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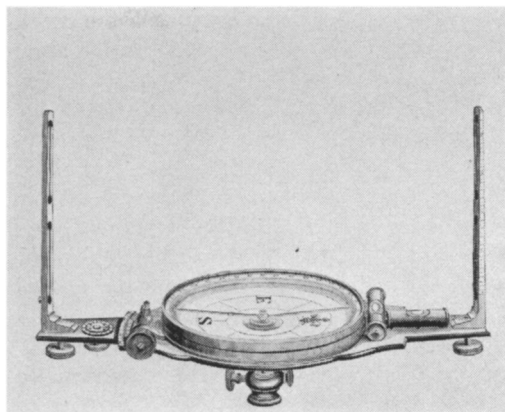
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Three surveyors, over a century ago, decided to survey a tract of land in an odd way. Their labors have created difficulties for residents of the area ever since. Of such small things is history made. . . .



The Settlement of the Stockbridge Indians and the Survey of Lands in Outagamie County, Wisconsin

by Otto L. Kowalke

On a highway map of Outagamie County, prepared and distributed by the Highway Department of Wisconsin, there is a zigzag line in the southeast corner that denotes neither a watercourse nor a highway. Creeks in the area all flow northward into the Fox River; and the highways are designated by two parallel lines. The zigzag line actually marks the southern boundary of lands once occupied by Indians of the Stockbridge tribe, settled there by the United States government in 1822, and later removed to another location.

The Indians—Because the white settlers in western New York were crowding the Stockbridge tribe, President James Monroe appointed the Reverend Jedidiah Morse, a renowned geographer, to inspect the region around Green Bay as a future home for the Indians. Morse came to Green Bay on July 7, 1820, and spent three weeks exploring the area. He discussed with the Menominee and the Winnebago Indians, who occupied the land, the possibility of bringing the Stockbridges to the valley of the lower Fox River.¹ On August 8, 1821, a treaty was concluded with the Menominee to allot the Stockbridges a strip of land,

about a mile and a half in width and about five miles in length, along the Fox River, between the present cities of Kaukauna and Appleton.²

In the autumn of 1822 a band of about 50 Stockbridges, under the leadership of John Metoxen, came from the White River district of Indiana and proceeded to establish themselves on their new land.³ By 1830 the Indians, about 225 in number, had made considerable progress in building a place in which to live. The Reverend Cutting Marsh, who came that year as a missionary to the area (then called Statesburgh), reported that the Indians had cleared land, raised wheat and corn, owned livestock, made maple sugar, and that they lived in log cabins heated with stone fireplaces.⁴ Surveyor I. Hathaway, Jr. wrote in his field notes on April 4, 1835: "The Indians have in operation a saw mill with a large and permanent dam. The Mission House, a two-story dwelling on Section 22, is well furnished and in good order with convenient barns, out-houses, yards, etc."⁵

¹*Ibid.*, 172.

²*Ibid.*, 174.

³State Historical Society of Wisconsin, *Addresses and Separates* 1900, p. 49.

⁴Notes on file in the Land Department, State Capitol, Madison, Wisconsin.

¹State Historical Society of Wisconsin, *Proceedings* 1899, p. 164.

Disputes and irritations between the Stockbridges and the Menominee came to the attention of Reverend Marsh. Because of these difficulties, he went 15 miles south to the east side of Lake Winnebago, explored the country, found it good, and so informed the Stockbridges. The result of his explorations was the treaty of February 8, 1831, between the United States and the Menominee Indians. By this treaty, the Stockbridge Indians were allotted about 46,000 acres of land on the eastern shore of Lake Winnebago in what is now Calumet County. They were also to receive compensation, not exceeding \$25,000, for the improvements they had made in the area along the Fox River. They were given three years in which to remove to the Lake Winnebago reservation. The land on the Fox reverted to the United States as public domain.⁶

The Surveys—Until 1800 the descriptions of land purchased from the Indians by white settlers in the valley of the lower Fox River were not very precise. For example, the land which Dominique Ducharme bought from the Indians in 1793 was described as follows: "From the summit of the portage at Grand Cacalin to the end of the meadow below, 40 arpent deep; and on the other side of the river facing the portage 4 arpent wide by 30 arpent deep."⁷

By an act of Congress passed in 1796, all public lands were to be divided into townships six miles square. In Wisconsin, the townships are arranged parallel to the boundary between Wisconsin and Illinois, and the reference line is the Fourth Principal Meridian which is approximated by a line extending from Platteville through Richland Center, Tomah, Medford, and Phillips. The tiers of townships parallel to the Wisconsin-Illinois boundary are designated Town 1 North, Town 21 North, and so forth. The tiers of townships parallel to the Fourth Principal Meridian are designated Range 1 East or West, as the case might be, Range 18 East, and so forth. A township normally comprises 36 mile-square sections, each of which contains 640 acres. The sections in a township are numbered consecutively from

1 to 36, beginning at the northeast corner, then back and forth, east and west, and ending at the southeast corner.

Lands occupied by Indians in tribal units were not laid out into sections; only the boundary lines were surveyed. Such lands were not public lands. Tribal Indians were considered by the United States as independent nations, free, self-governed and self-directed, with complete control over their property. When land allotted to the Indians is abandoned or when the tribe becomes extinct, the land reverts to the United States. The United States Supreme Court held, however, that delay by the Indians in settling on new land does not constitute the abandonment of it.⁸

By 1835 all the Stockbridge Indians had apparently moved to the new reservation on the east side of Lake Winnebago. Surveyor Hathaway recorded in that year that "farm housings are of the poorer sort and they have depreciated much since vacated, as also the fences and other improvements."⁹

The surveys of public lands immediately south of Outagamie County were being made around 1833. The deputy surveyors, Messrs. Ellis, Mullett, and Brink, in 1834 and 1835 laid out the land once occupied by the Stockbridges on the south side of the Fox River, as shown in Figure 1.¹⁰ Sections 21 to 30, instead of being made one mile square and comprising 640 acres, were made 126 chains (about a mile and a half) long, north to south, by 50 chains (about five-eighths of a mile) east to west. The areas of sections 21 to 29 vary from 627 to 665 acres; the average is 639 acres. Section 30 has only 364.8 acres. The north-south lengths of the sections were all measured from the south bank of the Fox River. The south boundary of that tract is parallel to the meander of the river, and it is the zigzag line now represented on the highway map. Sections 21 to 29 inclusive were each divided into eight lots. The lots are about one mile and a half long by about 410 feet wide and contain an average of 79.9 acres.

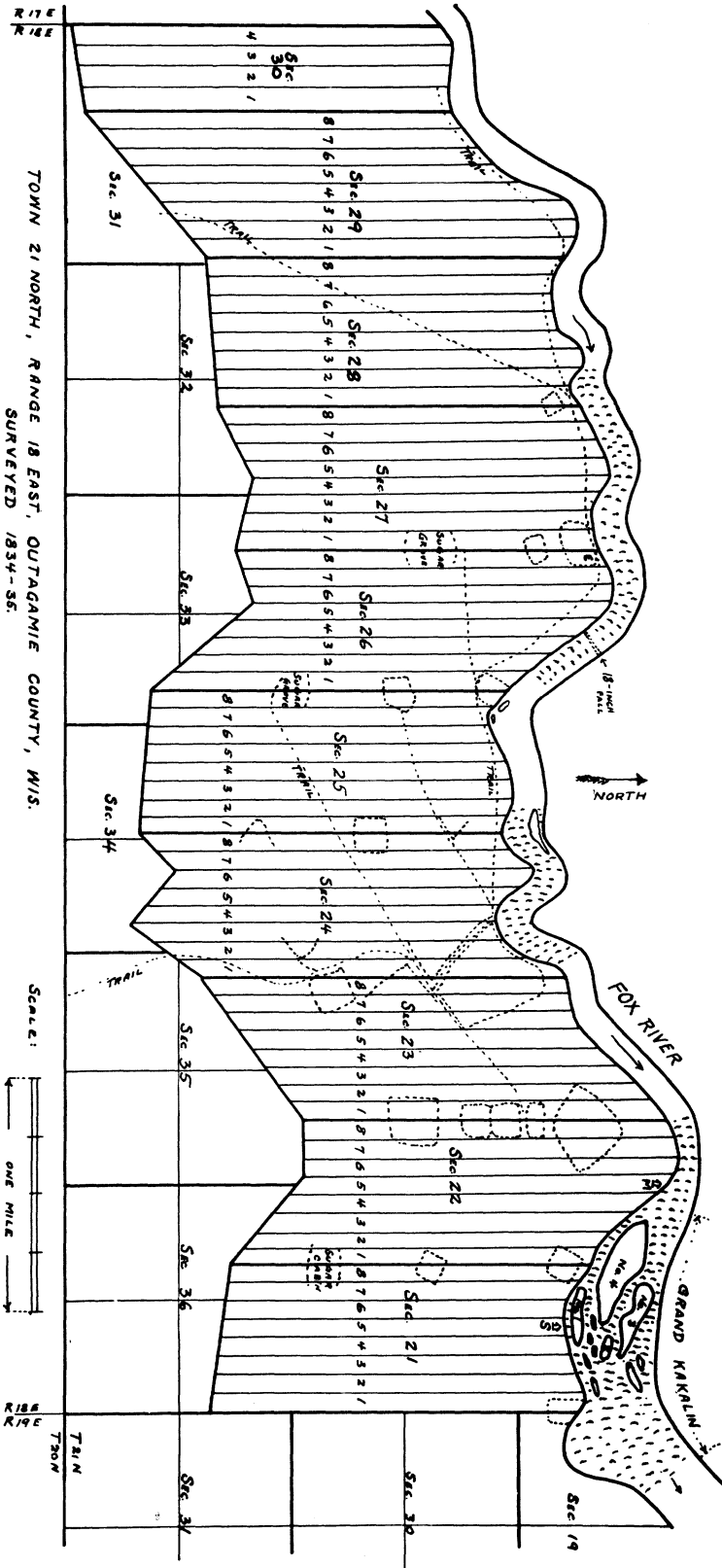
⁶Felix S. Cohen, *Handbook of Federal Indian Law* (Washington, 1942), 34, 312.

⁷Notes on file in the Land Department, State Capitol, Madison, Wisconsin.

¹⁰Copy on file in the Land Department, State Capitol, Madison, Wisconsin.

⁸U. S. *Statutes at Large*, 7:343.
⁹State Historical Society of Wisconsin, *Collections*, 15 (1900): 1. The Canadian arpent, not to be confused with the French arpent as a measure of area, is a unit of length equal to about 11.5 rods.

KOWALKE : STOCKBRIDGE INDIANS



COPY OF MAP IN LAND DEPT., STATE CAPITAL, MADISON, WIS.

A plausible justification for this peculiar method of surveying the land in sections 21 to 30 is a United States statute enacted on May 24, 1824. The statute says: "That, whenever, in the opinion of the President of the United States, a departure from the ordinary mode of land surveying on any river, lake, bayou, or water course, would promote the public interest, he may direct the surveyor general . . . to cause the lands, thus situated, to be surveyed in tracts of two acres in width fronting any river, lake, bayou, or water course, and running back the depth of forty acres. . . ." ¹¹ Two acres in width is 418 feet, and forty acres in depth is 8,360 feet or 1.58 miles. These dimensions correspond closely to the dimensions of the lots shown in Figure 1. In the field notes of the surveyors there is no record of instructions to lay out the land, once occupied by the Stockbridge Indians, in accordance with the statute of 1824. The surveyors probably adopted this method of subdivision to distinguish the holdings of the Stockbridges. The survey was approved by the surveyor general on July 21, 1835. The land was then offered for sale to the public in 1835, and by 1837 patents were issued to purchasers. ¹²

The Results—The plan for subdividing the land brought many problems to farmers, to cities, and to purchasers. One major problem was the possibility of confusion from the duplication of the numbers of sections in Town 21 North, Range 18 East of the Fourth Principal Meridian. The public lands in that town and range on the north side of the Fox River

were surveyed in 1843, about nine years after the survey of the land shown in Figure 1. The land on the north side of the river was laid out into regular mile-square sections and they were numbered from 1 to 23 in the regular way. Thus, fronting on the river there are sections numbered 21, 22, 23 located on the north side as well as sections numbered 21, 22, 23 on the south side.

In the days before counties and political towns were established, there must have been some confusing descriptions in the titles to these lands. In 1955, in the records of the Register of Deeds and of the County Treasurer of Outagamie County, sections 21, 22, and 23 on the north side of the Fox River were identified by the statement that they are in the political Town of Vanden Broeck, whereas sections 21, 22, and 23 on the south side are in the political Town of Buchanan. ¹³

A lot of 79.9 acres in the elongated shape created by this survey would require about 3.1 miles of fence, whereas an 80-acre farm in a regular square section would normally require only 1.5 miles of fence. In these lots in about 1885 there were many 40-acre farms that were only 800 feet wide but nearly half a mile long. ¹⁴ The narrow lots also determined the shapes of additions to the Ledyard Plat at the south side of Kaukauna. Until about 1915 five of the seven important additions were 410 feet or one block wide, but varied in length from 1,300 to 3,600 feet. ¹⁵ END

¹³S. M. Peeters, Register of Deeds, to O. L. Kowalke, February, 1955.

¹⁴*Plat Book of Outagamie County, Wisconsin* (Charles M. Foote, 1889).

¹⁵*Atlas of Outagamie County, Wisconsin* (George A. Ogle and Co., 1917).

¹¹U. S. Statutes at Large, 4:34.

¹²Bureau of Land Management, U. S. Department of the Interior to O. L. Kowalke, February, 1955.

The Work of Lyman C. Draper

"The Collections of the State Historical Society of Wisconsin," writes Hon. T. W. Field, in his elaborate work on Indian Bibliography, "is one of the noblest collections ever made by any Historical Society. It is a vast mass of original material, written mostly by border warriors, Pioneers, voyagers, and others, who saw the events of which they wrote. By far the largest portion relates to the Aborigines who once occupied the territory. It is to the intelligence and zeal of the learned antiquary, Lyman C. Draper, that the public are indebted for this model of Historical Collections. . . ."

"You can have no better monument," writes Gov. Lewis, "than the grand collections you have been instrumental in bringing together at our State House. The people of the State are interested in having the work continued."

—From the State Historical Society of Wisconsin, *Annual Report*, 1878.