:

“AN ORDINANCE, vacating parts of West Water Street.

“Be it ordained by the Common Council of the City of Chicago:

SEC. 1st. That so much and such parts of West Water street as lie in front of blocks fifty-one, [51], forty-four, [44], twenty-nine, [29], and twenty-two, [22], in the Original Town of Chicago, and only such parts of said street as shall be mortgaged to the city of Chicago as hereinafter provided, or the owners of which or some other person or persons on their behalf shall cause to be paid or secured to the city in such manner as shall be approved by the Mayor or acting Mayor of said city, the amounts required to be secured to the city by mortgage or otherwise, or paid to said city as hereinafter provided, be and the same are hereby discontinued and vacated; *Provided*, that the new street extending from Madison street to Fulton street specified in the 2d Section of the proposition for disposing of the Wharfing Privileges on West Water street, contained in the report of the committee on Wharfing Privileges, concurred in by the Common Council January, 29th, 1849, shall be laid out and the damages occasioned thereby paid without charge or expense to said city, except the expense of laying out the street and of assessing and collecting said damages within such time as shall be determined by the Common Council. *And provided, further*, that all persons owning lands adjoining said West Water street shall consent in writing to the discontinuance of so much of said street as is hereby discontinued and vacated; or such assent shall be dispensed with by act of the Legislature of the State of Illinois.

SEC. 2d. Before the vacation and discontinuance of any part or portion of said street as herein contemplated shall take place, a mortgage of such parts or portions shall be executed to said City by the respective owners of the various parts or portions of land or town lots in said blocks which are opposite to or front on such parts or portions of said street as are proposed to be vacated, to secure the payment of sixty per centum of the sums set opposite the following lots respectively or in that proportion for any part or portion of a lot fronting said street, said mortgage to be drawn and executed in such form and manner as shall be approved by the Common Council or the Mayor or Acting Mayor, and to be deposited with the City Clerk of said City, within such time from the date hereof as shall be determined or required by the Common Council, and said mortgage to be so drawn as to contain in substance the provisions of the twelfth, [12], section of the proposition for settling Wharfing Privileges on South Water

street and East Water street, north of Randolph street, passed in Common Council, February 11, 1848, or said sixty per centum shall be otherwise secured or paid to said city in such manner as shall be approved by the Mayor or Acting Mayor of said city, to wit:

For Lot nine, [9], in Block fifty-one, [51],	-	-	-	-	-	-	-	-	1000
" eight 8,	"	"	-	-	-	-	-	-	1000
" five 5,	"	"	-	-	-	-	-	-	900
" four 4,	"	"	-	-	-	-	-	-	800
" one 1,	"	"	-	-	-	-	-	-	600
" two 2,	"	"	-	-	-	-	-	-	400
" three 3,	"	"	-	-	-	-	-	-	600
" six 6,	"	"	-	-	-	-	-	-	600
" seven 7,	"	"	-	-	-	-	-	-	600
" ten 10,	"	"	-	-	-	-	-	-	250
For Lot nine 9, in Block forty-four, [44],	-	-	-	-	-	-	-	-	1600
" eight 8,	"	"	-	-	-	-	-	-	1600
" five 5,	"	"	-	-	-	-	-	-	1800
" four 4,	"	"	-	-	-	-	-	-	2000
" one 1,	"	"	-	-	-	-	-	-	2250
For Lot nine 9, in Block twenty-nine[29],	-	-	-	-	-	-	-	-	2250
" eight 8,	"	"	-	-	-	-	-	-	2250
" five 5,	"	"	-	-	-	-	-	-	2250
" four 4,	"	"	-	-	-	-	-	-	2250
" one 1,	"	"	-	-	-	-	-	-	2250
For Lot eight 8, in Block twenty-two[22],	-	-	-	-	-	-	-	-	600
" seven 7,	"	"	-	-	-	-	-	-	500
" five 5,	"	"	-	-	-	-	-	-	1000
" six 6,	"	"	-	-	-	-	-	-	1125
" three 3,	"	"	-	-	-	-	-	-	1200
" two 2,	"	"	-	-	-	-	-	-	1200

And shall likewise pay or secure to said City in such a manner as shall be approved by the Mayor or Acting Mayor of said City, the remaining forty, [40], per centum of said sums set opposite the aforesaid lots respectively as aforesaid, to be paid when required by said city, for the purpose of dredging the West bank of the South Branch of the Chicago River, as specified in the first section of said proposition for disposing of the Wharfing Privileges on West Water street.

Sec. 3d. In case it should be judicially determined upon a bill to be filed under the Act entitled "An Act to adjust and settle the title to the Wharfing Privileges in Chicago, and for other purposes, approved February 27, 1847," that upon the discontinuance or vacation of said parts of said streets the fee of the land now contained in the same is in some other party or parties than the City of Chicago, or the said respective owners of the various portions of land or town lots aforesaid fronting the same, then this ordinance shall be null and void.

Sec. 4d. Ten feet next and adjoining the river of said wharves shall be and always remain an open wharf, upon the same conditions and restrictions as contained in the settlement of the Wharfing Privileges on the south side of the Chicago river"

And your orator further sheweth unto your Honor that the original West Water street alluded to in and vacated by said ordinances, abutted the lots of your orator and the devisees of the said Bronson on the east, as heretofore mentioned, and that the width, courses and distances of the new West Water street proposed to be laid out and established in and by said ordinance of January 29th, 1849, embraced the whole of said lot five, (5), and all of your orator's said lot eight, (8), except a very small piece of a triangular form lying east of the east line of said new street; in consideration of which appropriation the said

city in and by said last named ordinance proposed to discontinue such portions of said original West Water street as lay east of the east line of the proposed new street and west of the said South Branch of the Chicago river, and convey to the respective persons owning lots in said blocks described in said ordinance the premises in front of their respective lots, in exchange for the said land taken for the said new street, upon the condition that the said respective owners would pay or secure to the said city sixty per cent of the assessments mentioned in said ordinance, and secure the residue of the said assessments in such manner as should be approved by the Mayor, or pay the whole amount of the said assessment in money, and also give their assent in writing to the discontinuance of said original West Water street unless said assent should be dispensed with by the Legislature of the State of Illinois. And your orator further sheweth unto your Honor that six hundred dollars was assessed upon and against his said lot number eight, (8), under said ordinance; that he gave his written assent to the discontinuance of said original West Water street and the establishment of the said new street, and paid to the said city the whole of the said assessment and his share of the expenses of opening said street according to the terms of said ordinance; that all of the other owners in said ordinance mentioned gave their written assent to the discontinuance of said original West Water street and the establishment of said new street, and either paid or secured the whole of the assessments made by the said city under and by virtue of the said ordinance upon their lots respectively as specified in said ordinance, whereby your orator and the said other owners in said ordinance named became entitled to conveyances of the premises lying in front of their said original lots, and east of the east line of said new street, in fee simple absolute. And your orator further sheweth unto your Honor that the said new street was duly and regularly laid out and established as a public highway by the said city, and hath ever since been used as such. And your orator further sheweth unto your Honor that prior to the time when the change in the said West Water street was made by the said city of Chicago as aforesaid, and prior to the acquisition of title by your orator to the said lot eight, (8), and prior to the acquisition of title to said lot five, (5), by the said Arthur Bronson, the Trustees of the said town of Chicago caused to be surveyed, laid out and platted, water lots on the west side of the said river and abutting upon said river, which said survey and laying out will more fully and at large appear, reference being made to the map of said survey which is hereto annexed as an exhibit marked (B), and which your orator prays may be made a part of this his bill of complaint. And your orator hereto annexes a map, marked C, which exhibits the said new street with its proper lines, and the water line, or dock or wharf line, as provided for in said proposition or ordinance together with situations, boundaries, and lines of the lots and land mentioned in said proposition or ordinance, or affected thereby; to which map your orator refers, and prays that the same may be taken and considered as a part of this his bill of complaint. And your orator alleges in this connection that by virtue of the ordinance of the said city establishing said new highway, it was further ordained that the said Chicago river should be excavated and its courses changed as the said river stood at the time of the passage of said ordinance by making the said river parallel with the said newly established street, making the banks or dock line of the said river distant from the east line of said street seventy feet at right angles at every point between Lake street and Fulton street. And your orator further sheweth unto your Honor that the land in front of the said lot eight, [8], at the time of the passage of the said ordinance, and at the time of the location of said new West Water street was bounded on the north by a straight line running from the northeast corner of said lot eight, (8), as indicated on the said maps marked A and C, to the said Chicago river at right angles with the course of said river; and that the location of the said new West Water street affected the rights of your orator to said lot number eight, [8], as originally bounded, in no other manner than to subject your orator's said lot to the easement of the said re-located or new West Water street; and that such line is the legal and equitable northern boundary line of your orator according to the true intent and meaning of the said ordinance which pledged the faith of the said city of Chicago to convey to the respective owners of lots in said block number twenty-two, (22,) the premises in front of their respective lots.

That the boundary claimed by your Orator as running at right angles with the Chicago River is indicated upon the maps hereto attached and before referred to as exhibits A. & C. by red lines drawn at right angles with said River, according to its original course. And your Orator alleges that the said

City of Chicago place a different construction upon said ordinance, and have conveyed, in pursuance of their construction of said ordinance, to the said Arthur Bronson's devisees, a front on said river, as indicated by the black lines upon said map marked exhibit C., and have conveyed to said devisees all the land lying and being situate between the east line of said new street and the said wharf line or dock line, and between the said line claimed by your orator as his northern boundary line as aforesaid and a line ascertained by projecting and extending the north line of the original lot No. eight, [8], aforesaid to the said river; which said last mentioned land so lying and being situate, is owned by your orator, and he insists that he is entitled to a conveyance of the same from the said city, and prays that such conveyance to him may be ordered to be made. Said conveyance to said devisees included other land lying north of said northern boundary line, and creates a cloud upon the title of your orator to a portion of his said land.

And your orator alleges that the devisees of the said Arthur Bronson now claim a boundary upon said river according to the construction placed upon said ordinance by the said city as hereinbefore described. And your orator further alleges that your orator, having fully complied with the conditions of the said ordinance as hereinbefore stated, became and was entitled to, by virtue of the legal and equitable construction of said ordinance, a conveyance from the said city, as the owner of said original lot No. eight, [8], of all the land in front of said lot, between the east line of the said new West Water street and the said Chicago River, according to the course of the said River at the time of the passage of the said ordinance, and before the vacation contemplated thereby, and thereafter made in pursuance of said ordinance. And your orator further alleges that for the purpose of protecting his rights in the premises, he did, after the passage of said ordinance, and the location of the said new street, and after a compliance by your orator with all the conditions of the said ordinance, to wit, on the day of 18 , demand of the said city of Chicago the specific performance of the ordinance aforesaid, according to the construction which your orator then put and now puts upon the said ordinance; but the said city, disregarding the legal and equitable rights of your orator in the premises, absolutely refused to comply with your orator's request, and still doth refuse to do the same.

And your orator further alleges that the said property so claimed by your orator is of great value and in great demand for commercial uses, and that the same can be advantageously leased upon a ground rent, or improved and leased by your orator, if the boundaries be determined by this Honorable Court, in conformity with the terms of the said ordinance. And your orator further alleges that after the passage of the said ordinance your orator executed a mortgage upon said lot No. eight, [8], and the land in front thereof to one Allen Robbins, to secure the payment of a sum of money borrowed by your orator from the said Robbins, which said sum of money is still unpaid, and the said mortgage is an existing lien upon said premises. And your orator further alleges that by virtue of a lease from the devisees of said Bronson, one Thomas M. Avery is in possession of a portion of the land claimed by your orator, according to the true and proper construction of the above recited ordinance as hereinbefore stated, whereby a portion of the premises of your orator have become encumbered, and his title to said premises clouded. All of which actings and doings of the said city of Chicago, the said devisees of the said Arthur Bronson, and the said Thomas M. Avery, are contrary to equity and good conscience, and tend to the manifest wrong, injury and oppression of your orator in the premises.

To the end therefore, that the said city of Chicago, the said devisees of Arthur Bronson, the said Thomas M. Avery, and Allen Robbins, may be made parties defendants to this your orator's bill of complaint; your orator prays process in due form against the said several named defendants, and that upon the return day of the said process, the said above named defendants may true, direct, full, and perfect answer make to all and singular the allegations herein contained.

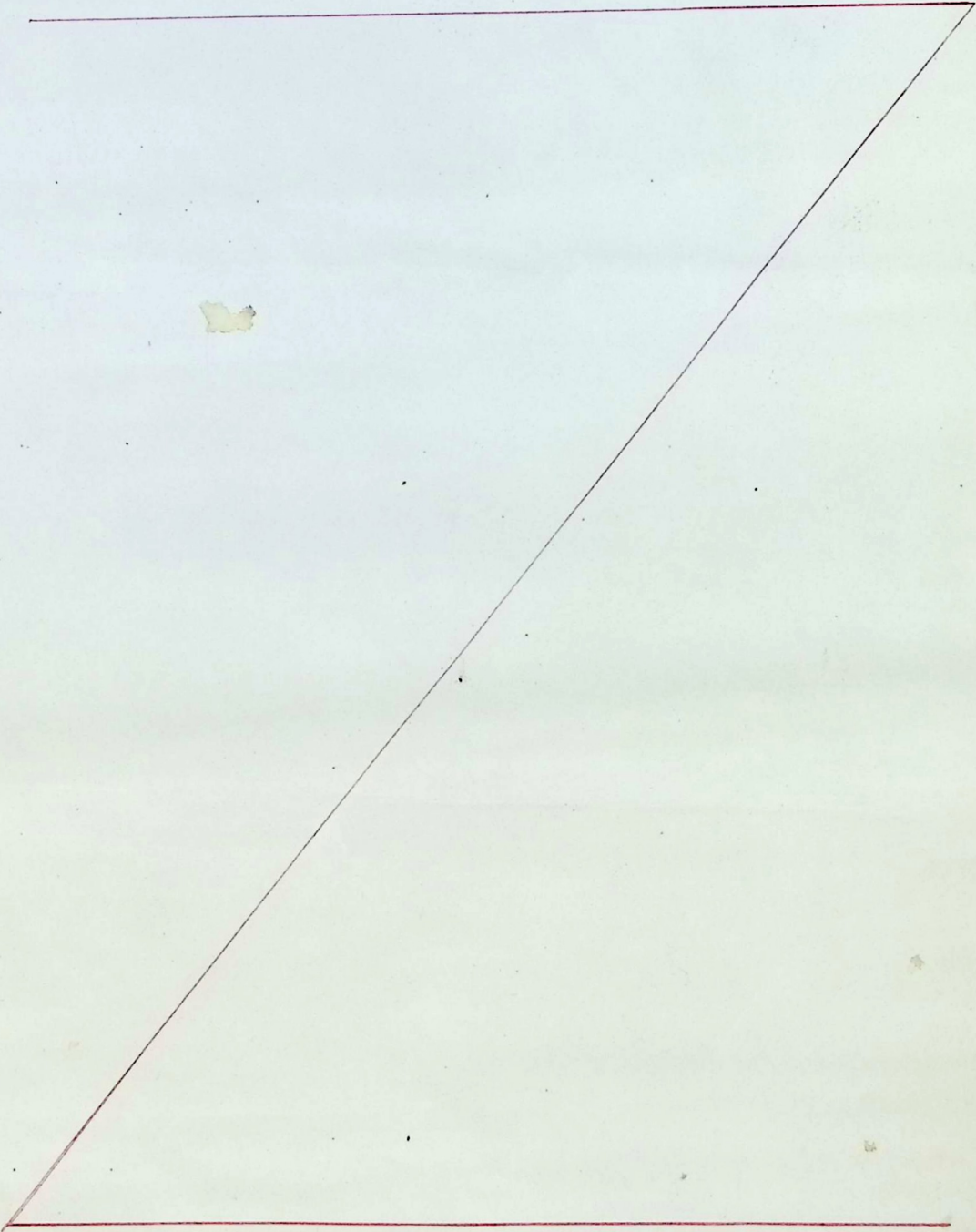
And your orator further prays that upon the final hearing of this cause the said city of Chicago may be compelled by the decree of this honorable Court to perform specifically the ordinance or contract aforesaid with your orator, by conveying to your orator the premises in front of your orator's said lot No. eight, [8], in the said block No. twenty-two, [22], in the said Original Town of Chicago; that the said devisees of the said Arthur Bronson, and the said Thomas M. Avery, their said lessee, may be perpetually enjoined from setting up title to or claiming the possession of any portion of the lot or land to

[7]

which your orator may be entitled under and by virtue of the ordinance aforesaid; that your orator may be put in possession of the said original lot eight, [8], (subject to the easement of said new street) and of the land in front of the said lot No. eight, [8], and between it and the said river, according to his boundaries under said ordinance; and that the said defendants may be decreed to execute and deliver to your orator such sufficient and proper deeds of release, as will fully and effectually release and discharge all right or title which they or either of them pretend to have to said premises, and in default thereof, that such conveyances may be made by a commissioner under the order of said court, that the said boundaries may be settled and established under a commission from this honorable Court; and that your orator may have such other and further relief in the premises as to equity and good conscience may seem meet, and your orator as in duty bound will ever pray, &c.

ELISHA W. TRACY.

GEORGE W. MEEKER, R. S. BLACKWELL & C. BECKWITH, Solicitors for Complainant.



PLAT

of part of Orig. Town of

CHICAGO.

Exhibit A.



Exhibit B.

MAP OF WATER LOTS

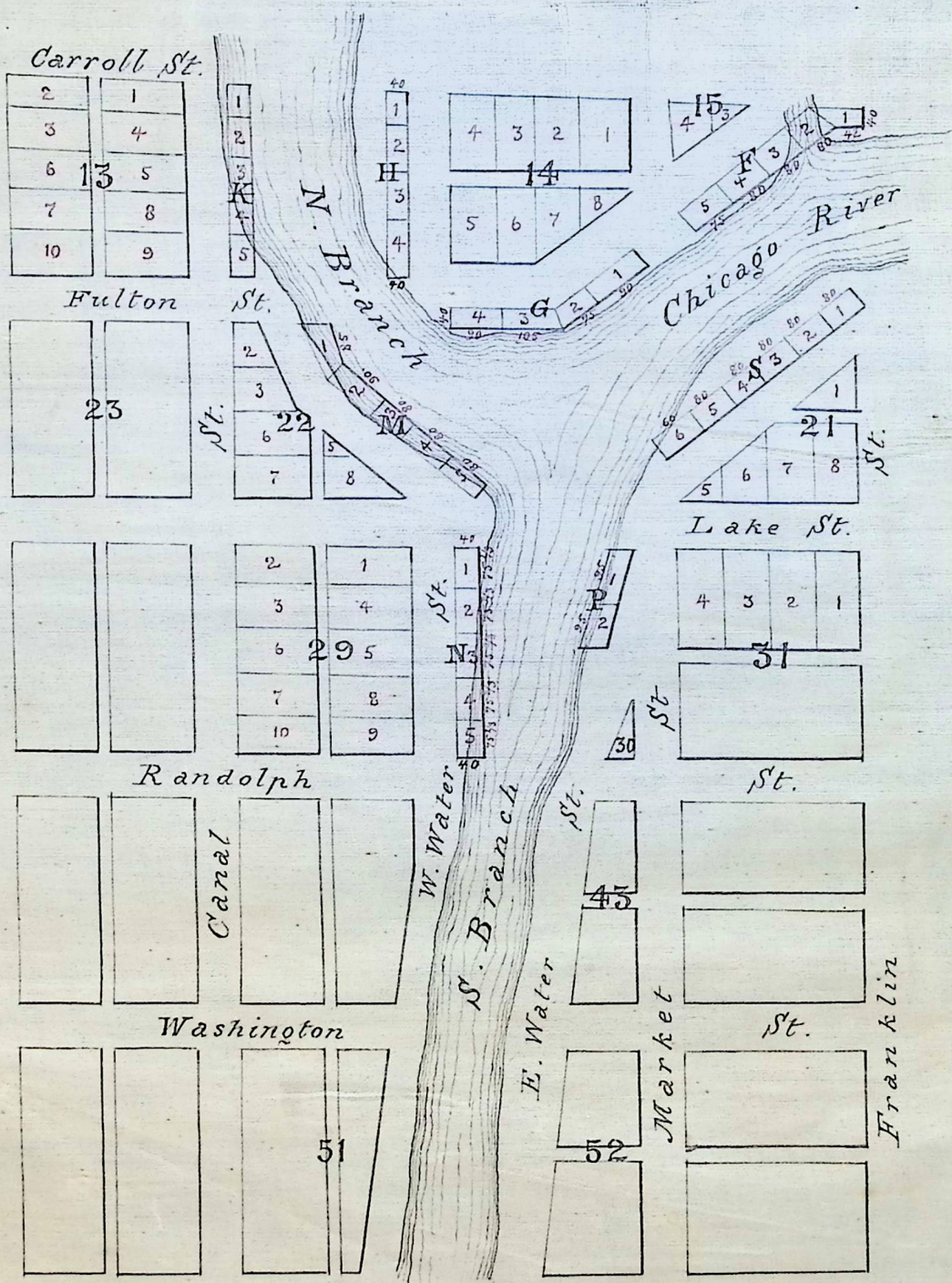


Exhibit C.

Scale 40 feet = 1 inch

*N. B. Black lines show the Block, as laid out by
Act of Council, entitled "Proposition for disposing
of Wharfing Privileges of W. Water St." adopted
Jany 29. 1849.*

Red lines are parts of the original Block 22
thereby vacated, found in Cook County Records

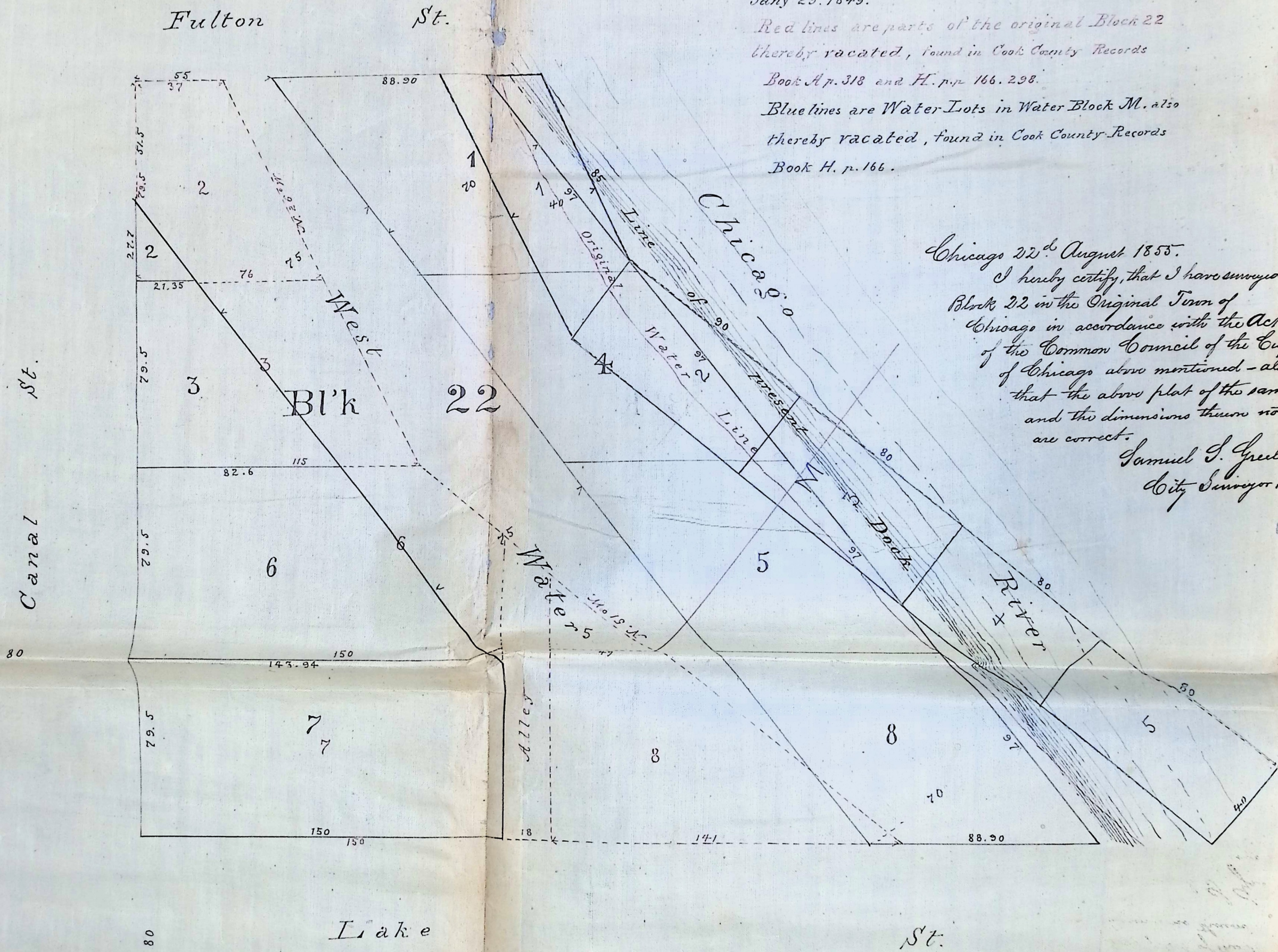
Book A p. 318 and H. p. p 166. 298.

*Bluelines are Water-Lots in Water Block M. also
thereby vacated, found in Cook County Records
Book H. p. 166.*

Chicago 22^d August 1855.

I hereby certify, that I have surveyed
Block 22 in the Original Town of
Chicago in accordance with the Act
of the Common Council of the City
of Chicago above mentioned - also
that the above plat of the same
and the dimensions thereon noted
are correct.

Samuel S. Greeley
City Sinner.



8
And thereupon on the same day and year, aforesaid, to wit,
November 9th 1855 there was issued out of the office of the Clerk
of the Court aforesaid, in said cause, the Peoples writ of Sum-
mons directed to the Sheriff of Cook County to execute and
clothed in the words and figures following, to wit,

Summons

State of Illinois }
County of Cook } ss.

The People of the State of Illinois, to the
Sheriff of said County, Greeting:

We command you that you summon The City of
Chicago, The Devises of Arthur Bronson, Thomas M.
Avery, & Allen Robbins if they shall be found in your County
personally to be and appear before the Circuit Court of Cook
County, on the first day of the next term thereof, to be holden
at the Court House, in Chicago, in said county, on the
Third Monday of November Inst. to answer unto Elisha
W. Tracy in his certain Bill of Complaint, filed in the said
Court, on the Chancery side thereof.

And have you then and there this writ, with an
endorsement thereon, in what manner you shall have ex-
ecuted the same.

Witness, Louis D. Hoard, Clerk of our said Court,
and the seal thereof, at Chicago aforesaid, this ninth
day of November A. D. 1855



L. D. Hoard
Clerk

2
9 And afterwards, to wit, on the same day and year last aforesaid, said writ was returned into the Court aforesaid by said Sheriff endorsed as follows, to wit,

Sheriff's Return

Served this writ on L. D. Boone Mayor of the City of Chicago and H. W. Zimmerman City Clerk of the City of Chicago by delivering a copy thereof to them the 9th day of November 1855. Fees: 2 services, 1.00. 2 copies, 1.00, 2 miles, 10. 1 return, 10 = \$2.20. James Anderson Sheriff, by F. S. Buckley Deputy

And afterwards, to wit, on the 15th day of July A.D. 1856 the said Complainant sent out of the Court aforesaid the People's certain writ of alias summons in the words & figures following, to wit,

Alias Summons.

State of Illinois } ss.
County of Cook }

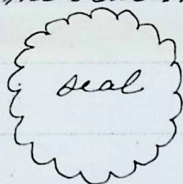
The People of the State of Illinois to the Coroner, acting Sheriff of said County, Greeting:

We command and have heretofore you that you summon The unknown heirs or Devisees of Arthur Bronson, Thomas M. Arvey and Allen Robbins Impleaded with the City of Chicago, if they shall be found in your county, personally to be and appear before the Circuit Court of Cook County on the first day of the next term thereof, to be holden at the Court House, in Chicago, in said county on the fourth Monday of October next, to answer unto Eliza W. Tracy in his certain Bill of Complaint filed in the

3.
10
said Court, on the Chancery side thereof.

And have you then and there this writ, with an endorsement thereon, in what manner you shall have executed the same.

Witness, Louis D. Hoard, Clerk of our said Court, and the seal thereof, at Chicago, aforesaid, this fifteenth day of



July A. D. 1856

L. D. Hoard Clerk

And afterwards, to wit, on the 19th day of July in the year last aforesaid said writ was returned into said Court endorsed as follows, to wit,

Sheriffs' Return.

Served this writ on the within named Thomas M. Avery & Allen Robbins by delivering a copy ^{through} to each of them the 19th day of July 1856. Fees: 2 service, 1.00, 2 copy, 1.00, 2 mile, 10. 1 return, 10 = \$2.20 P^y by Plffs' Atty. James S. Beas. Baronet & acting Sheriff by John H. Dart Deputy.

And afterwards, to wit, at the October term of said Court, to wit, on the 19th day of October A. D. 1856 the following proceedings, among others, in said Court were had and entered of record in said cause to wit:

Elisha W. Tracy

vs.

The City of Chicago, the
Devises of Arthur Bronson
Thomas W. Avery & Allen Robbins

} Bill

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This day comes the said Complainant by Blackwell Thomas & Roberts his Solicitors, and on their Motion Ordered that the said Complainant have leave to amend his bill filed herein and the said Complainant having now here filed his amended bill in this Cause: Whereupon comes J. J. Shannon one of the Attorneys of this Court and enters the appearance of Frederick Bronson, and the said defendants Thomas W. Avery and Allen Robbins and the City of Chicago having been duly, personally served with summons issued in this cause on Motion of said Complainant by his Solicitors, it is

Ordered that the said defendants plead, answer or demur to the said Complainant's amended bill filed in this Cause within thirty days.

And afterwards, to wit, on the same day and year last aforesaid said Complainant filed in said Court certain amendments to his said bill in the words & figures following, to wit,

Amendments to Bill.

Elisha W. Tracy	In the Cook Circuit Court
vs	In Chancery
The City of Chicago, The unknown	} Bill
Devises of Arthur Bronson, Thomas	
M. Avery & Allen Robbins	

Amendments to Bill

1st Amendment, on page

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12 Strike out the words "That the unknown devisees of Arthur Bronson, deceased, who died testate in the State of New York were on the said 29th day of January A. D. 1849 - seized in their own demesne

And insert in lieu thereof -

"That prior to said 29th day of January A. D. 1849, Arthur Bronson being seized in his own demesne as of fee in & to lot five in said Block hereinafter mentioned, departed this life in the State of New York a resident thereof at the time having duly made and published his last will and testament thereby constituting & appointing Frederic Bronson a defendant in this bill of Complainant, his executor & devising to him, among other lands, said lot five, with absolute power over the same, to sell & dispose of the same, and that the said Frederick Bronson as such executor & devisee under the said will of said Arthur Bronson was on the said 29th day of January A. D. 1849 seized in his own demesne."

2^d Amendment.

On page
follows, to wit.

insert as

And your Orator further shews unto your Honor that he did on the 16th day of September A. D. 1852 pay into the treasury of the City of Chicago the sum of six hundred dollars as & for the amount required to be paid by him under the said ordinance, as the owner of said Lot eight (8) in Block twenty two & took the receipt of the City Treasurer therefor, which receipt your Orator now holds ready to be produced as this Court shall direct.

3^d Amendment.

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Strike out the words "The said devisees of Arthur Bronson" wherever they occur in the bill & insert in lieu thereof "Frederick Bronson executor & devisee of Arthur Bronson deceased."

Farnsworth & Burgess

Sols. for Compl.

And afterwards, to wit, on the 4th day of March A. D. 1857 Frederick Bronson sole executor &c. & the City of Chicago, by their Solicitor filed in the Cause aforesaid, in said Cause, their joint & several answers, with Exhibits attached, in the words and figures following, to wit,

Answer of Bronson & City.

State of Illinois }
County of Cook } ss

Circuit Court of Cook County
In Chancery

The joint answer of Frederic Bronson sole qualified executor of Arthur Bronson, deceased, of the City of New York in the State and County of New York, and the City of Chicago, defendants in the bill of complaint of Elisha W. Tracy, Complainant.

These defendants reserving to themselves all just cause or ground of exception to said Complainant's bill of Complaint, for answer thereto, say, that they have been informed and admit that Elisha W. Tracy the Complainant was seized and possessed of the fee of Lot Eight (8) in Block twenty two (22) in the original Town of Chicago as charged in said Complainant's bill of Complaint and they cannot deny that he is still seized and poss

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ed of the same, except so far as the same may be affected by the facts hereinafter stated. They also admit that Arthur Bronson was seized and possessed of Lot five (5) in said Block and departed this life and made and published his last will and testament, thereby constituting and appointing Frederic Bronson, one of these defendants, his executor, and devising to him, among other lands, said lot five (5), with absolute power over the same as stated in said Complainants said bill of Complaint.

They also admit that the situation of said lots and the size thereof were substantially as charged in said Complainants said bill of complaint, and that the allegations of said Complainant in relation to the power and authority of said City of Chicago, and the acts of said City and the proposition and ordinance set out in said bill of complaint are substantially correct; and that the allegations of said bill in relation to said West Water Street and the new West Water Street and the laying out of the same are substantially correct. And these defendants further admit that the Trustees of the town of Chicago prior to the acquisition of title to said lot eight (8) by said Complainant and prior to the acquisition of title to said lot five (5) by the said Arthur Bronson caused to be surveyed, laid out and platted Water lots, which were called wharfing privileges, on the West side of the said river and abutting on the same as is alleged in said Complainants said bill of Complaint; but these defendants aver that said acts of said trustees were entirely unauthorized and illegal, and have never been recognized but expressly repudiated by the City of

Chicago and this defendant, and that the proceedings had by said City with said Complainant and this defendant Bronson, and said "Proposition and ordinance had no reference whater to said acts of the Trustees of the town of Chicago or the Water lots laid out by them.

These defendants expressly deny that the land in front of said lot eight (8) at the time of the passage of the said ordinance and at the time of the location of said new West Water Street, was bounded on the north by a straight line running from the North East corner of said lot eight (8) as indicated on maps marked A and B, annexed to said Complainant's said bill, to the said Chicago river at right angles with the course of said river.

And they deny that such line is the legal and equitable Northern boundary line of said Complainant according to the true intent and meaning of the said ordinance which pledged the faith of the said City of Chicago to convey to the respective owners of lots in said block number twenty two (22) the premises in front of their respective lots. On the contrary these defendants further answering aver that at the time of the passage of said Proposition and ordinance there was in possession of J. Young Scammon, who was the Solicitor employed by the City and others to adjust and settle the title to the Wharfing lots in Chicago, at his office in Chicago a map or plat of the premises, which is referred to in the first section of said Proposition as "Diagram marked Diagram of proposed excavation," and which was prepared by Asa F. Bradley, then City Surveyor of the City of Chicago, a substantial copy of which, so far as

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the same relates to these premises is hereto annexed marked "A," and made a part of this answer. That said Map was open to the inspection of all parties and was repeatedly examined by said Tracy previous to his accepting said proposition which he did in writing as will appear by the document, a copy of which is hereto annexed marked "B." and made a part of this answer, on or about the third day of February A. D. 1849 with a full understanding of the matter. That subsequently when urged by said City, to carry his acceptance into effect by executing the necessary papers, copies of which are hereto annexed marked "C," and made a part of this answer, said Complainant conceived the idea of claiming to run his lines as indicated by the red lines on the Map annexed to his bill, and hesitated to surrender possession of the land required for the new Street, until March 3rd 1852, when he wrote upon the agreement of acceptance of the Proposition for disposing of the wharfing privileges on West Water Street, under his own signature the words "fully satisfied March 3rd 1852 E.W. Tracy" as will appear by copy thereof, hereto annexed ^{marked} "D." & made a part of this answer. That said Map clearly shows that the land opposite to each lot was to be determined by extending the East and West lines from the East side of the new West Water Street to the river, in the same direction that they were laid down upon the Map of said Block; and that any other direction of said lines would be impossible under said Proposition, without changing the direction of the Streets and producing manifest injustice.

And these defendants further answering say, that in the settlement and adjusting the wharfing rights and privileges

17 by the City of Chicago, with the owners of the lots fronting the same. The opposite lots have, in all cases, been determined by extending the side or North and West lines of the lot, beyond the Street toward the river, and in every case the settlement has been made upon this basis.

These defendants admit that the City of Chicago construed said proposition and ordinance in accordance with the view here stated, and that said City has either conveyed or is prepared to convey in pursuance of such construction of said Proposition and ordinance, to this defendant, Frederic Bronson, coecutor as aforesaid, a front on said river, as indicated by the lines upon said Map marked "C." and have conveyed or are ready to convey to him, all the land lying between the East line of said new street and said dock line and North of a line ascertained by projecting and extending the North line of the original lot eight (8) aforesaid, to the said river (said Bronson being the owner of lots two (2) three (3) five (5) and six (6) being all the lots in said Block twenty two (22) except said lot eight (8) and South of Tullon Street, which includes the premises claimed by said Complainant in his said bill, North of said extension of the North line of said lot eight (8); but they expressly deny that any portion of said premises is owned by said Complainant, or that he has any right therein, or that said conveyance is any cloud upon his title.

These defendants admit that said Bronson claims a boundary upon said river according to the construction placed upon said Proposition and Ordinance by said City as is alleged in said bill.

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And these defendants admit that said Complainant has complied with the conditions of said ordinance and is entitled, upon his conveying to the City so much of said lot eight (8) as is contained in said new West Water Street, to a conveyance from the City of Chicago, as the owner of said original lot eight (8) of all the land in front of said lot between the East line of the said new West Water Street, and the dock line of Chicago river as described in said Proposition and Ordinance, and said City has offered to convey the same to him by just such conveyances as they have executed to other parties describing his lines in precisely the same manner, the lines of all the other lots were described, but they deny that he ever became, or was, or is entitled to any other conveyance from said City, than such as said City offered to give or make.

These defendants do not know and therefore cannot admit or deny the allegation in said Complainant's said bill of Complaint in relation to the alleged demand of and refusal by the City, as alleged in said Complainant's bill, but they admit that said City would not execute any other deed or conveyance to said Tracy than such as would convey to said Tracy the land opposite his lot, limited on the North and South, by an extension or protraction of the East and West lines of said lot beyond the East line of said new West Water Street to the dock line of the river, as laid down in said proposition and ordinance, and they aver that said Complainant is entitled to no other or different conveyance.

These defendants further answering, say that the allegation of said bill in relation to the mortgage to Allen Robbins and the lease to Thomas M. Avery and the value of

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said premises, they believe to be correct and admit the same except as far as they allege any rights or claim of said Complainant to the premises North of an extension of the North line of said lot eight (8) and East or parallel to the South line of said lot to the Chicago river.

And these defendants further answering deny that the course of the Chicago river in front of said Block twenty two (22) is essentially altered or changed by the new dock line established in said ordinance in front of said premises.

And they deny all combination and fraud, and pray to be hence dismissed with their costs in this case most unreasonably sustained.

Frederic Bronson

sole qualified executor of

Arthur Bronson deceased

Thos^d Dyer Mayor

H. W. Zimmerman (Clerk of the City
of Chicago

B.

The undersigned proprietors of lots on West Water or Canal Street in the original town of Chicago, do hereby assent to and accept of the proposition for disposing of the wharfing privileges on West Water Street passed by the Common Council of the City of Chicago January 29th 1849 and do hereby respectively, each for himself and not jointly, agree to comply with the same so far as relates to, or said proposition affects the premises set opposite our respective names.

Witness our hands Chicago February 3rd 1849

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	Part of lot	Lot	Area
signed, Payson and Robt		4	29
" Jacob Beidler	South half	8	29
" John Taylor	South half	5	29
" S. Peirce	North half	8	29
" John M. Underwood		3	44
	South half	4	44
" Solomon Taylor	North half	4	44
" F. Wadsworth			
by Wadsworth Dyer & Chapin	whole of	1	44
" E. W. Tracy		8	22
" Gates & Flege		23	51
" Luther Marsh		10	51
" Russel Greene	except N. 25 ft	7	51
" George Peterson	N. 25 ft.	7	51
do	S 2 ft.	6	51
" Isaac & James Pike	40 ft adj S 4 ft	6	51
" Thos. R. Armstrong by B. S. Morris			
his atty. in fact		1	51
" Geo. Davis	N. 40 ft	6	51
" F. Wadsworth by his attorney in fact			
E. S. Wadsworth		9	51

Ordered filed & filed March 13. 1849

D.

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The undersigned proprietors of Lots on West Water or Canal Street, in the Original Town of Chicago, do hereby assent to and accept of the proposition for disposing of the Wharfing Privileges on West Water Street passed by the Common Council of the City of Chicago January 29th 1849, and do hereby respectively, each for himself and not jointly agree to comply with the same so far as relates to, or said proposition affects the premises set opposite our respective names.

Witness our hands Chicago February 8th 1849

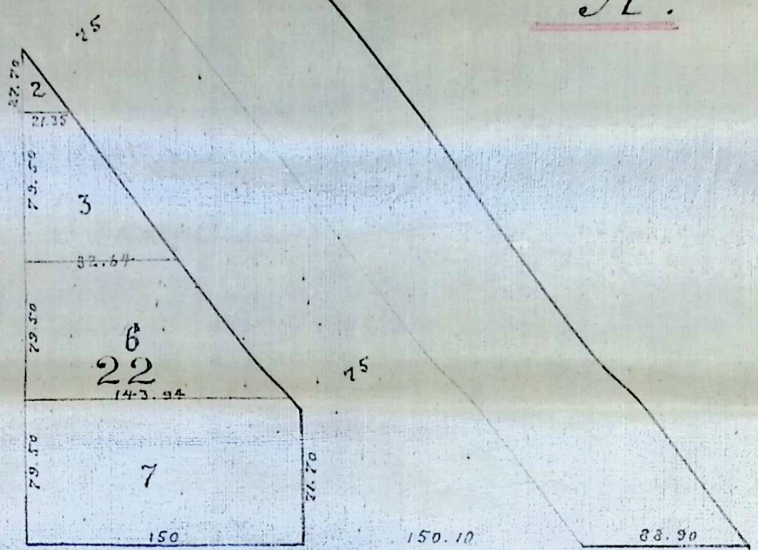
	Part of Lot	Lot	Block
Payson & Robb		4	29
Jacob Beidler	South 1/2	8	29
John Taylor	South 1/2	8	29
A. Peirce	North 1/2	8	29
		5	44
John M. Underwood	South 1/2	4	44
Solomon Taylor	North 1/2	4	44
T. Wadsworth			
by Wadsworth Dyer & Chapin		1	44
E. W. Tracy	fr Lot	8	22
fully satisfied March 3 rd 1852			
E. W. Tracy			

171 1/2

FULTON

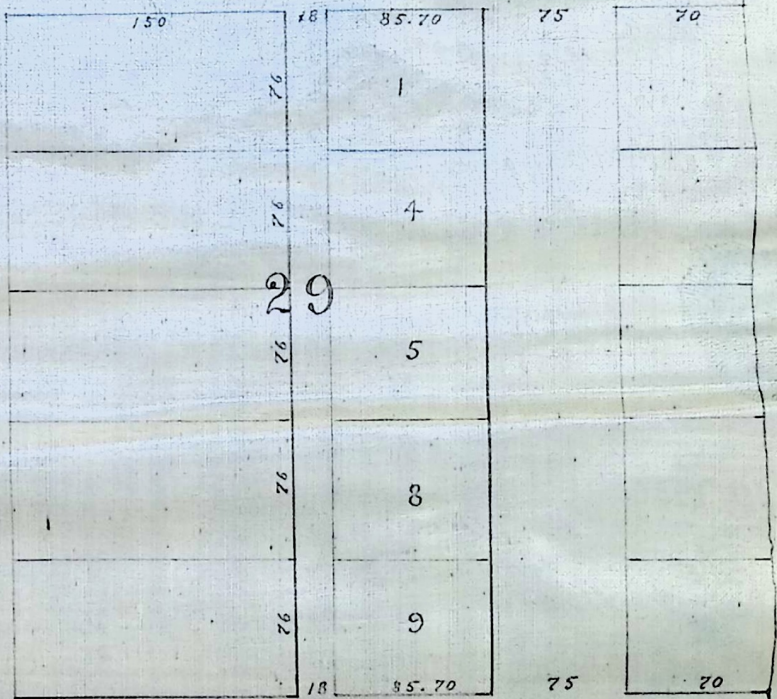
ST.

A.



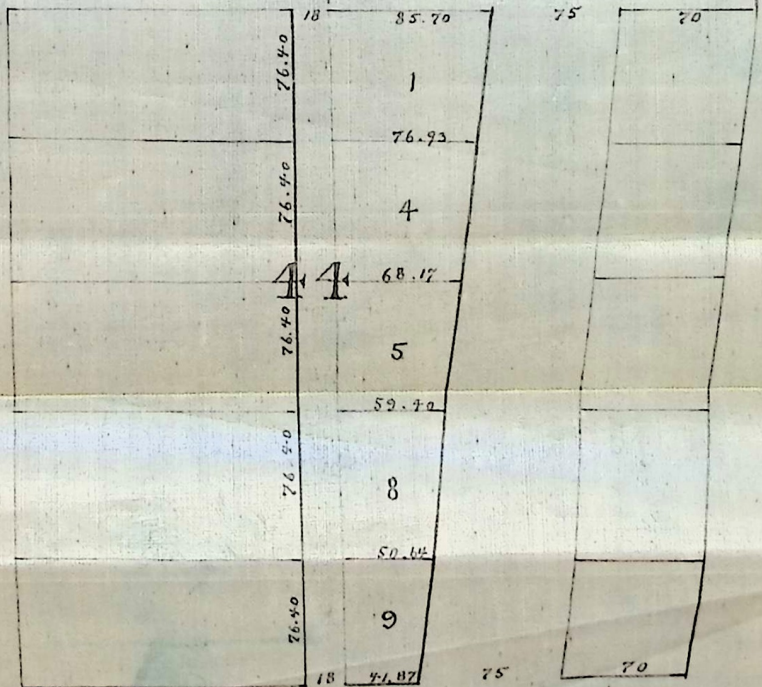
LAKE

ST.



RANDOLPH

ST.



WASHINGTON

ST.

And afterwards, to wit, on the 9th day of March A. D. 1858 the said Complainant, by his said Solicitors filed in said Court certain other amendments to his said bill of Complaint in this Cause in words and figures following to wit,
Further Amendments to Bill.

Elisha W. Tracy	}	In the Cook County Circuit Court
vs.		In Chancery
Frederick Bronson sole acting Executor of Arthur Bronson deceased. The City of Chicago		Bill

Further Amendments to the Bill of
 Complaint in this Cause.

Amendment to be inserted after the words
 on the first page of the original bill.

And your Orator further shows unto your Honor, that the said lot eight (8) in Block twenty two was laid out and sold by the Canal Commissioners as a water lot fronting on Chicago river including under it as appurtenant to it to that description the ownership of the land lying between it & the Chicago River fronting on said River subject to the easement of so much of such land as was covered by West Water Street with the right to permanently occupy and enjoy the land lying between it & the Chicago River fronting on the said

river as was not covered by said West Water Street as originally laid out. That said James Kierrie in purchasing said lot purchased it as such Water lot including in said purchase the ownership & right the permanent use of said land as aforesaid.

And your Orator further shows that when he purchased & acquired said lot & in Block 22 he understood that he acquired such rights therewith as appurtenant thereto and purchased with that understanding and that ever since your Orator obtained the title to said lot no right as before mentioned he has at all times exercised ownership thereon subject to such easement as have been established thereon from time to time up to the time when said Avery under the direction of said Bronson took possession of the part of the said river front now in this suit in controversy. And that ~~from~~ ^{and} after the fall or early winter of 1845 he occupied the said premises from Lake Street one hundred and sixty feet northerly & forty feet in width between the river as used by vessels & the line of West Water Street in person or by his tenants in person by substantial and valuable improvements thereon made and remaining there until long after the passage of said ordinances.

And your Orator further shows that he has always and under all circumstances since he acquired title to said lands claimed to hold a river front of & for the same extending northwardly as far as by said Map is marked with said red line; and has at various times exercised acts of ownership in the premises up to that line & that with the full knowledge of

the said Bronson ^{or} of his agents having charge of the other lots in said block owned by him

Beckwith & Burgess

Sols. for Compt.

Endorsed.

"May be filed by agreement March 9. 1858. Seates Sol. for def

And afterwards, to wit, on the same day & year last aforesaid, to wit, March 9th A. D. 1858 said defendants filed in the Court aforesaid certain amendments to their answer in said cause in words & figures following, to wit,

Amended Answer

F. Bronson & others
 ads
 E. W. Tracy }

And these defendants further answering deny that the Canal Commissioners sold his lot eight in Block twenty two as a Water lot fronting on Chicago river. And they deny that the said lot included under it as appurtenant, or in any other manner incident to or connected with it or its ownership, the land lying between it and the Chicago river and fronting on said river. They further deny that said Complainant held, occupied or owned said land in any way or manner whatever lying between said lot and the Chicago river subject to an easement for West Water Street, or any portion of said land not covered by said Street, but

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^{on}
~~are~~ the contrary thereof they allege & aver that the said lot (8) was bounded on the East by West Water Street, and said Complainant had and acquired by his purchase the fee only in said lot and an easement in common with all other residents in Chicago in the use of West Water Street, by reason of its dedication to the public use by the platting & recording of the plat by said Canal Commissioners, and these defendants further allege & aver that the fee of the land covered by said Street and between said Street & the river if any such land there was, remained in the City of Chicago & the State of Illinois, and did not pass by the conveyance of said lot by the State.

These respondents further answering deny that James Kinzie in purchasing said land, or the Canal Commissioners in selling said land, purchased or sold it as a Water lot including in the purchase and sale the ownership and right to the permanent use of said land between said Street & the river, if any such there was, but on the contrary thereof the Eastern boundary of said lot was definitely and absolutely fixed by West Water Street, and no understanding of the purchaser can make a conveyance thereof by the description of its number, operate beyond the fixed & known boundary as contained in the recorded plat of the said lot 8 in Block 22. And these respondents, not admitting that said Complainant purchased with such an understanding, but calling for proof thereof submits to this Honorable Court, whether said Complainant shall be received to allege such an understanding, or thereby to enlarge & extend the operation of his conveyance to include lands lying beyond

the boundary of said lot.

26 These respondents further answering deny that Complainant ever had, at any time, possession of any land lying front on the wharf, or ever at any time exercised acts of ownership over the same or ever made any improvements on said land lying on the Chicago river East of said West Water Street; they deny that said Complainant ever had possession or made improvements, or exercised acts of ownership over any such land subject to an easement of said West Water Street, or otherwise, except as he may have acquired and obtained possession of some part thereof under the arrangement to exchange said original lot eight, for the said wharfing lot eight under the propositions aforesaid and said ordinances.

Respondents do not admit that said Complainant claimed the said premises in dispute at all times, but they say that Complainant never made claim to said premises until about the time the City offered to convey said new wharf lot eight to him with its wharfing privileges & then for the first time Complainant set up a claim to extend the north line of the original lot eight at right angles to the river, thereby taking from respondent Bronson as owner of lot five, nearly or quite all the front and wharfing privileges of said lot five, contrary to justice and equity and good conscience, and in violation of the rights of said respondent Bronson under the agreement contained in said propositions & said ordinances.

Respondents admit that said Bronson entered into & took possession of said wharf lot five with the wharfage

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front as charged and leased the same to said Avery, and that said Avery has been ever since & still is in possession thereof under this respondent Bronson.

And having fully answered the amendments of said Complainant they pray to be dismissed hence with their reasonable costs.

Frederick Bronson

W.B. Seales of Counsel

Johnth Wentworth Mayor

Endorsed

"May be filed by agreement March 9, 1858

C. Beckwith Sol.
for Complth."

And afterwards, to wit, on the 11th day of October A. D. 1859, said Complainant, by his Solicitor, filed in said Court his certain Replication to the amended answer of the said defendant, in said cause in words & figures following, to wit,

Replication.

In the Cook County Circuit Court
In Chancery

Elisha W. Tracy

vs.

Frederick Bronson Esq

et al

The Replication of Elisha W. Tracy, Complainant to the amended answer of Frederick Bronson and the City of Chicago, defendants.

This Repliant saving and reserving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said amended answer, for replication thereunto, says that he will aver, maintain and prove his bill of Complaint to be ^{true,} certain and sufficient in the law to be answered unto; and that the said amended answer of the said defendants is uncertain, untrue and insufficient, to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said amended answer contained, material or effectual in the law to be replied unto, and ^{not} herein and hereby well and sufficiently replied unto, confessed and avoided, having or denied, is true: all which matters and things, this repliant is and will be ready to aver, maintain and prove, as this Honorable Court will direct and humbly prays as in and by his said bill he has already prayed

C. Beckwith

Sol^r for Complainant

And afterwards, to wit, at the November term of said Court, to wit, on the 23rd day of December A.D. 1857 the following proceedings among others in said Court were had and entered of record therein, to wit,

Elisha W. Tracy

vs

The City of Chicago, The Devises
of Arthur Benson, Thomas W.
Avery and Allen Robbins

Bill

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This Cause coming on this day to be heard upon bill of Complaint filed therein, answers, Replication, Exhibits and proofs adduced by the parties, And counsel having been heard as well on the part of the Complainant as of the Defendants and the Court not being sufficiently advised in the premises takes said Cause under advisement.

And afterwards, to wit, at the February Term of said Court, to wit, on the 16th day of March A.D. 1860 the following proceedings, among others, in said Court were had and entered of record there to wit,

Elisha W. Tracy

vs.

The City of Chicago, Fredrick
Bronson Executor & Devisee
of Arthur Bronson deceased
Allen Robbins & Thomas M. Avery

Bill

And now at this day comes William T. Burgess, solicitor for the Complainant and suggests to & gives the Court now here to understand & be informed that since the last term of this Court, the said Elisha W. Tracy Complainant in this suit hath departed this life intestate leaving Sarah Elizabeth Tracy his widow and no child or children or descendants of such, him surviving. And a sister Lucy H. Smith the wife of Albert Smith, and another sister Charlotte Isabella Eaton and Elisha Tracy, William

B. Tracy and Mary H. McDowell the wife of Conrad H. McDowell children of William S. Tracy deceased his brother and E. Winslow Williams & Elizabeth Huntington the wife of John Huntington children of Elizabeth D. Williams deceased another sister of said Complainant - & upon whom the descent the property in this suit hath been cast upon the decease of said Complainant.

And thereupon prays the Court that the said Sarah Elizabeth Tracy, Elisha Tracy, William R. Tracy, Mary H. McDowell & Conrad H. McDowell in her right - Lucy H. Smith & Albert Smith in her right, Charlotte Isabella Eaton, E. Winslow Williams & Elizabeth J. Huntington & John J. Huntington in her right be made parties Complainant to this suit, And the same be further prosecuted by them as Complainants herein. Which prayer is allowed and the said persons allowed to prosecute said suit.

W. J. Burgess
Soll

And afterwards, to wit, at the March Term of said Court, to wit, on the 24th day of March in the year last aforesaid, the following proceedings, among others, in said Court were had and entered of record in said Cause, to wit,

Sarah Elizabeth Tracy, Elisha Tracy,
William R. Tracy, Mary H. McDowell,
Conrad H. McDowell, Lucy H. Smith

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Albert Smith, Charlotte Isabella Eaton,
 E. Winslow Williams, Elizabeth T. Huntington
 and John T. Huntington, heirs and legal
 Representatives of Elisha W. Tracy deceased

vs

The City of Chicago, Frederick Bronson
 Executor and Devisee of Arthur Bronson
 dec^d Allen Robbins & Thomas M. Avery

Bill

And now again on
 this day come the said parties by their Solicitors; and it
 agreed by and between the said parties now here in open
 Court that a pro-forma Decree may be entered by this
 Court in said Cause without and examination of the
 merits thereof saving to either party the right to appeal or
 prosecute a writ of error.

Thereupon it is ordered and adjudged by the
 Court that the Complainant's bill of Complaint filed
 in said cause be dismissed out of this Court at the
 Costs of the Complainant to be taxed, and the same
 hereby is dismissed accordingly.

And afterwards, to wit, on the same day &
 year last aforesaid, there was filed in said
 Cause the Judge's certificate of the evidence
 produced at the hearing of said cause, in
 the words and figures following, to wit,

Certificate of Evidence.

Elisha Tracy et al

vs

The City of Chicago et al. Bill

In the Cook County Circuit Court

In Chancery, of March Term A.D. 1860

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Be it remembered that on the trial of this cause the Complainant introduced and read in evidence the maps attached to the bill of Complaint, also the depositions of Witnesses taken before J. W. Magill Notary Public & filed Oct. 13. 1859. Also the receipt of the City Treasurer of which a copy is hereto attached.

It was concluded that the said Elisha W. Tracy at the passage of the ordinance mentioned in this bill, was the owner in fee of lot eight in Block twenty two original town of Chicago mentioned in the bill by various mesne conveyances from the original patentee thereof.

Which was all the evidence on part of Complainant.

The defendants introduced and read in evidence the deed from the City to Bronson of which a copy marked B, is hereto annexed.

Which was all the evidence in the cause.

And the Court, to facilitate the final disposition of the Cause enters a pro-forma decree in favor of defendants, dismissing the bill of Complaint at Complainant's costs, and certifies now here in open Court this 24th day of March the above to be a true statement of the evidence used at the hearing of this cause.

George Manierre (seal)
Judge of 7th Judicial
Circuit, Ills

Exhibit 'A' attached to Certificate of Evidence.

Chicago Sept^r 16th 1852

Sir:

I hereby tender the accompanying six hundred dollars as in payment of the amount required to be paid by the owner or owners of Lot number eight in Block number twenty two in the original town of Chicago to the City of Chicago under and by virtue of an ordinance passed by the Common Council of Chicago, January 29th 1849, entitled Proposition for disposing of the Wharfing Privileges on West Water Street and a subsequent ordinance of said City - Entitled an ordinance vacating parts of West Water Street being the amount assessed on said Lot for the vacation, alteration and improvement contemplated in said ordinance.

Elisha W. Tracy

To Mr. Edward Manierre

Treasurer of the City of Chicago

Rec^d from Elisha W. Tracy six hundred Dollars in payment as above mentioned.
Chicago Sept^r 16th 1852. E. Manierre Treas^r

Depositions referred to in Certificate of Evidence.

The Depositions of John H. Kinzie, Gordon S. Hubbard and John Lollitt of the City of Chicago in the County of Cook and State of Illinois witnesses

of lawful age, produced, sworn and examined upon the corporal oaths, on the fifteenth day of April in the year one thousand eight hundred and fifty eight, at the office of John W. Magill a Notary Public in and for said City of Chicago, by the consent of the Solicitors of the respective parties, before me the said Notary, appointed as aforesaid to examine the said John H. Kinzie, Gurdon S. Hubbard and John Lallitt witnesses in a certain suit and matter in controversy, now pending and undetermined in the Circuit Court of Cook County on the Chancery side thereof, wherein E. W. Tracy is Complainant and Frederick Bronson Executor of Arthur Bronson deceased and the City of Chicago in behalf of the said Complainant.

The said John H. Kinzie being first duly sworn as a witness in the said cause, previous to the commencement of his examination, to testify the truth as well on the part of the Complainant as on that of the defendants in relation to the matters in controversy between the said Complainant and defendants, so far as he should be interrogated thereto, testified and deposed as follows—

Interrogatory First—

State your name, age, occupation and residence.
Answer to first Interrogatory.

My name is John H. Kinzie, I am fifty four years of age, I am an Insurance Agent, I reside in Chicago.

2 Interrogatory Second

(Do you know the parties to the suit in the caption to this deposition named?)

Answer,

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I do, save Thomas M. Arny.

3 Interrogatory Third.

How long have you resided in the City of Chicago?

Answer

The most of my life time.

4 Interrogatory Fourth.

Were you in Chicago during the sale of lands ^{lots} on the Banks of the Chicago River and its Branches, in what is commonly known as the original Town of Chicago, made by the Canal Commissioners in or about the year 1830?

Answer,

I was not.

5 Interrogatory Fifth.

How soon after that were you in the City?

Answer,

About a month afterwards.

6 Interrogatory Sixth.

Did you purchase or procure any lands to be purchased for yourself at that sale, lying on the Banks of the Chicago River or its Branches, or adjacent to the same, in the original Town of Chicago? If yes, state the same.

Answer,

I had an agent who purchased several lots for me at that sale, they were situated on the Bank of the River in the original Town, Lot two in Block two.

(Defendants' Solicitor here enters his objections

to the question and to the witness' answer thereto.

36 / Interrogatory Seventh

What did you understand or learn on your return as to the representations that had been made by the Commissioners while selling lots on what are called the North and South and West Water Streets, as to the extent and character of the rights of the persons purchasing lots on those Streets, fronting toward the River or its Branches.

Defendants' Solicitor here enters his objection to the question.

Answer

On my return I did not hear any particulars with regard to what had been said or done by the Commissioners. What I heard was after that visit.

8 / Interrogatory Eighth.

(Did you hear the representations made by the Canal Commissioners at the time of the said sale, touching the rights that would be acquired by purchasers at said sale of lots on the then North, South and West Water Streets of Chicago? If not, when and from whom and what did you, at any time afterwards, hear on that subject? State fully.

Defendants' Solicitor here enters his objections to the question.

Answer.

I did not hear anything from the Canal Commissioners; and what I did hear some three or four years afterwards was from common report of those who

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were present at the sale, that the lots fronting on the river were sold as water lots.

(Defendants' Solicitor here enters his objections to the witness' answer.

9 Interrogatory Ninth.

What do you mean by lots fronting on the River?

Answer.

I mean those fronting on South, North and West Water Streets.

(Direct Examination closed
Cross Examined.

Cross Interrogatory First.

Was not the sale of the lots referred to in your answers, made according to a plat made and recorded by the Canal Commissioners, and surveyed accordingly?

Answer.

I believe it was.

Cross Examination closed.

Subscribed and sworn to

before me this 15th day of
April A. D. 1858

Jno. H. Keiser

Jno. W. Magill Notary

Interrogatories propounded to the said Gordon S. Hubbard, a witness produced and sworn as aforesaid, on the part of the said Complainant, and his answers thereto, as follows,

1 Interrogatory First.

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State your name, age, occupation and residence and how long you have so resided.

Answer,

My name is Gordon S. Hubbard, I am fifty six years of age, I am in general business, Produce, Insurance & Navigation. I reside in Chicago. I have resided in Chicago permanently since 1834.

2 Interrogatory Second.

(Do you know the parties to the suit in the Caption to this Deposition named.

I know all the parties I believe save Mr. Avery.

3 Interrogatory Third

Were you in Chicago during the sale of lands and lots on the Banks of the Chicago River and its Branches in what is commonly known as the original Town of Chicago, made by the Canal Commissioners in or about the year 1830

Answer,

I was here at the time of the sale. I was not at the sale, I was sick in bed at the time.

4 Interrogatory Fourth.

Did you hear any representations or statements made by the Canal Commissioners at or prior to said sale touching the rights that would be acquired by purchasers at said sale of lots on the then North, South and West Water Streets in Chicago? If so, state when and what you heard.

(Defendant's Solicitor here enters his objections

to above question.

Answer.

I had several conversations with the Canal Commissioners prior to said sale, on the evening after the sale, on the day of sale and subsequent to that evening and during their stay here I heard them explain to others. Their statements were that they sold the lots fronting ~~all~~ ^{on} those three streets, South, West and North Water Streets as water lots, that the purchasers of the same would be entitled to all the benefits of the water fronts, on the margin of the river for the construction of wharves and other commercial purposes, that they reserved no rights except for common thoroughfares, as streets, their object in laying out the Street ^{from the} front to the river was to keep an open space so as to give free circulation as they thought Chicago would be a very unhealthy place from its being so swampy, and for that reason they had rejected the almost unanimous petition of the citizens of Chicago to lay out Water lots as they are now laid out, making it a levee as in St. Louis, between the lots and the river. They said that the parties purchasing would have the right to make wharves but not the right to erect buildings. I purchased two water lots at that sale on South Water Street with that understanding, on one of which I erected a Brick ware-house and a wharf on the margin of the river.

5 Interrogatory Fifth.

(Describe the lots that you then purchased at

That sale

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Answer.

Lots one and two in Block nineteen Original Town of Chicago. I purchased those lots through Major Foul who was commanding officer at the time, he acted as my agent in the matter.

(Defendants' Solicitor objects to the answer to Interrogatory Four and here enters his objection to answer to Interrogatory number Five

6 Interrogatory Sixth.

Referring to ^{the} Interrogatory and your answer numbered Four, state whether or not you know of any notorious understanding among the persons attending that sale in the premises antecedent to the sale? and if so, state what it was.

(Defendants' Solicitor here enters his objections to above Interrogatory.

Answer.

That was the almost universal understanding among the persons purchasing lots and among the citizens at the time of sale and antecedent thereto.

7 Interrogatory Seventh.

State to what extent the statements you have alluded to above were known to and acted upon by the persons attending that sale

(Defendants' Solicitor objects to answer to question number six and also to question number seven.

Answer

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I can't state to what extent it was generally known, as I stated before to all ^{the} persons attending the sale. Several of the purchasers built wharves prior to and at the time I built mine and about the time.

(Direct Examination closed.)

Cross Examined,

X1 Cross Interrogatory First

Was not the sale of the lots referred to in your answers on your Direct Examination made according to a plat made and recorded by the Canal Commissioners and conveyed accordingly?

Answer

Yes.

G. S. Hubbard

Subscribed and sworn to

before me this 15th day of April A. D. 1858

Jno. W. Magill Notary.

Interrogatories propounded to the said John Tollitt, a witness produced and sworn as aforesaid, on the part of said Complainant, and his answers thereto, as follows

Interrogatory First.

State your name, age, residence and occupation, and how long you have so resided.

Answer,

My name is John Tollitt, I am forty four years of age, I am a builder by occupation, I reside

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in Chicago and I have ~~at~~ resided for twenty years come next month.

2 Interrogatory Second.

Do you know the parties to the suit mentioned in the Caption to this deposition?

Answer.

I know Robbins and Tracy personally & the City of Chicago. I do not know the other parties.

3 Interrogatory Third

Did you know Abel Peck during the year 1845?

Answer.

I did.

4 Interrogatory Fourth

Are you acquainted with his hand writing and what are your means of knowing the same?

Answer.

I am acquainted with his hand writing. I worked for him in the years 1836 and 1837 and had frequent opportunities of seeing him write, after that we were in partnership together and he kept the books.

5 Interrogatory Fifth

Look at the paper writing now produced and shown to you in two sheets and marked Exhibit Number one, and state if you know in whose hand writing the signatures to the same, are.

Defendants' Solicitor here enters his objection to the Question.

Answer.

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I have no doubt that one of them is Mr. Peck's. I don't know about Tracy's.

Answer of Witness objected to by Defendants' Solicitor

6 Interrogatory Sixth.

Look at the paper writing now shown you marked Exhibit number two and state if you know ⁱⁿ whose hands writing the signatures to the same are.

(Defendants' Solicitor here enters his objections to the question)

Answer

One of them, the upper one is Peck's I should judge and the pencil writing is his too, in the body of the instrument.

7 Interrogatory Seventh.

Do you know anything of the building of a warehouse on the West Margin of the Chicago River North of Lake Street in the City of Chicago?

Answer.

I know there was a wooden building there, but I don't know that I can recollect when it was built there. I did not work for Peck at that time, I think it was erected some time in 1844 or 1845, I can't tell exactly. I was in Canada in the winter of 1844 and returned back here in the summer. It stood on piles on the water side, but whether it stood on ground or over the water, on the West side, I can't tell. There was a kind of a narrow pathway or wharf or narrow dock in front of it and between it and the

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river. I should guess the building to be 30 or 40 feet wide, it was a long building, I don't know its exact length but I should judge from 90 to 120 feet, it was long and low. I only speak from general recollection of the building. I saw it almost every day.

8 Interrogatory Eighth.

Do you know by whom the building was erected?

Answer.

I don't know for certain; I have seen Peck's men to work on it. I have heard Peck speak about it. I could not swear positively that Peck did build it, but I have every reason to believe he did. It appears to me that I have seen him working about the place, and I think Underwood had something to do with it, after it was built.

9 Interrogatory Ninth.

Do you know for whom the building was erected?

Answer.

Well, I have the same recollection of that as above, that it seems to me that I have heard Peck say it was built for E. W. Tracy.

10 Interrogatory Tenth.

Who, at the time, claimed to own the building?

Answer.

I expect the building was built for Tracy and that he owned it.

11 Interrogatory Eleventh.

Examine the contract and specifications produced in evidence and state how the said building

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corresponded with the building provided to be built by said contract and specification?

Answer,

Well, I didn't think the wharf was so wide but it might be for all that, the specification looks as though it might correspond with the building that was built there

Defendant here enters his objection to the last question above and the answer thereto.

12 Interrogatory Twelfth.

How, in reference to Lake Street, was said building situated?

Answer,

On the North side of the Street and about the line of Lake Street, that is the corner of it. The building was square at the ends and left an angular space between its South corner and the line of Lake Street, and it sided with the river on the side and the West corner of it was the furthest South.

Direct Examination closed
Cross Examined

Waived.

Subscribed and sworn to
before me this 15th day of April
A. D. 1858

John Sollitt
Jno. W. Magill Notary

The further taking testimony in this cause is adjourned from day to day on account of the absence of witnesses from the City, by agreement of the Solicitor for the respective parties. Dated at Chicago April 15th 1858

Jno. W. Magill Notary.

State of Illinois }
Cook County }^{ss.}

I John W. Magill a Notary Public in and for the City of Chicago in the County of Cook and State of Illinois duly appointed to take the depositions of the said John H. Kinrie, Gurdon S. Hubbard and John Sollitt, do hereby certify that previous to the commencement of the examination of the said John H. Kinrie, Gurdon S. Hubbard, and John Sollitt as witnesses in the said suit between the said E. W. Tracy Complainant and the said Frederick Bronson Executor of Arthur Bronson deceased, and the City of Chicago, defendants, they were severally duly sworn by me, as such Notary, to testify the truth in relation to the matters in controversy between the said Complainant E. W. Tracy and the said Frederick Bronson Executor of Arthur Bronson deceased, and the City of Chicago defendants, so far as he should be interrogated concerning the same; that the said depositions were taken at my office, in the City of Chicago, in the County of Cook and State of Illinois, on the fifteenth day of April anno

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Domini one thousand eight hundred and fifty eight, and that after said depositions were taken by me as aforesaid the interrogatories and answers thereto as written down were read over to the said witnesses and that thereupon the same were signed and sworn to by the said several deponents, at the place and on the day and year last aforesaid, Messrs. Burgess & Beckwith appearing for the said Complainant and Seales & McAllister for the said defendants. I further certify that the paper attached hereto marked Exhibit number one is the identical paper referred to by the witness John Salter in his examination. In testimony whereof I have on this 12th day of October one thousand eight hundred and fifty nine hereunto set my hand and official seal



Fees paid

J. W. Magill
Not. Pub.

Exhibit No 1. attached to Depositions.

At the day and place hereinafter mentioned this agreement entered into and consummated between Abel Peck of the first part and E. W. Tracy of the second part witness eth, that the s^d party of the first part, for the consideration hereinafter to be more particularly mentioned and set forth to him, moving from the s^d party of the second part, ^{herely} agrees to build for the s^d party of the second part a ware house and wharf upon and in front of lots number four (4) and number five (5) in Block M of the water lots in the town of

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Chicago as laid out by the Trustees of ~~the~~ town, as appears of record, ~~and~~ lots being across Water Street Easterly from ~~the~~ Tracy's lot Number eight (8) in Block Number twenty two (22) in the original town of Chicago, said warehouse to be forty (40) feet wide and one hundred and sixty feet (160 ft.) long, to be finished in a good and substantial manner, and built well and tight and secure and suitable to contain wheat against all weather to be a good wharf in front of the same, one hundred feet long and ten feet wide and ~~the~~ warehouse and wharf to be supported securely on piles, all materials of every description whatever and all labor and work of any kind necessary to complete the wharf ~~building~~ according to the intendment of these presents to be furnished & performed by said party of the first part, and the said work to be performed by ~~the~~ party of the first part, more particularly according to a certain specification and memorandum, this to be left and entrusted by said parties to J. M. Underwood whenever the terms of ~~the~~ memorandum shall not contravene the meaning and intendment of these presents, and the whole of said work to be completed on or before the Eighteenth day of December next, all the workmen being constantly employed upon said work who can work at the same to advantage at a time.

Provided however, that if in the opinion and judgment of said Underwood, the weather is uncommonly severe and that on that account ten weeks delay or less is unavoidable in the completion of the same, then the time for such completion shall be considered as

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postponed and extended to the extent of so long a time as the said Landerwood shall so deem it necessary to postpone & delay the same.

And in consideration of said work so agreed to be done and performed & of the building & wharf so agreed to be built by the said party of the first part, the said party of the second part agrees to pay the said party of the first part the sum of Eighteen hundred dollars (\$1800.00) in time and manner as follows, to wit, Six hundred dollars (\$600.) when said work is done and said building and wharf so erected and completed according to agreement. Four hundred dollars (\$400) two months after the said first payment of six hundred dollars shall so become due and the sum of Eight hundred dollars (\$800) in two months after said second payment of four hundred dollars shall become due & last sum of eight hundred dollars bearing interest from the time when said payment of four hundred dollars (\$400) shall be due as aforesaid.

And it is further agreed that if sufficient piles for the said building and wharf cannot be obtained at the harbor then said party of the first part shall obtain ^{at best rafts} whatever may be necessary to obtain elsewhere, in consequence of such contingency, and if such piles so obtained elsewhere cost more than one dollar and twenty five cents per pile said party of the second shall bear the additional cost of purchasing the same & if they cost less said party of the first part shall allow upon the aforesaid payments, for the difference.

And if joist sufficient cannot be obtained, then

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if it shall become necessary to pit-saw lumber to supply the place of joist ~~or~~ Tracy shall bear the additional expense of the same.

And it is agreed that ~~or~~ Tracy shall be responsible for whatever embarrassment may exist in a legal point of view to the said work arising from any conflict of title or want of title in him.

In testimony whereof said parties have hereunto set their hands, at Chicago in Cook Co. Illinois this fourteenth day of November Eighteen hundred and forty five.

Chicago Cook Co. Ill.

Arch Peck

Nov. 14th A. D. 1845

E. W. Tracy

Exhibit number one referred to by the

Witness Tollitt April 15th 1858

Jno. W. Magill Not. Pub.

It is this day agreed by and between the parties to the within instrument and contract, to qualify & alter the terms as follows; the wharf to be thirty five feet instead of forty, the length to be one hundred and sixty feet as before agreed upon, and the building to commence at the South corner of the ground aforesaid, and to stand in a line with the Western line of said lots (4) and (5) four and five in Block M as aforesaid. The time for completion to be the same as within agreed upon, subject to the authority of said Underwood to extend the time to the extent of two weeks upon the contingent considerations within mentioned, and the contract price to be diminished by one hundred and eighty seven dollars and eighty five cents (\$187.85) the several payments to be diminished in an equal ratio, and to

Peck

become due in time and manner as before agreed. All parts of previous agreements herein not conflicting with these alterations, to remain in full force.

Chicago Cook Co. Ill.

Nov. 25th 1845

Arel Peck

E. W. Tracy

Bill rendered, settlement made, and
contract price p^d in full

Chicago March 4th 1848

Arel Peck

Exhibit "B." attached to Certificate of Evidence

Whereas the City of Chicago has, among other things adopted the following Proposition for disposing of the Wharfing Privileges on West Water Street which was passed or concurred in by the Common Council

Proposition for disposing of the Wharfing Privileges on West Water Street.

The City will cause to be dredged to the depth of eleven feet below low water mark so much of the West bank of the South Branch of the Chicago River as lies East of a direct line drawn from a point one hundred and twenty two and thirty five hundredths feet ($122\frac{35}{100}$) East of the South West ~~side~~ corner of lot nine (9) in Block fifty one (51) in the Original Town of Chicago to a point two hundred

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and thirty feet and seventy one-hundredths of a foot ($230\frac{7}{100}$ ft.) East of the North West corner of Lot one (1) in Block forty four (44) in the said Original Town of Chicago, and thence North to a point two hundred and thirty feet and seventy one-hundredths of a foot ($230\frac{7}{100}$ ft.) East from the North West corner of Lot one (1) in Block twenty nine (29) in said Original Town of Chicago, thence to a point two hundred and thirty nine (239) feet East of the South East corner of Lot seven in Block twenty two (22) thence to a point one hundred and forty three feet and nine tenths of a foot ($143\frac{9}{10}$) East of the North West corner of Lot two (2) in said Block twenty two (22) said East line to be so drawn that the same shall be seventy (70) feet at right angles from the East line of the new Street hereinafter mentioned and is laid down upon the accompanying Diagram marked "Diagram of proposed excavation on West Side."

The City will lay out a new Street extending from Madison Street to Fulton Street seventy five (75) feet in width, in such a manner that the East line of said new Street shall commence on Madison Street at a point Eighty (80) feet East of the South East corner of Lot ten (10) in Block fifty one (31) in said Original town, and thence run in a direct line to a point one hundred and sixty feet and seventy one-hundredths of a foot ($160\frac{7}{100}$) East of the North West corner of Lot one (1) in Block forty four (44) in said original town thence North to a point in the South line of lot nine (9) in Block twenty nine (29) one hundred and sixty feet and seventy one-hundredths of a foot ($160\frac{7}{100}$) East of the South West corner of said lot nine (9) in Block twenty

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mine (29) thence North in a direct line to a point one hundred and sixty feet and seventy one-hundredths of a foot ($160\frac{71}{100}$) East of the North West corner of lot one (1) in Block twenty nine (29), thence North Westerly in a direct line to a point one hundred and fifty feet and one tenth of a foot ($150\frac{1}{10}$) East of the South East corner of said lot seven (7) in said Block twenty two (22), thence North Westerly in a direct line to a point fifty five (55) East of the North West corner of lot two (2) in Block twenty two (22) in said original town, and seventy feet (70) at right angles distant from the water line first herein mentioned, including in said Street also all of the land in Block fifty one (51) West of the said East line and between it and the West line of the Alley dividing said Block and also including in said Street all that part of lot eight (8) in Block twenty two (22) which lies West of the said East line of said new Street.

The City will discontinue so much of West Water Street as lies between the East line of said new Street and the River, and will convey to the respective persons owning lots in said Blocks the premises in front of their respective lots, in exchange for the land taken for the new Street, the owners of said lots paying or securing to the City in manner required in the proposition for the adjustment of the Wharfing Privileges on the South Side of the Chicago River sixty (60) per cent of the following sums, and securing in a manner to be approved by the Mayor of said City, the other forty (40) per cent to be paid when required by said City to pay for the dredging

54	aforesaid, to wit,			
	For Lot 9 in Block Fifty one (51)			\$ 1000
	"	"	8	1000
	"	"	3	900
	For Lot 4 in Block Fifty one (1)			800
	"	"	1	600
	"	"	2	400
	"	"	3	600
	"	"	6	600
	"	"	7	600
	"	"	10	250
	"	"	9	1600
	"	Forty four (44)		1600
	"	"	8	1800
	"	"	5	2000
	"	"	4	2500
	"	"	1	2250
	"	"	9	2250
	"	Twenty nine (29)		2250
	"	"	8	2250
	"	"	5	2250
	"	"	4	2250
	"	"	1	2500
	"	"	8	600
	"	Twenty two (22)		500
	"	"	7	1000
	"	"	5	1125
	"	"	6	1200
	"	"	3	1200
	"	"	2	

And Whereas the Committee on Wharfing Privileges of the Common Council of said City did on the fifth day of March in the year one thousand eight hundred and forty nine (1849) by report recommend that said proposition be amended that lot one (1) in Block forty four (44) shall pay twenty two hundred and fifty (2250) dollars; and that lot one in Block twenty nine (29) shall pay twenty two hundred and fifty dollars (2250) which report was on that day concurred in by the Common Council.

And whereas, for the purpose of enabling said City to carry into effect said proposition the said City has passed the following ordinance, to wit,

An Ordinance vacating parts of West Water Street.

Section 1st Be it ordained by the Common Council of the City of Chicago, that so much and such parts of West Water Street as lie in front of Blocks fifty one (51) Forty four (44) Twenty nine (29) and Twenty two (22) in the original Town of Chicago, and only such parts of said Street as shall be mortgaged to the City of Chicago as hereinafter provided, or the owners of which, or some other person or persons in their behalf shall cause to be paid or secured to the City in such manner as shall be approved by the Mayor, or acting Mayor of said City. The amounts required to be secured to the City by mortgage or otherwise, or paid to said City as hereinafter provided be and the same are hereby discontinued and vacated.

Provided that the new Street extending from Madison Street to Fulton Street, specified in the second section of the proposition for disposing of the Wharfing Privileges on West Water Street, contained in the report of the Committee on Wharfing Privileges concurred in by the Common Council January 29, 1849 shall be laid out, and the damages occasioned thereby paid without charge or expense to said City, except the expense of laying out the Street and of assessing or collecting said damages within such time as shall be determined by the Common Council, and provided further that all persons owning land adjoining said West Water Street shall consent in writing to the discontinuance of so much of said Street as is hereby discontinued and vacated, or such consent shall be dispensed with by an act of the Legislature of the State of Illinois.

Section 2. Before the discontinuance or vacation of any part or portion of said Street as herein contemplated shall take place a mortgage of such parts or portions shall be executed to said City by the respective owners of the various parts or portions of land or Town lots in said Blocks which are opposite to or front on such parts or portions of said Street as are proposed to be vacated to secure the payment of sixty per centime of the sums set opposite the following lots respectively, or in that proportion for any part or portion of a lot fronting said Street, said mortgage to be drawn and executed in such form and manner as shall be approved by the Common Council, or the Mayor, or acting Mayor and to be deposited with the Clerk of said City within such time

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from the date hereof, as shall be determined or required by the Common Council, and said mortgage to be so drawn as to contain in substance the provisions of the 12th Section of the Proposition for settling Wharfing Privileges on South Water Street and East Water Street, North of Randolph Street passed in Common Council February 11, 1848, or said sixty per centime shall be otherwise so carried or paid to said City in such manner as shall be approved by the Mayor or acting Mayor of said City, to wit,

For Lot Nine (9) in Block Fifty one (51)	\$ 1000
" Eight (8)	1000
" Five (5)	900
" Four (4)	800
" One (1)	600
" Two (2)	400
" Three (3)	600
" Six (6)	600
" Seven (7)	600
" Ten (10)	250
" Nine (9) in Block forty four (44)	\$ 16 00
" Eight (8)	16 00
" Five (5)	18 00
" Four (4)	20 00
" One (1) in Block Forty four (44)	22 50
For Lot Nine (9) in Block Twenty nine (29)	22 50
" Eight (8)	22 50
" Five (5)	22 50
" Four (4)	22 50

58	"	One (1)	"	1	2250
	"	Eight (8)	"	Twenty Two (22)	8 600
	"	Seven (7)	"	"	500
	"	Five (5)	"	"	1000
	"	Six (6)	"	"	1125
	"	Three (3)	"	"	1200
	"	Two (2)	"	"	1200

And shall likewise pay or secure to said City in such manner as shall be approved by the Mayor or acting Mayor of said City the remaining forty per centime of said sums set opposite the aforesaid lots respectively as aforesaid to be paid when required by said City for the purpose of dredging the West bank of the South Branch of the Chicago River as specified in the first Section of said Proposition for disposing of the Wharfing Privileges on West Water Street.

Sec. 3. In case it should be judicially determined upon a bill to be filed under the act entitled "An Act to adjust and settle the title to the Wharfing Privileges in Chicago and for other purposes," approved February 27, 1847, that upon the discontinuance or vacation of said parts of said Street the fee of the land now contained in the same is in some other party or parties than the City of Chicago or the said respective owners of the various portions of land or Town lots aforesaid fronting the same, then this ordinance shall be null and void.

Sec. 4. Ten feet next and adjoining the River of said Wharves shall be and always remain an open Wharf upon the same conditions and reservations as contained

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in the settlement of the Wharfing Privileges on the South Side of the Chicago River.

And whereas the respective owners of the land fronting that part of West Water Street which is proposed to be discontinued by the foregoing ordinance are ready and willing to comply with said propositions on their part.

Now therefore, this Indenture made this Eleventh day of October in the year of our Lord One thousand eight hundred and fifty two, Between Frederick Bronson of the City, County and State of New York, sole qualified and acting Executor of the last will and Testament of Arthur Bronson, late of said City of New York deceased, who is the owner or representative of the owner of lots Two (2) Three (3) Five (5) and Six (6) in Block Twenty two (22) in the original Town of Chicago, of the first part, and the City of Chicago of the second part. Witnesseth,

That the said party of the first part for the purpose of complying with and carrying into effect the provisions of said propositions and ordinance on his part has given and granted, and by these presents does give and grant unto the said City of Chicago, its successors and assigns all those tracts or lots of land, situated in said City of Chicago, known and described as follows. All of lot Five (5) in Block twenty two (22) in the original Town of Chicago as laid out by the Commissioners of the Illinois and Michigan Canal and those parts of lots Two (2) Three (3) and Six (6) in said Block twenty two (22) in said original Town of Chicago as laid out as aforesaid which lie East of the West line of the new

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Street described in the foregoing proposition or are included in said New Street, said new Street being seventy five (75) feet wide at right angles, and the East line thereof opposite said Block twenty two (22) being described as follows: Commencing at a point one hundred and fifty feet and one tenth of a foot (150 $\frac{1}{10}$) East of the South East corner of lot seven (7) in said Block twenty two (22) thence running North Westerly in a direct line to a point fifty five (55) feet East of the North West corner of lot two (2) in said Block twenty two (22) as laid out by the Commissioners of the Illinois and Michigan Canal with all and every its appurtenances, in exchange of and for the premises or piece of land hereinafter described, which before the passage of the said ordinance constituted a part of West Water Street, and being the premises, which, by a subsequent part of this Indenture, are conveyed to said Frederick Bronson Executor as aforesaid, his heirs and assigns. To have and To Hold the said premises with the appurtenances unto the said City of Chicago, its successors and assigns forever, for and in exchange of said premises hereinafter described, which recently constituted a part of West Water Street with the appurtenances.

And the said Frederick Bronson Executor as afore said doth covenant and agree to and with the said City of Chicago that he is well seized of said premises above conveyed, as of a good, sure, perfect, absolute and indefeasible estate of inheritance in the law in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner

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and form aforesaid, and that the same are free and clear of all former and other grants, bargains, sales, liens, judgments, taxes, assessments and incumbrances of what kind and nature soever.

And the said City of Chicago in consideration of the conveyance made as aforesaid to said City by said party of the first part and in further consideration of the sum of Four thousand five hundred and twenty five dollars in hand paid by the said Frederick Bronson Executor as aforesaid, the receipt whereof is hereby acknowledged, has likewise on its part given and granted and by these presents does give and grant unto the said Frederick Bronson Executor as aforesaid, his heirs and assigns forever, "all that tract, parcel or piece of land which was recently a part or portion of West Water Street in Chicago, and which lies directly East of lots two (2) three (3) and six (6) in Block twenty two (22) in the Original Town of Chicago as laid out by the Commissioners of the Illinois & Michigan Canal, North of an extension of the South line of said lot six (6) if the same were extended in a direct line to the Chicago River, South of Tullon Street, East of the East line of said new West Water Street described in the foregoing proposition, and between said East line and the channel of the Chicago River, the North West corner of the premises hereby conveyed to said Frederick Bronson Executor as aforesaid being fifty five (55) feet East of the North West corner of said lot two (2) in said Block twenty two as laid out by the Commissioners of the

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Illinois and Michigan Canal," the City of Chicago reserving to itself the right, without paying any damages or compensation to said Frederick Bronson, Executor as aforesaid, to cause all that part of said premises which lies East of a direct line drawn from a point two hundred and thirty nine feet East of the South East corner of lot seven (7) in said Block twenty two, to a point one hundred and forty three feet and nine tenths of a foot East of the North West corner of lot two (2) in said Block twenty two (22) as laid out by the Commissioners aforesaid, to be excavated, and the said last mentioned line shall constitute the West line or side of said channel when thus excavated, and any wharf or other incumbrance which may be erected or placed by said Bronson, or his legal representatives or assigns upon said premises East of said last mentioned line shall be removed by said Bronson, his legal representatives or assigns, without expense to said City, whenever said City shall require him or them to remove the same, for the purpose of making such excavation.

To Have and To Hold the said premises above bargained and described with the appurtenances unto the said Frederick Bronson Executor as aforesaid, his heirs and assigns forever, but subject nevertheless to the condition that ten (10) feet in width, extending the whole length of the front of said premises on the River, after as well as before said excavation, shall forever remain an open wharf or dock to be built and main-

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1 ~~lained~~ in good order and repair by said Frederick Bronson his heirs and assigns, for the free passage of persons on foot, and that in no case shall passengers by water be subject to any charges whatever for landing their ordinary traveling baggage and conveying the same over said wharf, and that the top of said wharf shall be at all times properly and safely planked or covered so as to afford a secure passage for such passengers and baggage.

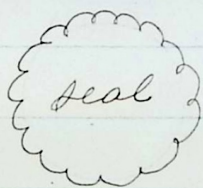
But it is hereby stipulated and agreed by and between the parties hereto that unless all persons owning land adjoining said West Water Street shall consent in writing to the discontinuance of so much of said Street as has been in said ordinance ordered to be discontinued and vacated by the Common Council of the City of Chicago, or said assent shall be dispensed with by act of the Legislature of the State of Illinois, this Indenture shall be null and void.

And it is further mutually agreed by and between the parties to this Indenture, that in case it shall be judicially determined upon, a bill to be filed under an Act entitled "An Act to adjust and settle the title to the Wharfing Privileges in Chicago and for other purposes," approved February 27, 1847, that upon the discontinuance or vacation of said West Water Street, the fee of land now contained in the same is in some other party or parties than the City of Chicago or the respective owners of the various portions of land or town lots aforesaid fronting the same, then

This Indenture shall be null and void.

And it is hereby further stipulated and agreed by and between the parties to this Indenture, that in case this Indenture or the conveyance herein made, shall be declared null and void under the foregoing stipulations, or either of them, then the City of Chicago shall, upon the surrender of the said premises by the said Frederick Bronson or his legal representatives, refund to him or them the sum of Two thousand seven hundred and fifteen dollars (\$2715) without interest.

In Testimony whereof the said Frederick Bronson Executor of the last will and Testament of Arthur Bronson deceased, as such Executor has hereunto set his hand and seal, and the said City of Chicago caused the signatures of the Mayor and Clerk, and the corporate seal of said City to be hereunto affixed this Eleventh day of October in the year of our Lord one thousand eight hundred and fifty two.



Frederick Bronson (seal)

Exr. &c.

W. S. Gurnee Mayor

Attest, H. W. Zimmerman, City Clerk

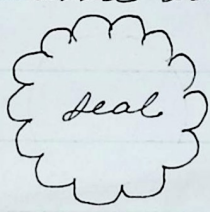
United States of America
State of New York
City and County of New York } ss

On this fourth day
of December in the year of our Lord one thousand

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Eight hundred and fifty two. Before me Falker J. Beck
a Notary Public in and for the State of New York duly
commissioned and sworn, dwelling in the City of New
York, personally appeared Frederick Bronson, known
to me to be the same person described in the foregoing
deed, and who executed the same, and he acknowledged
that he signed, sealed and delivered the said Instru-
ment in writing as his free and voluntary act, as the
Executor of Arthur Bronson deceased, for the uses and
purposes therein expressed. To all which I do hereby
certify on the day and year last above written.

In testimony whereof I have subscribed my
name and affixed my Notarial Seal the day and
year above written



F. J. Beck
Notary Public

Filed for Record March 4, 1853 and Recorded
in Book 60 of Deeds on pp 122 to 127
Original in Comptroller's office

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I, WILLIAM L. CHURCH, Clerk of the Circuit Court of Cook County, in the State aforesaid, do hereby certify the above and foregoing, to be a true, perfect and complete copy of ^{all} the writs, pleadings, documents, depositions and proceedings had and entered of record in a certain cause late pending in said Court on the Chancery — side thereof, wherein Elisha M. Tracy, now deceased, was Complainant and the City of Chicago et al were Defendants.

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court at Chicago, this Fifth day of April A. D. 1860.

W. L. Church Clerk.

as #32⁰⁰

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Tracy
City of Chicago
Record

Filed Apr. 19. 1860
L. Nelson
Clerk.

