

Duplication of Serial Set Publications in the American State Papers

An Annotated Inventory Part II

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In the second part of this two-part article we initially summarize very briefly the facts presented in the first part (*DttP* 41.3), then discuss the purported procedures for selection of the items to be included in *American State Papers* (ASP), place the printing of the ASP in the Buchanan era scandals, offer examples of ASP-Serial Set duplicates from the remaining five larger classes of ASP not covered in part I, tabulate the extent of ASP duplication of Serial Set documents and reports, and hazard some suggestions on how this strange state of affairs may have come to pass.

I. We reviewed in part I the rationale for the initial compilation and printing of ASP volumes 1–27, the numbering and organization of the ASP publications into ten classes, and the role of General William Hickey of the Office of the Secretary of the Senate as the de facto, if not *in nomine*, editor of all 38 volumes.

There are some 6,354 publications (i.e., 6,326 if one excludes the front matter, indexes of the volumes, etc.) in the Readex digital ASP but only two-fifths of them antedate the Serial Set, which begins with the 15th Congress. Some 2,592 publications date from the first fourteen Congresses; the other three-fifths (i.e., 3,734 publications excluding the extraneous material listed above) overlap chronologically with the *Serial Set* from December 1817 up to, at least in the Military Affairs class, 1838.

In the five smallest of the ten classes of ASP publications, which were covered in Part I of this article, the amount of duplication of those publications from the 15th Congress

through the final Congress of each class already printed in the US Congressional Serial Set, i.e. 426 out of 577 publications or some 74 percent, is in our opinion quite surprisingly high (see full list of duplication figures by class in Section V). Minor editorial differences and occasional reformatting in the reprinted Serial Set items were also discussed.

II. The rules governing the preparation of the continuation of the ASP volumes were presented in *Compilation and publication of the American State Papers*. January 29, 1859 (H.Misc.Doc. 39, 35th Cong., 2nd Sess.). Legal authority for continuing, and therefore expanding, the ASP publications derived from the 19th section of the June 12, 1858, “Act making appropriations for sundry civil expenses of the government for the year ending 30th of June, 1859.”

The material itself to be included in the additional ASP volumes, and this is very important, is said to consist of “either original manuscript from the files of the two houses or *printed documents*. Accompanying the copy sent will be an abstract or copy of the heading of every document, with numbers corresponding with the numbers placed with red ink, on the documents to be printed. Title pages that may accompany printed session documents are to be omitted, the only title for each document being that to be found on the abstract. The numbering and paging of these, as documents of the different sessions when printed, are, of course, to be omitted—as each document will have a new number as stated, and new paging . . .” (p. 7).

For bibliographic control and selection of the items to be printed in the second half of the ASP project, according to William Hickey, Chief Clerk of the Office of the Secretary of the Senate, and John F. Carter, Chief Clerk of the Office of the Clerk of the House of Representatives: “It was necessary that accurate and complete lists of all important documents communicated to the two houses of Congress should be made from the *Journals* of the two houses, by persons of experience and intelligence in the offices of secretary and clerk, respectively . . .” These abstracts or lists were claimed to embrace

- All messages from the President of the United States.
- All reports from the several executive departments and offices or bureaux of the government.
- All communications from State legislatures or territorial governments.
- All reports of committees made in either house or Congress, embracing the views of minorities. All important documents submitted in either House relating to the public affairs or business. Memorials, remonstrances, or statements upon general public subjects and not confined to private claims, unless connected with international or general subjects.
- Miscellaneous documents or papers not embraced under either of the preceding heads where the matter or subject treated of may be of a general public character.

“In general,” the authors conclude, “the annual messages from the President, and reports from the executive departments, embracing accounts of all the operations of the government during the year, and containing much tabular’ and other matter containing statistical information, will be taken in this collection. Other papers and documents coming from the same sources, on special subjects, will be judged of according to their nature and value” (p. 9).

Those guidelines, however, were scarcely ever consistently followed. From 1817–1838 there are over 700 presidential messages and communications in the Serial Set but fewer than 100 in ASP. Likewise the number of reports from the executive departments and bureaux number more than 13,000 for that time period, i.e., four times the total number of ASP publications for 1817-1838. As for minority reports, there are fewer than fifty in ASP and more than 200 in the Serial Set for that period. Finally, numerous private claims and public land memorials in ASP are precisely that, publications of a strictly private relief nature.

And in regard to the statement that “Memorials, remonstrances, or statements upon general public subjects and not

confined to private claims, unless connected with international or general subjects,” a few facts should perhaps be pointed out. From a random selection of twenty reports¹ reprinted in ASP on private relief bills out of the more than a thousand private relief reprinted reports, thirteen of those reports in fact reported no bill at all and if a bill is not reported and passed, its report is unlikely to be cited as a precedent. Of the seven reports actually reporting a bill, only six, based on Lexis searches, were ever in fact cited as a reference or precedent in the 19th century. The claims, public lands petitions, and other memorials are almost always private and indeed it would have required some deep insight, at best, to foresee in the years 1858-1861 which, if any, of those private relief items would become precedents. Finally, few of the reprinted private relief reports are concerned with “international subjects.”

III. During the Buchanan administration there had been considerable lobbying for Gales and Seaton not only to reprint the first twenty-seven ASP volumes, but also to continue and expand the series. On March 3, 1857, Senator Judah Philip Benjamin introduced the following amendment to an appropriation bill: “That the Secretary of the Senate and Clerk of the House of Representatives are hereby directed to continue the compilation of the Congressional document [sic] published by Congress under the name of ‘American State Papers,’ as in the same manner as the first series thereof; and the joint library committee are hereby directed to contract with the publishers of the first series of State Papers for the reprint of two thousand copies of the said first series, and twenty-five hundred copies of the continuation herein provided for (supplying such omissions in the first series as the Secretary of the Senate and Clerk of the House of Representatives may direct) . . .” (*Senate Journal*, 34th Cong., 3rd Sess. p. 347) The amendment was determined “not to be under the rules of the Senate.”

A little more than a year later, in response to another proposal from Messrs. Gales and Seaton, the Joint Committee on the Library reported on May 29, 1858, in favor of extending the ASP series (H.Rpt. 502, 35th Cong., 1st Sess.). Mr. Pettit praised the quality of the first 27 ASP volumes, the necessity of classifying and indexing the public papers in order for them to be easily accessible, and, he continued:

The committee believe the continuation of this work from that time to the end of the present Congress a matter of great public importance. The

period from 1824 to the present time has been one of great national activity, energy and progress. . .

Much of this recent history is already difficult and obscure, because It exists only in the current documents of Congress, accumulated from year to year, much of which, from 1824 to 1841, is in manuscript only, and all of which, every year, is more perplexed and confused, and, with the utmost vigilance, at all times exposed to irreparable injury and loss. . .

From 1824 to 1841 a publication of a part only of the public documents was made. A judicious collection from these, and a publication of them, is true public economy. Congress permits itself to incur, each year, more expense for preserving its archives against loss by fire and other casualties than would be necessary for their more complete Preservation, by means of the press, in multiplying copies, to say nothing of the great public advantage resulting from their wider distribution.

The large number of printed and manuscript books and hundreds of manuscript files in which this valuable and necessary information⁴ is contained, the want of classification, by reason of preserving them in the order of time in which they have accumulated, the importance of separating what is useful and permanent from its disproportionate mess of matter of transient, local, or otherwise inconsiderable importance, involving no novelty of fact or principle, its arrangement in convenient divisions, bringing all kindred matter under its proper divisions, helps to convenient reference by indexes ; the importance by this means of securing the public records against hazard of loss or accident, the importance of a general knowledge of them by means of publication, and the necessary authority of Congress for the purpose, because these records are excluded from all other control ; such considerations have induced the committee to consider such a work of principal consequence, and they accordingly ask leave to report a bill. (p. 3).

Now it may be true that much, if not all, of the Congressional publications from 1817-1838 existed in manuscript but it must be stressed that almost 14,000 publications were printed in the Congressional Serial Set. There were almost

always annual indexes to the individual Serial Set volumes, although the classification and indexing of the ASP volumes is quite helpful. Occasionally Congress itself did issue cumulative indexes like the following one:

Index to the executive communications and reports of committees, made to the House of Representatives from December 3d, 1817, to March 3d, 1823, 15th, 16th, & 17th Congress: first, by a reference, in alphabetical order, to the executive reports, by the subject-matter thereof—second, by a reference to the same matter, arranged under the head of the department whence it came; to which is added, a reference to all other documents printed during the same period, by order of the House, and not of a character with the foregoing, under the head “miscellaneous.”

Finally, the Serial Set volumes were printed from 600 to more than 1,200 copies during the 1817–1838 period and many important Documents and Reports were authorized to be printed in additional print runs—often in the thousands. The papers, in other words, were not hidden away.

After the continuation of ASP was authorized and the printing was well under way, the brothers-in-law Joseph Gales and William Winston Seaton, who incidentally shared a common bank account, found themselves deeply involved in the wide-ranging Senate investigative hearing of May 31, 1860, into government printing, which was held by select committee appointed by virtue of the following resolution, adopted 24th January, 1860, “Resolved, that a select committee be appointed to inquire and report to the Senate whether \$41,000, or other sum or sums, were paid by the public printer . . .” (S.Rpt. 205, 36th Cong., 1st Sess.). The investigation principally focused on the alleged malfeasance of the former Superintendent of Public Printing, George W. Bowman, the fraudulent dealings in charges to the government for paper, irregularities in printing Post Office blanks, questionable sub-contracting of large printing jobs, and other abuses.

Despite the fact that “Gales and Seaton” appears on the title pages of the final twenty-one ASP volumes, the books were actually printed by Cornelius Wendell as the following excerpts show:

As illustrative of the loose manner in which Congress sometimes legislates on the subject of printing, and of the facility with which many of those who are most clamorous about the abuses of patronage and extravagant expenditures lose their zeal for economy when the interests of their political favorites are to be advanced,

the committee will invite the attention of the Senate to an expenditure of \$340,000, authorized by a section of the “ act making appropriations for sundry civil expenses of the government for the year ending June 30, 1859.” Towards the close of the session of 1858 this amendment was offered at a late hour. Its object was to authorize the continuation of the compilation of documents known as the “American State Papers.” Its introduction was opposed on the ground that it could not be entertained, as it was a violation of the 30th rule of the Senate, that no amendment making an appropriation should be received unless emanating from some select or standing committee. The objection was overruled on the flimsy pretext that, although the expenditure was authorized, yet as no appropriation was directly made, it was not in contravention of the rule. The compilation was directed to be made by the Secretary of the Senate and Clerk of the House of Representatives, and they were directed to make a contract with Gales & Seaton for publishing the same, not to exceed two thousand copies in number, the prices or rates for the printing of the work not to, exceed those paid at present for the printing of the documents of Congress, including paper and binding, having regard to the quality and value of the materials used and the work done; that ‘the’ cost of the publication should not exceed \$340,000, and that not more than \$25,000 should be required for the purpose during the next fiscal year. These terms were stated in the debate not to be sufficiently remunerative, and doubts were intimated whether Messrs. Gales & Seaton would be willing to accept them. The section, however, was adopted, and, on a call of the yeas and nays, not a solitary vote of the Opposition party as recorded in the negative. The contract was made on June 30, 1858. On the same day Gales & Seaton made with Cornelius Wendell a contract by which he agreed to execute the work, furnishing all the materials, the profits to be divided equally between the parties, it being understood and agreed between the contracting parties that forty per cent. should be considered as the profits on the work, and that eighty cents of every dollar should be aid to Wendell for executing the said work, and for his share of the profits; thus leaving to Gales & Seaton a clear bonus of \$68,000 for a work respecting which they rendered no service and incurred no responsibility, for the work of compilation is performed by the Secretary of the Senate and the Clerk of the House of

Representatives. When the papers are prepared they are sent to Wendell’s printing office, and it does not appear that Gales & Seaton exercise any supervision of the work. No security was given either by Gales & Seaton or by Wendell for the performance of the contract. On the 18th September, 1858, Gales & Seaton obtained from Samuel Blatchford, a leading and active member of the Republican party in New York, and Edwin D. Morgan, now the Republican governor of the State of New York, an advance of \$30,000 on the moneys to be paid under the contract. If this work was not intended as a mere gratuity to political favorites, as the task of compilation was confided to the officers of the Senate and House of Representatives, one of two alternatives would necessarily have been adopted: the work would have taken the ordinary course, and been performed under the direction of the Superintendent of Public Printing, or, after proper advertisements, given to the lowest responsible bidder. The work would have been equally well done, and in either case with great saving to the government. (p. 7).

And in answer to questions of Mr. Wendell from Senator John Slidell in that same hearing, it again becomes clear who printed what:

By Mr. Slidell :

Question. You are printing for Gales & Seaton a certain work, the “ State Papers,” which were ordered by Congress. What number of volumes is it estimated that work will amount to?

Answer. I never have heard.

Question. When you entered into this contract with Gales & Seaton, had you not some understanding?

Answer. The contract was based on the amount appropriated.

Question. Did Gales & Seaton do any portion of that work themselves?

Answer. They did not. p. 19

In the many other exchanges interrogating the role of Gales & Seaton in government printing, nowhere did the Select

Committee come to realize that more than 70 percent of what was in the final twenty-one ASP volumes had already been printed in the Serial Set!

IV. In order to illustrate the apparent differences between publications that are the same, just a few examples of the brief bibliographic data for duplicated publications originally printed in the Serial Set and then reprinted in ASP from the five larger ASP classes not covered in Part I of this essay are listed below by ASP class, Congress-session numbers, date, publication numbers, and titles of the respective duplicates. Note the difference in titles in almost every case. For a discussion of the regular editorial changes made by the ASP editors to the previously printed Serial Set publications (including title changes, omission of redundant introductory remarks—especially in the Senate Documents, the citation of the names of senators and representatives, etc.), please see the discussion in Part I of this article.

Claims Class

(16-1) No. 498 Jan. 3, 1820. Houses burnt at Buffalo by the British, in 1813.

H.Rpt. 23 Jan. 3, 1820. Report of the Committee of Claims, to whom was referred the bill from the Senate for the relief of Eli Hart.

(17-1) No. 577 Feb. 6. Damages on a protested bill of exchange. S.Doc. 36 Feb. 6, 1822. In Senate of the United States, February 6, 1822.

The Committee of Claims, to whom was referred the petition of James Weir, of Kentucky, with the accompanying documents, have considered the same, and report: That it appears, from the record of a suit in the Circuit Court of Fayette County, in Kentucky, between the Bank of Kentucky plaintiffs . . .

(17-2) No. 617. Feb. 4, 1823. Contract for repairing and building a wharf.

H.Rpt. 81 Feb. 4, 1823. Report of the Committee on Commerce, to which was referred the bill from the Senate for the relief of Alexander Humphrey and Sylvester Humphrey.

Finance Class

(15-1) No. 519 Feb. 10, 1818. Remission of forfeiture.

H.Doc. 83 Feb. 10, 1818. Report of the Committee of Ways and Means, on the petition of Nathaniel Goddard, and others, formerly owners of the ship *Ariadne* and her

cargo, accompanied with a bill for the relief of the owners of the ship *Ariadne*, &c. &c.

(17-1) No. 624. Dec. 31, 1821. Exchange of stock.

H.Rpt. 6. Dec. 31, 1821. Report of the Committee of Ways and Means, to whom was referred the report of the Secretary of the Treasury on the state of the finances.

(20-1) No. 865 Feb. 25, 1828. Drawback of duties where goods were not exported from a legal port.

H.Rpt. 161. Feb. 25, 1828. Wm. J. Quincy and Charles E. Quincy.

Military Affairs Class

(15-1) No. 161. Feb. 12, 1818. Pay of brevet officers.

H.Doc. 94. Feb. 12, 1818. Report of the committee appointed on the part of the House of Representatives, to confer with a committee of the Senate, on the subject of the disagreeing votes of the two Houses, on the amendment of the Senate, to the bill making appropriations for the military service of the United States for the year 1818.

(16-1) No. 176. Dec. 27, 1819. Complaints against the Military Academy at West Point.

H.Doc. 14. Dec. 27, 1819. Memorial of Nathaniel Hall Loring, and others, late cadets at the Military Academy, West Point.

(19-1) No. 298. Jan. 23, 1826. On the expediency of constructing fortifications at the entrance of Pensacola Bay.

H.Rpt. 46. Jan. 23, 1826. Fortifications—Pensacola Bay.

Naval Affairs Class

(20-1) No. 358. Mar. 14, 1828. On claim of an officer of the Navy to be indemnified or released from a judgment against him for capturing a supposed piratical vessel.

H.Rpt. 192 Mar. 14, 1828. Jesse Wilkinson.

(22-1) No. 480. May 4, 1832. Number and description of vessels-of-war which have arrived at and departed from each naval depot, number of men recruited at each station, and the number of vessels built and repaired at each Navy yard from 1815 to 1832.

H.Doc. 228. May 4, 1832. Navy United States. Letter from the Secretary of the Navy, transmitting the information required by a resolution of the House of Representatives, of the 15th of March last, in relation to the number of vessels of war which have arrived at each naval depot, the number of men recruited at each, the number of vessels built and repaired at each, the

length of time a rendezvous has been kept open at each, &c. (23-1) No. 544. Apr. 30, 1834. On a claim for the use of a patent for the manufacture of anchors for the Navy, upon an improved plan, securing increased strength and symmetry. H.Rpt. 428. Apr. 30, 1834. Tucker and Judge. (To accompany Bill H.R. No. 454.)

Public Lands Class

(16-1) No. 305. Dec. 14, 1819. Claim of the commissioners appointed by Georgia to examine certain lands on the Tennessee River.

H.Rpt. 2. Dec. 14, 1819. Report upon the claims of Thomas Carr, Andrew Jackson, and others, accompanied with a “Bill for the Benefit of Thomas Carr, and Others.” December, 14, 1819.

(23-1) No. 1229. Apr. 11, 1834. On claim to land in Alabama. H.Rpt. 408. Apr. 11, 1834. James Caulfield. (To accompany Bill H.R. No. 424.)

(24-2) No. 1588. Feb. 15, 1837. On a claim to land in Louisiana. S.Doc. 177. Feb. 15, 1837. Documents in relation to the claim of John Fletcher for the confirmation of his titles to land.

V. As noted above, many of the representations made by or on behalf of Gales and Seaton before Congress regarding the need for a continuation of the ASP and the methods by which the continued publication was proposed to proceed simply were not true. The papers did not exist only in manuscript, many were indeed printed and that ever increasing number does not include the many thousands of reprints of individual reports and documents in the national press, and the amount of duplication in ASP is clearly astounding as the following table demonstrates.

There is a 72.5 percent duplication rate between the 3,734 documents and reports within the ten ASP classes and the Serial Set. These publications comprise the last twenty-one ASP volumes printed from 1858 to 1861 and Serial Set items printed decades earlier. The findings are detailed in an accompanying table accessible through the GODORT Wiki (wikis.ala.org/godort/index.php/DttP_Full_Text) and the Colorado State University Institutional Repository (digitool.library.colostate.edu/). The table contains full bibliographic detail for each of the 2,657 duplicates and provides annotations for any content differences between the matches.

Surely at least several questions arise in the case of this curious ASP matter. How could General William Hickey who had spent so many decades in the Office of the Secretary of the

ASP duplication of Serial Set publications

Foreign Relations	159 duplicates out of 212
Indian Affairs	75 duplicates out of 105
Commerce and Navigation	44 duplicates out of 58
Post Office	73 duplicates out of 93
Miscellaneous	75 duplicates out of 109
Claims	155 duplicates out of 267
Finance	301 duplicates out of 419
Military Affairs	504 duplicates out of 637
Naval Affairs	356 duplicates out of 495
Public Lands	917 duplicates out of 1339

Senate not have been aware of the massive duplication in the final ASP volumes? How could Gales and Seaton, who had produced the *Congressional Globe* and printed many other publications for Congress, have not been aware of the massive duplication in the final ASP volumes? And how could Wendell not have been aware of the amount of already printed material he was reprinting?

Joseph Gales died in 1860. Several months later on Sept. 21, 1860, a reporter for *The Boston Daily Advertiser* in writing of the Gales and Seaton partnership, concluded by citing the comment of Metellus Cimber in speaking of Cicero in Shakespeare’s *Julius Caesar* (Act I, Scene 2):

“If, therefore, to look back upon a long life not uselessly spent is what will give us peace at last, then will the even of their days be all that they could desire; and their ‘silver hairs,’ the most appropriate crown of true patriotism,

‘Will purchase them a good opinion, And buy men’s voices to commend their deeds.’”

Did Gales and Seaton, perhaps together with Congressional officials, at least in the case of the ASP, buy some men’s voices?

Reference

1. The ASP items selected were Claims nos. 401, 527, 571, 607, and 626; Military Affairs nos. 271, 438, 444, 435, and 572, and 604; Naval Affairs nos. 352, 358, 555, 617, and 644; and Public Lands nos. 652, 780, 1008, and 1477.