History of Land Titles in the State of Louisiana

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The information in this booklet was compiled in 1972, and although the basic historical records on file in the Louisiana State Land Office remains the same, this booklet may make reference to other information that was circa 1972.

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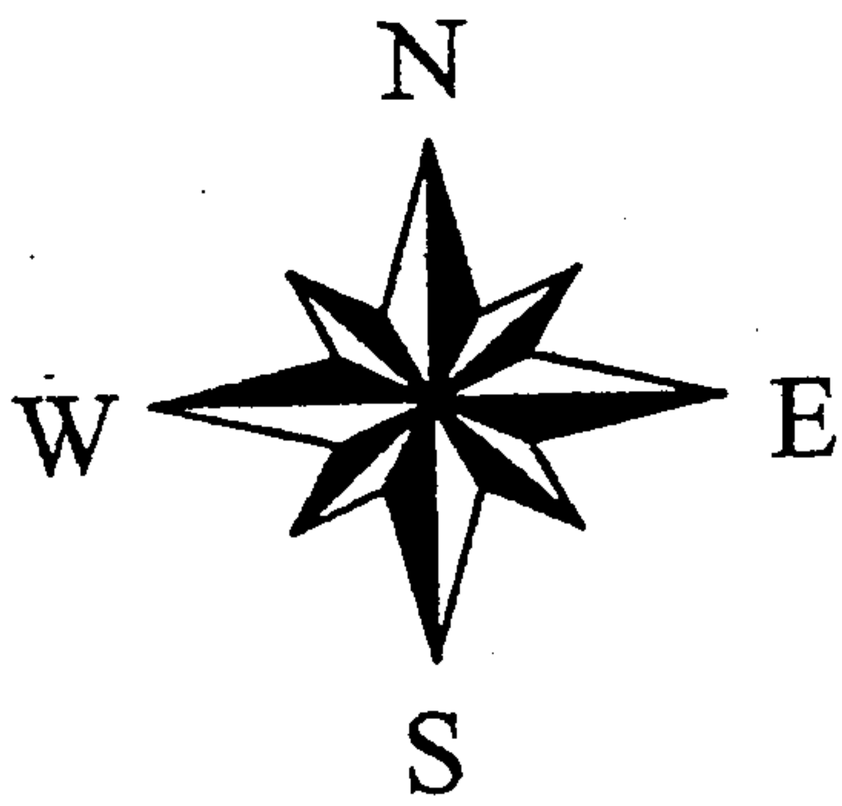
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U.S. DEPARTMENT OF THE INTERIOR

March 3, 1849

History of Land Titles in the State of Louisiana*

*Ory G. Poret***

(*Illustrations—Mrs. Joy Davis****)

The State of Louisiana—its people and its land from a romantic past to a dynamic present, spins a fascinating tale in the recorded history of the Americas.

In the late seventeen hundreds when the early settlers started drifting into the New World, land was plentiful and settlers were few. Today, this is not the case.

Many land laws have been written to suit the changing times. Our forefathers settled on huge tracts of land, built houses and tilled the soil. Almost for the asking, they secured title to their land.

Today when land is acquired, no matter what size the tract, it has become a custom to have a complete title abstract made going back to the initial severance from the United States Government. Only in this way is it possible to assure the property owner a flawless title.

In addition to the necessity of basic title research for economic reasons, there is a distinct historical interest in determining the very first owner of that certain tract of land in which one is interested. Was the land originally a French, Spanish, or

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British land grant? or perhaps, land given to a soldier for service in one of the Indian Wars, or the War Between the States? Could it have been land identified by early surveyors as "worthless swamp" and now be the nucleus of an immense oil and gas field?

The answers to these and many other interesting questions concerning Louisiana land titles could probably be found in the voluminous records on file in the State Land Office of which Ellen Bryan Moore is Register.

As many students of history are aware, land grants played a very important part in the settlement of our entire nation. Kings and Emperors, in order to encourage formation of colonies in what is now the State of Louisiana, granted to their favorite subjects as acts of reward and patronage, large tracts of land usually along navigable streams. Consequently, today's title researcher will find many thousands of acres of land originally covered by French, British, or Spanish land grants.

Perhaps one of the greatest real estate buys of all time occurred when the fledgling United States, in 1803, bought from France some 544 million acres for the sum of 15 million dollars. This tremendous territory, known as the famous Louisiana Purchase, actually was acquired for approximately three cents an acre. Thirteen states, in part or whole, have been carved from this real estate transaction.

By Act of March 26, 1804, Congress divided the Louisiana Purchase into two areas: the Territory of Louisiana, and the Territory of Orleans.[1] The Territory of Louisiana covered the area lying above the 33rd degree latitude, and the Territory of Orleans covered that part of the Louisiana Purchase lying below the 33rd degree latitude, or what is now, basically, the present State of Louisiana.

The same Act of Congress further provided for the temporary government of the territories with the executive power vested in a governor to be named by the President of the United States, and legislative powers to be vested in the governor and in "13 of the most fit and discreet persons of the territory," who were also to be appointed by the President.

[1] U. S. Statutes Vol. 2, p. 283.

Pursuant to powers granted by the Act, the governor and thirteen legislators, called the Legislative Council, divided the area comprising the Territory of Orleans into twelve counties.[2] These counties were designated as Acadia, Attakapas, Concordia, German Coast, Iberville, Lafourche, Natchitoches, Opelousas, Orleans, Ouachita, Pointe Coupee, and Rapides.

In 1807, the territory was redivided into nineteen parishes. The boundaries followed largely those used by the Spanish in dividing the area for ecclesiastical purposes (the name "parish" is also of ecclesiastical origin).[3] The counties remained so divided for the purpose of certain elections and the imposition of taxes. The Constitution of 1812, when Louisiana became a state, referred to both "counties" and "parishes".[4] Gradually, however, the term "county" was dropped and no reference is made to it by the Constitution of 1845 or subsequent constitutions.[5] Today, Louisiana has 64 parishes.

In order to allow individuals to have legal possession of their lands or to acquire lands, an Act of Congress of March 2, 1805, set machinery in action to make this possible.[6] First, Congress authorized the President to appoint district land registers whose duties were to classify, arrange, and translate when necessary, papers and documents connected with private land claims.

A United States District Land Office was opened in New Orleans for the eastern division of the Territory of Orleans; a land office at Opelousas for the western division of the Territory of Orleans.[7] Later, as a convenience to local inhabitants, additional land districts were created, namely: Ouachita, Natchitoches, and Greensburg.[8] These land districts are to this day used in identifying lands by districts within the present State of Louisiana.

The second important step taken by Congress under the Act

[2] Louisiana-A Narrative History, E. A. Davis, Chapter 15. A History of Louisiana—G. W. McGinty, Chapter 14. Acts Legislative Council (Orleans Territory) 1st Session, p. 144.

[3] Acts Legislative Council (Orleans Territory) 2nd Session, p. 2.

[4] West's—Louisiana Constitution. Vol. 3, p. 511.

[5] Ibid., p. 524.

[6] U. S. Statutes, Vol. 2, p. 324.

[7] Ibid., p. 662.

[8] Ibid., Vol. 5, p. 287.

of March 2, 1805, was to appoint a board of commissioners comprising a register and two other persons; and provided that inhabitants holding a French, British, or Spanish grant had to appear before this board with witnesses and affidavits to certify that the grant they held was fully legal. If the grant was approved by the board, the approval was forwarded to Washington.

The third and extremely important phase of the 1805 Act directed the Surveyor General of the United States to send surveyors into the Territory of Orleans to establish a system of sub-dividing the vacant public lands.

United States surveyors by 1807 had established a "principal meridian" and a "base line." [9] The establishment of a base line was relatively easy as the surveyors needed only to extend westwardly a previously surveyed line setting the southern boundary of the Territory of Mississippi between Mississippi and Spanish Western Florida. The principal meridian running north and south from the base line was established approximately in the center of the territory.

Monuments were then set every six miles on the principal meridan and base line—North, South, East and West. These were to be used as main points in establishing later surveys. The method of surveying used in the Territory of Orleans had been adopted on May 7, 1784, by a special committee appointed by the Continental Congress under the chairmanship of Thomas Jefferson.[10]

This system initiated the method of laying out a square six miles long and six miles wide, and re-subdividing this square into 36 sections with each section being one mile square containing 640 acres. Each section was numbered, beginning at the top row of the township, from 1 to 36 running east to west, thence in the second row west to east, etc.

Many townships contain more than 36 sections. The Surveyor General instructed his deputies to survey river lots or radiating sections along navigable water bodies before dividing and surveying the township into square sections. This resulted in many

[9] Survey notes—John Cook, Jan. 15, 1807, Land Office records.

[10] Manual of Surveying Instructions issued by General Land Office, Washington, D.C., /led in Land Office records.

radiating sections usually measuring six to twelve arpents wide and forty arpents deep.

Certain townships, where several navigable rivers and streams are found, consist of as many as 125 sections.[11] Streams were used as public highways thus resulting in river frontage becoming more desirable.

Surveyors were further instructed to plot all approved private grants within a township before plotting vacant public lands. These private grants had not been laid out into sections or within a section; but holders of most grants had private surveyors stake out their claim using natural bearings such as rivers, streams, trees, or perhaps neighbors. Consequently, bona fide grants were thus recognized by the Federal Surveyors and the claim thence placed on the official township plat numbered and catalogued.

Incidentally, not all townships within the present State of Louisiana are completely surveyed. Township lines running north and south of the base line, and range lines running east and west of the meridian line were established; but numerous townships in our lower marsh lands to this date have never been re-subdivided into sections. Drawings, or penciled charts, were made on paper laying out 36 sections, but no actual ground survey has yet been made.

The next and most important phase in our history is Louisiana's admission into the Union in 1812.[12] The same area which was the Territory of Orleans became the State of Louisiana with the addition of the Florida Parishes. By 1812, already some 25 counties or parishes had been created, and our great State boasted a population of some 76,556 citizens.[13] Compared with the 544 million acres in the Louisiana Purchase, the new State of Louisiana covered approximately 27,785,000 acres of land, and 3,269,000 acres of streams, lakes and rivers.

Of extreme importance in land title work is the fact that when Louisiana became a State in 1812, not one acre of land was in its name. By virtue of inherent sovereignty, title to the beds and bottoms of all navigable waters set aside as public

[11] Plat of T 7 S, R 8 E, S.E. Land District, 1831.
[12] U. S. Statutes, Vol. 2, p. 701.
[13] A History of Louisiana—G. W. McGinty, Chapter 15.

highways by Act of Congress of February 15, 1811, inured to the State—but not one acre of land.[14]

Basic severance of title had to emanate from the United States Government. Various Congressional Acts enabled either private citizens or the State of Louisiana to acquire title to Federal lands. These Acts comprise the backbone of the history of land titles in Louisiana.

The validation of lawful land claims drew the very immediate interest of Congress, as the Act of March 26, 1804 (previously mentioned), in addition to creating the Territory of Orleans, also provided that land grants to actual settlers, made agreeable to the proper laws, usages, and customs, would be accepted as bona fide grants. It further provided that the President was authorized to enter into certain agreements with Indian tribes claiming and living on lands in the Territory of Orleans.

The acquisition of lands by direct purchase from the United States had been previously made possible for the sale of lands in the Territory of Mississippi.[15] An Act of Congress on April 21, 1806, extended this right to lands in the Territory of Orleans.[16] This Act stipulated the manner and terms upon which lands were to be sold to the public.

Provisions of this same Act of April 21, 1806, as amended February 15, 1811, set aside the 16th section of every township for schools. If the 16th section in a township did not comprise 640 acres, due perhaps to a navigable water body or an approved private land grant covering a portion of that 16th section, indemnity lands were granted to make up for the loss of acreage.[17] These indemnity school lands did not have to be located within that township where the loss occurred but could be placed on any Federal lands within the State of Louisiana.

An Act of Congress of March 3, 1811, gave "preference rights" to any individual purchasing vacant land and who held a valid grant bordering on a navigable river or stream. This right was limited to the acquisition of an adjoining tract not to

[14] U. S. Statutes, Vol. 2, p. 617.
[15] Ibid., pp. 73, 229.
[16] Ibid., p. 391.
[17] Ibid., Vol. 4, p. 179.

exceed 40 arpents in the rear of the approved grant or claim. "Pre-emption rights" were also given those individuals who had habitated and cultivated vacant lands not under private claim.[18]

The Seminary of Learning Act of March 3, 1827, granted Louisiana the right to select title to two entire townships (approximately 46,000 acres) of vacant Federal lands.[19] When the location was made, title was to be vested in the State for use towards the establishment of seminaries of learning as directed by the State Legislature.

Under Act of September 4 of 1841, Congress granted Louisiana the right to select title to some 500,000 acres of vacant Federal land under an Internal Improvement program.[20] The State could sell such lands for not less than $1.25 per acre and use the revenues therefrom to dig canals, build roads, and thus encourage settlers to move into the State.

The Act further stipulated that the selection and disposal of these lands were to be under the direction of the State Legislature. Consequently, by Legislative Act of March 25, 1844, a land office was created by the State of Louisiana with the governor of Louisiana having the right to appoint a register. Most states refer to their land office official as "Commissioner of Public Lands", however, in the State of Louisiana, our top land official, elected by the people, is the "Register of the State Land Office".

The United States Military Bounty Lands Act of February 11, 1847, as later amended, permitted officers and soldiers of the War of 1812, any Indian Wars between 1690 and 1850, and the War with Mexico, to select title to vacant lands up to 160 acres wherever they so desired.[21]

Louisiana also had military bounty lands acts whereby veterans of the War between the States or their widows were allowed to select title to State lands up to 160 acres. This privilege was confined to Confederate veterans only.[22]

[18] Ibid., Vol. 2, p. 662; Ibid., Vol. 3, p. 122; Ibid., Vol. 4, p. 534.

[19] Ibid., Vol. 4, p. 244.

[20] Ibid., Vol. 5, p. 453.

[21] Ibid., Vol. 9, p. 123.

[22] Louisiana Legislative Acts 96 of 1884; 116 of 1886; 122 of 1888; and 55 of 1896.

As mentioned earlier, titles to many thousands of acres emanated not only from French, British, or Spanish grants, but also from title to lands granted to Indian tribes. These tribes were either given out-right title to lands claimed, or were given script which they could use to locate lands, or sell the script to incoming settlers.

Other interesting original titles indicate numerous naval reservations throughout Louisiana where an abundance of live oaks existed.[23] The lumber from this type of tree was preferred in building ships of that era. Certain areas for military reservations along the lower coast of Louisiana were also set aside by the Federal Government.[24] However, over a period of years almost all naval and military reservations were abolished and the lands were sold to private individuals.

In order to encourage the building of railroads in Louisiana, the Federal Government granted some one million acres of land to three railroad companies with the provision that railroad facilities must be constructed by a given date.[25] Records on file in the State Land Office reveal that two companies did complete the building of railroads, although one company did not complete its assignment, and the lands were reconveyed to the United States Government.

In doing title abstract work today, one will find that during the era from 1812 to 1845, often some 50 to 80 (in one particular case over 100) citizens banded together to buy perhaps one ten-acre tract of land from the United States.[26] Immediately, one wonders why. Minerals were not the question—it could not have been the need for timber, because timber was available in great abundance. Then, as now, voting regulations had to be considered. Louisiana's first Constitution required that in order to vote, a person had to be a free white male who had attained the age of 21 and had purchased land from the United States. We find that our next Constitutional Convention and the ensuing Constitution of 1845 eliminated the property restriction in voting.

[23] President's Proclamation of Feb. 29, 1820, Land Office records; U. S. Statutes, Vol. 5, 611.

[24] Executive Order, March 25, 1844, Land Office records.

[25] U. S. Statutes, Vol. 11, p. 18.

[26] New Orleans Receipts, 1840–50, p. 5, Land Office records.

For Louisiana, perhaps the greatest title transfers of all were the Swamp Land Grant Acts of 1849 and 1850 which authorized the State to select and request title to any vacant public lands that were "swampy" in character and nature.[27] Consequently, from that period to the present time, title was conveyed to some ten million acres of swamp lands.[28]

The Federal Government, by Legislative Act of May 20, 1862, allowed a person who was the head of a family, or 21 years of age, the right to homestead up to 160 acres.[29] Federal lands are still available for homesteading in western states but not in Louisiana. Various state legislative acts allowed Louisiana citizens the right to homestead up to 160 acres of State lands; however, all homesteads were stopped in 1962 due to a lack of available land.[30]

The majority of swamp lands selected from the United States Government by the State of Louisiana were either sold to private individuals or transferred to levee boards created in various parts of the State.[31] These levee boards, in turn, could sell lands or timber to private citizens and use the revenue therefrom to build levees, roads, and canals to encourage settlers into the area.

It is important to remember that there is a beginning, or a source of title, for every acre of land in Louisiana. There is no such category as "lost land". Land may have been dropped from assessment rolls, but the State Land Office has on record that very first severance of every acre.

Title to all property must have emanated from the Federal Government—title from the Federal Government must be in some written form. In case of swamp land grants or other similar acts, the State must request title by filing a "selection" of desired lands and the Federal Government conveys title by an "approval" list. Such selection and approval lists are on file in the Land Office. If lands were sold directly by the Federal Government to an individual, such evidence of sale is also on file in the Land Office.

[27] U. S. Statutes, Vol. 9, pp. 352, 519.
[28] Biennial Report, 1968–69, p. 9, State Land Office.
[29] U. S. Statutes, Vol. 12, p. 392.
[30] Concurrent Resolutions, No. 54 of 1962, Louisiana Legislature.
[31] L. R. S. 38:281, et seq.

Located in the State Land and Natural Resources Building in Baton Rouge, the State Land Office has on file all of the original and official field notes, survey plats and maps that were made by the early United States land surveyors. In order to determine whether or not a river or a stream was navigable and state-owned when Louisiana became a State, one needs only to refer to the official township plats.

The truly remarkable aspect of early plats is their amazing accuracy when one considers the primitive conditions under which the surveys were made. Many early surveyors came down the Mississippi River by barges and started their work at predetermined points. Using the most basic of surveying instruments, one cannot help but marvel at the accuracy of the work performed by the surveyors.

Modern-day marsh area sportsmen, however, could sympathize with the surveyor of some 150 years ago. A drawing in an original field notebook in the State Land Office depicts a man sitting on a stump holding a jug in his hand with the inscription "Now here I am, but where in the hell am I?" [32]

When the Territory of Orleans was first created, a Federal Surveyor was appointed for the area south of the State of Tennessee which included the Territory of Orleans. This surveyor engaged other surveyors as his deputies and was the officer to authenticate the township plats. The United States Surveyor General opened an office in Donaldsonville, Louisiana in 1831, which then became headquarters for all local surveyors.[33] In 1865, at the end of the Civil War, this office was moved to New Orleans, and in 1910 it was abolished. The State Land Office was then given all of the survey notes and plats that had previously been on file in the Surveyor General's Office.[34]

The Federal district registers created by the March 2, 1805 Act were later all consolidated into one office, and in 1927 that office was closed and all of their records were given to the State Land Office.[35]

We find, therefore, many records on file in the Land Office

[32] Field Notes, Thomas Bilbo, S.W. Land District.
[33] U. S. Statutes, Vol. 4, p. 492.
[34] Act 6 of 1910—Louisiana Legislature.
[35] Act 183 of 1928—Louisiana Legislature.

that will be of interest in title research; not only field survey notes and township plats, but Government tract books and State tract books showing entries of land by description, dates, and names of patentees; whether land was approved to the State as swamp lands under the Swamp Land Acts of 1849 and 1850, under school grants, or other Congressional Acts. On file are copies of patents issued by the State and various original documents, applications, receipts, and certificates originating under the French, Spanish or British Governments.

Another form of title which is common is tax adjudicated lands.[36] Briefly, upon failure to pay annual taxes to the sheriff or the tax collector, property is seized and offered for sale by the sheriff on the courthouse steps. Anyone can buy this property for taxes due. Should the property not be bought at the sheriff's sale, it is then sold or adjudicated to the State. Title is retained by the State until the property is redeemed, or, if not redeemed at the end of three years, the property can then be put up for sale. A sale is processed by the State Land Office and sold by the sheriff of the parish wherein the land is located. Mineral rights on property so sold are retained by the state in perpetuity.[37]

The granting of rights of way across and through State owned properties and all navigable water bottoms is the responsibility of the State Land Office.[38] Should a pipeline cross lands under the jurisdiction of another State agency, such as the State Department of Wild Life and Fisheries, then approval must be secured from such agency before final consent is given by State officials.

The State Land Office has among its many records a collection of original material that is of inestimable value and interest of original material of genealogy. The Tract Book indices on file will lead to the location of the lands settled by our forefathers, and lists not only those who claimed land from British, French, and Spanish grants, but those who homesteaded and purchased tracts from the United States and State Governments.

In previous articles written by this writer—the first of which

[36] L. R. S. 47:2186.
[37] Louisiana Constitution of 1921—Act 4, Sec. 2.
[38] L. R. S. 41:1173.

was published in the "Louisiana Engineer" in 1968, and also in the "Right of Way" in the same year—Louisiana land titles and laws affecting public lands were discussed at length.[39]

It is of great importance for every citizen to stay informed of new laws dealing with our lands. It is the writer's intention to help you—the property owner—stay informed of existing land laws.

[39] Vol. 54A, No. 1, p. 20 "Louisiana Engineer" Vol. 15, No. 5, p. 22 "Right of Way".

Township Plats

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

DIAGRAM OF A TOWNSHIP PLAT
6 MILES SQUARE
CONTANING 36 SQUARE SECTIONS
EACH SECTION 1 MILE SQUARE (640,000 ACRES)
TOTAL ACREAGE APPROX. 23,040.00 ACRES

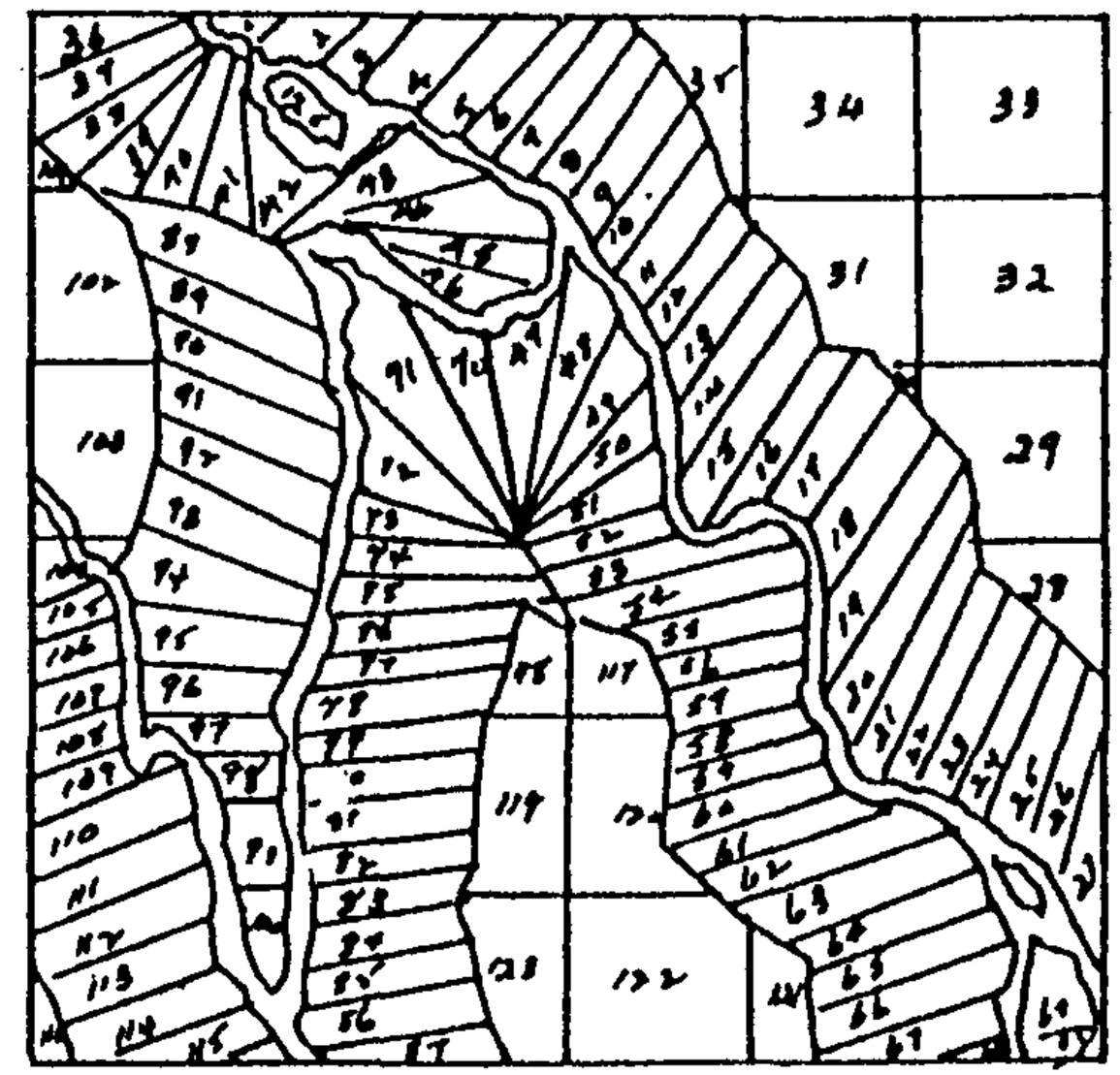
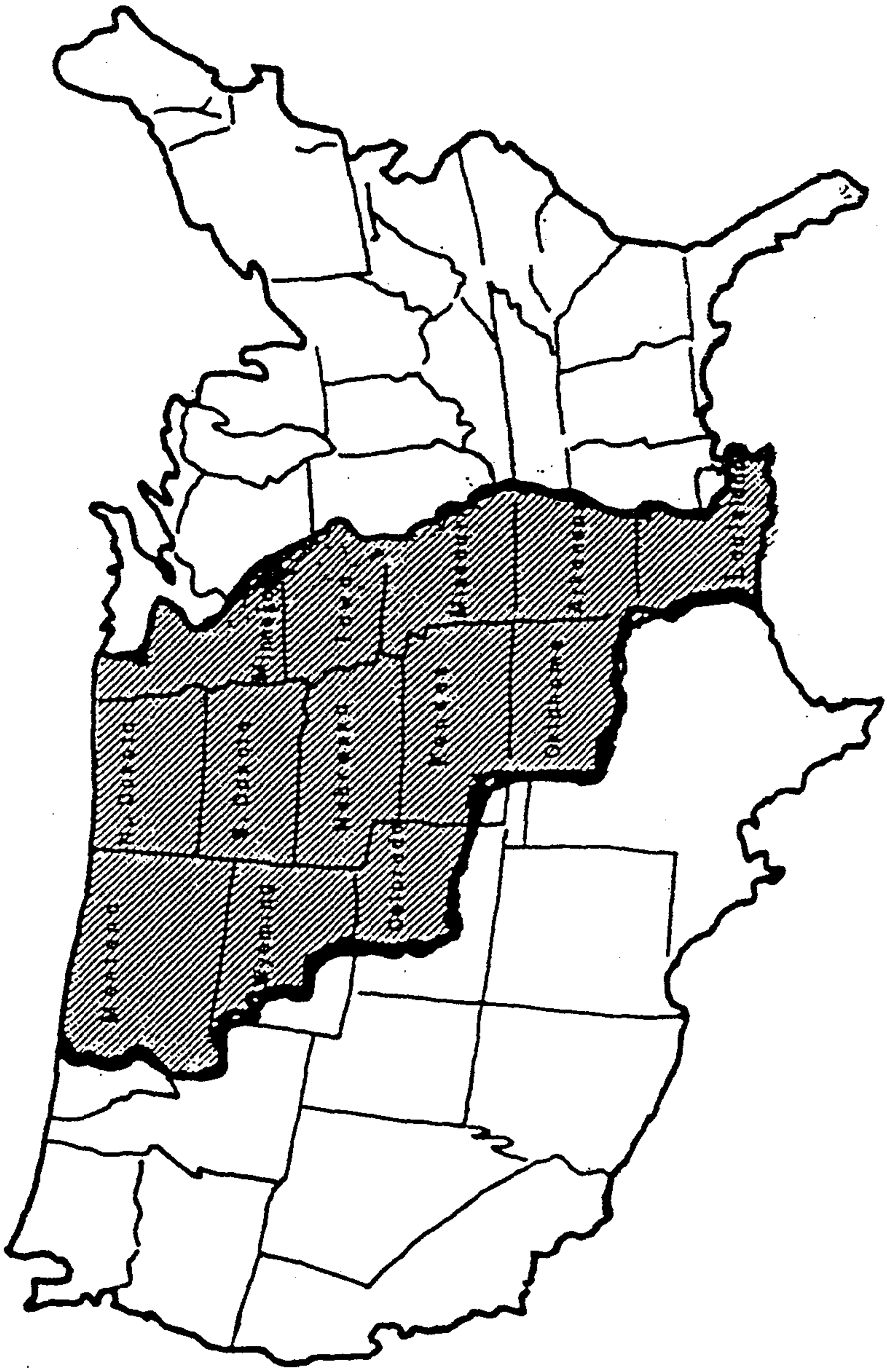
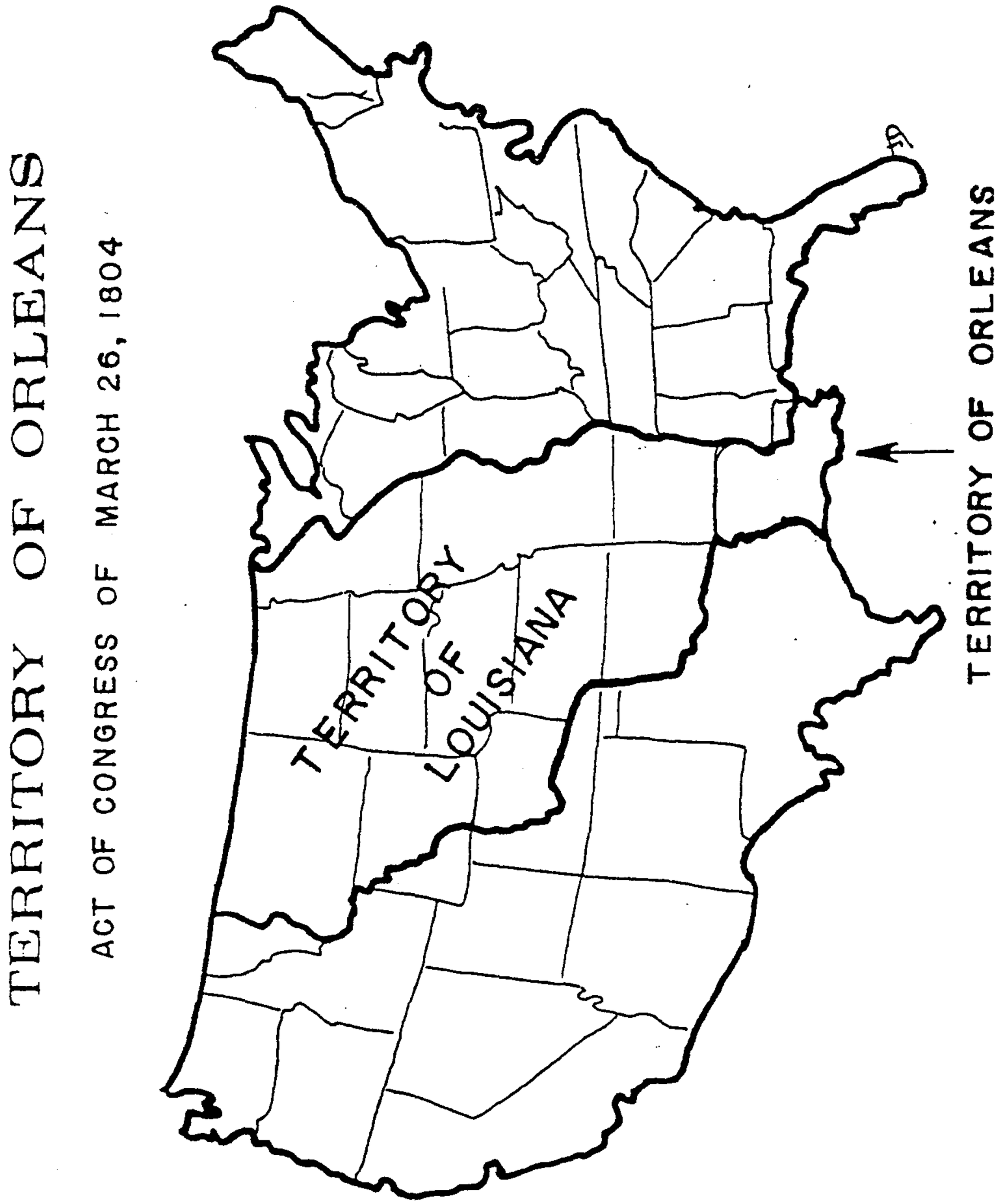
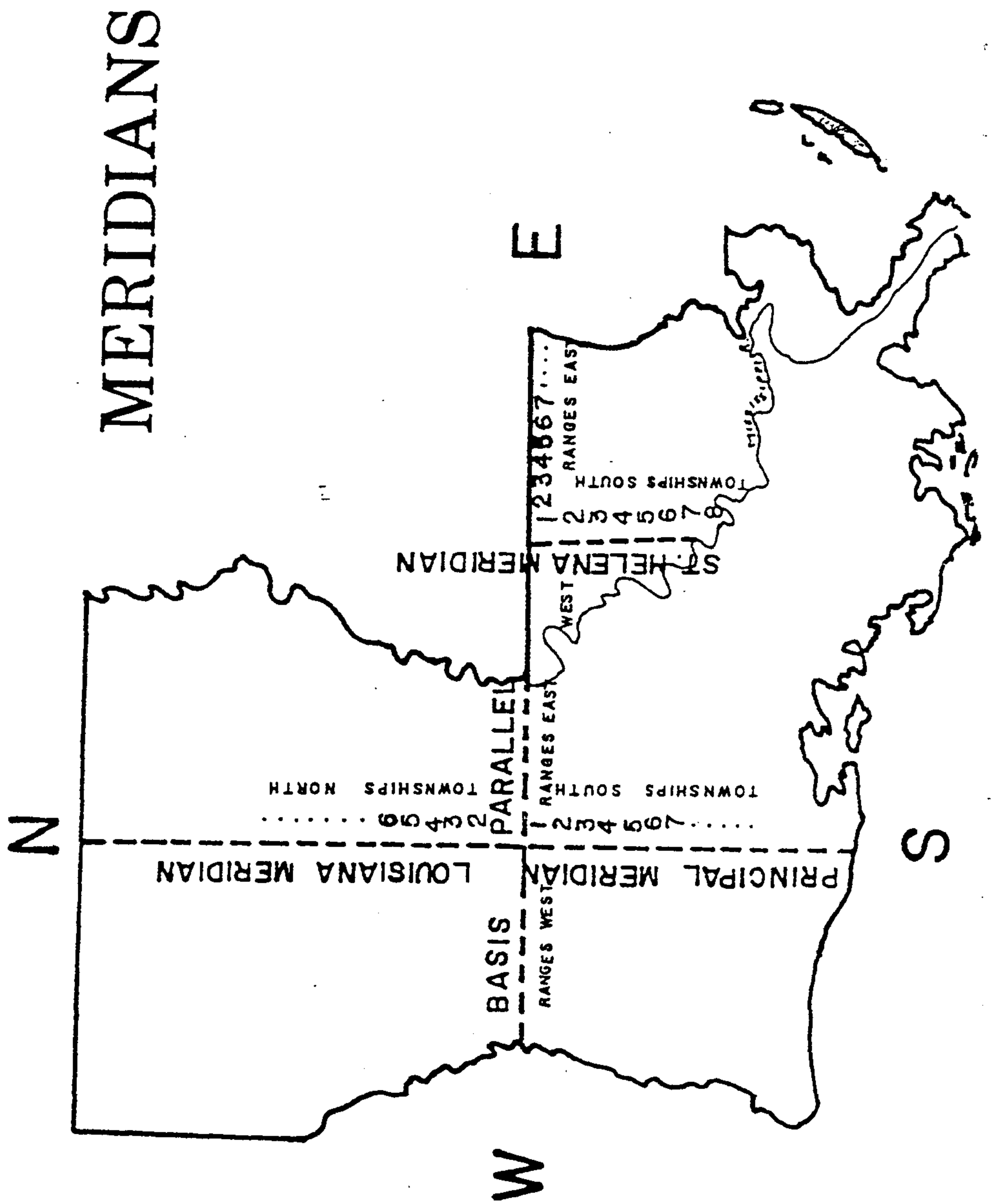


DIAGRAM OF A TOWNSHIP PLAT
6 MILES SQUARE
CONTAINING 125 SECTIONS
SHOWING RADIATING LOTS OR SECTIONS
—BORDERING NAVIGABLE WATERS



Louisiana Purchase 1803


TERRITORY OF ORLEANS
ACT OF CONGRESS OF MARCH 26, 1804
TERRITORY OF LOUISIANA
TERRITORY OF ORLEANS


MERIDIAN
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BASIS PARALLEL
RANGES WEST
RANGES EAST
PRINCIPAL MERIDIAN
LOUISIANA MERIDIAN
ST. HELENA MERIDIAN
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TOWNSHIPS NORTH
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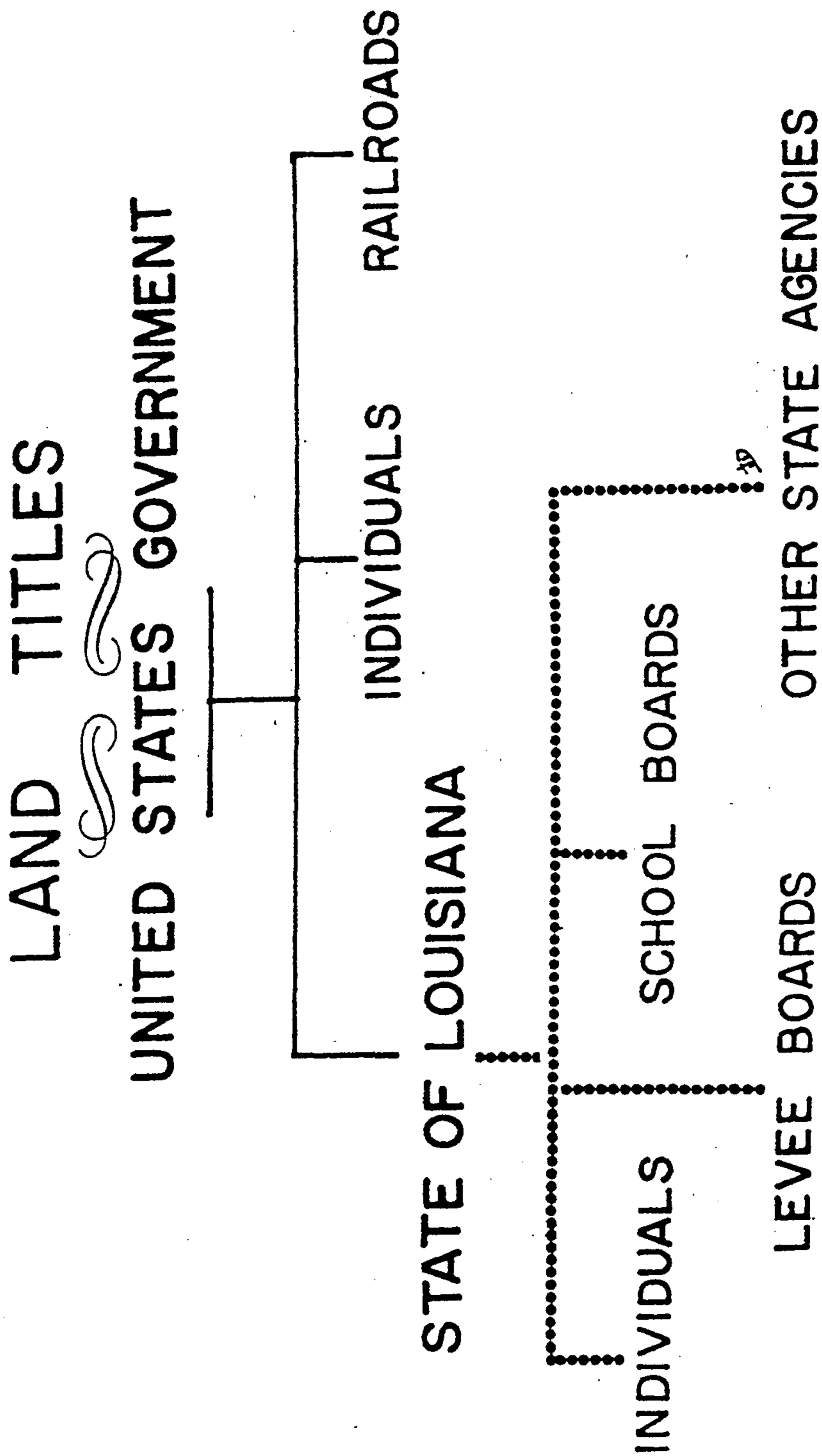
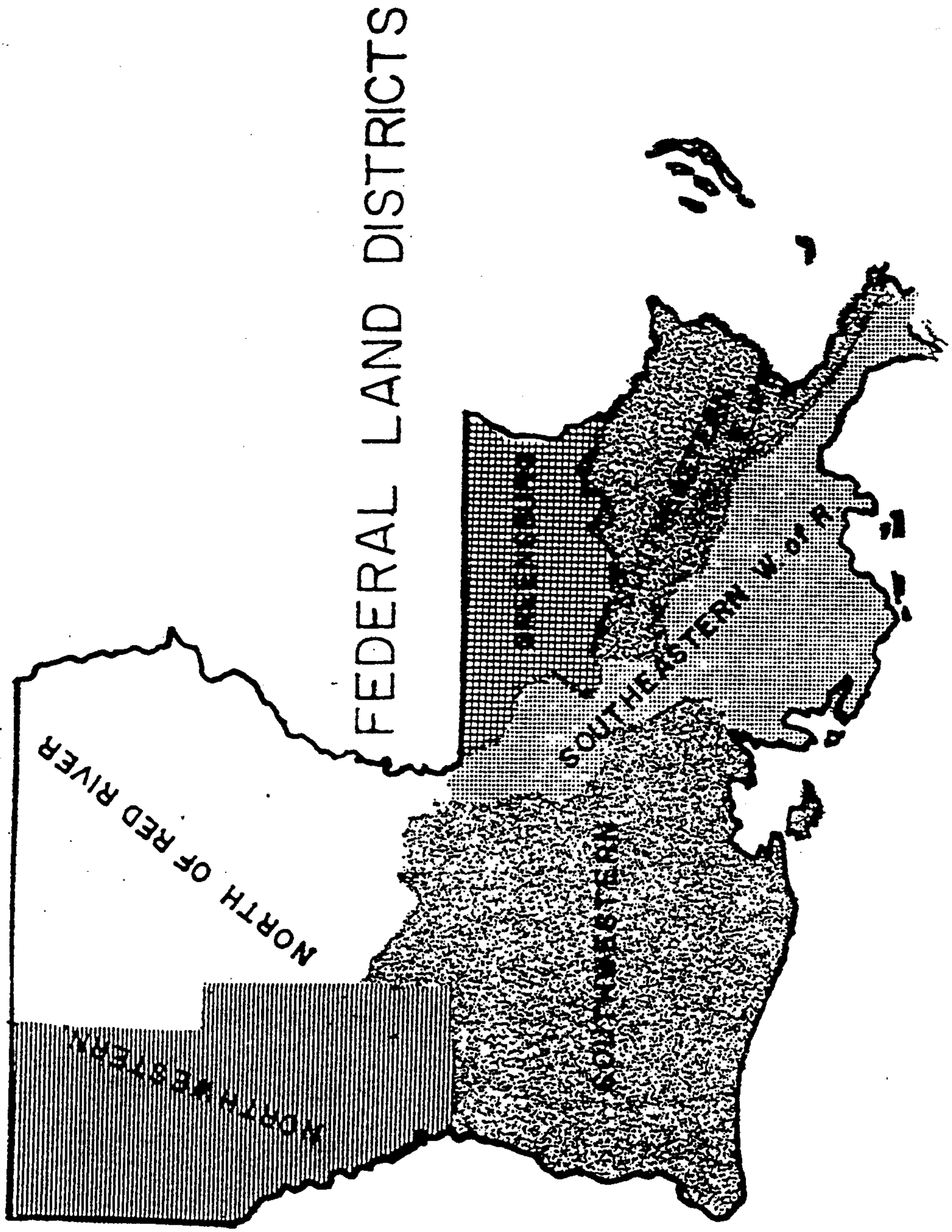
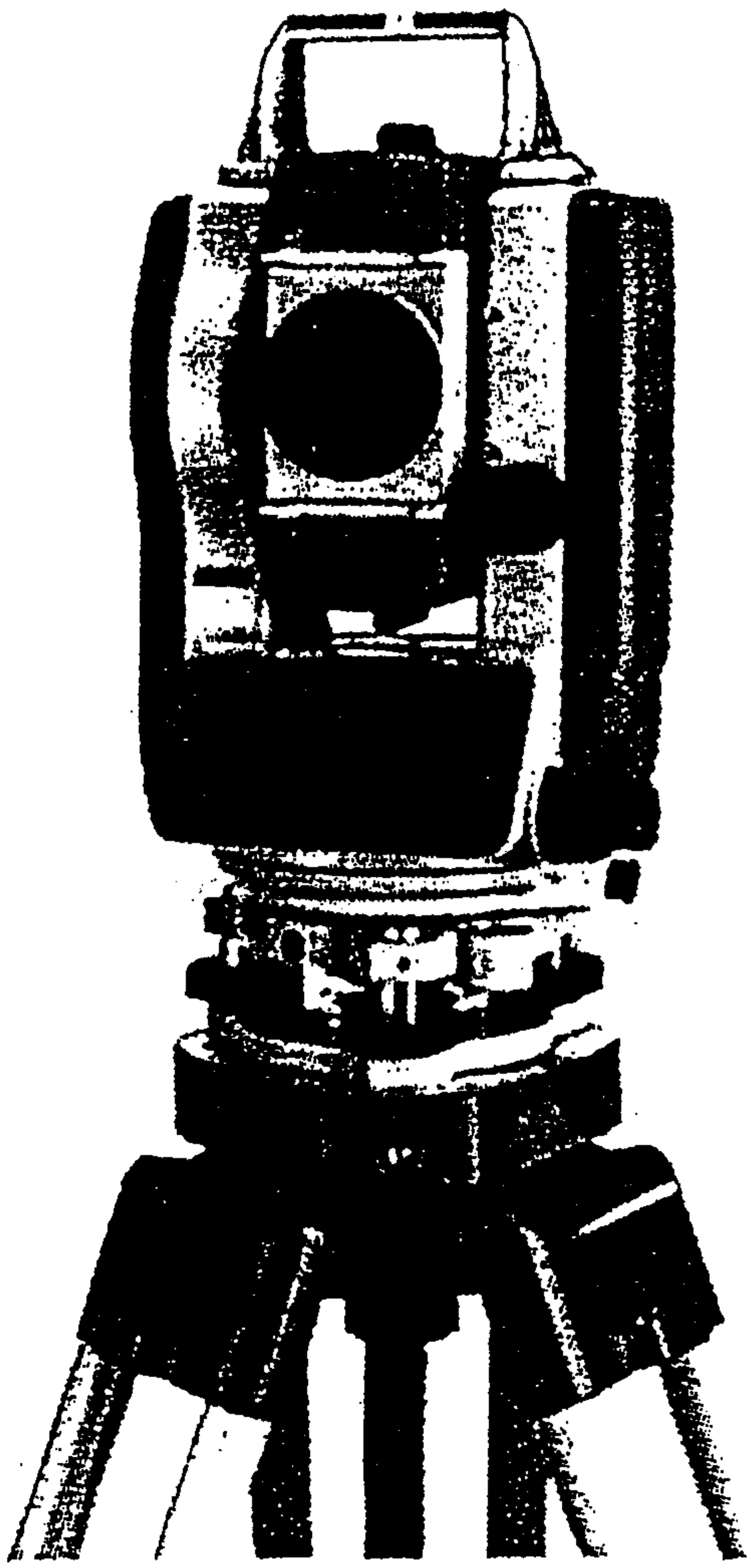
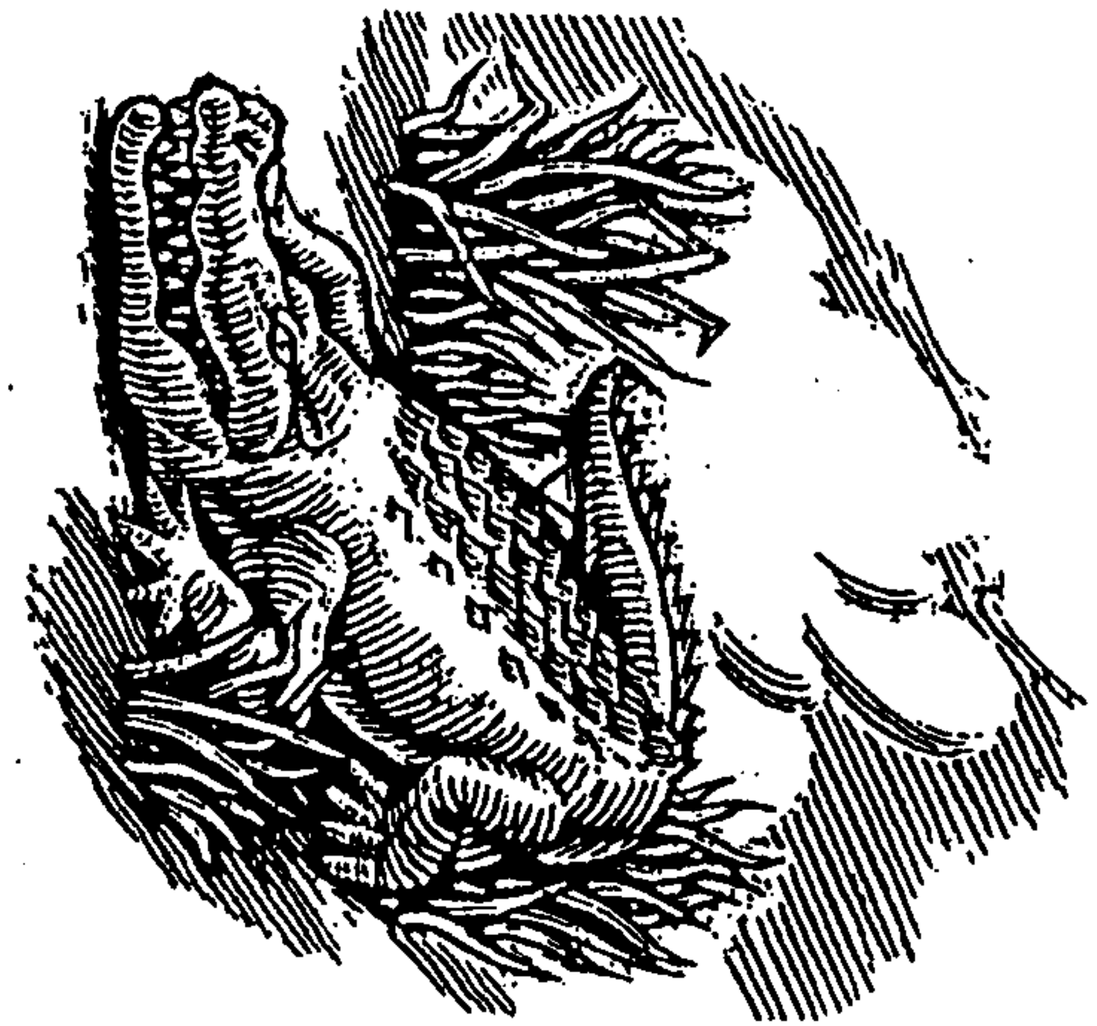
1 2 3 4 5 6 7
6 5 4 3 2 1


LAND TITLES
UNITED STATES GOVERNMENT
RAILROADS
INDIVIDUALS
STATE OF LOUISIANA
INDIVIDUALS
SCHOOL BOARDS
LEVEE BOARDS
OTHER STATE AGENCIES


FEDERAL LAND DISTRICTS
NORTH OF RED RIVER